

State of Idaho  
Department of Water Resources  
**Permit to Appropriate Water**  
No. 57-12006

Priority: May 28, 2019

Maximum Diversion Rate: 2.10 CFS

This is to certify that

DESERT FARMS REAL ESTATE LLC 8222 DESERT DR MARSING ID 83639-8264

has applied for a permit to appropriate water from:

**Source :** GROUND WATER

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> |
|-----------------------|----------------------|--------------------------|
| STOCKWATER            | 01/01 to 12/31       | 2.10 CFS                 |
| COMMERCIAL            | 01/01 to 12/31       | 2.10 CFS                 |

**Location of Point(s) of Diversion**

|              |                                          |               |
|--------------|------------------------------------------|---------------|
| GROUND WATER | SE¼ SE¼, Sec. 17, Twp 02N, Rge 04W, B.M. | OWYHEE County |
| GROUND WATER | SE¼ NW¼, Sec. 28, Twp 02N, Rge 04W, B.M. | OWYHEE County |
| GROUND WATER | SE¼ NW¼, Sec. 28, Twp 02N, Rge 04W, B.M. | OWYHEE County |

**Place of Use: STOCKWATER**

| Twp | Rng | Sec | NE |    |    |    | NW |    |    |    | SW |    |    |    | SE |    |    |    | Totals |
|-----|-----|-----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|--------|
|     |     |     | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE |        |
| 02N | 04W | 21  |    |    |    |    |    | X  |    |    |    |    |    |    |    |    |    |    |        |
| 02N | 04W | 28  |    |    |    |    |    |    |    |    | X  | X  | X  |    |    |    |    |    |        |
| 02N | 04W | 29  |    |    | X  |    |    |    |    |    |    |    |    |    | X  | X  |    | X  |        |

**Place of Use: COMMERCIAL**

| Twp | Rng | Sec | NE |    |    |    | NW |    |    |    | SW |    |    |    | SE |    |    |    | Totals |
|-----|-----|-----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|--------|
|     |     |     | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE |        |
| 02N | 04W | 16  |    |    |    |    |    |    |    |    | X  | X  |    |    |    |    |    |    |        |
| 02N | 04W | 17  |    |    |    |    |    |    |    |    |    |    |    |    | X  | X  | X  | X  |        |
| 02N | 04W | 20  | X  |    |    | X  |    |    |    |    |    |    |    |    |    |    |    | X  |        |
| 02N | 04W | 21  |    | X  | X  |    | X  | X  | X  | X  | X  | X  | X  | X  |    | X  | X  |    |        |
| 02N | 04W | 28  |    | X  |    |    | X  | X  | X  | X  | X  | X  | X  |    |    |    |    |    |        |
| 02N | 04W | 29  | X  | X  | X  | X  |    |    |    |    |    |    |    |    | X  | X  |    | X  |        |

**Conditions of Approval**

1. Proof of application of water to beneficial use shall be submitted on or before **August 01, 2024**.
2. Subject to all prior water rights.
3. Stockwater use is for an additional 5,000 head of cattle on an existing feedlot. Rights 2-10465, 57-11673, and 57-12006 shall not exceed a total of 12,500 head of cattle.
4. Prior to the diversion and use of water under this approval, the right holder shall comply with applicable county zoning and use ordinances.

**State of Idaho**  
**Department of Water Resources**  
**Permit to Appropriate Water**  
**No. 57-12006**

5. Prior to the diversion and use of water under this approval, the right holder shall comply with applicable water quality monitoring and/or permitting requirements administered by the Department of Environmental Quality or the Department of Agriculture.
6. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.
7. 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.
8. 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.
9. Right holder shall comply with the drilling permit requirements of Idaho Code § 42-235 and applicable Well Construction Rules of the Department.

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

Signed this 7<sup>th</sup> day of August, 2019.

  
NICK MILLER

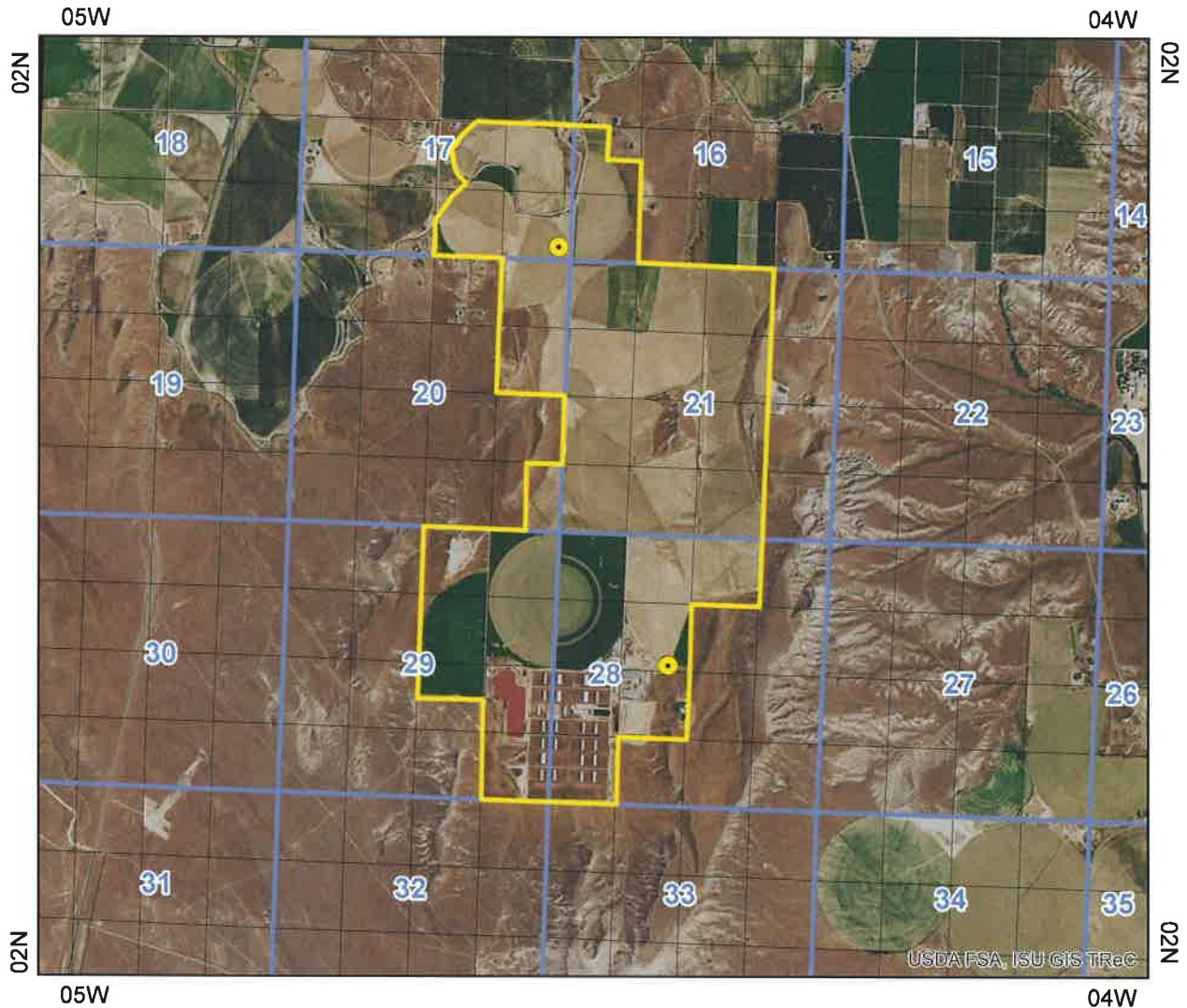
Western Regional Manager

State of Idaho  
Department of Water Resources

# Attachment to Permit to Appropriate Water

57-12006

This map depicts the 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 0.425 0.85 1.7 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](http://www.idwr.idaho.gov)

Brad Little  
Governor

Gary Spackman  
Director

August 07, 2019

DESERT FARMS REAL ESTATE LLC  
8222 DESERT DR  
MARSING ID 83639-8264

RE: Permit No. 57-12006

### Permit Approval Notice

Dear Permit Holder:

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](http://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,



Anna Kaiser

For Nick Miller  
Western Regional Manager

Enclosures

## CERTIFICATE OF SERVICE

I hereby certify that on August 07, 2019, I served a true and correct copy of Permit to Appropriate Water No. 57-12006 by U.S. Mail, postage prepaid, to the following:

DESERT FARMS REAL ESTATE LLC (Current Owner)  
8222 DESERT DR  
MARSING ID 83639-8264

SPF WATER ENGINEERING LLC (Representative)  
C/O LORI GRAVES  
300 E MALLARD DR STE 350  
BOISE ID 83706-6660



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Anna Kaiser  
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.

# The Owyhee Avalanche

P.O. Box 97 • HOMEDALE, ID 83628 • 208/337-4681

## AFFIDAVIT OF PUBLICATION

STATE OF IDAHO )  
 ) ss  
COUNTY OF OWYHEE )

RECEIVED

JUL 17 2019

WATER RESOURCES  
WESTERN REGION

I, Robert E. Aman, being first duly sworn, depose and say:

1. That I am a citizen of the United States of America, and at all times hereinafter mentioned was and now over the age of twenty-one years, not a party to nor interested in the proceedings hereinafter mentioned.

2. That during the time of publication of the notice hereinafter mentioned, I was and now am the president of The Owyhee Avalanche, a newspaper of general circulation printed and published weekly, on Wednesday of each and every week, in the City of Homedale, County of Owyhee and State of Idaho.

3. That the said The Owyhee Avalanche has been printed and published continuously and uninterruptedly in said County during a period of more than seventy-eight weeks prior to the first publication of the attached notice.

4. That said notice of which a printed copy, taken from said newspaper, is hereto affixed, was published in the regular issue thereof, and not a supplement thereto, in said newspaper, in TWO (2)  
(consecutive) calendar weekly issue(s) of said newspaper, in the following date(s):

JUNE 19, 26, 2019

SIGNED: \_\_\_\_\_

STATE OF IDAHO }  
COUNTY OF OWYHEE }

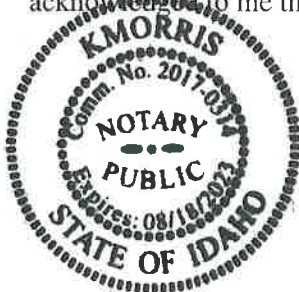
On this 26th day of June in the year of 2019 before me, a

Notary Public, personally appeared ROBERT E. AMAN  
known or identified to me to be the person whose name subscribed to the within instrument, and being by me duly sworn, declared that the statements therein are true, and acknowledged to me that he executed the same

\_\_\_\_\_  
Notary Public of Idaho

Residing at WILDER, IDAHO

My commission expires: August 18, 2023



THE FOLLOWING  
APPLICATIONS HAVE  
BEEN FILED TO  
APPROPRIATE

THE PUBLIC WATERS OF  
THE STATE OF IDAHO

2-10576 DESERT FARMS  
REAL ESTATE LLC 8222  
DESERT DR. MARSING, ID  
83639-8264 Point of Diversion  
L1 (NWNW) S23 T02N R04W  
OWYHEE County Source  
SNAKE RIVER Tributary  
COLUMBIA RIVER Use:  
STOCKWATER 01/01 to 12/31  
2.48 CFS Total Diversion: 2.48  
CFS Date Filed: 5/28/2019  
Place Of Use: STOCKWATER  
T02N R04W S28 NESW NWSW  
SWSW T02N R04W S29 SWNE  
NESE NWSE SESE

55-13969 IDAHO  
DEPARTMENT OF LANDS  
8355 W STATE ST BOISE, ID  
83714 Point of Diversion SESE  
S24 T07S R05W OWYHEE  
County Source SPRING Use:  
STOCKWATER 01/01 to 12/31  
0.03 CFS Total Diversion: 0.03  
CFS Date Filed: 5/22/2019 Place  
Of Use: STOCKWATER T07S  
R05W S24 SESE

55-13970 IDAHO  
DEPARTMENT OF LANDS  
8355 W STATE ST BOISE, ID  
83714 Point of Diversion NENE  
S25 T07S R05W OWYHEE  
County Source SPRING Use:  
STOCKWATER 01/01 to 12/31  
0.03 CFS Total Diversion: 0.03  
CFS Date Filed: 5/22/2019 Place  
Of Use: STOCKWATER T07S  
R05W S25 NENE

57-12006 DESERT FARMS  
REAL ESTATE LLC 8222  
DESERT DR MARSING, ID  
83639-8264 Point of Diversion  
SESE S17 T02N R04W OWYHEE  
County Source GROUND WATER  
(2) Points of Diversion SENW  
S28 T02N R04W OWYHEE  
County Source GROUND  
WATER Use: COMMERCIAL  
01/01 to 12/31 2.1 CFS Use:  
STOCKWATER 01/01 to 12/31  
2.1 CFS Total Diversion: 2.1  
CFS Date Filed: 5/28/2019 Place  
Of Use: STOCKWATER T02N  
R04W S21 NWNW T02N  
R04W S28 NESW NWSW  
SWSW T02N R04W S29 SWNE  
NESE NWSE SESE Place Of  
Use: COMMERCIAL T02N  
R04W S16 NWSW SWSW  
T02N R04W S17 NESE NWSE  
SWSE SESE T02N R04W S20  
NENE SENE SESE T02N  
R04W S21 NWNW SWNE  
NENW NWNW SWNW SENW  
NESW NWSW SWSW SESW  
NWSE SWSE T02N R04W  
S28 NWNW NENW NWNW  
SWNW SENW NESW NWSW  
SWSW T02N R04W S29 NENE  
NWNW SWNE SENE NESE  
NWSE SESE

57-12007 JON PASCOE  
2626 S MIDLAND NAMPA,  
ID 83686-8202 Point of  
Diversion L6(SWSNW)  
S17 T01S R02W OWYHEE  
County Source SPRINGS  
Tributary SNAKE RIVER Point  
of Diversion L6(SWSNW)  
S17 T01S R02W OWYHEE  
County Source SPRINGS  
Tributary SNAKE RIVER Point  
of Diversion L7(NWNESW)  
S17 T01S R02W OWYHEE  
County Source SPRINGS  
Tributary SNAKE RIVER Point  
of Diversion L7(SENESW)  
S17 T01S R02W OWYHEE  
County Source SPRINGS  
Tributary SNAKE RIVER Use:  
IRRIGATION FROM STORAGE  
03/01 to 11/15 155 AF Use:  
IRRIGATION STORAGE 01/01  
to 12/31 155 AF Total Diversion:  
155 AF Date Filed: 6/5/2019  
Place Of Use: IRRIGATION  
STORAGE T01S R02W S17  
SWNW SENW NESW Place  
Of Use: IRRIGATION FROM  
STORAGE T01S R02W  
S17 L6(SWNW) L6(SENW)  
L7(NESW) NWSW Total Acres:  
31

JOH  
AK  
7/17/2019

Permits will be subject to all prior water rights. For additional information concerning the property location, contact Western Region office at (208) 334-2190; or for a full description of the right(s), please see [www.idwr.idaho.gov](http://www.idwr.idaho.gov). Protests may be submitted based on the criteria of Idaho Code § 42-203A. Any protest against the approval of the application(s) must be filed with the Director, Dept. of Water Resources, Western Region, 2735 Airport Way, Boise ID 83705 together with a protest fee of \$25.00 for each application on or before 7/8/2019. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN,  
Director  
06/19/26/2019

