



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region • 2735 Airport Way • Boise, Idaho 83705-5082

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C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

12/31/2018

GEROLD DENNETT AND
GREG SIMIONE
284 VILLAGE CIRCLE
GARDEN VALLEY ID 83622

DANA L HOFSTETTER
HAWLEY TROXELL ENNIS & HAWLEY LLP
877 MAIN ST, STE 100
PO BOX 1617
BOISE ID 83701-1617

Re: Withdrawal of Protest against Application for Permit No. 65-23704 (Simione and Dennett)

Dear Parties:

The Department of Water Resources acknowledges receipt of your *Agreement to Condition Water Right* ("Agreement") that serves as a conditional withdrawal of protest against the above referenced application. The parties have agreed to the protestant's withdrawal provided the Department conditions any permit approval of the application substantially as provided in the Agreement.

In any conditional withdrawal, the Department must review the agreement to ensure that conditions to be included in an approval are acceptable. Further, the Department may modify the conditions as written to fit the approval format or may substitute a standard condition of the Department with essentially the same language and intent.

The Agreement listed four conditions of approval. The Department has prepared the attached draft permit approval reflecting the conditions listed in the Agreement as well as other conditions required by the Department. Note that some of the conditions in the Agreement have been modified or omitted to reflect current Department practice. In particular, Condition 1 was not included as a condition, as it is inherent in the elements of the permit. Condition 2 has been replaced with standard department condition of essentially the same intent. Condition 3 was reformatted for clarity. Condition 4 was replaced with a standard Department condition of essentially the same intent.

Please review the draft approval carefully. If you think the draft approval is not substantially in conformance with your stipulated conditions, please contact the Department within 14 days of the date of this letter with your concerns. The application has no remaining protests; therefore, if we do not hear from you, the Department will take the steps necessary to bring the application to final resolution. As always, you may file a petition for reconsideration within 14 days after the Department issues a preliminary order approving the permit.

Please feel free to contact this office if you have any questions regarding this procedure.

Sincerely,

Nick Miller
Regional Manager

Enclosure

State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 65-23704

Priority: June 14, 2017

Maximum Diversion Rate: 0.03 CFS

This is to certify, that GEROLD DENNETT And
GREG SIMIONE
284 VILLAGE CIRCLE
GARDEN VALLEY ID 83622

has applied for a permit to appropriate water from:

Source: UNNAMED STREAM**Tributary:** MIDDLE FORK PAYETTE 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>
IRRIGATION	03/15 to 10/31	0.03 CFS

LOCATION OF POINT(S) OF DIVERSION:

UNNAMED STREAM NE ¼ NE ¼ Sec. 22, Twp 10N, Rge 04E, B.M. BOISE County

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
10N 04E 22	0.5			0.5													1.0

Total Acres: 1.0

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 3.5 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. 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.
6. When notified by the Department, the right holder shall install and maintain a measuring device of a type acceptable to the Department as part of the diverting works.

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7. 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.
8. The single point of diversion authorized for Permit No. 65-23704 shall be located downstream of the point of diversion for water right no. 65-10861 in the NE1/4NE1/4 of Section 22, Township 10 North, Range 4 East, Boise Meridian. The diversion, delivery, and use of water right no. 65-23704 shall not interfere with the diversion, delivery, and use of water under senior water right no. 65-10861.
9. A separate stream alteration permit from the Department is required for any activity in the stream channel other than construction and/or maintenance of the diversion structure. If the proposed construction or operation involves construction of an outfall or any other work in the stream channel other than a water diversion, the right holder shall contact the Department and obtain a stream channel alteration permit prior to the start of construction.
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.
11. 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 _____ day of _____, 20_____.

Nick Miller

Manager, IDWR Western Region

State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

65-23704

This map depicts the IRRIGATION 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.

04E



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

0 0.035 0.07 0.14 Miles

