

State of Idaho
Department of Water Resources
Water Right License
Water Right No. 71-10949

Priority: September 08, 2014

Maximum Diversion Rate: 7.10 CFS
Maximum Diversion Volume: 2,591.2 AF

It is hereby certified that:

SALMON FALLS LAND & LIVESTOCK CO INC
MICHAEL J HENSLEE
95A BELL RAPIDS RD
HAGERMAN ID 83332-6039

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated August 18, 2014, and has submitted Proof of Beneficial Use on December 22, 2015. An examination confirms water is diverted from:

Source : GROUND WATER

<u>Beneficial Use</u>	<u>Period of Use</u>	<u>Rate of Diversion</u>	<u>Annual Volume</u>
IRRIGATION	05/01 to 10/31	7.10 CFS	2,591.2 AF

Location of Point(s) of Diversion

GROUND WATER NE¼ SE¼, Sec. 15, Twp 07N, Rge 14E, B.M. CUSTER County
GROUND WATER SW¼ NW¼, Sec. 23, Twp 07N, Rge 14E, B.M. BLAINE 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		
07N	14E	10															2.8	0.6		3.4
07N	14E	14					32.0	31.0	39.0	33.0	31.0	34.0	36.0	31.0						267.0
07N	14E	15	35.0	35.0	40.0	38.0	9.5			38.0	31.0	0.4	10.0	40.0	36.0	35.0	38.0	40.0		425.9
07N	14E	22	27.0	25.0	39.0	33.0	26.0	1.2		15.0				2.5	1.0					169.7
07N	14E	23					23.0	39.0	24.0	14.0		2.2								102.2

Total Acres: 968.2

Conditions of Approval

1. Rights 71-10949 and right 71-10882 when combined shall not exceed the irrigation of 1018.0 acres.
2. Rights 71-10949, 71-11000, 71-11001, and right 71-10882 when combined shall not exceed a total diversion rate of 22.0 cfs.
3. 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. 71.
4. Prior to diversion of water under this right, the right holder shall install a lockable device, subject to the approval of the Department, in a manner that will provide suitable control of the diversion.

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5. When notified by the Department or by a watermaster with regulatory authority over this right, the right holder shall report the amount of water diverted in connection with this right. The report shall be submitted in the manner and frequency specified by the Department or the watermaster.
6. Prior to the diversion and use of water under this right, the right holder shall install and maintain acceptable measuring device(s), including data logger(s), at the authorized point(s) of diversion and in accordance with Department specifications, or shall obtain an approved variance from the Department to employ an alternative method to determine and record the amount of water diverted.

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 27th day of February, 20 20.



COREY SKINNER
Southern Regional Manager

DWR

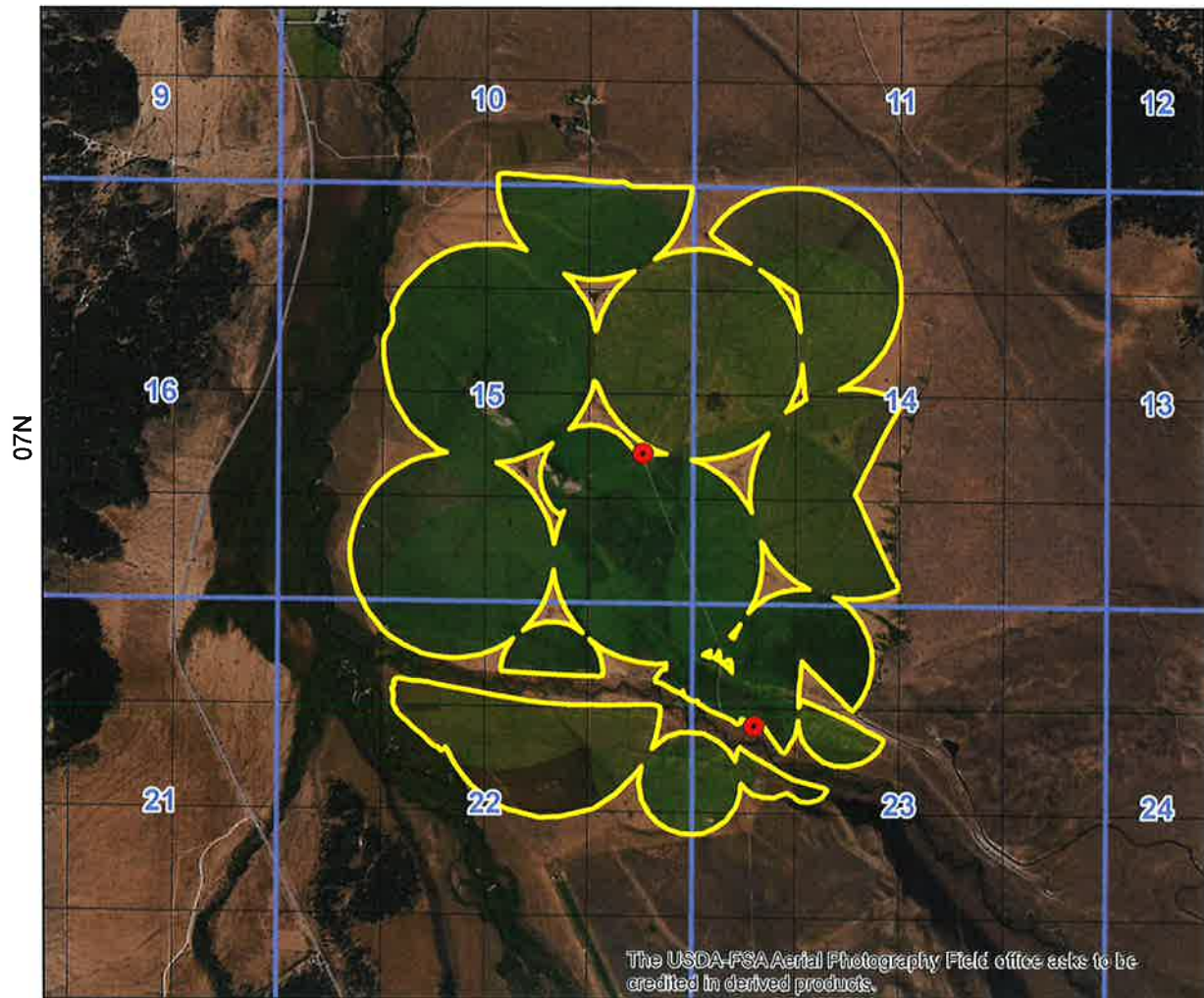
State of Idaho
Department of Water Resources

Attachment to Water Right License

71-10949

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.

14E



- 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

March 4, 2020

SALMON FALLS LAND & LIVESTOCK CO INC
MICHAEL J HENSLEE
95A BELL RAPIDS RD
HAGERMAN ID 83332-6039

RE: License No. 71-10949, 71-11000, 71-11001

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 March 4, 2020, I served a true and correct copy of Water Right License No. 71-10949, 71-11000, 71-11001 by U.S. Mail, postage prepaid, to the following:

SALMON FALLS LAND & LIVESTOCK CO INC (Current Owner)
MICHAEL J HENSLEE
95A BELL RAPIDS RD
HAGERMAN ID 83332-6039

WATER DISTRICT #71
MORGAN V MILLER (Watermaster)
3594 HOTSPRINGS RD
CHALLIS ID 83226

WATER DISTRICT #170
CINDY YENTER (Watermaster)
102 S WARPATH
SALMON ID 83467



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.

MEMORANDUM

Date: February 11, 2020
To: Water rights 71-10949, 71-11000, and 71-11001 files
From: Jim Bitzenburg
Re: Split of 71-10949 into 71-10949, 71-11000, and 71-11001

The beneficial use field exam (8/28/2019) for permit 71-10949 revealed that the system for the irrigation/stockwater permit was actually three separate systems diverted from a total of four wells, instead of the permitted two wells. Two wells supplied irrigation water into one system, and the other two stockwater systems were each served by a single well. As a result, permit 71-10949 was amended to show the four PODs, and then split into three rights prior to licensing: the original right, 71-10949 (7.1 cfs, 2591.2 AF), which retained irrigation as its use, with two PODs; and two stockwater rights, 71-11000 (0.07 cfs, 12.2 AF) and 71-11001 (0.07 cfs, 12.2 AF), each with its own POD.

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(For Licensing Purposes)
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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 29th day of January, 20 20.

by Michael J. Herslee V.L.
(Signature)

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Department of Water Resources
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(For Licensing Purposes)
Water Right No. 71-10949

FOR DEPARTMENT USE ONLY

Preliminary check by _____ Fee = \$100 Received by SG # 5037736 Date 1/31/20

ACTION OF THE DEPARTMENT OF WATER RESOURCES

The Idaho Department of Water Resources hereby approves the above Application for Amendment for Permit No. 71-10949.

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

Signed this 27th day of February, 20 20.



COREY SKINNER
Southern Regional Manager

Bitzenburg, James

From: Mike Henslee <mjhenslee@gmail.com>
Sent: Wednesday, January 08, 2020 1:15 PM
To: Bitzenburg, James
Subject: Re: Permit 71-10949 near Smiley Creek

Good Afternoon Jim,

After consulting with the company that put in the stock water wells, the horsepower of each is 2 and the flow is 25 GPM.

On the average, we like to be up there by May 15th until Nov. 1st., but if we could have the usage from May 1st to Nov. 1st for stock water, that would be good.

When we're rotating cattle, we're usually rotating 3-4 pastures. So both wells are on equally.

All of the stock tanks have floats.

The irrigation wells are staggered into production depending on the natural flow of Pole Creek pending our agreement with the Forest Service and the U.S. Fish and Wildlife Service. So, as the creek flow drops, we'll start the first well and then as it drops more CFS, we'll kick on the other well. Typically, kicking one on between July 1st and the 15th and the other on between the 15th and Aug. 1st. However, on an extremely dry year, we may need them on by June 1st. On the other hand, on a wet year, we could need them only for minimal use. The typical irrigation season up there is from May 15th to Oct. 1st.

I hope I've answered all of your questions, let me know if you need anything else. I apologize for the delay.

Thanks,
Mike

On Mon, Jan 6, 2020 at 3:10 PM Bitzenburg, James <James.Bitzenburg@idwr.idaho.gov> wrote:

Cali-

Thanks, there's no rush, as I have lots to work on. I appreciate the email.

Jim

Jim Bitzenburg

Water Resource Agent

Idaho Department of Water Resources

Southern Regional Office

Phone (208)-736-3033

james.bitzenburg@idwr.idaho.gov

From: Mike Henslee [mailto:mjhenslee@gmail.com]
Sent: Monday, January 06, 2020 2:07 PM
To: Bitzenburg, James <James.Bitzenburg@idwr.idaho.gov>
Subject: Re: Permit 71-10949 near Smiley Creek

Hey Jim,

Thanks, that is more convenient in an email. However, dad is currently tied up in a project with a tight deadline. He informed me that he hopes to respond and give you answers by tomorrow afternoon. I just wanted to let you know that we did receive your email.

Thanks,

Cali

(Mike's Daughter)

Sent from my iPhone

On Jan 2, 2020, at 10:57 AM, Bitzenburg, James <James.Bitzenburg@idwr.idaho.gov> wrote:

Mike-

After consultation with Corey Skinner, our regional manager, I need to get a little more information about the system on the ranch by Smiley Creek.

- First off, concerning the stockwater wells, do you know the horsepower of the pumps in each stock well? I will need to do a theoretical calculation to see how much flow each well is capable of producing.

- Also, on average, how long do you run cattle on the ranch up there? When do you usually bring them in each spring and when do you truck them out in the fall?

- Is there any way you rotate the cattle that would cause more water to be used in one of the wells than the other, or do you think the amount diverted from each well every season is about equal? I'm trying to ascertain if we need to put more volume on one well, or keep them equal. As I figure it now, 1800 head would use about 12.2 acre-feet/season.

- As for the irrigation wells, when you irrigate with the wells, do you always run them both at once, at the flow rate we observed when I was up there in August, or one at a time, or do you run both at a reduced rate?

As we discussed on the phone a couple of days ago, we anticipate sending out an amendment of permit to you to add the two stockwater wells and account for changes in the permitted place of use, then, when we get that back, we will split the license into one irrigation right with 2 points of diversion, and two separate stockwater rights, each with one point of diversion. This will account for the three separate systems that are present up there. Also, as we discussed, the existing right out of Pole Creek (71-10882) will not be affected or changed in any way in this process.

If you have any questions, feel free to give me a call. I thought it might be easier for you to deal with an email, rather than a phone call.

Thanks,

Jim

Jim Bitzenburg

Water Resource Agent

Idaho Department of Water Resources

Southern Regional Office

Phone (208)-736-3033

Fax (208)-736-3037

james.bitzenburg@idwr.idaho.gov

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Mike Henslee

95-A Bell Rapids Road
Hagerman, ID 83332

