

State of Idaho  
Department of Water Resources  
**Water Right License**  
WATER RIGHT NO. 67-14611

PRIORITY: March 22, 2005

Maximum Diversion Rate: 1.00 CFS  
Maximum Diversion Volume: 724.0 AF

It is hereby certified that:

ROBIN DE FREITAS 3050 FRUITVALE-GLENDALE RD FRUITVALE ID 83612 And/Or

JOSEPH MICHAEL DE FREITAS 3050 FRUITVALE-GLENDALE RD FRUITVALE ID 83612

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated March 22, 2005, and has submitted Proof of Beneficial Use on November 02, 2015. An examination confirms water is diverted from:

**SOURCE:**  
WEISER RIVER

**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> |
|-----------------------|----------------------|-----------------------|------------------------------------|
| AESTHETIC             | 01/01 to 12/31       | 1.00 CFS              | 724.0 AF                           |
| RECREATION            | 01/01 to 12/31       | 1.00 CFS              | 724.0 AF                           |
| WILDLIFE              | 01/01 to 12/31       | 1.00 CFS              | 724.0 AF                           |

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

WEISER RIVER SW¼SE¼ Sec. 2, Twp 17N, Rge 01W, B.M. ADAMS County

**PLACE OF USE:** AESTHETIC, RECREATION, AND 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 |        |
| 17N | 01W | 2   |    |    |    |    |    |    |    |    |    |    |    | X  |    |    | X  |    |        |

**CONDITIONS OF APPROVAL**

1. 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. 67.
2. Use of water under this right shall be non-consumptive. At such time in the future as the Director determines necessary to protect the prior rights of other users, the Director may require determination of the rate of loss within the system using a procedure approved by the Director, and may require mitigation for all system losses.
3. 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.
4. When ordered by the Director, the right holder shall provide mitigation acceptable to the Director to offset depletion of lower Snake River flows needed for migrating anadromous fish. The amount of water required for mitigation, which is to be released into the Snake River or a tributary for this

State of Idaho  
Department of Water Resources  
**Water Right License**  
WATER RIGHT NO. 67-14611

purpose, will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this right. Any order of the Director issued in accordance with this paragraph shall be in conformance with applicable rules allowing the right holder due process as the need for mitigation and the amount of mitigation are determined.

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.

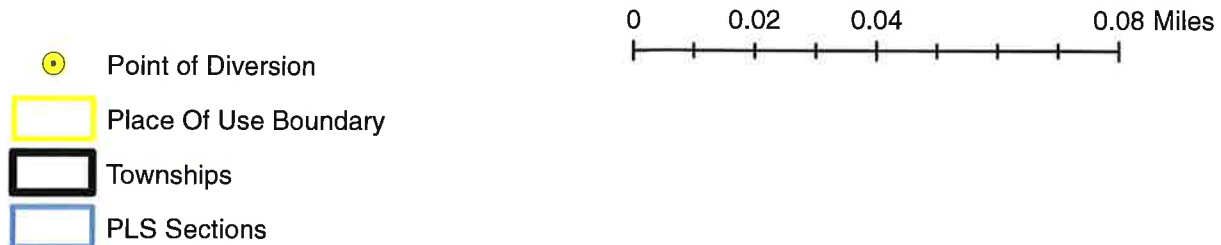
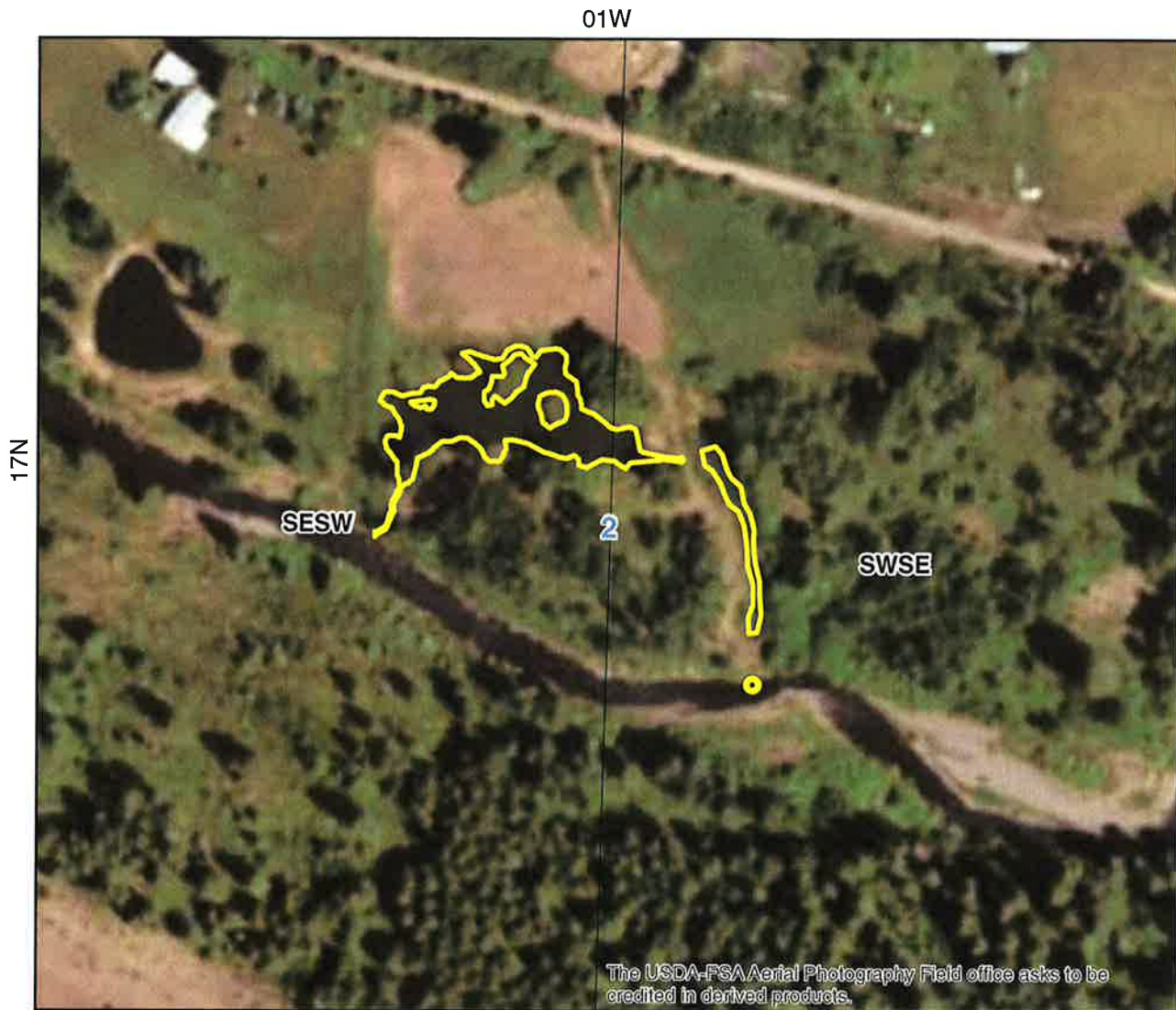
Signed this 7<sup>th</sup> day of SEPTEMBER, 2018.



Angela M Grimm  
Water Rights Supervisor

State of Idaho  
Department of Water Resources  
**Attachment to Water Right License**  
67-14611

This map depicts the AESTHETIC, RECREATION, and 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.



State of Idaho  
Department of Water Resources  
**APPLICATION FOR AMENDMENT**  
(For Licensing Purposes)  
**WATER RIGHT NO. 67-14611**

RECEIVED  
AUG 20 2018  
WATER RESOURCES  
WESTERN REGION

PRIORITY: March 22, 2005

Maximum Diversion Rate: 1.00 CFS  
Maximum Diversion Volume: 724.0 AF

Comes now

ROBIN DE FREITAS 3050 FRUITVALE-GLENDALE RD FRUITVALE ID 83612 And/Or

JOSEPH MICHAEL DE FREITAS 3050 FRUITVALE-GLENDALE RD FRUITVALE ID 83612

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. 67-14611, and requests that the permit be changed as follows:

**SOURCE:**  
WEISER RIVER

**TRIBUTARY:**  
SNAKE RIVER

| <u>BENEFICIAL USE</u> | <u>PERIOD OF USE</u> | <u>DIVERSION RATE</u> | <u>ANNUAL<br/>DIVERSION VOLUME</u> |
|-----------------------|----------------------|-----------------------|------------------------------------|
| AESTHETIC             | 01/01 to 12/31       | 1.00 CFS              | 724.0 AF                           |
| RECREATION            | 01/01 to 12/31       | 1.00 CFS              | 724.0 AF                           |
| WILDLIFE              | 01/01 to 12/31       | 1.00 CFS              | 724.0 AF                           |

**LOCATION OF POINT(S) OF DIVERSION:**WEISER RIVER SW $\frac{1}{4}$ SE $\frac{1}{4}$  Sec. 2, Twp 17N, Rge 01W, B.M. ADAMS County**PLACE OF USE:** AESTHETIC, RECREATION, AND 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 |        |
| 17N | 01W | 2   |    |    |    |    |    |    |    |    |    |    |    | X  |    |    | 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 15 day of AUGUST, 2018.

  
(Signature)

check being sent separately.

State of Idaho  
Department of Water Resources  
**APPLICATION FOR AMENDMENT**  
(For Licensing Purposes)  
**WATER RIGHT NO. 67-14611**

\*\*\*\*\*  
FOR DEPARTMENT USE ONLY

Preliminary check by AS Fee = \$100.00 Received by AK # W046679 Date 8/21/2018

**ACTION OF THE DEPARTMENT OF WATER RESOURCES**

The Idaho Department of Water Resources hereby approves the above Application for Amendment for Permit No. 67-14611 with the following:

**CONDITIONS OF APPROVAL**

1. 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. 67.
2. Use of water under this right shall be non-consumptive. At such time in the future as the Director determines necessary to protect the prior rights of other users, the Director may require determination of the rate of loss within the system using a procedure approved by the Director, and may require mitigation for all system losses.
3. 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.
4. Upon specific notification by the Department, the right holder shall install a lockable device of a type acceptable to the Department in a manner that will provide the watermaster suitable control of the diversion.
5. When ordered by the Director, the right holder shall provide mitigation acceptable to the Director to offset depletion of lower Snake River flows needed for migrating anadromous fish. The amount of water required for mitigation, which is to be released into the Snake River or a tributary for this purpose, will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this right. Any order of the Director issued in accordance with this paragraph shall be in conformance with applicable rules allowing the right holder due process as the need for mitigation and the amount of mitigation are determined.

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

Signed this 7<sup>th</sup> day of SEPTEMBER, 2018.

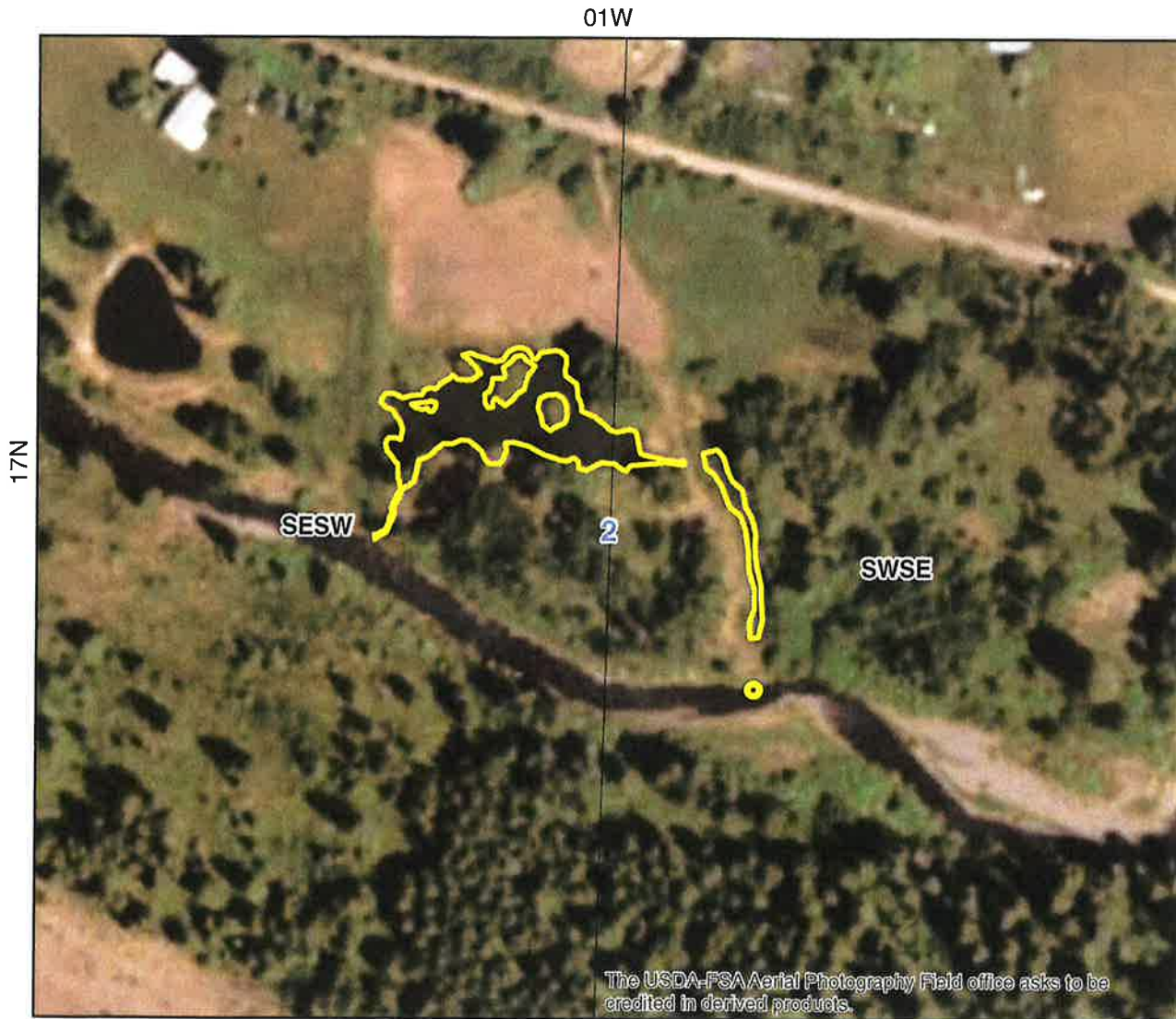
  
Angela M. Grimm  
Water Rights Supervisor

State of Idaho  
Department of Water Resources

# Attachment to Amend Water Right License

67-14611

This map depicts the AESTHETIC, RECREATION, and 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

0 0.02 0.04 0.08 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)

C.L. "Butch" Otter  
Governor

Gary Spackman  
Director

September 07, 2018

JOSEPH MICHAEL DE FREITAS  
ROBIN DE FREITAS  
3050 FRUITVALE-GLENDALE RD  
FRUITVALE ID 83612

RE: License No. 67-14611

### 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 watermaster in a water district. Also enclosed is a copy of the approved application for amendment.

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) 334-2190.

Sincerely,

Nick Miller  
Regional Manager

Enclosure(s)

## CERTIFICATE OF SERVICE

I hereby certify that on September 07, 2018, I served a true and correct copy of Water Right License No. 67-14611 by U.S. Mail, postage prepaid, to the following:

JOSEPH MICHAEL DE FREITAS (Current Owners)  
ROBIN DE FREITAS  
3050 FRUITVALE-GLENDALE RD  
FRUITVALE ID 83612

WATER DISTRICT #67  
BRANDI BONNER (Watermaster)  
2297 SNAPP LN  
MIDVALE ID 83645



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Rachel Neely  
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.



State of Idaho

**DEPARTMENT OF WATER RESOURCES**

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Website: [www.idwr.idaho.gov](http://www.idwr.idaho.gov)

C.L. "BUTCH" OTTER  
Governor

GARY SPACKMAN  
Director

July 12, 2018

COPY

JOSEPH MICHAEL AND ROBIN DE FREITAS  
3050 FRUITVALE-GLENDALE RD  
FRUITVALE ID 83612

RE: Water Right Permit No. 67-14611

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(s) have been developed differently than described on your permit(s). 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(s) can be issued, your permit(s) 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(s) depicts the elements of the water right(s) as they will appear on the license(s) when issued. Please review the amendment form(s) carefully. If you concur with the information presented, please sign and return the form(s) with the \$100.00 filing fee within 14 days.

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

Sincerely,

Aaron Skinner  
Water Resource Agent, Sr.

Enclosure(s): Application for Amendment



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](http://www.idwr.idaho.gov)

C.L. "BUTCH" OTTER  
Governor

GARY SPACKMAN  
Director

July 11, 2018

COPY

JOSEPH MICHAEL AND ROBIN DE FREITAS  
3050 FRUIT-VALE-GLENDALE RD  
FRUITVALE, ID 83612

**RE: Water Permit 67-14611**

Dear Mr. and Mrs. De Freitas:

A field exam was conducted for WR Permit No. 67-14611 on May 8, 2017 to verify Aesthetic, Recreation, and Wildlife uses from the Weiser River in Adams County. The visit allowed the Department to better understand the delivery system to the pond.

When calculating the pond capacity and surface area, it was determined that water is being stored in the pond. The pond capacity is 3.9 acre-feet (AF) relative to the depths that were provided on the map we received during our visit. Water flowing "through" the pond at 1.0 cfs for 24 hours totals 2.0 AF; meaning it takes roughly two days to initially fill the pond. As such, a new Application for Permit form should be submitted to acknowledge the use. I've enclosed a blank Application for Permit for your convenience.

**Please contact me within the next thirty (30) days at (208) 334-2190 to initiate communication and develop a plan to submit the necessary application. Thank you for your attention to this matter.**

Respectfully,

A handwritten signature in black ink, appearing to read 'AS', is written over a circular stamp or seal.

Aaron Skinner  
Water Resource Agent, Sr.  
Idaho Department of Water Resources  
Phone: (208) 334-2190  
Email: [aaron.skinner@idwr.idaho.gov](mailto:aaron.skinner@idwr.idaho.gov)

Enclosure: Application for Permit form