

State of Idaho
Department of Water Resources
Water Right License

WATER RIGHT NO. 33-14946

Priority: April 20, 2013

Maximum Diversion Rate: 0.02 CFS

It is hereby certified that BEAR MOUNTAIN RANCH LLC
7 W MAIN ST STE 202
BOZEMAN MT 59715 has complied with the terms and conditions of the
permit, issued pursuant to Application for Permit dated April 15, 2013; and has submitted Proof of
Beneficial Use on July 06, 2015. An examination confirms water is diverted from:

SOURCE

SPRING

Tributary: SINKS

and a water right has been established as follows:

BENEFICIAL USE

STOCKWATER

PERIOD OF USE

01/01 to 12/31

DIVERSION RATE

0.02 CFS

LOCATION OF POINT(S) OF DIVERSION:

SPRING SE1/4SE1/4SE1/4 Sec. 5, Twp 11N, Rge 26E, B.M. CUSTER County

PLACE OF USE: STOCKWATER

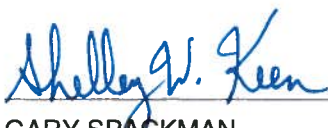
Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
11N 26E 8													X				
11N 26E 17	X													X			
11N 26E 19	X																

CONDITIONS OF APPROVAL

1. The quantity of water under this right for stockwater use shall not exceed 13,000 gallons per day.
2. Rights 33-14945, 33-14946, 33-14947, and 33-14948 when combined shall not exceed a total annual maximum diversion volume of 13,000 gallons per day.

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 27th day of July, 2015.

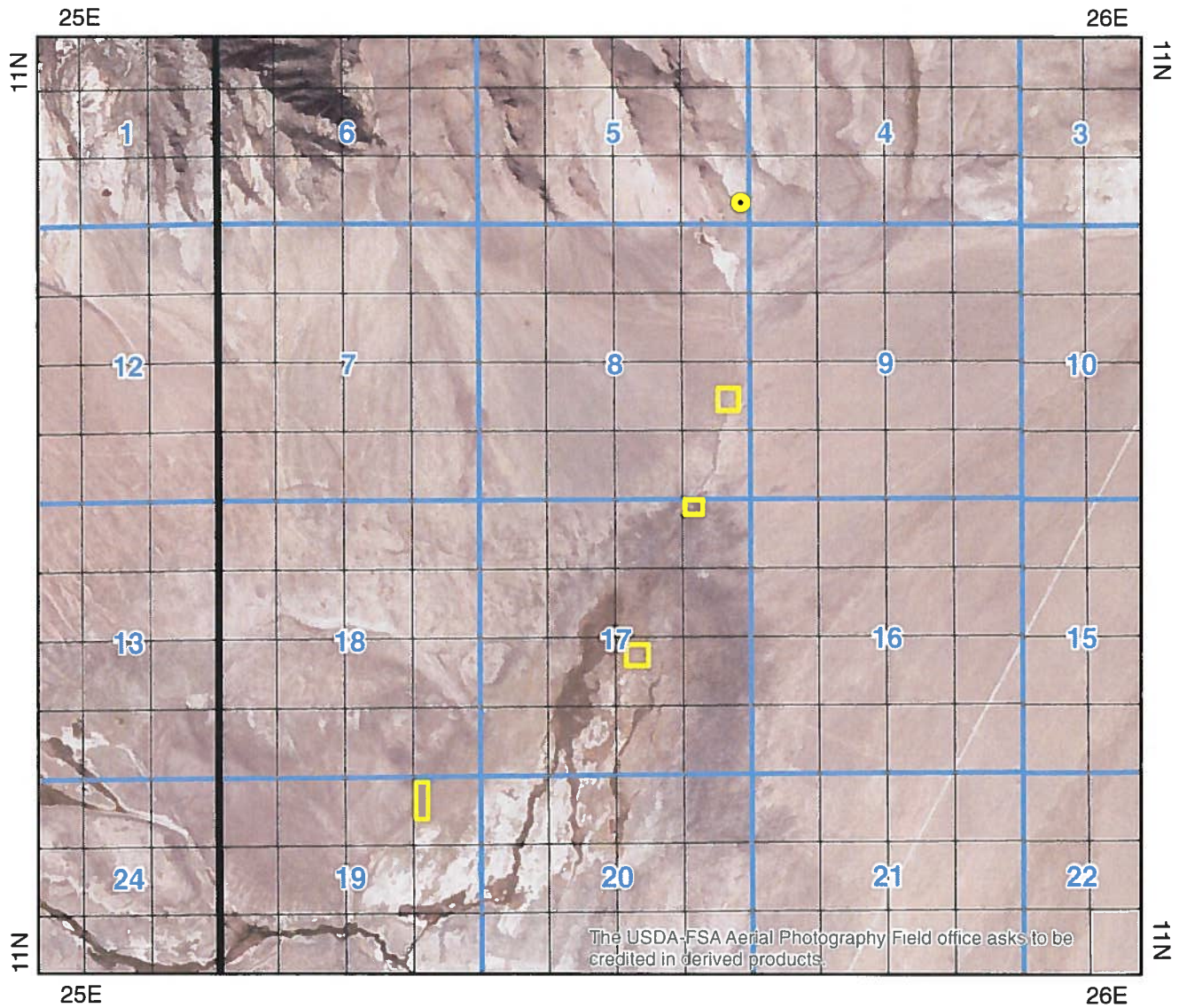

for GARY SPACKMAN
Director

State of Idaho
Department of Water Resources

Attachment To Water Right License

33-14946

This map depicts the STOCKWATER place of use boundary for this water right at the time of this approval and is attached to the approval document solely for illustrative purposes.



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

0 0.4 0.8 1.6 Miles



**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN THE MATTER OF PERMIT)
NO. 33-14946 IN THE NAME OF)
BEAR MOUNTAIN RANCH LLC)
_____)

**PRELIMINARY ORDER
REINSTATING A PERMIT**

This matter having come before the Idaho Department of Water Resources ("Department"), the Department finds, concludes and orders:

FINDINGS OF FACT

1. On June 24, 2013, the Department issued the above-captioned permit in the name of Bear Mountain Ranch LLC (permit holder) with the condition that proof of construction of works and application of water to beneficial use ("proof of beneficial use") be submitted to the Department on or before July 1, 2015. The permit bore the priority date of April 15, 2013.
2. On April 30, 2015, the Department notified the permit holder that proof of beneficial use was due and instructed the permit holder of the steps to be taken to submit the proof or a Request for Extension of Time ("extension request").
3. On July 1, 2015, the permit lapsed since the Department had not received an acceptable proof of beneficial use statement or request for extension of time.
4. On July 6, 2015, the permit holder filed a Statement of Completion for submitting proof of beneficial use.
5. The proof of beneficial use statement was received five days late.

CONCLUSIONS OF LAW

1. Idaho Code § 42-218a (1) provides as follows:

Within sixty (60) days after such notice of lapsing the Department may, upon a showing of reasonable cause, reinstate the permit with the priority date advanced a time equal to the number of days that said showing is subsequent to the date set for proof.

2. The permit holder has provided a reasonable showing why this permit should be reinstated, by submitting an acceptable proof of beneficial use statement. The permit shall be reinstated based upon the July 6, 2015 filing date.
3. The priority date for the permit should be advanced five days.

ORDER

IT IS HEREBY ORDERED that Permit No. 33-14946 is **REINSTATED** and the permit's priority date is advanced to April 20, 2013.

DATED this 27th day of July, 2015.



for Jeff Peppersack, Chief
Water Allocation Bureau



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

July 28, 2015

BEAR MOUNTAIN RANCH LLC
7 W MAIN ST STE 202
BOZEMAN MT 59715

RE: License Nos. 33-14945, 33-14946, 33-14947 & 33-14948

Issuance of Licenses

Dear Water Right Holder(s):

The Department acknowledges receipt of the proof of beneficial use forms submitted for the above referenced permits. Enclosed are orders that reinstated these permits, since proof forms and license examination fees were submitted after the proof deadline. Please note that the priority dates for these permits have been advanced to April 20, 2013, as provided in section 42-218a(2), Idaho Code.

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

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)

CERTIFICATE OF SERVICE

I hereby certify that on July 29, 2015, I mailed true and correct copies, postage prepaid, of the foregoing PRELIMINARY ORDERS (**Preliminary Orders Reinstating A Permit**) and (**Approved Licenses**) to the person(s) listed below:

RE: WATER RIGHT NOS. 33-14945, 33-14946, 33-14947 & 33-14948

**BEAR MOUNTAIN RANCH LLC
7 W MAIN ST STE 202
BOZEMAN MT 59715**



**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: Files 33-14945, 33-14946, 33-14947, and 33-14948

FROM: Daniel Nelson – Staff Hydrologist

DATE: July 15, 2015

SUBJECT: Combined Use Limitations.

After review of the files 33-14945, 33-14946, 33-14947, and 33-14948 it was determined that combined condition X35 was needed. The review revealed that all of the above rights had different points of diversion on a common hillside, but all of the rights claim the same place of use. It was assumed that they all used the same delivery system, since it would not be feasible to create four different water delivery systems over a span of several miles.

To determine the combined use, we first looked at the total annual volume. The all four licenses 425 head use the system, so it is assumed that a maximum of 425 head use the combined system. 425 head of range cattle can consume 12 gallons per day per animal, so the maximum daily use would be 5,100 gallons per day needed for the system (425 head X 12 gpd per head = 5,100 gallons per day total). Therefore, the 13,000 gallons per day limitation should cover the needs for all 4 water rights when combined. Therefore, when water rights 33-14945, 33-14946, 33-14947, and 33-14948 are combined, they should be limited to 13,000 gallons per day.

Each of the four water rights allows a diversion rate of 0.02 cfs per right. Administrative Processing Memo #3, allows a diversion rate based upon approximately 2 Hours per day diversion to obtain the daily requirement. Therefore, in order to determine the limitation of the diversion rate we must determine the maximum flow rate required to divert 5,100 gallons within a 2 hour period. Please see the following calculation:

$$[(5,100 \text{ gallons} / 2 \text{ hrs}) / 60 \text{ minutes}] / 448.8 = 0.09 \text{ cfs}$$

Using the above calculation, the combined diversion rate of 0.08 cfs from all four water rights does not exceed the maximum allowable diversion rate allowed und Administrative Memo #3. Therefore, the diversion rate will not need to be included in the combined condition, since the diversion rates can be added together and still be under the maximum limitation.