

State of Idaho
Department of Water Resources
Water Right License
WATER RIGHT NO. 41-07057

PRIORITY: November 12, 1981

Maximum Diversion Rate: 3.87 CFS
Maximum Diversion Volume: 896.0 AF

It is hereby certified that:

UDY BROTHERS PARTNERSHIP
455 PIERCE ST
AMERICAN FALLS ID 83211

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated November 12, 1981, and has submitted Proof of Beneficial Use on December 13, 1995. 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>
IRRIGATION	04/01 to 10/31	3.87 CFS	896.0 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER SW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 1, Twp 10S, Rge 30E, B.M. POWER County
GROUND WATER NE $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 12, Twp 10S, Rge 30E, B.M. POWER County
GROUND WATER SE $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 1, Twp 10S, Rge 30E, B.M. POWER County

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	
10S	30E	1												37.0			37.0		74.0
10S	30E	12	14.0	37.0	32.0		36.0			31.0									150.0

Total Acres: 224

CONDITIONS OF APPROVAL

- The wells shall be cased with unperforated casing and sealed to a minimum depth of 100 feet or to the first confining layer, whichever is deeper. Both the owner and the well driller are charged with the responsibility of taking whatever steps might be necessary to prevent groundwater from the cased and sealed interval of the wells from entering the wells.
- Rights 41-7057, and 41-7026 when combined shall not exceed a total diversion rate of 3.87 cfs, a total annual maximum diversion volume of 976 af at the field headgate, and the irrigation of 244 acres.

State of Idaho
Department of Water Resources
Water Right License
WATER RIGHT NO. 41-07057

3. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the place of use.
4. The Director retains jurisdiction of the construction of the wells to require mitigation or reconstruction of the wells if prior water rights are injured as determined by the director.
5. The Director retains jurisdiction of this water right in order to instruct the watermaster of Rock Creek in the diversion and use of the right with respect to prior water rights, both surface and groundwater, as determined by the Director.
6. The use of water under this right shall not give rise to any claim against the holder of a senior water right based upon the theories of forfeiture, abandonment, adverse possession, waiver, equitable estoppel, estoppel by laches or customary preference.

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.

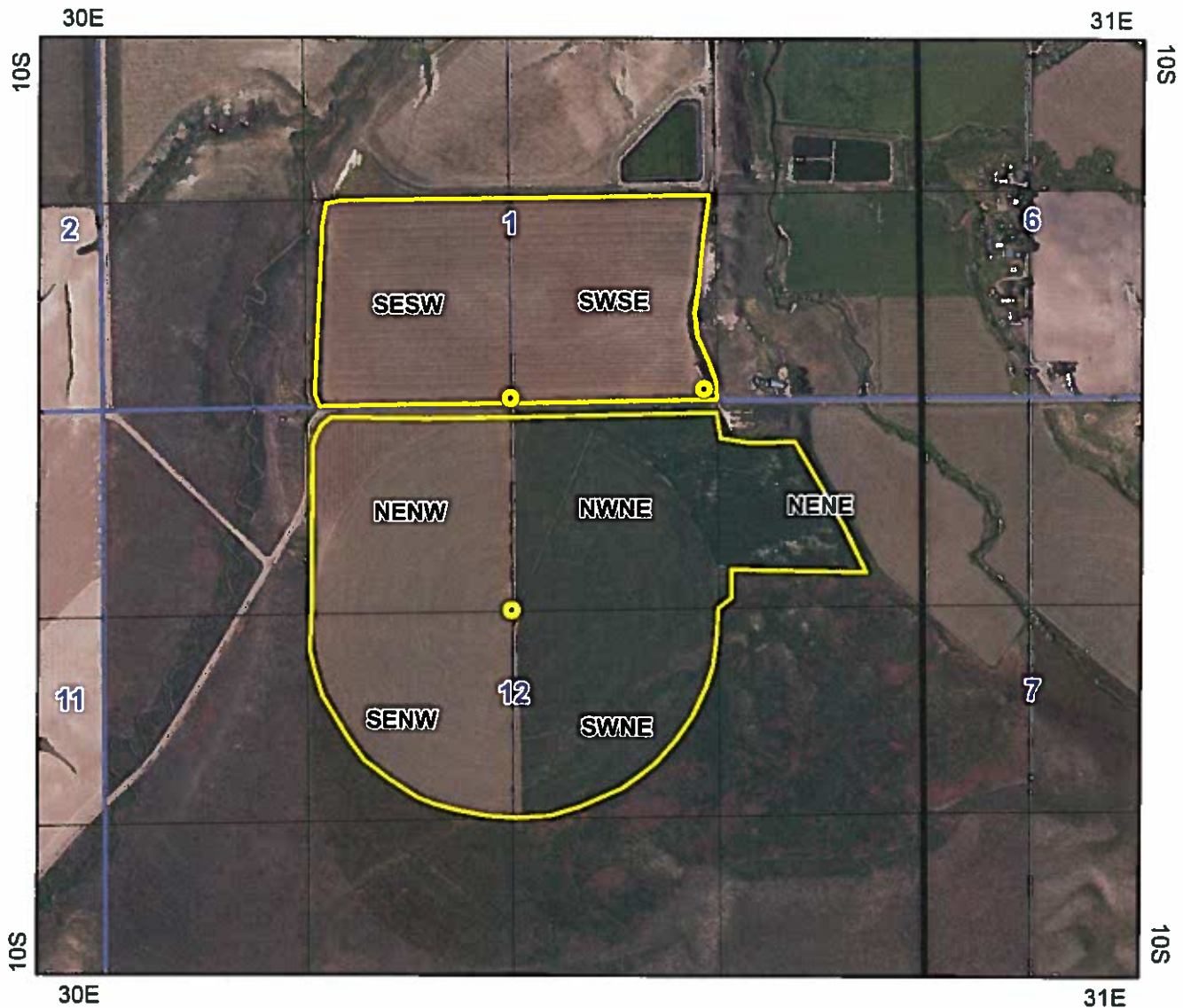
Signed this 26th day of September, 2016.


COREY SKINNER
Southern Regional Manager

State of Idaho
Department of Water Resources

Attachment to Water Right License 41-7057

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.



0 0.125 0.25 0.5 Miles

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





State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region • 650 Addison Ave W, Suite 500 • Twin Falls, Idaho 83301-5858

Phone: (208) 736-3033 • Fax: (208) 736-3037 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

September 26, 2016

UDY BROTHERS PARTNERSHIP
455 PIERCE ST
AMERICAN FALLS ID 83211

RE: License No. 41-7057

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 208-736-3033.

Sincerely,

Corey Skinner
Southern Regional Manager

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on September 26, 2016 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. 41-7057

**UDY BROTHERS PARTNERSHIP
455 PIERCE ST
AMERICAN FALLS ID 83211**

A handwritten signature in cursive script, reading "Denise Maline", is written over a horizontal line.

**Denise Maline
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
APPLICATION FOR AMENDMENT
(For Licensing Purposes)
WATER RIGHT NO. 41-07057

RECEIVED

MAY 12 2016

DEPT OF WATER RESOURCES
SOUTHERN REGION

Date of Priority: November 12, 1981

Maximum Diversion Rate: 3.87 CFS

Maximum Diversion Volume: 896.0 AF

Comes now UDY BROTHERS PARTNERSHIP
455 PIERCE ST
AMERICAN FALLS ID 83211

and represents to the Director of 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. 41-07057, and requests that the permit be changed as follows:

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
IRRIGATION	04/01 to 10/31	3.87 CFS	896.0 AF

LOCATION OF POINT(S) OF DIVERSION:

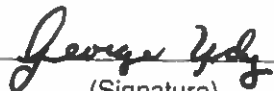
GROUND WATER	SW1/4SE1/4	Sec. 1, Twp 10S, Rge 30E, B.M.
POWER County		
GROUND WATER	NE1/4NW1/4	Sec. 12, Twp 10S, Rge 30E, B.M.
POWER County		
GROUND WATER	SE1/4SW1/4	Sec. 1, Twp 10S, Rge 30E, B.M.
POWER County		

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	
10S 30E 1																	74.0
10S 30E 12	14.0	37.0	32.0		36.0			31.0									150.0

Total Acres: 224

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 6 day of April, 20016


(Signature)

State of Idaho
Department of Water Resources
APPLICATION FOR AMENDMENT
(For Licensing Purposes)
WATER RIGHT NO. 41-07057

FOR DEPARTMENT USE ONLY

Preliminary check by _____ Fee = \$100- Received by DM # 5035453 Date 5/12/2016

ACTION OF THE DEPARTMENT OF WATER RESOURCES

The Idaho Department of Water Resources hereby approves the above Application for Amendment for Permit No. 41-07057 with the following:

CONDITIONS OF APPROVAL

1. The wells shall be cased with unperforated casing and sealed to a minimum depth of 100 feet or to the first confining layer, whichever is deeper. Both the owner and the well driller are charged with the responsibility of taking whatever steps might be necessary to prevent groundwater from the cased and sealed interval of the wells from entering the wells.
2. Rights 41-7057, and 41-7026 when combined shall not exceed a total diversion rate of 3.87 cfs, a total annual maximum diversion volume of ~~890~~ 976 af at the field headgate, and the irrigation of ~~224~~ 244 acres. P.S.
3. The Director retains jurisdiction of the right to incorporate the use into a water district, require streamflow augmentation or other action needed to protect prior surface water and groundwater rights.
4. The Director retains jurisdiction of the construction of the wells to require mitigation or reconstruction of the wells if prior water rights are injured as determined by the director.
5. The Director retains jurisdiction of this water right in order to instruct the watermaster of Rock Creek in the diversion and use of the right with respect to prior water rights, both surface and groundwater, as determined by the Director.
6. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the place of use.

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

Signed this 26th day of September, 2016.



ALLEN D. MERRITT Corey Skinner
Southern Regional Manager



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region • 650 Addison Ave W, Suite 500 • Twin Falls, Idaho 83301-5851

Phone: (208) 736-3033 • Fax: (208) 736-3037 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN

April 27, 2016

Udy Brothers Partnership
455 Pierce St.
American Falls, ID 83211
RE: Water Right Permit No. 41-07057

Dear Mr. Udy,

This is a reminder and follow up of the meeting we had several weeks ago about your irrigation permit.. as you recall:

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 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 have been developed differently than described on your permit. Changes that do not increase the authorized use of water under the permit can be requested and approved in accordance with Section 42-211, Idaho Code. Before a license can be issued, your permit 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:

_____ Point(s) of Diversion

 X Place(s) of Use

_____ Other

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

Feel free to contact me at 208-736-3033 if you have any questions.

Sincerely,

Jana Reeder
Sr. Water Right Agent
IDWR



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region • 650 Addison Ave W, Suite 500 • Twin Falls, Idaho 83301-5851
Phone: (208) 736-3033 • Fax: (208) 736-3037 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN

01/07/2016

Udy Brothers Partnership
455 Pierce St.
American Falls, ID 83211

RE: Water Right Permit No. 41-07057

Dear Permit Holder(s):

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 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 have been developed differently than described on your permit. Changes that do not increase the authorized use of water under the permit can be requested and approved in accordance with Section 42-211, Idaho Code. Before a license can be issued, your permit 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:

- **Place(s) of Use Section 12-** 14 acres in the NENE were added that were not described on the permit and the NESW and NWSE tracts were dropped from the POU.

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

Feel free to contact me at 208-736-3033 if you have any questions.

Sincerely,

Jana Reeder
Sr. Water Right Agent

State of Idaho
Department of Water Resources
APPLICATION FOR AMENDMENT
(For Licensing Purposes)
WATER RIGHT NO. 41-07057

COPY

Date of Priority: November 12, 1981

Maximum Diversion Rate: 3.87 CFS
Maximum Diversion Volume: 896.0 AF

Comes now UDY BROTHERS PARTNERSHIP
455 PIERCE ST

AMERICAN FALLS ID 83211 and represents to the Director of 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. 41-07057, and requests that the permit be changed as follows:

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
IRRIGATION	04/01 to 10/31	3.87 CFS	896.0 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER	SW1/4SE1/4	Sec. 1, Twp 10S, Rge 30E, B.M.
POWER County		
GROUND WATER	NE1/4NW1/4	Sec. 12, Twp 10S, Rge 30E, B.M.
POWER County		
GROUND WATER	SE1/4SW1/4	Sec. 1, Twp 10S, Rge 30E, B.M.
POWER County		

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	
10S 30E 1												37.0				37.0	74.0
10S 30E 12	14.0	37.0	32.0		36.0			31.0									150.0

Total Acres: 224

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 _____ day of _____, 200__.

(Signature)

State of Idaho
Department of Water Resources
APPLICATION FOR AMENDMENT
(For Licensing Purposes)
WATER RIGHT NO. 41-07057

.....
FOR DEPARTMENT USE ONLY

Preliminary check by _____ Fee = _____ Received by _____ # _____ Date _____

ACTION OF THE DEPARTMENT OF WATER RESOURCES

I, GARY SPACKMAN, of the Department of Water Resources hereby approve the
above Application for Amendment for Permit No. 41-07057 with the following:

CONDITIONS OF APPROVAL

1. The wells shall be cased with unperforated casing and sealed to a minimum depth of 100 feet or to the first confining layer, whichever is deeper. Both the owner and the well driller are charged with the responsibility of taking whatever steps might be necessary to prevent groundwater from the cased and sealed interval of the wells from entering the wells.
2. Rights 41-7057, and 41-7026 when combined shall not exceed a total diversion rate of 3.87 cfs, a total annual maximum diversion volume of 984 af at the field headgate, and the irrigation of 246 acres.
3. The Director retains jurisdiction of the right to incorporate the use into a water district, require streamflow augmentation or other action needed to protect prior surface water and groundwater rights.
4. The Director retains jurisdiction of the construction of the wells to require mitigation or reconstruction of the wells if prior water rights are injured as determined by the director.
5. The Director retains jurisdiction of this water right in order to instruct the watermaster of Rock Creek in the diversion and use of the right with respect to prior water rights, both surface and groundwater, as determined by the Director.
6. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the place of use.

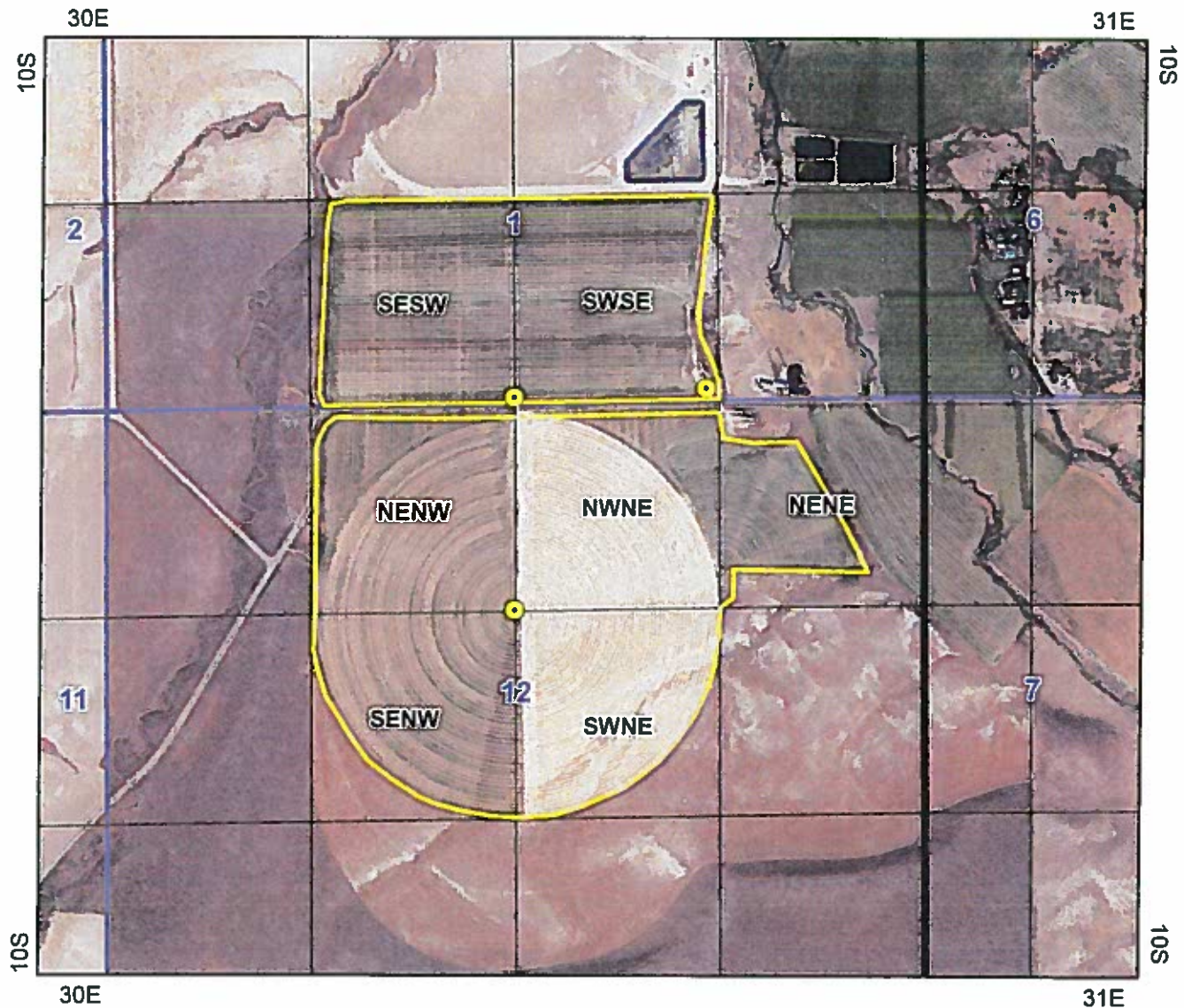
Witness my hand this _____ day of _____, 2016.

GARY SPACKMAN
Director

State of Idaho
Department of Water Resources
Attachment to Water Right License
41-7057

COPY

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.



0 0.125 0.25 0.5 Miles

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



1/7/2016

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	UDY BROTHERS PARTNERSHIP 455 PIERCE ST AMERICAN FALLS, ID 83211 (208)226-7857

Status: Active

Tributary

GROUND WATER	SWSE	Sec. 1, Twp 10S, Rge 30E, POWER County
GROUND WATER	NENW	Sec. 12, Twp 10S, Rge 30E, POWER County
GROUND WATER	SESW	Sec. 1, Twp 10S, Rge 30E, POWER County

POU Total Acres: 316.0

↑
Add

↓
drop

↓
drop

1. 048 The use of water under this right shall not give rise to any claim against the holder of a senior water right based upon the theories of forfeiture, abandonment, adverse possession, waiver, equitable estoppel, estoppel by laches or customary preference.
2. The wells shall be cased with unperforated casing and sealed to a minimum depth of 100 feet or to the first confining layer, whichever is deeper. Both the owner and the well driller are charged with the responsibility of taking whatever steps might be necessary to prevent groundwater from the cased and sealed interval of the wells from entering the wells.

The permit holder shall notify the department at least five (5) days prior to the start of well construction in order that the department can observe the work.

The Director retains jurisdiction of the construction of the wells to require mitigation or reconstruction of the wells if prior water rights are injured as determined by the director.

The Director retains jurisdiction of this permit in order to instruct the watermaster of Rock Creek in the diversion and use of the right with respect to prior water rights, both surface and groundwater, as determined by the Director.

Page 1 of 2

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

1/7/2016

3. 01C A flow measurement port or other device as specified by the Department shall be installed by the right holder to provide for the installation of measuring equipment and the determination of the rate of diversion by the Department.
4. 03A The rate of diversion of water for irrigation under this right and all other water rights on the same land shall not exceed 0.02 cubic feet per second for each acre of land.
5. 046 Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.
6. 049 The Director retains jurisdiction of the right to incorporate the use into a water district, require streamflow augmentation or other action needed to protect prior surface water and groundwater rights.
7. 26A 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 permit holder had no control.

Dates and Other Information

Permit Proof Due Date: 1/1/1996

Permit Proof Made Date: 12/13/1995

Permit Approved Date: 1/3/1992

Field Exam Date: 8/7/2012

Mitigation Plan: False

Combined Use Limits

N/A

SubCase:

N/A

Water Supply Bank:

N/A