

State of Idaho
Department of Water Resources
Permit to Appropriate Water
No. 57-12005

Priority: May 10, 2019

Maximum Diversion Rate: 1.37 CFS
Maximum Diversion Volume: 37.0 AF

This is to certify that

SUSIE F LOW 21101 OREANA LOOP RD MURPHY ID 83650-5125 AND
CALVIN D LOW 21101 OREANA LOOP RD MURPHY ID 83650-5125

has applied for a permit to appropriate water from:

Source: CASTLE CREEK

Tributary: SNAKE 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>
IRRIGATION STORAGE	01/01 to 12/31		37.0 AF
IRRIGATION FROM STORAGE	03/01 to 11/15		37.0 AF
DIVERSION TO STORAGE	11/16 to 02/28	1.37 CFS	

Location of Point(s) of Diversion

CASTLE CREEK NW¼ SW¼, Sec. 35, Twp 04S, Rge 01E, B.M. OWYHEE County

Place of Use: IRRIGATION STORAGE

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04S	01E	35			X					X									

Place of Use: IRRIGATION FROM STORAGE

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04S	01E	35	40.0	39.0															79.0

Total Acres: 79.0

Conditions of Approval

1. Proof of application of water to beneficial use shall be submitted on or before **April 01, 2025**.
2. Subject to all prior water rights.
3. Rights 57-11834 and 57-12005 when combined shall not exceed a total diversion rate of 1.37 cfs, and the irrigation of 79.0 acres.
4. Rights 57-220A, 57-10478, 57-11834 and 57-12005 when combined shall not exceed a total diversion rate of 1.92 cfs and the irrigation of 79 acres.
5. Rights 57-11834 and 57-12005 authorize the storage of an annual total of 163 acre-feet, comprised of 163 acre-feet to be used for the initial filling or carryover storage of the pond and 163 acre-feet for irrigation from storage use.
6. 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. 57C.

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7. Prior to diversion of water under this right, the right holder shall install and maintain a measuring device and lockable controlling works of a type acceptable to the Department as part of the diverting works.
8. The right holder shall install and maintain an impermeable liner in the pond to eliminate seepage losses.
9. 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.
10. 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.
11. 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.
12. 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 permit is issued pursuant to the provisions of Idaho Code § 42-204.

Signed this 1st day of April, 2020.

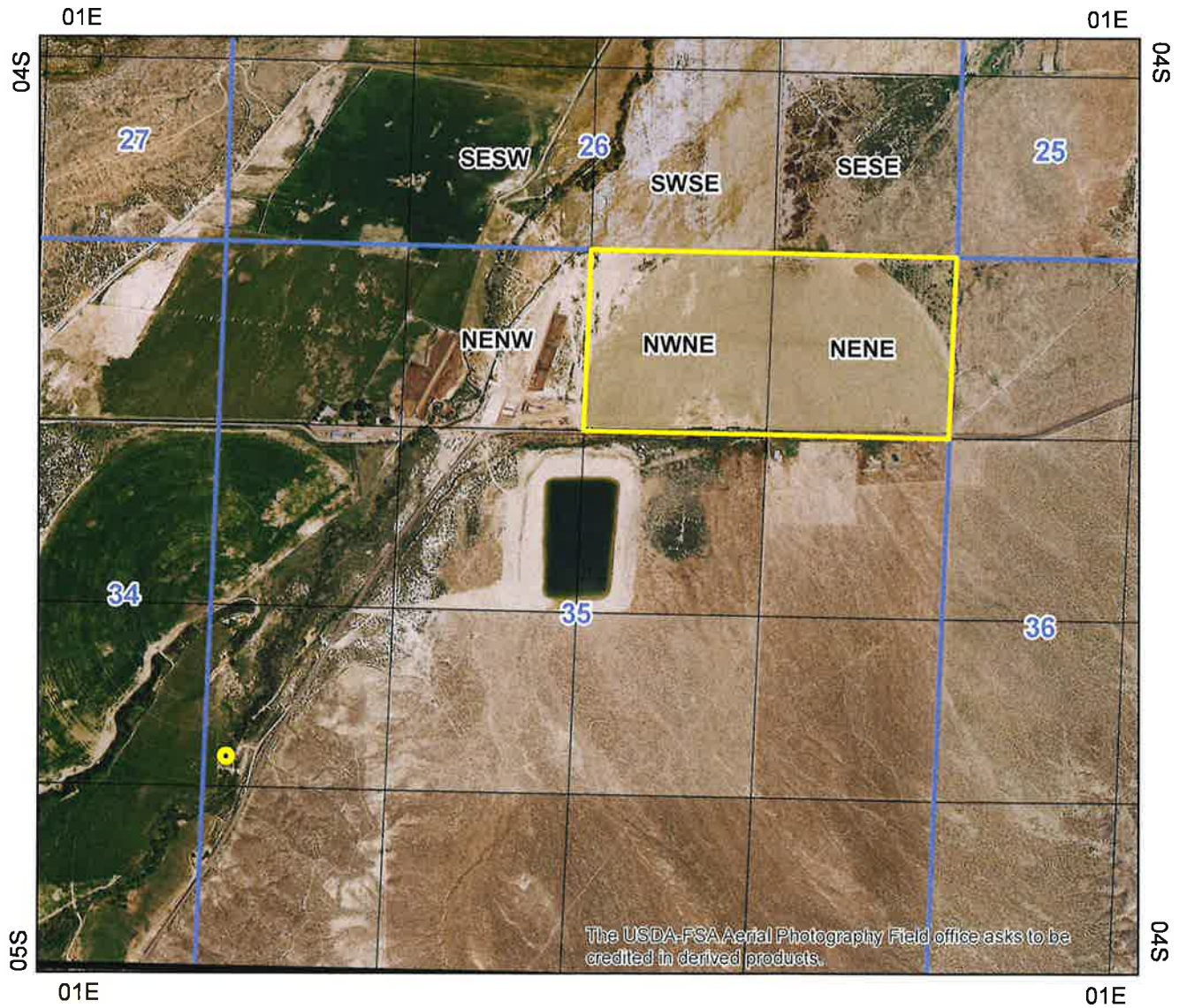







NICK MILLER

Western Regional Manager

State of Idaho
Department of Water Resources
Attachment to Permit to Appropriate Water
57-12005

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 0.15 0.3 0.6 Miles




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Department of Water Resources
Attachment to Permit to Appropriate Water
57-12005

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

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

April 01, 2020

CALVIN D LOW
SUSIE F LOW
21101 OREANA LOOP RD
MURPHY ID 83650-5125

RE: Permit No. 57-12005

Permit Approval Notice

Dear Permit Holders:

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,

A handwritten signature in blue ink, appearing to read 'Kensie Thorneycroft', written in a cursive style.

Kensie Thorneycroft

For: Nick Miller
Western Regional Manager

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on April 01, 2020, I served a true and correct copy of Permit to Appropriate Water No. 57-12005 by U.S. Mail, postage prepaid, to the following:

CALVIN D LOW
SUSIE F LOW
21101 OREANA LOOP RD
MURPHY ID 83650-5125

SPF WATER ENGINEERING LLC
C/O SCOTT N KING
300 E MALLARD DR STE 350
BOISE ID 83706

CASTLE CREEK RANCH LLC
ATTN: THOMAS DESHAZO
1228 S RIVER FLOW WAY
EAGLE ID 83616

WATER DISTRICT #57C
MICHAEL B IHLI
625 S SCHOOL AVE
KUNA ID 83634-2313



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.

MEMORANDUM

TO: WR File 57-12005
FROM: Patrick Kelly
DATE: 3/25/2020
SUBJECT: Permitting Rate & Volume

App for Permit 57-12005 is proposing 65 af of Irrigation Storage and Irrigation from Storage use which states: "membrane lined pond with 135 af storage capacity and 27.5 afa evaporative loss... Once permit 57-11834 is licensed, 98 af of the pond is expected to be authorized under that right. The purpose of this application is to cover the additional 65 af of total storage."

57-11834 was licensed in 2019 with a diversion rate of 1.37 cfs Diversion to Storage for 98 af of Irrigation Storage and Irrigation from Storage. Consumptive losses were not accounted for as the right describes capacity of the pond. The diversion to storage season of use for both rights is during the non-irrigation season; 11/16 to 2/28. This is a period of minimal evaporation losses and does not allow the user any refill.

Since the user does not maintain the pond level throughout the year, evaporation losses should not be considered. And because the user cannot irrigate out of the pond while diverting water into the pond, the total amount of water the owner can divert is strictly the capacity of the pond (135 af).

The 1.37 cfs Diversion to Storage recommendation is less than the 1.40 cfs applied for. The applicants' representative completed a measurement of the diversion pipe of 1.37 cfs maximum flow. Changes to the system to increase the diversion rate are not being proposed by the application.

	04501E35		57-12005 Overlap Analysis LOW, CALVIN D: LOW, SUSIE F																						
Process	BasinSequence	Draft	Owner	Source	POD POU	Use	NENE	NWNE	SWNE	SENE	NENW	NW/NW	SWNW	SE/NW	NESW	NWSW	SWSW	SESW	NESE	NWSE	SWSE	SESE	Total Acres		
Permit Application	57-12005		CALVIN D LOW (Transfer Applicant), SUSIE F LOW (Applicant)	CASTLE CREEK	POU	IRRIGATION	40	39						30		8							79		
Water Right	57-104	N	EVANS, JOHN J; LOW, CALVIN D; LOW, SUSIE F; STEINER, SAMUEL V C	CASTLE CREEK	POU	IRRIGATION																	38		
Water Right	57-10478	N	COX, CAROL J; COX, JAY H; LOW, CALVIN D; LOW, SUSIE F; RED RANCH LLC; TAYLOR, WARREN R	CASTLE CREEK	POU	IRRIGATION	40	39															79		
Water Right	57-220A	N	COX, CAROL J; COX, JAY H; LOW, CALVIN D; LOW, SUSIE F; RED RANCH LLC; TAYLOR, WARREN R	CASTLE CREEK	POU	IRRIGATION	40	39															79		
Water Right	57-109	N	FOREMAN, THOMAS A; HEART K TRUST; KING, GORDON G; KING, ROSE M; RAINEY, RONALD P	CASTLE CREEK	POU	IRRIGATION					12	37											49		
Water Right	57-116	N	EVANS, JOHN J; LOW, CALVIN D; LOW, SUSIE F; STEINER, SAMUEL V C	CASTLE CREEK	POU	IRRIGATION							30			8							38		
Water Right	57-118	N	FOREMAN, THOMAS A; HEART K TRUST; KING, GORDON G; KING, ROSE M; RAINEY, RONALD P	CASTLE CREEK	POU	IRRIGATION					12	37											49		
Water Right	57-120	N	EVANS, JOHN J; LOW, CALVIN D; LOW, SUSIE F; STEINER, SAMUEL V C	CASTLE CREEK	POU	IRRIGATION							30			8							38		
Water Right	57-122	N	FOREMAN, THOMAS A; HEART K TRUST; KING, GORDON G; KING, ROSE M; RAINEY, RONALD P	CASTLE CREEK	POU	IRRIGATION					12	37											49		
Water Right	57-124	N	FOREMAN, THOMAS A; HEART K TRUST; KING, GORDON G; KING, ROSE M; RAINEY, RONALD P	CASTLE CREEK	POU	IRRIGATION					12	37											49		
Water Right	57-127	N	EVANS, JOHN J; LOW, CALVIN D; LOW, SUSIE F; STEINER, SAMUEL V C	CASTLE CREEK	POU	IRRIGATION							30			8							38		
Water Right	57-128	N	FOREMAN, THOMAS A; HEART K TRUST; KING, GORDON G; KING, ROSE M; RAINEY, RONALD P	CASTLE CREEK	POU	IRRIGATION					12	37											49		
Water Right	57-136	N	FOREMAN, THOMAS A; HEART K TRUST; KING, GORDON G; KING, ROSE M; RAINEY, RONALD P	CASTLE CREEK	POU	IRRIGATION					12	37											49		
Water Right	57-149	N	EVANS, JOHN J; LOW, CALVIN D; LOW, SUSIE F; STEINER, SAMUEL V C	CASTLE CREEK	POU	IRRIGATION							30			8							38		
Water Right	57-152	N	FOREMAN, THOMAS A; HEART K TRUST; KING, GORDON G; KING, ROSE M; RAINEY, RONALD P	CASTLE CREEK	POU	IRRIGATION					12	37											49		
Water Right	57-163	N	FOREMAN, THOMAS A; HEART K TRUST; KING, GORDON G; KING, ROSE M; RAINEY, RONALD P	CASTLE CREEK	POU	IRRIGATION					12	37											49		
Water Right	57-2104	N	EVANS, JOHN G; LOW, CALVIN D; LOW, SUSIE F; STEINER, SAMUEL V C	CASTLE CREEK	POU	IRRIGATION							30			8							38		
Water Right	57-2132A	N	FOREMAN, T A; HEART K TRUST; KING, GORDON G; KING, ROSE M	CASTLE CREEK	POU	IRRIGATION					12	37											49		
Water Right	57-89	N	EVANS, JOHN J; LOW, CALVIN D; LOW, SUSIE F; STEINER, SAMUEL V C	CASTLE CREEK	POU	IRRIGATION							30			8							38		
Water Right	57-91	N	FOREMAN, THOMAS A; HEART K TRUST; KING, GORDON G; KING, ROSE M; RAINEY, RONALD P	CASTLE CREEK	POU	IRRIGATION					12	37											49		
Water Right	57-95	N	EVANS, JOHN J; LOW, CALVIN D; LOW, SUSIE F; STEINER, SAMUEL V C	CASTLE CREEK	POU	IRRIGATION							30			8							38		
Water Right	57-99	N	FOREMAN, THOMAS A; HEART K TRUST; KING, GORDON G; KING, ROSE M; RAINEY, RONALD P	CASTLE CREEK	POU	IRRIGATION					12	37											49		
Water Application			CALVIN D LOW (Transfer Applicant), SUSIE F LOW (Transfer Applicant)	CASTLE CREEK	POU	IRRIGATION							30			8							38		
Water Permit	57-11874	N	LOW, CALVIN D; LOW, SUSIE F; SPF WATER ENGINEERING LLC	GROUND WATER	POU	IRRIGATION								30		11	1						42		
Water Right	57-2246	N	FOREMAN, D I; HEART K TRUST; KING, GORDON G; KING, ROSE M; RAINEY, RONALD P	GROUND WATER	POU	IRRIGATION					12	37											49		
Water Right	57-2251	N	STEINER, CHARLES W	GROUND WATER	POU	IRRIGATION							39			20	5						64		
Water Right	57-2253	N	ESTATE OF D I FOREMAN; HEART K TRUST; KING, GORDON G; KING, ROSE M; RAINEY, RONALD P	GROUND WATER	POU	IRRIGATION					12	37											49		