

State of Idaho
Department of Water Resources
Water Right License
WATER RIGHT NO. 98-07714

PRIORITY: April 14, 1993

Maximum Diversion Volume: 15.0 AF

It is hereby certified that:

SCOTT A PETERSON HC 01 BOX 395 NAPLES ID 83847

And/Or

MARY PETERSON HC 01 BOX 395 NAPLES ID 83847

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated April 14, 1993, and has submitted Proof of Beneficial Use on October 17, 2000. An examination confirms water is diverted from:

SOURCE:
UNNAMED STREAM

TRIBUTARY:
DODGE CREEK

and a water right has been established as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>ANNUAL DIVERSION VOLUME</u>
WILDLIFE STORAGE	01/01 to 12/31	15.0 AF
FIRE PROTECTION STORAGE	01/01 to 12/31	15.0 AF
AESTHETIC STORAGE	01/01 to 12/31	15.0 AF

LOCATION OF POINT(S) OF DIVERSION:

UNNAMED STREAM SW¼SW¼ Sec. 10, Twp 60N, Rge 01W, B.M. BOUNDARY County

PLACE OF USE: AESTHETIC STORAGE, FIRE PROTECTION STORAGE, AND WILDLIFE 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	
60N	01W	10											X						

CONDITIONS OF APPROVAL

1. Water shall not be diverted from fire protection storage except to fight or repel an existing fire.
2. Right 98-7714 authorizes a total annual storage volume of 15.0 acre-feet, 9.5 acre-feet to be used for the initial filling of the pond and 5.5 acre-feet for the replacement of losses caused by evaporation.
3. The pond established by the storage of water under this right shall not exceed a total capacity of 9.5 acre-feet or a total surface area of 3.5 acres.
4. The issuance of 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.

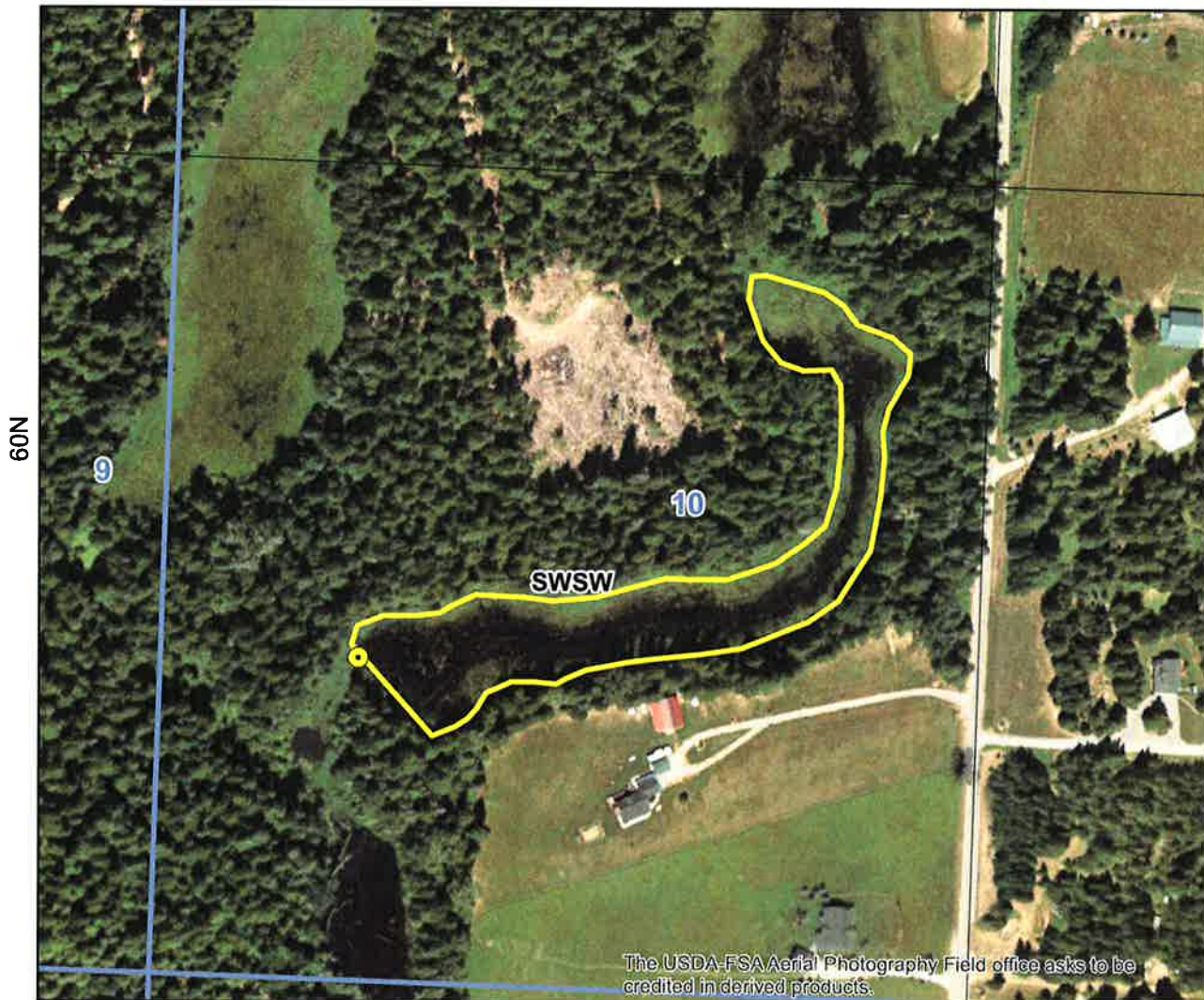
Signed this 19th day of June, 2018.


DOUGLAS JONES
Northern Regional Manager

State of Idaho
Department of Water Resources
Attachment to Water Right License
98-7714

This map depicts the AESTHETIC STORAGE, FIRE PROTECTION STORAGE, and AESTHETIC 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



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

0 0.035 0.07 0.14 Miles





State of Idaho

DEPARTMENT OF WATER RESOURCES

Northern Region • 7600 N MINERAL DR STE 100 • COEUR D ALENE, ID 83815-7763
Phone: (208)762-2800 • Fax: (208)769-2819 • Website: www.idwr.idaho.gov

C.L. "Butch" Otter
Governor

Gary Spackman
Director

June 20, 2018

SCOTT A PETERSON
HC 01 BOX 395
NAPLES ID 83847

MARY PETERSON
HC 01 BOX 395
NAPLES ID 83847

RE: License No. 98-7714

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 the Northern Region Office at (208) 762-2800.

Sincerely,

Douglas Jones, P.E.
Regional Manager

Enclosure(s)

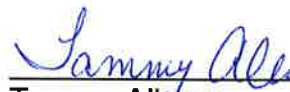
CERTIFICATE OF SERVICE

I hereby certify that on July 12, 2018, I served a true and correct copy of Water Right License No. 98-7714 by U.S. Mail, postage prepaid, to the following:

SCOTT A PETERSON (Previous Owner)
HC 01 BOX 395
NAPLES ID 83847

MARY PETERSON (Previous Owner)
HC 01 BOX 395
NAPLES ID 83847

DAVID STERN
4116 N. GARRY RD.
OTIS ORCHARDS WA 99023



Tammy Alleman
Administrative Assistant 1

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: 98-7095, 98-7714, 98-7753, 98-7754, 98-7755, and 98-7756

From: Adam Frederick AF

Date: 3/5/2018

Re: Explanation of place of use for each right.

This memorandum is being written to address the location of five water rights (98-7095, 98-7753, 98-7754, 98-7755, and 98-7756). This evaluation is needed to show how we came up the storage location for permit 98-7714 to be licensed. Permit 98-7714 was examined in 2001 and it is believed the two applicants are since deceased. This memo will help explain the locations of each water right, including two that we believe were licensed in the wrong location. This common memo will be attached to each water right along with the evidence to show its true location.

98-7095

This water right was licensed in 1976 for the storage of 7.5 acre-feet of water from run off. This file is rather vague because the field examiner did provide any sketch or map identifying where the storage was located at. This license was issued for the storage to be located in Twp 60N, Rge 1W, Sec 10 in the SWSW and NWSW. Using a sketch the applicant provided, it is my belief the pond is actually located in Twp 60N, Rge 1W, in Sec 10 & 15 in the SWSW and NWNW. Aerial photography of the pond match the sketch to the actual storage. It is believed the storage was licensed in the wrong area. Attached will be the applicants drawing and a map of the area identifying the locations of each right.

98-7753

This water right was licensed in 1996 for the storage of 2.0 acre-feet of water from an unnamed stream. This right was issued in Twp 60N, Rge 1W, Sec 10 in the NWSW. This right was evaluated because there are 6 ponds in the same general area and we needed to be more positive on actual storage location instead of only identifying the 40 acre tract. This right had supporting documentation that had a topo map marked and a field exam photo. Attached will be a topo map marked by the applicant or examiner, photograph from field examiner, and a map of the area identifying the locations of each right.

98-7754

This water right was licensed in 1996 for the storage 1.8 acre-feet of water from an unnamed stream. This right was issued in Twp 60N, Rge 1W, Sec 10 in the NWSW. This right was evaluated because there are 6 ponds in the same general area and we needed to be more positive on actual storage location instead of only identifying the 40 acre tract. This right had supporting documentation that had a topo map marked and field examine photos. Attached

will be a topo map marked by the applicant or examiner, photographs from field examiner, and a map of the area identifying the locations of each right.

98-7755

This water right was licensed in 1996 for the storage of 3.2 acre-feet of water from an unnamed stream. This right was issued in Twp 60N, Rge 1W, Sec 10 in the SWSW. This right was issued in the correct QQ and could have even included storage in the NWSW. This right needed to be evaluated because it was in the same 40 acre tract as permit 98-7714. This right has been identified to a specific location during review based upon a top map that marked the location and a picture by the field examiner. Attached will be a topo map marked by the applicant or examiner, photograph from field examiner, and a map of the area identifying the locations of each right.

98-7756

This water right was licensed in 1996 for the storage of 12.6 acre-feet of water from unnamed streams. This right was issued in Twp 60N, Rge 1W, Sec 10 in the NESW. It is my belief that this right was licensed in the incorrect location. The topo map in the backfile shows the location of pond being to the east of McArthur Lake Rd. There is a pond to the west of that road that would be located in Twp 60N, Rge 1W, Sec 10 in the NWSW. The applicant had originally applied for the point of diversion and place of use to be located in the NWSW. There is then an approved amendment of permit moving the location to the NESW. I believe the applicant was right on the original application but made wrong corrections to the permit. I have attached two Google Earth images from 1992 and 2006 showing the licensed place of use being hayed. I have attached the applicant or examiner map, a photo for the field examiner, and a map of the area identifying the locations of each right.

98-7714

This review was started when I attempted to license this permit based upon a 2001 field exam. There is a terrible map that was drawn by the field examiner with some vague photos of the general area of storage. Boundary County doesn't have a way to look up property history of who owned which lots back in the 90's. A simple Google search of the applicant's name showed obituaries and it is believed they are no longer alive. This evaluation showed that there one pond that was not covered by a water right. This permit was issued for the point of diversion and place of use of the one pond that is not covered by a right. After this evaluation, Northern Region will proceed with licensing this permit and using this evidence as justification.