

State of Idaho
Department of Water Resources
Water Right License
WATER RIGHT NO. 65-13955

PRIORITY: November 30, 2000

Maximum Diversion Rate: 0.20 CFS

Maximum Diversion Volume: 26.0 AF

It is hereby certified that:

COUNTY OF PAYETTE COUNTY CLERK
1130 3RD AVE N RM 104 PAYETTE ID 83661

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated November 30, 2000, and has submitted Proof of Beneficial Use on April 17, 2002. An examination confirms water is diverted from:

SOURCE:
PAYETTE 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 DIVERSION VOLUME</u>
INDUSTRIAL	01/01 to 12/31	0.20 CFS	26.0 AF

LOCATION OF POINT(S) OF DIVERSION:

PAYETTE RIVER L3 (SE $\frac{1}{4}$ NW $\frac{1}{4}$) Sec. 7, Twp 07N, Rge 03W, B.M. PAYETTE County

PLACE OF USE: INDUSTRIAL

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
08N	04W	5					X L3	X L4	X	X									
08N	04W	6	X L1	X L2	X	X	X L3	X L4	X L5	X	X					X			
09N	04W	31									X		X L4	X	X	X	X	X	
09N	04W	32									X	X	X	X					

CONDITIONS OF APPROVAL

1. Rights 65-13955 and 65-23147 when combined shall not exceed a total diversion rate of 0.68 cfs and a total annual maximum diversion volume of 26.0 af.
2. 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. 65.
3. The right holder shall contact the watermaster by June 15 each year for authorization to continue diverting and using water. The right holder shall not divert water after June 15 each year unless the watermaster authorizes continued diversion and use of water under this water right. When the watermaster informs the right holder that water is not available to fill this right, the right holder shall cease diversion, shall rent water from the Payette River Rental Pool, or shall otherwise mitigate for

State of Idaho
Department of Water Resources
Water Right License
WATER RIGHT NO. 65-13955

the depletion of water caused by this water use. The department may amend the contact date listed in this administrative provision to more closely coincide with the date when water is not available to fill this water right.

4. 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.
5. This right does not grant any right-of-way or easement across the land of another.
6. Industrial use is for dust and fire control and composting facility at Clay Peak Landfill.
7. Point of diversion is known as Lower Payette Ditch Company gravity canal.
8. When ordered by the Director, the right holder shall provide mitigation acceptable to the Director to offset depletion of lower Snake River flows needed for migrating anadromous fish. The amount of water required for mitigation, which is to be released into the Snake River or a tributary for this purpose, will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this right. Any order of the Director issued in accordance with this paragraph shall be in conformance with applicable rules allowing the right holder due process as the need for mitigation and the amount of mitigation are determined.

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.



Nick Miller
Manager, IDWR Western Region

State of Idaho
Department of Water Resources

Attachment to Water Right License

65-13955

This map depicts the INDUSTRIAL 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.

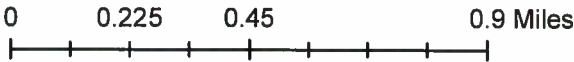
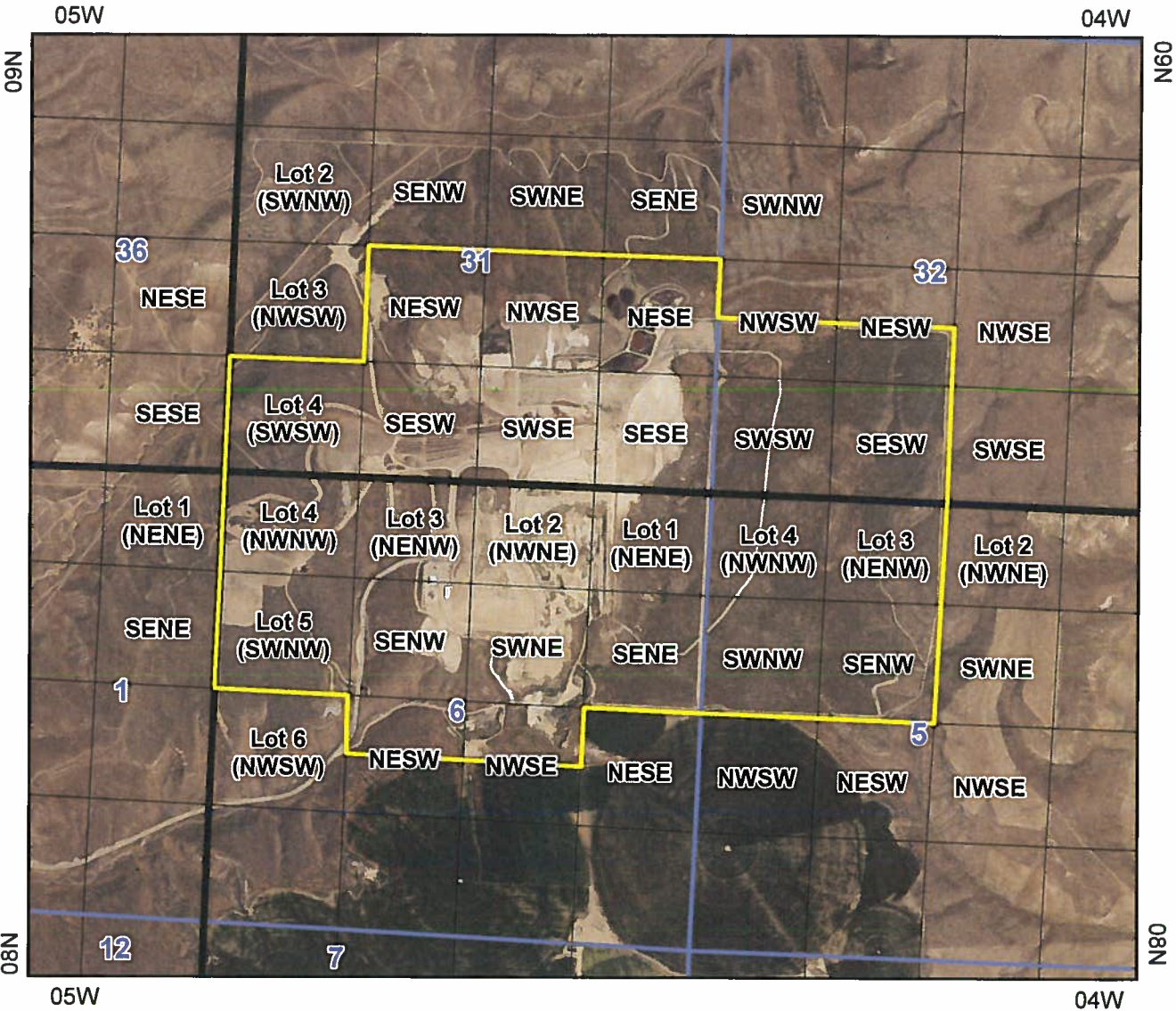


-  Point of Diversion
-  Place Of Use Boundary
-  Townships
-  PLS Sections



State of Idaho
Department of Water Resources
Attachment to Water Right License
65-13955

This map depicts the INDUSTRIAL 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



State of Idaho
Department of Water Resources
APPLICATION FOR AMENDMENT
(For Licensing Purposes)
WATER RIGHT NO. 65-13955

JAN 11 2018

WATER RESOURCES
WESTERN REGION

PRIORITY: November 30, 2000

Maximum Diversion Rate: 0.20 CFS
Maximum Diversion Volume: 26.0 AF

Comes now

COUNTY OF PAYETTE COUNTY CLERK
1130 3RD AVE N RM 104 PAYETTE ID 83661

and represents to the Idaho Department of Water Resources that he is the owner and holder of Permit to Appropriate the Public Waters of the State of Idaho No. 65-13955, and requests that the permit be changed as follows:

SOURCE:
PAYETTE RIVER

TRIBUTARY:
SNAKE RIVER

BENEFICIAL USE
INDUSTRIAL

PERIOD OF USE
01/01 to 12/31

DIVERSION RATE
0.20 CFS

**ANNUAL
DIVERSION VOLUME**
26.0 AF

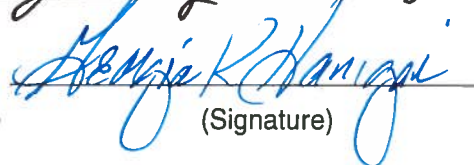
LOCATION OF POINT(S) OF DIVERSION:

PAYETTE RIVER L3 (SE¼NW¼) Sec. 7, Twp 07N, Rge 03W, B.M. PAYETTE County

PLACE OF USE: INDUSTRIAL

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
08N	04W	5					X L3	X L4	X	X									
08N	04W	6	X L1	X L2	X	X	X L3	X L4	X L5	X	X					X			
09N	04W	31									X		X L4	X	X	X	X	X	
09N	04W	32									X	X	X	X					

Permit holder asserts that no one will be injured by such change and that such change will be made at permit holder's own risk. Signed this 8th day of January 2018.


(Signature)

State of Idaho
Department of Water Resources
APPLICATION FOR AMENDMENT
(For Licensing Purposes)
WATER RIGHT NO. 65-13955

.....
FOR DEPARTMENT USE ONLY

Preliminary check by JS Fee = \$100⁰⁰ Received by cd # W045969 Date 1/11/18

ACTION OF THE DEPARTMENT OF WATER RESOURCES

The Idaho Department of Water Resources hereby approves the above Application for Amendment for Permit No. 65-13955 with the following:

CONDITIONS OF APPROVAL

1. Rights 65-13955 and 65-23147 when combined shall not exceed a total diversion rate of 0.68 cfs and a total annual maximum diversion volume of 26.0 af.
2. 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. 65.
3. The right holder shall contact the watermaster by June 15 each year for authorization to continue diverting and using water. The right holder shall not divert water after June 15 each year unless the watermaster authorizes continued diversion and use of water under this water right. When the watermaster informs the right holder that water is not available to fill this right, the right holder shall cease diversion, shall rent water from the Payette River Rental Pool, or shall otherwise mitigate for the depletion of water caused by this water use. The department may amend the contact date listed in this administrative provision to more closely coincide with the date when water is not available to fill this water right.
4. 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.
5. This right does not grant any right-of-way or easement across the land of another.
6. The portion of Right 65-13955 used for conveyance losses is 0.04 cfs.
7. Industrial use is for dust and fire control and composting facility at Clay Peak Landfill.
8. Point of diversion is known as Lower Payette Ditch Company's gravity canal.
9. When ordered by the Director, the right holder shall provide mitigation acceptable to the Director to offset depletion of lower Snake River flows needed for migrating anadromous fish. The amount of water required for mitigation, which is to be released into the Snake River or a tributary for this purpose, will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this right. Any order of the Director issued in accordance with this paragraph shall be in conformance with applicable rules allowing the right holder due process as the need for mitigation and the amount of mitigation are determined.

This amendment is issued pursuant to the provisions of Section 42-211, Idaho Code.

Signed this 30th day of January, 2017.


NICK MILLER
Western Regional Manager



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

January 31, 2018

COUNTY OF PAYETTE
COUNTY CLERK
1130 3RD AVE N RM 104
PAYETTE ID 83661

RE: License No. 65-13955

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)334-2190.

Sincerely,



Nick Miller
Western Regional Manager

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on January 31, 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.

65-13955

**COUNTY OF PAYETTE
COUNTY CLERK
1130 3RD AVE N RM 104
PAYETTE ID 83661**

**RON SHURTLEFF
WATERMASTER OF DISTRICT 65
102 N MAIN
PAYETTE ID 83661**



**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.



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

December 29, 2017

COPY

COUNTY OF PAYETTE
COUNTY CLERK
1130 3RD AVE N RM 104
PAYETTE ID 83661

RE: Water Right Permit No. 65-13955

Dear Permit Holder(s):

The Department of Water Resources is reviewing the permit(s) referenced above prior to issuing water right license(s). By issuing a license, the Department confirms the extent of development that has been established in compliance with the terms of the permit.

The examiner who verified your water use reported that certain elements of the permit(s) have been developed differently than described on your permit(s). Changes that do not increase the authorized use of water under the permit(s) can be requested and approved in accordance with Section 42-211, Idaho Code. Before license(s) can be issued, your permit(s) must be amended to depict your water use as it was actually developed.

Based on the examiner's report, the following elements were developed differently than described on your permit(s):

☐ Point(s) of Diversion

☒ Place(s) of Use

☐ Other

The enclosed Application for Amendment form(s) depicts the elements of the water right(s) as they will appear on the license(s) when issued. Please review the amendment form(s) carefully. If you concur with the information presented, please sign and return the form(s) with the \$100.00 filing fee within 14 days.

If you have any questions, please call me at 208-334-2190.

Sincerely,

Justin Shearer
Water Resource Agent

Enclosure(s): Application for Amendment

cc: