

State of Idaho
Department of Water Resources
Permit to Appropriate Water
No. 63-34745

AMENDED

Priority: June 19, 2019

Maximum Diversion Rate: 0.10 CFS
Maximum Diversion Volume: 25.6 AF

This is to certify that

MORES CREEK RIM RANCHES WATER DISTRICT 1 PALOMA DR BOISE ID 83716-3295

has applied for a permit to appropriate water from:

Source : MORES CREEK

Tributary: BOISE RIVER

and a permit is APPROVED for development of water as follows:

<u>Beneficial Use</u>	<u>Period of Use</u>	<u>Rate of Diversion</u>	<u>Annual Volume</u>
MUNICIPAL	01/01 to 12/31	0.10 CFS	25.6 AF

Location of Point(s) of Diversion

MORES CREEK NE¼ SE¼, Sec. 28, Twp 04N, Rge 04E, B.M. BOISE County

Place of Use: MUNICIPAL

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	04E	27							X			X							
04N	04E	28				X L2									X				

Conditions of Approval

1. Proof of application of water to beneficial use shall be submitted on or before **October 01, 2025**.
2. Subject to all prior water rights.
3. Place of use is within the area served by the public water supply system of Mores Creek Rim Ranches Water District. The place of use is generally located within Sections 27 and 28, Township 4 North, Range 4 East.
4. A map generally depicting the service area for this water right at the time of this approval is attached to this document for illustrative purposes.
5. Rights 63-34745, 63-10797, 63-12397, and 63-34677 when combined shall not exceed a total diversion rate of 0.1 cfs and a total annual maximum diversion volume of 25.6 af.
6. The right holder shall comply with all provisions of the mitigation plan received June 19, 2020. Failure to mitigate as described by the plan of mitigation, while still diverting water under this permit, is cause for the director to cancel a water right permit or revoke a subsequently approved water right license.
7. To mitigate during the non-irrigation season for the depletion of water resulting from the use of water under this right and to prevent injury to senior water right holders, the right holder shall rent nine (9) acre feet of storage water from the Water District 63 rental pool November 1 through March 31 each year to be left undiverted in Lucky Peak Reservoir for mitigation purposes. Permit holder shall maintain a record of such rentals and shall provide the record to the Department upon request.

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8. To mitigate during the irrigation season for the depletion of water resulting from the use of water under this right and to prevent injury to senior water right holders, the right holder shall cease diverting and using water as authorized by the following water rights for the purposes and amounts specified below. Moreover, the official record for the following water right will be changed to show that diversion and use of water is not authorized because the rights, or portion thereof, are being dedicated to mitigation purposes.

<u>Right No</u>	<u>Use Changed to Mitigation by Non-Use</u>	<u>Mitigation Rate (cfs)</u>	<u>Mitigation Acres</u>
63-185B	Irrigation	0.17	8.3

The land that will no longer be irrigated under this right is located within the service area of South Boise Water Company. Additionally, associated rights 63-148C, 63-150, 63-185A, 63-185B, 63-2392C and 63-2392D for the South Boise Water Company service area will be modified to reduce authorized irrigation acreage by 8.3 acres to prevent enlargement.

If the specified mitigation right, or portion thereof, is sold, transferred, leased, used on any place of use, or is not deliverable at a rate equal to or greater than 60% of the face value due to a shortage of water or a priority call, then the amount of water authorized for diversion under this right approval shall be reduced by the same proportion as the reduction beyond the 60% level to the mitigation rights.

9. Water shall not be diverted under this right at the Mores Creek Rim Ranches Water District diversion if such diversion would cause injury to rights senior in priority to June 19, 2019 that are authorized to divert from Mores Creek and its tributaries.
10. Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 63.
11. Prior to diversion of water under this right, the right holder shall install a lockable device, subject to the approval of the Department, in a manner that will provide the watermaster suitable control of the diversion.
12. When notified by the Department, the right holder shall install and maintain a measuring device of a type acceptable to the Department as part of the diverting works.
13. This right does not grant any right-of-way or easement across the land of another.
14. The Director retains jurisdiction to require the right holder to provide purchased or leased natural flow or stored water to offset depletion of Lower Snake River flows if needed for salmon migration purposes. The amount of water required to be released into the Snake River or a tributary, if needed for this purpose, will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this permit.

This permit is issued pursuant to the provisions of Idaho Code § 42-204.

Signed this 30th day of September, 2020.

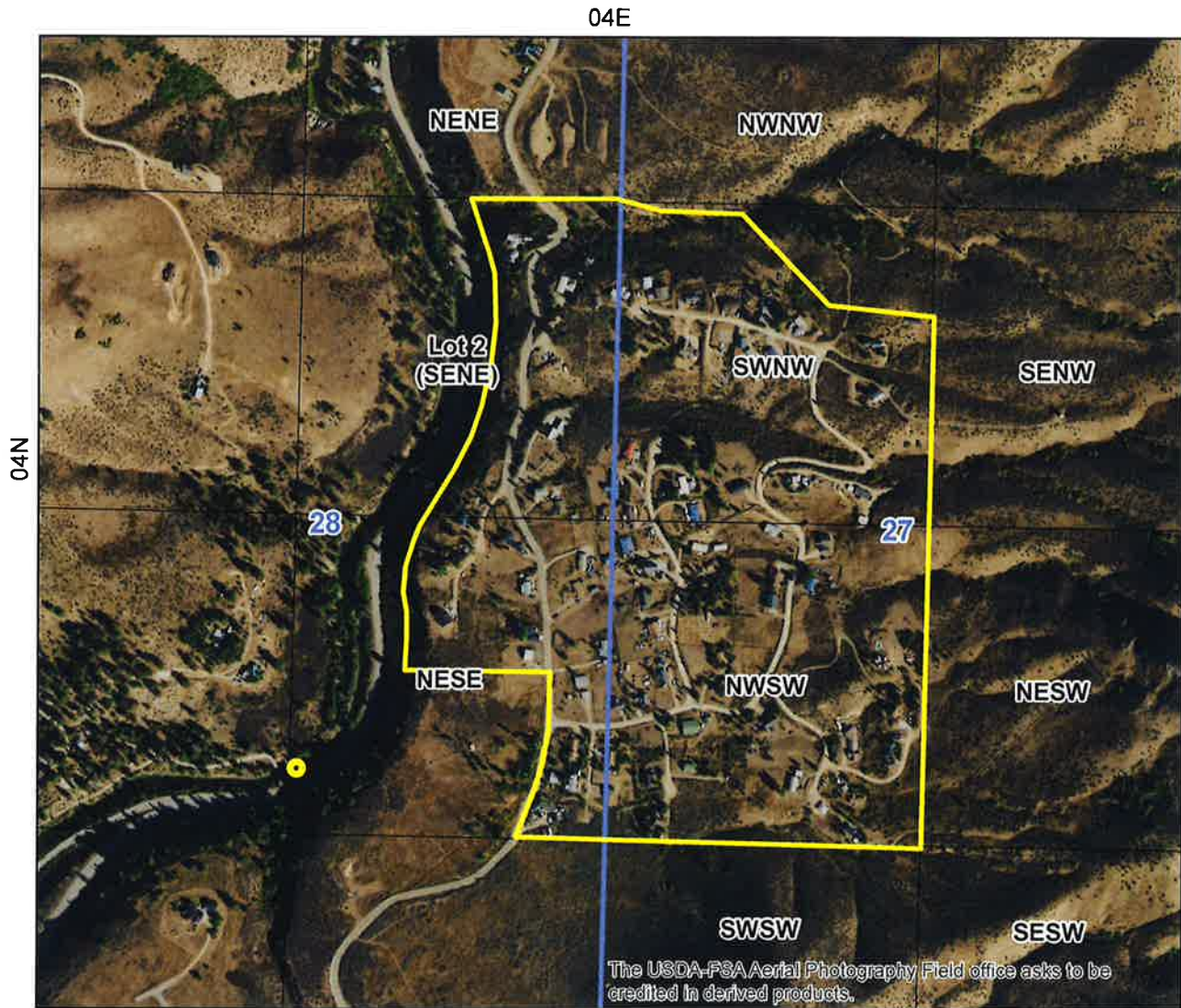

NICK MILLER
Western Regional Manager

Attachment to Permit to Appropriate Water

63-34745

AMENDED

This map depicts the MUNICIPAL place of use boundary for this water right at the time of this approval and is attached to the approval document solely for illustrative purposes.



- Point of Diversion
- Water Service Area Boundary
- Townships
- PLS Sections
- Quarter Quarters

0 0.075 0.15 0.3 Miles





State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region • 2735 W AIRPORT WAY • BOISE, ID 83705-5082

Phone: (208)334-2190 • Fax: (208)334-2348 • Website: www.idwr.idaho.gov

Brad Little
Governor

Gary Spackman
Director

September 30, 2020

MORES CREEK RIM RANCHES WATER DISTRICT
1 PALOMA DR
BOISE ID 83716-3295

RE: Permit No. 63-34745

Amended Permit Approval Notice

Dear Permit Holder(s):

The Department of Water Resources ("Department") has issued the enclosed permit authorizing you to establish a new water right. Please be sure to thoroughly review all the conditions of approval listed on your permit. The conditions include requirements that you must accomplish, such as timely submittal of proof of beneficial use or installation of a measuring device, as well as information about how your water use may be administered, such as regulation by a watermaster in a water district. Failure to comply with the conditions of approval may result in your permit lapsing or being canceled.

The permit is a PRELIMINARY ORDER issued pursuant to Rule 730 of the Department's Rules of Procedure (IDAPA 37.01.01.730). It can and will become a final order without further action by the Department unless a party petitions for reconsideration, files exceptions, or requests a hearing as described in the enclosed information sheet.

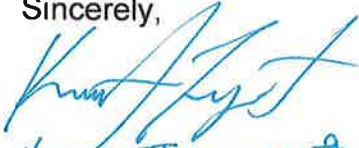
The final step in the water right process is issuance of a water right license. To receive a water right license, you must first commence the excavation or construction of your diverting works within one year of the date the permit was issued, and you must proceed diligently until the project is complete. In addition, you must divert and use water to the full extent intended and submit a *Statement of Completion for Submitting Proof of Beneficial Use* by the date shown in condition no. 1 of your permit. The Department will send you a *Proof Due Notice* approximately 60 days prior to the date listed in condition no. 1 of your permit.

You may also require approvals from other Department programs, such as Ground Water Protection, Safety of Dams, or Stream Channel Protection, to accomplish your proposed development. Please call or visit any Department office or see the Department's website at idwr.idaho.gov for more information about these programs.

Also, please note that permit holders are required to report any change of ownership and/or mailing address to the Department within 120 days of the change. Failure to report these changes could result in a \$100 late filing fee. Forms to assign ownership or update your address are available from any office of the Department or on the Department's website.

If you have any questions concerning the enclosed information, please contact me at (208) 334-2190.

Sincerely,



Kersie Thomeycroft

For:

Nick Miller

Western Regional Manager

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on September 30, 2020, I served a true and correct copy of Permit to Appropriate Water No. 63-34745 by U.S. Mail, postage prepaid, to the following:

MORES CREEK RIM RANCHES WATER DISTRICT
1 PALOMA DR
BOISE ID 83716-3295

SPF WATER ENGINEERING LLC
C/O LORI GRAVES
300 E MALLARD DR STE 350
BOISE ID 83706-6660

WATER DISTRICT #63
REX BARRIE
PO BOX 767
STAR ID 83669-0767



Kensie Thorneycroft
Administrative Assistant 1

EXPLANATORY INFORMATION TO ACCOMPANY A PRELIMINARY ORDER

(To be used in connection with actions when a hearing was **not** held)

(Required by Rule of Procedure 730.02)

The accompanying order or approved document is a "**Preliminary Order**" issued by the department pursuant to section 67-5243, Idaho Code. **It can and will become a final order without further action of the Department of Water Resources ("department") unless a party petitions for reconsideration, files an exception and brief, or requests a hearing as further described below:**

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the department within fourteen (14) days of the service date of this order. **Note: the petition must be received by the department within this fourteen (14) day period.** The department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3) Idaho Code.

EXCEPTIONS AND BRIEFS

Within fourteen (14) days after: (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding with the Director. Otherwise, this preliminary order will become a final order of the agency.

REQUEST FOR HEARING

Unless a right to a hearing before the Department or the Water Resource Board is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Director and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

ORAL ARGUMENT

If the Director grants a petition to review the preliminary order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with IDAPA Rules 37.01.01302 and 37.01.01303 (Rules of Procedure 302 and 303).

FINAL ORDER

The Director will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Director may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its service date if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

- (a) The petition for reconsideration is disposed of; or
- (b) The petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.