

State of Idaho
Department of Water Resources
Permit to Appropriate Water
No. 21-13144

Priority: May 10, 2012

Maximum Diversion Rate: 1,200.00 CFS

This is to certify that

FREMONT MADISON IRRIGATION DISTRICT
PO BOX 15
SAINT ANTHONY ID 83445-0015

has applied for a permit to appropriate water from:

Source : FALL RIVER
Source : HENRYS FORK
Source : TETON RIVER

Tributary: HENRYS FORK
Tributary: SNAKE RIVER
Tributary: HENRYS FORK

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>
GROUND WATER RECHARGE	01/01 to 12/31	1,200.00 CFS

Location of Point(s) of Diversion

HENRYS FORK L2 (NE¼ SE¼ SW¼), Sec. 32, Twp 08N, Rge 41E, B.M. FREMONT County
HENRYS FORK SW¼ NW¼ NE¼, Sec. 33, Twp 08N, Rge 41E, B.M. FREMONT County
HENRYS FORK L25 (NW¼ NE¼ SE¼), Sec. 10, Twp 07N, Rge 40E, B.M. FREMONT County
FALL RIVER L8 (SE¼ SE¼ SE¼), Sec. 20, Twp 08N, Rge 42E, B.M. FREMONT County
FALL RIVER L4 (NE¼ NW¼ SW¼), Sec. 20, Twp 08N, Rge 42E, B.M. FREMONT County
TETON RIVER NW¼ NW¼ NE¼, Sec. 28, Twp 07N, Rge 41E, B.M. FREMONT County
TETON RIVER NE¼ SW¼ NE¼, Sec. 36, Twp 07N, Rge 40E, B.M. FREMONT County
TETON RIVER NW¼ SE¼ NW¼, Sec. 36, Twp 07N, Rge 40E, B.M. FREMONT County
TETON RIVER SE¼ NE¼ NE¼, Sec. 20, Twp 06N, Rge 40E, B.M. MADISON County
HENRYS FORK NW¼ SE¼ NE¼, Sec. 12, Twp 08N, Rge 41E, B.M. FREMONT County
HENRYS FORK L3 (SE¼ NW¼ SE¼), Sec. 14, Twp 08N, Rge 41E, B.M. FREMONT County
HENRYS FORK L4 (SE¼ NW¼ SE¼), Sec. 14, Twp 08N, Rge 41E, B.M. FREMONT County
HENRYS FORK L7 (SW¼ NE¼ NW¼), Sec. 33, Twp 08N, Rge 41E, B.M. FREMONT County
HENRYS FORK L8 (NW¼ SE¼ NE¼), Sec. 1, Twp 07N, Rge 40E, B.M. FREMONT County
HENRYS FORK L6 (SW¼ SE¼ NW¼), Sec. 1, Twp 07N, Rge 40E, B.M. FREMONT County
HENRYS FORK L6 (SE¼ NE¼ SE¼), Sec. 2, Twp 07N, Rge 40E, B.M. FREMONT County

Place of Use: GROUND WATER RECHARGE

Twp	Rng	Sec	NE				NW				SW				SE			
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE
05N	39E	1							X L4		X	X	X	X	X		X	X
05N	39E	2			X L2	X L1					X	X						
05N	40E	6							X L4			X L5						
06N	39E	1													X	X	X	
06N	39E	5	X L1		X	X		X L4	X	X	X	X	X					
06N	39E	6	X L1			X												
06N	39E	7	X			X									X			X

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06N	39E	8						X										
06N	39E	12	X	X		X												
06N	39E	13			X	X				X	X	X	X	X	X	X		X
06N	39E	14															X	X
06N	39E	17						X				X	X					
06N	39E	18	X			X												
06N	39E	20						X	X									
								L4	L8									
06N	39E	20						X										
								L6										
06N	39E	23		X	X	X												
06N	39E	24	X		X	X								X	X		X	
06N	39E	25		X	X	X	X	X	X					X				
06N	39E	26			X	X		X	X									
06N	39E	27			X	X	X	X	X									
06N	39E	28	X	X	X			X	X									
06N	39E	29								X	X				X	X	X	X
06N	39E	30													X		X	X
																	L12	
06N	39E	36				X									X			X
06N	40E	3					X	X		X	X			X				
							L3	L4										
06N	40E	4	X	X	X					X	X	X						
			L1	L2														
06N	40E	5		X	X					X	X				X	X	X	
				L2														
06N	40E	6						X	X			X						
								L4	L5			L6						
06N	40E	7	X	X			X	X	X		X		X	X	X	X		
							L1	L2					L4					
06N	40E	8		X			X	X	X	X	X	X			X	X		
06N	40E	9	X			X				X	X				X	X		
06N	40E	10					X	X	X		X	X						
06N	40E	18						X	X			X						
								L1	L2									
06N	40E	19			X	X					X		X		X	X		
06N	40E	20	X	X	X					X	X	X						
06N	40E	30						X	X			X	X					
								L1	L2			L3	L4					
06N	40E	31						X	X									
								L1	L2									
07N	38E	12			X	X								X	X		X	
07N	39E	1	X	X			X	X	X			X		X			X	X
			L1	L2			L3	L4										
07N	39E	2										X	X	X	X		X	X
07N	39E	3									X	X		X	X		X	X
07N	39E	4											X	X	X	X	X	X
07N	39E	5											X	X			X	X
07N	39E	7	X	X	X		X		X			X						
									L2			L3						
07N	39E	8						X										
07N	39E	9								X		X	X	X	X			
07N	39E	10								X	X			X	X			
07N	39E	11			X	X				X	X			X	X		X	X
07N	39E	12	X	X	X	X	X	X	X			X	X	X	X		X	X
07N	39E	13	X		X	X		X	X	X	X	X	X					
07N	39E	14	X	X	X	X	X	X	X	X	X	X	X		X	X	X	X
07N	39E	15	X		X	X		X	X	X	X				X	X		
07N	39E	16			X	X						X	X	X	X	X	X	
07N	39E	17	X		X	X			X	X	X			X	X	X	X	
07N	39E	18	X	X	X	X									X	X		
07N	39E	19				X									X			X

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07N	39E	20	X			X	X	X	X		X	X			X	X		
07N	39E	20				X			X		X	X			X	X		
07N	39E	21			X	X		X	X	X	X	X	X		X	X		
07N	39E	21						X										
07N	39E	22	X	X	X	X	X	X	X		X	X	X	X	X	X	X	
07N	39E	22				X									X			
07N	39E	23	X		X	X	X	X	X	X	X	X						
07N	39E	27		X	X		X	X	X	X		X						
07N	39E	28			X	X		X					X	X	X	X	X	X
07N	39E	29	X	X			X	X					X					
07N	39E	30	X			X									X			X
07N	39E	31	X			X									X			X
07N	39E	32				X		X	X			X	X		X			X
07N	39E	33	X		X	X		X	X		X	X		X		X		
07N	40E	1			X	X			X	X		X					X	X
					L7	L8												
07N	40E	1								X	X							
										L6		X						
07N	40E	2	X	X		X	X	X	X	X	X	X		X	X	X	X	X
			L1	L2			L3	L4							L6		L5	L6
07N	40E	3	X			X				X	X	X	X	X	X	X	X	X
			L1															
07N	40E	4												X			X	X
07N	40E	6					X			X	X	X	X					
							L3											
07N	40E	7									X	X	X		X	X	X	X
											L3	L4						
07N	40E	8	X		X	X			X	X	X	X	X	X	X	X	X	X
07N	40E	9	X	X	X	X	X	X	X	X	X	X				X		
07N	40E	10	X	X		X	X	X	X					X	X	X	X	
															L25	L26	L5	
07N	40E	10				X									X		X	
						L12									L25		L27	
07N	40E	11				X	X	X		X			X	X	X	X		
						L1	L2											
07N	40E	12		X		X	X		X		X		X	X		X		
07N	40E	13						X										X
07N	40E	14	X	X			X	X	X			X						
07N	40E	15	X		X		X			X	X	X	X	X	X	X	X	
							L3											
07N	40E	16																X
07N	40E	18		X			X	X	X	X								
							L1	L2										
07N	40E	20												X			X	X
07N	40E	21	X	X	X	X				X	X	X	X		X	X		X
07N	40E	22											X	X			X	
07N	40E	23	X		X	X				X	X			X	X	X		
07N	40E	24	X	X			X	X		X	X				X	X		
07N	40E	25	X	X			X	X										
07N	40E	26	X	X			X	X		X	X			X				
07N	40E	27	X	X		X	X	X										X
07N	40E	28	X			X		X	X						X			X
07N	40E	29	X	X	X	X	X	X	X			X	X	X		X	X	
07N	40E	30																X
07N	40E	31	X	X	X	X	X			X	X	X	X			X		
												L3	L4					
07N	40E	31			X	X				X	X	X	X			X		
												L3	L4					
07N	40E	32		X	X	X	X		X	X	X	X	X	X				
07N	40E	32			X	X			X	X	X	X	X	X				
07N	40E	33	X	X	X				X	X								
07N	40E	33							X	X								
07N	40E	34	X			X					X			X	X	X		

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07N	40E	34				X					X			X	X	X		
07N	40E	35		X		X	X				X	X		X	X	X		
07N	40E	35									X	X			X			
07N	40E	36			X				X	X						X		
07N	41E	2							X	L4								
07N	41E	3	X			X	X	L3		X	X	X	X	X	X	X	X	
07N	41E	4	X			X					X		X	X	X	X		
07N	41E	5	X	X	X		X	X	L3	L4	X	X	X	X				
07N	41E	6									X	X	X	L10	L11	X	X	
07N	41E	7	X		X	X	X	X	L1	L2					X		X	X
07N	41E	8				X									X			X
07N	41E	9	X			X		X	X			X	X		X			X
07N	41E	10					X	X	X			X	X					
07N	41E	15						X	X			X	X					
07N	41E	16	X			X		X	X							X	X	X
07N	41E	17	X	X			X	X	X			X				X	X	
07N	41E	18			X	X	X	X	L1	L2	X	X	X	L3	X	X	X	X
07N	41E	19		X			X				X	X	X	L3		X	X	X
07N	41E	20													X	X		X
07N	41E	21		X	X	X				X	X		X	X		X		
07N	41E	28		X			X	X										
07N	41E	30					X	X	L1									
08N	39E	36				X									X			X
08N	40E	26															X	X
08N	40E	28											X	X			X	X
08N	40E	29															X	X
08N	40E	31	X	X			X		X	L2	X	X	X	L3		X	X	X
08N	40E	32	X	X			X	X			X	X				X	X	
08N	40E	33	X				X	X			X	X				X	X	
08N	40E	34	X	X			X	X			X				X	X		X
08N	40E	35	X	X			X	X			X				X	X		
08N	40E	36	X	X		X	X	X			X	X			X	X		
08N	41E	12			X	X	L1				X			X	X	X	X	X
08N	41E	12									X				X	L3		
08N	41E	12													X	L3		
08N	41E	13		X	X	X	X	L1	L2	L2		X				X	L6	
08N	41E	14			X	X					X	X	X	X	X	X		X
08N	41E	14				X	L5									X	L3	X
08N	41E	14														X	L3	L4
08N	41E	15														X	L4	
08N	41E	22		X	X	X				X	X	X	X	X	X	X	L3	
08N	41E	23		X			X	L6		X	L5	L2	L3	L5		X		
08N	41E	23		X						X	L6							

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08N	41E	25	X		X	X			X	X	X	X	X	X	X	X	X	
08N	41E	26		X	X	X	X	X	X	X		X		X		X	X	X
08N	41E	27					X		X	X		X			X		X	X
08N	41E	28									X	X	X		X	X	X	X
08N	41E	29															X	X
08N	41E	31	X	X	X	X			X	X	X	X		X		X	X	X
08N	41E	32		X	X	X	X	X		X	X		X	X	X	X	X	X
08N	41E	32				X					X		X	X	X	X		
08N	41E	33		X	X		X	X	X	X	X	X	X	X	X	X		X
08N	41E	34		X	X		X		X	X	X	X	X	X				
08N	41E	35		X			X			X	X	X	X					
08N	42E	7								X	X	X	X					
08N	42E	18		X	X	X	X	X	X	X						X	X	
08N	42E	19		X	X	X												X
08N	42E	20										X	X	X			X	X
08N	42E	29		X			X										X	X
08N	42E	30	X	X			X	X	X									

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. 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. 01.
4. 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).
5. This right is subject to all applicable provisions of Section 42-234, Idaho Code.
6. Pursuant to Idaho Code § 42-234(4), to ensure that other water rights are not injured by the operations of the recharge project authorized by this right, the Director has authority to approve, disapprove, or require alterations in the methods employed to achieve ground water recharge.
7. Pursuant to Idaho Code § 42-234(3), the Director may reduce the amount of water that may be diverted for recharge purposes under this right even though there is sufficient water to supply the entire amount authorized for appropriation under this right.
8. This approval does not constitute approval by the Idaho Water Resource Board, which may also be required pursuant to Idaho Code § 42-1737.
9. Consistent with Idaho Code § 42-234(5), seepage from canals incidental to or coincident with delivery of irrigation water shall not be considered ground water recharge under this right. Canal seepage will be considered to be ground water recharge only when the canals are not conveying water for irrigation or other beneficial uses.

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10. This right is not an authorization for the described recharge effort to be used as mitigation or credit for any other purpose. The sufficiency of the recharge effort authorized under this right for mitigation or credit for some other purpose may be determined by the Department upon proper submission of a mitigation plan pursuant to the Department's Rules of Conjunctive Management of Surface and Ground Water Resources, a mitigation plan to offset depletion in association with a water right application, a Management Program pursuant to Idaho Code Idaho Code § 42-1416B, or any other proposal to utilize credit for the recharge effort.
11. Water may only be diverted for recharge under this right when 2,700 cfs or more is flowing past Minidoka Dam.
12. The diversion of water under this right shall not exceed ten thousand (10,000) acre-feet on an average annual basis without first obtaining approval from the Idaho Water Resource Board pursuant to Section 42-1737(a), Idaho Code.
13. Water right 21-13144 will be used within the FMID authorized place of use. However, it may also be used on BLM lands outside of FMID's authorized place of use if FMID contracts with Egin Bench Canal Company or other applicable canal companies when water under 21-13144 is delivered to lands allowed for recharge by BLM. This condition does not modify the place of use authorized under this water right.
14. Subject to a written waiver of this condition granted by the Henry's Fork Drought Management Committee (or its successor in interest), this right may be diverted only when the flows in the Henry's Fork measured at the St. Anthony gauge (USGS 13050500) reach or exceed 1,000 cfs.
15. Any and all pumps used to divert water under this right shall use an electric power source.
16. Prior to diversion and use of water under this approval on or across federal land, the right holder shall obtain Bureau of Land Management authorization necessary to access the point of diversion or place of use or to convey water across federal land.
17. Places of use for ground water recharge describing federal public lands within the canals and discharges outside of the canals onto federal public land are not authorized, unless specifically authorized in writing by the United States.
18. This right does not grant any right-of-way or easement across the land of another.

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

Signed this 31st day of March, 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

Brad Little
Governor

Gary Spackman
Director

March 31, 2020

FREMONT MADISON IRRIGATION DISTRICT
PO BOX 15
SAINT ANTHONY ID 83445-0015

RE: Permit No. 21-13144

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) 497-3784.

Sincerely,

A handwritten signature in black ink, appearing to read 'J Cefalo', written in a cursive style.

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 March 31, 2020, I served a true and correct copy of Permit to Appropriate Water No. 21-13144 by U.S. Mail, postage prepaid, to the following:

FREMONT MADISON IRRIGATION DISTRICT
PO BOX 15
SAINT ANTHONY ID 83445-0015

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
PO BOX 83720
BOISE ID 83720-0010



Christina Henman
Administrative Asst. I