

State of Idaho
Department of Water Resources
Water Right License
WATER RIGHT NO. 57-07502

Amended**Amended****PRIORITY:** October 13, 1989

Maximum Diversion Rate: 0.28 CFS

Maximum Diversion Volume: 37.0 AF

It is hereby certified that:

DAN JORDAN 30911 HWY 78 MURPHY ID 83650-5046

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated October 13, 1989, and has submitted Proof of Beneficial Use on October 31, 1995. An examination confirms water is diverted from:

SOURCE:
GROUND WATER

and a water right has been established as follows:

BENEFICIAL USE	PERIOD OF USE	DIVERSION RATE	ANNUAL DIVERSION VOLUME
FISH PROPAGATION	01/01 to 12/31	0.28 CFS	37.0 AF
DIVERSION TO STORAGE	01/01 to 12/31	0.28 CFS	
HEATING	01/01 to 12/31	0.28 CFS	37.0 AF
FISH PROPAGATION STORAGE	01/01 to 12/31		37.0 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER SW¼NW¼ Sec. 32, Twp 04S, Rge 02E, B.M. OWYHEE County

PLACE OF USE: HEATING

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04S	02E	32							X										

PLACE OF USE: FISH PROPAGATION 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	
04S	02E	32							X										

PLACE OF USE: FISH PROPAGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04S	02E	32							X										

CONDITIONS OF APPROVAL

- Right 57-7502 authorizes a total annual storage volume of 37.0 acre-feet; 9.6 acre-feet to be used for the initial filling or carryover storage of the ponds and 27.4 acre-feet for the replacement of losses

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caused by seepage and evaporation.

2. The right holder shall not divert water at a rate exceeding what is reasonably necessary for the beneficial use authorized by this right.
3. This right is for the use of trust water, and it is subject to review 5 years after its initial approval (date of permit approval) to re-evaluate the availability of trust water for the authorized use and to re-evaluate the public interest criteria for reallocating trust water.
4. When the minimum stream flow water rights in the Snake River at Murphy Gage are not being satisfied, the right holder shall cease diverting water for the consumptive uses authorized by this 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 20 day of MARCH, 2018.

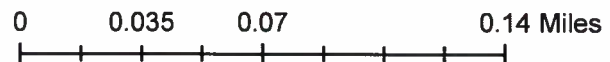
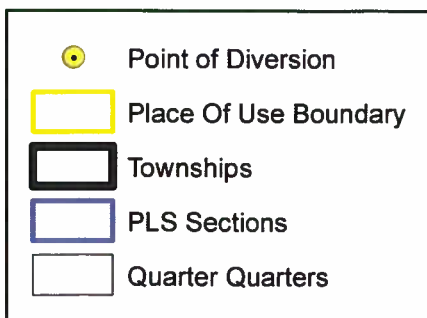
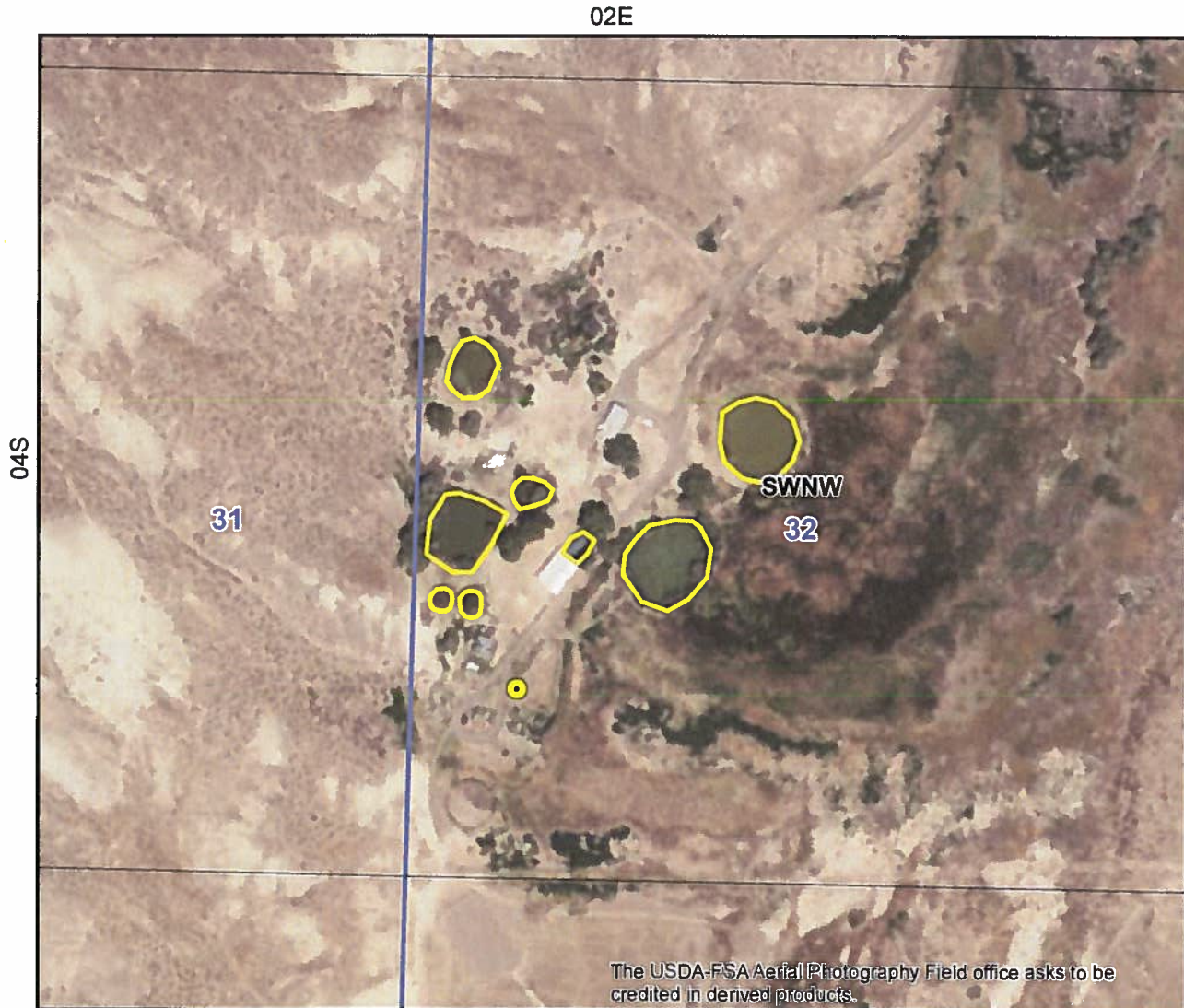


Angela M. Grimm
Water Rights Supervisor

State of Idaho
Department of Water Resources

Amended Attachment to Water Right License Amended
57-7502

This map depicts the FISH PROPAGATION, FISH PROPAGATION STORAGE, and HEATING 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

Western Region • 2735 Airport Way • Boise, Idaho 83705-5082

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

March 20, 2018

DAN JORDAN
30911 HWY 78
MURPHY ID 83650-5046

RE: License No. 57-7502

Issuance of Amended License

Dear Water Right Holder(s):

The Department of Water Resources has issued the enclosed Amended Water Right License confirming that a water right has been established in accordance with your permit. Please be sure to thoroughly review the conditions of approval and remarks listed on your license.

The amended license 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 by the Department unless a party petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date as described in the enclosed information sheet.

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. Contact any office of the Department or visit the Department's homepage on the Internet to obtain the proper forms and instructions.

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

Sincerely,

 Rachel Neely for:

Nick Miller
Western Regional Manager

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on March 20, 2018 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved Amended License) to the person(s) listed below:

RE: WATER RIGHT NO.

57-7502

DAN JORDAN

30911 HWY 78

MURPHY ID 83650-5046



Rachel Neely

Administrative Assistant

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 No. 57-7502 File
From: Angie Grimm
Date: March 20, 2018
Re: **Amended License Review**

A license was issued on March 14, 2018 for water right 57-7502. Upon further consideration, it's been determined that an amended license should be issued for right 57-7502 due to Trust Water considerations. The following outlines the changes made to the license and the rationale for those changes:

1. Add Trust Water standard conditions #933 and #934: The permit was issued with a 1989 priority for the use of trust water following the Swan Falls agreement. It was IDWR policy to not identify the permit as trust water in conditions for non-consumptive uses, DCMU uses, etc. It is current IDWR policy to include trust water conditions #933 (term limit) and either #934 (for non-mitigated consumptive uses) or #935 (for non-consumptive or mitigated consumptive uses) to identify the right as a trust water right and state whether the right should be regulated to satisfy the minimum stream flow or not.
2. Remove standard condition #027 stating the use shall be non-consumptive. At the time of permit application processing, uses for heating and fish propagation (whether associated with storage or not) were considered non-consumptive. This condition was added to the right to move the permit application to "the front of the line", so to speak, for processing of pending applications after the Swan Falls agreement. Currently, IDWR views storage as a consumptive use (due to evaporation). Removing the condition allows for the use to be described as developed based on current IDWR policy. There is no concern of the right gaining any advantage with regard to priority date since mitigation was not required for approval at the time of processing. The only advantage the non-consumptive use designation gave the applicant was expedited processing time. There is no concern with enlargement since the permit was developed as proposed, i.e. storage was always proposed and is now recognized as consumptive when it previously was not.
3. Considering consumptive use is allowable under this permit, based on understanding of historic and current policies outlined in item #2 above, standard condition #219 will be amended to license the capacity with evaporative and seepage losses.