

State of Idaho
Department of Water Resources
Water Right License
Water Right No. 63-34334

Priority: January 26, 2017

Maximum Diversion Rate: 13.10 CFS

Maximum Diversion Volume: 3,196.0 AF

It is hereby certified that:

THORPE FAMILY TRUST
C/O RYAN THORPE
28854 BOULDER RD
PARMA ID 83660

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated January 26, 2017, and has submitted Proof of Beneficial Use on April 10, 2019. An examination confirms water is diverted from:

Source : BOISE RIVER

Tributary: SNAKE RIVER

<u>Beneficial Use</u>	<u>Period of Use</u>	<u>Rate of Diversion</u>	<u>Annual Volume</u>
RECREATION STORAGE	09/30 to 02/28		668.0 AF
WILDLIFE STORAGE	09/30 to 02/28		668.0 AF
TOTAL STORAGE =			668.0 AF
DIVERSION TO STORAGE	09/30 to 02/28	13.10 CFS	
WILDLIFE	09/30 to 02/28	13.10 CFS	2,528.0 AF
RECREATION	09/30 to 02/28	13.10 CFS	2,528.0 AF
TOTALS =		13.10 CFS	2,528.0 AF

Location of Point(s) of Diversion

BOISE RIVER SW¼ SE¼, Sec. 16, Twp 05N, Rge 05W, B.M. CANYON County

Place of Use: WILDLIFE, WILDLIFE STORAGE, RECREATION, AND RECREATION STORAGE

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		
05N	05W	17					X	X	X L4	X L3										

Conditions of Approval

1. 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).
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. 63.

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3. Right 63-34334 authorizes total annual storage volume of 668 acre-feet, 29 acre-feet to be used for the initial filling or carryover storage of the field flooding and 639 acre-feet for the replacement of losses caused by seepage and evaporation.
4. The field flooding established by the storage of water under this right shall not exceed a total capacity of 29 acre-feet or a total surface area of 58 acre(s).
5. Diversions under water right 63-34334 shall not exceed 13.1 cfs in combination with diversions of irrigation, wildlife, recreation, and diversion to storage water rights appurtenant to the place of use of 63-34334.
6. Water diverted under the wildlife and recreation flow components of this water right, minus evaporation and seepage losses, shall be returned to the Boise River.
7. This right does not authorize the diversion and use of water released from Lucky Peak Reservoir for stream flow maintenance purposes in connection with Water Right 63-3618.
8. Wildlife and wildlife storage use is to create shallow water and moist soil wildlife habitats. These habitats are intended to provide resting, roosting, and refuge areas for waterfowl.
9. Recreation and recreation storage use is for waterfowl hunting and wildlife viewing. Recreation use under this right is for flow-through water and return-flow water associated with recreation storage.
10. Any obstruction in the Boise River channel for diversion of water under this right must provide for watercraft and fish passage. The right holder must bypass sufficient flows in the Boise River at the point of diversion to accommodate watercraft navigation and fisheries values in the Boise River downstream of the diversion. The quantity of the bypass flow may be established in the future by the filing of a petition with the Department to establish the bypass flows and subsequent proceedings as described in the Department's Rules of Procedure.
11. This right shall be junior and subordinate to future water rights authorizing the diversion and use of water from the Boise River and its tributaries, including ground water, for consumptive uses, except that this right shall not be subordinate to future water rights for similar wildlife, recreation and/or aesthetic uses.
12. This right shall be junior and subordinate to future minimum in-stream flow water rights that may be established for the Boise River and its tributaries.
13. The diversion and use of water described in this right may be subject to additional conditions and limitations agreed to by the protestant and the right holder under a separate agreement to which the Department is not a party. Because the Department is not a party, the Department is not responsible for enforcement of any aspect of the agreement not specifically addressed in other conditions herein. Enforcement of those portions of the agreement not specifically addressed in other conditions shall be the responsibility of the protestant and the water right holder.

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14. When ordered by the Director, the right holder shall provide mitigation acceptable to the Director to offset depletion of lower Snake River flows needed for migrating anadromous fish. The amount of water required for mitigation, which is to be released into the Snake River or a tributary for this purpose, will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this right. Any order of the Director issued in accordance with this paragraph shall be in conformance with applicable rules allowing the right holder due process as the need for mitigation and the amount of mitigation are determined.

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 28th day of OCTOBER, 2019.

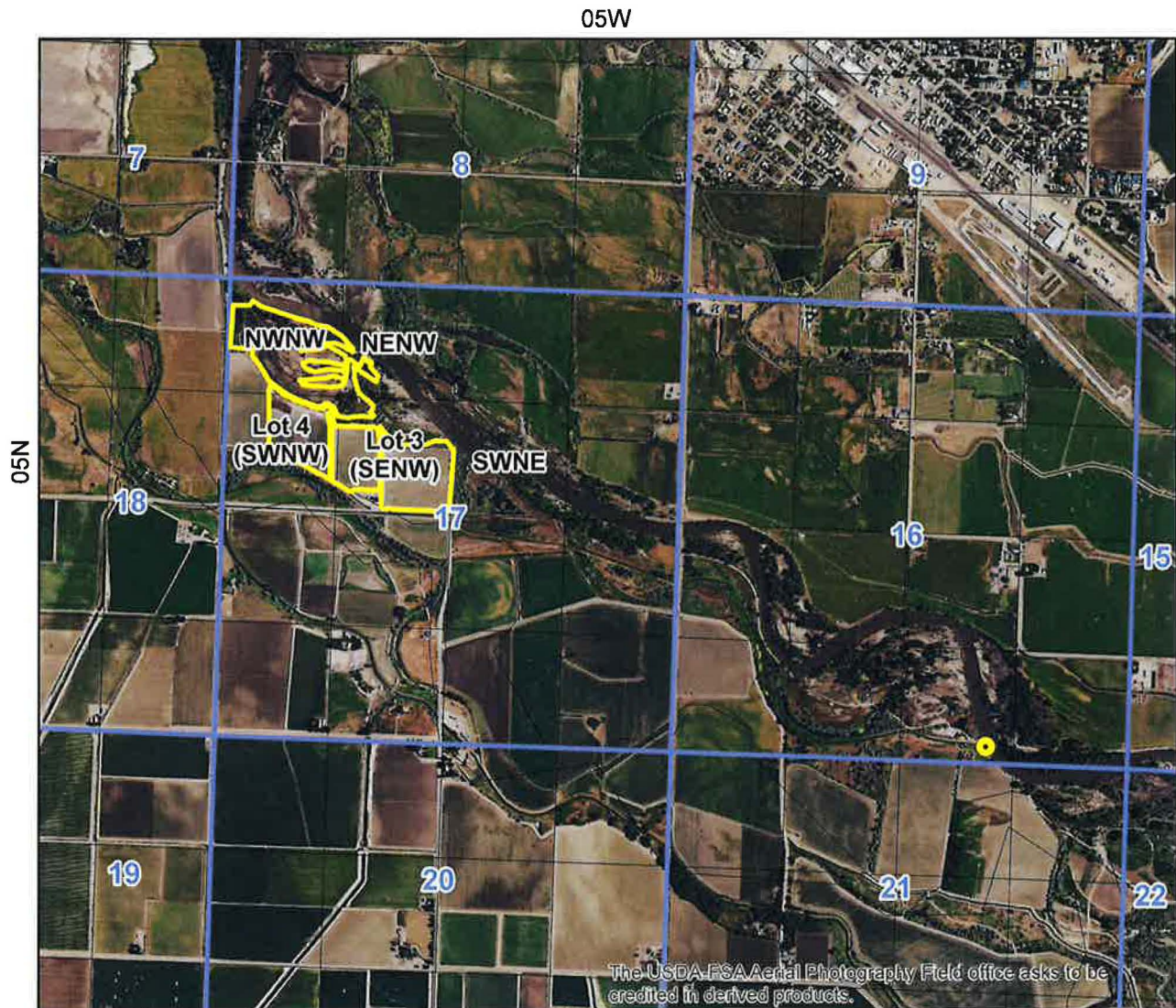


ANGELA GRIMM

Water Rights Section Manager

State of Idaho
Department of Water Resources
Attachment to Water Right License
63-34334

This map depicts the WILDLIFE, WILDLIFE STORAGE, RECREATION, and RECREATION 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 0.25 0.5 1 Miles





State of Idaho

DEPARTMENT OF WATER RESOURCES

322 E FRONT ST STE 648 PO BOX 83720 • BOISE, ID 83720-0098

Phone: (208)287-4800 • Fax: (208)287-6700 • Website: www.idwr.idaho.gov

Brad Little
Governor

Gary Spackman
Director

October 28, 2019

THORPE FAMILY TRUST
C/O RYAN THORPE
28854 BOULDER RD
PARMA ID 83660

RE: License No. 63-34334

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.

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) 287-4951.

Sincerely,

for Angela Grimm
Water Rights Section Manager

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on October 29, 2019, I served a true and correct copy of Water Right License No. 63-34334 by U.S. Mail, postage prepaid, to the following:

THORPE FAMILY TRUST (Current Owner)
C/O RYAN THORPE
28854 BOULDER RD
PARMA ID 83660

MICHAEL P LAWRENCE (Attorney)
GIVENS PURSLEY LLP
601 W BANNOCK
PO BOX 2720
BOISE ID 83701-2720

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

WATER DISTRICT #63
REX BARRIE (Watermaster)
PO BOX 767
STAR ID 83669-0767



Jean Hersley
Technical Records Specialist 2

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.