

State of Idaho
Department of Water Resources
Water Right License

WATER RIGHT NO. 57-11630

Priority: July 15, 2003

Maximum Diversion Rate: 0.35 CFS
Maximum Diversion Volume: 30.3 AF

It is hereby certified that J & M CATTLE INC
12971 BAILEY RD
MELBA ID 83641 has complied with the terms and conditions of the
permit, issued pursuant to Application for Permit dated July 15, 2003; and has submitted Proof of
Beneficial Use on January 12, 2009. 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>
STOCKWATER	01/01 to 12/31	0.33 CFS	20.2 AF
COMMERCIAL	01/01 to 12/31	0.02 CFS	10.1 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER	L9 (NW1/4NE1/4)	Sec. 24,	Twp 01S,	Rge 03W, B.M.	OWYHEE County
GROUND WATER	L9 (NW1/4NE1/4)	Sec. 24,	Twp 01S,	Rge 03W, B.M.	OWYHEE County
GROUND WATER	L1 (NE1/4NE1/4)	Sec. 24,	Twp 01S,	Rge 03W, B.M.	OWYHEE County

PLACE OF USE: STOCKWATER AND COMMERCIAL

Twp Rge Sec	NE				NW				SW				SE				
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
01S 02W 19						X											
						L 1											
01S 03W 24	X	X															
	L 1	L 9															

CONDITIONS OF APPROVAL

1. 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.
2. The following rights are diverted through point(s) of diversion described above: 57-7392.
3. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.

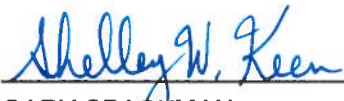
State of Idaho
Department of Water Resources
Water Right License

WATER RIGHT NO. 57-11630

4. Commercial use is for feedlot.
5. Rights 57-11630 and 57-7392 when combined for stockwater use shall not exceed a total diversion rate of 0.33 cfs, and a total annual maximum diversion volume of 21.4 af at the field headgate.

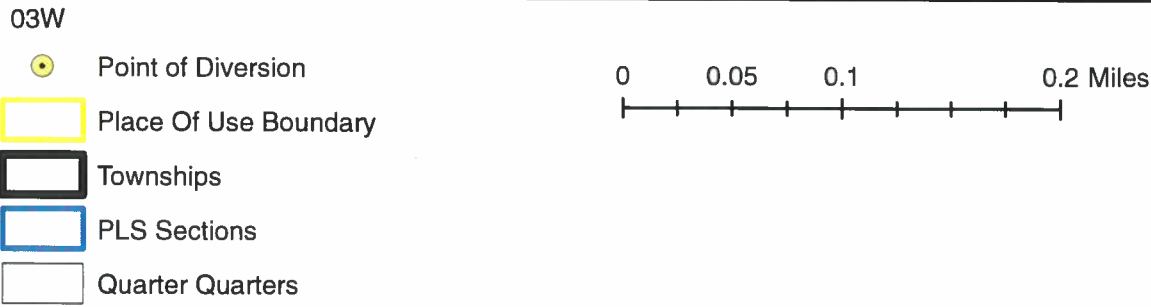
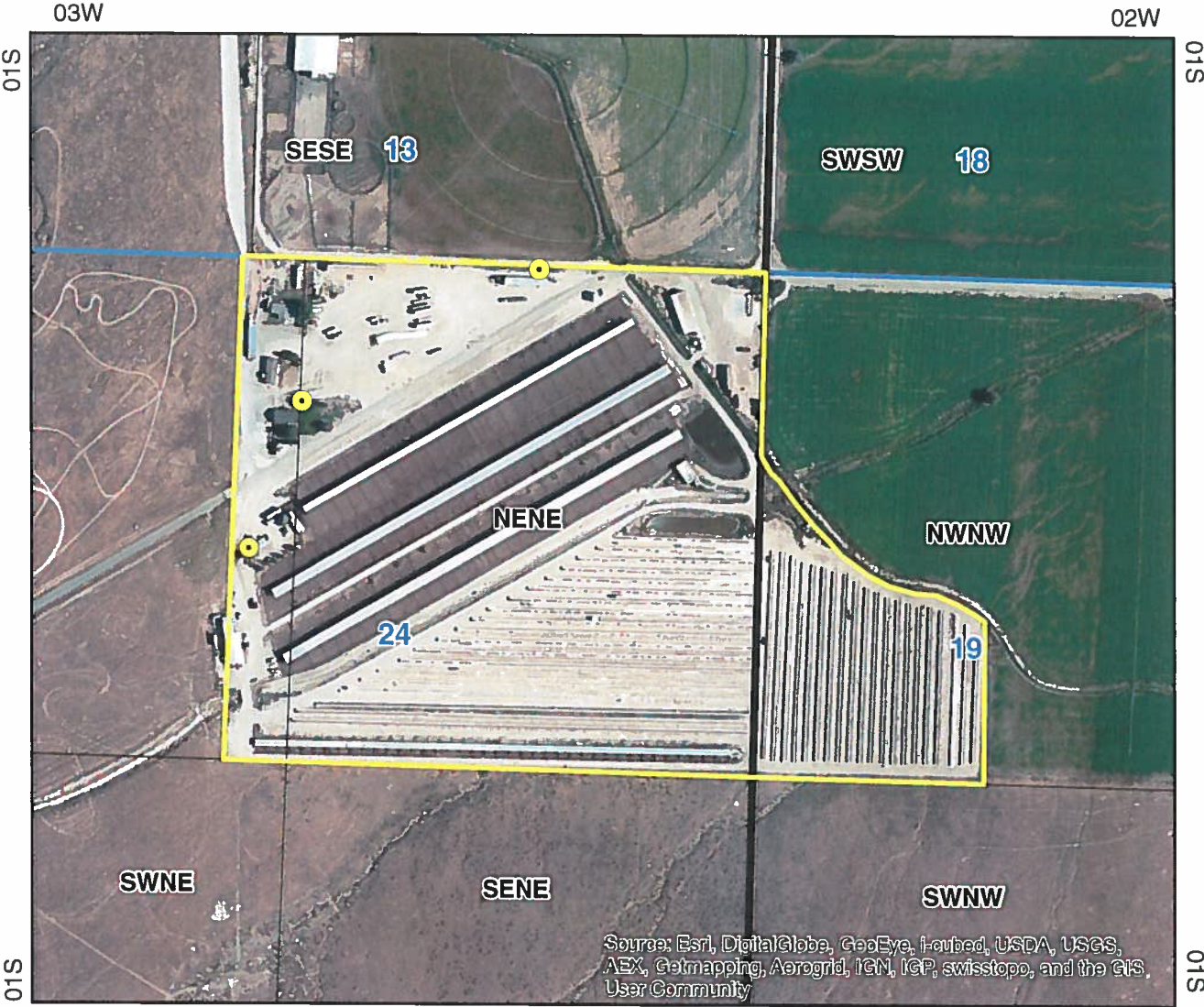
This license is issued pursuant to the provisions of Section 42-219, Idaho Code. The water right confirmed by this license is subject to all prior water rights and shall be used in accordance with Idaho law and applicable rules of the Department of Water Resources.

Signed this 11th day of February, 2014.


for GARY SPACKMAN
Director

State of Idaho
Department of Water Resources
Attachment To Water Right License
57-11630

This map depicts the STOCKWATER AND COMMERCIAL 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.





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

February 12, 2014

J & M CATTLE INC
12971 BAILEY RD
MELBA ID 83641

RE: License No. 57-11630

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. Also enclosed is a copy of the approved application for amendment.

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 208-287-4916.

Sincerely,

For Craig L. Saxton

Water Rights Supervisor

Enclosure(s)

cc: SPF WATER ENGINEERING LLC

CERTIFICATE OF SERVICE

I hereby certify that on February 13, 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.

57-11630

**J & M CATTLE INC
12971 BAILEY RD
MELBA ID 83641**

**SPF WATER ENGINEERING LLC
C/O SCOTT N KING
300 E MALLARD DR STE 350
BOISE ID 83706**



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.

State of Idaho
Department of Water Resources
APPLICATION FOR AMENDMENT

(For Licensing Purposes)

WATER RIGHT NO. 57-11630

RECEIVED
JAN 27 2014
DEPARTMENT OF
WATER RESOURCES

Date of Priority: July 15, 2003

Maximum Diversion Rate: 0.35 CFS
Maximum Diversion Volume: 30.3 AF

Comes now J & M CATTLE INC
12971 BAILEY RD
MELBA ID 83641

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. 57-11630, and requests that the permit be changed as follows:

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
STOCKWATER	01/01 to 12/31	0.33 CFS	20.2 AF
COMMERCIAL	01/01 to 12/31	0.02 CFS	10.1 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER	L9 (NW1/4NE1/4)	Sec. 24,	Twp 01S,	Rge 03W, B.M.	OWYHEE County
GROUND WATER	L9 (NW1/4NE1/4)	Sec. 24,	Twp 01S,	Rge 03W, B.M.	OWYHEE County
GROUND WATER	L1 (NE1/4NE1/4)	Sec. 24,	Twp 01S,	Rge 03W, B.M.	OWYHEE 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	
01S 02W 19						X											
01S 03W 24	X	X															
	L1	L9															

PLACE OF USE: COMMERCIAL

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 03W 24	X	X															
	L1	L9															

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 24 day of JANUARY, 2014.


(Signature)

State of Idaho
Department of Water Resources
APPLICATION FOR AMENDMENT

(For Licensing Purposes)
WATER RIGHT NO. 57-11630

FOR DEPARTMENT USE ONLY

Preliminary check by _____ Fee = \$100.00 _____ Received by CJ # C098229 Date 1/27/2014

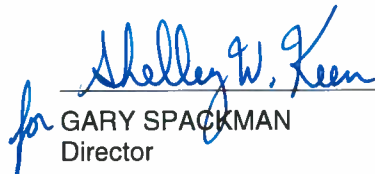
ACTION OF THE DEPARTMENT OF WATER RESOURCES

I, GARY SPACKMAN, of the Department of Water Resources hereby approve the
above Application for Amendment for Permit No. 57-11630 with the following:

CONDITIONS OF APPROVAL

1. 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.
2. The following rights are diverted through point(s) of diversion described above: 57-7392.
3. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.
4. Commercial use is for feedlot.
5. Rights 57-11630 and 57-7392 when combined for stockwater use shall not exceed a total diversion rate of 0.33 cfs, and a total annual maximum diversion volume of 21.4 af at the field headgate.

Witness my hand this 11th day of February, 2014.

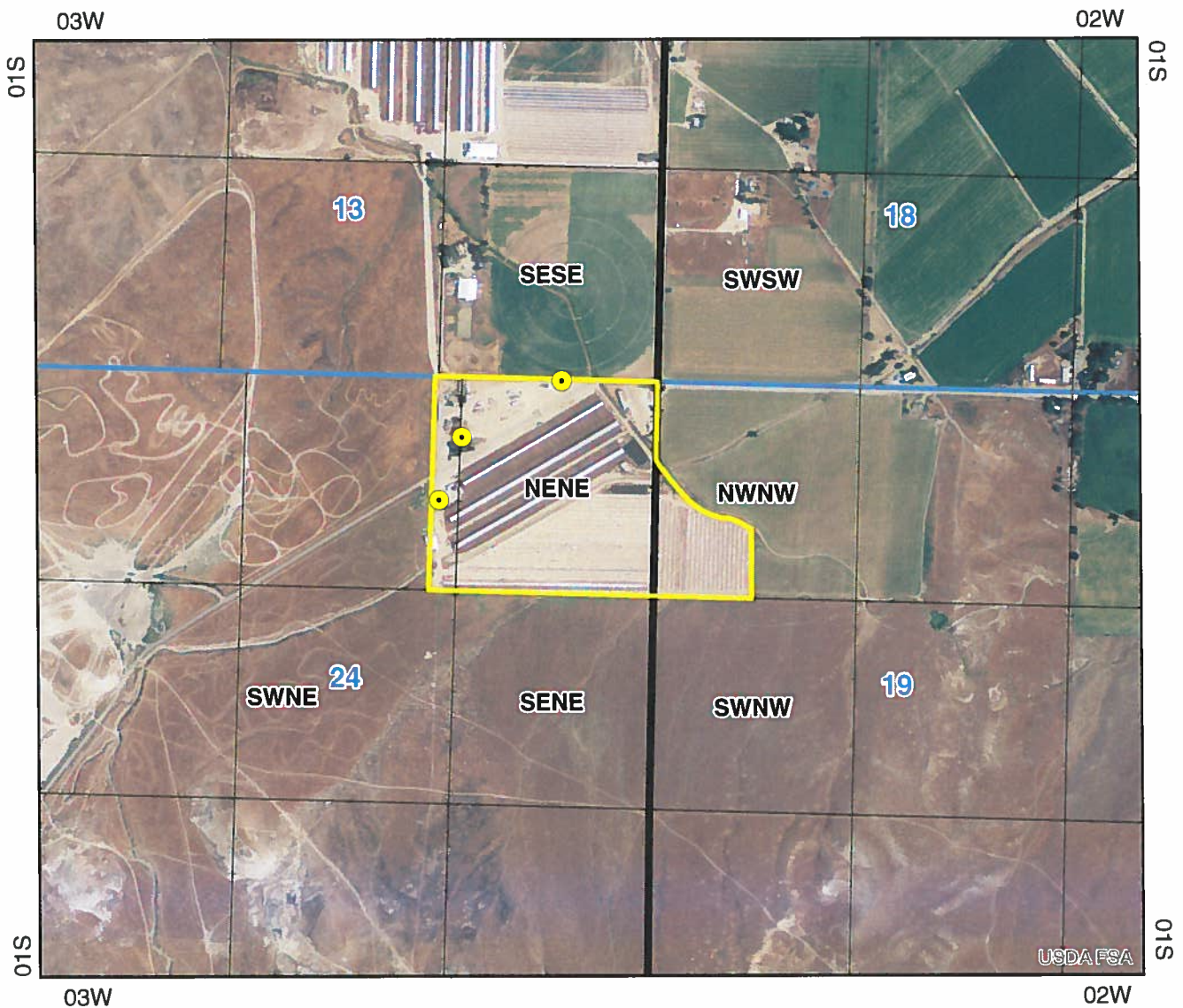

for GARY SPACKMAN
Director

State of Idaho
Department of Water Resources

Attachment For Amendment To Water Right License

57-11630

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 0.125 0.25 0.5 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 • Web Site: www.idwr.idaho.gov

GARY SPACKMAN
Director

C.L. "BUTCH" OTTER
Governor

January 17, 2014

J & M CATTLE INC.
c/o JOHN MORTENSON
12971 BAILEY ROAD
MELBA, ID 83641

RE: WATER RIGHTS 57-11630

Dear Mr. Mortenson:

The Department of Water Resources is reviewing the permits referenced above prior to issuing water right licenses. By issuing licenses, the Department confirms that water rights have been established in compliance with the terms of the permits. During my field examination of your water use I saw that the place(s) of use developed are in locations other than what was described on your permits. Additional Stockwater use is occurring in T01S R02W Section 19 NWNW. Therefore, before licenses can be issued, your permits must be amended to depict your water rights as they were actually developed.

The enclosed Application for Amendment forms depict the point(s) of diversion and place(s) of use and other information as they will appear on the licenses when they are issued. Please review the amendment forms carefully. If you concur with the information presented, please sign the forms and return them with the \$100.00 filing fee within 14 days.

Also, please note that some of the proposed conditions of approval and remarks may be modified upon further administrative review.

If you do not concur, or if you have any questions about this information, please contact me as soon as possible. My telephone number is 208-287-4915.

Sincerely,

Michael Ciscell
Senior GIS Analyst

Enclosures – Amended License and map