

State of Idaho
Department of Water Resources
Water Right License

WATER RIGHT NO. 65-13894

Priority: July 16, 1999

Maximum Diversion Rate: 60.00 CFS

It is hereby certified that STATE OF IDAHO
IDAHO WATER RESOURCE BOARD
322 E FRONT ST
PO BOX 83720
BOISE ID 83720-0098 has complied with the terms and
conditions of the permit, issued pursuant to Application for Permit dated July 16, 1999; and has
submitted Proof of Beneficial Use on May 19, 2009. A minimum stream flow in:

SOURCE

NORTH FORK PAYETTE RIVER

Tributary: PAYETTE RIVER

has been established as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL DIVERSION VOLUME</u>
MINIMUM STREAM FLOW	07/01 to 09/07	60.00 CFS	

LOCATION OF POINT(S) OF DIVERSION:

NORTH FORK PAYETTE RIVER SE1/4SE1/4 Sec. 36, Twp 21N, Rge 03E, B.M. VALLEY County
(Beginning of Reach)

NORTH FORK PAYETTE RIVER SE1/4SW1/4 Sec. 35, Twp 20N, Rge 03E, B.M. VALLEY County
(Ending of Reach)

CONDITIONS OF APPROVAL

1. The minimum stream flows authorized by this water right begin at Upper Payette Lake Dam in the SESE Section 36, T21N, R3E and extend downstream a total of 6.8 miles to the Box Creek confluence, all located within Valley County. The minimum stream flows are comprised of the following subreaches and flow rates:

Subreach A: 35 cfs from Upper Payette Lake Dam to the confluence with Pearl Creek in the SWNE Section 1, T20N, R3E.

Subreach B: 40 cfs from the confluence with Pearl Creek to the confluence with Brush Creek in the NWNE Section 23, T20N, R3E.

Subreach C: 48 cfs from the confluence with Brush Creek to the confluence with Fisher Creek in the SESW Section 26, T20N R3E.

Subreach D: 60 cfs from the confluence with Fisher Creek to the confluence with Box Creek in the SESW Section 35, T20N, R3E.

3. Upon future finding and order of the Director that gaging stations are required to maintain the approved minimum stream flow, the right holder shall permanently install and maintain gaging stations as specified by the Department.
2. Use of water under this right shall be non-consumptive.

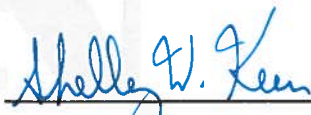
State of Idaho
Department of Water Resources
Water Right License

WATER RIGHT NO. 65-13894

4. Use of water under this right shall recognize and allow the continued beneficial diversion of water under any prior existing water right established by diversion and application to beneficial use or by an application, permit, or license on file or issued by the director under the provisions of Chapter 2, Title 42, Idaho Code, with a priority of water right earlier than July 16, 1999.
5. This minimum stream flow is for the protection of fisheries habitat including kokanee spawning, aquatic life in the river reach.
6. The minimum stream flows approved in this right cannot be exercised to require the release of water stored in Upper Payette Lake by Lake Reservoir Company.
7. The Idaho Water Resource Board, upon receiving a request, or upon its own initiative, may petition the Director for an amendment to this water right after complying with the notice and consultation procedures of Section 42-1507(4), Idaho Code. The petition must set forth any significant change in circumstances and evidence of the public interest supporting the proposed amendment. The Director will notify the general public and specific persons or notify interested parties of the proposed change, and conduct a hearing for the purpose of determining whether the water right should be amended in the public interest.
8. 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. 65, Payette River and tributaries.

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 and sealed this 31st day of December, 2013.

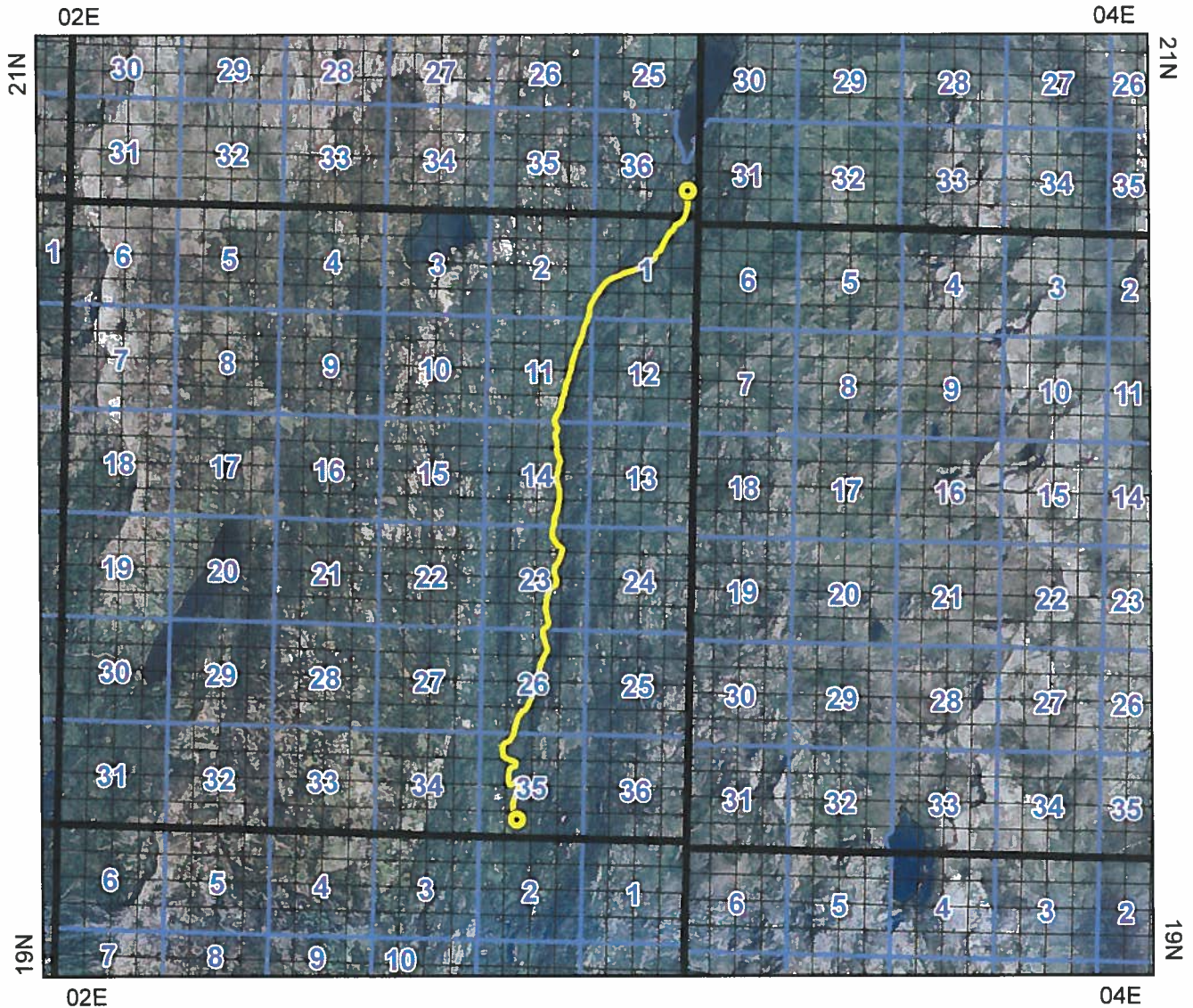

for GARY SPACKMAN
Director

State of Idaho
Department of Water Resources

Attachment To Water Right License

65-13894

This map depicts the MINIMUM STREAM FLOW 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 1 2 4 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

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

January 7, 2014

STATE OF IDAHO
IDAHO WATER RESOURCE BOARD
322 E FRONT ST
PO BOX 83720
BOISE ID 83720-0098

RE: License No. 65-13894

Issuance of License

Dear Water Right Holder:

The Department of Water Resources has issued the 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 208-287-4916.

Sincerely, —

Craig L. Saxton
Water Rights Supervisor

Enclosures

CERTIFICATE OF SERVICE

I hereby certify that on January 7, 2014, I hand delivered a true and correct copy of the foregoing PRELIMINARY ORDER (Approved License) to the person listed below:

RE: WATER RIGHT NO. 65-13894

**STATE OF IDAHO
IDAHO WATER RESOURCE BOARD
322 E FRONT ST
PO BOX 83720
BOISE ID 83720-0098**



**Emalee Rushing
Administrative Assistant II**

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. 65-13894

Date of Priority: July 16, 1999

Maximum Diversion Rate: 60.00 CFS
Maximum Diversion Volume:

Comes now STATE OF IDAHO
IDAHO WATER RESOURCE BOARD
322 E FRONT ST
PO BOX 83720
BOISE ID 83720-0098

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. 65-13894, and requests that the permit be changed as follows:

Source: NORTH FORK PAYETTE RIVER

Tributary: PAYETTE RIVER

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
MINIMUM STREAM FLOW	07/01 to 09/07	60.00 CFS	

LOCATION OF POINT(S) OF DIVERSION:

NORTH FORK PAYETTE RIVER SE1/4SE1/4 Sec. 36, Twp 21N, Rge 03E, B.M. VALLEY County
(Beginning of Reach)

NORTH FORK PAYETTE RIVER SE1/4SW1/4 Sec. 35, Twp 20N, Rge 03E, B.M. VALLEY County
(Ending of Reach)

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 20th day of DECEMBER, 2003.


(Signature)

FOR THE IDAHO WATER
RESOURCE BOARD

State of Idaho
Department of Water Resources
APPLICATION FOR AMENDMENT
(For Licensing Purposes)
WATER RIGHT NO. 65-13894

FOR DEPARTMENT USE ONLY

Preliminary check by DAN Fee = N/A Received by N/A # N/A Date 12-20-2013

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. 65-13894 with the following:

CONDITIONS OF APPROVAL

1. The minimum stream flows authorized by this water right begin at Upper Payette Lake Dam in the SESE Section 36, T21N, R3E and extend downstream a total of 6.8 miles to the Box Creek confluence, all located within Valley County. The minimum stream flows are comprised of the following subreaches and flow rates:

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Subreach D: 60 cfs from the confluence with Fisher Creek to the confluence with Box Creek in the SESW Section 35, T20N, R3E.

2. Use of water under this right shall be non-consumptive.
3. Upon future finding and order of the Director that gaging stations are required to maintain the approved minimum stream flow, the right holder shall permanently install and maintain gaging stations as specified by the Department.
4. Use of water under this right shall recognize and allow the continued beneficial diversion of water under any prior existing water right established by diversion and application to beneficial use or by an application, permit, or license on file or issued by the director under the provisions of Chapter 2, Title 42, Idaho Code, with a priority of water right earlier than July 16, 1999.
5. This minimum stream flow is for the protection of fisheries habitat including kokanee spawning, aquatic life in the river reach.
6. The minimum stream flows approved in this permit can not be exercised to require the release of water stored in Upper Payette Lake by Lake Reservoir Company.

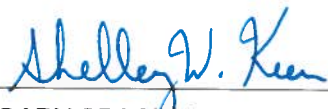
State of Idaho
Department of Water Resources
APPLICATION FOR AMENDMENT

(For Licensing Purposes)

WATER RIGHT NO. 65-13894

7. The Idaho Water Resource Board, upon receiving a request, or upon its own initiative, may petition the Director for an amendment to this water right after complying with the notice and consultation procedures of Section 42-1507(4), Idaho Code. The petition must set forth any significant change in circumstances and evidence of the public interest supporting the proposed amendment. The Director will notify the general public and specific persons or notify interested parties of the proposed change, and conduct a hearing for the purpose of determining whether the water right should be amended in the public interest.
8. 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. 65, Payette River and tributaries.

Witness my hand this 31st day of December, 2013.

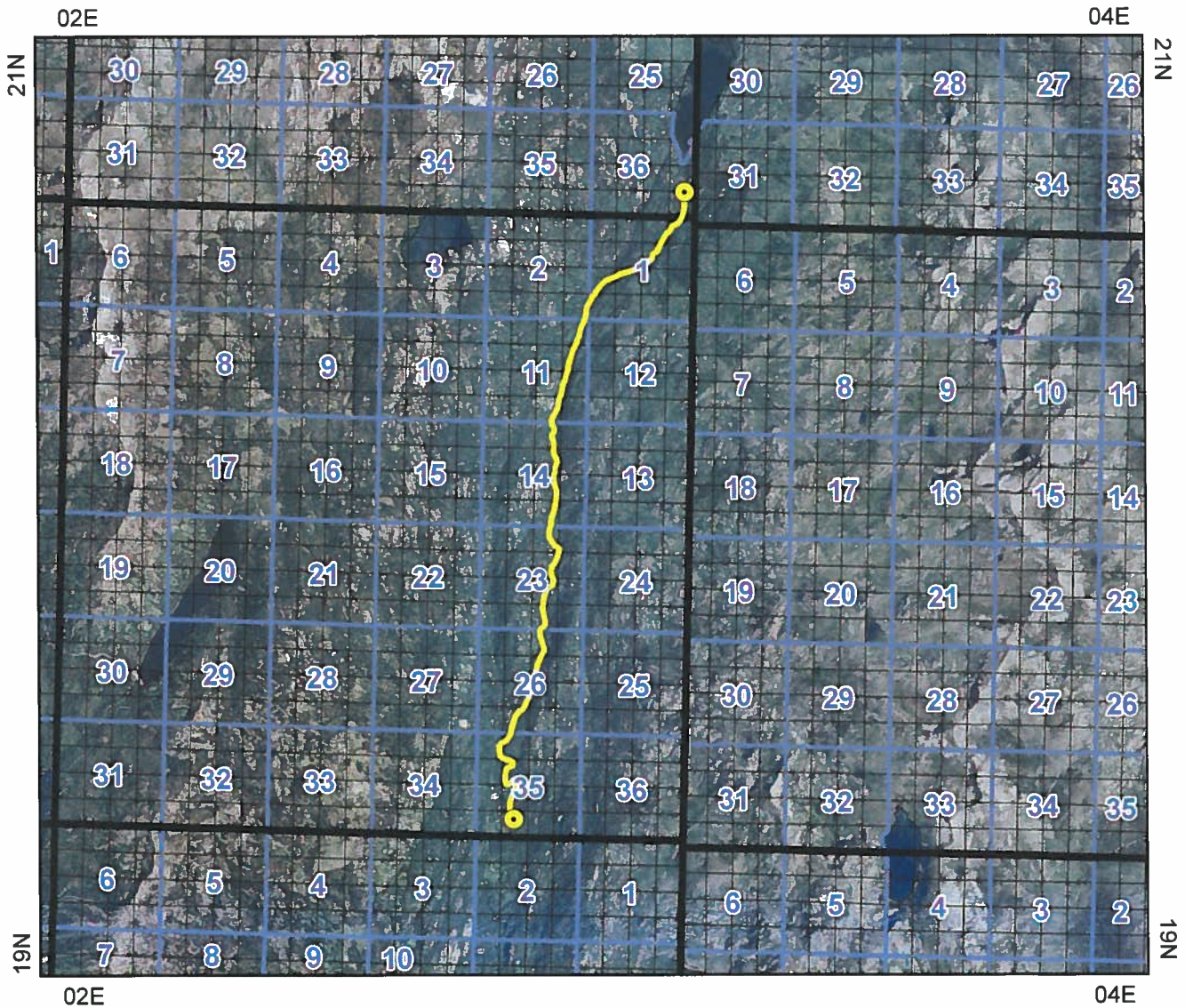

for GARY SPACKMAN
Director

State of Idaho
Department of Water Resources

Attachment For Amendment To Water Right License

65-13894

This map depicts the MINIMUM STREAM FLOW 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 1 2 4 Miles





State of Idaho

DEPARTMENT OF WATER RESOURCES

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C.L. "BUTCH" OTTER

Governor

GARY SPACKMAN

Director

12/17/2013

STATE OF IDAHO
IDAHO WATER RESOURCE BOARD
322 E FRONT ST
PO BOX 83720
BOISE ID 83720-0098

RE: Water Right Permit No. 65-13894

Dear Permit Holder(s):

The Department of Water Resources is reviewing the permit referenced above prior to issuing a water right license. By issuing a license, the Department confirms the extent of development that has been established in compliance with the terms of the permit. The examiner who verified your water use reported that certain elements of the permit have been developed differently than described on your permit. Changes that do not increase the authorized use of water under the permit can be requested and approved in accordance with Section 42-211, Idaho Code. Before a license can be issued, your permit must be amended to depict your water use as it was actually developed.

Based on the examiner's report, the following elements were developed differently than described on your permit:

☒ **Point(s) of Diversion**

☐ **Place(s) of Use**

☐ **Other**

The enclosed Application for Amendment form depicts the elements of the water right as they will appear on the license when it is issued. Please review the amendment form carefully. If you concur with the information presented, please sign the form and return it with the \$100.00 filing fee within 14 days.

If you have any questions, please call me at 208-287-4915.

Sincerely,

Michael Ciscell

Senior GIS Analyst

Enclosure(s)