

State of Idaho
Department of Water Resources
Water Right License
WATER RIGHT NO. 63-31218

PRIORITY: March 23, 2001

Maximum Diversion Rate: 0.09 CFS

Maximum Diversion Volume: 40.3 AF

It is hereby certified that:

CHRIS A HENRETTY And/Or BEVERLY R HENRETTY 53 SETTLERS RD BOISE ID 83716

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated March 23, 2001, and has submitted Proof of Beneficial Use on January 09, 2003. 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>
DOMESTIC	01/01 to 12/31	0.03 CFS	1.2 AF
HEATING	01/01 to 12/31	0.03 CFS	12.5 AF
IRRIGATION	03/01 to 11/15	0.06 CFS	7.0 AF
DIVERSION TO STORAGE	01/01 to 12/31	0.06 CFS	
AESTHETIC STORAGE	01/01 to 12/31		19.6 AF
RECREATION STORAGE	01/01 to 12/31		19.6 AF
WILDLIFE STORAGE	01/01 to 12/31		19.6 AF
FIRE PROTECTION STORAGE	01/01 to 12/31		19.6 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER SE¼NE¼ Sec. 32, Twp 05N, Rge 04E, B.M. BOISE County

GROUND WATER NE¼SE¼ Sec. 32, Twp 05N, Rge 04E, B.M. BOISE County

PLACE OF USE: AESTHETIC STORAGE, FIRE PROTECTION STORAGE, RECREATION 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	
05N	04E	32				X													

PLACE OF USE: DOMESTIC and HEATING

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
05N	04E	32				X									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	
05N	04E	32				1.6									0.4				2.0

Total Acres: 2

State of Idaho
Department of Water Resources
Water Right License
WATER RIGHT NO. 63-31218

CONDITIONS OF APPROVAL

1. Diversion and use of water under this license is limited to 0.09 cfs, a total annual diversion of 40.3 acre feet, and a total annual consumptive use of 4.4 acre feet. 12.5 acre feet of water diverted for heating purposes shall be injected into the aquifer from which it was diverted.
2. Diversion and use under this right shall not reduce the quantity of water to any existing right from springs or other sources of surface water determined by the Department to be hydraulically connected to the ground water source appropriated by the right holder. Diversion and use of water under this right shall not reduce the pumping level of any right for domestic purposes existing on or before March 29, 1978, and shall not reduce the pumping level of any other right from ground water below a reasonable pumping level determined by the Department.
3. The priority for diversion and use of water under this right is March 23, 2001 relative to management of water above Lucky Peak. Diversion and use under the right shall be considered to have satisfied calls by water rights from the Boise River and tributaries below Lucky Peak Dam with priorities junior to April 1, 1865 as long as water is not used under right 63-31836 in accordance with the mitigation plan.
4. The pond established by the storage of water under this right shall not exceed a total capacity of 17.0 acre-feet or a total surface area of 1.7 acres.
5. This right authorizes a total annual storage volume of 19.6 acre-feet, 17.0 acre-feet to be used for the initial filling or carryover storage of the pond and 2.6 acre-feet for the replacement of losses caused by seepage and evaporation.
6. This right when combined with all other rights shall provide no more than 0.03 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the place of use.
7. To mitigate for the depletion of water resulting from the use of water under this right and to prevent injury to senior water right holders, the right holder shall cease diverting and using water as authorized by the following water rights for the purposes and amounts specified below. Moreover, the official record for the following water right will be changed to show that diversion and use of water is not authorized because the rights, or portion thereof, are being dedicated to mitigation purposes.

Right No.	Use Changed to Mitigation	Mitigation Rate (cfs)	Mitigation Volume (AF)	Mitigation Acres
63-31836	Irrigation	0.06	13.5	3.0

The land that will no longer be irrigated under this right is located within the NENW, Section 22, Township 04N, Range 01E, B.M. If the specified mitigation right, or portion thereof, is sold, transferred, leased, used on any place of use, or is not deliverable due to a shortage of water or a priority call, then the amount of water authorized for diversion under this right approval shall be reduced by the same proportion as the reduction to the mitigation rights.

8. Return flow discharged to a subsurface system must be authorized by a separate injection well permit.
9. Domestic use is for 2 homes and does not include lawn, garden, landscape, or other types of irrigation.
10. Water shall not be diverted from fire protection storage except to fight or repel an existing fire.

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 25th day of July, 2016.



Nick Miller
Manager, IDWR Western Region

State of Idaho
Department of Water Resources
Attachment to Water Right License
63-31218

This map depicts the RECREATION STORAGE, WILDLIFE STORAGE, FIRE PROTECTION STORAGE and AESTHETIC 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.



-  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
Attachment to Water Right License
63-31218

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

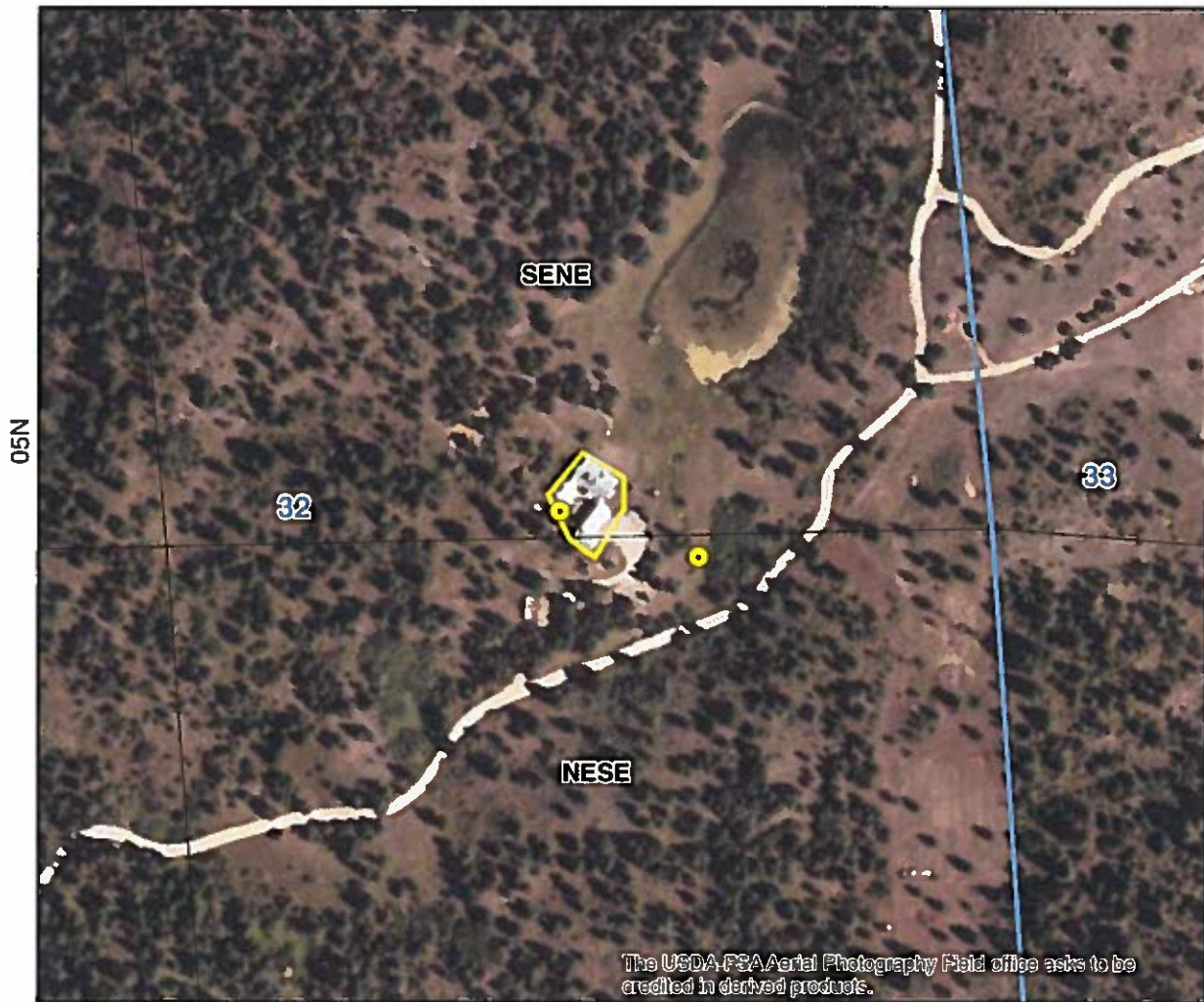
0 0.035 0.07 0.14 Miles



State of Idaho
Department of Water Resources
Attachment to Water Right License
63-31218

This map depicts the DOMESTIC and HEATING 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.

04E



-  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
APPLICATION FOR AMENDMENT
(For Licensing Purposes)
WATER RIGHT NO. 63-31218

RECEIVED
MAY 09 2016
WATER RESOURCES
WESTERN REGION

PRIORITY: March 23, 2001

Maximum Diversion Rate: 0.09 CFS
Maximum Diversion Volume: 40.3 AF

Comes now

CHRIS A HENRETTY And/Or BEVERLY R HENRETTY 53 SETTLERS RD BOISE ID 83716

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. 63-31218, and requests that the permit be changed as follows:

SOURCE: GROUND WATER

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL DIVERSION VOLUME</u>
DOMESTIC	01/01 to 12/31	0.03 CFS	1.2 AF
HEATING	01/01 to 12/31	0.03 CFS	12.5 AF
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LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER SE¼NE¼ Sec. 32, Twp 05N, Rge 04E, B.M. BOISE County

GROUND WATER NE¼SE¼ Sec. 32, Twp 05N, Rge 04E, B.M. BOISE County

PLACE OF USE: AESTHETIC STORAGE WILDLIFE STORAGE FIRE PROTECTION STORAGE and RECREATION 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	
05N	04E	32				X													

PLACE OF USE: DOMESTIC and HEATING

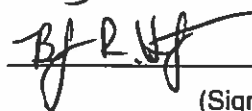
Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
05N	04E	32				X									X				

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	
05N	04E	32				1.6									0.4				2.0

Total Acres: 2.0

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 7th day of May, 2016.



(Signature)

State of Idaho
Department of Water Resources
APPLICATION FOR AMENDMENT
(For Licensing Purposes)
WATER RIGHT NO. 63-31218

.....
FOR DEPARTMENT USE ONLY

Preliminary check by P/L Fee = \$ 100.00 Received by BS # W044173 Date 5/9/2016

ACTION OF THE DEPARTMENT OF WATER RESOURCES

The Idaho Department of Water Resources hereby approves the above Application for Amendment for Permit No. 63-31218 with the following:

CONDITIONS OF APPROVAL

1. Diversion and use of water under this license is limited to 0.09 cfs, a total annual diversion of 40.3 acre feet, and a total annual consumptive use of 4.4 acre feet. 12.5 acre feet of water diverted for heating purposes shall be injected into the aquifer from which it was diverted.
2. Diversion and use under this right shall not reduce the quantity of water to any existing right from springs or other sources of surface water determined by the Department to be hydraulically connected to the ground water source appropriated by the right holder. Diversion and use of water under this right shall not reduce the pumping level of any right for domestic purposes existing on or before March 29, 1978, and shall not reduce the pumping level of any other right from ground water below a reasonable pumping level determined by the Department.
3. The priority for diversion and use of water under this right is March 23, 2001 relative to management of water above Lucky Peak. Diversion and use under the right shall be considered to have satisfied calls by water rights from the Boise River and tributaries below Lucky Peak Dam with priorities junior to April 1, 1865 as long as water is not used under right 63-31836 in accordance with the mitigation plan.
4. The pond established by the storage of water under this right shall not exceed a total capacity of 17.0 acre-feet or a total surface area of 1.7 acres.
5. This right authorizes a total annual storage volume of 19.6 acre-feet, 17.0 acre-feet to be used for the initial filling or carryover storage of the pond and 2.6 acre-feet for the replacement of losses caused by seepage and evaporation.
6. This right when combined with all other rights shall provide no more than 0.03 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the place of use.
7. To mitigate for the depletion of water resulting from the use of water under this right and to prevent injury to senior water right holders, the right holder shall cease diverting and using water as authorized by the following water rights for the purposes and amounts specified below. Moreover, the official record for the following water right will be changed to show that diversion and use of water is not authorized because the rights, or portion thereof, are being dedicated to mitigation purposes.

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The land that will no longer be irrigated under this right is located within the NENW, Section 22, Township 04N, Range 01E, B.M. If the specified mitigation right, or portion thereof, is sold, transferred, leased, used on any place of use, or is not deliverable due to a shortage of water or a

State of Idaho
Department of Water Resources
APPLICATION FOR AMENDMENT
(For Licensing Purposes)
WATER RIGHT NO. 63-31218

priority call, then the amount of water authorized for diversion under this right approval shall be reduced by the same proportion as the reduction to the mitigation rights.

8. Return flow discharged to a subsurface system must be authorized by a separate injection well permit.
9. Domestic use is for 2 homes and does not include lawn, garden, landscape, or other types of irrigation.
10. Water shall not be diverted from fire protection storage except to fight or repel an existing fire.

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

Signed this 25th day of July, 2016.


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 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

July 25, 2016

CHRIS A HENRETTY
BEVERLY R HENRETTY
53 SETTLERS RD
BOISE ID 83716

RE: License No. 63-31218

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 for:*

Nick Miller
Western Regional Manager

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on July 25, 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.

63-31218

**BEVERLY R HENRETTY
CHRIS A HENRETTY
53 SETTLERS RD
BOISE ID 83716**



**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 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

March 23, 2016

THE HENRETTYS
222 CULPER CT
HERMOSA BEACH CA 90254

COPY

RE: Additional Information Required for Permit 63-31218

Dear Henretty's,

Since our conversation on March 18, 2016, it has been determined that the conditions concerning a measuring device and reporting to the Department were to address concerns during the beneficial use period (2002). These conditions were complied with and evidence was submitted in 2003. Since that time there have been no further issues regarding the local public interest reported. Because of this, it is decided that requirements for measuring devices will not be carried over to the license, and we may continue our licensing effort for water right 63-31218.

To complete the licensing process, we require that an Assignment of Permit be completed from the current permit holder. If communication with Mr James Mahoney is not possible, you may complete the attached Ownership Change form. Either document will assign the water right into the current property owners name.

Also attached is a short form requesting information for heating purposes. Please complete this form and return it with either the Assignment of Permit or Ownership Change form.

Once this information is received, I will be able to draft a licensing amendment to correct the legal descriptions of the permit to match what was actually developed on your property. You will sign and return this form. Once that is completed, a water right license may be issued to you for the uses developed on your land.

Please submit the requested information for the license to be processed. You may seek additional time to provide the information by making a written request to interrupt processing for up to six months. The permit will be voided without a timely written reply within the next thirty (30) days.

IDWR forms and other information are available on the Internet at www.idwr.idaho.gov. Please contact me at 208-334-2190 if you need more information. Thank you for your attention to these matters.

Sincerely,

Patrick Kelly

Water Resource Agent, Senior



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way • Boise, Idaho 83705-5082

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Web Site: www.idwr.idaho.gov

April 27, 2016

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

CHRIS A HENRETTY
BEVERLY R HENRETTY
222 CULPER CT
HERMOSA BEACH CA 90254

COPY

RE: Water Right Permit No. 63-31218

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,

Patrick Kelly
Water Resource Agent, Sr.

Enclosure(s): Application for Amendment
cc:



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way • Boise, Idaho 83705-5082

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

February 12, 2016

CURRENT RESIDENT
53 SETTLERS RD
BOISE ID 83716

COPY

Notice of Intent to Void Permit

RE: Water Permit No. 63-31218

Dear land owner:

The Department of Water Resources (IDWR) is reviewing the above referenced permit so we can issue a license for the uses developed. On March 23, 2001, a Mr. James Mahoney filed an application for permit for the two wells that deliver water for domestic, irrigation and pond storage purposes. On July 2, 2013, Sr. Water Resource Agent Angie Grimm conducted an examination with current residents Bob and Cheryl Necochea to verify the water use developed under permit 63-31218. During this field examination, it was discovered that further action is required to complete the licensing process.

Condition of permit 63-31218 state: *Measuring devices shall be installed and maintained to allow measurement of the rate and volume of diversion from each of the wells and to allow the volume of water re-injected after use for heating purposes to be measured.*

It is believed that devices were installed when the system was developed, but at the time of the field exam, none could be found. Please support evidence that these devices are currently in place. A license will not be issued without them.

Water permit 63-31218 and mitigating right 63-31836 is currently in the name of James E Mahoney. An ownership change must be completed to place the name in the current land owners name. Please see the attached ownership change forms and return them completed to my office.

Well tags D0001385 and D0012412 were drilled under a domestic drilling permit. Idaho Code § 42-235 states in part: *There shall be a seventy-five dollar (\$75.00) charge for the permit if the well is to be used for domestic or monitoring purposes. If the well is to be used for other than domestic or monitoring purposes, the charge for the permit shall be two hundred dollars (\$200).* A drilling upgrade fee of \$125 must be received before a license can be issued.

Pursuant to Idaho Code § 42-219(8), if the conditions of approval on a permit are not complied with IDWR may issue an order voiding the permit. Please submit evidence of measuring devices installed, ownership change forms, and the well drilling upgrade fee for the permit to be licensed. You may seek additional time to provide the information by making a written request to interrupt processing for up to six months. The permit will be voided without a timely written reply within the next thirty (30) days.

IDWR forms and other information are available on the Internet at www.idwr.idaho.gov. Please contact me at 208-334-2190 if you need more information. Thank you for your attention to these matters.

Sincerely,



Patrick Kelly
Senior Water Resource Agent
Idaho Department of Water Resources
2735 Airport Way
Boise, Idaho 83705
p: 208.334.2190
f: 208.334.2348
patrick.kelly@idwr.idaho.gov

Enclosures: Water right ownership change form
 Copy of permit 63-31218