

State of Idaho
Department of Water Resources
Water Right License

WATER RIGHT NO. 74-15889

Priority: February 11, 2014

Maximum Diversion Rate: 0.08 CFS
Maximum Diversion Volume: 9.0 AF

It is hereby certified that MALINDA TRACY
Or
VINCENT TRACY
3 PRAIRIE RD
SALMON ID 83467

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated June 26, 2012; and has submitted Proof of Beneficial Use on September 24, 2014. 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	03/15 to 11/15	0.08 CFS	8.8 AF
STOCKWATER	01/01 to 12/31	0.02 CFS	0.2 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER SW1/4NE1/4 Sec. 29, Twp 21N, Rge 23E, B.M. LEMHI 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	
21N 23E 29			2.3					0.2									2.5

Total Acres: 2.5

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	
21N 23E 29			X					X									

CONDITIONS OF APPROVAL

1. The right holder shall install and maintain a lockable device, subject to the approval of the Department, in a manner that will provide suitable control of the diversion.
2. When notified by the Department or by a watermaster with regulatory authority over this right, the right holder shall report the amount of water diverted in connection with this right. The report shall be submitted in the manner and frequency specified by the Department or the watermaster.
3. Upon specific notification by the Department, the right holder shall install and maintain acceptable measuring device(s), including data logger(s), at the authorized point(s) of diversion, in accordance with Department specifications.

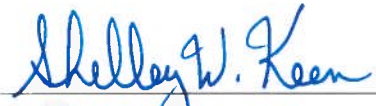
State of Idaho
Department of Water Resources
Water Right License

WATER RIGHT NO. 74-15889

4. The right holder shall install or construct and 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. 74.

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 March, 2015.



for GARY SPACKMAN
Director

State of Idaho
Department of Water Resources
Attachment To Water Right License
74-15889

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.

23E



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

0 0.015 0.03 0.06 Miles



State of Idaho
Department of Water Resources
Attachment To Water Right License
74-15889

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.

23E



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

0 0.015 0.03 0.06 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

March 17, 2015

MALINDA TRACY
VINCENT TRACY
3 PRAIRIE RD
SALMON ID 83467

RE: License No. 74-15889

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 208-287-4951.

Sincerely,

For 

Pamela Skaggs

Water Rights Supervisor

Enclosure(s)

cc: WATER DISTRICT #74

CERTIFICATE OF SERVICE

I hereby certify that on March 18, 2015, 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.

74-15889

**MALINDA TRACY
3 PRAIRIE RD
SALMON ID 83467**

**VINCENT TRACY
3 PRAIRIE RD
SALMON ID 83467**

**WATER DISTRICT #74
RICK SAGER
985 HWY 28
SALMON ID 83467**



**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 74-15889

FROM: Daniel Nelson – Staff Hydrologist

DATE: March 13, 2015

SUBJECT: Place of Use Review

I have been asked to review the place of use recommended for licensing for water right permit 74-15889. I instructed the field examiner for this permit to use the same place of use that was recommended for water right 74-15911.

The recommendation for 74-15911 was not verified in the field, so this does raise some question. I spoke with the adjudication staff that made this recommendation to verify how the shape file for this property was determined. The adjudication staff informed me that this entire property was irrigated at one time from Bohannon Creek. The adjudication staff informed me that during the sale of the property to the new owner, the Bohannon Creek water was withheld from the sale of the property, and that the current owner was only allowed to use the waste water from the previous owner's property.

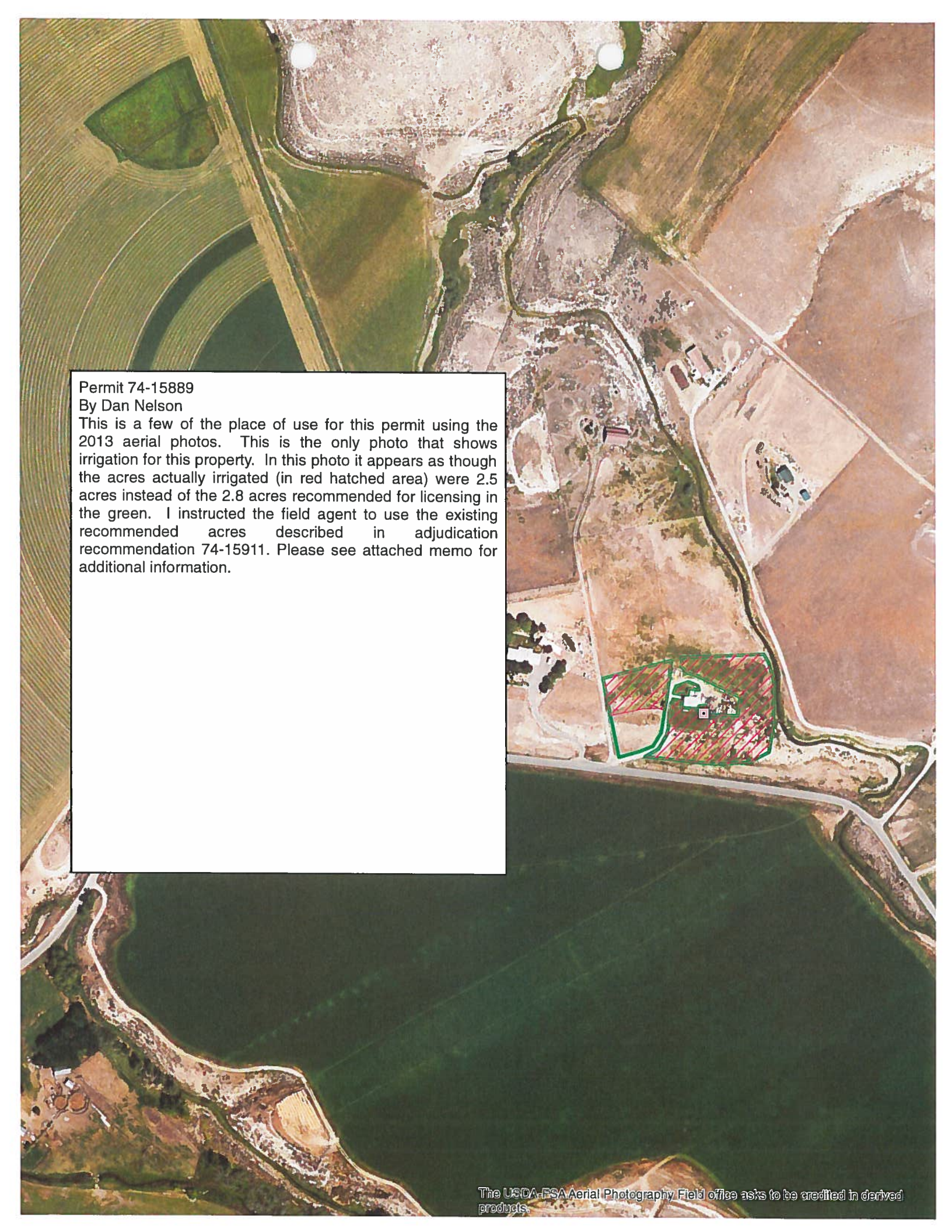
The adjudication staff then created the shape file for adjudication recommendation 74-15911 from aerial photos and instruction from the current owner's attorney. The adjudication staff was told that the ground water well under permit 74-15889 uses the same irrigation system as recommendation 74-15911, and that it irrigated all of the property designated the shape file created for adjudication recommendation 74-15911.

There is no verification available to confirm that the well can irrigate the entire place of use shown in described in recommendation 74-15911. The 2013 aerial photo does show that 2.5 acres were irrigated in 2013. The wastewater was not available during this time, so I am confident that the well was used to irrigate the 2.5 acres irrigated in 2013.

Therefore, I have changed the diversion rate, volume, acres, and place of use to describe the irrigation that was done in 2013. Please see the attached map for the updated place of use. The rate and volume calculations are below:

$2.5 \text{ acres} \times 0.03 \text{ cfs/acre} = 0.075$ – rounded to 0.08 cfs

$2.5 \text{ acres} \times 3.5 \text{ acre-feet/acre} = 8.75$ – rounded to 8.8 acre-feet

An aerial photograph of a rural landscape. The top half shows brown, tilled fields. The bottom half shows a large green field, likely a reservoir or a different type of crop. A road or canal runs diagonally from the top right towards the bottom right. In the lower right quadrant, there is a small area outlined in green, which contains a red-hatched area. This red-hatched area is irregular in shape and appears to be a specific plot of land within the green-outlined area. There are some small structures or buildings near the red-hatched area.

Permit 74-15889

By Dan Nelson

This is a few of the place of use for this permit using the 2013 aerial photos. This is the only photo that shows irrigation for this property. In this photo it appears as though the acres actually irrigated (in red hatched area) were 2.5 acres instead of the 2.8 acres recommended for licensing in the green. I instructed the field agent to use the existing recommended acres described in adjudication recommendation 74-15911. Please see attached memo for additional information.