

State of Idaho  
Department of Water Resources  
**Water Right License**  
Water Right No. 22-13767

**Priority:** March 21, 2007

**Maximum Diversion Volume:** 4.8 AF

It is hereby certified that:

ROBERT F & NANCY B SPETZLER FAMILY TRUST  
2 BILTMORE EST UNIT 312  
PHOENIX AZ 85016-2855

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated March 19, 2007, and has submitted Proof of Beneficial Use on June 01, 2018. An examination confirms water is diverted from:

**Source :** UNAMED SPRING

**Tributary:** ELLIOT CREEK

<u>Beneficial Use</u>	<u>Period of Use</u>	<u>Rate of Diversion</u>	<u>Annual Volume</u>
WILDLIFE STORAGE	01/01 to 12/31		4.8 AF
AESTHETIC STORAGE	01/01 to 12/31		4.8 AF
STOCKWATER STORAGE	01/01 to 12/31		4.8 AF

**Location of Point(s) of Diversion**

UNAMED SPRING NE¼ NW¼, Sec. 22, Twp 04N, Rge 45E, B.M. TETON County

**Place of Use: WILDLIFE STORAGE**

Twp	Rng	Sec	NE				NW				SW				SE			
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE
04N	45E	22					X											

**Place of Use: AESTHETIC STORAGE**

Twp	Rng	Sec	NE				NW				SW				SE			
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE
04N	45E	22					X											

**Place of Use: STOCKWATER STORAGE**

Twp	Rng	Sec	NE				NW				SW				SE			
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE
04N	45E	22					X											

**Conditions of Approval**

1. Use of water under this right will 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. 01.

State of Idaho  
Department of Water Resources  
**Water Right License**  
Water Right No. 22-13767

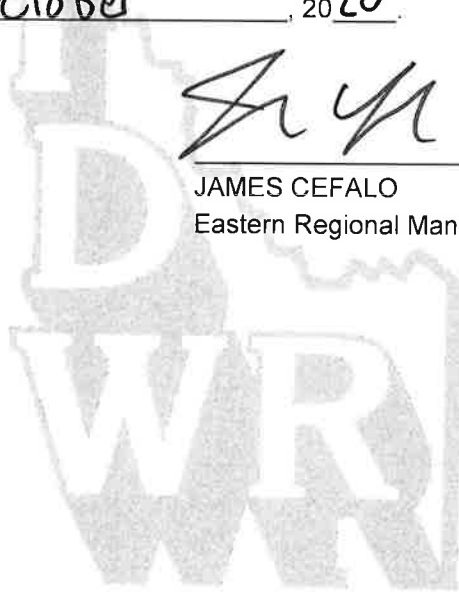
2. To restore the pond to its maximum storage elevation because of fluctuations in the water level during periods when water is not deliverable under this permit will require the permit holder to provide a mitigation plan for the additional storage volume.
3. The pond established by the storage of water under this right shall not exceed a total capacity of 4.8 acre-feet or a total surface area of 1.0 acre. Evaporation from the pond is offset by the removal of wetland vegetation.
4. This right does not grant any right-of-way or easement across the land of another.

This license is issued pursuant to the provisions of Idaho Code § 42-219. The water right confirmed by this license is subject to all prior water rights and shall be used in accordance with Idaho law and applicable rules of the Department of Water Resources.

Signed this 1<sup>st</sup> day of October, 2020.



JAMES CEFALO  
Eastern Regional Manager








State of Idaho  
Department of Water Resources  
**Water Right License**  
22-13767

45E

04N



-  Point of Diversion
-  Place Of Use Boundary
-  Townships
-  PLS Sections
-  Quarter Quarters

0 0.035 0.07 0.14 Miles



State of Idaho  
Department of Water Resources  
**Application for Amendment**  
(For Licensing Purposes)  
Water Right No. 22-13767

**RECEIVED**  
**AUG 27 2020**  
Department of Water Resources  
Eastern Region

**Priority:** March 21, 2007

**Maximum Diversion Volume:** 4.8 AF

The owner and holder of Permit to Appropriate the Public Waters of the State of Idaho No. 22-13767

ELLIOT CREEK LLC C/O HOLDEN KIDWELL HAHN & CRAPO  
PO BOX 50130 IDAHO FALLS ID 83405

requests the permit be changed as follows:

**Source :** UNAMED SPRING

**Tributary:** ELLIOT CREEK

**Beneficial Use**

WILDLIFE STORAGE

**Period of Use**

01/01 to 12/31

**Rate of Diversion**

**Annual Volume**

4.8 AF

AESTHETIC STORAGE

01/01 to 12/31

4.8 AF

STOCKWATER STORAGE

01/01 to 12/31

4.8 AF

**Location of Point(s) of Diversion**

UNAMED SPRING NE¼ NW¼, Sec. 22, Twp 04N, Rge 45E, B.M. TETON County

**Place of Use: WILDLIFE STORAGE**

Twp	Rng	Sec	NE				NW				SW				SE				No QQ	Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
04N	45E	22					X													

**Place of Use: AESTHETIC STORAGE**

Twp	Rng	Sec	NE				NW				SW				SE				No QQ	Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
04N	45E	22					X													

**Place of Use: STOCKWATER STORAGE**

Twp	Rng	Sec	NE				NW				SW				SE				No QQ	Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
04N	45E	22					X													

Permit holder asserts that no one will be injured by such change and that such change will be made at permit holder's own risk.

Signed this 21<sup>st</sup> day of July, 2020.

Robert L. Harris,  
(Signature) **ATTORNEY FOR APPLICANT**

State of Idaho  
Department of Water Resources  
**Application for Amendment**  
(For Licensing Purposes)  
**Water Right No. 22-13767**

FOR DEPARTMENT USE ONLY

Preliminary check by \_\_\_\_\_ Fee = \$100 Received by JB # E046226 Date 8/28/20

**ACTION OF THE DEPARTMENT OF WATER RESOURCES**

The Idaho Department of Water Resources hereby approves the above Application for Amendment for Permit No. 22-13767 with the following:

**Conditions of Approval**

1. Use of water under this right will 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. 01.
2. This right does not grant any right-of-way or easement across the land of another.
3. To restore the pond to its maximum storage elevation because of fluctuations in the water level during periods when water is not deliverable under this permit will require the permit holder to provide a mitigation plan for the additional storage volume.
4. The pond established by the storage of water under this right shall not exceed a total capacity of 4.84 acre-feet or a total surface area of 1.0 acre(s).

This amendment is issued pursuant to the provisions of Idaho Code § 42-211.

Signed this 28<sup>th</sup> day of September, 2020.



\_\_\_\_\_  
JAMES CEFALO  
Eastern Regional Manager



**State of Idaho**

**DEPARTMENT OF WATER RESOURCES**

Eastern Region • 900 N SKYLINE DR STE A • IDAHO FALLS, ID 83402-1718

Phone: (208)525-7161 • Fax: (208)525-7177 • Website: [www.idwr.idaho.gov](http://www.idwr.idaho.gov)

Brad Little  
Governor

Gary Spackman  
Director

October 01, 2020

ROBERT F & NANCY B SPETZLER FAMILY TRUST  
2 BILTMORE EST UNIT 312  
PHOENIX AZ 85016-2855

RE: License No. 22-13767

**Issuance of License**

Dear Water Right Holder:

The Department of Water Resources ("Department") has issued the enclosed Water Right License confirming that a water right has been established in accordance with your permit. Please be sure to thoroughly review all the conditions of approval listed on your license. The conditions may include ongoing requirements, such as maintenance of a measuring device or implementation of mitigation, as well as information about how your water use may be administered, such as regulation by a watermaster in a water district.

The license is a PRELIMINARY ORDER issued by the Department 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.

Also, please note that water right owners are required to report any change of water right 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. Water right forms are available from any office of the Department or on the Department's website at [idwr.idaho.gov](http://idwr.idaho.gov)

If you have any questions concerning the enclosed information, please contact me at (208) 497-3784.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Cefalo', is written over a horizontal line.

James Cefalo  
Eastern Regional Manager

Enclosure(s)

## **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.



## CERTIFICATE OF SERVICE

I hereby certify that on October 01, 2020, I served a true and correct copy of Water Right License No. 22-13767 by U.S. Mail, postage prepaid, to the following:

ROBERT F & NANCY B SPETZLER FAMILY TRUST  
2 BILTMORE EST UNIT 312  
PHOENIX AZ 85016-2855

WATER DISTRICT #01  
TONY OLENICHAK  
900 N SKYLINE DR STE A  
IDAHO FALLS ID 83402



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Christina Henman  
Administrative Asst. I