

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 37-22899

Priority: August 25, 2014

Maximum Diversion Volume: 0.5 AF

This is to certify, that KEITH ONEIL HELMICK
16 E INDIAN CREEK RD
BOISE ID 83716

And/Or

SANDRA R HELMICK
16 E INDIAN CREEK RD
BOISE ID 83716

has applied for a permit to appropriate water from:

Source: SPRING**Tributary:** MALAD RIVER

and a permit is APPROVED for development of water as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>ANNUAL VOLUME</u>
STOCKWATER STORAGE	01/01 to 12/31	0.5 AF

LOCATION OF POINT(S) OF DIVERSION:

SPRING NW1/4NE1/4SE1/4 Sec. 30, Twp 01S, Rge 11E, B.M.
ELMORE County

PLACE OF USE: STOCKWATER 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	
01S 11E 30																	X

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **February 01, 2016**.
2. Subject to all prior water rights.
3. Any license issued by IDWR pursuant to the right or portion thereof for the use of trust water is subject to a term review 5 years after the date of this approval to determine availability of water for the use and to re-evaluate the public interest at the end of the term.
4. 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. 37B.

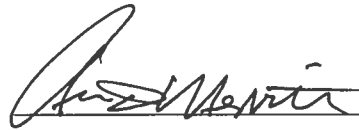
State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 37-22899

5. The pond established by the storage of water under this right shall not exceed a total capacity of 0.5 acre-feet or a total surface area of 0.1 acre.
6. Stockwater use is for 250 pair (cows with calves).

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 14th day of January, 20 15.

FOR



GARY SPACKMAN, Director

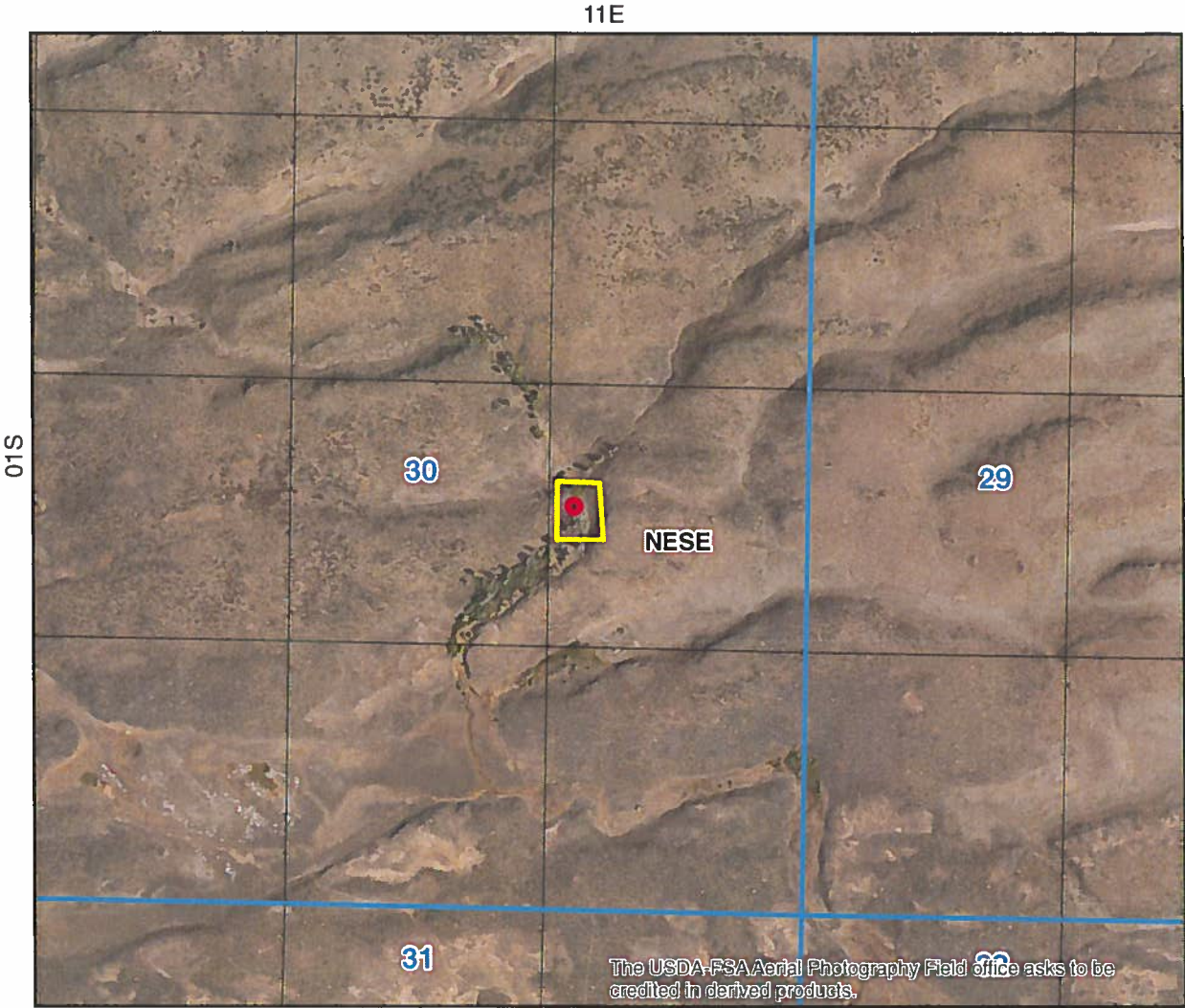


State of Idaho
Department of Water Resources

Attachment To Permit to Appropriate Water

37-22899

This map depicts the STOCKWATER 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
- Quarter Quarters

0 0.1 0.2 0.4 Miles





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

January 14, 2015

KEITH ONEIL HELMICK
SANDRA R HELMICK
16 E INDIAN CREEK RD
BOISE ID 83716

RE: Permit No. 37-22898, 37-22899, 37-22900 & 37-22901

Permit Approval Notice

Dear Permit Holder:

The Department of Water Resources has issued the enclosed permit authorizing you to establish a new water right. Please be sure to thoroughly review the conditions of approval and remarks listed on your permit.

The permit 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.

Enclosed is a form entitled 'Instructions for Proof of Beneficial Use.' Please read the instructions carefully since you must take further action to develop this permit into a licensed water right. Also enclosed is a form entitled 'Proof of Beneficial Use.' If your project is already completed, you should complete and submit this form immediately.

Please note that a separate stream channel alteration permit must be obtained from the Department prior to any activity in the stream channel other than construction or maintenance of the diversion structure for your water right(s). Applications for stream channel alteration permits must be filed at least sixty days prior to the commencement of work in the stream.

Also, 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,

A handwritten signature in black ink, appearing to read "Allen Merritt". The signature is stylized with a large, looped initial "A" and a cursive "Merritt".

Allen Merritt
Southern Region Manager

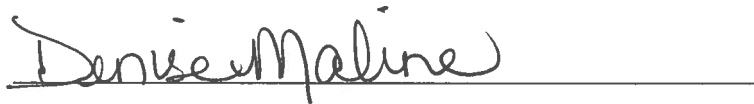
Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on January 14, 2015 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (Approved Permit) to the person(s) listed below:

RE: WATER RIGHT NO. 37-22898, 37-22899, 37-22900 & 37-22901

**KEITH ONEIL HELMICK
SANDRA R HELMICK
16 E INDIAN CREEK RD
BOISE ID 83716**

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

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

January 14, 2015

RUSTY KRAMER WATERMASTER
WATER DISTRICT # 37-B
PO BOX 591
FAIRFIELD, ID 83327

Re: **APPROVED Permit No. 37-22898, 37-22899, 37-22900 & 37-22901 (Helmick)**

Dear Mr. Kramer:

For your information and records, we have enclosed a copy of an APPROVED Application for Permit within your District.

If you have any questions, please contact this office, or the applicant.

Sincerely,

A handwritten signature in cursive script that reads "Denise Maline".

Denise Maline
Administrative Assistant

Enclosure

Notice

The following application(s) have been filed to appropriate the public waters of the State of Idaho:

✓ 37-22898

KEITH ONEIL HELMICK
SANDRA R HELMICK
16 E INDIAN CREEK RD
BOISE, ID 83716
Point of Diversion L2(NESWNW) S30
T01S R11E ELMORE County Source
SPRING Tributary MALAD RIVER
Use: STOCKWATER STORAGE 01/01
to 12/31 0.5 AF
Total Diversion: 0.5 AF
Date Filed: 8/25/2014
Place Of Use: STOCKWATER STORAGE
T01S R11E S30 L2(SWNW)

Application for permit for stockwater storage proposes to divert 0.5 AF from a spring, tributary to the Malad River, located 20.7 miles west and 2.1 miles south of the intersection of U.S. Highway 20 and Soldier Road in Fairfield.

✓ 37-22899

KEITH ONEIL HELMICK
SANDRA R HELMICK
16 E INDIAN CREEK RD
BOISE, ID 83716
Point of Diversion NWNESE S30 T01S
R11E ELMORE County Source SPRING
Tributary MALAD RIVER
Use: STOCKWATER STORAGE 01/01
to 12/31 0.5 AF
Total Diversion: 0.5 AF
Date Filed: 8/25/2014
Place Of Use: STOCKWATER STORAGE
T01S R11E S30 NESE

Application for permit for stockwater storage proposes to divert 0.5 AF from a spring, tributary to the Malad River, located 20.1 miles west and 2.3 miles south of the intersection of U.S. Highway 20 and Soldier Road in Fairfield.

✓ 37-22900

KEITH ONEIL HELMICK
SANDRA R HELMICK
16 E INDIAN CREEK RD
BOISE, ID 83716
Point of Diversion NWSENE S31 T01S
R11E ELMORE County Source SPRING
Tributary MALAD RIVER
Use: DOMESTIC 01/01 to 12/31
0.02 CFS
Total Diversion: 0.02 CFS
Date Filed: 8/25/2014
Place Of Use: DOMESTIC
T01S R11E S31 SENE

Application for permit for domestic use proposes to divert 0.02 cfs from a spring, tributary to the Malad River, located approximately 20.1 miles west and 3.2 miles south of the intersection of U.S. Highway 20 and Soldier Road in Fairfield.

✓ 37-22901

KEITH ONEIL HELMICK
SANDRA R HELMICK
16 E INDIAN CREEK RD
BOISE, ID 83716
Point of Diversion SENWSE S25 T01S
R10E ELMORE County Source SPRING
Tributary MALAD RIVER
Use: STOCKWATER 01/01 to 12/31
0.02 CFS
Use: WILDLIFE 01/01 to 12/31 0.02
CFS
Total Diversion: 0.02 CFS
Date Filed: 8/25/2014
Place Of Use: STOCKWATER
T01S R10E S25 NENE NWNE NWSE
Place Of Use: WILDLIFE
T01S R10E S25 NWNE

←
OVER

AFFIDAVIT OF PUBLICATION

County of Elmore
State of Idaho

§55

I, **Brenda M. Fincher**, do solemnly swear that I am the Publisher of the:

Mountain Home News

A weekly newspaper of general circulation, published once a week, in Mountain Home, Idaho, that the notice attached hereto which is a part of publication thereof; was published in said newspaper for 2 consecutive weeks, the first publication having been made on the 15th day of Oct, 2014, and the last publication having been made on the 22nd day of Oct, 2014; every Wednesday issue of the paper during the period and time of publication and that the notice was published in the paper proper and not in a supplement thereof.

And I further swear that the said Mountain Home News has been continuously and uninterruptedly published in said Elmore County during the period of 78 consecutive weeks prior to the first publication of the attached notice.

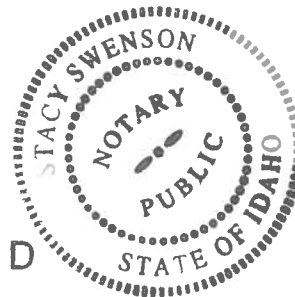
Brenda M Fincher
Publisher

Subscribed and sworn to me this 22nd day of Oct, 2014.

[Signature]
Notary Public

Residing in Mountain Home, Elmore County, Idaho.

My commission expires **11-17-2017**.



RECEIVED

OCT 23 2014

DEPT OF WATER RESOURCES
SOUTHERN REGION

✓ OK DM
10/28/2014

Application for permit for stockwater and wildlife use proposes to divert 0.02 cfs from a spring tributary to the Malad River, located approximately 21.1 miles west and 2.5 miles south of the intersection of U.S. Highway 20 and Soldier Road in Fairfield. System will supply water via pipeline to stock troughs and a wetland to enhance sage grouse habitat in the nearby area.

Permits will be subject to all prior water rights. For additional information concerning the property location, contact Southern Region office at (208) 736-3033; or for a full description of the right(s), please visit our website at www.idwr.idaho.gov and search under New Water Right Applications. Protests may be submitted based on the criteria of Idaho Code § 42-203A. Any protest against the approval of this application must be filed with the Director, Dept. of Water Resources, Southern Region, 650 Addison Ave W, Ste 500, Twin Falls, ID 83301 together with a protest fee of \$25.00 for each application on or before November 3, 2014. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

First Publication: October 15, 2014

Last Publication: October 22, 2014

✓ OK DM 10/28/2014



Handwritten notes and stamps at the bottom of the page, including a date stamp that appears to read 'OCT 28 2014'.

Handwritten 'OK' with an arrow pointing to the right.

MEMORANDUM

Date: October 21, 2014
To: Application for Permit 37-22899, Helmick, File
From: Jim Bitzenburg
Re: Evaluation of Sufficiency of Information Submitted

Application for permit for stockwater storage proposes to divert 0.5 AF from a spring, tributary to the Malad River, located 20.1 miles west and 2.3 miles south of the intersection of U.S. Highway 20 and Soldier Road in Fairfield.

- **Effect on Other Water Rights:**
No other water rights are diverted at this point. Nearby streambed is dry.
- **Sufficiency of Water Supply:**
Numerous willows are present in the area of the proposed point of diversion, but no water was evident on the surface. The field visit was made in mid-October, in a dry year, so sufficient water may be available in years of normal precipitation. The pond has not yet been dug.
- **Application Made in Good Faith:**
The applicant is grazing cattle in the area, as evidenced by signs of grazing and other signs of cattle.
- **Financial Resources:**
The applicants own the property at the place of use and the point of diversion and the cost of excavation of the pond will be minimal.
- **Local Public Interest:**
The application will be advertised.
- **Beneficial Use/Conservation of Water Resources:**
Proposed use is a beneficial use of water.

Review of the application finds there is no clear inconsistency with criteria set forth in Section 42-203A Idaho Code or the Water Appropriation Rules (IDAPA 37.03.08) preventing processing of this application.

Field Visit - Permit Application 37-22899 – Helmick

On October 16, 2014, I made a field visit to the site of this application, accompanied by IDWR engineer, Corey Skinner. We observed that numerous willows were growing in the area of the application point of diversion, but no water was present at the surface. Our visit was conducted in October of a very dry year, so it is possible that a spring would be visible earlier in the year.

The accompanying photo shows the application POD, looking east.



State of Idaho
Department of Water Resources
Application for Permit
RECOMMENDATION FORM

RECEIVED
OCT 16 2014
DEPT OF WATER RESOURCES
SOUTHERN REGION

Application No.: 37-22899

Applicant's Name: KEITH O'NEIL HELMICK
SANDRA R HELMICK
16 E INDIAN CREEK RD
BOISE, ID 83716

Recommendation:

- a) ☒ I do not oppose approval of this application.
- b) ☐ I do not oppose approval of this application if it is conditioned as follows:
- c) ☐ I oppose approval of this application for the following reasons:
- d) ☐ Additional comments:

Dated this 15 day of October, 2014

Water District No. 37-B


Watermaster's Signature

Rusty Kramer
Printed Name

Notice

The following application(s) have been filed to appropriate the public waters of the State of Idaho:

37-22898

KEITH ONEIL HELMICK
SANDRA R HELMICK
16 E INDIAN CREEK RD
BOISE, ID 83716

Point of Diversion L2NESWNW/ S30
T01S R11E ELMORE County Source SPRING
Tributary MALAD RIVER
Use: STOCKWATER STORAGE 01/01
to 12/31 0.5 AF

Total Diversion: 0.5 AF

Date Filed: 8/25/2014

Place Of Use: STOCKWATER STORAGE
T01S R11E S30 L2(SWNW)

Application for permit for stockwater storage proposes to divert 0.5 AF from a spring, tributary to the Malad River, located 20.7 miles west and 2.1 miles south of the intersection of U.S. Highway 20 and Soldier Road in Fairfield.

37-22899

KEITH ONEIL HELMICK
SANDRA R HELMICK
16 E INDIAN CREEK RD
BOISE, ID 83716

Point of Diversion NWNESE S30 T01S
R11E ELMORE County Source SPRING
Tributary MALAD RIVER
Use: STOCKWATER STORAGE 01/01
to 12/31 0.5 AF

Total Diversion: 0.5 AF

Date Filed: 8/25/2014

Place Of Use: STOCKWATER STORAGE
T01S R11E S30 NESE

Application for permit for stockwater storage proposes to divert 0.5 AF from a spring, tributary to the Malad River, located 20.1 miles west and 2.3 miles south of the intersection of U.S. Highway 20 and Soldier Road in Fairfield.

37-22900

KEITH ONEIL HELMICK
SANDRA R HELMICK
16 E INDIAN CREEK RD
BOISE, ID 83716

Point of Diversion NWSENE S31 T01S
R11E ELMORE County Source SPRING
Tributary MALAD RIVER

Use: DOMESTIC 01/01 to 12/31

0.02 CFS

Total Diversion: 0.02 CFS

Date Filed: 8/25/2014

Place Of Use: DOMESTIC

T01S R11E S31 SENE

Application for permit for domestic use proposes to divert 0.02 cfs from a spring, tributary to the Malad River, located approximately 20.1 miles west and 3.2 miles south of the intersection of U.S. Highway 20 and Soldier Road in Fairfield.

37-22901

KEITH ONEIL HELMICK
SANDRA R HELMICK
16 E INDIAN CREEK RD
BOISE, ID 83716

Point of Diversion SENWSE S25 T01S
R10E ELMORE County Source SPRING
Tributary MALAD RIVER

Use: STOCKWATER 01/01 to 12/31

0.02 CFS

Use: WILDLIFE 01/01 to 12/31 0.02

CFS

Total Diversion: 0.02 CFS

Date Filed: 8/25/2014

Place Of Use: STOCKWATER

T01S R10E S25 NENE NWNE NWSE

Place Of Use: WILDLIFE

T01S R10E S25 NWNE

Application for permit for stockwater and wildlife use proposes to divert 0.02 cfs from a spring tributary to the Malad River, located approximately 21.1 miles west and 1.5 miles south of the intersection of U.S. Highway 20 and Soldier Road in Fairfield. System will supply water via pipeline to stock troughs and a wetland to enhance sage grouse habitat in the nearby area.

Permits will be subject to all prior water rights. For additional information concerning the property location, contact Southern Region office at (208) 736-3033; or for a full description of the right(s), please visit our website at www.idwr.idaho.gov and search under New Water Right Applications. Protests may be submitted based on the criteria of Idaho Code § 42-203A. Any protest against the approval of this application must be filed with the Director, Dept. of Water Resources, Southern Region, 650 Addison Ave W, Ste 500, Twin Falls, ID 83301 together with a protest fee of \$25.00 for each application on or before November 3, 2014. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

First Publication: October 15, 2014

Last Publication: October 22, 2014

Proofed

Date: 10-10-2014

☐ OK, With Changes

☒ OK, No Changes

☐ Re-Proof

Proofed by:

Maline

Please sign & fax / email back with
any corrections by 5pm Friday 10/10/14.

Total cost will be \$219.96

THANK YOU
STACY SWENSON

MTN. HOME NEWS

PH. (208) 587-3331 • FAX (208) 587-9205

✓ OK E-mail sent
to Newspaper 10/10/2014