



State of Idaho

DEPARTMENT OF WATER RESOURCES

Northern Region • 7600 N Mineral Drive, Suite 100 • Coeur D'Alene ID 83815-7763

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

BRAD LITTLE
Governor

GARY SPACKMAN
Director

5/19/2020

SPENCER HITTLE
96 JUNIPER LN
BONNERS FERRY, ID 83805

Re: Water Right Inquiry

To Whom It May Concern,

An application for permit was applied for various uses from Ruby Creek, from which you diverted to your property in the name of Spencer Hittle on March 29, 2006. A permit, 98-7852 was issued on July 27, 2006 and a statement of completion was submitted on May 11, 2011. A field exam was performed by a water resource agent on September 23, 2016 which showed diversion from Ruby Creek, routed along a historic ditch, to a pond on your property for multiple storage uses, irrigation from storage use, and stockwater from storage use. The department is in the process of licensing 98-7852 and is requesting more information be provided.

During licensing review for permit 98-7852, it was identified that the volume of water applied for is insufficient to meet the applicant's pond storage volume. This letter is being sent to notify the current property owner, Spencer Hittle, that if/once permit 98-7852 is licensed, the current storage and possible irrigation of water could be in excess of the appropriated water permitted and/or licensed for volume.

Spencer Hittle applied for and was permitted for 0.4 acre-feet diversion volume for multiple storage components, irrigation from storage component, and stockwater from storage component. (See attached water right permit 98-7852). 98-7852 was permitted for 1.0 acres of irrigation. At time of licensing review, irrigation acreage was traced out to equal 0.3 acres. The department standard for irrigation is as follows: $0.3 \text{ acres} \times 3 \text{ acre-feet per acre} = 0.9 \text{ acre-feet}$. As a result, if the current property owner continues to irrigate 0.3 acres using the maximum allotted department standard, he/she will be diverting water in excess of the permitted allotment of 0.4 acre-feet for irrigation from storage.

Diversion of waters in the State of Idaho without an approved right is an infringement of Idaho Code §42-351 (copy attached) and may subject the violator to monetary penalties. At the time of authoring this correspondence, permit 98-7852 will licensed, and it is highly recommended the current property owner contact IDWR staff to identify an appropriate course of action to mitigate any over-appropriation of water related to this permit.

IDWR is seeking to begin a dialogue to gain compliance and use of responsible practices for the benefit of the water resource and all residents in the drainage as an alternative to issuing a violation. Please reference the attached enclosures and your water right 98-7852, and **Please contact me within 14 days** to discuss ways to address the unauthorized water use or if this letter is in error.

Respectfully,



Luke Bates
Water Resource Agent

Enclosure(s): Permit to Appropriate Water
Attachment to Water Permit Map
Idaho Code §42-351

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 98-07852

Priority: March 29, 2006

Maximum Diversion Rate: 0.05 CFS
Maximum Diversion Volume: 0.4 AF

This is to certify, that SPENCER HITTLE
HCR 01 BOX 332M
NAPLES ID 83847

has applied for a permit to appropriate water from:

Source: RUBY CREEK

Tributary: DEEP CREEK

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>
IRRIGATION	04/01 to 10/31	0.03 CFS	
DIVERSION TO STORAGE	01/01 to 12/31	0.05 CFS	
WILDLIFE STORAGE	01/01 to 12/31		0.4 AF
RECREATION STORAGE	01/01 to 12/31		0.4 AF
IRRIGATION STORAGE	01/01 to 12/31		0.4 AF
IRRIGATION FROM STORAGE	04/01 to 10/31		0.4 AF
STOCKWATER STORAGE	01/01 to 12/31		0.4 AF
STOCKWATER FROM STORAGE	01/01 to 12/31	0.02 CFS	

LOCATION OF POINT OF DIVERSION:

RUBY CREEK SE¼ SE¼ Sec. 24, Twp 61N, Rge 01W, B.M. BOUNDARY County

PLACE OF USE: WILDLIFE STORAGE, RECREATION STORAGE, IRRIGATION STORAGE,
STOCKWATER STORAGE, STOCKWATER FROM STORAGE

Twp Rge Sec	NE				NW				SW				SE				
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
61N 01E 19							X										
							L 2										

PLACE OF USE: IRRIGATION, IRRIGATION FROM STORAGE

Twp Rge Sec	NE				NW				SW				SE				
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
61N 01E 19							1.0										1.0
							L 2										

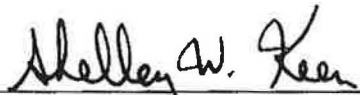
Total Acres: 1

State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 98-07852

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **July 01, 2011**.
2. Subject to all prior water rights.
3. Stockwater use is for 25 head mixed stock.
4. Wildlife storage and recreation storage uses are for a pond.
5. This right when combined with all other rights shall provide no more than 0.03 cfs per acre nor more than 3.0 afa per acre at the field headgate for irrigation of the lands above.
6. This right does not grant any right-of-way or easement across the land of another.
7. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which the permit holder had no control.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 27th day of July, 2006.



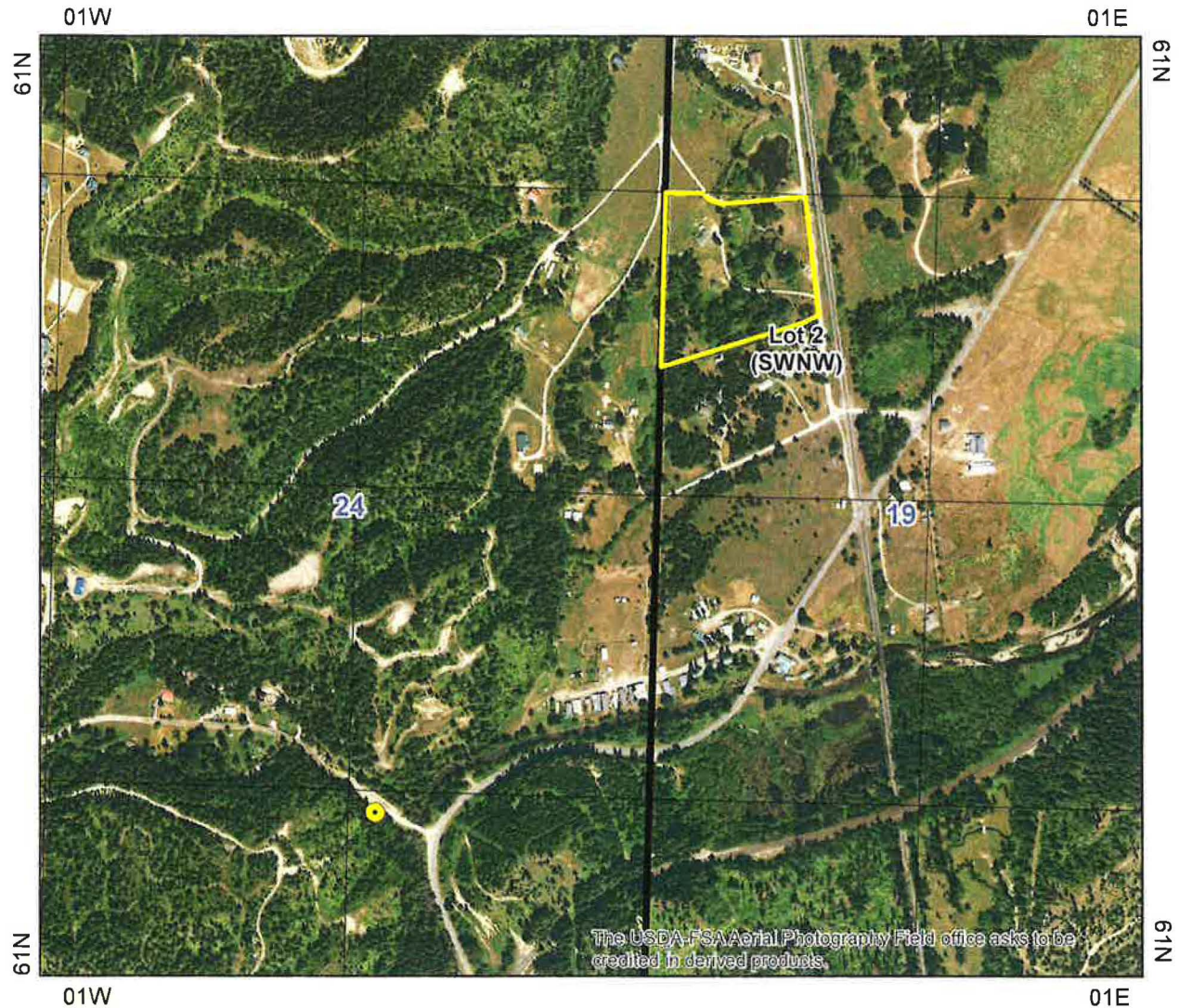
FOR KARL J DREHER, Director






State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

98-7852

This map depicts the IRRIGATION STORAGE 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 0.075 0.15 0.3 Miles

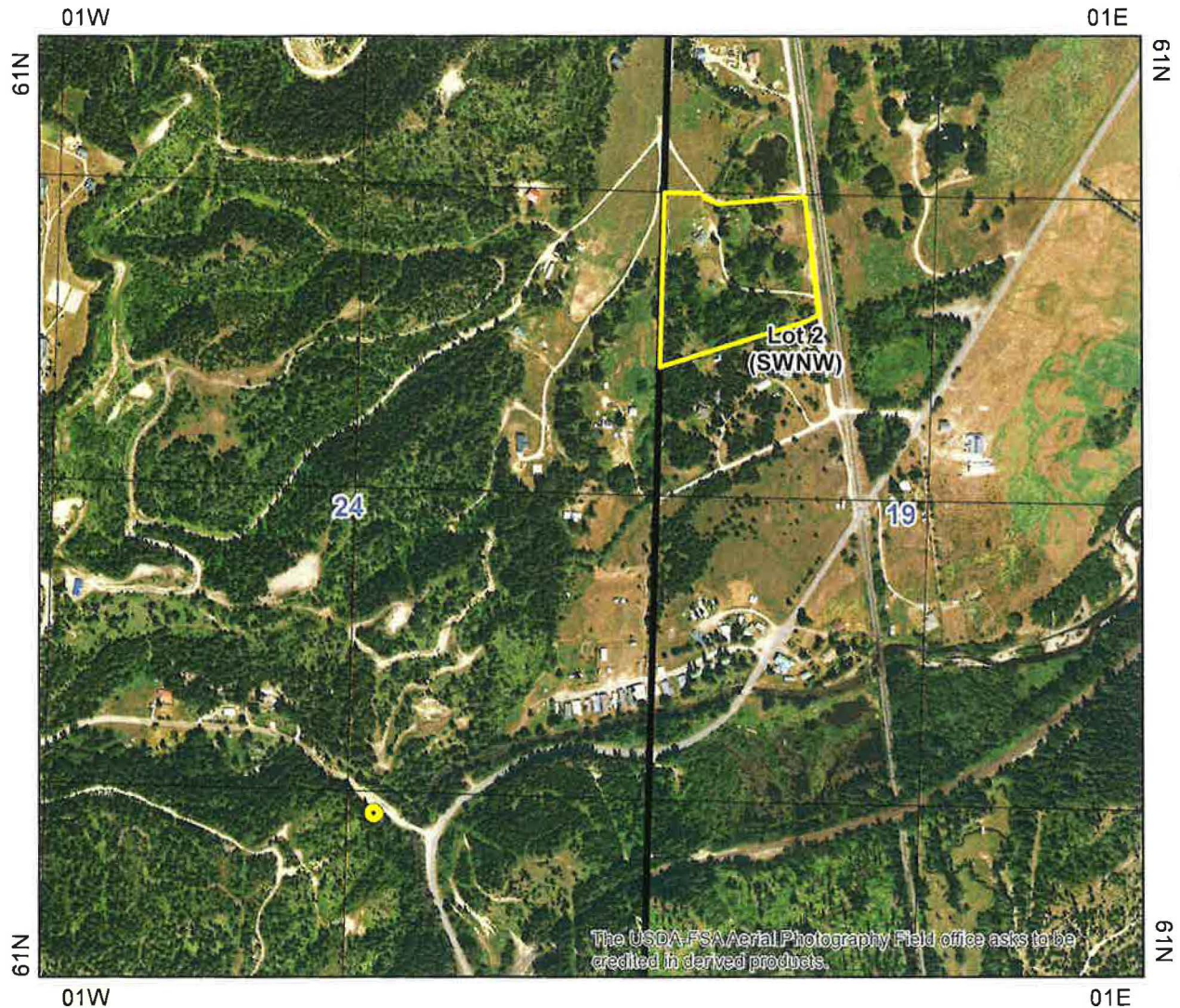


State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

98-7852

This map depicts the IRRIGATION FROM STORAGE 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 0.075 0.15 0.3 Miles





Idaho Statutes

TITLE 42

IRRIGATION AND DRAINAGE – WATER RIGHTS AND RECLAMATION

CHAPTER 3

APPROPRIATION OF WATER – CANCELTION OF PERMITS

42-351. ILLEGAL DIVERSION OR USE OF WATER – ENFORCEMENT PROCEDURE – INJUNCTIVE RELIEF. (1) It is unlawful for any person to divert or use water from a natural watercourse or from a ground water source without having obtained a valid water right to do so, or to divert or use water not in conformance with a valid water right.

(2) It is unlawful for any person to divert or use water in substantial violation of any provision of this title, or any rule, permit, condition of approval or order issued or promulgated pursuant to this title that is related to the diversion or use of water.

(3) Upon investigation of available information, the director of the department of water resources shall have the discretion to issue a written notice of violation to the person in accordance with the provisions of section 42-1701B, Idaho Code, for the illegal diversion or use of water.

(4) Notwithstanding the issuance of a notice of violation, the director may also file an action seeking injunctive relief directing the person to cease and desist the activity or activities alleged to be in violation of applicable law or any existing water right.

History:

[42-351, added 1986, ch. 313, sec. 8, p. 774; am. 1988, ch. 83, sec. 3, p. 145; am. 1994, ch. 450, sec. 5, p. 1438; am. 1998, ch. 173, sec. 4, p. 602; am. 2003, ch. 165, sec. 1, p. 467.]

How current is this law?

Search the Idaho Statutes and Constitution