

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 65-23689

Priority: March 10, 2017

Maximum Diversion Rate: 0.21 CFS

This is to certify, that JAMES M BIER Or
ROSANNE LICHTER BIER
17400 SWEET OLA HWY
OLA ID 83657

has applied for a permit to appropriate water from:

Source: SQUAW CREEK

Tributary: PAYETTE RIVER

and a permit is APPROVED for development of water as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>
IRRIGATION	03/15 to 10/31	0.19 CFS
STOCKWATER	01/01 to 12/31	0.02 CFS

LOCATION OF POINT(S) OF DIVERSION:

SQUAW CREEK NW¼SE¼ Sec. 14, Twp 09N, Rge 01E, B.M. GEM County
SQUAW CREEK NE¼SW¼ Sec. 14, Twp 09N, Rge 01E, B.M. GEM County

PLACE OF USE: IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
09N	01E	14	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	9.5
Total Acres:																			

PLACE OF USE: STOCKWATER

Twp	Rge	Sec	NE				NW				SW				SE				Totals
09N	01E	14	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **July 1, 2022**.
2. Subject to all prior water rights.
3. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the place of use.
4. 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.65A Squaw Creek.

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5. 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.
6. Prior to diversion of water under this right, the right holder shall install and maintain a measuring device and lockable controlling works of a type acceptable to the Department as part of the diverting works.
7. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which the permit holder had no control.
8. 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 permit.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code.

Signed this 29th day of June, 2017.



Nick Miller
Manager, IDWR Western Region

State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

65-23689

This map depicts the IRRIGATION and STOCKWATER 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.

01E



-  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

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

June 29, 2017

JAMES M BIER
ROSANNE LICHT BIER
7400 SWEET OLA HWY
LA ID 83657

RE: Permit No.65-23689

Permit Approval Notice

Dear Permit Holder:

The Department of Water Resources has issued the enclosed permit authorizing you to establish a new water right. Please be sure to thoroughly review the conditions of approval and remarks listed on your permit.

The permit 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.

As a permit owner you must commence the excavation or construction of the diverting works within one year of the date the permit was issued, and you must proceed diligently until the project is completed. The date shown under condition no. 1 is the date when the project must be completed.

The Department will send you a 'Proof Due Notice' approximately 60 days prior to the above referenced date requesting you to file either a Proof of Beneficial Use form or a Request for Extension of Time form.

Please note that a separate stream channel alteration permit must be obtained from the Department prior to any activity in the stream channel other than construction or maintenance of the diversion structure for your water right(s). Applications for stream channel alteration permits must be filed at least sixty days prior to the commencement of work in the stream.

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. 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*

Nick Miller

Western Regional Manager

Enclosure(s)

CERTIFICATE OF SERVICE

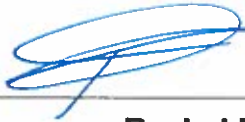
I hereby certify that on June 29, 2017 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved Permit) to the person(s) listed below:

RE: WATER RIGHT NO.

65-23689

**JAMES M BIER
ROSANNE LICHTE BIER
17400 SWEET OLA HWY
OLA ID 83657**

**ERIC HERR
WATERMASTER OF DISTRICT 65A
8917 BUTTE RD
SWEET ID 83670**



**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

Date: June 28, 2017
To: Water Right File 65-23689
From: agrimm
Re: Watermaster WD65A Comment - Use of Right after Storage Releases from Sage Hen Reservoir

WD 65A Watermaster comments provided indicate no objection to issuance of the permit provided use of the right is discontinued once storage releases begin from Sage Hen Reservoir. Standard condition 185 indicating the right holder cannot divert water after June 15th each year without first contacting the watermaster for authorization will be placed on this permit. This condition is considered sufficient to address the watermaster's concern considering storage releases from Sage Hen Reservoir generally begin in July.

29512 1619130

1 IDAHO DEPT OF WATER RESOURCES

WESTERN REGION
2735 AIRPORT WAY
BOISE ID 83705

LEGAL NOTICE

The following applications have been filed to appropriate the public waters of the State of Idaho:

JOKEW 6/18/17
65-23689
JAMES M BIER
ROSANNE LICHT BIER
17400 SWEET OLA HWY
OLA, ID 83857
Points of Diversion NWSE
NESW S14 T09N R01E
GEM County Source
SQUAW CREEK Tributary
PAYETTE RIVER
Use: IRRIGATION 03/15 to
10/31 0.19 CFS
Use: STOCKWATER 01/01
to 12/31 0.02 CFS
Total Diversion: 0.21 CFS
Date Filed: 3/10/2017
Places of Use: IRRIGA
TION, STOCKWATER
T09N R01E S14 NESW
NWSE
Total Acres: 9.5

NOTICE OF PROPOSED CHANGE OF WATER RIGHT TRANSFER NO. 81190

JOKEW 6/18/17
M & T RANCHES LLC, PO
BOX 30, OLA, ID 83857; has
filed Application No. 81190
for changes to the following
water rights within GEM,
VALLEY County(s): Right No
(s). 65-10473, 65-2945, 65-
3081, 65-3082, 65-3083, 65-
3084, 65-3085, 65-3089, 65-
9538, 65-9539. The purpose
of this transfer is to define a
permissible place of use for
10 water rights to use the
available water supply on the
property more efficiently. The
applicant is installing pivots
and other sprinkler irrigation
methods to better utilize the
available water supply for the
ranch. Water will be used at
the current place of use gen-
erally located south of Hol-
brook Lane, approximately
1.5 miles southeast of Ola,
Idaho.

Permits will be subject to all
prior water rights. For addi-
tional information concerning
the property location, contact
Western Region office at 208-
334-2190; or for a full de-
scription of the right(s) or pro-
posed transfer (s) please see
www.idwr.idaho.gov.

Protests may be submitted
based on the criteria of Idaho
Code §§ 42-203A and 42-
222. Any protest against the
approval of the application(s)
must be filed with the Direc-
tor, Dept. of Water Re-
sources, Western Region,
2735 Airport Way, Boise, ID
83705 together with a protest
fee of \$25.00 for each appli-
cation on or before 6/5/2017.
The protestant must also
send a copy of the protest to
the applicant.

GARY SPACKMAN,
Director

May 17, 24, 2017

1619130

AFFIDAVIT OF PUBLICATION STATE OF IDAHO

County of Canyon

Sharon Jessen
of Nampa, Canyon County, Idaho, being
first duly sworn, deposes and says:

1. That I am a citizen of the United States,
and at all times hereinafter mentioned
was over the age of eighteen years, and
not a party to the above entitled action.
2. That I am the Principle Clerk of the
Emmett Messenger-Index, a weekly
newspaper published in the City of
Emmett, in the County of Gem, State of
Idaho; that the said newspaper is in
general circulation in the said County of
Gem, and in the vicinity of Emmett, and
has been uninterruptedly published in
said County during a period of seventy-
eight consecutive weeks prior to the
first publication of this notice, a copy of
which is hereto attached.
3. That the notice, of which the annexed is
a printed copy, was published in said
newspaper 2 time(s) in the regular and
entire issue of said paper, and was
printed in the newspaper proper, and not
in a supplement.
4. That said notice was published the following:

05/17/2017 05/24/2017

Sharon Jessen
STATE OF IDAHO
County of Canyon

On this 24th day of May in the year of
2017 before me a Notary Public, personally appeared.
Sharon Jessen, known or identified
to me to be the person whose name is subscribed
to the within instrument, and being by me first
duly sworn, declared that the statements therein
are true, and acknowledge to me that he/she
executed the same.

Brenda L. Stroud
Notary Public for Idaho
Residing at Canyon County
My Commission expires 05/04/2021

RECEIVED
JUN 08 2017
WATER RESOURCES
WESTERN REGION

State of Idaho

Department Of Water Resources

WATERMASTER RECOMMENDATION FORM

RECEIVED

MAY 22 2017

**WATER RESOURCES
WESTERN REGION**

Water District # Water District No. 65

Application # 65-23689

Applicant Name James M. Bier or Rosanne Lichte Bier

Watermaster Recommendation:

- a) ☐ I do not oppose approval of this application.
- b) ☒ I do not oppose approval of this application if it is conditioned as follows:
New Water Rights are curtailed each year based on the water supply and the seniority system. Continued use of this water right can be accomplished by mitigating with a lease of stored water from the Watermaster. No water shall be diverted under this water right after June 15th of each year without a preapproved mitigation lease of stored water from the watermaster.
Subject to Water District Annual Assessments and Rental Pool Fees.
- c) ☐ I oppose approval of this application for the following reasons:
- d) ☐ Additional comments:

Dated this 22 day of May, 2017

Watermaster Signature

Ron Shurtleff

Printed Name

RECEIVED
MAY 19 2017
WATER RESOURCES
WESTERN REGION

State of Idaho

Department Of Water Resources

WATERMASTER RECOMMENDATION FORM

Water District # 65 A

Application # 65 - 23689

Applicant Name James M or Rosanne L Bier

Watermaster Recommendation:

a) ☐ I do not oppose approval of this application.

b) ☒ I do not oppose approval of this application if it is conditioned as follows:

This might, if approved, would have to be only for the runoff season. Once storage water is released out of Sage hen reservoir, pumping would have to be discontinued. This property does not have a storage right.

c) ☐ I oppose approval of this application for the following reasons:

d) ☐ Additional comments:

Dated this 16 day of May, 2017

Eric Herr

Watermaster Signature

Eric Herr

Printed Name