

State of Idaho
Department of Water Resources

Amended Permit to Appropriate Water

No. 21-7578

Priority: March 20, 1998

Maximum Diversion Rate: 568.00 CFS

This is to certify that

STATE OF IDAHO
IDAHO WATER RESOURCE BOARD
C/O CYNTHIA BRIDGE CLARK
PO BOX 83720
BOISE ID 83720-0098

has applied for a permit to appropriate water from:

Source : HENRYS FORK

Tributary: SNAKE RIVER

and a permit is APPROVED for development of water as follows:

Beneficial Use

GROUND WATER RECHARGE

Period of Use

01/01 to 12/31

Rate of Diversion

568.00 CFS

Location of Point(s) of Diversion

HENRYS FORK NE¼ NW¼, Sec. 33, Twp 08N, Rge 41E, B.M. FREMONT County

Place of Use: GROUND WATER RECHARGE

Twp	Rng	Sec	NE				NW				SW				SE			
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE
05N	38E	2	X L16				X L5											
06N	38E	1																X
06N	38E	12	X			X								X				X
06N	38E	13	X			X								X				X
06N	38E	23											X	X			X	X
06N	38E	24	X			X							X	X	X		X	X
06N	38E	25	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
06N	38E	26	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
06N	38E	27	X			X								X				
06N	38E	34	X			X								X				X
06N	38E	35	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
06N	38E	36	X	X			X	X										
06N	39E	5	X L1	X L2	X	X	X L3	X L4	X	X	X	X	X	X	X	X	X	X
06N	39E	6	X L1	X L2	X	X	X L3	X L4	X L5	X	X	X L6	X L7	X	X	X	X	X
06N	39E	7	X	X	X	X	X L1	X L2	X	X	X	X L3	X L4	X	X	X	X	X
06N	39E	8	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
06N	39E	18	X	X	X	X	X L1	X L2	X	X	X	X L3	X L4	X	X	X	X	X
06N	39E	19	X	X	X	X L7	X L1	X L2	X	X	X	X L3	X L4	X	X	X	X	X
06N	39E	19													X L6		X L8	X L5
06N	39E	19													X L9			X L11

SCANNED

DEC 09 2022

State of Idaho
Department of Water Resources

Amended Permit to Appropriate Water

No. 21-7578

06N	39E	19													X L10			
06N	39E	30		X L8				X L1										
07N	38E	25													X			X
07N	39E	1	X L1	X L2	X	X	X L3	X L4	X	X	X	X	X	X	X	X	X	X
07N	39E	4											X	X			X	
07N	39E	5						X L4	X			X	X	X			X	X
07N	39E	6	X L1	X L2	X	X	X L3	X L4	X L5	X	X	X	X L6	X L7	X	X	X	X
07N	39E	7	X	X	X	X	X L1	X L2	X	X	X	X L3	X L4	X	X	X	X	X
07N	39E	8	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
07N	39E	9	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
07N	39E	10	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
07N	39E	11	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
07N	39E	12	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
07N	39E	13	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
07N	39E	14	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
07N	39E	15	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
07N	39E	16	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
07N	39E	17	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
07N	39E	18											X L4	X			X	X
07N	39E	19	X	X	X	X	X	X L1	X L2	X	X	X	X L3	X L4	X	X	X	X
07N	39E	19			X	X			X L2	X	X	X	X L3	X L4	X	X	X	X
07N	39E	20	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
07N	39E	20			X	X			X	X	X	X	X	X	X	X	X	X
07N	39E	21						X	X						X			X
07N	39E	21							X						X			X
07N	39E	22	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
07N	39E	22													X			X
07N	39E	23	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
07N	39E	24						X										
07N	39E	29	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
07N	39E	30	X	X	X	X	X	X L1	X L2	X	X	X	X L3	X L4	X	X	X	X
07N	39E	31	X	X	X	X	X	X L1	X L2	X	X	X	X L3	X L4	X	X	X	X
07N	39E	32	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
07N	40E	1						X L4					X L5	X L12				
07N	40E	2	X L1	X L2	X	X	X L3	X L4	X	X	X	X	X	X	X		X L5	X
07N	40E	2																X L6
07N	40E	2																X L7
07N	40E	2																X L8
07N	40E	3	X L1	X L2	X	X	X L3	X L4	X	X	X	X	X	X	X	X	X	X
07N	40E	4	X L1	X L2	X	X	X L3	X L4	X	X	X	X	X	X	X	X	X	X
07N	40E	5	X L1	X L2	X	X	X L3	X L4	X	X	X	X	X	X	X	X	X	X

SCANNED
DEC 09 2022

State of Idaho
Department of Water Resources

Amended Permit to Appropriate Water

No. 21-7578

07N	40E	6						X L4	X L5			X L6	X L7					
07N	40E	7						X L1	X L2			X L3	X L4					
07N	40E	8	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
07N	40E	9	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X L2	X L1
07N	40E	9																X L3
07N	40E	10						X	X			X	X L4					
07N	40E	15											X	X			X	X
07N	40E	16	X L1	X L2														
07N	40E	18	X	X	X	X	X	X L1	X L2	X	X	X L3	X L4	X	X	X	X L5	X
07N	40E	18															X L8	X L6
07N	40E	18																X L7
07N	40E	22	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
07N	40E	23						X	X			X	X					
08N	39E	22															X	X
08N	39E	26						X	X			X	X					
08N	39E	27	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
08N	39E	31											X L4	X			X	X
08N	39E	36											X	X			X	X
08N	40E	20											X	X			X	X
08N	40E	21											X	X			X	X
08N	40E	22																X
08N	40E	25											X	X			X	X
08N	40E	26											X	X			X	X
08N	40E	27	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
08N	40E	28	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
08N	40E	29	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
08N	40E	30											X L4	X			X	X
08N	40E	31	X	X	X	X	X	X L1	X L2	X	X	X L3	X L4	X	X	X	X	X
08N	40E	32	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
08N	40E	33	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
08N	40E	34	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
08N	40E	35	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
08N	40E	36	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
08N	41E	30											X L4	X			X	X
08N	41E	31	X	X	X	X	X	X L1	X L2	X	X	X L3	X L4	X	X	X	X	X
08N	41E	32						X	X			X	X L3					

SCANNED
DEC 09 2022

State of Idaho
Department of Water Resources

Amended Permit to Appropriate Water

No. 21-7578

Conditions of Approval

1. Proof of application of water to beneficial use shall be submitted on or before **December 01, 2027**.
2. Subject to all prior water rights.
3. Prior to diversion of water under this right, the right holder shall install and maintain a measuring device and lockable controlling works of a type acceptable to the Department as part of the diverting works.
4. This right does not grant any right-of-way or easement across the land of another.
5. Use of water under this right may 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. 01.
6. Pursuant to Idaho Code § 42-234(3), the Director may reduce the amount of water that may be diverted for recharge purposes under this right even though there is sufficient water to supply the entire amount authorized for appropriation under this right.
7. Pursuant to Idaho Code § 42-234(4), to ensure that other water rights are not injured by the operations of the recharge project authorized by this right, the Director has authority to approve, disapprove, or require alterations in the methods employed to achieve ground water recharge.
8. Consistent with Idaho Code § 42-234(5), seepage from canals incidental to or coincident with delivery of water for irrigation or other beneficial uses shall not be considered ground water recharge under this right.
9. The diversion and use of water described in this right may be subject to additional conditions and limitations agreed to by the protestant and the right holder under a separate agreement to which the Department is not a party. Because the Department is not a party, the Department is not responsible for enforcement of any aspect of the agreement not specifically addressed in other conditions herein. Enforcement of those portions of the agreement not specifically addressed in other conditions shall be the responsibility of the protestant and the water right holder.
10. The right holder shall ensure that the daily quantity of water diverted for ground water recharge is recorded and shall report the diversion data for the prior calendar year to the Department by July 31 each year. Reporting shall occur in the manner specified by the Department, consistent with Idaho Code § 42-701. To facilitate this reporting requirement, the right holder shall ensure that a measuring device approved by the Department is installed and maintained at each point of diversion and at each point where water is delivered from the conveyance system into a designated recharge site.
11. This right is not an authorization for the described recharge effort to be used as mitigation or credit pursuant to the Department's Rules of Conjunctive Management of Surface and Ground Water Resources, a mitigation plan to offset depletion in association with a water right application, or a Management Program pursuant to Idaho Code § 42-1416B.
12. Prior to the diversion and use of water under this approval, the right holder shall comply with applicable water quality monitoring and/or permitting requirements administered by the Department of Environmental Quality or the Department of Agriculture.
13. Subject to a written waiver of this condition granted by the Henry's Fork Drought Management Committee (or its successor in interest), the water right acquired under this permit may be diverted only when the flows in the Henry's Fork measured at the St. Anthony gauge (USGS 13050500) reach or exceed 1,000 c.f.s.
14. This approval does not constitute approval by the Idaho Water Resource Board, which may also be required pursuant to Idaho Code § 42-1737.

SCANNED

DEC 09 2022

State of Idaho
Department of Water Resources

Amended Permit to Appropriate Water

No. 21-7578

15. The diversion of water under this right shall not exceed ten thousand (10,000) acre-feet on an average annual basis, without first obtaining approval from the Idaho Water Resource Board pursuant to Section 42-1737, Idaho Code.
16. The right holder agrees not to exercise this right unless there has been a determination made by the USBR in consultation with Water District 01 and the Committee of Nine, as outline in Pub. L. No. 115-244 § 203, 132 Stat. 2897, 2906 (2018), that there is water available in excess of that needed to ensure operational flexibility and to satisfy existing Minidoka Project storage water rights 01-219, 01-2064, 01-4055, 01-10042, 01-10044, 01-10045, 01-10621B, 21-2156, 21-4155, 21-10560, and Minidoka hydropower rights 01-217 and 01-218.

This permit is issued pursuant to the provisions of Idaho Code § 42-204.

Signed this 9th day of December, 2022.



JAMES CEFALO
Eastern Regional Manager

SCANNED
DEC 09 2022

State of Idaho
Department of Water Resources
Permit to Appropriate Water
No. 21-7578

Priority: March 20, 1998

Maximum Diversion Rate: 568.00 CFS

This is to certify that

STATE OF IDAHO
IDAHO WATER RESOURCE BOARD
C/O CYNTHIA BRIDGE CLARK
PO BOX 83720
BOISE ID 83720-0098

has applied for a permit to appropriate water from:

Source : HENRYS FORK

Tributary: SNAKE RIVER

and a permit is APPROVED for development of water as follows:

Beneficial Use

GROUND WATER RECHARGE

Period of Use

01/01 to 12/31

Rate of Diversion

568.00 CFS

Location of Point(s) of Diversion

HENRYS FORK NE¼ NW¼, Sec. 33, Twp 08N, Rge 41E, B.M. FREMONT County

Place of Use: GROUND WATER RECHARGE

Twp	Rng	Sec	NE				NW				SW				SE			
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE
05N	38E	2	X L16				X L5											
06N	38E	1																X
06N	38E	12	X			X								X				X
06N	38E	13	X			X								X				X
06N	38E	23											X	X			X	X
06N	38E	24	X			X							X	X	X		X	X
06N	38E	25	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
06N	38E	26	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
06N	38E	27	X			X								X				
06N	38E	34	X			X								X				X
06N	38E	35	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
06N	38E	36	X	X			X	X										
06N	39E	5	X L1	X L2	X	X	X L3	X L4	X	X	X	X	X	X	X	X	X	X
06N	39E	6	X L1	X L2	X	X	X L3	X L4	X L5	X	X	X L6	X L7	X	X	X	X	X
06N	39E	7	X	X	X	X	X L1	X L2	X	X	X	X L3	X L4	X	X	X	X	X
06N	39E	8	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
06N	39E	18	X	X	X	X	X L1	X L2	X	X	X	X L3	X L4	X	X	X	X	X
06N	39E	19	X	X	X	X L7	X L1	X L2	X	X	X	X L3	X L4	X	X	X	X	X
06N	39E	19												X L6		X L8	X L5	
06N	39E	19												X L9			X L11	

SCANNED
NOV 29 2022

State of Idaho
Department of Water Resources
Permit to Appropriate Water
No. 21-7578

06N	39E	19													X L10			
06N	39E	30		X L8				X L1										
07N	38E	25													X			X
07N	39E	1	X L1	X L2	X	X	X L3	X L4	X	X	X	X	X	X	X	X	X	X
07N	39E	4											X	X			X	
07N	39E	5						X L4	X			X	X	X			X	X
07N	39E	6	X L1	X L2	X	X	X L3	X L4	X L5	X	X	X	X L6	X L7	X	X	X	X
07N	39E	7	X	X	X	X	X	X L1	X L2	X	X	X L3	X L4	X	X	X	X	X
07N	39E	8	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
07N	39E	9	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
07N	39E	10	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
07N	39E	11	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
07N	39E	12	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
07N	39E	13	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
07N	39E	14	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
07N	39E	15	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
07N	39E	16	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
07N	39E	17	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
07N	39E	18											X L4	X			X	X
07N	39E	19	X	X	X	X	X	X L1	X L2	X	X	X L3	X L4	X	X	X	X	X
07N	39E	19			X	X			X L2	X	X	X L3	X L4	X	X	X	X	X
07N	39E	20	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
07N	39E	20			X	X			X	X	X	X	X	X	X	X	X	X
07N	39E	21						X	X						X			X
07N	39E	21							X						X			X
07N	39E	22	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
07N	39E	22													X			X
07N	39E	23	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
07N	39E	24						X										
07N	39E	29	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
07N	39E	30	X	X	X	X	X	X L1	X L2	X	X	X L3	X L4	X	X	X	X	X
07N	39E	31	X	X	X	X	X	X L1	X L2	X	X	X L3	X L4	X	X	X	X	X
07N	39E	32	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
07N	40E	1						X L4				X L5	X L12					
07N	40E	2	X L1	X L2	X	X	X L3	X L4	X	X	X	X	X	X		X	X L5	X
07N	40E	2																X L6
07N	40E	2																X L7
07N	40E	2																X L8
07N	40E	3	X L1	X L2	X	X	X L3	X L4	X	X	X	X	X	X	X	X	X	X
07N	40E	4	X L1	X L2	X	X	X L3	X L4	X	X	X	X	X	X	X	X	X	X
07N	40E	5	X L1	X L2	X	X	X L3	X L4	X	X	X	X	X	X	X	X	X	X

SCANNED
NOV 29 2022

State of Idaho
Department of Water Resources
Permit to Appropriate Water
No. 21-7578

07N	40E	6						X L4	X L5			X L6	X L7				
07N	40E	7						X L1	X L2			X L3	X L4				
07N	40E	8	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
07N	40E	9	X	X	X	X	X	X	X	X	X	X	X	X	X	X L2	X L1
07N	40E	9															X L3
07N	40E	10						X	X			X	X L4				
07N	40E	15											X	X		X	X
07N	40E	16	X L1	X L2													
07N	40E	18	X	X	X	X	X	X L1	X L2	X	X	X L3	X L4	X	X	X	X L5
07N	40E	18														X L8	X L6
07N	40E	18															X L7
07N	40E	22	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
07N	40E	23						X	X			X	X				
08N	39E	22														X	X
08N	39E	26						X	X			X	X				
08N	39E	27	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
08N	39E	31											X L4	X		X	X
08N	39E	36											X	X		X	X
08N	40E	20											X	X		X	X
08N	40E	21											X	X		X	X
08N	40E	22															X
08N	40E	25											X	X		X	X
08N	40E	26											X	X		X	X
08N	40E	27	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
08N	40E	28	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
08N	40E	29	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
08N	40E	30											X L4	X		X	X
08N	40E	31	X	X	X	X	X	X L1	X L2	X	X	X L3	X L4	X	X	X	X
08N	40E	32	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
08N	40E	33	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
08N	40E	34	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
08N	40E	35	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
08N	40E	36	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
08N	41E	30											X L4	X		X	X
08N	41E	31	X	X	X	X	X	X L1	X L2	X	X	X L3	X L4	X	X	X	X
08N	41E	32						X	X			X	X L3				

SCANNED
NOV 29 2022

State of Idaho
Department of Water Resources
Permit to Appropriate Water
No. 21-7578

Conditions of Approval

1. Proof of application of water to beneficial use shall be submitted on or before **December 01, 2027**.
2. Subject to all prior water rights.
3. Prior to diversion of water under this right, the right holder shall install and maintain a measuring device and lockable controlling works of a type acceptable to the Department as part of the diverting works.
4. This right does not grant any right-of-way or easement across the land of another.
5. Use of water under this right may 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. 01.
6. Pursuant to Idaho Code § 42-234(3), the Director may reduce the amount of water that may be diverted for recharge purposes under this right even though there is sufficient water to supply the entire amount authorized for appropriation under this right.
7. Pursuant to Idaho Code § 42-234(4), to ensure that other water rights are not injured by the operations of the recharge project authorized by this right, the Director has authority to approve, disapprove, or require alterations in the methods employed to achieve ground water recharge.
8. Consistent with Idaho Code § 42-234(5), seepage from canals incidental to or coincident with delivery of irrigation water shall not be considered ground water recharge under this right. Canal seepage will be considered to be ground water recharge only when the canals are not conveying water for irrigation or other beneficial uses.
9. The diversion and use of water described in this right may be subject to additional conditions and limitations agreed to by the protestant and the right holder under a separate agreement to which the Department is not a party. Because the Department is not a party, the Department is not responsible for enforcement of any aspect of the agreement not specifically addressed in other conditions herein. Enforcement of those portions of the agreement not specifically addressed in other conditions shall be the responsibility of the protestant and the water right holder.
10. The right holder shall record the daily quantity of water diverted for ground water recharge and shall report the diversion data for the prior calendar year to the Department by February 1 each year. Reporting shall occur in the manner specified by the Department, consistent with Idaho Code § 42-701. To facilitate this reporting requirement, the right holder shall install and maintain a totalizing measuring device approved by the Department at each point of diversion and at each point where water is delivered from the conveyance system into a designated recharge site.
11. This right is not an authorization for the described recharge effort to be used as mitigation or credit for any other purpose. The sufficiency of the recharge effort authorized under this right for mitigation or credit for some other purpose may be determined by the Department upon proper submission of a mitigation plan pursuant to the Department's Rules of Conjunctive Management of Surface and Ground Water Resources, a mitigation plan to offset depletion in association with a water right application, a Management Program pursuant to Idaho Code § 42-1416B, or any other proposal to utilize credit for the recharge effort.
12. Prior to the diversion and use of water under this approval, the right holder shall comply with applicable water quality monitoring and/or permitting requirements administered by the Department of Environmental Quality or the Department of Agriculture.
13. Subject to a written waiver of this condition granted by the Henry's Fork Drought Management Committee (or its successor in interest), the water right acquired under this permit may be diverted only when the flows in the Henry's Fork measured at the St. Anthony gauge (USGS 13050500) reach or exceed 1,000 c.f.s.
14. This approval does not constitute approval by the Idaho Water Resource Board, which may also be required pursuant to Idaho Code § 42-1737.

SCANNED

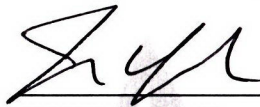
NOV 29 2022

State of Idaho
Department of Water Resources
Permit to Appropriate Water
No. 21-7578

15. The diversion of water under this right shall not exceed ten thousand (10,000) acre-feet on an average annual basis, without first obtaining approval from the Idaho Water Resource Board pursuant to Section 42-1737, Idaho Code.
16. The right holder agrees not to exercise this right unless there has been a determination made by the USBR in consultation with Water District 01 and the Committee of Nine, as outline in Pub. L. No. 115-244 § 203, 132 Stat. 2897, 2906 (2018), that there is water available in excess of that needed to ensure operational flexibility and to satisfy existing Minidoka Project storage water rights 01-219, 01-2064, 01-4055, 01-10042, 01-10044, 01-10045, 01-10621B, 21-2156, 21-4155, 21-10560, and Minidoka hydropower rights 01-217 and 01-218.

This permit is issued pursuant to the provisions of Idaho Code § 42-204.

Signed this 28th day of November, 2022.



JAMES CEFALO
Eastern Regional Manager

SCANNED
NOV 29 2022

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.



Eastern Region • 900 N Skyline Drive, Suite A • Idaho Falls, ID 83402-1718

Phone: 208-525-7161 • Fax: 208-525-7177 • Email: easterninfo@idwr.idaho.gov • Web: idwr.idaho.gov

Governor Brad Little

Director Gary Spackman

December 9, 2022

STATE OF IDAHO
IDAHO WATER RESOURCE BOARD
C/O CYNTHIA BRIDGE CLARK
PO BOX 83720
BOISE ID 83720-0098

RE: Permit No. 21-7578

Amended Permit Approval Notice

Dear Permit Holder:

The Department of Water Resources ("Department") has issued the enclosed permit authorizing you to establish a new water right. Please be sure to thoroughly review all the conditions of approval listed on your permit. The conditions include requirements that you must accomplish, such as timely submittal of proof of beneficial use or installation of a measuring device, as well as information about how your water use may be administered, such as regulation by a watermaster in a water district. Failure to comply with the conditions of approval may result in your permit lapsing or being canceled.

The permit is a PRELIMINARY ORDER issued pursuant to Rule 730 of the Department's Rules of Procedure (IDAPA 37.01.01.730). It can and will become a final order without further action by the Department unless a party petitions for reconsideration, files exceptions, or requests a hearing as described in the enclosed information sheet.

The final step in the water right process is issuance of a water right license. To receive a water right license, you must divert and use water to the full extent intended and submit a *Statement of Completion for Submitting Proof of Beneficial Use* by the date shown in condition no. 1 of your permit. The Department will send you a *Proof Due Notice* approximately 60 days prior to the date listed in condition no. 1 of your permit.

You may also require approvals from other Department programs, such as Ground Water Protection, Safety of Dams, or Stream Channel Protection, to accomplish your proposed development. Please call or visit any Department office or see the Department's website at idwr.idaho.gov for more information about these programs.

SCANNED
DEC 09 2022

Please be advised that Idaho Code § 42-248, requires you or the owner of this water permit to maintain current ownership and address records on file with the Department. Forms to file an assignment of permit and/or a change in the address of the permit owner are available from any Department office or at the Department's website at www.idwr.idaho.gov.

If you have any questions concerning the enclosed information, please contact me at (208) 497-3784.

Sincerely,



James Cefalo
Eastern Regional Manager

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on December 9, 2022, I served a true and correct copy of Permit to Appropriate Water No. 21-7578 by U.S. Mail, postage prepaid, to the following:

STATE OF IDAHO
IDAHO WATER RESOURCE BOARD
C/O CYNTHIA BRIDGE CLARK
PO BOX 83720
BOISE ID 83720-0098

STATE OF IDAHO
OFFICE OF THE ATTORNEY
GENERAL
ANN Y YRIBAR
DEPUTY ATTORNEY GENERAL
PO BOX 83720
BOISE ID 83720-0010

FREMONT MADISON IRRIGATION
DISTRICT
PO BOX 15
SAINT ANTHONY ID 83445-0015

IDAHO CONSERVATION LEAGUE
ATTN MARIE CALLAWAY KELLNER
PO BOX 844
BOISE ID 83701

AMERICAN FALLS RESERVOIR
DISTRICT #2
MINIDOKA IRRIGATION DISTRICT
FLETCHER LAW OFFICE
PO BOX 248
BURLEY ID 83318

IDAHO POWER CO
KRESTA DAVIS BUTTS
PO BOX 70
BOISE ID 83707-0070

A & B IRRIGATION DISTRICT
BURLEY IRRIGATION DISTRICT
MILNER IRRIGATION DISTRICT
NORTH SIDE CANAL CO LTD
TWIN FALLS CANAL COMPANY
BARKER ROSHOLT & SIMPSON LLP
PO BOX 63
TWIN FALLS ID 83303-0063

IDAHO DEPARTMENT OF
ENVIRONMENTAL QUALITY
CODY MULLIKIN
OFFICE OF THE ATTORNEY
GENERAL
1410 N HILTON ST
BOISE, ID 83706

US DEPT OF INTERIOR
FISH & WILDLIFE SERVICE
911 NE 11TH ST
PORTLAND OR 97232-4181

GREATER YELLOWSTONE
COALITION
C/O CHARLES DRIMAL
60 E LITTLE AVE STE 101
DRIGGS, ID 83422

HENRYS FORK ANGLERS INC
PO BOX 487
ST ANTHONY ID 83445

HENRYS FORK FOUNDATION
C/O ROB VAN KIRK
PO BOX 550
ASHTON ID 83420

IDAHO WATER USERS ASSN INC
C/O PAUL ARRINGTON
1010 W JEFFERSON ST 101
BOISE ID 83702

IDAHO RIVERS UNITED
C/O STEPHEN PFIEFFER
3380 AMERICANA TERRACE STE 140
BOISE ID 83701

TROUT UNLIMITED INC
C/O KIRA FINKLER
910 W MAIN ST STE 342
BOISE ID 83702

US DEPT OF INTERIOR
BUREAU OF LAND MANAGEMENT
FREDRIC W PRICE
IDAHO STATE OFFICE
1387 S VINNELL WAY
BOISE ID 83709-1657

OLIVER WHITE
SOUTH FORK LODGE
PO BOX 22
SWAN VALLEY, ID 83449

FRANK WILSON
OFFICE OF THE REGIONAL
SOLICITOR
601 SW 2ND AVE STE 1950
PORTLAND, OR 97204

JERRY RIGBY
RIGBY ANDRUS & RIGBY LAW PLLC
25 NORTH SECOND EAST
REXBURG, ID 86440

STATE OF IDAHO
OFFICE OF THE ATTORNEY
GENERAL
MICHAEL ORR
PO BOX 83720
BOISE, ID 83720

WATER DISTRICT #01
900 N SKYLINE DR STE A
IDAHO FALLS ID 83402



Christina Henman
Administrative Asst. 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.



Eastern Region • 900 N Skyline Drive, Suite A • Idaho Falls, ID 83402-1718

Phone: 208-525-7161 • Fax: 208-525-7177 • Email: easterninfo@idwr.idaho.gov • Web: idwr.idaho.gov

Governor Brad Little

Director Gary Spackman

November 28, 2022

STATE OF IDAHO
IDAHO WATER RESOURCE BOARD
C/O CYNTHIA BRIDGE CLARK
PO BOX 83720
BOISE ID 83720-0098

RE: Permit No. 21-7578

Permit Approval Notice

Dear Permit Holder:

The Department of Water Resources ("Department") has issued the enclosed permit authorizing you to establish a new water right. Please be sure to thoroughly review all the conditions of approval listed on your permit. The conditions include requirements that you must accomplish, such as timely submittal of proof of beneficial use or installation of a measuring device, as well as information about how your water use may be administered, such as regulation by a watermaster in a water district. Failure to comply with the conditions of approval may result in your permit lapsing or being canceled.

The permit is a PRELIMINARY ORDER issued pursuant to Rule 730 of the Department's Rules of Procedure (IDAPA 37.01.01.730). It can and will become a final order without further action by the Department unless a party petitions for reconsideration, files exceptions, or requests a hearing as described in the enclosed information sheet.

The final step in the water right process is issuance of a water right license. To receive a water right license, you must divert and use water to the full extent intended and submit a *Statement of Completion for Submitting Proof of Beneficial Use* by the date shown in condition no. 1 of your permit. The Department will send you a *Proof Due Notice* approximately 60 days prior to the date listed in condition no. 1 of your permit.

You may also require approvals from other Department programs, such as Ground Water Protection, Safety of Dams, or Stream Channel Protection, to accomplish your proposed development. Please call or visit any Department office or see the Department's website at idwr.idaho.gov for more information about these programs.

SCANNED
NOV 29 2022

Please be advised that Idaho Code § 42-248, requires you or the owner of this water permit to maintain current ownership and address records on file with the Department. Forms to file an assignment of permit and/or a change in the address of the permit owner are available from any Department office or at the Department's website at www.idwr.idaho.gov.

If you have any questions concerning the enclosed information, please contact me at (208) 497-3784.

Sincerely,

A handwritten signature in black ink, appearing to read 'J Cefalo', written in a cursive style.

James Cefalo
Eastern Regional Manager

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on November 28, 2022, I served true and correct copies of Permit to Appropriate Water Nos. 1-10613, 21-7577, 21-7578, 21-7580, and 21-13160 by U.S. Mail, postage prepaid, to the following:

STATE OF IDAHO
IDAHO WATER RESOURCE BOARD
C/O CYNTHIA BRIDGE CLARK
PO BOX 83720
BOISE ID 83720-0098

STATE OF IDAHO
OFFICE OF THE ATTORNEY
GENERAL
ANN Y YRIBAR
DEPUTY ATTORNEY GENERAL
PO BOX 83720
BOISE ID 83720-0010

FREMONT MADISON IRRIGATION
DISTRICT
PO BOX 15
SAINT ANTHONY ID 83445-0015

IDAHO CONSERVATION LEAGUE
ATTN MARIE CALLAWAY KELLNER
PO BOX 844
BOISE ID 83701

AMERICAN FALLS RESERVOIR
DISTRICT #2
MINIDOKA IRRIGATION DISTRICT
FLETCHER LAW OFFICE
PO BOX 248
BURLEY ID 83318

IDAHO POWER CO
KRESTA DAVIS BUTTS
PO BOX 70
BOISE ID 83707-0070

A & B IRRIGATION DISTRICT
BURLEY IRRIGATION DISTRICT
MILNER IRRIGATION DISTRICT
NORTH SIDE CANAL CO LTD
TWIN FALLS CANAL COMPANY
BARKER ROSHOLT & SIMPSON LLP
PO BOX 63
TWIN FALLS ID 83303-0063

IDAHO DEPARTMENT OF
ENVIRONMENTAL QUALITY
CODY MULLIKIN
OFFICE OF THE ATTORNEY
GENERAL
1410 N HILTON ST
BOISE, ID 83706

US DEPT OF INTERIOR
FISH & WILDLIFE SERVICE
911 NE 11TH ST
PORTLAND OR 97232-4181

GREATER YELLOWSTONE
COALITION
C/O CHARLES DRIMAL
60 E LITTLE AVE STE 101
DRIGGS, ID 83422

HENRYS FORK ANGLERS INC
PO BOX 487
ST ANTHONY ID 83445

HENRYS FORK FOUNDATION
C/O ROB VAN KIRK
PO BOX 550
ASHTON ID 83420

IDAHO WATER USERS ASSN INC
C/O PAUL ARRINGTON
1010 W JEFFERSON ST 101
BOISE ID 83702

IDAHO RIVERS UNITED
C/O STEPHEN PFIEFFER
3380 AMERICANA TERRACE STE 140
BOISE ID 83701

TROUT UNLIMITED INC
C/O KIRA FINKLER
910 W MAIN ST STE 342
BOISE ID 83702

US DEPT OF INTERIOR
BUREAU OF LAND MANAGEMENT
FREDRIC W PRICE
IDAHO STATE OFFICE
1387 S VINNELL WAY
BOISE ID 83709-1657

OLIVER WHITE
SOUTH FORK LODGE
PO BOX 22
SWAN VALLEY, ID 83449

FRANK WILSON
OFFICE OF THE REGIONAL
SOLICITOR
601 SW 2ND AVE STE 1950
PORTLAND, OR 97204

JERRY RIGBY
RIGBY ANDRUS & RIGBY LAW PLLC
25 NORTH SECOND EAST
REXBURG, ID 86440

STATE OF IDAHO
OFFICE OF THE ATTORNEY
GENERAL
MICHAEL ORR
PO BOX 83720
BOISE, ID 83720

WATER DISTRICT #01
900 N SKYLINE DR STE A
IDAHO FALLS ID 83402



Christina Henman
Administrative Asst. I

Company, South Fork Lodge, Trout Unlimited, Twin Falls Canal Company, Milner Irrigation District, Twin Falls Canal Company, United State Department of Interior Bureau of Land Management, United States Department of Interior Fish and Wildlife Service (collectively "Protestants"), by and through their undersigned counsel of record or representatives, and pursuant to IDAPA 37.01.01.204, .260, .557 and .612, hereby stipulate to a settlement of Protestants' protests in the above-entitled matters, the terms and conditions of which are set forth herein and in attached Exhibit A.

The parties agree that the following conditions ("Conditions") should be included in any approvals of Applications for Permit No. 01-10613:

Condition No. 1: Subject to all prior rights.

Condition No. 2: The right holder shall cause to be maintained a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).

Condition No. 3: The issuance of this right does not grant any right-of-way or easement across the land of another.

Condition No. 4: 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. 01.

Condition No. 5: Pursuant to Section 42-234(3), Idaho Code, the Director may reduce the amount of water that may be diverted for recharge purposes under this right even though there is sufficient water to supply the entire amount authorized for appropriation under this right.

Condition No. 6: Pursuant to Section 42-234(4), Idaho Code, to ensure that other water rights are not injured by the operations of the recharge project authorized by this right, the Director has authority to approve, disapprove, or require alterations in the methods employed to achieve ground water recharge.

Condition No. 7: Consistent with Section 42-234(5), Idaho Code, seepage from canals incidental to or coincident with delivery of water under other beneficial uses shall not be considered ground water recharge under this right.

Condition No. 8: The diversion and use of water described in this right may be subject to additional conditions and limitations agreed to by the protestant(s) and the right holder under a separate agreement to which the Department of Water Resources (IDWR) is not a party. Because IDWR is not a party, IDWR is not responsible for enforcement of any aspect of the agreement not specifically addressed in other conditions herein. Enforcement of those portions of the agreement not specifically addressed in other conditions shall be the responsibility of the protestant(s) and the water right holder.

Condition No. 9: The right holder shall cause to be recorded the daily quantity of water diverted for ground water recharge and the diversion data shall be reported for the prior calendar year to the Department by July 31 each year. Reporting shall occur in the manner specified by the Department, consistent with Section 42-701, Idaho code. To facilitate this reporting requirement, the right holder shall cause measurements to be taken at each point of diversion and at each point where water is delivered from the conveyance system into a designated recharge site.

Condition No. 10: This right is not an authorization for the described recharge effort to be used as mitigation or credit pursuant to the Department's Rules of Conjunctive Management of Surface and Ground Water Resources, a mitigation plan to offset depletion in association with a water right application, or a Management Program pursuant to Idaho Code Section 42-1416B.

Condition No. 11: Prior to the diversion and use of water under this approval, the right holder shall comply with applicable water quality monitoring and/or permitting requirements administered by the Department of Environmental Quality or the Department of Agriculture.

Condition No. 12: Water may only be diverted under this right when the flow in the Snake River immediately downstream from the Dry Bed bifurcation structure on the Snake River reaches or exceeds 1,422 cfs. In practice, this streamflow is estimated by subtracting the streamflow at USGS gage 13038000 Dry Bed near Ririe from the streamflow at USGS gage 13037500 Snake River near Heise and also subtracting all canal and pump diversions from the Snake River between USGS gages 13037500 and 13038000.

Condition No. 13: Approval of this permit does not constitute approval by the Idaho Water Resource board as may be required pursuant to Section 42-1737, Idaho Code.

Condition No. 14: The diversion of water under this right shall not exceed ten thousand (10,000) acre-feet on an average annual basis, without first obtaining approval from the Idaho Water Resource Board pursuant to Section 42-1737, Idaho Code.

Condition No. 15: The right holder agrees not to exercise this right unless there has been a determination made by the USBR in consultation with Water District 01 and the Committee of Nine, as outlined in Pub. L. No. 115-244, § 203, 132 Stat. 2897, 2906 (2018), that there is water available in excess of that needed to ensure operational

flexibility and to satisfy existing Minidoka Project storage water rights 01-219, 01-2064, 01-4055, 01-10042, 01-10044, 01-10045, 01-10621B, 21-2156, 21-4155, 21-10560, and Minidoka hydropower rights 01-217 and 01-218.

The Parties agree that the following conditions ("Conditions") should be included in any approvals of Applications for Permit Nos. 21-7577, 21-7578, 21-7580, and 21-13106:

Condition No. 1: Subject to all prior rights.

Condition No. 2: The right holder shall cause to be maintained a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).

Condition No. 3: The issuance of this right does not grant any right-of-way or easement across the land of another.

Condition No. 4: 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. 21.

Condition No. 5: Pursuant to Section 42-234(3), Idaho Code, the Director may reduce the amount of water that may be diverted for recharge purposes under this right even though there is sufficient water to supply the entire amount authorized for appropriation under this right.

Condition No. 6: Pursuant to Section 42-234(4), Idaho Code, to ensure that other water rights are not injured by the operations of the recharge project authorized by this right, the Director has authority to approve, disapprove, or require alterations in the methods employed to achieve ground water recharge.

Condition No. 7: Consistent with Section 42-234(5), Idaho Code, seepage from canals incidental to or coincident with delivery of water under other beneficial uses shall not be considered ground water recharge under this right.

Condition No. 8: The diversion and use of water described in this right may be subject to additional conditions and limitations agreed to by the protestant(s) and the right holder under a separate agreement to which the Department of Water Resources (IDWR) is not a party. Because IDWR is not a party, IDWR is not responsible for enforcement of any aspect of the agreement not specifically addressed in other conditions herein. Enforcement of those portions of the agreement not specifically addressed in other conditions shall be the responsibility of the protestant(s) and the water right holder.

Condition No. 9: The right holder shall cause to be recorded the daily quantity of water diverted for ground water recharge and the diversion data shall be reported for the prior

calendar year to the Department by July 31 each year. Reporting shall occur in the manner specified by the Department, consistent with Section 42-701, Idaho code. To facilitate this reporting requirement, the right holder shall cause measurements to be taken at each point of diversion and at each point where water is delivered from the conveyance system into a designated recharge site.

Condition No. 10: This right is not an authorization for the described recharge effort to be used as mitigation or credit pursuant to the Department's Rules of Conjunctive Management of Surface and Ground Water Resources, a mitigation plan to offset depletion in association with a water right application, or a Management Program pursuant to Idaho Code Section 42-1416B.

Condition No. 11: Prior to the diversion and use of water under this approval, the right holder shall comply with applicable water quality monitoring and/or permitting requirements administered by the Department of Environmental Quality or the Department of Agriculture.

Condition No. 12: Subject to a written waiver of this conditions granted by the Henrys Fork Drought Management Committee (or its successor in interest), the water right acquired under this permit may be diverted only when the flows in the Henry's Fork measured at the St. Anthony gauge (USGS 13050500) reach or exceed 1,000 c.f.s.

Condition No. 13: Approval of this permit does not constitute approval by the Idaho Water Resource board as may be required pursuant to Section 42-1737, Idaho Code.

Condition No. 14: The diversion of water under this right shall not exceed ten thousand (10,000) acre-feet on an average annual basis, without first obtaining approval from the Idaho Water Resource Board pursuant to Section 42-1737, Idaho Code.

Condition No. 15: The right holder agrees not to exercise this right unless there has been a determination made by the USBR in consultation with Water District 01 and the Committee of Nine, as outlined in Pub. L. No. 115-244, § 203, 132 Stat. 2897, 2906 (2018), that there is water available in excess of that needed to ensure operational flexibility and to satisfy existing Minidoka Project storage water rights 01-219, 01-2064, 01-4055, 01-10042, 01-10044, 01-10045, 01-10621B, 21-2156, 21-4155, 21-10560, and Minidoka hydropower rights 01-217 and 01-218.

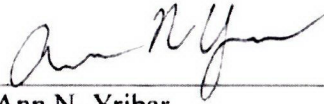
The parties move the Department, pursuant to IDAPA 37.01.01.557, .612 for an order ("Order") approving the Conditions and confirming that they will be included by the Department in any approvals of Applications for Permit 01-10613, 21-7577, 21-7578, 21-7580, 21-13160 (the "Applications"). Protestants' protests to Applications shall be deemed withdrawn

upon the issuance of a final Order stating that the Conditions are approved and shall be made a part of the respective Applications' approvals.

The parties further agree that diversion and use of water in connection with this right shall be subject to the terms and provisions of the Memorandum of Agreement which is attached hereto as Exhibit A. The provisions of the Memorandum of Agreement set forth in Exhibit A are incorporated herein and made part of this Stipulation which shall be binding upon the parties hereto, and their heirs, successors, and assigns. The Memorandum of Agreement contained in Exhibit A supersedes and replaces the Memorandum of Agreement filed in Water Right Permits 01-7142 and 01-10609. The parties further request that a copy of the Memorandum of Agreement be included in the Department's water right files for the Applications and for Water Right Permits 01-7142, 01-10609, 01-10613, 21-7577, 21-7578, 21-7580, and 21-13160.

Provided that the Applications are not subsequently amended from their current form except as may be required by the Department to continue processing, the withdrawal of Protestants' respective protests shall be with prejudice. The parties respectfully request the entry of an Order approving the stipulated settlement set forth herein including the Conditions and Memorandum of Agreement; each party to bear its own costs, expenses, and attorney's fees.

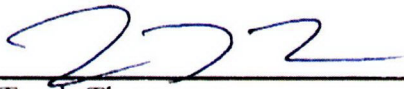
For IDAHO WATER RESOURCE BOARD



Ann N. Yribar
Deputy Attorney General

Date: August 17, 2022

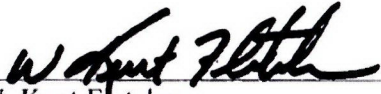
For the A&B IRRIGATION DISTRICT
BURLEY IRRIGATION DISTRICT
MILNER IRRIGATION DISTRICT
NORTH SIDE CANAL COMPANY
TWIN FALLS CANAL COMPANY



Travis Thompson
Barker Rosholt & Simpson LLP

Date: 6/21/22

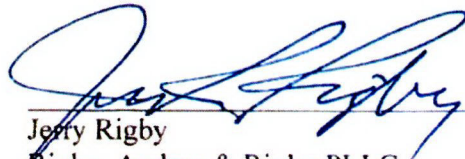
For the AMERICAN FALLS RESERVOIR DISTRICT NO. 2
MINIDOKA IRRIGATION DISTRICT



W. Kent Fletcher
Fletcher Law Office

Date: June 15, 2022

For the FREMONT MADISON IRRIGATION DISTRICT



Jerry Rigby
Rigby, Andrus & Rigby PLLC

Date: 4-2-22

For the GREATER YELLOWSTONE COALITION

C. Wolf Drimal

Charles Drimal

Date: April 13, 2022

SCANNED
OCT 10 2022

For the HENRY'S FORK FOUNDATION



Brandon D. Hoffner

Date: 4/06/2022

For the IDAHO CONSERVATION LEAGUE

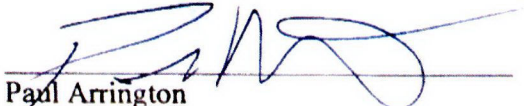
Marie Callaway Kellner
Marie Callaway Kellner

Date: 6/13/22

JOINT STIPULATION AND MOTION TO APPROVE CONDITIONS - 19

SCANNED
OCT 10 2022

For the IDAHO WATER USERS ASSOCIATION


Paul Arrington

Date: 6/8/2022

For the IDAHO DEPARTMENT OF FISH AND GAME



Michael Orr
Deputy Attorney General

Date: June 9, 2022

For IDAHO POWER COMPANY



John Simpson
Barker Rosholt & Simpson LLP

Date: 7/6/2022

For the SOUTH FORK LODGE

Oliver White 

Date: 6/12/2022

For the IDAHO RIVERS UNITED


Stephen Pfeiffer

Date: 4/27/2022

For the TROUT UNLIMITED


Kira Finkler

Date: 6/7/22

For UNITED STATES FISH AND WILDLIFE SERVICE



Digitally signed by FRANK
WILSON
Date: 2022.06.01 13:09:15
-07'00'

Date: _____

Frank Wilson

For the IDAHO DEPARTMENT OF ENVIRONMENTAL QUALITY



Cody Mullikin
Deputy Attorney General

Date: 8/17/2022

CERTIFICATE OF SERVICE

I hereby certify that on the 17th day of August, 2022, a true and correct copy of the foregoing was filed and/or served upon the following individual(s) by the means indicated:

James Cefalo Idaho Department of Water Resources 900 N. Skyline Dr., Ste. A Idaho Falls ID 83402-1718	☒ U.S. Mail, postage prepaid ☐ Express Mail ☐ Hand Delivery ☐ Facsimile _____
W. Kent Fletcher Fletcher Law Offices PO Box 248 Burley ID 83318	☒ U.S. Mail, postage prepaid ☐ Express Mail ☐ Hand Delivery ☐ Facsimile
Fredric W. Price United States Bureau of Land Management Idaho State Office 1387 S. Vinnell Way Boise ID 83709	☒ U.S. Mail, postage prepaid ☐ Express Mail ☐ Hand Delivery ☐ Facsimile
Travis Thompson Barker Rosholt & Simpson LLP 195 River Vista Place Ste. 204 Twin Falls ID 83301-3029	☒ U.S. Mail, postage prepaid ☐ Express Mail ☐ Hand Delivery ☐ Facsimile
John Simpson Barker Rosholt & Simpson 1010 W Jefferson St Ste 102 Boise ID 83702	☒ U.S. Mail, postage prepaid ☐ Express Mail ☐ Hand Delivery ☐ Facsimile
Rob Van Kirk Henry's Fork Foundation PO Box 550 Ashton ID 83420	☒ U.S. Mail, postage prepaid ☐ Express Mail ☐ Hand Delivery ☐ Facsimile
Charles Drimal Greater Yellowstone Coalition 60 E Little Ave Ste 101 Driggs ID 83422	☒ U.S. Mail, postage prepaid ☐ Express Mail ☐ Hand Delivery ☐ Facsimile
Marie Callaway Kellner Idaho Conservation League PO Box 844 Boise ID 83701	☒ U.S. Mail, postage prepaid ☐ Express Mail ☐ Hand Delivery ☐ Facsimile

Oliver White
South Fork Lodge
PO Box 22
Swan Valley ID 83449

☒ U.S. Mail, postage prepaid
☐ Express Mail
☐ Hand Delivery
☐ Facsimile

Paul Arrington
Idaho Water Users Association
1010 W Jefferson St Ste 101
Boise ID 83702

☒ U.S. Mail, postage prepaid
☐ Express Mail
☐ Hand Delivery
☐ Facsimile

Frank Wilson
Office of the Regional Solicitor
601 SW 2nd Ave Ste 1950
Portland OR 97204

☒ U.S. Mail, postage prepaid
☐ Express Mail
☐ Hand Delivery
☐ Facsimile

Michael Orr
Idaho Attorney General's Officer
PO Box 83720
Boise ID 83720-0010

☒ U.S. Mail, postage prepaid
☐ Express Mail
☐ Hand Delivery
☐ Facsimile

Jerry Rigby
Rigby Andrus & Rigby Law PLLC
25 North Second East
Rexburg ID 83440

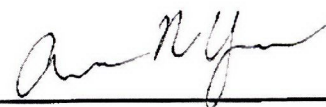
☒ U.S. Mail, postage prepaid
☐ Express Mail
☐ Hand Delivery
☐ Facsimile

Stephen Pfeiffer
Idaho Rivers United
3380 Americana Terrace Ste 140
Boise ID 83706

☒ U.S. Mail, postage prepaid
☐ Express Mail
☐ Hand Delivery
☐ Facsimile

Cody Mullikin
Deputy Attorney General
Idaho Department of Environmental Quality
1410 N Hilton St
Boise ID 83706

☒ U.S. Mail, postage prepaid
☐ Express Mail
☐ Hand Delivery
☐ Facsimile

By: 

Ann N. Yribar
Deputy Attorney General

EXHIBIT A

MEMORANDUM OF AGREEMENT

Between:

A&B Irrigation District
American Falls Reservoir District #2
Burley Irrigation District
Fremont Madison Irrigation District
Greater Yellowstone Coalition
Henry's Fork Foundation
Idaho Conservation League
Idaho Department of Fish and Game
Idaho Department of Environmental Quality
Idaho Power Company
Idaho Rivers United
Idaho Water Resource Board
Idaho Water Users Association
Milner Irrigation District
Minidoka Irrigation District
North Side Canal Company
South Fork Lodge
Trout Unlimited
Twin Falls Canal Company
United States Bureau of Land Management
United States Fish and Wildlife Service

Regarding:

Establishment of an Environmental Resources Technical Working Group and Protocol for Review and Recommendations Concerning Potential Impact of Managed Ground Water Recharge Under the Idaho Water Resource Board's Water Right Permit Nos. 01-7142, 01-10609, 01-10613, 21-7577, 21-7578, 21-7580, and 21-13160 on Aquatic, Wildlife, and Recreation Resources and on Water Quality.

WHEREAS, the goal of the Eastern Snake Plain Comprehensive Aquifer Management Plan ("ESPA CAMP") is to sustain the economic viability and social and environmental health of the Eastern Snake Plain by adaptively managing a balance between water use and supplies; and

WHEREAS, the ESPA CAMP provides for continued effort to identify and address all water use needs affected by the ESPA CAMP, including the integration of environmental considerations in decision making; and

WHEREAS, the objectives of the ESPA CAMP are to:

1. Increase predictability for water users by managing for a reliable supply

2. Create alternatives to administrative curtailment
3. Manage overall demand for water within the Eastern Snake Plain
4. Increase discharge to the aquifer
5. Reduce withdrawals from the aquifer; and

WHEREAS, the ESPA CAMP provides opportunities for managing available water supply and demand to address current and future water use needs including, but not limited to, those for irrigated agriculture, aquaculture, industry, hydropower, municipalities, real estate development, and domestic users and to protect environmental values; and

WHEREAS, the ESPA CAMP provides for an ongoing process for assessing, among other things, environmental issues related to implementation of aquifer management strategies, including managed aquifer recharge;

WHEREAS, because the Idaho Water Resource Board values the commitment of conservation interests, government agencies, and water users to provide it with information and recommendations regarding environmental issues related to implementation of managed aquifer recharge, the Board will consider such information and recommendations.

NOW THEREFORE, the parties agree as follows:

- 1) As resolution to protests to Water Right Permit Applications 01-7142 and 01-10609, the IWRB and several of the parties to this agreement entered into a Memorandum of Agreement dated April 14, 2017 ("Original MOA") which created an Environmental Resources Technical Working Group ("ERTWG"). The ERTWG was created to provide information and recommendations to the IWRB regarding any potential impact on aquatic, wildlife, and recreation resources and on water quality resulting from the exercise of the water right permits.
- 2) This Memorandum of Agreement ("MOA") supersedes and replaces the Original MOA. This MOA will apply to Water Right Permits 01-7142 and 01-10609, as well as to water right permits issued for water right applications 01-10613, 21-7577, 21-7578, 21-7580, and 21-13160. All parties to this agreement will be entitled to participate in and provide recommendations for recharge occurring under Water Right Permits 01-7142 and 01-10609, as well as to water right permits issued for water right applications 01-10613, 21-7577, 21-7578, 21-7580, and 21-13160.
- 3) The Working Group will be composed of representatives from A&B Irrigation District, American Falls Reservoir District #2, Burley Irrigation District, Fremont Madison Irrigation District, Greater Yellowstone Coalition, Henry's Fork Foundation, Idaho Conservation League, Idaho Department of Fish and Game, Idaho Department of Environmental Quality, Idaho Power Company, Idaho Rivers United, Idaho Water Resource Board, Idaho Water Users Association, Milner Irrigation District, Minidoka Irrigation District, North Side Canal Company, South Fork Lodge, Trout Unlimited, Twin Falls Canal Company, United States Bureau of Land Management, and the United States Fish and Wildlife Service ("Working Group Members").

MEMORANDUM OF AGREEMENT - 1

SCANNED
OCT 10 2022

- 4) The Working Group Members may, at their own discretion and via protocols and procedures decided by them, invite technical input from other stakeholders on an issue-specific basis as needed to develop information relevant to the potential impact of managed ground water recharge under the IWRB water right permits on aquatic, wildlife, and recreation resources and on water quality.
- (a) The Working Group will be convened at least twice annually. Additional meetings will be held as needed or requested.
 - (b) The meetings will provide an opportunity for discussion of potential impacts of the planned recharge activities on aquatic, wildlife, and recreation resources and on water quality and consideration of recommendations for minimizing and/or mitigating any potential impacts. Working Group Members will meet to consider:
 - i. Actual managed recharge accomplishments
 - ii. Information related to any impacts on aquatic, wildlife, and recreation resources, and on water quality resulting from managed recharge activities
 - iii. Information needs related to future recharge activities
 - iv. Protocols necessary to ensure consideration of potential impacts on aquatic, wildlife, and recreation resources and on water quality of future recharge activities, including impacts on flows necessary to support aquatic species and maintain aquatic and riparian habitats.
 - (c) The Working Group's review and recommendations for future recharge activities will be set out in a memorandum drafted by the Working Group Member(s).
 - i. The Working Group Members will be responsible for developing protocols and procedures governing its development of the memorandum.
 - ii. The memorandum will first be submitted to IWRB staff.
 - iii. IWRB staff will review the Working Group's memorandum and will provide a technical analysis of the recommendations therein. The analysis will include specific discussion of each recommendation. The IWRB staff analysis will be shared with the Working Group after the analysis is complete but before the staff analysis is presented to the Board.
 - iv. IWRB staff will present its analysis to the Board at the next regularly scheduled board meeting after the analysis is completed.
 - v. One representative of the Working Group may present additional information on behalf of the group during the meeting addressing the analysis performed by IWRB staff.
 - vi. Any additional presentations or comments on the Working Groups' memorandum at the Board meeting will be at the discretion of the IWRB chairman.
 - (d) The IWRB will consider the Working Group's review and recommendations, as set forth in the memorandum, in subsequent decision making regarding managed recharge activities.

- (e) Individual Working Group Members will not be precluded from providing additional information to the IWRB on behalf of their individual entities should they wish to do so.

5) General Provisions

- (a) Term of agreement. This MOA will remain in effect indefinitely unless terminated by agreement of the parties.
- (b) Withdrawal. Any party to this MOA may withdraw from the MOA at any time with sixty-days notice to the other parties.