

State of Idaho
Department of Water Resources
Water Right License
WATER RIGHT NO. 63-32226

PRIORITY: November 21, 2005

Maximum Diversion Rate: 1.03 CFS
Maximum Diversion Volume: 370.0 AF

It is hereby certified that:

THORPE FAMILY TRUST 23498 BOISE RIVER RD CALDWELL ID 83607

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated September 23, 2005, and has submitted Proof of Beneficial Use on October 30, 2015. An examination confirms water is diverted from:

SOURCE: UNNAMED DRAIN

TRIBUTARY: ROSS EAST END DRAIN

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>
DIVERSION TO STORAGE	09/01 to 02/28	1.03 CFS	
WILDLIFE STORAGE	09/01 to 02/28		15.2 AF
WILDLIFE	09/01 to 02/28	1.03 CFS	355.0 AF

LOCATION OF POINT(S) OF DIVERSION:

UNNAMED DRAIN L7 (SE¼SW¼) Sec. 17, Twp 05N, Rge 05W, B.M. CANYON County

PLACE OF USE: WILDLIFE STORAGE AND WILDLIFE

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	05W	17									X	X		X L 7					
05N	05W	17									X L 6	X L 5							

CONDITIONS OF APPROVAL

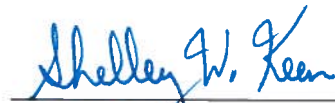
1. The five (5) ponds established by the storage of water under this right shall not exceed a total combined capacity of 44 acre-feet or a total surface area of 23 acres.
2. Rights 63-32226 and 63-32608 authorize a total annual combined storage volume of 66.9 acre-feet, 44 acre-feet to be used for the initial filling or carryover storage of the ponds and 22.9 acre-feet for the replacement of losses caused by seepage and evaporation,
3. Subsequently approved rights based on earlier-in-time applications may reduce the amount of water available for appropriation under this right and may result in a reduction of the quantity found to be beneficially used at the time of licensing of this right.
4. The right holder shall maintain a straight length of conduit or ditch suitable for installation of a device for measuring the entire flow of water being diverted in connection with this right. If the right holder uses conduit, the straight length of conduit shall be at least fifteen times the diameter of the conduit and shall be above ground or otherwise easily accessible.
5. Use of water under this right will 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. 63.

State of Idaho
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Water Right License
WATER RIGHT NO. 63-32226

6. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion.
7. Right Nos. 63-32165, 63-32608, and 63-32226 are limited to a total combined diversion rate of 1.03 cfs during the irrigation season.
8. This right shall be junior and subordinate to future minimum in-stream flow water rights that may be established for the Boise River and its tributaries.
9. This right shall be junior and subordinate to future water rights authorizing the diversion and use of water from the Boise River and its tributaries, including ground water, for consumptive uses, except that this right shall not be subordinate to future water rights for similar wildlife, recreation and/or aesthetic uses.
10. When ordered by the Director, the right holder shall provide mitigation acceptable to the Director to offset depletion of lower Snake River flows needed for migrating anadromous fish. The amount of water required for mitigation, which is to be released into the Snake River or a tributary for this purpose, will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this right. Any order of the Director issued in accordance with this paragraph shall be in conformance with applicable rules allowing the right holder due process as the need for mitigation and the amount of mitigation are determined.
11. The waste water diverted under this right is subject to the right of the original appropriator, in good faith and in compliance with state laws governing changes in use and/or expansion of water rights, to cease wasting water, to change the place of use or manner of wasting it, or to recapture it.
12. The following rights are diverted through point of diversion described above: 63-3001A, 63-3001C, 63-32165, 63-32166, 63-32226 and 63-32608.
13. Wildlife use is for flow-through and return flow water associated with wildlife storage under this right.
14. Wildlife storage use is for habitat improvement.
15. This right does not grant any right-of-way or easement across the land of another.

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 13th day of May, 2016.



SHELLEY W. KEEN
Water Rights Section Manager

State of Idaho
Department of Water Resources
Attachment to Water Right License
63-32226

This map depicts the WILDLIFE AND WILDLIFE 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 0.075 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 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

May 13, 2016

THORPE FAMILY TRUST
23498 BOISE RIVER RD
CALDWELL ID 83607

RE: License Nos. 63-32226, 63-32608 & 63-33643

Issuance of Licenses

Dear Water Right Holder(s):

The Department of Water Resources has issued the enclosed Water Right Licenses confirming that water rights has been established in accordance with your permits. Please be sure to thoroughly review the conditions of approval and remarks listed on your licenses. Also enclosed are copies of the approved applications for amendment.

The licenses are PRELIMINARY ORDERS issued by the Department pursuant to section 67-5243, Idaho Code. They can and will become final orders 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 208-287-4951.

Sincerely,

Pamela Skaggs
Water Rights Supervisor

Enclosure(s)

c: SPF WATER ENGINEERING LLC

WATER DISTRICT #63

CERTIFICATE OF SERVICE

I hereby certify that on May 16, 2016, I mailed true and correct copies, postage prepaid, of the foregoing PRELIMINARY ORDERS (Approved Licenses) to the person(s) listed below:

RE: WATER RIGHT NOS.

63-32226, 63-32608 & 63-33643

**SPF WATER ENGINEERING LLC
C/O SCOTT KING
300 E MALLARD DR STE 350
BOISE ID 83706**

**THORPE FAMILY TRUST
23498 BOISE RIVER RD
CALDWELL ID 83607**

**WATER DISTRICT #63
REX BARRIE
PO BOX 767
STAR ID 83669-0767**



**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.

State of Idaho
Department of Water Resources
APPLICATION FOR AMENDMENT
(For Licensing Purposes)
WATER RIGHT NO. 63-32226

RECEIVED

MAY 05 2016

DEPARTMENT OF
WATER RESOURCES

PRIORITY: November 21, 2005

Maximum Diversion Rate: 1.03 CFS
Maximum Diversion Volume: 370.0 AF

Comes now

THORPE FAMILY TRUST 23498 BOISE RIVER RD CALDWELL ID 83607

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. 63-32226, and requests that the permit be changed as follows:

SOURCE: UNNAMED DRAIN

TRIBUTARY: ROSS EAST END DRAIN

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL DIVERSION VOLUME</u>
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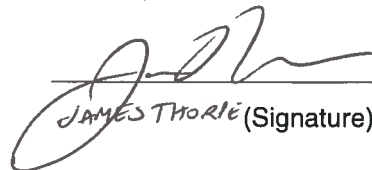
PLACE OF USE: WILDLIFE STORAGE

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
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05N	05W	17									X L 6	X L 5							

PLACE OF USE: WILDLIFE

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			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
05N	05W	17									X	X		X L 7					
05N	05W	17									X L 6	X L 5							

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 4th day of MAY, 2016.


JAMES THORPE (Signature)

State of Idaho
Department of Water Resources
APPLICATION FOR AMENDMENT
(For Licensing Purposes)
WATER RIGHT NO. 63-32226

FOR DEPARTMENT USE ONLY

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

ACTION OF THE DEPARTMENT OF WATER RESOURCES

The Idaho Department of Water Resources hereby approves the above Application for Amendment for Permit No. 63-32226 with the following:

CONDITIONS OF APPROVAL

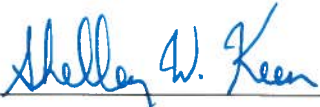
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10. When ordered by the Director, the right holder shall provide mitigation acceptable to the Director to offset depletion of lower Snake River flows needed for migrating anadromous fish. The amount of water required for mitigation, which is to be released into the Snake River or a tributary for this purpose, will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this right. Any order of the Director issued in accordance with this paragraph shall be in conformance with applicable rules allowing the right holder due process as the need for mitigation and the amount of mitigation are determined.
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14. Wildlife storage use is for habitat improvement.
15. This right does not grant any right-of-way or easement across the land of another.

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

Signed this 13th day of May, 2016.



SHELLEY W. KEEN
Water Rights Section Manager

**State of Idaho
Department of Water Resources**

05W



A horizontal number line representing distance in miles. The line starts at 0 on the left and ends at 0.3 Miles on the right. There are major tick marks labeled 0, 0.075, 0.15, and 0.3 Miles. Between each of these major tick marks, there are three smaller, unlabeled tick marks, dividing each 0.075-mile segment into four equal parts of 0.01875 miles each.

