



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

July 2, 2013

BERT BRACKETT
FLAT CREEK RANCH
ROGERSON ID 83302

RE: License No. 51-12983

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,

Craig L. Saxton

Water Rights Supervisor

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on July 5, 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.

51-12983

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

A handwritten signature in black ink, reading "Darla Block", is positioned above a horizontal line.

**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. 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				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
13S 09E 24															X		

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

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	13		X															
11S	08E	15		X			X	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 L 2															
12S	08E	3														X			
12S	08E	10		X															
12S	08E	11							X										
12S	08E	12	X																
12S	08E	13						X	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 L 4											
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

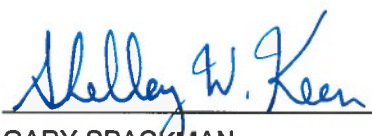
13S 10E 6				X L 6	
13S 10E 9		X			X
13S 10E 18			X		X
13S 10E 19		X			
13S 10E 20		X			
13S 10E 22	X				

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 1st day of July, 2013.

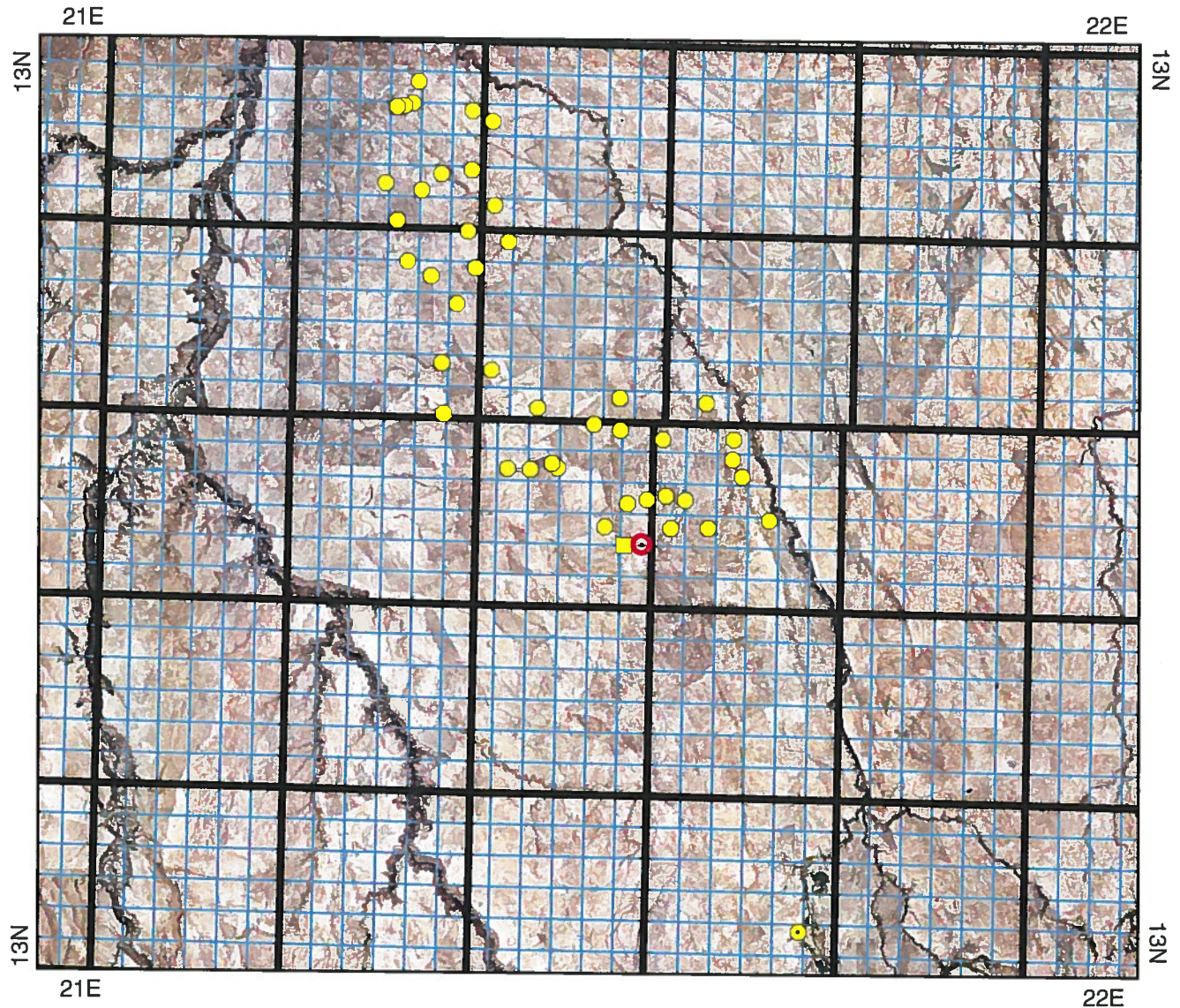

for GARY SPACKMAN
Director

State of Idaho
Department of Water Resources

Attachment To Water Right License

51-12983

This map depicts the place of use boundary for this water right FOR THE VARIOUS COMPONENTS at the time of this approval and is attached to the approval document solely for illustrative purposes.



0 3.5 7 14 Miles

-  Townships
-  PLS Sections
-  STOCKWATER FROM STORAGE
-  FIRE PROTECTION FROM STORAGE
-  FIRE PROTECTION STORAGE AND STOCKWATER STORAGE
-  POINT OF DIVERSION



State of Idaho
Department of Water Resources
APPLICATION FOR AMENDMENT
(For Licensing Purposes)
WATER RIGHT NO. 51-12983

RECEIVED

JUL 01 2013

DEPARTMENT OF
WATER RESOURCES

Date of Priority: December 13, 2002

Maximum Diversion Rate: 0.05 CFS

Maximum Diversion Volume: 5.0 AF

Comes now BERT BRACKETT
FLAT CREEK RANCH
ROGERSON ID 83302

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. 51-12983, and requests that the permit be changed as follows:

Source: PENCE SPRING

Tributary: LITTLE SPRING CREEK

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL 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 SW1/4NE1/4NE1/4 Sec. 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				Totals
13S 09E 24	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
															X		

PLACE OF USE: FIRE PROTECTION AND FIRE PROTECTION FROM STORAGE

TwP Rge Sec	NE				NW				SW				SE				Totals
13S 09E 24	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
											X						

State of Idaho
Department of Water Resources
APPLICATION FOR AMENDMENT
(For Licensing Purposes)
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 13		X															
11S 08E 15		X			X	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 3		L 2													X		
12S 08E 10		X															
12S 08E 11								X									
12S 08E 12	X																
12S 08E 13							X	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
APPLICATION FOR AMENDMENT
(For Licensing Purposes)
WATER RIGHT NO. 51-12983

PLACE OF USE: STOCKWATER FROM STORAGE (CONTINUED)

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
13S 10E 6										X							
13S 10E 9					X					L 6			X				
13S 10E 18								X					X				
13S 10E 19			X														
13S 10E 20			X														
13S 10E 22		X															

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 June 28 day of June, 2003.


(Signature)

State of Idaho
Department of Water Resources
APPLICATION FOR AMENDMENT
(For Licensing Purposes)
WATER RIGHT NO. 51-12983

FOR DEPARTMENT USE ONLY

Preliminary check by _____ Fee = 100.00 Received by HP # 2097427 Date 7-1-13

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. 51-12983 with the following:

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.

Witness my hand this 1st day of July, 2013.

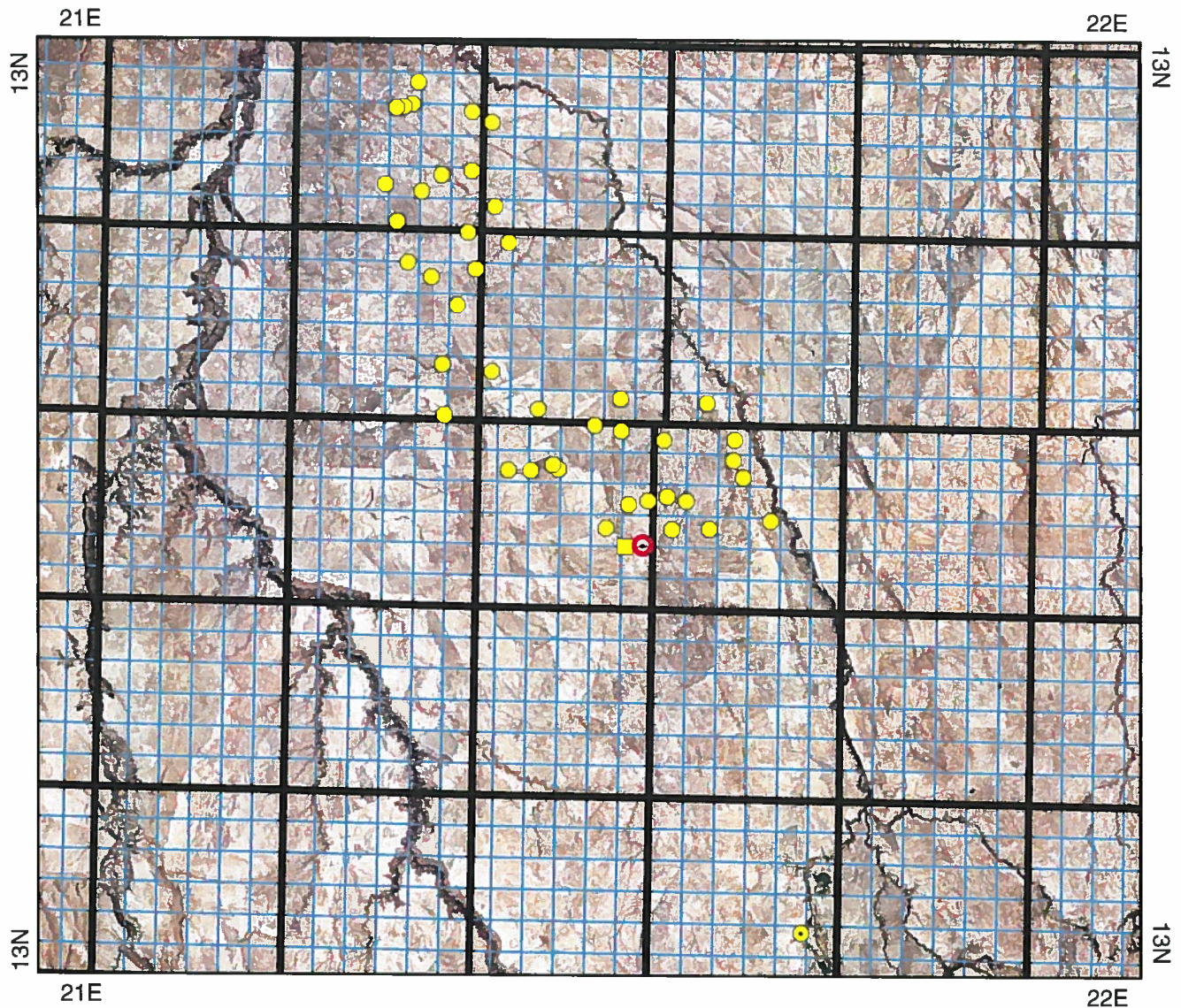

for GARY SPACKMAN
Director

State of Idaho
Department of Water Resources

Attachment To Amendment of Permit

51-12983

This map depicts the place of use boundary for this water right FOR THE VARIOUS COMPONENTS at the time of this approval and is attached to the approval document solely for illustrative purposes.



0 3.5 7 14 Miles

-  Townships
-  PLS Sections
-  STOCKWATER FROM STORAGE
-  FIRE PROTECTION FROM STORAGE
-  FIRE PROTECTION STORAGE AND STOCKWATER STORAGE
-  POINT OF DIVERSION





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

6/20/2013

BERT BRACKETT
FLAT CREEK RANCH
ROGERSON ID 83302

RE: Water Right Permit No. 51-12983

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 stockwater use was replaced with stockwater from storage. We also corrected the legal descriptions for the stockwater from storage and the fire protection from storage.

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 contact me.

Sincerely,

Daniel A. Nelson
Staff Hydrologist
Planning Bureau
Idaho Department of Water Resources
Telephone # (208) 287-4856

Enclosure(s)