

State of Idaho  
Department of Water Resources  
**Water Right License**  
WATER RIGHT NO. 45-14136

PRIORITY: April 13, 2007

Maximum Diversion Rate: 6.47 CFS  
Maximum Diversion Volume: 1,893.0 AF

It is hereby certified that:

SIX S RANCH LLC  
1354 E SIX S RANCH RD  
DECLO ID 83323

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated April 13, 2007, and has submitted Proof of Beneficial Use on September 27, 2013. An examination confirms water is diverted from:

**SOURCE:**  
MARSH CREEK

**TRIBUTARY:**  
SNAKE RIVER

and a water right has been established as follows:

| <u>BENEFICIAL USE</u>     | <u>PERIOD OF USE</u> | <u>DIVERSION RATE</u> | <u>ANNUAL<br/>DIVERSION VOLUME</u> |
|---------------------------|----------------------|-----------------------|------------------------------------|
| WATER QUALITY IMPROVEMENT | 09/01 to 04/30       | 6.47 CFS              | 1,893.0 AF                         |
| WILDLIFE                  | 09/01 to 04/30       | 6.47 CFS              | 1,893.0 AF                         |

**LOCATION OF POINT(S) OF DIVERSION:**

MARSH CREEK L2 (NW¼NE¼) Sec. 3, Twp 11S, Rge 25E, B.M. CASSIA County

**PLACE OF USE:** WATER QUALITY IMPROVEMENT

| Twp | Rge | Sec | NE |    |    |    | NW |    |    |    | SW |    |    |    | SE |    |    |    | Totals |
|-----|-----|-----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|--------|
|     |     |     | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE |        |
| 10S | 25E | 34  |    |    |    |    |    |    |    |    |    |    |    |    |    | X  | X  |    |        |

**PLACE OF USE:** WILDLIFE

| Twp | Rge | Sec | NE |    |    |    | NW |    |    |    | SW |    |    |    | SE |    |    |    | Totals |
|-----|-----|-----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|--------|
|     |     |     | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE |        |
| 10S | 25E | 34  |    |    |    |    |    |    |    |    |    |    |    |    |    | X  | X  |    |        |

**CONDITIONS OF APPROVAL**

1. Use of water under this right shall be non-consumptive.
2. 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. 45F.

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3. A lockable device subject to the approval of the Department shall be maintained on the diverting works in a manner that will provide the watermaster suitable control of the diversion.
4. The right holder shall provide and maintain a means acceptable to the department to measure the amount of water diverted from Marsh Creek and the amount of water returned to Marsh Creek.
5. The rate of diversion for wildlife and water quality improvement purposes authorized by this right shall be junior and subordinate to all rights to the use of water, other than wildlife and water quality improvement purposes, within the State of Idaho that are initiated later in time than April 13, 2007 and shall not give rise to any right or claim against future rights to the use of water, other than wildlife and water quality improvement purposes, within the State of Idaho initiated later in time than April 13, 2007.
6. Water diverted under this right shall be returned to Marsh Creek.
7. Rights 45-14111, 45-14113, 45-14115, 45-14117, 45-14119, 45-14121, 45-14123, 45-14125, 45-14127, 45-14129, 45-14131, and 45-14133 provide water for the storage and evaporative losses associated with the ponds that are part of the conveyance system shared by this right.
8. Rights 45-14111; 45-14113; 45-14115; 45-14117; 45-14119; 45-14121; 45-14123; 45-14125; 45-14127; 45-14129; 45-14131; 45-14133 and 45-14136 when combined at the diversion for water right 45-14136, located in L2 (NW¼NE¼) Sec. 3, Twp 11S, Rge 25E, shall not exceed a total diversion rate of 6.47 cfs.
9. The Director retains jurisdiction to require a bypass flow for maintenance of fish, wildlife, riparian and aquatic habitat.

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 24<sup>th</sup> day of September, 2018.

  
\_\_\_\_\_  
COREY SKINNER  
Southern Regional Manager

State of Idaho  
Department of Water Resources  
**Attachment to Water Right License**  
45-14136

This map depicts the WATER QUALITY IMPROVEMENT 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

0 0.075 0.15 0.3 Miles

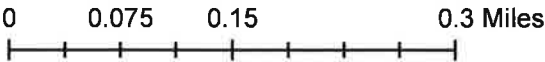


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45-14136

This map depicts the WILDLIFE 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





State of Idaho

## DEPARTMENT OF WATER RESOURCES

Southern Region • 650 ADDISON AVE W STE 500 • TWIN FALLS, ID 83301-5858  
Phone: (208)736-3033 • Fax: (208)736-3037 • Website: [www.idwr.idaho.gov](http://www.idwr.idaho.gov)

C.L. "Butch" Otter  
Governor

Gary Spackman  
Director

September 24, 2018

SIX S RANCH LLC  
1354 E SIX S RANCH RD  
DECLO ID 83323

RE: License No. 45-14136

### Issuance of License

Dear Water Right Holder(s):

The Department of Water Resources ("Department") 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 all the conditions of approval listed on your license. The conditions may include ongoing requirements, such as maintenance of a measuring device or implementation of mitigation, as well as information about how your water use may be administered, such as regulation by a water master in a water district.

The license is a PRELIMINARY ORDER issued by the Department 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.

Also, 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. Water right forms are available from any office of the Department or on the Department's website at [idwr.idaho.gov](http://idwr.idaho.gov)

If you have any questions concerning the enclosed information, please contact me at (208) 736-3033.

Sincerely,

Corey Skinner  
Southern Regional Manager

Enclosure(s)

## CERTIFICATE OF SERVICE

I hereby certify that on September 24, 2018, I served a true and correct copy of Water Right License No. 45-14136 by U.S. Mail, postage prepaid, to the following:

SIX S RANCH LLC (*Current Owner*)  
1354 E SIX S RANCH RD  
DECLO ID 83323

WATER DISTRICT #45F  
DONALD G GUNDERSON (*Water master*)  
1047 E 1000 S  
ALBION ID 83311-0125



**Denise Maline**  
**Administrative Assistant I**

## **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.