

State of Idaho
Department of Water Resources

AMENDED**Water Right License****AMENDED**

WATER RIGHT NO. 51-12983

Priority: December 13, 2002

Maximum Diversion Rate: 0.05 CFS
Maximum Diversion Volume: 5.0 AF

It is hereby certified that BERT BRACKETT
FLAT CREEK RANCH
ROGERSON ID 83302 has complied with the terms and conditions of the
permit, issued pursuant to Application for Permit dated December 13, 2002; and has submitted Proof of
Beneficial Use on April 22, 2008. An examinations confirms water is diverted from:

SOURCE

PENCE SPRING

Tributary: LITTLE SPRING CREEK

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>
DIVERSION TO STORAGE	01/01 to 12/31	0.05 CFS	
STOCKWATER STORAGE	01/01 to 12/31		5.0 AF
FIRE PROTECTION	01/01 to 12/31	0.05 CFS	
FIRE PROTECTION STORAGE	01/01 to 12/31		5.0 AF
FIRE PROTECTION FROM STORAGE	01/01 to 12/31		5.0 AF
STOCKWATER FROM STORAGE	01/01 to 12/31		5.0 AF

LOCATION OF POINT(S) OF DIVERSION:

PENCE SPRING SW1/4NE1/4NE1/4Sec. 26, Twp 15S, Rge 10E, B.M. OWYHEE County

PLACE OF USE: STOCKWATER STORAGE AND FIRE PROTECTION 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
13S 09E 24															X		

PLACE OF USE: FIRE PROTECTION AND FIRE PROTECTION 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
13S 09E 24											X						

State of Idaho
Department of Water Resources
Water Right License

WATER RIGHT NO. 51-12983

PLACE OF USE: STOCKWATER FROM STORAGE

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
11S 08E 10				X													
11S 08E 15		X															
11S 08E 25		X															
11S 08E 26		X									X						
11S 08E 28													X				
11S 08E 34												X					
11S 09E 18									X								
11S 09E 31					X												
12S 08E 1		X															
12S 08E 10		L 2 X															
12S 08E 11								X									
12S 08E 12	X																
12S 08E 13								X									
12S 08E 26	X																
12S 08E 35																X	
12S 09E 6				X													
12S 09E 30								X									
12S 09E 32													X				
12S 09E 35		X															
12S 10E 32								X									
13S 09E 2				X		X											
13S 09E 8									X								
13S 09E 9				X						X			X				
13S 09E 13										X			X				
13S 09E 23								X									
13S 10E 4														X			
														L 12			

State of Idaho
Department of Water Resources
Water Right License

WATER RIGHT NO. 51-12983

13S 10E 6				X L6	
13S 10E 9		X			X
13S 10E 18			X		X
13S 10E 19		X			
13S 10E 20		X			
13S 10E 22	X				

CONDITIONS OF APPROVAL

1. Rights 51-12895A, 51-12896A, 51-12897A, 51-12898A, 51-12957 and 51-12983 when combined shall not exceed a total diversion rate of 0.23 cfs.
2. Right 51-12895A, 51-12896A, 51-12897A, 51-12898A, and 51-12957 are also diverted through the point(s) of diversion described above.
3. 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.
4. Water shall not be diverted for fire protection use or from fire protection storage except to fight or repel an existing fire.
5. 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.

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 12th day of August, 2013.

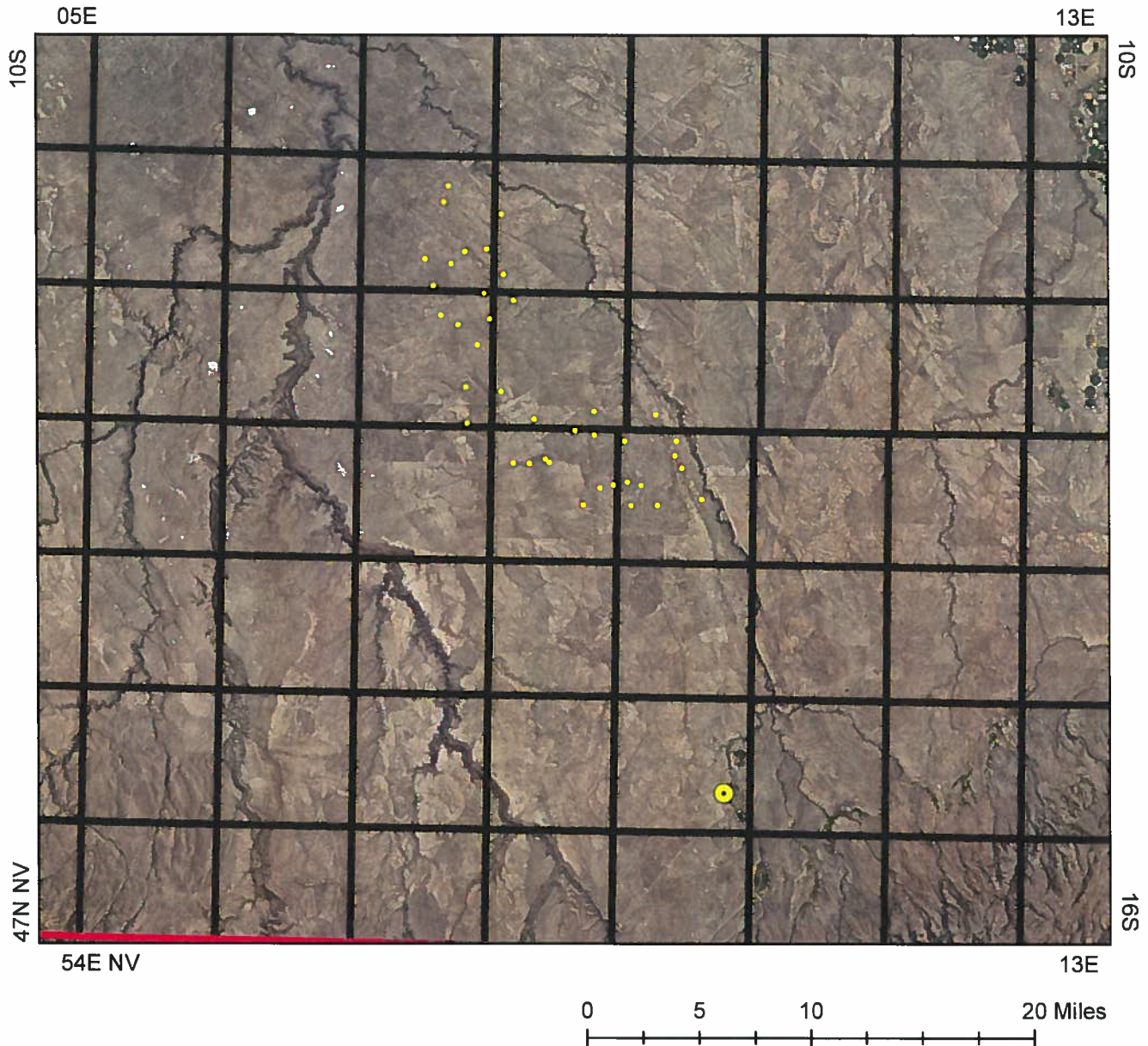

GARY SPACKMAN
Director

State of Idaho
Department of Water Resources

Attachment To Water Right License

51-12983

This map depicts the STOCKWATER FROM STORAGE 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





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

August 13, 2013

BERT BRACKETT
FLAT CREEK RANCH
ROGERSON ID 83302

RE: License No. 51-12983

License Approval Notice

Dear Permit Holder:

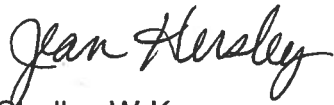
The Department of Water Resources has issued the enclosed Water right License on August 12, 2013. Please be sure to thoroughly review every element including the conditions of approval listed on your license.

The license is a FINAL ORDER issued by the Department pursuant to Section 67-5246 OR 67-5247, Idaho Code. The final order replaces the preliminary order issued on July 1, 2013. Unless otherwise provided by statute or rule, any party may file a petition for reconsideration of any order issued by the agency head within fourteen (14) days of the date of this order as described in the enclosed information sheet.

Also, 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 208-287-4947.

Sincerely,


for Shelley W Keen
Water Rights Section Manager

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on August 14, 2013 I mailed a true and correct copy, postage prepaid, of the foregoing FINAL ORDER(Approved License) to the person(s) listed below:

RE: WATER RIGHT NO.

51-12983

**BERT BRACKETT
FLAT CREEK RANCH
ROGERSON ID 83302**

A handwritten signature in cursive script, reading "Jean Hersley", is written over a horizontal line.

Jean Hersley

Technical Records Specialist II

EXPLANATORY INFORMATION TO ACCOMPANY A FINAL ORDER

(Required by Rule of Procedure 740.02)

The accompanying order is a "**Final Order**" issued by the department pursuant to section 67-5246 or 67-5247, Idaho Code.

Section 67-5246 provides as follows:

- (1) If the presiding officer is the agency head, the presiding officer shall issue a final order.
- (2) If the presiding officer issued a recommended order, the agency head shall issue a final order following review of that recommended order.
- (3) If the presiding officer issued a preliminary order, that order becomes a final order unless it is reviewed as required in section 67-5245, Idaho Code. If the preliminary order is reviewed, the agency head shall issue a final order.
- (4) Unless otherwise provided by statute or rule, any party may file a petition for reconsideration of any order issued by the agency head within fourteen (14) days of the service date of that order. The agency head shall issue a written order disposing of the petition. The petition is deemed denied if the agency head does not dispose of it within twenty-one (21) days after the filing of the petition.
- (5) 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.
- (6) A party may not be required to comply with a final order unless the party has been served with or has actual knowledge of the order. If the order is mailed to the last known address of a party, the service is deemed to be sufficient.
- (7) A non-party shall not be required to comply with a final order unless the agency has made the order available for public inspection or the nonparty has actual knowledge of the order.

(8) The provisions of this section do not preclude an agency from taking immediate action to protect the public interest in accordance with the provisions of section 67-5247, Idaho Code.

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a final order within fourteen (14) days of the service date of this order as shown on the certificate of service. **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 67-5246(4) Idaho Code.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, any party aggrieved by a final order or orders previously issued in a matter before the department may appeal the final order and all previously issued orders in the matter 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: a) of the service date of the final order, b) the service date of an order denying petition for reconsideration, or c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration, whichever is later. See section 67-5273, Idaho Code. The filing of an appeal to district court does not in itself stay the effectiveness or enforcement of the order under appeal.