

State of Idaho
Department of Water Resources
Water Right License
WATER RIGHT NO. 37-08859

PRIORITY: October 18, 1996

Maximum Diversion Rate: 1.06 CFS
Maximum Diversion Volume: 420.0 AF

It is hereby certified that:

SMOKEY DOME LLC C/O GREGORY VIK
PO BOX 1607 BELLEVUE WA 98009

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated October 18, 1996, and has submitted Proof of Beneficial Use on December 26, 2017. An examination confirms water is diverted from:

SOURCE:
WEST FORK THREEMILE CREEK

TRIBUTARY:
CAMAS CREEK

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>
WILDLIFE	01/01 to 12/31	1.06 CFS	416.0 AF
AESTHETIC	01/01 to 12/31	1.06 CFS	416.0 AF
WILDLIFE STORAGE	01/01 to 12/31		3.9 AF
DIVERSION TO STORAGE	01/01 to 12/31	1.06 CFS	
AESTHETIC STORAGE	01/01 to 12/31		3.9 AF

LOCATION OF POINT(S) OF DIVERSION:

WEST FORK THREEMILE CREEK NE¼NW¼ Sec. 23, Twp 01N, Rge 13E, B.M. CAMAS County

PLACE OF USE: AESTHETIC 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	
01N	13E	23								X									

PLACE OF USE: AESTHETIC 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	
01N	13E	23					X			X	X	X	X	X					

CONDITIONS OF APPROVAL

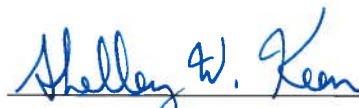
- The right holder shall maintain a measuring device and lockable controlling works of a type acceptable to the Department as part of the diverting works from the West fork of Threemile Creek and shall maintain a measuring device acceptable to the Department at the point where return flows from the project return to the West Fork of Threemile Creek.

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2. Wildlife and aesthetic uses authorized by 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 further mitigation or other action will be required only upon a determination of need and applicability by the Director
3. The two (2) ponds established by the storage of water under this right shall not exceed a total capacity of 2.3 acre-feet or a total surface area of 0.8 acre.
4. Right 37-8859 authorizes the storage of an annual total of 3.9 acre-feet, comprised of 2.3 acre-feet to be used for the initial filling or carryover storage of the ponds and 1.3 acre-feet for the replacement of losses due to evaporation. An additional 416 acre feet of flow through water is authorized by the wildlife and aesthetic uses under this right.
5. 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. 37.
6. To mitigate for the depletion of water resulting from the diversion and use of water under this right and to prevent injury to other water right holders, the right holder shall cease diverting and using 0.04 cfs for the irrigation of 1.7 acres within the NENW of Section 23, T01N, R13E. Moreover, the official record for right 37-368A has been changed to show that 0.04 cfs on 1.7 acres is dedicated to mitigation, and the permissible place of use for irrigation use for rights 37-368A, 37-409A, 37-2076A, 37-2455 and 37-2157 has been removed from these same 1.7 acres, which reduces the permissible place of use from 515.6 acres to 513.9 acres.
7. The following rights are diverted through point(s) of diversion described above: 37-368B, 37-2076A, and 37-2076B.

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.

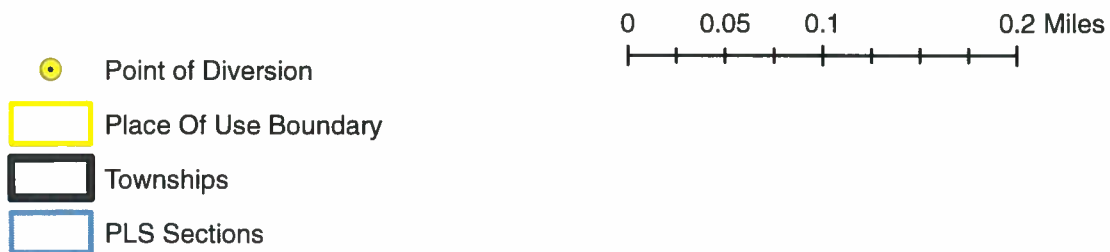
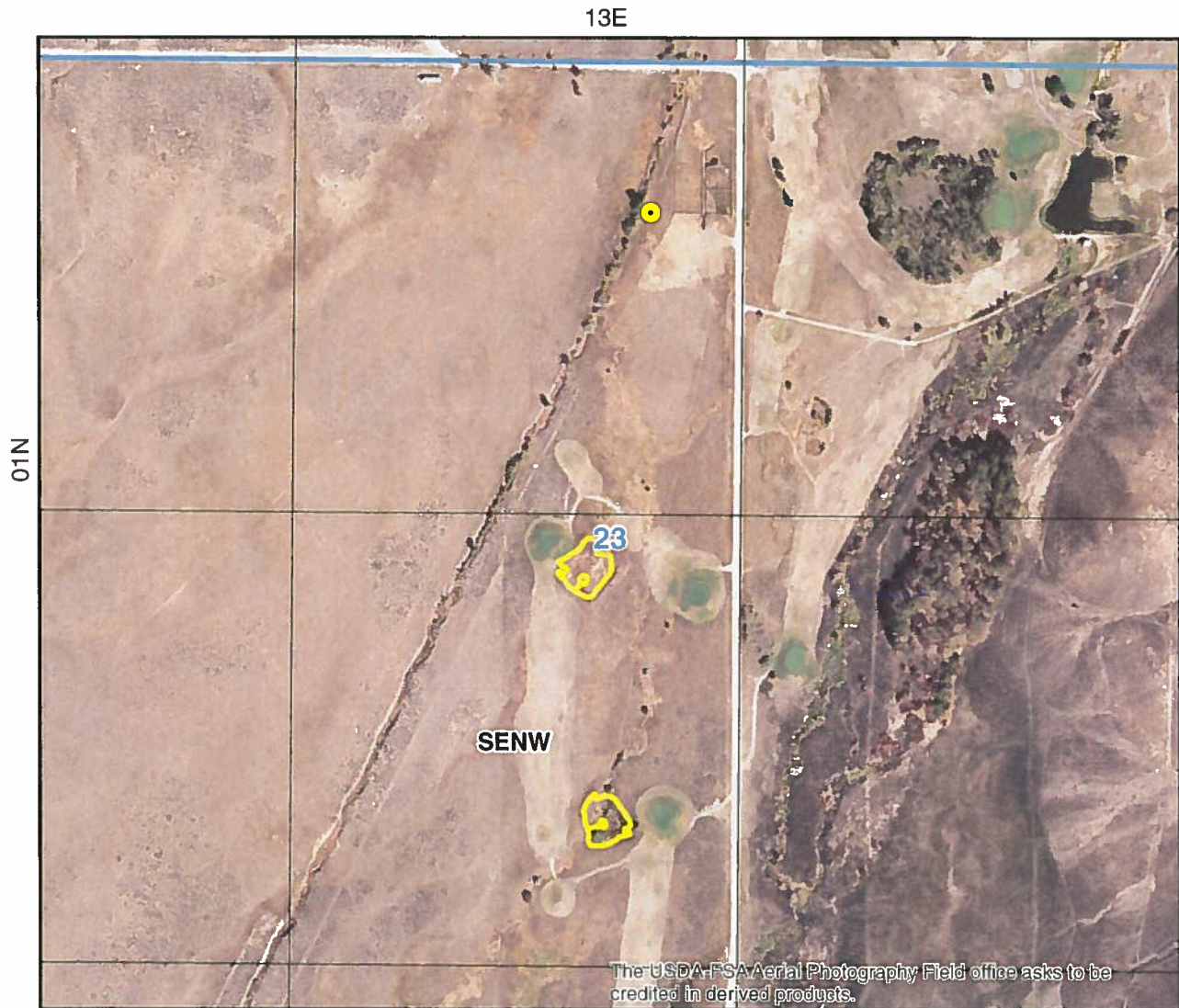
Signed this 31st day of January, 2018.



SHELLEY W. KEEN
Water Rights Section Manager

State of Idaho
Department of Water Resources
Attachment to Water Right License
37-8859

This map depicts the AESTHETIC STORAGE and WILDLIFE 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.



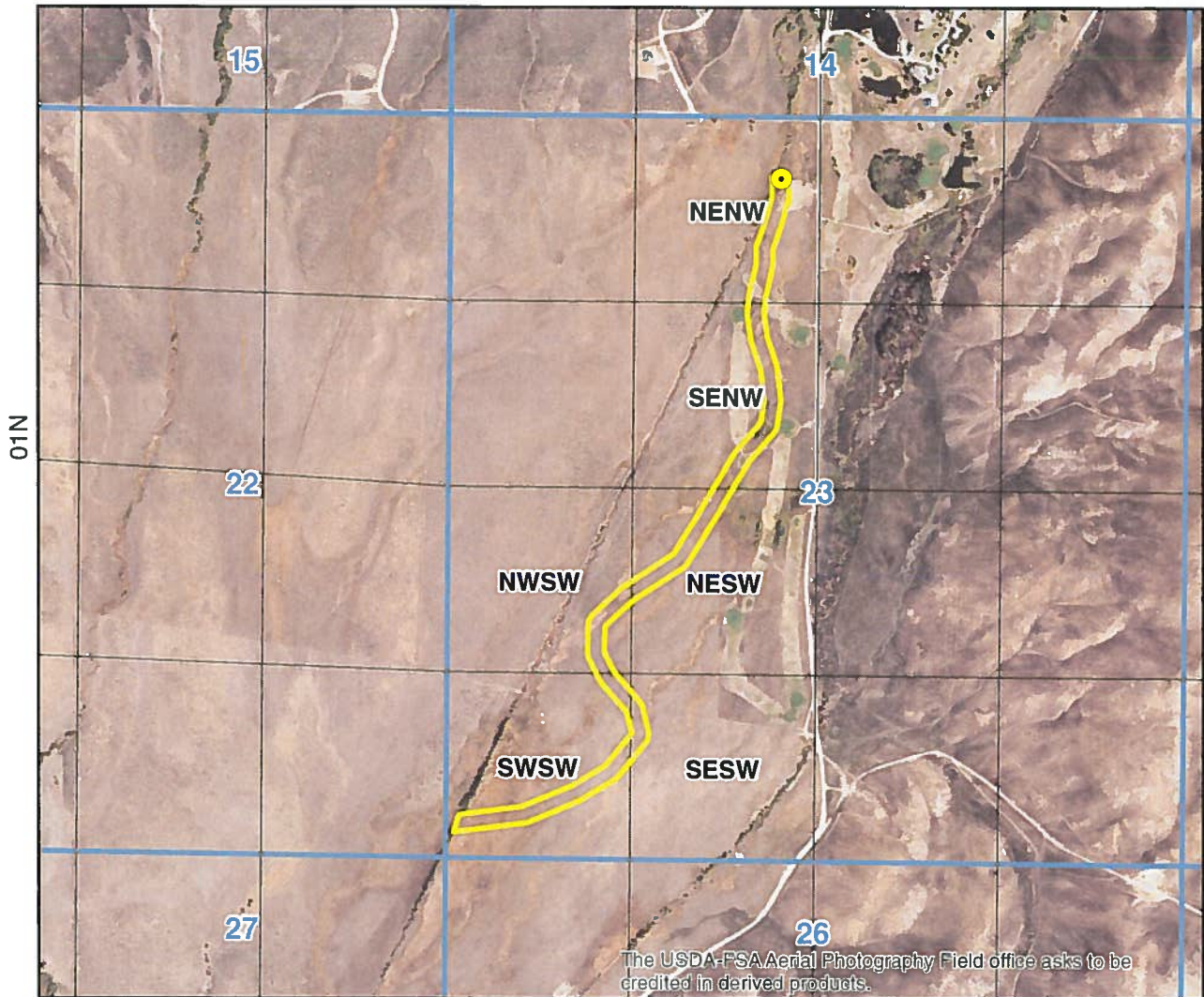
State of Idaho
Department of Water Resources

Attachment to Water Right License

37-8859

This map depicts the AESTHETIC 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.

13E



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

0 0.15 0.3 0.6 Miles





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 • Web Site: www.idwr.idaho.gov

GARY SPACKMAN
Director

C.L. "BUTCH" OTTER
Governor

February 2, 2018

SMOKEY DOME LLC
C/O GREGORY VIK
PO BOX 1607
BELLEVUE WA 98009

RE: License No. 37-8859

Issuance of License

Dear Water Right Holder(s):

The Department of Water Resources 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 the conditions of approval and remarks listed on your license.

The 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 208-287-4951.

Sincerely,

A handwritten signature in blue ink that reads "Pamela Skaggs".

Pamela Skaggs, Water Rights Supervisor
Water Right Permits Section

Enclosure(s)

cc: WATER DISTRICT #37

CERTIFICATE OF SERVICE

I hereby certify that on February 5, 2018 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (Approved License) to the person(s) listed below:

RE: WATER RIGHT NO.

37-8859

**SMOKEY DOME LLC
C/O GREGORY VIK
PO BOX 1607
BELLEVUE WA 98009**

**WATER DISTRICT #37
KEVIN D LAKEY
107 W 1ST
SHOSHONE ID 83352**



Darla Block
Technical Records Specialist

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.