

State of Idaho  
Department of Water Resources  
**Water Right License**

WATER RIGHT NO. 35-13337

**Priority:** December 02, 1982

Maximum Diversion Rate: 0.19 CFS  
Maximum Diversion Volume: 37.6 AF

It is hereby certified that H ALAN FUNK

And

CONNIE G FUNK

2065 S 2800 W

ABERDEEN ID 83210

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated December 2, 1982 has submitted Proof of Beneficial Use on July 23, 1990. An examination confirms water is diverted from:

**SOURCE**

GROUND WATER

and a water right has been established as follows:

| <b><u>BENEFICIAL USE</u></b> | <b><u>PERIOD OF USE</u></b> | <b><u>DIVERSION RATE</u></b> | <b><u>ANNUAL<br/>DIVERSION VOLUME</u></b> |
|------------------------------|-----------------------------|------------------------------|-------------------------------------------|
| IRRIGATION                   | 04/01 to 10/31              | 0.19 CFS                     | 37.6 AF                                   |

**LOCATION OF POINT(S) OF DIVERSION:**

|              |                                   |                                 |              |
|--------------|-----------------------------------|---------------------------------|--------------|
| GROUND WATER | SW $\frac{1}{4}$ NW $\frac{1}{4}$ | Sec. 33, Twp 06S, Rge 31E, B.M. | POWER County |
| GROUND WATER | SW $\frac{1}{4}$ NE $\frac{1}{4}$ | Sec. 28, Twp 06S, Rge 31E, B.M. | POWER County |

**PLACE OF USE:** IRRIGATION

| Twp Rge Sec | NE |    |    |     | NW |    |    |    | SW |    |    |    | SE |    |    |     |        |
|-------------|----|----|----|-----|----|----|----|----|----|----|----|----|----|----|----|-----|--------|
|             | NE | NW | SW | SE  | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE  | Totals |
| 06S 31E 32  |    |    |    | 7.3 |    |    |    |    |    |    |    |    |    |    |    | 2.1 | 9.4    |

Total Acres: 9.4

**CONDITIONS OF APPROVAL**

1. Right 35-02066A is also diverted through the points of diversion described above.
2. Rights 35-02066A and 35-13337 when combined shall not exceed a total diversion rate of 8.02 cfs.
3. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the lands above.
4. The use of water under this right shall not give rise to any claim against the holder of a senior water right based upon the theories of forfeiture, abandonment, adverse possession, waiver, equitable estoppel, estoppel by laches or customary preference.

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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. 120.

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 9<sup>th</sup> day of September, 2014.

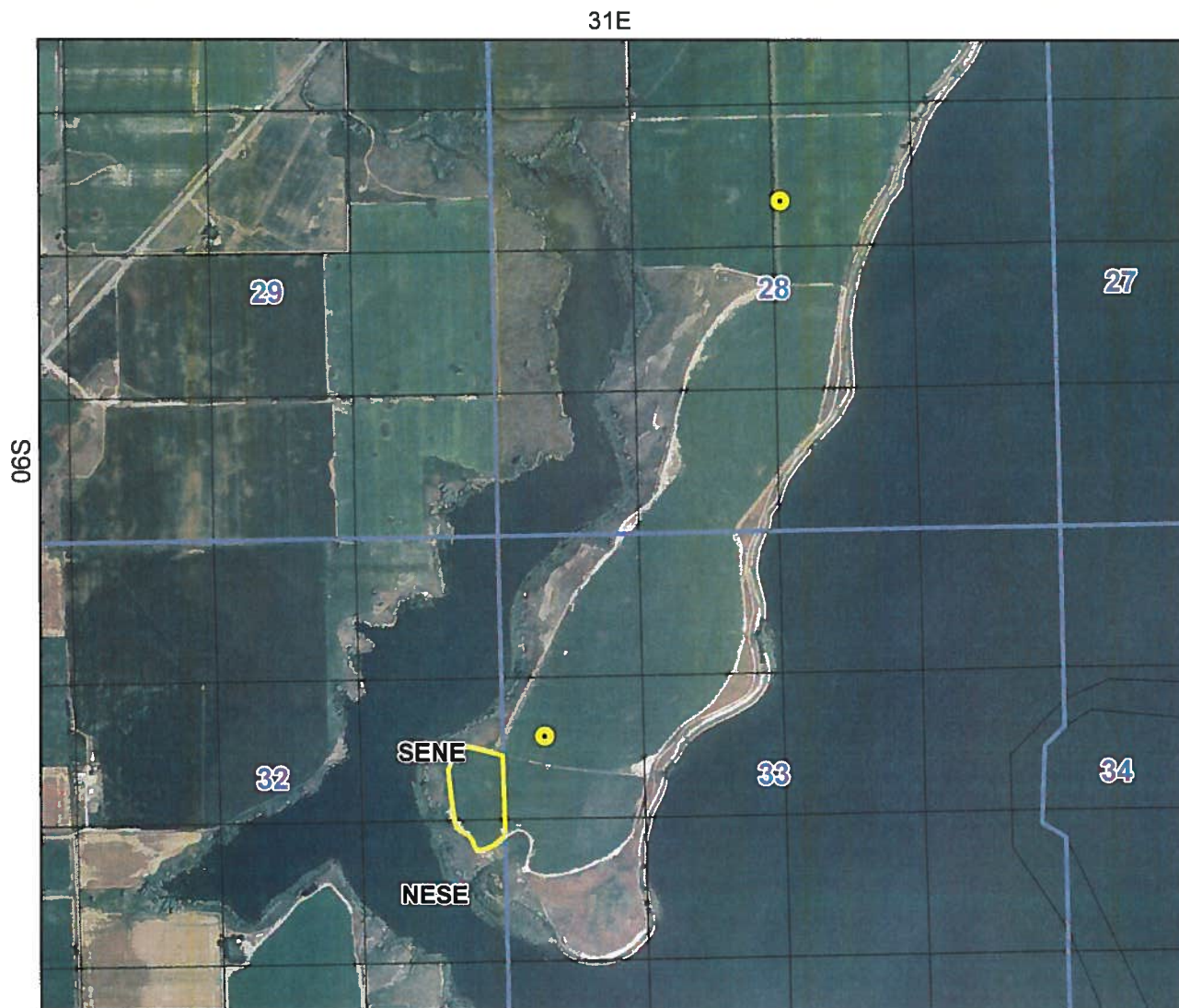
  
  
for GARY SPACKMAN  
Director

State of Idaho  
Department of Water Resources

# Attachment To Water Right License

35-13337

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.



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

0 0.2 0.4 0.8 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](http://www.idwr.idaho.gov)

C.L. "BUTCH" OTTER  
Governor

GARY SPACKMAN  
Director

September 10, 2014

H ALAN FUNK  
CONNIE G FUNK  
2065 S 2800 W  
ABERDEEN ID 83210

RE: License Nos. 35-13337 & 35-13338

**Issuance of Licenses**

Dear Water Right Holder(s):

The Department of Water Resources has 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)

cc: Water District No. 120

## **CERTIFICATE OF SERVICE**

I hereby certify that on September 11, 2014, I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDERS (Approved Licenses) to the person(s) listed below:

RE: WATER RIGHT NOS. 35-13337 & 35-13338

**CONNIE G FUNK  
2065 S 2800 W  
ABERDEEN ID 83210**

**H ALAN FUNK  
2065 S 2800 W  
ABERDEEN ID 83210**

**WATER DISTRICT NO.120  
JAMES CEFALO  
900 N SKYLINE DR STE A  
IDAHO FALLS ID 83402**



**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.