

State of Idaho
Department of Water Resources
Water Right License
Water Right No. 65-23689

Priority: March 14, 2017

Maximum Diversion Rate: 0.07 CFS

Maximum Diversion Volume: 8.2 AF

It is hereby certified that:

JAMES M BIER
OR
ROSANNE LICHT BIER
17400 SWEET OLA HWY
OLA ID 83657-5036

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated March 10, 2017, and has submitted Proof of Beneficial Use on July 05, 2022. An examination confirms water is diverted from:

Source : SQUAW CREEK

Tributary: PAYETTE RIVER

<u>Beneficial Use</u>	<u>Period of Use</u>	<u>Rate of Diversion</u>	<u>Annual Volume</u>
IRRIGATION	03/15 to 10/31	0.05 CFS	8.1 AF
STOCKWATER	01/01 to 12/31	0.02 CFS	0.1 AF

Location of Point(s) of Diversion

SQUAW CREEK NE¼ SW¼, Sec. 14, Twp 09N, Rge 01E, B.M. GEM County

Place of Use: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
09N	01E	14									2.3								2.3

Total Acres: 2.3

Place of Use: STOCKWATER

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
09N	01E	14									X					X			

Conditions of Approval

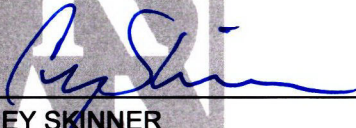
1. Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No.65A.
2. A lockable device subject to the approval of the Department shall be maintained on the diverting works in a manner that will provide the watermaster suitable control of the diversion.
3. When notified by the Department, the right holder shall install and maintain a measuring device of a type acceptable to the Department as part of the diverting works.

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4. 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.
5. 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.
6. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the place of use.

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 27th day of July, 2023.



COREY SKINNER
Southern Regional Manager

State of Idaho
Department of Water Resources
Attachment to Water Right
65-23689

This map depicts the STOCKWATER 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.

01E



0 0.035 0.07 0.14 Miles

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



SCANNED
JUL 31 2023

State of Idaho
Department of Water Resources
Attachment to Water Right
65-23689

This map depicts the IRRIGATION 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.

01E



0 0.035 0.07 0.14 Miles

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



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STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
BENEFICIAL USE FIELD REPORT

A. GENERAL INFORMATION

Permit No: 65-23689
Exam Date: 07/25/2023

1. Current Owner:

JAMES M BIER
OR
ROSANNE LICHTER BIER
17400 SWEET OLA HWY
OLA ID 83657-5036

2. Accompanied by: Jim Bier

Phone No: 208-584-3204

Address: same as above

Relationship to permit Holder: permit holder

3. **SOURCE:**
SQUAW CREEK

Tributary
PAYETTE RIVER

Method of Determination: Mr. Bier took me to the location on Squaw Creek from which he diverts.

B. OVERLAP REVIEW

1. Other water rights with the same place of use: None

Comments: The Biers have an exempt domestic well on their property which provides water to the home and the lawn.

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

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

SQUAW CREEK NE¼ SW¼, Sec. 14, Twp 09N, Rge 01E, B.M. GEM County

Method of Determination: Beneficial Use Exam site visit and ArcMap aerial imagery.

PLACE OF USE: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
09N	01E	14									2.3								2.3

Total Acres: 2.3

PLACE OF USE: STOCKWATER

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
09N	01E	14									X					X			

Method of Determination: Conversation with Jim Bier and ArcMap aerial imagery.

3.

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

X Map Attached Showing Location(s) of point(s) of diversion and place(s) of use (required). Scale must be 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
	Briggs and Stratton	5		Pacer	2 1/4" discharge

D. FLOW MEASUREMENTS

1.

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

2. Measurements: No measurement made per Beneficial Use Exam Rules 37.03.02.035.01.r.i and 37.03.02.035.01.r.iii; irrigation less than 5 acres and total combined diversion rate does not exceed 0.24 cfs.

E. FLOW CALCULATIONS

_____ Additional Computation Sheets Attached

Measured Method: NA

The irrigated acreage was measured at 2.3 acres on ArcMap. The standard flow rate of 0.02 cfs/acre calculates to 0.046 cfs; rounded to **0.05 cfs**. The stockwater rate was left at the permitted rate of **0.02 cfs** for a combined rate of 0.07 cfs.

F. VOLUME CALCULATIONS

1. Volume Calculations for irrigation:

$$V_{I.R.} = (\text{Acres Irrigated}) \times (\text{Irrigation Requirement}) = 2.3 \times 3.5 = 8.1 \text{ AF}$$

$$V_{D.R.} = [\text{Diversion Rate (cfs)}] \times (\text{Days in Irrigation season}) \times 1.9835 = 0.05 \times 231 \times 1.9835 = 22.9 \text{ AF}$$

$$V = \text{Smaller of } V_{I.R.} \text{ and } V_{D.R.} = \mathbf{8.1 \text{ AF}}$$

2. Volume Calculations for Other Uses: Stockwater: 6 head of cattle x 12 gallons per day/head = 72 gallons/day x 365 days/year = 26280 gallons/325850 gallons per acre-foot = 0.08 AF, round to **0.1 AF**. Combined volume is **8.2 AF**.

G. NARRATIVE/REMARKS/COMMENTS

The field exam for permit 65-23689 was conducted on July 25, 2023 with permit holder Jim Bier in attendance. Mr. Bier said he had not run the pump this year due to the wet spring, and since that time, the use of the permit has been terminated due to condition 185 on the permit which disallows use of water under the permit when water is not available to fill the use of the right. The water is pumped from Squaw Creek with a gas-powered pump into a set of handlines. In viewing aerial imagery taken during the development period, it appears that 2.3 acres of ground has been irrigated and Mr. Bier was in agreement with that assessment. This lowered the allowable flow rate to 0.05 cfs (2.3 acres x 0.02 cfs/acre) and also allowed the exam to be conducted without a measurement per Beneficial Use Exam rules. Although no cattle were present on the day of the exam, Mr. Bier told me that he has had as many as six head of cattle that were watered under the permit, so the 0.02 cfs flow rate on the permit was carried over to the license.

It is unclear why two points of diversion were placed on the permit, but only one has been developed and it is located in the NESW of Section 14 T09N, R01E. In reviewing the adherence to approval conditions, there was some question as to whether or not condition 01J (*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.*) had been met, as Mr. Bier informed me that he had not installed a flow meter on the system. In viewing the conditions descriptions, 01J is intended for consumptive uses over 0.20 cfs, and because the flow rate had been reduced, condition 01R (*When notified by the Department, the right holder shall install and maintain a measuring device of a type acceptable to the Department as part of the diverting works.*) would have been used instead. Condition 01R will be placed on the right, negating the need for a measuring device at this point in time.

I recommend licensing the permit with an irrigation flow rate of 0.05 cfs, a stockwater flow rate of 0.02 cfs and a combined flow rate of 0.07 cfs; an irrigation volume of 8.1 AF, a stockwater volume of 0.1 AF, and a combined volume of 8.2 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>Rate of Diversion</u>	<u>Annual Volume</u>
IRRIGATION	03/15 to 10/31	0.05 CFS	8.1 AF
STOCKWATER	01/01 to 12/31	0.02 CFS	0.1 AF
<u>Totals:</u>		0.07 CFS	8.2 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 Bitzenburg Date 7-26-2023

Reviewer G. Smith Date 7/27/2023



Point of Diversion on Squaw Creek

Pump used to divert water





Handlines used to irrigate POU

POU – hay field



65-23689 System Diagram and POU/POD Map



Legend

- | | |
|--|--|
|  Township/Range |  Stockwater POU |
|  Sections |  Irrigation POU |
|  QQ |  POD |
|  Parcels | |



0 0.0175 0.035 0.07 Mile

SCANNED
JUL 31 2023



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

July 31, 2023

JAMES M BIER
ROSANNE LICHTER BIER
17400 SWEET OLA HWY
OLA ID 83657-5036

RE: License No. 65-23689

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)

SCANNED

JUL 31 2023

CERTIFICATE OF SERVICE

I hereby certify that on July 31, 2023, I served a true and correct copy of Water Right License No. 65-23689 by U.S. Mail, postage prepaid, to the following:

JAMES M BIER (Current Owner)
ROSANNE LICHTER BIER (Current Owner)
17400 SWEET OLA HWY
OLA ID 83657-5036

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



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.