

State of Idaho  
Department of Water Resources  
**Water Right License**  
WATER RIGHT NO. 51-13098

PRIORITY: November 03, 2011

Maximum Diversion Rate: 2.08 CFS

Maximum Diversion Volume: 301.0 AF

It is hereby certified that:

|                     |                  |           |           |
|---------------------|------------------|-----------|-----------|
| KRISTY PIGEON       | 109 GREENHORN RD | HAILEY ID | 83333 And |
| JOHN PRUDDEN        | 109 GREENHORN RD | HAILEY ID | 83333 And |
| MATHER CAPITAL CORP | 109 GREENHORN RD | HAILEY ID | 83333     |

have complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated October 20, 2011, and have submitted Proof of Beneficial Use on June 20, 2013. An examination confirms water is diverted from:

**SOURCE:**  
BRUNEAU 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> |
|-----------------------|----------------------|-----------------------|------------------------------------|
| WILDLIFE              | 03/01 to 06/15       | 2.08 CFS              | 225.0 AF                           |
| DIVERSION TO STORAGE  | 03/01 to 06/15       | 2.08 CFS              |                                    |
| WILDLIFE STORAGE      | 01/01 to 12/31       |                       | 76.0 AF                            |

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

BRUNEAU RIVER SW¼SW¼ Sec. 26, Twp 07S, Rge 06E, B.M. OWYHEE County

**PLACE OF USE: 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 |        |
| 07S | 06E | 4   |    |    |    |    |    |    |    |    |    |    | X  |    |    |    |    |    |        |
| 07S | 06E | 5   |    |    |    |    |    |    |    |    |    |    |    |    | X  | X  | 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 |        |
| 07S | 06E | 4   |    |    |    |    |    |    |    |    |    |    | X  |    |    |    |    |    |        |
| 07S | 06E | 5   |    |    |    |    |    |    |    |    |    |    |    |    | X  | X  | X  | X  |        |

**CONDITIONS OF APPROVAL**

- The diversion and use of water described in this right may be subject to additional conditions and limitations under a separate agreement between the water right holders and the Bruneau Buckaroo Cooperative Ditch Company. Because the Department is not a party to the separate agreement, the Department is not responsible for enforcement of any aspect of the agreement not specifically addressed in the conditions of approval for this water right. Enforcement of those portions of the agreement not specifically addressed in the conditions of approval for this water right shall be the responsibility of the water right holder and the Bruneau Buckaroo Cooperative Ditch Company.

State of Idaho  
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2. Wildlife use is for habitat improvement during the early irrigation season and diversions for this right are not authorized after June 15 of each year.
3. Use of water under this right for wildlife flow through purposes shall be returned to the Bruneau River.
4. From March 1 to June 15, this right authorizes the use of Bruneau Buckaroo Canal Ditch Co. shares for wildlife uses but does not authorize an additional diversion of water from the Bruneau River. This right shall not be used if the Bruneau Buckaroo Canal Ditch Co. shares appurtenant to the place of use are sold, transferred, leased or used on any other place of use.
5. The six (6) ponds or wetland areas established by the storage of water under this right shall not exceed a total capacity of 76 acre-feet or a total surface area of 38 acres.
6. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
7. This right is subordinate to existing and future minimum instream flow water rights.
8. This right shall be junior and subordinate to future water rights authorizing the diversion and use of water from the Bruneau River and its tributaries, including ground water, for consumptive uses, except that this right shall not be subordinate to future water rights for similar wildlife, recreation or aesthetic uses.
9. This right does not grant any right-of-way or easement across the land of another.
10. The Director retains jurisdiction to require the right holder to provide purchased or leased natural flow or stored water to offset depletion of Lower Snake River flows if needed for salmon migration purposes. The amount of water required to be released into the Snake River or a tributary, if needed for this purpose, will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this water right.

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 13<sup>th</sup> day of June, 2018.



SHELLEY W. KEEN  
Water Rights Section Manager

State of Idaho  
Department of Water Resources

# Attachment to Water Right License

51-13098

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.



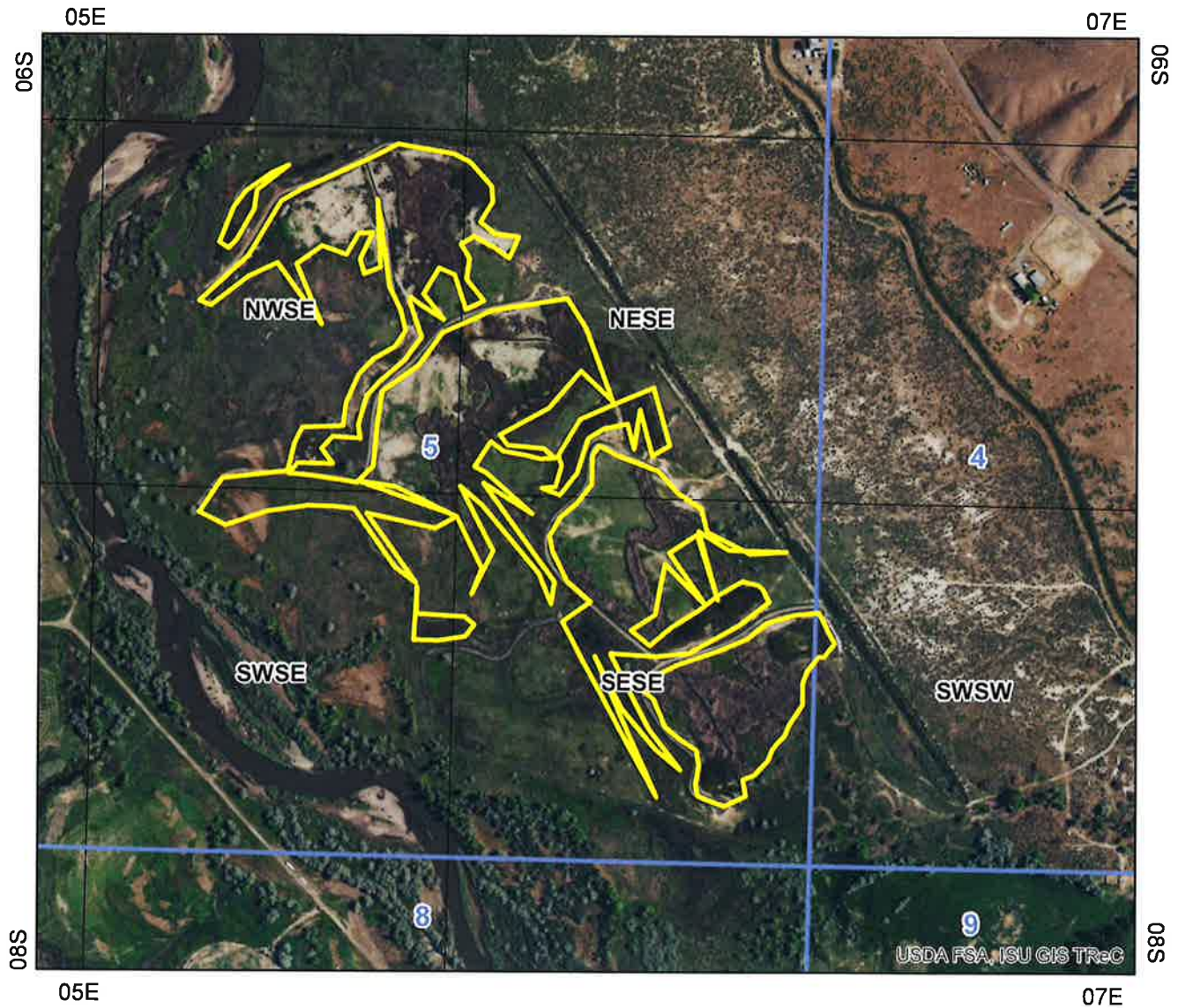
-  Point of Diversion
-  Place Of Use Boundary
-  Townships
-  PLS Sections



0 0.5 1 2 Miles

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Department of Water Resources  
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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.



-  Place Of Use Boundary
-  Townships
-  PLS Sections



0 0.075 0.15 0.3 Miles



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

C.L. "Butch" Otter  
Governor

Gary Spackman  
Director

June 14, 2018

JOHN PRUDDEN  
MATHER CAPITAL CORP  
KRISTY PIGEON  
109 GREENHORN RD  
HAILEY ID 83333

RE: License No. 51-13098

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

If you have any questions concerning the enclosed information, please contact me at (208) 287-4951.

Sincerely,

Pamela S Skaggs  
Water Rights Supervisor

Enclosure(s)

## CERTIFICATE OF SERVICE

I hereby certify that on June 15, 2018, I served a true and correct copy of Water Right License No. 51-13098 by U.S. Mail, postage prepaid, to the following:

JOHN PRUDDEN (Current Owner)  
109 GREENHORN RD  
HAILEY ID 83333

MATHER CAPITAL CORP (Current Owner)  
109 GREENHORN RD  
HAILEY ID 83333

KRISTY PIGEON (Current Owner)  
109 GREENHORN RD  
HAILEY ID 83333



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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.