

State of Idaho  
Department of Water Resources  
**Water Right License**

WATER RIGHT NO.      65-22946

Priority: April 11, 2005

Maximum Diversion Volume:      12.0 AF

It is hereby certified that MICHAEL J DE BOER  
130 SANDHILL LN  
MCCALL ID 83638-5107      has complied with the terms and conditions of  
the permit, issued pursuant to Application for Permit dated March 02, 2005; and has submitted Proof of  
Beneficial Use on May 30, 2008. An examination confirms water is diverted from:

**SOURCE**

MEADOW CREEK

Tributary: LAKE FORK

and a water right has been established as follows:

| <b><u>BENEFICIAL USE</u></b> | <b><u>PERIOD OF USE</u></b> | <b><u>ANNUAL<br/>DIVERSION VOLUME</u></b> |
|------------------------------|-----------------------------|-------------------------------------------|
| WILDLIFE STORAGE             | 01/01 to 12/31              | 12.0 AF                                   |

**LOCATION OF POINT OF DIVERSION:**

MEADOW CREEK      NW1/4SW1/4      Sec. 26, Twp 18N, Rge 03E, B.M., VALLEY County

**PLACE OF USE:**      WILDLIFE 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 |        |
| 18N | 03E | 26  |    |    |    |    |    |    |    |    |    | X  |    |    |    |    |    |    |        |

**CONDITIONS OF APPROVAL**

1. Wildlife storage includes 9.1 AF to fill the reservoir, 0.1 AF for continuous re-circulation of stored water through an artificial stream, and 2.8 AF to replace evaporation and seepage losses.
2. 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. 65K.
3. Upon notification the right holder shall provide a means acceptable to the department to measure the amount of water entering the reservoir and the amount of water released from the reservoir and/or to install a lockable device on the outlet works from the reservoir..
4. This right does not grant any right-of-way or easement across the land of another.

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5. 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.

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 10<sup>th</sup> day of June, 2013.



JOHN WESTRA  
Western Regional Manager



State of Idaho

**DEPARTMENT OF WATER RESOURCES**

Western Region, 2735 Airport Way • Boise, Idaho 83705-5082

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Web Site: [www.idwr.idaho.gov](http://www.idwr.idaho.gov)

June 11, 2013

C. L. "BUTCH" OTTER  
Governor

GARY SPACKMAN  
Interim Director

MICHAEL J DE BOER  
130 SANDHILL LN  
MCCALL ID 83638-5107

RE: License No. 65-22946

**Issuance of License**

Dear Water Right Holder:

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)334-2190.

Sincerely,

A handwritten signature in black ink, appearing to read "John Westra". Below the signature, the letters "ADW" are handwritten in a smaller, simpler script.

John Westra  
Western Regional Manager

Enclosures

## **CERTIFICATE OF SERVICE**

I hereby certify that on June 11, 2013 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved License) to the persons listed below:

**RE: WATER RIGHT NO.**

**65-22946**

**MICHAEL J DE BOER  
130 SANDHILL LN  
MCCALL ID 83638-5107**

**JOHN LEEDOM  
WATER MASTER  
370 KNIGHTS RD  
MCCALL ID 83638**

A handwritten signature in black ink, reading "Rachel Sommer". The signature is written in a cursive style with a large, looping "R" and "S".

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**Rachel Sommer  
Administrative Assistant I**

## **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.