

State of Idaho
Department of Water Resources
Water Right License
Water Right No. 45-7498

Priority: June 16, 1995

Maximum Diversion Rate: 4.53 CFS

Maximum Diversion Volume: 912.0 AF

It is hereby certified that:

GEORGE M KELLEY
AND/OR
JO ANN KELLEY
PO BOX 25
ALBION ID 83311

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated March 05, 1982, and has submitted Proof of Beneficial Use on June 16, 1995. An examination confirms water is diverted from:

Source : GROUND WATER

Beneficial Use

IRRIGATION

Period of Use

3/15 to 11/15

Rate of Diversion

4.53 CFS

Annual Volume

912.0 AF

Location of Point(s) of Diversion

GROUND WATER NW¼ SW¼ NW¼, Sec. 10, Twp 12S, Rge 25E, B.M. CASSIA County

GROUND WATER NE¼ SE¼ NW¼, Sec. 10, Twp 12S, Rge 25E, B.M. CASSIA County

Place of Use: IRRIGATION

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		
12S	25E	3											6.0	6.0						12.0
12S	25E	9			3.0				40.0	38.0										81.0
12S	25E	10		40.0	14.5		5.0			0.5	1.0	6.0	39.0	23.0		6.0				135.0

Total Acres: 228.0

Conditions of Approval

1. Rights 45-7153, 45-7176, 45-7260, and 45-7498 when combined shall not exceed a total diversion rate of 4.53 cfs, a total annual maximum diversion volume of 2216 af at the field headgate, and the irrigation of 600.5 acres.
2. 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.140.
3. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
4. This right is for the use of trust water, and it is subject to review 5 years after its initial approval (date of permit approval) to re-evaluate the availability of trust water for the authorized use and to re-evaluate the public interest criteria for reallocating trust water.

State of Idaho
Department of Water Resources
Water Right License
Water Right No. 45-7498

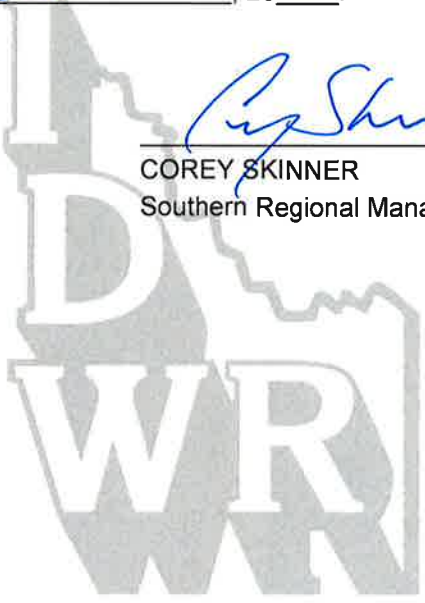
5. When the minimum stream flow water rights in the Snake River at Murphy Gage are not being satisfied, the right holder shall cease diverting water for the consumptive uses authorized by this right. The minimum stream flow water rights are for 3,900 cfs from April 1 through October 31 and 5,600 cfs from November 1 through March 31. See IDAPA 37.03.08.030.

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 17th day of June, 2020.

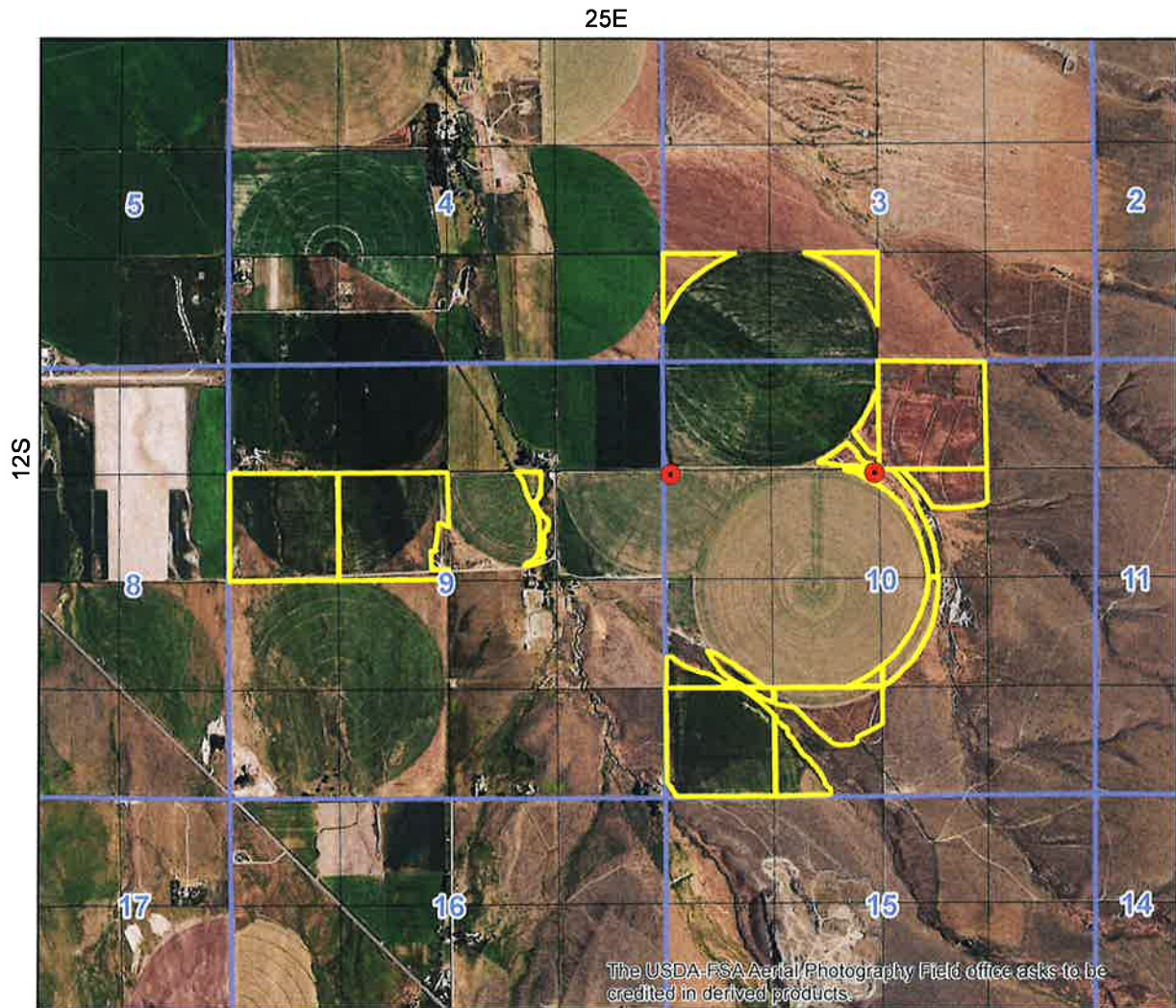


COREY SKINNER
Southern Regional Manager



State of Idaho
Department of Water Resources
Attachment to Water Right License
45-7498

This map depicts the IRRIGATION 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
- Place Of Use Boundary
- Townships
- PLS Sections
- Quarter Quarters

0 0.275 0.55 1.1 Miles





State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region • 650 ADDISON AVE W STE 500 • TWIN FALLS, ID 83301-5858

Phone: (208)736-3033 • Fax: (208)736-3037 • Website: www.idwr.idaho.gov

Brad Little
Governor

Gary Spackman
Director

June 17, 2020

GEORGE M KELLEY
JO ANN KELLEY
PO BOX 25
ALBION ID 83311

RE: License No. 45-7498

Issuance of License

Dear Water Right Holder(s):

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. Also enclosed is a copy of the approved application for amendment.

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

If you have any questions concerning the enclosed information, please contact me at (208) 736-3033.

Sincerely,

Corey Skinner
Southern Regional Manager

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on June 17, 2020, I served a true and correct copy of Water Right License No. 45-7498 by U.S. Mail, postage prepaid, to the following:

GEORGE M KELLEY (Current Owner)
JO ANN KELLEY (Current Owner)
PO BOX 25
ALBION ID 83311

WATER DISTRICT #140
ADAM MC COY (Watermaster)
355 W 500 S
BURLEY ID 83318



Denise Maline
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.

State of Idaho
Department of Water Resources
Application for Amendment
(For Licensing Purposes)
Water Right No. 45-7498

RECEIVED

JUN 15 2020

DEPT OF WATER RESOURCES
SOUTHERN REGION

Priority: June 16, 1995

Maximum Diversion Rate: 4.53 CFS

Maximum Diversion Volume: 912.0 AF

The owner and holder of Permit to appropriate the Public Waters of the State of Idaho No. 45-7498

GEORGE M KELLEY AND/OR JO ANN KELLEY
PO BOX 25
ALBION ID 83311

requests the permit be changed as follows:

Source : GROUND WATER

<u>Beneficial Use</u>	<u>Period of Use</u>	<u>Rate of Diversion</u>	<u>Annual Volume</u>
IRRIGATION	3/15 to 11/15	4.53 CFS	912.0 AF

Location of Point(s) of Diversion

GROUND WATER SW¼ NW¼, Sec. 10, Twp 12S, Rge 25E, B.M. CASSIA County
GROUND WATER SE¼ NW¼, Sec. 10, Twp 12S, Rge 25E, B.M. CASSIA County

Place of Use: IRRIGATION

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12S	25E	10		40.0	14.5		5.0			0.5	1.0	6.0	39.0	23.0		6.0				135.0

Total Acres: 228.0

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 10 day of June, 2020.

George Kelley
(Signature)

State of Idaho
Department of Water Resources
Application for Amendment
(For Licensing Purposes)
Water Right No. 45-7498

FOR DEPARTMENT USE ONLY

Preliminary check by SG Fee = \$100 Received by SG # S037982 Date 6/15/20

ACTION OF THE DEPARTMENT OF WATER RESOURCES

The Idaho Department of Water Resources hereby approves the above Application for Amendment for Permit No. 45-7498 with the following:

Conditions of Approval

1. Rights 45-7153, 45-7176, 45-7260, and 45-7498 when combined shall not exceed a total diversion rate of 4.53 cfs, a total annual maximum diversion volume of 2216 af at the field headgate, and the irrigation of 600.5 acres.
2. 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. 140.
3. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
4. This right is for the use of trust water, and it is subject to review 5 years after its initial approval (date of permit approval) to re-evaluate the availability of trust water for the authorized use and to re-evaluate the public interest criteria for reallocating trust water.
5. When the minimum stream flow water rights in the Snake River at Murphy Gage are not being satisfied, the right holder shall cease diverting water for the consumptive uses authorized by this right. The minimum stream flow water rights are for 3,900 cfs from April 1 through October 31 and 5,600 cfs from November 1 through March 31. See IDAPA 37.03.08.030.

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

Signed this 17th day of June, 2020.



COREY SKINNER
Southern Regional Manager



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region • 650 Addison Ave W, Suite 500 • Twin Falls ID 83301-5858

Phone: (208) 736-3033 • Fax: (208) 736-3037

Website: idwr.idaho.gov • Email: southerninfo@idwr.idaho.gov

BRAD LITTLE
Governor

GARY SPACKMAN
Director

June 9, 2020

George and Joann Kelley
PO Box 25
Albion, ID 83311

RE: Water Right Permit No. 45-7498

Dear Mr. and Mrs. Kelley:

Our office has on file permit 45-7498 in the name of George and Joann Kelley. On July 23, 2019 I and Allison Inouye (IDWR agent) conducted a field examination to verify development of the permit. During the examination, it was discovered that the one of the points of diversions was developed in a different location than described on the permit. In addition it was also discovered that the irrigation place of use was established differently than permitted. Before a license can be issued, permit 45-7498 must be amended to depict the points of diversions and the irrigation acres as they were actually developed.

Our office has drafted an Application for Amendment, for licensing purposes, which will correct the point of diversion and the irrigated acres to reflect the actual development. A map is included that shows the location of your wells (Blue dots) the irrigated acres under your existing water rights (Orange area) and the irrigation place of use (Yellow outline) developed for permit 45-7498. The enclosed Application for Amendment form and map depicts the water right as it will appear on the license when it is issued.

Please review the amendment form carefully. If you have any questions please feel free to call me. Otherwise, please sign the Application for Amendment and return it with a \$100.00 filing fee within 10 days.

Again, if you have any questions or need further assistance, please call me at 208-736-3033.

Sincerely,

Benny Walker
Sr. Water Resource Agent

Enclosures: