



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.J. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

August 9, 2013

UNITED STATES OF AMERICA ACTING THROUGH
USDI BUREAU OF LAND MANAGEMENT
IDAHO STATE OFFICE
1387 S VINNELL WAY
BOISE ID 83709-1657

RE: License No. 61-7498

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 208-287-4916.

Sincerely,

Craig L. Saxton

Water Rights Supervisor

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on August 9, 2013, 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.

61-7498

**UNITED STATES OF AMERICA ACTING THROUGH
USDI BUREAU OF LAND MANAGEMENT
IDAHO STATE OFFICE
1387 S VINNELL WAY
BOISE ID 83709-1657**



**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
Water Right License

WATER RIGHT NO. 61-07498

Priority: July 08, 1983

Maximum Diversion Volume: 1.2 AF

It is hereby certified that UNITED STATES OF AMERICA ACTING THROUGH
USDI BUREAU OF LAND MANAGEMENT
IDAHO STATE OFFICE
1387 S VINNELL WAY
BOISE ID 83709-1657 has complied with the terms and
conditions of the permit, issued pursuant to Application for Permit dated July 08, 1983; and has
submitted Proof of Beneficial Use on July 08, 1983. An examination confirms water is diverted from:

SOURCE

UNNAMED STREAM

Tributary: SINKS

and a water right has been established as follows:

BENEFICIAL USE

PERIOD OF USE

**ANNUAL
DIVERSION VOLUME**

WILDLIFE STORAGE

01/01 to 12/31

1.2 AF

STOCKWATER STORAGE

01/01 to 12/31

1.2 AF

LOCATION OF POINT(S) OF DIVERSION:

UNNAMED STREAM SW $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 8, Twp 04S, Rge 07E, B.M. ELMORE County

PLACE OF USE: STOCKWATER AND WILDLIFE 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
04S	07E	8			X														

CONDITIONS OF APPROVAL

1. BLM RECORD ID = 6101688132

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 8th day of August, 2013.

For Gary L. Spackman
GARY SPACKMAN
Director

MEMO

TO: File 61-7498

FROM: CPalmer

DATE: 8/6/2013

RE: Licensing Review Memo

Background Information: On November 3, 2010, I sent a letter to the permit holder requesting that they relinquish this permit as recommended by the field examiner. The field examiner noted that there was no additional beneficial use above and beyond what water right 61-7128 provided. At the time the permit holder didn't want to relinquish the permit because they wanted to wait for the outcome of the adjudication. It turns out that the permit holder never filed a claim for 61-7128 and it became disallowed. At this point I will proceed with licensing this permit since the pond is no longer covered by any other water rights. Note that the permit holder will need to acquire another permit in order to cover the entire reservoir.

Point of Diversion and Place of Use: The point of diversion and place of use were developed as permitted. The reservoir is on stream so no diversion to storage component is necessary.

Volume: The volume will be licensed up to the permitted volume of 1.2 af. It appears that the reservoir can impound 80 af.

Note that I have attached the examination for water right 61-7128 as I could not locate the field report for this permit. Ultimately, they should be duplicative.

To be consistent with current practice, the stock from storage & wildlife from storage are unnecessary components. The wildlife and stock drink directly from reservoir.

-cp

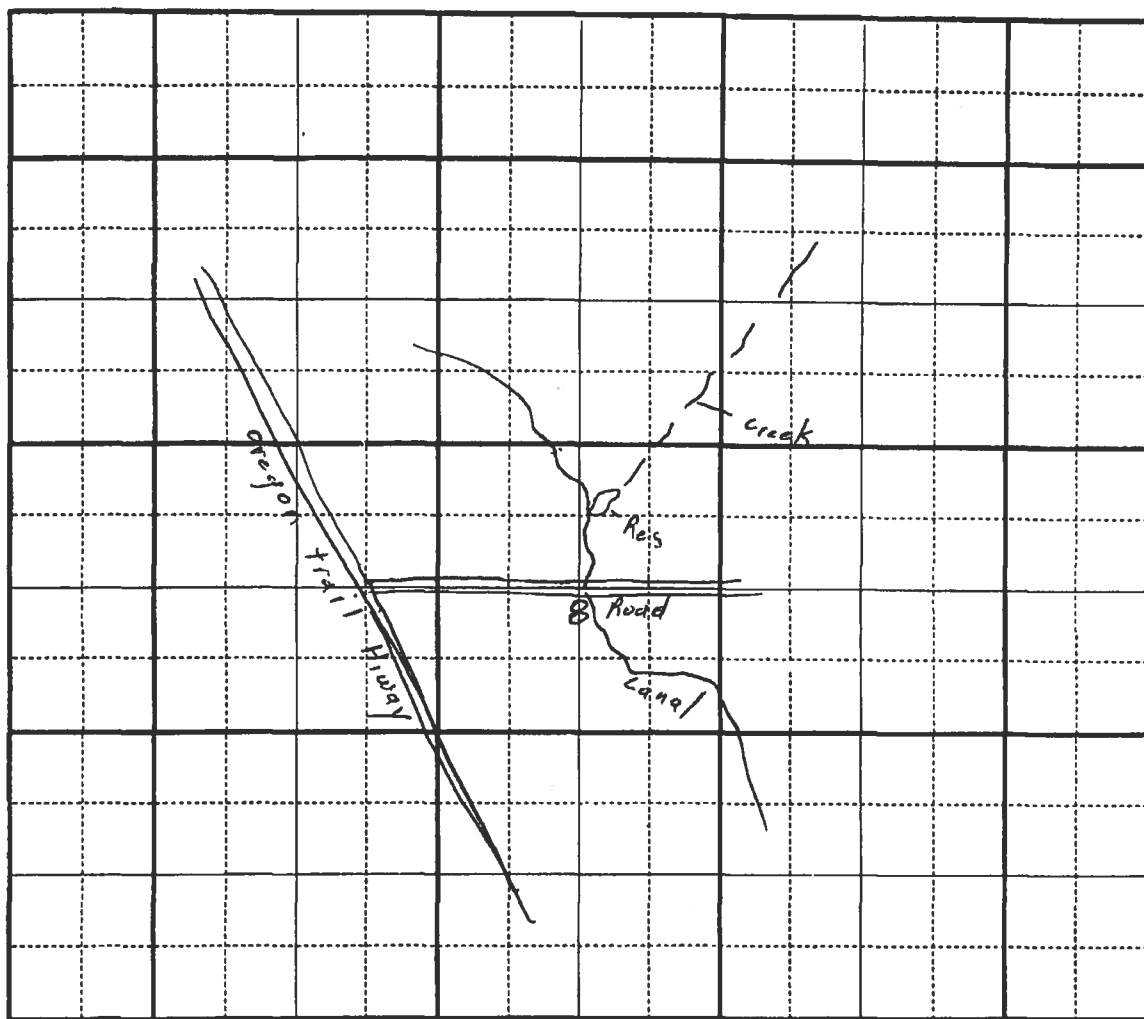


Diagram of System

DATE OF EXAM 8/4/75

ACREAGE
Found None
Recommended None

Irrigation Requirement None Ac Ft/Ac

USE
Irrigation Q = _____ c.f.s. V = _____ AF/Ann. from _____ to _____
Domestic Q = _____ c.f.s. V = ~~20~~ AF/Ann. from _____ to _____
Livestock Q = _____ c.f.s. V = 20 AF/Ann. from 4/1 to 12/15

Is water co-mingled? yes _____ no ☒

Name source _____
Twp _____ N/S, Rge _____ E/W, B.M., Sec. _____, Sub. _____ 1/4 _____ 1/4 _____
County _____

Exchange? yes _____ no ☒

Name source exchanged with: _____
Twp _____ N/S, Rge _____ E/W, B.M., Sec. _____, Sub. _____ 1/4 _____ 1/4 _____
County _____

Point of injection:
Twp _____ N/S, Rge _____ E/W, B.M., Sec. _____, Sub. _____ 1/4 _____ 1/4 _____
County _____

Point of exchange
Twp _____ N/S, Rge _____ E/W, B.M., Sec. _____, Sub. _____ 1/4 _____ 1/4 _____
County _____

Total Q measured None Method of measurement None

Total Q recommended _____ Meter No. _____ Type _____ Condition _____

Total V recommended _____

Recommended Amendments:

P.D. _____
Place of Use _____
Other _____
None None

MEASUREMENT CALCULATION

None Don't know the actual capacity of the
Res. Hard to tell how much water was actually stored

SYSTEM DESCRIPTION

Small Res. located in the NWNE Sec. 8 T4S R7E next
to East Side Canal. Canal bank is used for the dam
portion of the Small Res. When I was there the
Res. was about 90ft long and 60ft wide and
just a foot or two at the dam end no water
was flowing in.

REMARKS

From a ditch out of the East side canal or possibly
the canal to looked as though water could be
dumped into the Res. from the canal. No livestock
was present but appeared to use the Res.

Examiner's Signature J. L. Shuler Date 10/24/75

Checked by JLS Date 10-30-75

Approved by _____ Date _____