

State of Idaho  
Department of Water Resources

## Permit to Appropriate Water

No. 57-11996

**Priority:** December 31, 2018

**Maximum Diversion Rate:** 0.20 CFS

This is to certify that

HIGHWAY 78 TRUST PO BOX 220 STAR ID 83669-0220

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**

STOCKWATER

**Period of Use**

01/01 to 12/31

**Rate of Diversion**

0.20 CFS

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

GROUND WATER SE¼ NE¼, Sec. 2, Twp 01S, Rge 03W, B.M. OWYHEE County

GROUND WATER SE¼ NE¼, Sec. 2, Twp 01S, Rge 03W, 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 |        |
| 01S | 03W | 2   |    |    |    | 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. Stockwater use is for 999 range cattle.
4. 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.
5. Right holder shall comply with the drilling permit requirements of Idaho Code § 42-235 and applicable Well Construction Rules of the Department.
6. 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 26<sup>th</sup> day of April, 2019.

  
NICK MILLER

Engineer, Manager 2

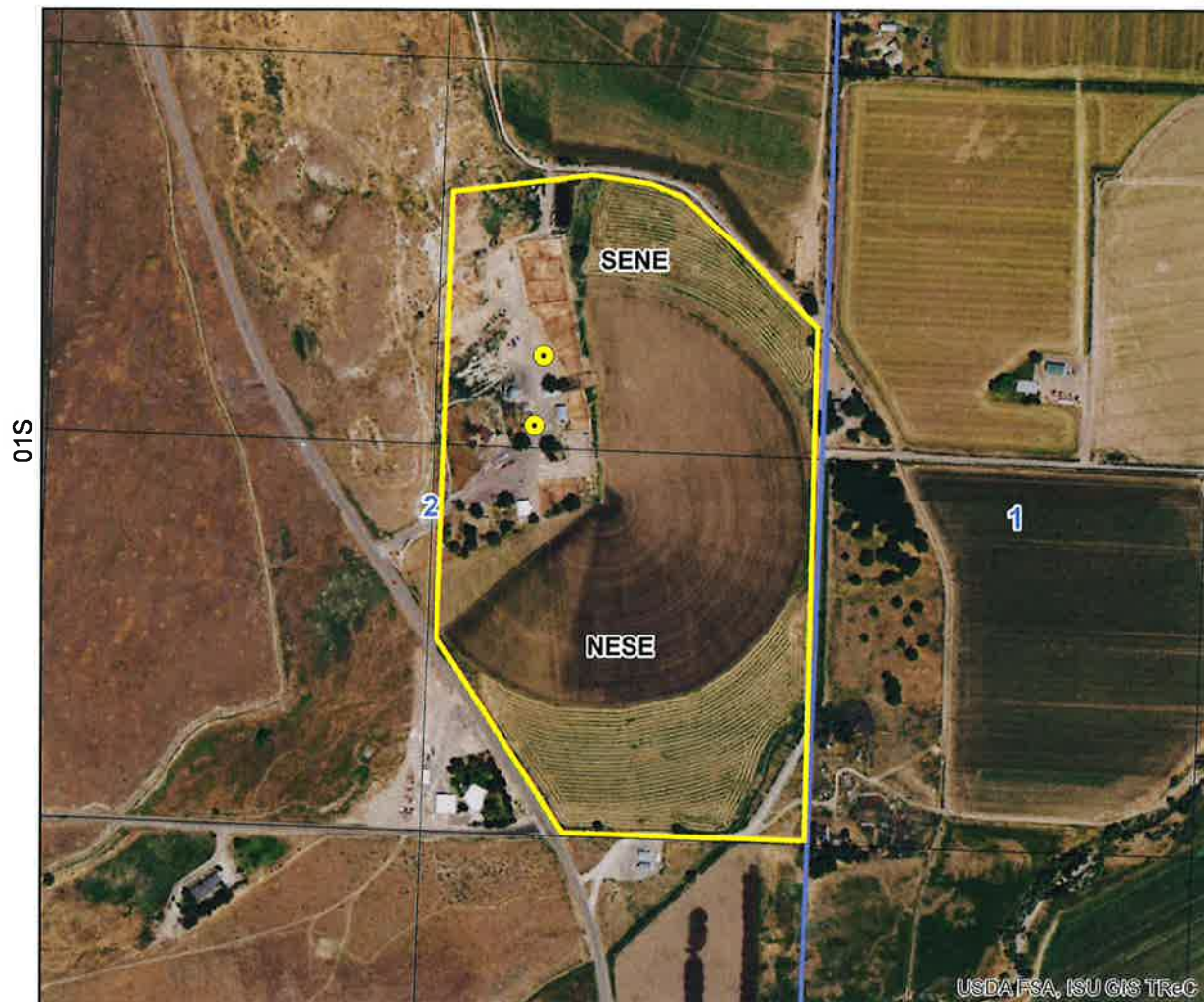
State of Idaho  
Department of Water Resources

# Attachment to Permit to Appropriate Water

57-11996

This map depicts the STOCKWATER 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.

03W



-  Point of Diversion
-  Place Of Use Boundary
-  Townships
-  PLS Sections
-  Quarter Quarters

0 0.075 0.15 0.3 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

April 26, 2019

HIGHWAY 78 TRUST  
PO BOX 220  
STAR ID 83669-0220

RE: Permit No. 57-11996

### 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  
Engineer, Manager 2

Enclosures

## CERTIFICATE OF SERVICE

I hereby certify that on April 26, 2019, I served a true and correct copy of Permit to Appropriate Water No. 57-11996 by U.S. Mail, postage prepaid, to the following:

HIGHWAY 78 TRUST (Current Owner)  
GARY JOHNSTON (Representative)  
PO BOX 220  
STAR ID 83669



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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  
APR 15 2019  
WATER RESOURCES  
WESTERN REGION

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

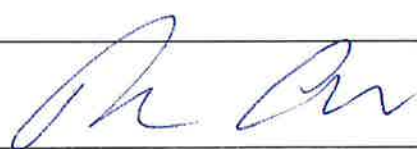
1. That I am a citizen of the United States of America, and at all times hereinafter mentioned was and now over the age of twenty-one years, not a party to nor interested in the proceedings hereinafter mentioned.

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):

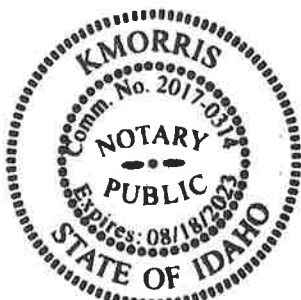
FEBRUARY 6, 13, 2019

SIGNED: 

STATE OF IDAHO }  
COUNTY OF OWYHEE }

On this 13th day of February 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:

55-13967 TALR. TRAUTMAN,  
JENNIFER TRAUTMAN,  
2170 OLD HWY 95 JORDAN  
VALLEY, ID 97910. Point of  
Diversion NWNW S29 T05S  
R05W OWYHEE County  
Source GROUND WATER Use:  
DOMESTIC 01/01 to 12/31 0.04  
CFS Total Diversion: 0.04 CFS  
Date Filed: 12/6/2018 Place Of  
Use: DOMESTIC T05S R05W  
S29 NWNW

57-11996 HIGHWAY 78  
TRUST, PO BOX 220 STAR, ID  
83669-0220 (2) Point of Diversion  
SENE S2 T01S R03W OWYHEE  
County Source GROUND  
WATER Use: STOCKWATER  
01/01 to 12/31 0.2 CFS

Total Diversion: 0.2 CFS. Date  
Filed: 12/31/2018. Place Of Use:  
STOCKWATER. T01S R03W  
S2 SENE NESE

EXTENSION OF TIME TO  
AVOID FORFEITURE OF  
WATER RIGHT

A. Clay and Jacoba S. Atkins of  
PO Box 276, Bruneau, ID 83604  
filed an application on December  
20, 2018 proposing an Extension  
of Time to Avoid Forfeiture of  
5 years for Water Right No. 02-  
2245A with a 1963 priority from  
the Snake River totaling 0.7cfs &  
195 afa. The right holder proposes  
nonuse of the right due to place  
of use changing over time and  
installation of pivots resulting a  
more efficient system and less  
acres irrigated. The irrigation  
right was last used in 2012. The  
right serves property located at  
the corner of Emigrant Trl and  
Farm Ln.

EXTENSION OF TIME TO  
AVOID FORFEITURE OF  
WATER RIGHT

A. Clay and Jacoba S. Atkins of  
PO Box 276, Bruneau, ID 83604  
filed an application on December  
20, 2018 proposing an Extension  
of Time to Avoid Forfeiture of  
5 years for Water Right No. 02-  
2156 with a 1959 priority from  
the Snake River totaling 5.79  
cfs & 1575 afa. The right holder  
proposes nonuse of the right due  
to place of use changing over time  
and installation of pivots resulting  
a more efficient system and less  
acres irrigated. The irrigation  
right was last used in 2012. The  
right serves property located at  
the intersection of Farm Ln and  
Tindall Rd

JOE  
AK  
4/15/19

JOE  
AK  
4/15/19

JOE  
AK  
4/15/19

JOE  
AK  
4/15/19

**EXTENSION OF TIME TO  
AVOID FORFEITURE OF  
WATER RIGHT**

A. Clay and Jacoba S. Atkins of PO Box 276, Bruneau, ID 83604 filed an application on December 20, 2018 proposing an Extension of Time to Avoid Forfeiture of 5 years for Water Right No. 02-7055 with a 1970 priority from the Snake River totaling 5.83 cfs & 1480 afa. The right holder proposes nonuse of the right due to place of use changing over time and installation of pivots resulting a more efficient system and less acres irrigated. The irrigation right was last used in 2012. The right serves property located at the intersection of Farm Ln and Tindall Rd.

**EXTENSION OF TIME TO  
AVOID FORFEITURE OF  
WATER RIGHT**

A. Clay and Jacoba S. Atkins of PO Box 276, Bruneau, ID 83604 filed an application on December 20, 2018 proposing an Extension of Time to Avoid Forfeiture of 5 years for Water Right No. 02-7112A with a 1973 priority from the Snake River totaling 3.017 cfs & 760 afa. The right holder proposes nonuse of the right due to place of use changing over time and installation of pivots resulting a more efficient system and less acres irrigated. The irrigation right was last used in 2012. The right serves property located near the intersection of Emigrant Trl and Crane Falls Rd.

**EXTENSION OF TIME TO  
AVOID FORFEITURE OF  
WATER RIGHT**

John Clay Atkins of 598 Harmon Ln, Hillsboro, KY 4109 filed an application on December 20, 2018 proposing an Extension of Time to Avoid Forfeiture of 5 years for Water Right No. 02-10562 with a 1963 priority from the Snake River totaling 3.4 cfs and 925 afa. The right holder proposes nonuse of the right due to place of use changing over time and installation of pivots resulting a more efficient system and less acres irrigated. The irrigation right was last used in 2012. The right serves property located at the corner of Emigrant Trl and Farm Ln in Bruneau, ID.

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) or proposed extension(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 and 42-222. 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 02/25/2019. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN,  
Director  
02/06,13/2019

