

State of Idaho
Department of Water Resources
Water Right License

WATER RIGHT NO. 43-07186

Priority: January 18, 1983

Maximum Diversion Rate: 0.02 CFS

It is hereby certified that UNITED STATES OF AMERICA ACTING THROUGH USDA FOREST SERVICE
2647 KIMBERLY RD
TWIN FALLS ID 83301 has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated January 18, 1983 ; and has submitted Proof of Beneficial Use on March 07, 1985. An examination confirms that water has been diverted from:

SOURCE

SPRING

Tributary: SHIRLEY CREEK

and a water right has been established as follows:

BENEFICIAL USE

STOCKWATER

PERIOD OF USE

06/01 to 09/30

DIVERSION RATE

0.02 CFS

LOCATION OF POINT(S) OF DIVERSION:

SPRING

NW1/4SW1/4SW1/4

Sec. 8, Twp 12S, Rge 29E, B.M.

CASSIA 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	
12S	29E	17						X											

CONDITIONS OF APPROVAL

1. This right, when considered with all other rights common to the same grazing allotment, is limited to the quantity of water beneficially used by the number of stock within the allotment.
2. This right authorizes the diversion of water to a trough from the same spring that is the source of water for Water Right 43-11192.
3. The source of water for this right is locally known as Antelope Spring No. 2.

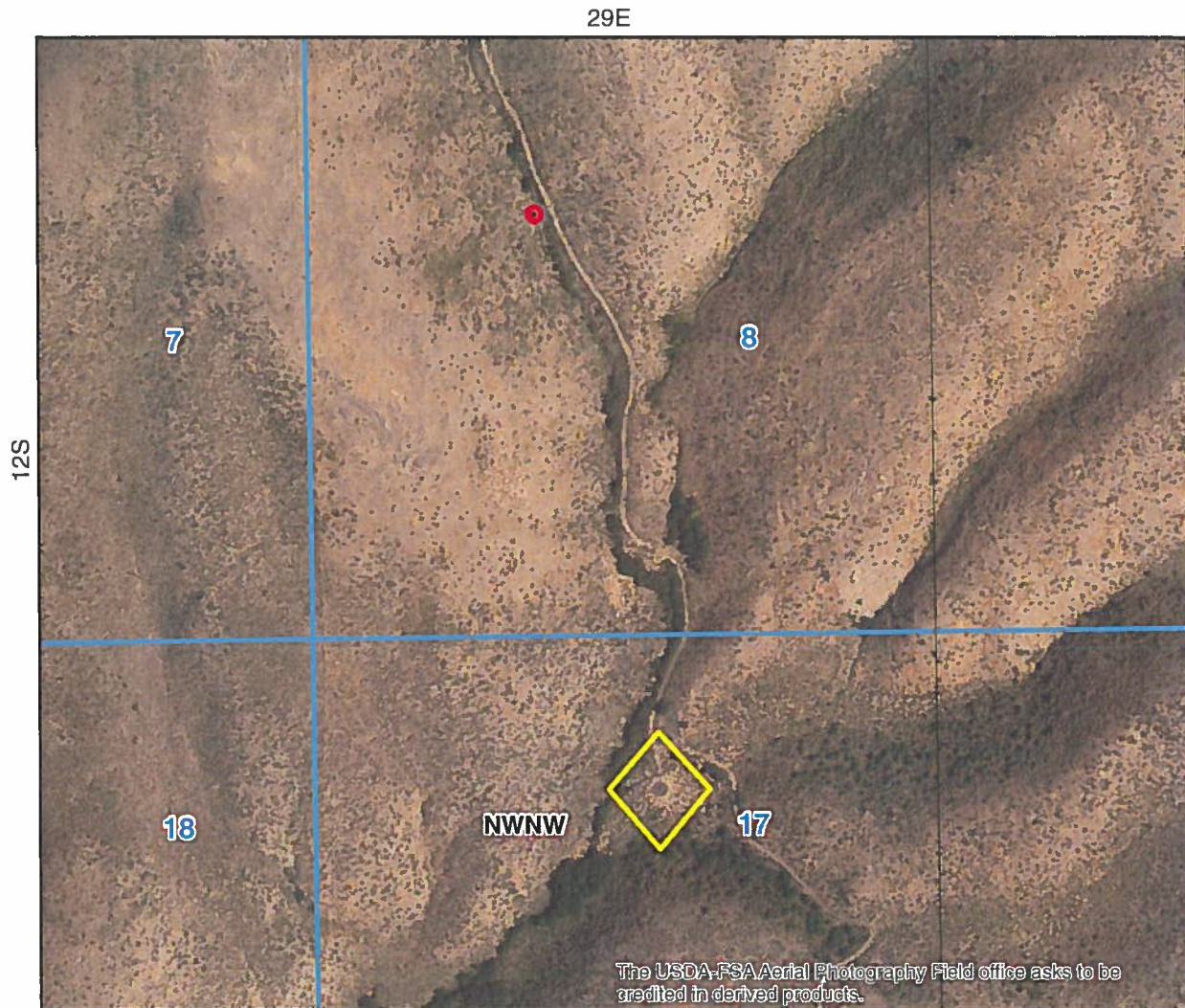
This license is issued pursuant to the provisions of Section 42-219, Idaho Code. The water right confirmed by this license is subject to all prior water rights and shall be used in accordance with Idaho law and applicable rules of the Department of Water Resources.

Signed this 25th day of November, 2014.


 FOR GARY SPACKMAN
 Director

State of Idaho
Department of Water Resources
Attachment To Water Right License
43-7186

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 0.045 0.09 0.18 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

December 8, 2014

UNITED STATES OF AMERICA ACTING THROUGH
USDA FOREST SERVICE
2647 KIMBERLY RD
TWIN FALLS ID 83301

RE: License No. 43-7186

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 208-736-3033.

Sincerely,

Allen Merritt
Southern Region Manager

Enclosure(s)

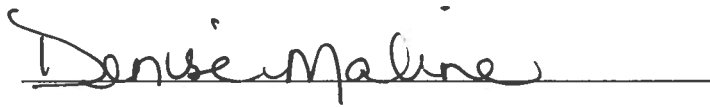
CERTIFICATE OF SERVICE

I hereby certify that on December 8, 2014 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.

43-7186

**UNITED STATES OF AMERICA ACTING THROUGH
USDA FOREST SERVICE
2647 KIMBERLY RD
TWIN FALLS ID 83301**

A handwritten signature in black ink, 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
APPLICATION FOR AMENDMENT

(For Licensing Purposes)

WATER RIGHT NO. 43-07186

RECEIVED

NOV 04 2014

DEPT. OF WATER RESOURCES
SOUTHERN REGION

Date of Priority: January 18, 1983

Maximum Diversion Rate: 0.02 CFS

Comes now UNITED STATES OF AMERICA ACTING THROUGH USDA FOREST SERVICE
2647 KIMBERLY RD
TWIN FALLS ID 83301 and represents to the Director of 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. 43-07186, and requests that the permit be changed as follows:

Source: SPRING

Tributary: SHIRLEY CREEK

BENEFICIAL USE

PERIOD OF USE

RATE OF DIVERSION

STOCKWATER

06/01 to 09/30

0.02 CFS

LOCATION OF POINT(S) OF DIVERSION:

SPRING

NW1/4SW1/4SW1/4

Sec. 8, Twp 12S, Rge 29E, B.M.

CASSIA County

PLACE OF USE: STOCKWATER

Twp	Rge	Sec	NE				NW				SW				SE				Totals
12S	29E	17	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
								X											

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 30 day of October, 2014.


(Signature)

State of Idaho
Department of Water Resources
APPLICATION FOR AMENDMENT
(For Licensing Purposes)
WATER RIGHT NO. 43-07186

FOR DEPARTMENT USE ONLY

Preliminary check by _____ Fee = \$100- Receipted by DM # S034378 Date 11-4-2014

ACTION OF THE DEPARTMENT OF WATER RESOURCES

I, GARY SPACKMAN, of the Department of Water Resources hereby approve the
above Application for Amendment for Permit No. 43-07186 with the following:

CONDITIONS OF APPROVAL

1. This right, when considered with all other rights common to the same grazing allotment, is limited to the quantity of water beneficially used by the number of stock within the allotment.
2. This right authorizes the diversion of water to a trough from the same spring that is the source of water for Water Right 43-11192.
3. The source of water for this right is locally known as Antelope Spring No. 2.

Witness my hand this 25th day of November, 2014.

FOR


GARY SPACKMAN
Director

Skinner, Corey

From: Skinner, Corey
Sent: Monday, October 06, 2014 3:14 PM
To: 'Spencer, Steven M -FS'
Subject: RE: Basin 43 USFS Licenses
Attachments: 43 7186 Licensing Amendment.docx

Steve,

Please find attached a licensing amendment for proposed license 43-7186. The licensing amendment corrects the place of use to the actual trough location in the NWNW of Section 17, Township 12 South, Range 29 East. The amendment also clarifies the source from the permitted location of unnamed stream tributary to Shirley Creek to a "spring" tributary to Shirley Creek with a condition indicating that the spring is locally known as Antelope Spring No. 2 (as listed on SRBA decree 43-11192). If you, or someone with the USFS, could sign the attached amendment form and return the signed form to me with a \$100.00 check made out to IDWR, we can then proceed with the issuance of license 43-7186. The signed amendment and fee can be mailed to me at the following address...

Corey Skinner
Idaho Department of Water Resources
650 Addison Ave. West
Suite 500
Twin Falls, ID 83301

Thanks,

Corey

P.S. We are moving forward with the licensing of 43-7188 and will mail the license to the USFS office here in Twin Falls.

From: Spencer, Steven M -FS [mailto:sspencer@fs.fed.us]
Sent: Monday, September 29, 2014 4:47 PM
To: Skinner, Corey
Cc: Dallan, Mark V -FS
Subject: RE: Basin 43 USFS Licenses

Cory,

Yes, if 43-07188 can proceed to license with the condition that you have showing that it is also the same source as 43-11193 that would be great.

And it does appear that a Permit Amendment is needed for 43-07186 so that:

- The source is spring – possibly with a locally known as Antelope Spring #2 noted.
- The POD is in the NWNW Sec 17, T12S R29E.

For both of these if it is possible the owner and address should be:

United States of America
USDA Forest Service
2647 Kimberly Road
Twin Falls, ID 83301-7976

Whatever the protocol will allow on this owner and address matter will be fine for the time being. I'm working to get all the 207 various names and addresses the Department has for Forest Service water rights in Idaho narrowed down to the appropriate Forest Service office.

If you will send the amendment for 43-07186 to me I will arrange for it to be signed and returned to you with the \$100 filing fee.

If I've overlooked something or if any of the above will not work for you please let me know.

Thank you for your help on these.

Steve

Steven M. Spencer
Water Use Specialist
USDA Forest Service
1805 Hwy 16 Rm 5
Emmett, ID 83617

208-365-7055
sspencer@fs.fed.us

From: Skinner, Corey [<mailto:Corey.Skinner@idwr.idaho.gov>]
Sent: Friday, September 19, 2014 11:24 AM
To: Spencer, Steven M -FS
Subject: Basin 43 USFS Licenses

Steve,

As we discussed I am working on trying to get a couple of old USFS water right permits licensed. The permit numbers are 43-7186 and 43-7188 and both applications were originally filed back in 1983 and listed the USFS address in Ogden, UT. Both permits involve developments on the Sawtooth National Forest within a few miles of Sublett Reservoir.

It appears that SRBA decree 43-11192 (1880 priority) is associated with the same source described by permit 43-7186. Note that IDWR database records identify the 43-7186 source as "unnamed stream", but the original application filed by the USFS lists the source as Unnamed Stream (Antelope Spring # 2). Permit 43-7186 identifies the point of diversion and place of use in the SWSW of Section 8, Township 12 South, Range 29 East (as does SRBA decree 43-11192). While visiting the site the other day, I talked to a local rancher, Roger Hicken, who claimed he was the one who installed the system. He indicated that there is a spring in the bottom of the draw below (south of) Antelope Spring (identified on the USGS quadrangle) that has been developed with a pipeline feeding a single trough further down the drainage. I visited the site and verified the information obtained from Mr. Hicken. I have photos and GPS points of the spring location/point of diversion and trough/place of use if you need them. The spring is located in the SWSW of Section 8, Township 12 South, Range 29 East and the trough is located approximately 1200 feet away (to the south) from the spring which places the place of use in the NWNW of Section 17, Township 12 South, Range 29 East. Note that the trough is located in a different tract than the place of use described on the permit. This will require the signing of a licensing amendment and the submittal of a \$100.00 fee to correctly issue the license.

It appears that SRBA decree 43-11193 (1880 priority) is associated with the same source described by permit 43-7188. Permit 43-7188 identifies the point of diversion and place of use in the NESW of Section 27, Township 12 South, Range 29 East (as does SRBA decree 43-11193). A site visit verified that this location is correct for the point of diversion and place of use for both records. As we discussed, my initial thought was that IDWR would just void permit 43-7188 since there was no additional beneficial use above and beyond 43-11193. After our discussion, and discussing things on

our end here in our Twin Falls office, I think we can go ahead and issue the 43-7188 license and put some sort of condition similar to the following on the license...

“This right authorizes the diversion of water to a trough from the same spring that is the source of water for Water Right 43-11193”

As we discussed, permits 43-7186 and 43-7188 were originally filed with a USFS address in Ogden, UT and our database records for these two records list an address for the Boise National Forest. I need to know what address to use for the USFS for these two licenses, and who to send the proposed licensing amendment for 43-7186 to?

If you have any questions, or need any additional information, feel free to give me a call (208)736-3033.

Thanks,

Corey

This electronic message contains information generated by the USDA solely for the intended recipients. Any unauthorized interception of this message or the use or disclosure of the information it contains may violate the law and subject the violator to civil or criminal penalties. If you believe you have received this message in error, please notify the sender and delete the email immediately.