

State of Idaho
Department of Water Resources
Water Right License
WATER RIGHT NO. 67-07959

PRIORITY: May 04, 1994

Maximum Diversion Rate: 0.52 CFS

It is hereby certified that:

RALPH H WILSON 1900 HWY 95 COUNCIL ID 83612 And/Or
PHYLLIS WILSON 1900 HWY 95 COUNCIL ID 83612

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated May 04, 1994, and has submitted Proof of Beneficial Use on May 08, 1995. An examination confirms water is diverted from:

SOURCE:
COOL CREEK

TRIBUTARY:
WEISER 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 DIVERSION VOLUME</u>
IRRIGATION STORAGE	01/01 to 12/31		5.0 AF
IRRIGATION FROM STORAGE	03/15 to 11/15		5.0 AF
TOTAL STORAGE			5.0 AF
IRRIGATION	03/15 to 11/15	0.14 CFS	
DIVERSION TO STORAGE	01/01 to 12/31	0.52 CFS	

LOCATION OF POINT(S) OF DIVERSION:

COOL CREEK NW¼NE¼ Sec. 22, Twp 16N, Rge 01W, B.M. ADAMS County

PLACE OF USE: IRRIGATION AND 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	
16N	01W	22		18.0															18.0

Total Acres: 18

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	
16N	01W	22		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.

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2. 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.
3. 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.
4. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the place of use.
5. This right does not grant any right-of-way or easement across the land of another.

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.

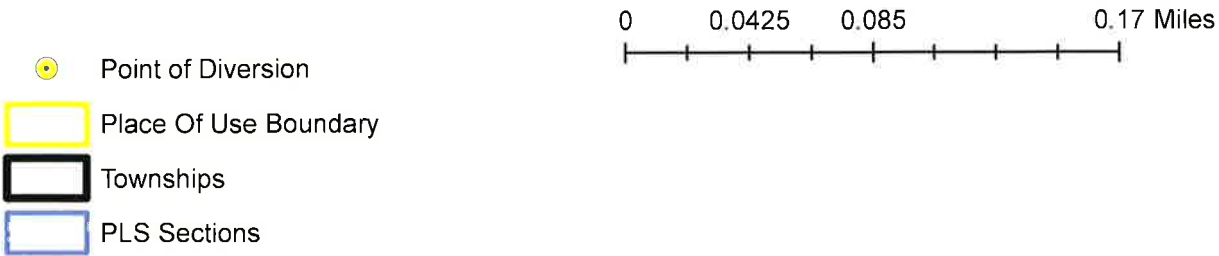
Signed this 18th day of July, 2018.



CLAY WEBSTER
Water Rights Supervisor

State of Idaho
Department of Water Resources
Attachment to Water Right License
67-7959

This map depicts the IRRIGATION and 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

67-7959

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.

01W



0 0.035 0.07 0.14 Miles

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





State of Idaho

DEPARTMENT OF WATER RESOURCES

322 E FRONT ST STE 648 PO BOX 83720 • BOISE, ID 83720-0098

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

C.L. "Butch" Otter
Governor

Gary Spackman
Director

July 19, 2018

RALPH H WILSON
PHYLLIS WILSON
1900 HWY 95
COUNCIL ID 83612

RE: License No. 67-7959

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.

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

If you have any questions concerning the enclosed information, please contact me at (208) 287-4910.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Clay Webster'.

Clay Webster
Water Rights Supv

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on July 20, 2018, I served a true and correct copy of Water Right License No. 67-7959 by U.S. Mail, postage prepaid, to the following:

RALPH H WILSON (Current Owner)
1900 HWY 95
COUNCIL ID 83612

RALPH H WILSON (Current Owner)
PO BOX 66
COUNCIL ID 83612

PHYLLIS WILSON (Current Owner)
1900 HWY 95
COUNCIL ID 83612

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



Darla Block
Technical Records Specialist 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.

MEMORANDUM

TO: Water Right File 7975

FROM: Daniel Nelson – Analyst 3

DATE: July 16, 2018

SUBJECT: Licensing Review of Water Right 67-7959

The field exam performed on this permit was done in 1996 by Idaho Department of Water Resources (Department) staff. The field examiner found 0.14 cfs and 59.4 af for irrigation, 5 af for irrigation storage, 5 af for irrigation from storage, and 0.52 cfs for diversion to storage. The field examiner also stated that the stockwater and stockwater storage uses were not developed. It appears as though this permit was held to ensure an overlapping Snake River Basin Adjudication claim was withdrawn. The claim was withdrawn and there are no overlapping water rights for this place of use.

The season of use authorized by this permit was for the older standard of 4/1 to 10/31. The season of use should be updated to the current season of use of 3/15 to 11/15 for this area.

The system was not operational when the field examiner was at the site, so no actual measurements were made. However, the field examiner provided some theoretical calculations to determine the diversion rates for the irrigation diversion rate and the diversion to storage rate. These type of measurements were acceptable at the time the field examination was made, and do provide reasonable flow rates for this system. I am inclined to go with the calculations made by the field examiner, and recommend the diversion rates and volumes recommended in the field report.

A volume of 59.4 acre feet was recommended for this permit. We normally don't include a volume limitation for irrigation from surface water, and I don't believe we need to provide a volume on this permit. The volume is limited by the diversion rate, so there no possible way the permit holder could use more than the recommended volume unless they increase the diversion rate, which is not authorized by this permit. Therefore, no volume will be recommended for the irrigation portion of the permit. The storage and from storage volume will be limited to 5.0 af.

The field examiner only had a very crude ASCS (now Farm Service Agency) map to determine the acres being irrigated. This map doesn't supply the detail available with modern mapping tools, but I was able to create a fairly similar place of use consisting of 18 acres. Judging from the aerial photos over the years, the place of use has actually been a bit fluid and moves around a bit from year to year. I feel I have covered the most consistent area being irrigated. Therefore, I am recommending 18 acres for the place of use.

Conditions:

All of the conditions for the permit have been updated, so the most recent versions of the conditions should be used. This permit is within Water District 67, so condition R05 should be added. Condition R02 should also be placed on the license. A requirement for a measurement device was required on the permit, but was later waived. A measurement order was issued for Water District 67, but Cool Creek was not included in the order. Therefore, we should include condition 01M to allow measurement in the future if necessary. Condition R64 should be added, since a similar version was include on the permit. I am also going to include condition 004, since this permit is using water from a navigable stream that could require future easements.

Permit 67-7959 – Licensing Maps

The three aerial photos below show the place of use in yellow and the pond in blue. The aerial photos are a 1998 (top left Photo), 2013 (top right Photo), and 2004 (bottom left Photo). The area being irrigated and the pond has changed over the years, and some areas have been expanded and some areas have been reduced. However, the 1998 and 2013 aerial photos appear to be the most consistent with each other concerning the acres irrigated. The 1998 and 2004 aerial photos appear to be the most consistent as far as the pond size is concerned. The field exam was done in 1996, so the 1998 aerial photo would be the closest to the time when the permit was field examined by staff. The 2013 is a little better quality photo, so I used it to draw the lines of the field and compare them to the 1998 aerial photo. The field report maps were crude, so they do not match exactly, however, I found the same number of acres as the field examiner of 18 acres being irrigated. Both the 1998 and 2004 aerial photos both show a similar pond footprint of 0.5 acres, so I am using those photos to represent the storage place of use. Google Earth aerial photography is very similar to the imagery available to the Department, so the Department's imagery appears to be the best available.

