

State of Idaho
Department of Water Resources
Water Right License

WATER RIGHT NO. 72-16686

Priority: November 22, 2005

Maximum Diversion Volume: 1.0 AF

It is hereby certified that PATRICIA W CHALLIS
CHALLIS CREEK RANCH
PO BOX 1220
CHALLIS ID 83226-1220

And/Or

JOHN R CHALLIS
CHALLIS CREEK RANCH
PO BOX 1220
CHALLIS ID 83226-1220

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated November 22, 2005; and has submitted Proof of Beneficial Use on September 17, 2007. An examination confirms water is diverted from:

SOURCE

UNNAMED STREAM
GROUND WATER

Tributary: SINKS

and a water right has been established as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>ANNUAL DIVERSION VOLUME</u>
AESTHETIC STORAGE	01/01 to 12/31	1.0 AF
RECREATION STORAGE	01/01 to 12/31	1.0 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER	SE1/4NE1/4	Sec. 3, Twp 14N, Rge 18E, B.M.
CUSTER County		
UNNAMED STREAM	SE1/4NE1/4	Sec. 3, Twp 14N, Rge 18E, B.M.
CUSTER County		

PLACE OF USE: AESTHETIC 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
14N 18E 3				X													

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PLACE OF USE: RECREATION STORAGE

Twp Rge Sec	NE				NW				SW				SE				Totals
14N 18E 3	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
				X													

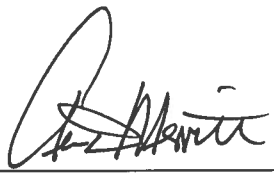
CONDITIONS OF APPROVAL

1. Water stored under this right is subject to fluctuations of the water table caused by changes in the flow of local streams and by diversions under prior ground water rights. This right does not guarantee the maintenance of any particular ground water level.
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. 72A.
3. Recreation storage and aesthetic storage uses are for a pond.
4. The pond established by the storage of water under this right shall not exceed a total storage capacity of 0.72 acre-feet or a total surface area of 0.24 acre.
5. This right authorizes the diversion of an annual total of 1.0 acre-feet to be used for the initial filling of the pond and for the replacement of losses caused by evaporation.

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 9th day of January, 2013.

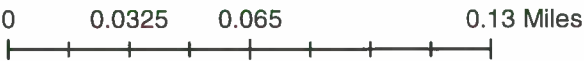
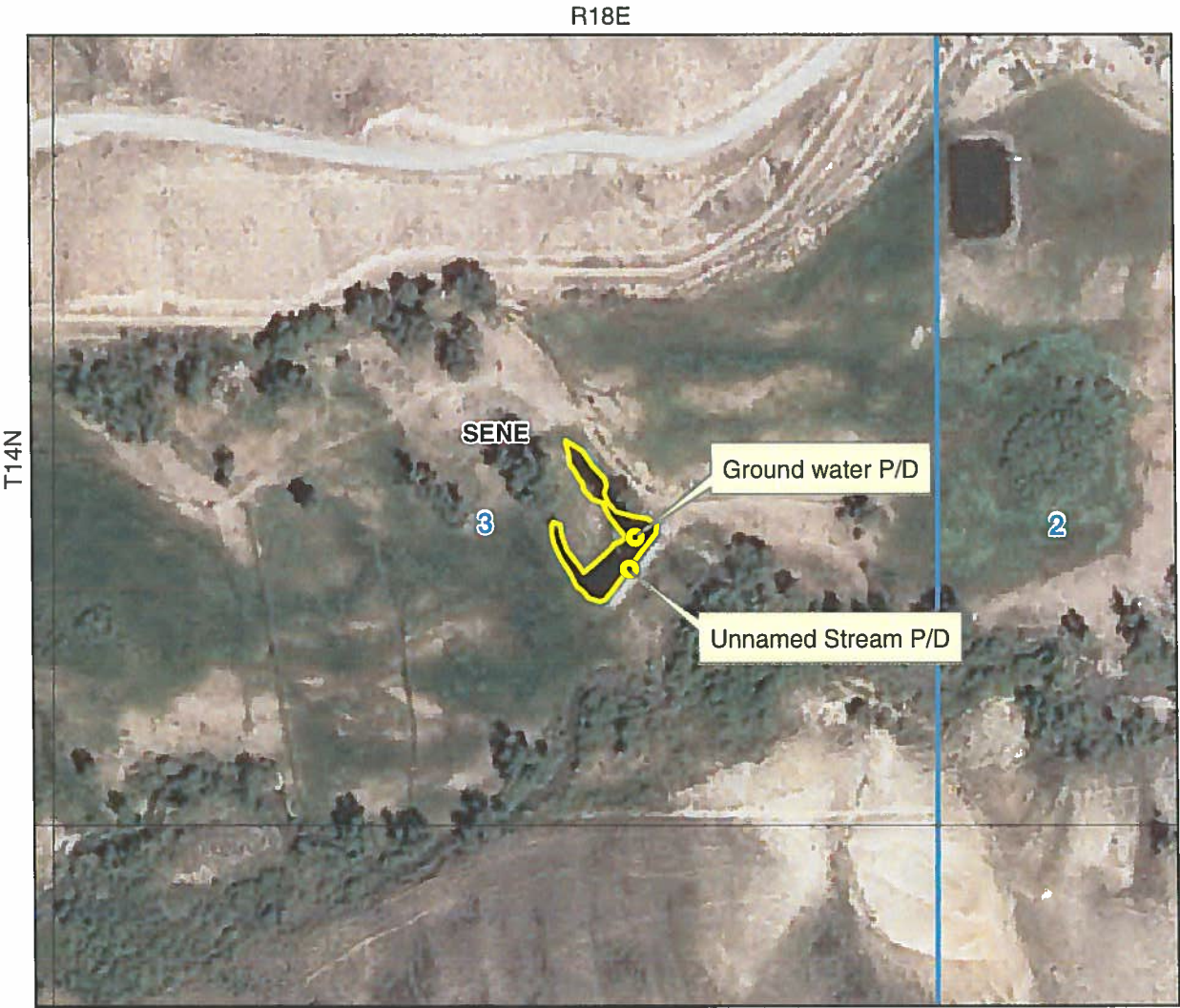
FOR



GARY SPACKMAN
Director

State of Idaho
Department of Water Resources
Attachment To Water Right License
72-16686

This map depicts the AESTHETIC STORAGE and RECREATION 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
- PLS Sections
- Quarter Quarters





State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 1341 Fillmore Street, Suite 200 • Twin Falls, Idaho 83301-3380

Phone: (208) 736-3033 • Fax: (208) 736-3037 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

January 9, 2013

JOHN R CHALLIS
PATRICIA W CHALLIS
CHALLIS CREEK RANCH
PO BOX 1220
CHALLIS ID 83226-1220

RE: License No. 72-16686

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 208-736-3033.

Sincerely,

Allen Merritt
Southern Region Manager

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on January 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. 72-16686

**JOHN R CHALLIS
PATRICIA W CHALLIS
CHALLIS CREEK RANCH
PO BOX 1220
CHALLIS ID 83226-1220**

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

**Denise Maline
Administrative Assistant**

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.

Merritt, Allen

From: Peppersack, Jeff
Sent: Wednesday, January 09, 2013 9:12 AM
To: Merritt, Allen
Cc: Jones, Doug; Skinner, Corey; Fritschle, Carter; Nelson, Dan; Westra, John; Cefalo, James; Franklin, Keith; Keen, Shelley; Saxton, Craig
Subject: RE: Licensing of ponds example 72-16686

Allen,
I agree that there has been a change in the way ponds have been described over the years, and I agree that warrants a case-by-case look with the date of the pond memo as one distinguishing factor.

In this case, the evaporative component of the reduced size pond (the natural fill portion) is something less than you calculated for the total surface area, but probably not zero. I'm in favor of licensing the storage volume for the permitted amount. I think the condition: The pond established by the storage of water under this right shall not exceed a total storage of 1.0 acre-feet or a total surface area of 0.24 acre. should limit the size of the pond to 0.72 af capacity and 0.24 acre surface area. We also need to recognize that the authorized storage volume includes some evaporative component (some modification of 219). Lastly, we should recognize in conditions that the pond is also utilized for collection of irrigation runoff and reused on the same place of use (if that's what we found during the field exam).

Jeff

From: Merritt, Allen
Sent: Wednesday, January 09, 2013 8:31 AM
To: Peppersack, Jeff
Cc: Jones, Doug; Skinner, Corey; Fritschle, Carter; Nelson, Dan; Westra, John; Cefalo, James; Franklin, Keith; Keen, Shelley; Saxton, Craig
Subject: RE: Licensing of ponds example 72-16686

Yeah you are right that this application does post date the 2/28/2003 pond memo. I do think there are ponds out there that fall in the time frame before. Do we use that date to make a distinction or treat everything the same?

In this particular situation since during the summer Challis's irrigation water is run thru this pond and pumped from the pond for lands below would we limit the storage volume to just the 0.72 af since the ET is probably covered by the irrigation water run thru the pond or do we just license it for what they applied for (1.0 af)?

Are there any other conditions that might be necessary than those already drafted?

Water stored under this right is subject to fluctuations of the water table caused by changes in the flow of local streams and by diversions under prior ground water rights. This right does not guarantee the maintenance of any particular ground water level.

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. 72A.

Recreation and aesthetic storage uses are for a pond.

The pond established by the storage of water under this right shall not exceed a total storage of 1.0 acre-feet or a total surface area of 0.24 acre.

I still think there is a problem with how ponds or reservoirs have been described over the years. Likely each one will have to be looked at on a case by case basis.

From: Peppersack, Jeff

Sent: Tuesday, January 08, 2013 5:17 PM

To: Merritt, Allen

Cc: Jones, Doug; Skinner, Corey; Fritschle, Carter; Nelson, Dan; Westra, John; Cefalo, James; Franklin, Keith; Keen, Shelley; Saxton, Craig

Subject: RE: Licensing of ponds example 72-16686

Allen,

I guess I'm in the "this is forbidden" camp. Statute provides the limit that we can license. I see that the permit post-dates our pond memo, so the issue of evaporation as part of the storage refill should not have been a new concept.

Does the discussion in the permit file regarding collection of irrigation runoff provide any leeway in our licensing effort? The file suggests that the application is to cover the natural fill at some reduced level.

Jeff

From: Merritt, Allen

Sent: Tuesday, January 08, 2013 3:25 PM

To: Keen, Shelley; Peppersack, Jeff; Saxton, Craig

Cc: Jones, Doug; Skinner, Corey; Fritschle, Carter; Nelson, Dan; Westra, John; Cefalo, James; Franklin, Keith

Subject: Licensing of ponds example 72-16686

Now that we are doing licensing exams for ponds for various purposes I am running up against what I would describe as changing the horse in the middle of the stream.

Historically people have sought water rights for ponds based on the capacity of the pond. Sometimes they even had the foresight to include extra volume for how many times they refilled during the season if it was for irrigation storage. I believe SRBA followed along in recommendation rights with this standard.

As I understand now the standard for representing the storage volume for water rights should include = [(reservoir capacity X refills) + seasonal evap + seepage]

Seems there is a mixed bag of water right records as we have become more meticulous in describing the ponds.

My case at point ... The permit for 72-16686 was sought to construct a pond under recreation storage and aesthetic storage purposes of less than ½ acre in area and with at capacity of 1.0 af. The permit is nominally 1.0 AF in the database.

Field exam confirms the pond is 0.24 acres in area with average estimated depth of 3 feet yielding a capacity of 0.72 AF. The pond intercepts ground water (actually source is ground water and unnamed stream) so there is no seepage. Review of ET for Idaho finds shallow ponds evap 1.87 af/acre/ann. (Side note ... the pond is build on irrigated land with numerous water rights)

If you run this thing thru the current standard = [(0.72 af cap X 1 refill) + 0.45 af evap + 0 af seepage] = 1.17 afa ** note that the pond is Kept full so likely would not need total refill every year.

I'm of the opinion that we license this thing for 1.2 afa even though the permit was for 1.0 afa since it seems we have changed our standard over the years. Others I know think this is forbidden. I'm for cutting thru the red tape.

What are your thoughts???

Allen Merritt, PE