



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

August 5, 2013

US DEPT OF AGRICULTURE
FOREST SERVICE
SALMON-CHALLIS NATIONAL FOREST
1206 S CHALLIS ST
SALMON ID 83467

RE: License Nos. 75-7581 & 75-7582

Issuance of Licenses

Dear Water Right Holder(s):

The Department of Water Resources has issued the enclosed Water Right Licenses confirming that water rights have been established in accordance with your permit. Please be sure to thoroughly review the conditions of approval and remarks listed on your licenses.

The licenses are PRELIMINARY ORDERS issued by the Department pursuant to section 67-5243, Idaho Code. They can and will become final orders 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 6, 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 NOS.

75-7581 & 75-77582

**US DEPT OF AGRICULTURE
FOREST SERVICE
SALMON-CHALLIS NATIONAL FOREST
1206 S CHALLIS ST
SALMON ID 83467**



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. 75-07582

Priority: May 07, 1992

Maximum Diversion Rate: 0.04 CFS
Maximum Diversion Volume: 0.6 AF

It is hereby certified that US DEPT OF AGRICULTURE
FOREST SERVICE
SALMON-CHALLIS NATIONAL FOREST
1206 S CHALLIS ST
SALMON ID 83467 has complied with the terms and conditions of the
permit, issued pursuant to Application for Permit dated May 07, 1992; and has submitted Proof of
Beneficial Use on August 09, 1993. An examination confirms water is diverted from:

SOURCE

BEAR WALLOW SPRING

Tributary: CORRAL CREEK

and a water right has been established as follows:

BENEFICIAL USE
STOCKWATER

PERIOD OF USE
06/01 to 09/30

DIVERSION RATE
0.04 CFS

**ANNUAL
DIVERSION VOLUME**
0.6 AF

LOCATION OF POINT(S) OF DIVERSION:

BEAR WALLOW SPRING NE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 33, Twp 26N, Rge 20E, B.M. LEMHI County

PLACE OF USE: STOCKWATER

Twp Rge Sec	NE				NW				SW				SE				
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
26N 20E 33					X												

CONDITIONS OF APPROVAL

1. Place of use is located within the Bear Wallow Water Development.
2. Forest Service Record ID = 0413 17060203 23 0023
3. Rights 75-7582 and 75-13926 when combined shall not exceed a total diversion rate of 0.04 cfs.

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 5th day of August, 2013.


GARY SPACKMAN
Director

Comment Report

75-7582

1. csaxton 8/2/2013 Volume

Comment: $140 \text{ head} = (\# \text{ of head})(0.0134) = 1.9 \text{ Af per year}$. But the season of use is 122 days. So $(1.9 \text{ Af}/365 \text{ days}) * 122 = 0.6 \text{ AF}$

2. csaxton 8/2/2013 Overlap

Comment: This right authorizes the diversion of water to a trough from the same spring that is the source of water for water right 75-13926 which is not diverted and is essentially and instream stock water right that was decreed in the Snake River Basin Adjudication.

Favreau, Danielle

From: Spencer, Steven M -FS [sspencer@fs.fed.us]
Sent: Thursday, July 05, 2012 4:07 PM
To: Favreau, Danielle
Subject: FW: 75-07582 vs 75-13926
Attachments: 75-07582 Photo.jpg

Danielle,

It was good to chat with you a few moments ago. This is the last message I send to Cody. Others will follow as I work back through my 'sent' messages. What Cody requested was photos to confirm that the trough (or pond) had been constructed. These were field checked by FS personnel usually in 1995, 1996 and 1997. Collecting GPS coordinates back then was not routine. For example, when I did my field verifications in Basin 33 two of us went out each day to different sites. However, we only had on GPS unit on the district shared by a dozen people.

As we talked, the historic beneficial use claim for this spring with the 1885 priority date is considered to be for the spring, where livestock have watered since the first critters were herded up onto the mountains. The 'cows lips' were determined to be the diversion for these water rights in the SRBA. Then 107 years later when the trough was constructed with an actual diversion to provide a cleaner and more accessible place to water an Application For Permit was filed. So they are really two individual uses with individual histories in close proximity.

After you have a chance to ponder this please let me know if you have any questions.

Thank you.

From: Spencer, Steven M -FS
Sent: Monday, June 11, 2012 9:41 AM
To: Allen, Cody (Cody.Allen@idwr.idaho.gov)
Subject: 75-07582 vs 75-13926

Cody,

These two also have the same POD and POU. As in other similar instances Decree 75-13926 would be for the historic use at the spring with the 1885 priority date while Permit 75-07582 is for the trough constructed in 1992. Other information I have for the attached page with photo from 1996 is that the trough is 25 yards from the spring. This compares favorably with the map associated with the application and permit I see on the Department's site.

These appear to be two separate uses of water with the decree based on historic beneficial use at the spring and the permit based on the 1992 construction of the trough away from the spring.

If you have any questions about this matter please let me know.

Thank you.

Steve Spencer
USDA Forest Service
1805 Hwy 16 Rm 5
Emmett, ID 83617

Phone: 208-365-7055
Email: sspencer@fs.fed.us

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Slate ID: 75 7582

Forest Service ID: 4 131706020 23 0 0023 0

RAMIS #: _____

Source: BEAR WALLOW SPR

Trib: COPRAL CR

Purpose: Stockwater

Division: ~~Headbox~~ ^{com 80}

Priority Date: 6/ 1/1887

Quantity 0.02 cfs

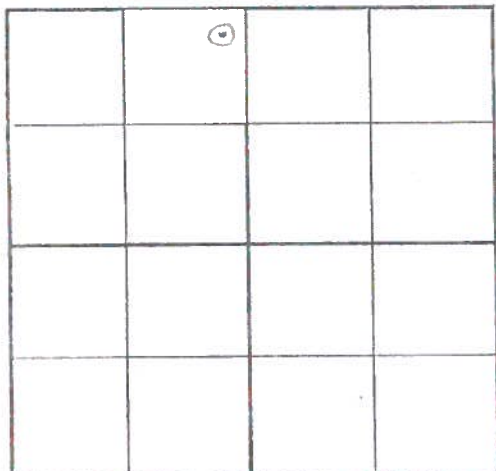
Livestock: 140 Cattle

Allotment: 207

Claimed / Permitted

Quad ID: 5

Point of Diversion: T: 26 N R: 20 E S: 33 NENW



GPS Used: Lat: _____ Long: _____

Point of Use: T: 26 N R: 20 E S: 33 NENW

GPS Used: Lat: _____ Long: _____

Aerial Photo #: _____

Date: _____

Description of Improvements: Pipe length, Trough Dimensions, Dam height length, Ac, ft.

Flow: _____ GPM / CFS

Method: _____

Date Site Visited: 17 July 96

Photo Date: 17 July 96

Who Visited Site

Responsible Official/Supervisor



Confidential: Attorney -- Client and Work Product Privileged

In-office/Field Examination Report

A. GENERAL INFORMATION

Exam/Review Date: _____

1. Is the Owner of record correct (y/n): Y

If **NO**: Owner: _____

Is the Address of record correct (y/n): Y

If NO: Address: 1206 S. Chello's st.

Open Info Search, enter the permit number, and then use the ArcMap interface to bring up the POU/POD on ArcMap. Check the Taxlot information to see if it matches the permit or proof statement contact information.

NA If available:

Phone No: _____
(Primary)

E-mail: _____

Phone No: _____
(Secondary)

E-mail: _____

B. OVERLAP REVIEW

1. Place of Use (POU):

Y (y/n): Other water rights with the same place of use(POU)?

☒ InfoSearch - Query for other water rights with the same POU

☒ POU Comparison Report - Query Tools

☒ Use ArcMap for overlapping POU

We are checking to see if any other water rights share the same POU or POD. The research tools on the left will help narrow down WR's with POUs and PODs in the same 40 acre tract, but that does not necessarily mean they share the same actual POD and POU.

Water Right No.	Source	Purpose of Use	Basis
<u>75-13 926</u>	<u>Bear Willow Cr.</u>	<u>stock</u>	<u>Decreed</u>

For irrigation rights only:

_____(y/n)? E55: Right Nos. _____ and _____ are limited to the irrigation of a combined total of _____ acres in a single irrigation season.

2. Point of Diversion:

Y (y/n) Other water rights with the same point of diversion (POD)?

☒ InfoSearch - Query for other water rights with the same POU

☒ Use ArcMap for overlapping POU

Water Right No.	Source	Purpose of Use	Basis
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Permit No.: _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
IN-OFFICE REVIEW/FIELD REPORT

Prior to Field Exam

Permit No: [A s r ct]

☒ Does this qualify for an in-office field exam (IDAPA 035.02.r)?

Is the permit for:

- Irrigation of 5 acres or less
- Storage of up to 14.6 AF for stockwater purposes only
- ☒ Any use other than irrigation or storage, if the combined diversion rate is 0.24 cfs or less

☒ Check fees paid

(A license examination fee is not required in connection with permit which use a ground water source and have a total rate of diversion of 0.04 cfs or less OR where the total volume stored is 4.0 AF per year or less)

Can be used to verify beneficial use:

- Aerial photography
- Property tax information
- Well driller report
- Receipts
- photographs
- Aerial photography
- Other records of the permit holder

POU

Basin	Sequence	Suffix	Version Number	Process	Basis	Status	Draft	RightID	Priority Date	Diversion Rate	Source List	Water Use List	Current Owner
75	13926			Water Right	Decreed	Active	N	410976	6/1/1885	0.02	BEAR WALLOW SPRING	STOCKWATER	UNITED STATES OF A
75	7582			Water Permit		Active	N	82683	5/7/1992	0.04	BEAR WALLOW SPRING	STOCKWATER	US DEPT OF AGRICL
			Other Owner	Leased to Water S	Application ID	Approval Date	Total Acres	Acre Limit	Volume	Water District			
				No									
				No		8/27/1992							

POD

sin	Sequence	Suffix	Version Number	Process	Basis	Status	Draft	RightID	Priority Date	Diversion Rate	Source List	Water Use List	Current Owner
75	13926			Water Right	Decreed	Active	N	410976	6/1/1885	0.02	BEAR WALLOW SPRING	STOCKWATER	UNITED STATES OF A
75	7582			Water Permit		Active	N	82683	5/7/1992	0.04	BEAR WALLOW SPRING	STOCKWATER	US DEPT OF AGRICL
			Other Owner	Leased to Water S	Application ID	Approval Date	Total Acres	Acre Limit	Volume	Water District			
				No									
				No		8/27/1992							

[illegible]

In-office/Field Examination Report

75-13926	Beer Millan Ck	Stock	Deerood

____ F06: The following rights are diverted through point(s) of diversion described above: .

may be same right as 75-13926 (USFS rec ID 041317040203 23 23140)

In-office/Field Examination Report

3. Purpose of Use:

N Change in purpose of use (y/n):

If yes:

Use _____ From _____ To _____ Amount _____ CFS _____ AFA

Use _____ From _____ To _____ Amount _____ CFS _____ AFA

Use _____ From _____ To _____ Amount _____ CFS _____ AFA

Method of Determination/Remarks: _____

Non-irrigation uses:

Domestic # of homes _____

Stock # _____

Other: _____

4. Place of Use:

N Change in POU (y/n)?

If yes:

Place of Use			NE				NW				SW				SE				Totals
TWP	RGE	SEC	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	

Or:

_____ See attached map

Method of Determination/Remarks: _____

In-office/Field Examination Report

Have conditions of permit approval been met? X Yes ____ No

Checklist:

- ____ Delivery System Diagram Attached (optional). Indicate all major components and distances between components. Indicate weir size/pipe as applicable.
- ____ Aerial Photo Attached (required for irrigation of 10+ acres).
- ____ Photo of Diversion and System Attached
- ____ Map Attached Showing Location(s) of point(s) of diversion and place(s) of use (required). Scale must be 1:24,000 or greater.

(Use the WENET Layout application for this)

Map Output

Page 1 of 1
Page Orientation: Portrait
Map Background: 2009 NAIP (True Color)
Output Type: PDF
☐ Create Editable Map
☐ Title Page
☐ Legend Page
☐ Create Close-up Map: POU
☒ Print Attachment Page
☐ Is River Inlet?
☐ Show Tails
☐ Show A Current Contour
☐ Show Date On Map

NARRATIVE/REMARKS/COMMENTS

G. RECOMMENDATIONS

1. Recommended Amounts

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL VOLUME</u>
	<u>6/1</u> to <u>9/30</u>	<u>0.04</u> CFS	<u>0.6</u> AF
		Totals: <u>0.04</u> CFS	<u>0.6</u> AF

2. Recommended Amendments