

State of Idaho
Department of Water Resources
Water Right License
Water Right No. 65-23631

Priority: October 11, 2016

Maximum Diversion Volume: 2.3 AF

It is hereby certified that:

KIRK A DARNELL
9780 SWEET OLA HWY
SWEET ID 83670-5054

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated January 14, 2016, and has submitted Proof of Beneficial Use on November 19, 2021. An examination confirms water is diverted from:

Source : UNNAMED STREAM

Tributary: LITTLE SQUAW CREEK

Beneficial Use

STOCKWATER STORAGE

Period of Use

01/01 to 12/31

Annual Volume

2.3 AF

Location of Point(s) of Diversion

UNNAMED STREAM NE¼ NE¼, Sec. 30, Twp 11N, Rge 03E, B.M. VALLEY County

Place of Use: STOCKWATER STORAGE

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
11N	03E	30	X																

Conditions of Approval

1. 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. 65A.
2. The pond established by the storage of water under this right shall not exceed a total capacity of 1.0 acre-feet or a total surface area of 0.2 acres.
3. Right 65-23631 authorizes the storage of an annual total of 2.3 acre-feet; 1.0 acre-feet to be used for the initial filling or carryover storage of the reservoir, 1.2 acre-feet for the replacement of losses due to seepage and evaporation, and up to 0.1 acre-feet for additional refills for stockwater storage use.
4. The right holder shall contact the watermaster by June 15 each year for authorization to continue diverting and using water. The right holder shall not divert water after June 15 each year unless the watermaster authorizes continued diversion and use of water under this water right. When the watermaster informs the right holder that water is not available to fill this right, the right holder shall cease diversion, shall rent water from the Payette River Rental Pool, or shall otherwise mitigate for the depletion of water caused by this water use. The department may amend the contact date listed in this administrative provision to more closely coincide with the date when water is not available to fill this water right.

SCANNED

SEP 06 2023

State of Idaho
Department of Water Resources
Water Right License
Water Right No. 65-23631

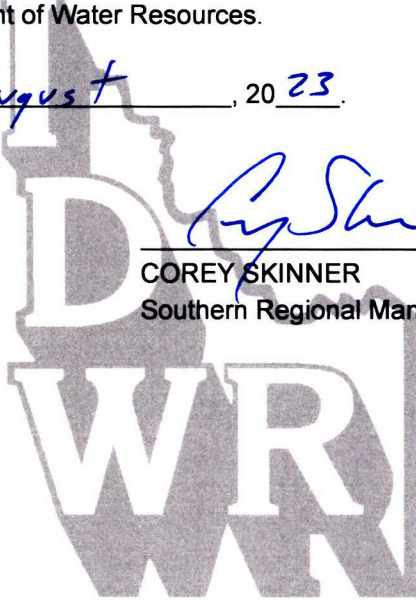
5. When ordered by the Director, the right holder shall provide mitigation acceptable to the Director to offset depletion of lower Snake River flows needed for migrating anadromous fish. The amount of water required for mitigation, which is to be released into the Snake River or a tributary for this 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 Idaho Code § 42-219. 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 29th day of August, 2023.



COREY SKINNER
Southern Regional Manager



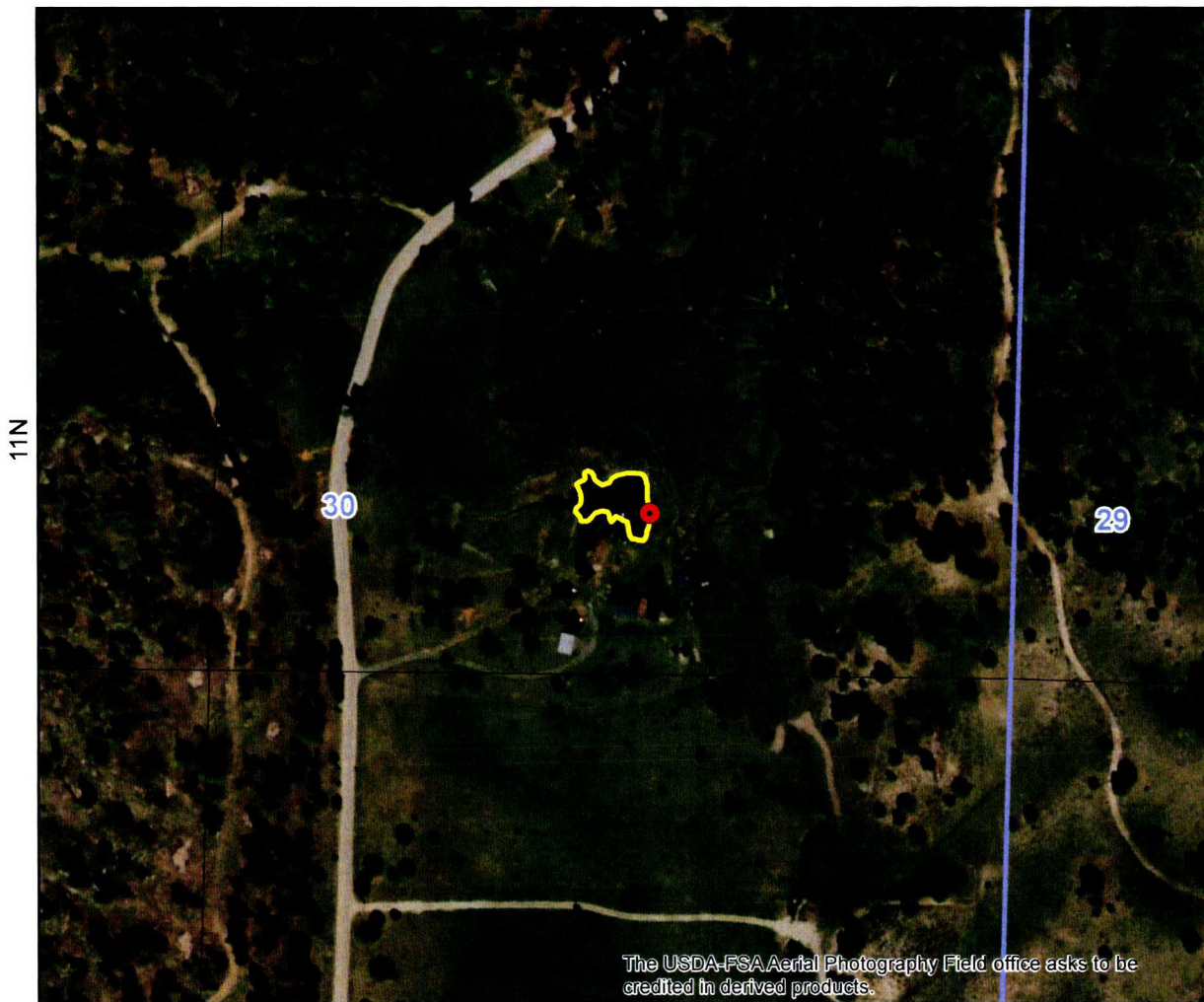
SCANNED

SEP 06 2023

State of Idaho
Department of Water Resources
Attachment to Water Right
65-23631

This map depicts the STOCKWATER 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.

03E



0 0.035 0.07 0.14 Miles

-  Point of Diversion
-  Place Of Use Boundary
-  Townships
-  PLS Sections
-  Quarter Quarters



SCANNED
SEP 06 2023



IDAHO DEPARTMENT OF
WATER RESOURCES

Southern Region • 650 Addison Ave W, Suite 500 • Twin Falls, ID 83301-5858

Phone: 208-736-3033 • Fax: 208-736-3037 • Email: southerninfo@idwr.idaho.gov • Web: idwr.idaho.gov

Governor Brad Little

Director Gary Spackman

August 31, 2023

KIRK A DARNELL
9780 SWEET OLA HWY
SWEET ID 83670-5054

RE: License No. 65-23631

ISSUANCE OF LICENSE

Dear Water Right Holder(s):

The Department of Water Resources ("Department") 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 all the conditions of approval listed on your license. The conditions may include ongoing requirements, such as maintenance of a measuring device or implementation of mitigation, as well as information about how your water use may be administered, such as regulation by a watermaster in a water district.

The license is a PRELIMINARY ORDER issued by the Department 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.

Also, 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. Water right forms are available from any office of the Department or on the Department's website at idwr.idaho.gov

If you have any questions concerning the enclosed information, please contact me at (208) 736-3033.

Sincerely,

Corey Skinner
Southern Regional Manager

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on August 31, 2023, I served a true and correct copy of Water Right License No. 65-23631 by U.S. Mail, postage prepaid, to the following:

KIRK A DARNELL (Current Owner)
9780 SWEET OLA HWY
SWEET ID 83670-5054

WATER DISTRICT #65A
ERIC HERR (Watermaster)
8917 BUTTE RD
SWEET ID 83670-5005

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

Denise Maline
Administrative Assistant 1

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
BENEFICIAL USE FIELD REPORT

A. GENERAL INFORMATION

Permit No: 65-23631
Exam Date: 08/17/2023

1. Current Owner:

KIRK A DARNELL
9780 SWEET OLA HWY
SWEET ID 83670-5054

2. Accompanied by: Corey Skinner, IDWR Southern Region manager and Kirk Darnell, permit holder

Phone No: 208-365-8478

Address: same as above

Relationship to permit Holder: permit holder

3. **SOURCE:**

UNNAMED STREAM

Tributary

LITTLE SQUAW CREEK

Method of Determination: Site visit, conversation with Mr. Darnell, and ArcMap aerial and DRG imagery**B. OVERLAP REVIEW**

1. Other water rights with the same place of use: None
2. Other water rights with the same point-of-diversion: None

C. DIVERSION AND DELIVERY SYSTEM1. **LOCATION OF POINT(S) OF DIVERSION:**

UNNAMED STREAM NE¼ NE¼, Sec. 30, Twp 11N, Rge 03E, B.M. VALLEY County

Method of Determination: Site visit and ArcMap aerial imagery

PLACE OF USE: STOCKWATER STORAGE

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
11N	03E	30	X																

Method of Determination: Site visit and ArcMap aerial imagery

3.

Delivery System Diagram Attached (required). Indicate all major components and distances between components.
 X Indicate weir size/pipe as applicable.

Map Attached Showing Location(s) of point(s) of diversion and place(s) of use (required). Scale must be
 X 1:24,000 or greater.

 X Aerial Photo Attached (required for irrigation of 10+ acres).

 X Photo of Diversion and System Attached

4.

Well or Diversion ID No.*	Motor Make	Hp	Motor Serial No.	Pump Make	Pump Serial No. or Discharge Size
NA					

D. FLOW MEASUREMENTS

1.

Measurement Equipment	Type	Make	Model No.	Serial No.	Size	Calib. Date
NA						

2. Measurements: No measurement made; use is for on-stream stockwater storage only so the physical volume of pond was determined during field examination.

E. FLOW CALCULATIONS

Additional Computation Sheets Attached

Measured Method: NA. Permit holder does not divert from stream or pond, so the Stockwater component of the permit is being dropped at licensing.

F. VOLUME CALCULATIONS

1. Volume Calculations for irrigation: NA

$$V_{I.R.} = (\text{Acres Irrigated}) \times (\text{Irrigation Requirement}) =$$

$$V_{D.R.} = [\text{Diversion Rate (cfs)}] \times (\text{Days in Irrigation season}) \times 1.9835 =$$

$$V = \text{Smaller of } V_{I.R.} \text{ and } V_{D.R.} =$$

2. Volume Calculations for Other Uses:

The permit holder indicated that the average depth of the pond is about 5' and the surface area of the pond was measured on ArcMap to be 0.2 acre, so the capacity of the pond is **1.0 AF**. Evaporation was calculated using the University of Idaho ET Idaho website and basing the pond type as 'Open water – small stock ponds' (see attached sheet) and using the nearest site located in Cascade. The annual precipitation deficit is 277 mm, or 0.91 foot. This provides an evaporation volume of 0.91 AF x 0.2 acre (surface area) = 0.182 AF rounded to **0.2 AF**. The seepage was calculated using the seepage portion of the IDWR Pond Loss Calculation Excel program. The seepage loss was reduced at the time of permitting (see attached 12/22/2016 Memo) based on the premise that the pond was excavated less than 12", where the soil type provided less seepage potential, but in conversation with the permit holder and viewing a photo he submitted with his proof of beneficial use statement, the pond was clearly excavated into a more permeable layer below (see attached Seepage Loss Calculation sheet). This gave a much higher seepage rate of 14.6 AF/year. The permit volume is limited to 2.3 AF, so the maximum seepage volume that can be taken is **1.0 AF**. The permit holder uses the pond for watering horses and cattle at various times of the year and he said that he runs 10 head about five months per year. The volume is calculated as: 10 head x 12 gallons per day = 120 gallons/day x 153 days = 18360 gallons/year or 0.06 AF, rounded to **0.1 AF**. Together, these volumes add up to the permitted 2.3 AF.

G. NARRATIVE/REMARKS/COMMENTS

The field exam for permit 65-23631 was conducted on August 17, 2023 with IDWR Southern Region Manager Corey Skinner and permit holder Kirk Darnell in attendance. The pond was excavated on an unnamed stream and a 6' embankment was placed on the downstream portion of the pond for additional storage space. A spillway was constructed on the left side of the embankment to handle excess flows. Mr. Darnell runs about 10 head of bulls/horses at various times of the year at his place where they water out of the pond for a total of about 5 months each year.

Mr. Darnell told us that he does not divert water from the pond or from the stream, so the Stockwater diversion use will be dropped from the license. Additionally, documentation in the backfile (attached) indicates that the Watermaster of WD-65A did not feel that the measuring device and lockable device conditions on the permit were necessary, so these will be dropped at licensing. All other conditions have been complied with.

The volume calculation section of this report details the breakdown of the volume components of the license and I recommend licensing at the permitted 2.3 AF.

Have conditions of permit approval been met? ☒ Yes ☐ No

H. RECOMMENDATIONS**1. Recommended Amounts**

<u>Beneficial Use</u>	<u>Period of Use</u>	<u>Annual Volume</u>
STOCKWATER STORAGE	01/01 to 12/31	2.3 AF

Totals: 2.3 AF

2. Recommended Amendments

☐ Change P.D. as reflected above ☐ Add P.D. as reflected above ☒ None

☐ Change P.U. as reflected above ☐ Add P.U. as reflected above ☒ None

I. AUTHENTICATION

Field Examiner's Name Jim Bickman Date 8-28-2023

Reviewer Ky Skinner Date 8/29/2023



Lateral view of pond, with embankment on right. People are standing on the spillway.

View of pond looking upstream from embankment.



65-23631 System Diagram and POU/POD Map



Legend

- Township/Range
- Sections
- QQ

0 0.0075 0.015 0.03 Miles



SCANNED
SEP 06 2023



University of Idaho

Kimberly Research
and Extension Center

Water Resources Program

ETIdaho 2017

Evapotranspiration and Consumptive Irrigation Water Requirements for Idaho

Please send suggestions for
improving this site to robison at
uidaho dot edu

2023-08-24 10:03

Copyright 2018, University of
Idaho.

Cascade 1NW (NWS -- USC00101514)

Statistics based on thirty year normal spans 1985 to 2016 years

For a different land cover or crop click on the above link.

You can highlight this table and copy via the clipboard to a Microsoft Excel or OpenOffice spreadsheet to plot or otherwise work with this data.

Open water - small stock ponds Precipitation Deficit (Click here for a graph)															
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Growing Season ^a	Non Growing Season ^b	Annual
Mean ^j	mm/day												mm		
Monthly ^c	-1.64	-1.13	-0.65	0.88	1.84	3.09	4.33	3.82	2.29	0.27	-1.71	-2.42	277	0	277
15-Day Moving Average ^d	-1.64	-1.35	-0.64	0.83	1.90	3.17	4.35	3.78	2.27	0.32	-1.71	-2.20			
7-Day Moving Average ^e	-1.64	-1.27	-0.67	0.83	1.91	3.13	4.34	3.80	2.29	0.33	-1.67	-2.29			
3-Day Moving Average ^f	-1.64	-1.16	-0.67	0.86	1.86	3.11	4.33	3.81	2.26	0.29	-1.66	-2.39			

Seepage Loss Calculations

This spreadsheet has been designed by Idaho Department of Water Resources to estimate the total annual seepage losses from a pond.

FILE NUMBER	65-23631
REVIEWER	J. Bitzenburg
DATE	8/24/2023

User Input
Calculated value
Formula Explanations

INPUTS

Pond Surface Area (AC.)	0.2	AC.
-------------------------	-----	-----

Pond Surface Area (SQ. FT.)	8712	SQ. FT.
-----------------------------	------	---------

I used the following method to obtain my Soil Classification information:	NRCS Web Soil Survey	
My Soil Classification is	GP	
Suggested Seepage Rate (FT./DAY)	0.2000	FT./DAY

Formula: (Surface Area X Seepage Rate) X 7.48 = Gallons Per Day Loss
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Convert to GPD	13033	GPD
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Total Seepage Loss (AFA)	14.6	AFA
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Though sand and gravel seepage rates may actually be higher, the maximum allowable rate is 0.2 ft/day, pursuant to Administrative Memo "Seepage Loss Standards for Ponds and Reservoirs."

Suggested Seepage Rates for Different Soil Types:
GW, GP, GM, GC, SW, SP and SM (silty sand, sand silt mixtures and gravel mixtures) = 0.2 ft per day
OL and ML (inorganic silts - very fine sands, silty, or clayey fine sands) = 0.02 ft per day
SC (clayey sands, sand clay mixtures) = 0.007 ft per day
CL (Low to medium plasticity clays) = 0.003 ft per day
MH, OH, PT and CH (high plasticity clays) = 0.0003 ft per day
LINED PONDS (liners can be chemical, fabric, or bentonite) = 0 ft per day
Ponds Intercepting Groundwater (excavated ponds filled by ground water) = 0 ft per day

PLEASE NOTE: The initial basis for the Suggested Seepage Rates in the table above is found on Page 16 of Seepage from Fish Ponds, Bulletin 599, August 1989 Alabama Agricultural experiment Station, Auburn University, Auburn University Alabama. If you don't know the soil type, please refer to the map provided at the NRCS Web Soil Survey (Tab #1), an ArcMap Soil Classification Map (Tab #1.1), or published NRCS Soil Survey (Tab #1.2). Use "0" if the pond fill relies on the water table.

MEMORANDUM

Date: December 22, 2016
To: Water Right File 65-23631
From: Angela Grimm
Re: Stockwater Storage Volume Recommendation

Soils data in ArcMap for the location of the proposed on-stream reservoir indicates the soil type is SM, but does not break the soil profile into depths. The soils information for the immediate surrounding area indicates the top 12 inches or so of the soil profiles in this area are CL while the deeper portions of the soil profiles are SM. Considering the applicant is proposing to excavate approximately 12 inches (4 ft dam), it seems more accurate to recommend 0.3 AF for seepage based on CL unit (0.003 ft per day) rather than 16.8 AF for seepage based on SM (0.2 ft per day). The applicant proposes stockwater use for 16 head of mixed stock, which AP Memo No. 3 allows up to 0.4 af annually. Therefore, recommending a total of 2.3 AF for stockwater storage use; 1.2 AF for capacity/carryover, 0.3 AF seepage, 0.4 AF evaporation, and 0.4 AF refill for stockwater use.

MEMORANDUM

TO: 65-23631

FROM: Daniel A. Nelson

DATE: November 22, 2021

SUBJECT: Telephone Conversation with Watermaster Eric Herr

The permit holder sent a letter with the Proof of Beneficial Use Statement that a lockable controlling works or a measurement device was not needed, and the watermaster Eric Herr agreed with this assessment. On November 22, 2021, I contacted Mr. Herr to confirm the permit holder's comments and ask for additional information concerning water right permit 65-23631.

In this telephone call, Mr. Herr stated he had not been to the site to view the place of use for this permit. Mr. Herr stated he gave the permit holder his comments based on a conversation that they had when they met in town one day. Mr. Herr also stated that he generally doesn't regulate water this far up stream. Mr. Herr informed me that the permit holder claimed more water was being added to the creek than had in the past, because the spring generally didn't always make it to the creek.

I told the watermaster that I has concerns from aerial imagery that additional springs had been developed, and that additional permits may be needed to ensure that all the unnamed streams and springs being diverted are properly authorized by a water right. I also asked about the dock in the pond and that it appeared that the pond was outside of the fence where the livestock would be located. Mr. Herr could not confirm or deny any of these concerns.

It appears that the only information Mr. Herr has on this situation is what the owner told him during a chance meeting in town



Governor Brad Little

Director Gary Spackman

March 17, 2022

KIRK A DARNELL
9780 SWEET OLA HWY
SWEET, ID 83670-5054

RE: Scheduling Field Exam for Water Right Permit No. 65-23631

Dear Permit Holder:

We are planning to conduct water right examinations in the vicinity of the above-referenced permit **this season**. An examination is needed to verify the water use to issue a water right license.

The above-referenced permit authorizes **0.020 CFS** of **UNNAMED STREAM** for **STOCKWATER & STOCKWATER STORAGE** use. **If you have developed a beneficial use and still own the place of use property, please contact me at your earliest convenience to schedule an examination.**

If you did not develop a beneficial use of water under the permit during the beneficial use period, a license cannot be issued, and the permit should be relinquished. If that use was developed but have ceased using the water and you currently carry no interest in it, please relinquish the permit by submitting the enclosed Relinquishment of Permit form (no fee required).

If you did develop a beneficial use of water under the permit, but you no longer own the place of use property identified in the permit, please submit the enclosed Assignment of Permit form with the applicable \$25 processing fee.

Please contact me within the next thirty (30) days at (208) 334-2190 to either schedule an examination or submit a relinquishment or assignment form. If you no longer own the place of use property and/or do not respond to this letter, the department will work with the current property owner to issue a license or void the permit.

Sincerely,

Justin Shearer
Water Resource Agent, Sr.

Enclosures: Relinquishment of Permit form
Assignment of Permit form
Proof Report and Map

SCANNED

MAY 26 2023