

State of Idaho
Department of Water Resources
Water Right License
WATER RIGHT NO. 65-13214

PRIORITY: April 05, 1990

Maximum Diversion Rate: 0.20 CFS

It is hereby certified that:

CITY OF PAYETTE 700 CENTER AVE PAYETTE ID 83661

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated April 05, 1990, and has submitted Proof of Beneficial Use on August 01, 1991. An examination confirms water is diverted from:

SOURCE:
GROUND WATER

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>
COMMERCIAL	01/01 to 12/31	0.02 CFS	3.1 AF
IRRIGATION	03/15 to 10/31	0.18 CFS	

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER SE¼SW¼ Sec. 23, Twp 09N, Rge 05W, B.M. PAYETTE County

GROUND WATER SE¼SW¼ Sec. 23, Twp 09N, Rge 05W, B.M. PAYETTE County

PLACE OF USE: COMMERCIAL

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
09N	05W	23												X					

PLACE OF USE: IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
09N	05W	23												26.0					26.0
09N	05W	26		30.0			22.0			2.0									54.0

Total Acres: 80

CONDITIONS OF APPROVAL

1. The right holder shall make full beneficial use of all surface water available to the right holder for irrigation of the lands authorized to be irrigated under this right. The right holder shall limit the diversion of ground water under this right for land with an appurtenant surface water right(s) to those times when the surface water supply is not available or reasonably sufficient to irrigate the place of use authorized under this right.
2. If the surface water right(s) appurtenant to the place of use for this right is unavailable for any reason other than drought or curtailment by priority (for example abandoned, forfeited, sold, transferred, leased, used on another place of use, or disallowed by court decree), the right holder shall not divert ground water for irrigation purposes on the land with appurtenant surface water rights without an approved transfer pursuant to Section 42-222, Idaho Code, or approval of the Department if a transfer

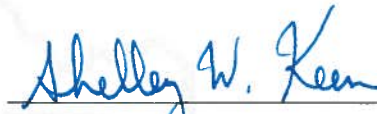
State of Idaho
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Water Right License
WATER RIGHT NO. 65-13214

is not required.

3. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor exceed a combined annual maximum diversion volume of 639.0 af at the field headgate for the place of use.
4. This right when combined with all other rights shall provide no more than 4.5 afa per acre at the field headgate for irrigation of the place of use.
5. Rights 65-4386, 65-10556, and 65-13214 when combined shall not exceed a total diversion rate of 0.04 cfs and a total annual maximum diversion volume of 3.1 af for domestic and commercial uses.
6. Commercial and Irrigation uses are for a club house and golf course.

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 4th day of January, 2017.

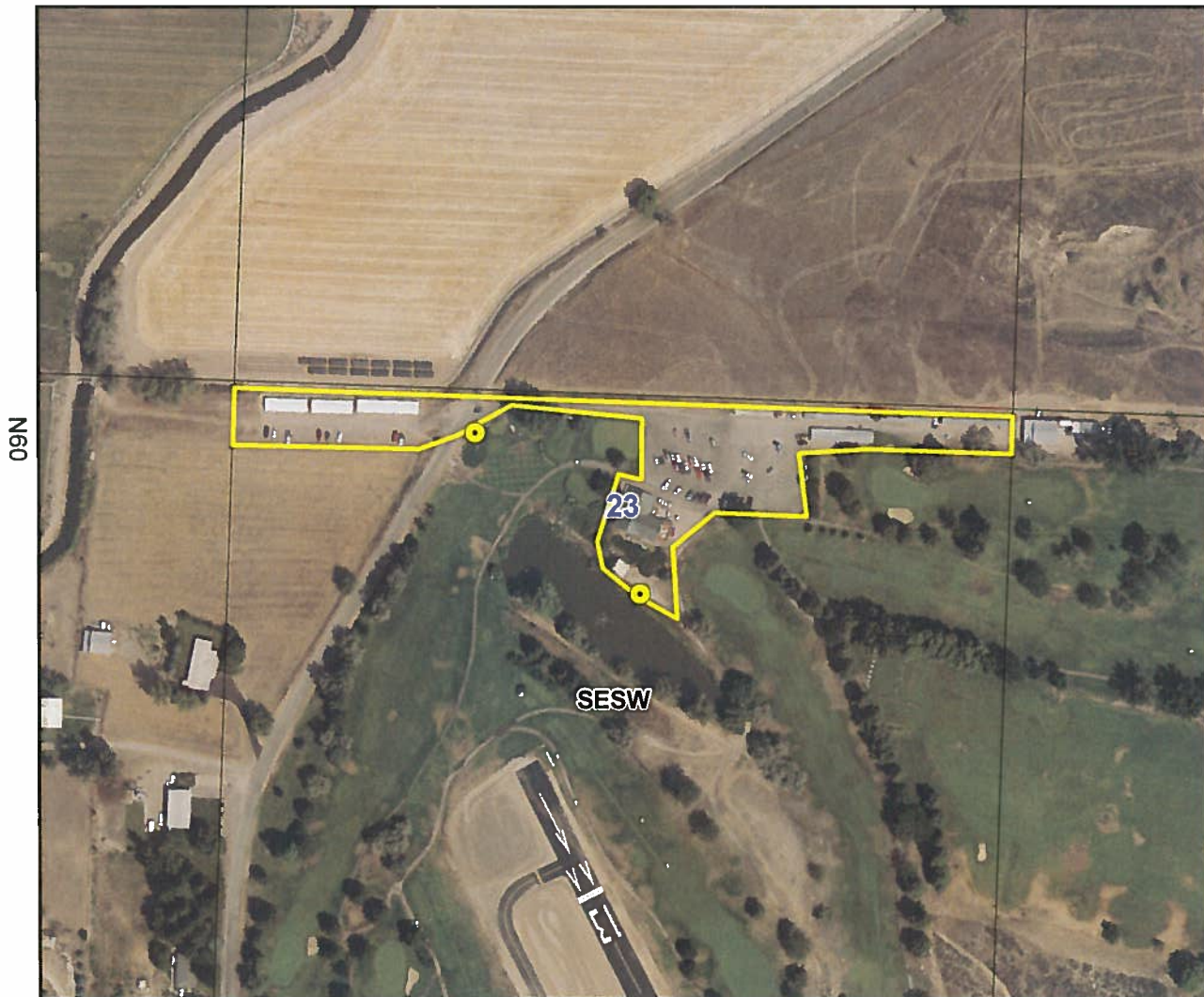


SHELLEY W. KEEN
Water Rights Section Manager

State of Idaho
Department of Water Resources
Attachment to Water Right License
65-13214

This map depicts the COMMERCIAL 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.

05W



0 0.0375 0.075 0.15 Miles

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



State of Idaho
Department of Water Resources
Attachment to Water Right License
65-13214

This map depicts the IRRIGATION 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 0.075 0.15 0.3 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

January 10, 2017

CITY OF PAYETTE
700 CENTER AVE
PAYETTE ID 83661

RE: License No.65-13214

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 208-287-4945.

Sincerely,

A handwritten signature in blue ink that reads "Pam Skaggs". The signature is fluid and cursive, with the first name "Pam" and last name "Skaggs" clearly distinguishable.

Pam Skaggs
Water Rights Supervisor

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on January 11, 2017 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.

65-13214

**CITY OF PAYETTE
700 CENTER AVE
PAYETTE ID 83661**



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.

MEMORANDUM

TO: File 65-13214

FROM: Daniel Nelson – Staff Hydrologist

DATE: December 20, 2016

SUBJECT: Licensing Review for 65-13214

History:

Two adjudication claims (65-4386 and 65-10556) were filed and decreed in the Payette River Basin Adjudication (PBRA) for wells in the same legal description, but they were not filed on in the Snake River Basin Adjudication (SRBA). The two decrees were for domestic uses from ground water in the SESW of Section 23 in Township 9 North, Range 5 West. Decree 65-4386 is in the name of the City of Payette, and 65-10556 is in the name of Payette Municipal development Corporation. These two PRBA decrees could be deferred in the SRBA, so no filing in the SRBA was required. Therefore, water rights 65-4386 and 65-10556 are still considered valid water rights.

Payette Municipal Development Corporation is a non-profit organization formed to collect and raise monies for the purpose of construction parks, airport, golf course, and other public improvements upon property belonging to the City of Payette, Idaho, or otherwise, for the benefit of the public generally, including all related functions generally associated with such improvements. These two decrees seem to be competing decrees for the same domestic use in the SESW of Section 23 on property owned by the City of Payette.

Application for permit 65-13214 was filed on April 5, 1990 for irrigation use and domestic use for a golf course and airport facilities. The application requested 2 wells in the SESW of Section 23, Township 9 North, Range 5 West. One of the wells was for irrigation and the other well was for the commercial use. Water Right Permit 65-13214 (permit) was subsequently issued on July 23, 1990. A certified field exam was received for this permit on December 16, 1991 from Michael Holiday of Holiday Engineering. There are documents in the file that suggest that further processing of the permit was held until the status of whether or not the two PRBA decrees would be filed in the SRBA.

On August 24, 2016, Department staff revisited the site and prepared a second field report to prepare the permit for licensing. The field report found that there were areas under the commercial use and the irrigation use for this permit that were not described in the permit. An amendment of permit was sent to the permit holder to amend the permit to allow all of the lands developed to be included on the water right license. A second letter was sent to the permit holder with no response to either letter.

Therefore, I have been asked to review the above information and make a final recommendation for licensing.

Water Right Uses:

The application for permit states the commercial use included a golf course, airport, restrooms, and possibly the caretaker's home. Department staff found that the airport, restrooms, and the caretaker's home were on separate wells that were not connected to the golf course's water system. The wells for the airport, restrooms, and the caretaker's home are located in the NWNE and SENW of Section 26, so it is clear that they were never part of the golf course's water system. Therefore, the water use for the airport, restrooms, and the caretaker's home should not be included on this water right. The only use that can be included on this water right is the commercial use for the golf course clubhouse and restaurant.

Overlap Analysis:

Commercial use –

As stated above, water rights 65-4386 and 65-10556 are decreed for domestic water rights on property owned by City of Payette. The only property owned by the City of Payette in the SESW of Section 23 is the golf course, so the only conclusion that can be made is that 65-4386 and 65-10556 are diverted from the same wells and each right provides for domestic use for the golf course limited to 0.04 cfs and 1.2 af. Water right 65-4386 is further limited to 13,000 gallons per day. Neither of the decreed water rights define the domestic use as commercial use, but the golf course has been on this property since 1981. At face value, these two rights when added together could provide a total of 0.08 cfs and 2.4 af of water per year. The original certified examination and the water use calculated by Department staff only found a diversion rate of 0.2 cfs. The certified exam did not provide an annual volume, but Department staff calculated a total annual volume for commercial use of 3.1 afa.

Since there is no evidence of a home in this 40 acre tract, the domestic uses for the two decreed water rights appear to be competing decrees for the commercial use at the golf course. In order to avoid confusion in these water rights, I am recommending that a combined limitation condition be placed on the license limiting water rights 65-1386, 65-10556, and 65-13214 when combined to a total diversion rate of 0.04 cfs and 3.1 af. This will allow this permit to provide the full allocation of commercial water of 3.1 af per year, but would also prevent any confusion by any claim that the two decreed water rights would add additional water. I feel this would be the best way to describe these water rights to prevent any future confusion and to show the domestic use for the two decreed water rights is actually a commercial use.

Irrigation use –

The irrigation use under this permit is not adequate to properly irrigate all of the lands being irrigated. It is clearly a supplemental water right to some other source. The application for permit states that Lower Payette Ditch Company shares are used on this property. The permit doesn't list any of the supplemental conditions, but they should be added in the license.

Place of Use:**Commercial –**

The certified field examiner found a commercial place of use that matched the irrigation use. Clearly this was incorrect. Department staff did limit the commercial use to the SWSW, SESW, and SWSE of Section 23. Unfortunately, the SWSW and the SWSE of Section 23 were not on the permit. As stated above, an amendment was sent to correct the place of use for this permit, but it was not returned. Therefore, I am recommending that the commercial use be limited to the SESW of Section 23. I have attached a map to this memo showing the commercial place of use.

Irrigation –

The certified field examiner's report claimed a total of 150 acres being irrigated at this site. However, the certified examiner didn't take out the airport runway, roads, pond, non-irrigated areas, or the commercial buildings. It appears as though the certified examiner simply listed each 40 acre tract. The certified examiner also didn't supply a map showing the lands being irrigated, so it wasn't possible to verify his place of use.

The review of the acres by Department staff did reduce the number of acres being irrigated to 142 acres, but there were several areas that did not appear to have ever been irrigated in the aerial photos. I spoke with one of the staff members that went into the field to find out if they verified the irrigation use. They told me that they did drive around the outside of the property and around the club house, but didn't go through the entire golf course to find out what had been irrigated and what hadn't. The place of use created by the Department staff also included the pond area, and large area in the NESW that hasn't looked like it has ever been irrigated.

Therefore, I created an irrigation place of use based on all of the aerial photos available, and could only justify 80 acres of irrigation. I tried to include any area that looked like it might have been irrigated in any of the aerial photos available to the Department, so I feel the 80 acres more than covers any land that could have been irrigated since the permit was approved. I have attached a map to this memo showing the irrigation place of use.

Diversion Rate:

The certified field report calculated a diversion rate of 0.015 cfs for the commercial use, and the Department staff calculated a diversion rate of 0.02 cfs. This is a simple matter of rounding, so I am recommending a commercial diversion rate of 0.02 cfs.

The certified field report provided a diversion rate of 0.174 cfs for irrigation, and the Department staff found a diversion rate of 0.18 cfs for the irrigation use. Once again, this is a simple matter of rounding, so I am going to recommend a diversion rate for the irrigation use of 0.18 cfs. It should also be noted that with a diversion rate of 0.18 cfs for irrigation, this water right could only supply 0.00225 cfs per acre, which could not provide adequate water to irrigate this golf course without canal water supplying a significant share of the water used. With this rate per acre, there is no possible way that this permit could provide enough water to sustain this golf course on its own, so it confirms that this water right is only used to supplement the canal water when the delivery is reduced.

Diversion Volume:

The certified field examiner didn't provide any volume amounts for either the commercial or irrigation uses.

Department staff did follow proper protocols in determining the volumes for both the commercial and irrigation uses in their recommendations. The commercial use was calculated at 3.1 af. The irrigation volume was limited by the pump capacity. Even with reducing the irrigation acreage down to 80 acres, the system is limited by the pump capacity ($80 \times 4.5 = 360$ af is greater than the 92.8 af pump capacity). I am recommending that the commercial use be limited to 3.1 af and the irrigation use be limited to 92.8 af.

Points of Diversion:

The certified field exam located the two wells in the SESW of Section 23, but did not provide a map showing the actual locations of the wells. The Department staff that visited the site also described the wells in those same locations. The Department staff didn't GPS the wells, but they did locate them on an aerial photo. The culinary well has been identified and GPS'ed by the Idaho Department of Environmental Quality, and their GPS location matches the point designated by Department staff for well #1. The irrigation well or well #2 also seems to match the photos taken by the certified examiner as being by the pond. Therefore, I agree with the locations designated by Department staff.

Conditions:

None of the conditions that were on the permit were carried forward to licensing. The conditions were either updated to the current standard condition, or re-written to better describe the use. Conditions 065, 105, WB7, and R61 were placed on the draft license as is the standard practice. Department staff added another condition describing the commercial use and irrigation use as being for the club house and golf course, which I left on the license. I included condition X35 to limit water rights 65-4386, 65-10556, and 65-13214 to a total commercial use of 0.02 cfs and 3.1 af when the three water rights are combined.



This 40 acre tract was not described in the permit for irrigation use.

26 ac

30 ac

22 ac

26 ac

Permit 65-13214 -- License Review map - Irrigation Use

A total of 80 acres were found to be actually irrigated by this permit within the borders described by the permit.

Permit 65-13214 -- License Review map - Commercial Use

The only place that commercial use was found in the 40 acre tracts described by the permit are shown above.



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 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

November 14, 2016

CITY OF PAYETTE
700 CENTER AVE
PAYETTE, ID 83661

RE: WATER RIGHT 65-13214

Dear City Representative:

The Department of Water Resources is reviewing the permit referenced above prior to issuing a water right license. By issuing a license, the Department confirms that the water right has been established in compliance with the terms of the permit. The examiner who verified your water use reported that the points of diversion and places of use developed at the **Scotch Pines Golf Course** are in locations other than what was described on your permits. Therefore, before license can be issued, your permits must be amended to depict your water rights as they were actually developed.

The enclosed Application for Amendment forms depict the points of diversion and place(s) of use and other information as they will appear on the licenses when they are issued. Please review the amendment forms carefully. If you concur with the information presented, please sign the forms and return them with the \$100.00 filing fee within 30 days.

Also, please note that some of the proposed conditions of approval and remarks may be modified upon further administrative review.

If you do not concur, or if you have any questions about this information, please contact me as soon as possible. My telephone number is 208-287-4800. If I am not available, please contact Dan Nelson. If no response is received by December 14, 2016, the Department may take action to void your permit.

Sincerely,

Ashley Newbry, PE
Staff Engineer

Enclosures

Cc: Scotch Pines Golf Course



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 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

October 14, 2016

CITY OF PAYETTE
700 CENTER AVE
PAYETTE, ID 83661

RE: WATER RIGHT 65-13214

Dear City Representative:

The Department of Water Resources is reviewing the permit referenced above prior to issuing a water right license. By issuing a license, the Department confirms that the water right has been established in compliance with the terms of the permit. The examiner who verified your water use reported that the points of diversion and places of use developed are in locations other than what was described on your permits. Therefore, before license can be issued, your permits must be amended to depict your water rights as they were actually developed.

The enclosed Application for Amendment forms depict the points of diversion and place(s) of use and other information as they will appear on the licenses when they are issued. Please review the amendment forms carefully. If you concur with the information presented, please sign the forms and return them with the \$100.00 filing fee within 30 days.

Also, please note that some of the proposed conditions of approval and remarks may be modified upon further administrative review.

If you do not concur, or if you have any questions about this information, please contact me as soon as possible. My telephone number is 208-287-4846.

Sincerely,

Ashley Newbry
Staff Engineer