

State of Idaho
Department of Water Resources
Permit to Appropriate Water
No. 51-13132

Priority: January 30, 2019

Maximum Diversion Rate: 0.36 CFS

This is to certify that

USDI BLM IDAHO STATE OFFICE 1387 S VINNELL WAY BOISE ID 83709-1657

has applied for a permit to appropriate water from:

Source : GROUND WATER

and a permit is APPROVED for development of water as follows:

Beneficial Use

DOMESTIC

Period of Use

01/01 to 12/31

Rate of Diversion

0.36 CFS

Location of Point(s) of Diversion

GROUND WATER NE¼ SW¼, Sec. 26, Twp 06S, Rge 05E, B.M. OWYHEE County

Place of Use: DOMESTIC

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06S	05E	26									X			X					

Conditions of Approval

1. Proof of application of water to beneficial use shall be submitted on or before **May 01, 2024**.
2. Subject to all prior water rights.
3. The domestic use authorized under this right shall not exceed 13,000 gallons per day.
4. 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.
5. Domestic use is for the Bruneau Guard Station fire station, barracks, 2 RV pads, training purposes and up to 0.5 acre irrigation.
6. 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.
7. Diversion and use of water with a temperature greater than 85 degrees Fahrenheit is not authorized under this right.
8. 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.
9. Right holder shall comply with the drilling permit requirements of Idaho Code § 42-235 and applicable Well Construction Rules of the Department.

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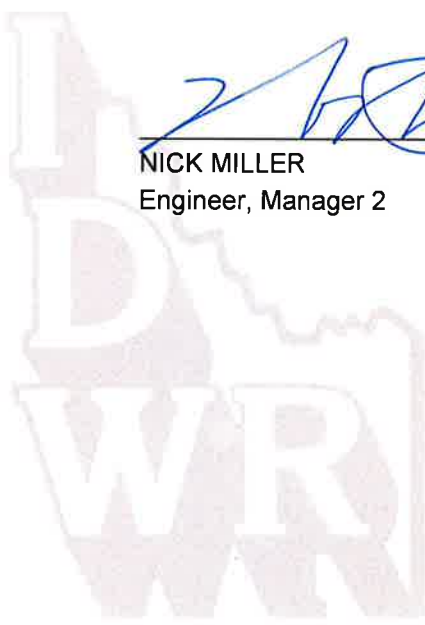
10. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which the permit holder had no control.

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

Signed this 30th day of April, 2019.



NICK MILLER
Engineer, Manager 2

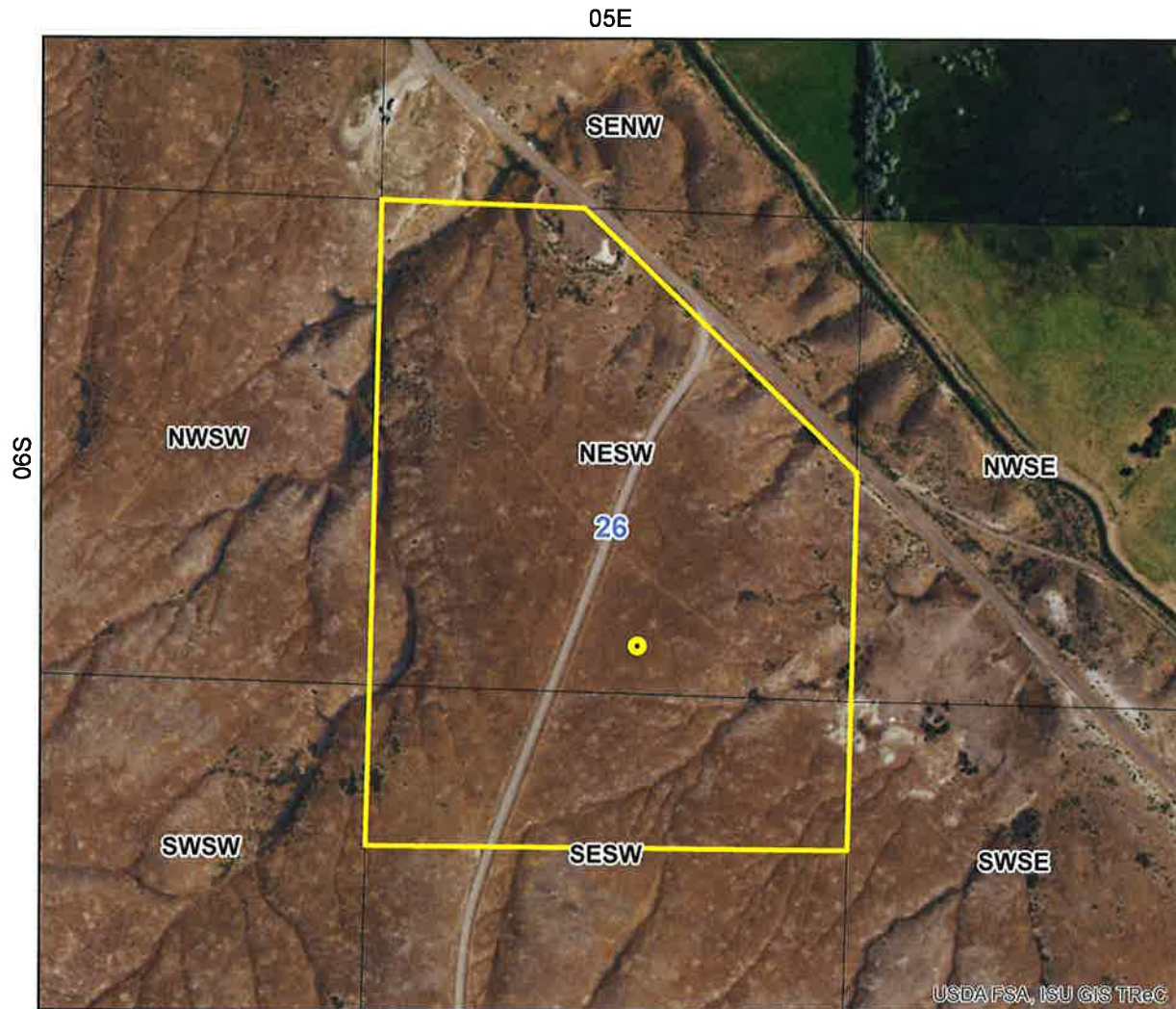


State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

51-13132

This map depicts the INDUSTRIAL 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 0.05 0.1 0.2 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 30, 2019

USDI BLM IDAHO STATE OFFICE
1387 S VINNELL WAY
BOISE ID 83709-1657

RE: Permit No. 51-13132

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 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

 Nick Miller
Engineer, Manager 2

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on April 30, 2019, I served a true and correct copy of Permit to Appropriate Water No. 51-13132 by U.S. Mail, postage prepaid, to the following:

USDI BLM IDAHO STATE OFFICE (Current Owner)
1387 S VINNELL WAY
BOISE ID 83709-1657



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.

Kelly, Patrick

From: Price, Fredric <fwprice@blm.gov>
Sent: Monday, April 29, 2019 2:53 PM
To: Kelly, Patrick
Cc: Sandra McCrea; Gary Madenford
Subject: Re: [EXTERNAL] Bruneau Guard Station App for Permit 51-13132

Patrick,

RE: 51-13132, Bruneau Guard Station

With regard to the Industrial purpose of use, this is the Fire Protection-related portion of the application. We didn't claim Fire Protection because that purpose is limited to the suppression of an active wildfire, and we also need water for fire training purposes, washing trucks, etc; therefore, we claimed all of the fire-fighting related uses under an Industrial purpose.

I understand what you are saying about the limitations within a GWMA. I appreciate your suggestion under a domestic purpose (eg campground) which still maintains the instantaneous diversion rate of 0.36 cfs not to exceed 13,000 gpd, as this is a rate typically diverted at a guard station.

When considering the limitations of I.C. 42-111, would the total volume need to be reduced from 20 AFY to 14.5 AFY?

In the event of a wildfire emergency, we would still be able to invoke I.C. 42-201(3)(a) to use whatever amount of water is necessary to extinguish the fire.

All things considered, your proposal works for BLM.

Thank you very much for your consideration,

Fredric W. Price
Water Rights Specialist
BLM, Idaho State Office, ID-933b
1387 S. Vinnell Way, Boise, ID 83709
(208) 373-3831
fwprice@blm.gov
jf

On Mon, Apr 29, 2019 at 9:13 AM Kelly, Patrick <Patrick.Kelly@idwr.idaho.gov> wrote:

Good morning Fred,

I am working on drafting an approval for the Bruneau Guard Station application. This site is within the Bruneau-Grandview GWMA. Any uses within this boundary are restricted to domestic use. After reviewing the application, it seems possible that the station qualifies under the 42-111 definition of domestic use. Because Industrial uses are considered fully consumptive, I propose that we change the beneficial use to a

domestic diversion rate of 0.36 cfs not to exceed 13,000 gpd. Let me know if this will meet the needs of the BLM or any other suggestions you might have.

Sincerely,

Patrick Kelly

Water Rights Supervisor

Emergency Agency Coordinator

2735 Airport Way

Boise, Idaho 83705

o: 208.334.2190

patrick.kelly@idwr.idaho.gov

The Owyhee Avalanche

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

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO)
) ss
COUNTY OF OWYHEE)

RECEIVED

APR 15 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):

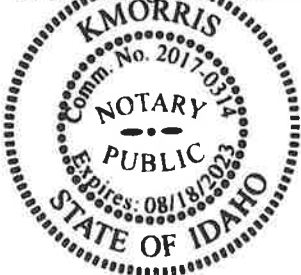
MARCH 6, 13, 2019

SIGNED: _____

STATE OF IDAHO }
COUNTY OF OWYHEE }

On this 13th day of March 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 APPLICATION HAS BEEN FILED TO APPROPRIATE THE PUBLIC WATERS OF THE STATE OF IDAHO: 51-13132 USDI BLM IDAHO STATE OFFICE, 1387 SVINNELL WAY, BOISE, ID 83709-1657. Point of Diversion NESW S26 T06S R05E OWYHEE County Source GROUND WATER. Use: DOMESTIC 01/01 to 12/31 0.06 CFS. Use: INDUSTRIAL 01/01 to 12/31 0.3 CFS. Total Diversion: 0.36 CFS. Date Filed: 1/30/2019 Place Of Use: DOMESTIC, INDUSTRIAL. T06S R05E S26 NESW SESW. This application proposes to appropriate trust water and will be evaluated in compliance with Section 42-203C, Idaho Code, and IDWR's Water Appropriation Rules, IDAPA 37.03.08. Domestic and Industrial uses are for proposed Bruneau Guard Station.

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. 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 3/25/2019. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director
03/06, 13/19

Job
AK
4/15/19