

State of Idaho
Department of Water Resources
Water Right License

WATER RIGHT NO. 67-7931

Priority: October 01, 1993

Maximum Diversion Volume: 20.0 AF

It is hereby certified that KERMIT L WIGGINS Or JOANA R WIGGINS
PO BOX 86
CAMBRIDGE ID 83610-0086 have complied with the terms and
conditions of the permit, issued pursuant to Application for Permit dated October 01, 1993; and have
submitted Proof of Beneficial Use on May 25, 2001. An examination confirms water is diverted from:

SOURCE

UNNAMED STREAM

Tributary: RUSH CREEK

and a water right has been established as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>ANNUAL DIVERSION VOLUME</u>
IRRIGATION STORAGE	01/01 to 12/31	20.0 AF
IRRIGATION FROM STORAGE	03/15 to 10/31	20.0 AF

LOCATION OF POINT OF DIVERSION:

UNNAMED STREAM SW1/4SE1/4 Sec. 10, Twp 15N, Rge 03W, B.M., WASHINGTON County

PLACE OF USE: IRRIGATION STORAGE

Twp Rge Sec	NE				NW				SW				SE				
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
15N 03W 10															X		

PLACE OF USE: IRRIGATION FROM STORAGE

Twp Rge Sec	NE				NW				SW				SE				
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
15N 03W 10									31.0						34.0	35.0	100.0

Total Acres: 100

CONDITIONS OF APPROVAL

1. 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. 67.
2. This right when combined with all other rights shall provide no more than 5.0 afa from storage.
3. Rights 67-4542, 67-14585, 67-14586, 67-14587, 67-14588, 67-14591, 67-14592, 67-7931 and 67-14405 when combined shall not exceed the irrigation of 100 acres.

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WATER RIGHT NO. 67-7931

4. No water flowing into the reservoir after June 15 of each year shall be stored but shall flow through the reservoir unless the right holder obtains prior approval from the watermaster.
5. Storage of water flowing into the reservoir after June 15 of each year in violation of this water right is cause for the director to cancel or revoke this water right.
6. Upon notification by the department, the right holder shall install and maintain: (a) measuring devices to allow the watermaster to measure amount of water entering the reservoir and released from the reservoir; and/or (b) install a lockable device and reservoir outlet works to provide the watermaster suitable control of the reservoir. Measuring devices and/or a lockable device and reservoir outlet works shall be of a type approved by the department.
7. The following rights are diverted through point of diversion described above: 67-7931 & 67-14405.
8. When ordered by the Director, the right holder shall provide mitigation acceptable to the Director to offset depletion of lower Snake River flows needed for migrating anadromous fish. The amount of water required for mitigation, which is to be released into the Snake River or a tributary for this purpose, will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this right. Any order of the Director issued in accordance with this paragraph shall be in conformance with applicable rules allowing the right holder due process as the need for mitigation and the amount of mitigation are determined.

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 20th day of June, 2014.


JOHN WESTRA
Western Regional Manager



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way • Boise, Idaho 83705-5082

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

June 23, 2014

KERMIT L WIGGINS
JOANA R WIGGINS
PO BOX 86
CAMBRIDGE ID 83610-0086

RE: License No. 67-7931

Issuance of License

Dear Water Right Holders:

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)334-2190.

Sincerely,



For:

John Westra
Western Regional Manager

Enclosures

CERTIFICATE OF SERVICE

I hereby certify that on June 23, 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.

67-7931

**JOANA R WIGGINS
PO BOX 86
CAMBRIDGE ID 83610-0086**

**KERMIT L WIGGINS
PO BOX 86
CAMBRIDGE ID 83610-0086**

**BRANDI S HORTON
WATER MASTER
2297 SNAPP LN
MIDVALE ID 83645**

A handwritten signature in black ink, reading "Rachel Sommer", is written over a horizontal line.

**Rachel Sommer
Administrative Assistant I**

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 739.02)

A preliminary order of the Department of Water Resources ("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 37.01-01305 (Rules of Procedure 302 and 305).

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.

Walker, Kay

From: Walker, Kay
Sent: Monday, May 12, 2014 2:46 PM
To: watermaster67@hotmail.com
Cc: Walker, Kay
Subject: Wiggins 67-7931 & 67-14405
Attachments: Draft 67-14405.pdf; Draft 67-7931.pdf; Wiggins memo.pdf

*no response -
kw 5/28/14
OK - JL 6/20/14*

Hi, Brandi!

We have prepared draft licenses for the "junior reservoir" up at Kermit Wiggins place. Attached you will find a review memorandum and the proposed draft licenses. Please note that Right No. 67-14405 is being licensed with the source of an "unnamed stream" rather than Rush Creek. We have explained the source clarification in the review memorandum.

We wanted to give you an opportunity to review these items and make any comments you may have before we finalize. Please review the attachments and call or e-mail any concerns or comments you have within the next 10 days. If we don't hear from you by May 27th we will assume that you are agreeable with the proposals and will route them for final action.

Thanks for your attention to this matter.

Kay Walker
Sr. Water Resource Agent
Western Region
334-2190

MEMORANDUM

TO: Permit Nos. 67-7931 & 67-14405

FROM: Kay Walker *KW*

RE: Field Exams and Proposed Licenses

Date: May 12, 2014

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While preparing to license Permit 67-14405 I noticed that this older permit was still pending licensing. I then pulled exam for 67-7931 to see if we could license them both at the same time.

It is found that Mr. Wiggins has developed a reservoir that can hold 37 acre feet of water. Permit No. 67-7931 was issued for storage of 20 acre feet of water. When dam safety went out to survey this dam (Wiggins #3) it was determined that he had built the dam larger than permitted. He was advised to file an additional application for permit to cover the additional storage in the reservoir. Mr. Wiggins then filed Application 67-14405 for storage of 50 acre feet in the same reservoir as 67-7931. Disregard examiner comments about allowing Rush Creek as a source, that is a misunderstanding of the record and what the permit allows as noted in 5/20/1996 database comments about deleting the Rush Creek exchange concept.

Permit 67-14405 was issued for same system but with the source of Rush Creek. There is no way for Rush Creek to get into this reservoir except indirectly through a waste ditch that collects waste water from other Rush Creek rights. The source on this permit should be clarified to show that this right is fed by the same source as 67-7931 which is an unnamed stream. This is the only way water can enter this reservoir and was the intention of the applicant at time of submittal since reservoir was already developed and in use when Application 67-14405 was submitted. This clarification is not an expansion and does not need an amendment.

Use of water from this reservoir only occurs when there is no water available from Rush Creek and older reservoirs known as Wiggins and Wiggins #2. This was determined by our field examiner when he was conducting exam for Permit 67-14405. This reservoir therefore should have no live flow components attached since it is not used to disperse any water except water that had been stored when there was waste water or spring runoff available. The irrigation use has been removed from both of the proposed licenses. It was also determined by dam safety that the reservoir can only hold 37 acre feet of water so the rights will be recommended for storage only with no refill water included in the proposals.

The place of use recommended for licensing covers 100 acres. This place of use was determined by arc map and land currently irrigated. In review of exam for 67-7931 it is noticed that only 85 acres were being recommended. When exam for 67-7931 was conducted Transfer No. 4148 was being processed and it created a 100 acre place of use for all of Mr. Wiggin's water rights. The proposed licenses will have slightly different amounts in each 40 than what was found under Transfer 4148. For example, we removed land out of the SW $\frac{1}{4}$ SE $\frac{1}{4}$ (where this new reservoir is located) and then added land surrounding the upper reservoirs that he irrigates, finding 100 acres. I believe this is the best solution since examiner found 100 acres on exam for permit 67-14405.

Mr. Wiggins has many water rights on his property but the live flow rights do not exceed an inch to the acre and the storage rights don't exceed 5 acre feet per acre. Therefore, I recommend we issue licenses for the water stored in new reservoir in SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 10, Twp. 15N, Rge. 3W, not to exceed 37 acre feet (20 acre feet for License 67-7931 & 17 acre feet for License 67-14404) as found by our dam safety files. See letters of 11/5/2002 & 9/29/2003 regarding the storage amount attached to the field exams.

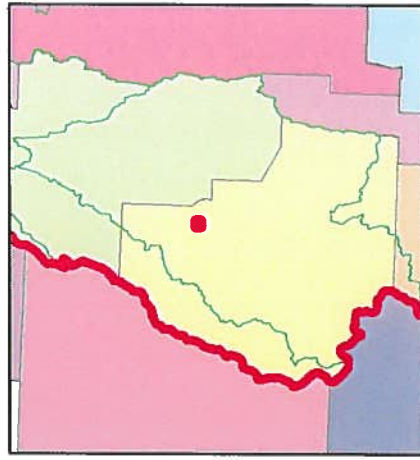


Idaho Department of Water Resources

Water Right
67-7931

(IRRIGATION FROM STORAGE)

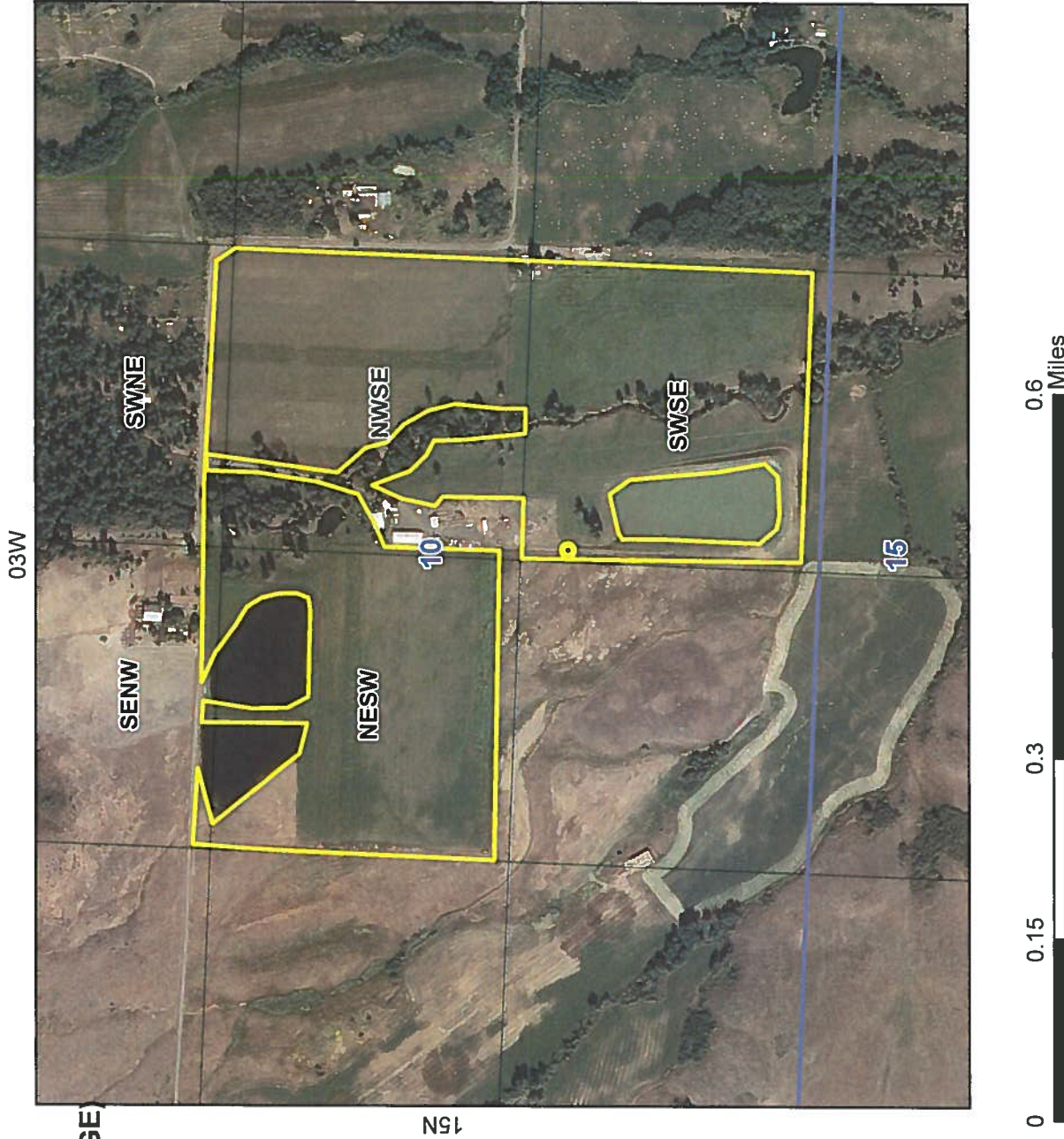
-  Point of Diversion
-  Place of Use
-  State Outline
-  Townships
-  PLS Sections
-  Quarter Quarters



Washington County
IDWR Basin 67

Prepared by Walker, Kay

2009 Aerial Photography





State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

September 29, 2003

Kermit Wiggins
P.O. Box 86
Cambridge, ID 83610

RECEIVED

OCT 03 2003

WATER RESOURCES
WESTERN REGION

RE: Wiggins No. 1 Dam (Storage Authorization)	D67-7704
Wiggins No. 2 Dam (Storage Authorization)	D67-7723
Wiggins No. 3 Dam (Storage Authorization)	D67-7931

Dear Mr. Wiggins:

In accordance with Title 42, Chapter 17, Idaho Code, and the Department's Certificate of Approval, which was issued in 2003, Wiggins Dams No. 1 - 3 have been inspected and determined to be safe to impound water. Storage is hereby authorized at the dams until November 1, 2005, and is subject to the following conditions that must be adhered to:

Wiggins No. 1 Dam:

- No obstructions of any kind shall be placed in the entrance to the spillway to artificially raise the reservoir level above the spillway crest.
- A minimum of 2.5 feet of freeboard shall be maintained on the dam embankment at all times.

Wiggins No. 2 Dam:

- Boards placed in front of the spillway pipe entrance shall not exceed a height of 1.0 ft (12 inches) above the spillway crest at any time.
- A minimum of 2.5 feet of freeboard shall be maintained on the dam embankment at all times.

Wiggins No. 3 Dam:

- The maximum reservoir elevation is restricted to one (1.0) foot below the crest elevation of the auxiliary earth channel spillway, elevation 110.2 ft, according to the Department's 10/29/2002 survey. The spillway pipe must be set with a crest elevation at or below elevation 110.2 ft.

The Department's recent inspection indicated the dams are in satisfactory condition. The following maintenance is necessary to keep the dam operating safely:

- Continue to spray/cut and remove large growth (pine seedlings, willows, brush, etc.) or regrowth from all parts of the embankments and along the downstream toe areas.
- Continue to control rodents and burrowing animal activity by eradicating them as necessary and eliminating their cover. All large burrows shall be backfilled with suitable soil material, compacted in place.

Kermit Wiggins
RE: D67-7704/7723/7931
Page 2

- Monitor the upstream slopes of the embankments for erosion/benching, particularly during periods when the reservoirs are at or near full pool. Problem areas should be regraded and filled with compacted granular fill and covered with rock riprap.
- Since the Department's last survey of Wiggins No. 3 Dam on October 29, 2002, the spillway pipe has been turned up so that the crest elevation of the pipe is now higher than the crest of the auxiliary earth channel spillway. The pipe must be turned down so that the maximum reservoir level is controlled by the pipe and does not exceed elevation 110.2 feet (1.0 ft below the crest of the earth channel spillway). This is required to keep the dam classified as a small dam, so that an engineering design is not required for construction of the dam.
- Your letter of March 12, 2002 indicated that the spillway pipe at Wiggins No. 2 Dam is approximately 6 inches lower than the pipe on the left (north) abutment of the dam, and that a board is used to keep the spillway at the same elevation to maximize storage in the reservoir. According to our survey of 4/16/2002, the elevation of the spillway pipe crest is 107.6 feet and the elevation of the culvert under the county road is 108.6 ft., which is 1.0 ft difference. The Department will allow you to put a board in front of the spillway pipe; however, it cannot extend more than 1.0 ft (12 inches) above the spillway pipe crest, refer to the conditions for Wiggins No. 2 Dam outlined above. At the time of inspection, the board in front of the spillway pipe was completely covering the entrance. **Therefore, you must immediately remove the board in front of the spillway pipe and replace it with a board that leaves at least the top 12 inches of the spillway pipe entrance visible.**

The Department will continue to examine your projects approximately every two years to evaluate their condition and the performance of maintenance, and an approval letter will be issued authorizing storage at the dams, if they are in satisfactory condition. You will be advised of the time of the inspection prior to re-examination, and you are encouraged to attend and participate.

Should you have any questions, please contact John Westra, phone 334-2190, in our Western Regional Office, or contact Mike Stubblefield, phone 327-7952, in the State Office in Boise.

Sincerely,



Guy E. Paul, P.E.
Chief, Resource Protection Bureau

✓cc: IDWR – Western Region



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

FAX (208) 334-2348

November 5, 2002

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

Kermit Wiggins
PO Box 86
Cambridge, ID 83610

+

RE: Wiggins #3 Reservoir Storage #67-7931

Dear Mr. Wiggins:

In reference to our 10/29 conversation at your ranch regarding the #3 Reservoir storage volume, I have reviewed the entire allocation file #67-7931 from the initial application to the license field examination. Enclosed are photocopies of the documents marked in numerical sequence as the following:

- #1-Original Application filed 10/1/93 for 1.0 cfs flow, 20 ac-ft storage, 260 ac. irrigation
The application was protested
- #2-Amended Application filed 5/17/96; acres irrigated were reduced to 100 ac, Rush Creek exchange concept was deleted, (see comment sheet).
- Protest Agreement is signed by parties 11/28/98
- #3-Permit to Appropriate Water is approved 6/3/99 for 1 cfs flow and 20 ac-ft of reservoir storage.
- #4-Proof of Beneficial Use Filed with the Department 5/25/01; \$175.00 fees paid, \$75.00 was refunded.
- License Field Exam completed by Lori Graves 8/6/01; recommended 1 cfs flow, 20 ac-ft storage. License is pending.

I would draw to your attention; the 20 ac-ft storage volume has not been modified/changed through the allocation process. Our recent reservoir volume survey reveal a storage volume of 37.0 ac-ft to the elevation of the new auxiliary spillway, (see attached survey sheets). **If you intend to store the 37 ac-ft volume, an Application for Permit must be submitted to the Department for the additional 17 ac-ft of storage.** Enclosed are the necessary forms and instructions needed. Please submit the completed application to the Department as soon as possible.

Kermit Wiggins
RE: D67-7931
Page 2.

Please be advised that storage of water in the reservoir is not authorized. I have informed the #67 District Watermaster and Department staff of the status. If upon inspection, there is water being stored in the reservoir, the Department will issue a notice of violation (NOV) in accordance with Idaho Code 42-1701B.

Should you have any questions or need assistance in filing the application, please contact me or Lori Graves at the Western Regional Office, phone 334-2190.

Sincerely,

A handwritten signature in cursive script that reads "John Westra".

John Westra
Western Region

Enclosure
cc: IDWR State Office
Bosco Bosler, Watermaster #67