

State of Idaho
Department of Water Resources
Water Right License
WATER RIGHT NO. 65-13612

PRIORITY: April 17, 1995

Maximum Diversion Volume: 15.0 AF

It is hereby certified that:

LLOYD KENNETH TROUTT JR 4322 LITTLE FREEZEOUT RD EMMETT ID 83617

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated April 17, 1995, and has submitted Proof of Beneficial Use on August 01, 2000. An examination confirms water is diverted from:

SOURCE:
UNNAMED STREAM

TRIBUTARY:
BACON CREEK

and a water right has been established as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>ANNUAL DIVERSION VOLUME</u>
IRRIGATION STORAGE	01/01 to 12/31	15.0 AF
IRRIGATION FROM STORAGE	04/15 to 10/15	15.0 AF

LOCATION OF POINT(S) OF DIVERSION:

UNNAMED STREAM NE¼SE¼ Sec. 8, Twp 11N, Rge 04E, B.M. VALLEY County

PLACE OF USE: IRRIGATION FROM STORAGE

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
11N	04E	8													5.0				5.0

Total Acres: 5

PLACE OF USE: IRRIGATION STORAGE

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
11N	04E	8													X				

CONDITIONS OF APPROVAL

1. This right when combined with all other rights shall provide no more than 0.03 cfs per acre nor more than 3.0 afa per acre at the field headgate for irrigation of the place of use.
2. The pond established by the storage of water under this right shall not exceed a total capacity of 0.8 acre-feet or a total surface area of 0.4 acre.
3. This right authorizes the storage of an annual total of 15.0 acre-feet, 0.8 acre-feet to be used for the initial filling or carryover storage of the pond and up to 14.2 acre-feet for additional refills for irrigation from storage use.

State of Idaho
Department of Water Resources
Water Right License
WATER RIGHT NO. 65-13612

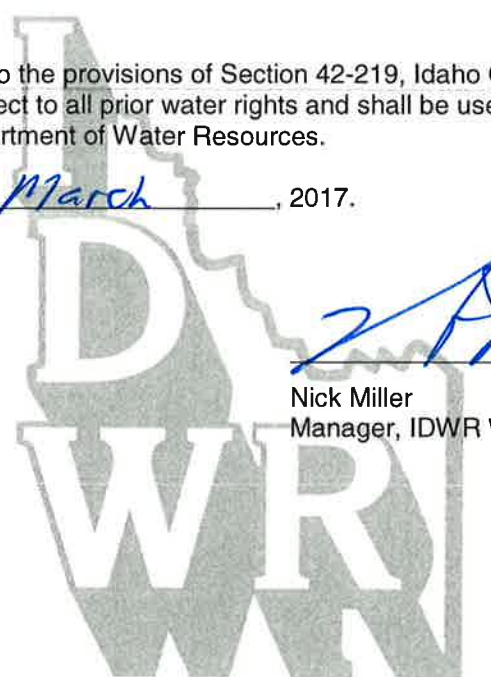
4. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 65.
5. After specific notification by the Department, a lockable device subject to the approval of the Department shall be installed and maintained on the diverting works in a manner that will provide the watermaster suitable control of the diversion.
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.

This license is issued pursuant to the provisions of Section 42-219, Idaho Code. The water right confirmed by this license is subject to all prior water rights and shall be used in accordance with Idaho law and applicable rules of the Department of Water Resources.

Signed this 17th day of March, 2017.

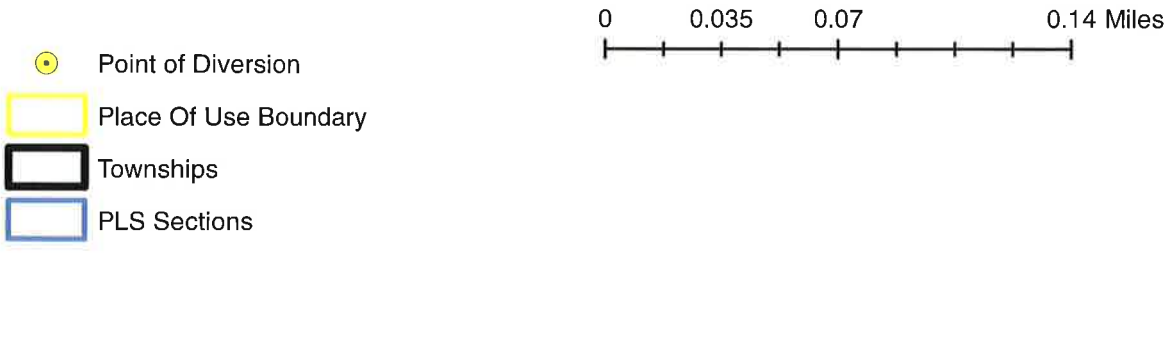
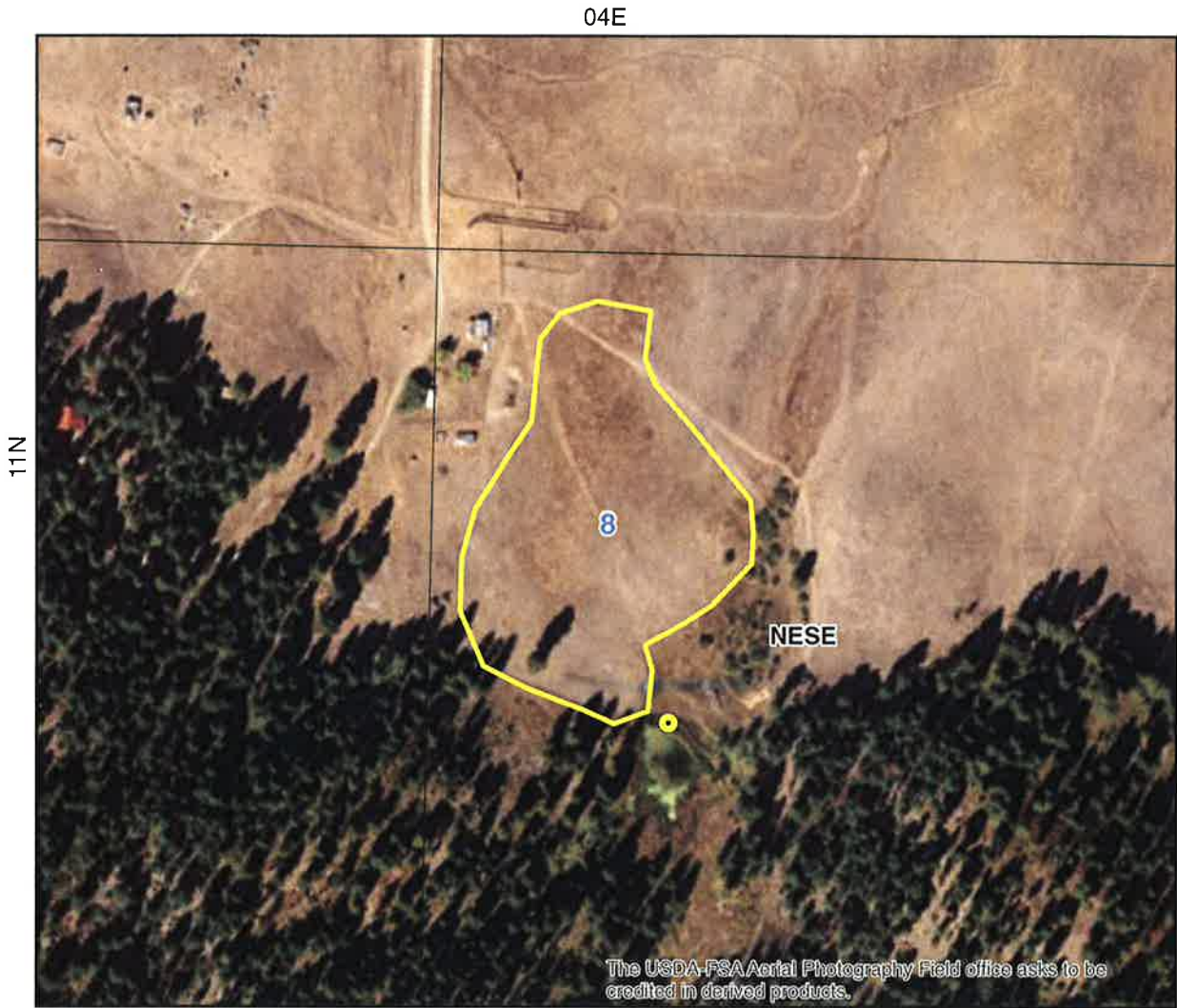


Nick Miller
Manager, IDWR Western Region



State of Idaho
Department of Water Resources
Attachment to Water Right License
65-13612

This map depicts the IRRIGATION FROM STORAGE 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.

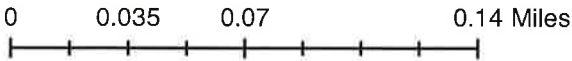


State of Idaho
Department of Water Resources
Attachment to Water Right License
65-13612

This map depicts the IRRIGATION STORAGE 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



RECEIVED

AUG 24 2016

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State of Idaho
Department of Water Resources
APPLICATION FOR AMENDMENT
(For Licensing Purposes)
WATER RIGHT NO. 65-13612

WATER RESOURCES
WESTERN REGION

PRIORITY: April 17, 1995

Maximum Diversion Volume: 15.0 AF

Comes now

LLOYD KENNETH TROUTT JR 4322 LITTLE FREEZEOUT RD EMMETT ID 83617

and represents to the Idaho Department of Water Resources that he is the owner and holder of Permit to Appropriate the Public Waters of the State of Idaho No. 65-13612, and requests that the permit be changed as follows:

SOURCE:
UNNAMED STREAM

TRIBUTARY:
BACON CREEK

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>ANNUAL DIVERSION VOLUME</u>
IRRIGATION STORAGE	01/01 to 12/31	15.0 AF
IRRIGATION FROM STORAGE	04/15 to 10/15	15.0 AF

LOCATION OF POINT(S) OF DIVERSION:

UNNAMED STREAM NE¼SE¼ Sec. 8, Twp 11N, Rge 04E, B.M. VALLEY County

PLACE OF USE: IRRIGATION FROM STORAGE

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
11N	04E	8													5.0				5.0

Total Acres: 5

PLACE OF USE: IRRIGATION STORAGE

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
11N	04E	8													X				

Permit holder asserts that no one will be injured by such change and that such change will be made at permit holder's own risk. Signed this 24th day of August, 2016.


(Signature)

State of Idaho
Department of Water Resources
APPLICATION FOR AMENDMENT
(For Licensing Purposes)
WATER RIGHT NO. 65-13612

FOR DEPARTMENT USE ONLY

Preliminary check by _____ Fee = \$100⁰⁰ Received by cd # WD44547 Date 8/24/16

ACTION OF THE DEPARTMENT OF WATER RESOURCES

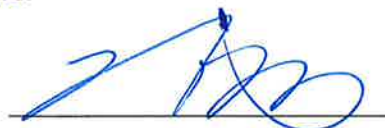
The Idaho Department of Water Resources hereby approves the above Application for Amendment for Permit No. 65-13612 with the following:

CONDITIONS OF APPROVAL

1. This right when combined with all other rights shall provide no more than 0.03 cfs per acre nor more than 3.0 afa per acre at the field headgate for irrigation of the place of use.
2. The pond established by the storage of water under this right shall not exceed a total capacity of 0.8 acre-feet or a total surface area of 0.4 acre.
3. This right authorizes the storage of an annual total of 15.0 acre-feet, 0.8 acre-feet to be used for the initial filling or carryover storage of the pond and up to 14.2 acre-feet for additional refills for irrigation from storage use.
4. Use of water under this right will 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. After specific notification by the Department, a lockable device subject to the approval of the Department shall be installed and maintained on the diverting works in a manner that will provide the watermaster suitable control of the diversion.
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.

This amendment is issued pursuant to the provisions of Section 42-211, Idaho Code.

Signed this 17th day of March, 2017, 2016.



Nick Miller
Manager, IDWR Western Region



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

March 17, 2017

LLOYD KENNETH TROUTT JR
4322 LITTLE FREEZEOUT RD
EMMETT ID 83617

RE: License No. 65-13612

Issuance of License

Dear Water Right Holder(s):

The Department of Water Resources has issued the enclosed Water Right License confirming that a water right has been established in accordance with your permit. Please be sure to thoroughly review the conditions of approval and remarks listed on your license.

The license 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 by the Department unless a party petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date as described in the enclosed information sheet.

Please note that water right owners are required to report any change of water right 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. Contact any office of the Department or visit the Department's homepage on the Internet to obtain the proper forms and instructions.

If you have any questions, please contact me at (208)334-2190.

Sincerely,

 Rachel Noely for:

Nick Miller
Western Regional Manager

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on March 17, 2017 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved License) to the person(s) listed below:

RE: WATER RIGHT NO.

65-13612

**LLOYD KENNETH TROUTT JR
4322 LITTLE FREEZEOUT RD
EMMETT ID 83617**

**RON SHURTLEFF
WATERMASTER OF DISTRICT 65
102 N MAIN
PAYETTE ID 83661**



**Rachel Neely
Administrative Assistant**

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

TO: Water Right File – 65-13612

FROM: Patrick Kelly – Water Resource Agent, Sr.

DATE: August 25, 2016

SUBJECT: Waiver request from watermaster

Conditions of the permit required the right holder to install a lockable device that would give the watermaster suitable control of the diversion. On July 29, 2016 a licensing amendment and condition waiver request form was sent to the permit owner.

On August 24, 2016 I had a phone conversation with watermaster 65 Ron Shurtleff. He stated that he had visited the site and did not believe a lockable control could be installed on the system. He said that an effort was made to walk upstream of the pond, but could not find a source and that the pond may be naturally filling with groundwater. It is likely that water observed during the watermaster visit in August is spring runoff from earlier in the season.

Conditions requiring a lockable control device were modified to reflect upon future notification, the permit owner shall install such works.

The licensing amendment was received August 24, 2016.



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

July 29, 2016

COPY

LLOYD KENNETH TROUTT JR
4322 LITTLE FREEZEOUT RD
EMMETT ID 83617

RE: Water Right Permit No. 65-13612

Dear Permit Holder(s):

The Department of Water Resources is reviewing the permit(s) referenced above prior to issuing water right license(s). By issuing a license, the Department confirms the extent of development that has been established in compliance with the terms of the permit. The examiner who verified your water use reported that certain elements of the permit have been developed differently than described on your permit. Changes that do not increase the authorized use of water under the permit(s) can be requested and approved in accordance with Section 42-211, Idaho Code. Before license can be issued, your permit must be amended to depict your water use as it was actually developed.

Based on the examiner's report, the following elements were developed differently than described on your permit(s):

☐ Point(s) of Diversion

☒ Place(s) of Use

☒ Other

The enclosed Application for Amendment form depicts the elements of the water right as they will appear on the license when issued. Please review the amendment form carefully. If you concur with the information presented, please sign and return the form with the \$100.00 filing fee.

Also, conditions of Approval of the Permit state:

- *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.*

At the time of the field exam, it was reported that no such device was installed on the diversion. A waiver from the watermaster must be received or conditions of the permit fulfilled to issue a water right associated with the pond on your property. Basin 65 watermaster is currently Ron Shurtleff at 102 N Main Payette, ID 83661 208-642-4465.

Please submit evidence that the above condition was complied with or a waiver from the watermaster for the application to be processed. Once signed, return the application for amendment with a \$100

fee to my office. The permit  be voided without a timely written re.  within the next thirty (30) days.

Please contact me at 208-334-2190 for more information or questions you might have. Thank you for your attention to these matters.

Respectfully,



Patrick Kelly

Water Resource Agent, Sr.

208.287.4933 phone

patrick.kelly@idwr.idaho.gov

Enclosure(s): Application for Amendment, Waiver Request Form