

Maximum Diversion Rate: 0.29 CFS

has applied for a permit to appropriate water from:

Tributary: SNAKE RIVER

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>	<u>ANNUAL VOLUME</u>
IRRIGATION	03/01 to 11/15	0.08 CFS	
STOCKWATER	01/01 to 12/31	0.02 CFS	
AESTHETIC STORAGE	01/01 to 12/31		86.5 AF
STOCKWATER STORAGE	01/01 to 12/31		86.5 AF
DIVERSION TO STORAGE	01/01 to 12/31	0.15 CFS	
DOMESTIC	01/01 to 12/31	0.04 CFS	

LOCATION OF POINT(S) OF DIVERSION:

PAYETTE RIVER	L5(NW ¼ SW ¼) Sec. 10,	Twp 06N,	Rge 02W, B.M. GEM County
PAYETTE RIVER	SW ¼ NW ¼ Sec. 9,	Twp 06N,	Rge 02W, B.M. GEM County (Rediversion)
PAYETTE RIVER	L5(NW ¼ SW ¼) Sec. 10,	Twp 06N,	Rge 02W, B.M. GEM County (Injection)

PLACE OF USE: IRRIGATION

[illegible]

Total Acres: 2.6

PLACE OF USE: STOCKWATER

[illegible]

PLACE OF USE: AESTHETIC STORAGE

[illegible]

State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 65-23792

PLACE OF USE: STOCKWATER STORAGE

Twp Rge Sec	NE				NW				SW				SE				Totals
06N 02W 9	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
							X										

PLACE OF USE: DOMESTIC

Twp Rge Sec	NE				NW				SW				SE				Totals
06N 02W 9	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
							X										

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **January 01, 2024**.
2. Subject to all prior water rights.
3. This right when combined with all other rights shall provide no more than 0.03 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the place of use.
4. 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. 65.
5. The right holder shall contact the watermaster by June 15 each year for authorization to continue diverting and using water. The right holder shall not divert water after June 15 each year unless the watermaster authorizes continued diversion and use of water under this water right. When the watermaster informs the right holder that water is not available to fill this right, the right holder shall cease diversion, shall rent water from the Payette River Rental Pool, or shall otherwise mitigate for the depletion of water caused by this water use. The department may amend the contact date listed in this administrative provision to more closely coincide with the date when water is not available to fill this water right.
6. Water diverted from the Payette River under this permit is injected into Sevenmile Slough. Water shall not be diverted from Sevenmile Slough unless an equal amount of Payette River water is being injected into Sevenmile Slough.
7. 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 the watermaster suitable control of the diversion.
8. Prior to the diversion and use of water under this right, the right holder shall install and maintain acceptable measuring devices at the point of diversion from Payette River and at the point of rediversion from Sevenmile Slough.
9. Right 65-23792 authorizes a total annual storage volume of 86.5 acre-feet, 10 acre-feet to be used for the initial filling or carryover storage of the pond and 76.5 acre-feet for the replacement of losses caused by seepage and evaporation.

State of Idaho
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Permit to Appropriate Water
NO. 65-23792

10. The pond established by the storage of water under this right shall not exceed a total capacity of 10.0 acre-feet or a total surface area of 1 acre.
11. Domestic use is for 1 home and does not include lawn, garden, landscape, or other types of irrigation.
12. Stockwater and stockwater storage uses are for 25 mixed head.
13. This right does not grant any right-of-way or easement across the land of another.
14. 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.
15. 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.

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

Signed this 9th day of JANUARY, 20 19.


Angela M. Grimm
Water Rights Supervisor

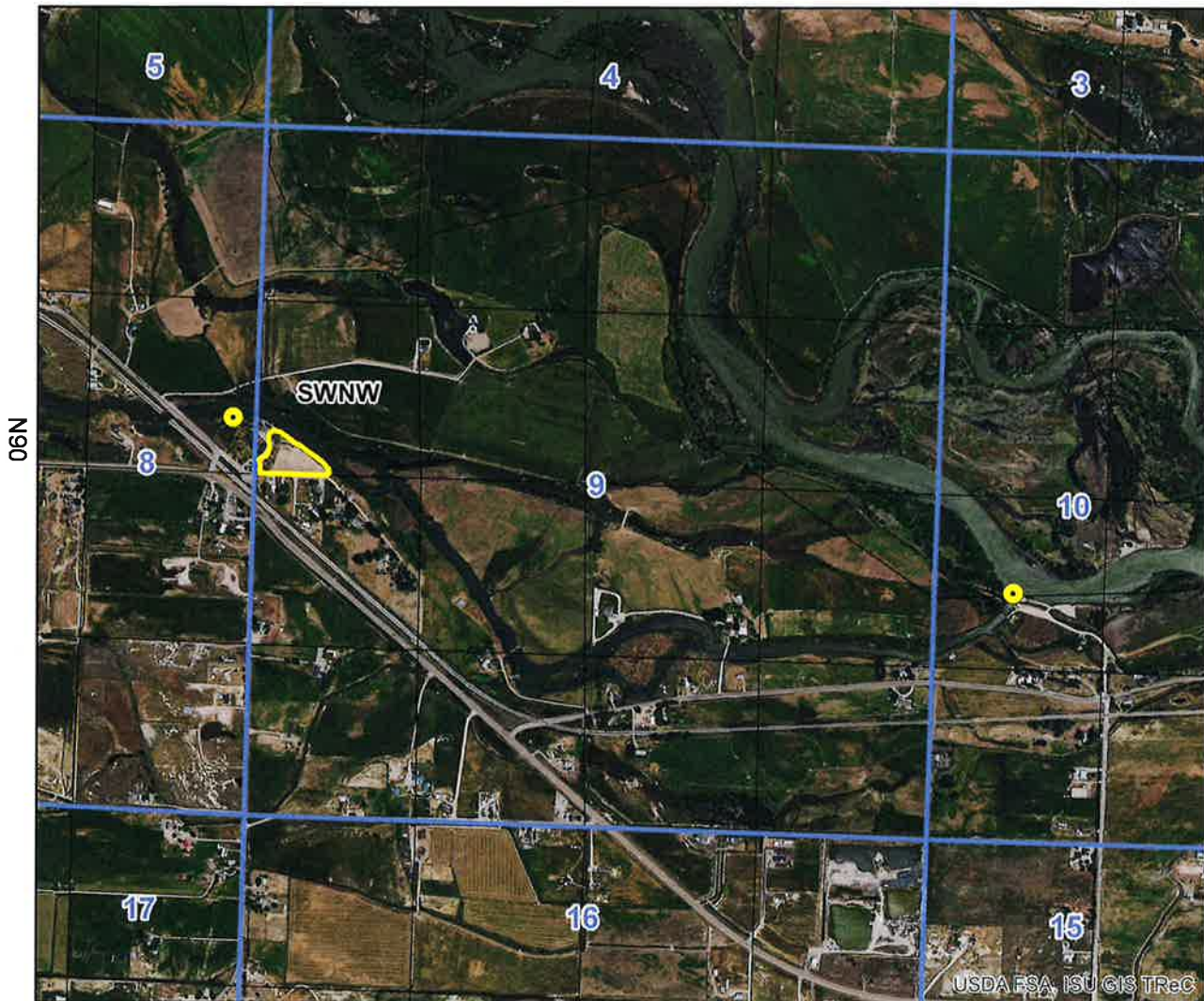
State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

65-23792

This map depicts the IRRIGATION, STOCKWATER, AESTHETIC STORAGE, and STOCKWATER STORAGE places of use boundary for this water right at the time of this approval and is attached to the approval document solely for illustrative purposes.

02W



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

0 0.175 0.35 0.7 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

Brad Little
Governor

Gary Spackman
Director

January 09, 2019

MICHAEL BOSTON
1032 VANDERDASSON RD
EMMETT ID 83617-8880

RE: Permit No. 65-23792

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 Kuizer

Anna Kuizer

Nick Miller

Engineer, Manager 2

For

Enclosures

CERTIFICATE OF SERVICE

I hereby certify that on January 09, 2019, I served a true and correct copy of Permit to Appropriate Water No. 65-23792 by U.S. Mail, postage prepaid, to the following:

MICHAEL BOSTON (Current Owner)
1032 VANDERDASSON RD
EMMETT ID 83617-8880

WATER DISTRICT #65
RON SHURTLEFF (Watermaster)
102 N MAIN ST
PAYETTE ID 83661



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.

MEMORANDUM

Date: January 08, 2019
To: Water Right File 65-23792
From: Angela Grimm
Re: Analysis of Watermaster Comments Regarding Permit Authorization

On 11/8/18, IDWR received a watermaster recommendation form for this permit application from the Water District 65 Watermaster, Ron Shurtleff. Overall, the watermaster did not oppose approval of the Permit. However he did not recommend approval of the aesthetic storage and stockwater storage portion of the permit application.

On 11/19/18, I called the watermaster to discuss his recommendation in detail. My overall sense was that the watermaster did not understand the need for a pond when the property is directly adjacent to the slough waterfront. While increasing the number of ponds in the water district may be a concern, nevertheless, aesthetic storage and stockwater storage are recognized beneficial uses not currently prohibited by policy or statute in this area.

Also, the watermaster knows the local community is actively involved in mosquito abatement efforts, which may be hindered by creation of another standing water body. Mosquito activity may be increased in this area as a consequence of the water being diverted to a pond under this permit proposal, similar to air quality potentially be impacted by a manufacturing plant that uses water. The potential impact is viewed as a consequence of the water use rather than an impact to the water resource itself. It is my interpretation that the mosquito concern does not fall into factors IDWR should consider under the local public interest criteria as defined by Idaho Code § 42-202B(3), as it is not a concern regarding the impact the diversion may have on the water resource.

It does not appear the permit application conflicts with the local public interest in this case. Therefore, I recommend approval of the permit.

Neely, Rachel

From: Ron Shurtleff <wd65@srvinet.com>
Sent: Thursday, November 8, 2018 5:18 PM
To: Neely, Rachel
Subject: RE: Applications for Permit Nos. 65-23788, 65-23797, 65-23780, & 65-23792
Attachments: WMRecomendation65-23780-WSig.pdf; WMRecomendation65-23788-WSig.pdf; WMRecomendation65-23792-WSig.pdf

Rachel,

I realize I have missed the deadline to comment on these water rights. But on the chance they have not been processed yet I did want to try to comment on them.

These small diverters are becoming very time consuming. I think it's time try to make them fit into our system with more appropriate and equitable reporting ability.

I seem to be working against a large backlog but will try to get myself up to date.

Thanks,

Ron Shurtleff

Water District No. 65
102 N. Main
Payette, ID 83661
Phone: 208-642-4465
Fax: 208-642-1042
Cell: 208-642-0230

From: Neely, Rachel [mailto:Rachel.Neely@idwr.idaho.gov]
Sent: Thursday, September 27, 2018 11:21 AM
To: Ron Shurtleff
Subject: Applications for Permit Nos. 65-23788, 65-23797, 65-23780, & 65-23792

September 27, 2018

RON SHURTLEFF
WATER DISTRICT #65
102 N MAIN
PAYETTE, ID 83661

RE: Applications for Permit Nos. 65-23788, 65-23797, 65-23780, & 65-23792

Dear Watermaster:

The Idaho Department of Water Resources (IDWR) is seeking written comment and/or recommendations from you regarding the above referenced water right applications. Copies of the applications are enclosed with this email for your reference. Please review the applications, complete a recommendation form, and submit your reply, if any, to this office by **October 22, 2018**.

RECEIVED

NOV 08 2018

WATER RESOURCES
WESTERN REGION

State of Idaho

Department Of Water Resources

WATERMASTER RECOMMENDATION FORM

Water District # Water District No. 65

Application # 65-23792

Applicant Name Mike Boston

Watermaster Recommendation:

- a) ☐ I do not oppose approval of this application.
- b) ☒ I do not oppose approval of this application if it is conditioned as follows:
This application for permit if proved up, will qualify to be included in the Water Right Accounting System on the Payette River. It shall be subject to annual assessments of the Water District and it will incur Rental Pool Fees from the District's Local Rental Pool if diversion continues beyond the Payette River's Day of Allocation. I recommend the applicant install a qualifying locking control works, and a measuring devise that will appropriately meet the reporting requirements of the daily, Water Right Accounting System. I do not recommend approval of the portion of the application authorizing Aesthetic Storage and Stockwater Storage.
- c) ☐ I oppose approval of this application for the following reasons:
- d) ☐ Additional comments:

Dated this 8th day of November, 2018

Ron Shurtliff
Watermaster Signature

Ron Shurtliff
Printed Name

RECEIVED

OCT 19 2018

WATER RESOURCES
WESTERN REGION

29512 1818538

1 IDWR - WESTERN REGION

2735 AIRPORT WAY
BOISE ID 83705

**AFFIDAVIT OF PUBLICATION
STATE OF IDAHO**

County of Canyon

)
)SS.
)

Sharon Jessen
of Nampa, Canyon County, Idaho, being
first duly sworn, deposes and says:

1. That I am a citizen of the United States, and at all times hereinafter mentioned was over the age of eighteen years, and not a party to the above entitled action.
2. That I am the Principle Clerk of the Emmett Messenger Index, a weekly newspaper published in the City of Emmett, in the County of Gem, State of Idaho; that the said newspaper is in general circulation in the said County of Gem, and in the vicinity of Emmett, and has been uninterruptedly published in said County during a period of seventy-eight consecutive weeks prior to the first publication of this notice, a copy of which is hereto attached.
3. That the notice, of which the annexed is a printed copy, was published in said newspaper 2 time(s) in the regular and entire issue of said paper, and was printed in the newspaper proper, and not in a supplement.
4. That said notice was published the following:
10/03/2018 10/10/2018

Sharon Jessen
STATE OF IDAHO)
County of Canyon)

On this 11th day of October in the year of 2018 before me a Notary Public, personally appeared. Sharon Jessen, known or identified to me to be the person whose name is subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledge to me that he/she executed the same.

Colleen R. Nielsen
Notary Public for Idaho
Residing at Canyon County
My Commission expires 06/28/2023



LEGAL NOTICE

The following applications have been filed to appropriate the public waters of the State of Idaho:

65-23780

DIANE D MCCOMBS
WILLIAM T MCCOMBS
23404 KINGSBURY RD
MIDDLETON, ID 83644-5650
Point of Diversion L1(SESE) S15 T07N R01E GEM County
Source PAYETTE RIVER Tributary SNAKE RIVER
Point of Diversion L1(SESE) S15 T07N R01E GEM County
Source GROUND WATER
Use: DOMESTIC 01/01 to 12/31 0.06 CFS
Use: IRRIGATION 03/01 to 11/15 0.14 CFS
Total Diversion: 0.2 CFS
Date Filed: 6/27/2018
Places of Use: IRRIGATION, DOMESTIC
T07N R01E S15 L1(SESE)
Total Acres: 7

JOE RW 10/23/18

65-23792

MICHAEL BOSTON
1032 VANDERDASSON RD
EMMETT, ID 83617-8880
(2)Points of Diversion L5(NWSW) S10 T06N R02W GEM
County Source PAYETTE RIVER Tributary SNAKE RIVER
Point of Diversion SWNW S9 T06N R02W GEM County
Source PAYETTE RIVER Tributary SNAKE RIVER
Use: AESTHETIC STORAGE 01/01 to 12/31 86.5 AF
Use: DIVERSION TO STORAGE 01/01 to 12/31 0.15 CFS
Use: DOMESTIC 01/01 to 12/31 0.04 CFS
Use: IRRIGATION 03/01 to 11/15 0.08 CFS
Use: STOCKWATER 01/01 to 12/31 0.02 CFS
Use: STOCKWATER STORAGE 01/01 to 12/31 86.5 AF
Total Diversion: 0.29 CFS
Date Filed: 8/15/2018
Places of Use: IRRIGATION, STOCKWATER, AESTHETIC
STORAGE, STOCKWATER STORAGE, DOMESTIC
T06N R02W S9 SWNW
Total Acres: 2.6

JOE RW 10/23/18

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 10/22/2018. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN; Director

October 3, 10, 2018

1818538