

From: Erling, Jes
Sent: Monday, April 20, 2026 3:03 PM
To: 'aburns@plazaequity.com'
Cc: Visosky, Steven; Cefalo, James
Subject: Request for Exemption Confirmation – Water Right No. 22-14639 / WD122 Measuring Device Order
Attachments: 22-14639_Exemption_Request_Helmstetter_City-of-Driggs.pdf; Water Right 22-14639.pdf

Dear Mr. Helmstetter and Mr. Burns,

On April 2, 2026, the Idaho Department of Water Resources (“Department”) received your request for confirmation that ground water right 22-14639 is exempt from the requirement to install and maintain an approved measuring device as required by the March 19, 2026 *“Preliminary Order Requiring Controlling Works and Measuring Devices in Water District 122, Teton Basin”* (“Order”). Item 2(c) of the Order states, “The requirement to install measuring devices does not apply to the following ground water uses and diversions: *The sum of the authorized diversion rates under the water rights sharing the same point of diversion for any purpose other than irrigation is less than or equal to 0.24 cubic feet per second (approximately 108 gallons per minute)*”.

The Department has determined ground water right 22-14639 is not exempt from the requirement to install and maintain an approved measuring device.

Reason for denial of exemption:

1. The sum of the authorized diversion rates under the water rights sharing the same point of diversion(s) with water right 22-14639 is greater than 0.24 cubic feet per second.
 - a. According to Department records, ground water right 22-14639 has seven (7) authorized points of diversions. Department records show ground water right 22-14639 shares these 7 diversions with up to fifteen other ground water rights that can also be diverted at each diversion. The cumulative diversion rate from these additional pertinent water rights exceeds 0.24 cubic feet per second at each of the 7 diversions. Therefore, the 7 diversions are not exempt from Item 2(c) of the Order and will be required to install an approved measuring device at each of the 7 diversion locations.

Your exemption request further stated “...Water Right 22-14639 was recently acquired in connection with a planned future residential development within the City of Driggs. The wells and associated diversion infrastructure are not currently in active use”. I contacted the City of Driggs Public Works Director Jay Mazalewski on 4-15-26 and he said that all seven wells (diversions) are currently in use. Mr. Mazalewski further stated that all 7 wells currently have flow meters installed.

Based on the information provided by Mr. Mazalewski, flow meters are installed at each of the 7 city wells where water right 22-14639 is authorized to divert, thus satisfying the requirement to install an approved measuring device as stated in Item 1 of the Order.

Please contact me if you have any questions.

Regards,

Jes Erling

Water Resource Agent, Sr.

Water Administration Bureau

Idaho Department of Water Resources

(208)-287-4956

Enclosures:

Request for Confirmation of Exemption from Measuring Device Requirement; Burns and Helmstetter
Water Right Proof Report 22-14639

cc: James Cefalo, IDWR Eastern Regional Manager, and Steve Visosky, IDWR Distribution Section Manager

RECEIVED

Apr 02, 2026

DEPARTMENT OF
WATER RESOURCES

Anthony J. Burns and George L. Helmstetter
6161 Northeast 3rd Avenue
Miami, Florida 33137
Email: aburns@plazaequity.com

April 1, 2026

Brian Ragan
Water Administration Bureau
Idaho Department of Water Resources
322 E Front Street, Suite 648
P.O. Box 83720
Boise, Idaho 83720-0098

Re: Request for Confirmation of Exemption from Measuring Device Requirement — Water Right No. 22-14639 / Water District 122 Preliminary Order (March 19, 2026)

Dear Mr. Ragan:

We are writing in response to the Preliminary Order Requiring the Installation of Measuring Devices for Ground Water Diversions in Water District 122, Teton River Basin Area, dated March 19, 2026 (the "Order"), issued by the Idaho Department of Water Resources ("Department"). We are the holders of Water Right No. 22-14639 and write to respectfully request confirmation that this water right is exempt from the measuring device installation requirement set forth in the Order.

Description of Water Right No. 22-14639

Water Right No. 22-14639 is described as follows:

Priority Date:	August 30, 1990
Source:	Ground Water
Beneficial Use:	Municipal (January 1 – December 31)
Total Authorized Diversion Rate:	0.210 cubic feet per second (CFS)
Total Authorized Volume:	43.4 acre-feet
Points of Diversion:	7 ground water well locations, Teton County
Place of Use:	Municipal within Teton County (City of Driggs service area)

Basis for Exemption

Order Item 2 provides that the measuring device installation requirement does not apply to certain ground water uses and diversions. Specifically, Order Item 2(c) exempts diversions where:

"The sum of the authorized diversion rates under the water rights sharing the same point of diversion for any purpose other than irrigation is less than or equal to 0.24 cubic feet per second (approximately 108 gallons per minute)."

Water Right No. 22-14639 is a non-irrigation (municipal) use. The total authorized diversion rate for this right is 0.210 CFS, which is spread across seven (7) separate points of diversion. No other water rights share these points of diversion. Accordingly, the authorized diversion rate at each individual point of diversion is a fraction of the total 0.210 CFS — well below the 0.24 CFS threshold specified in Order Item 2(c). Even taken in the aggregate, the total authorized diversion rate of 0.210 CFS for this right does not exceed 0.24 CFS.

We therefore respectfully submit that Water Right No. 22-14639 qualifies for the exemption set forth in Order Item 2(c) of the Order and that no measuring device installation is required at this time.

Additional Note: Current Non-Use of Diversions

We note further that Water Right No. 22-14639 was recently acquired in connection with a planned future residential development within the City of Driggs municipal service area. The wells and associated diversion infrastructure are not currently in active use. To the extent the Department determines that the exemption under Order Item 2(c) does not apply, we respectfully request in the alternative that the Department consider this right as an “unused diversion” for purposes of Order Item 9, which provides that the Department may grant an extension of time for diversions that are unused.

Request

We respectfully request that the Department review the above and provide written confirmation that Water Right No. 22-14639 is exempt from the measuring device installation requirement under Order Item 2(c) of the March 19, 2026 Preliminary Order. If the Department requires any additional information or documentation to make this determination, please do not hesitate to contact us at the address above.

We also note that this Preliminary Order will become a final order without further action by the Department unless a party petitions for reconsideration or requests a hearing within the applicable deadlines. We are not petitioning for reconsideration of the Order itself; **we are requesting a written determination from your office that our specific water right falls within the stated exemption.**

Thank you for your time and attention to this matter. We look forward to your response.

Respectfully submitted,

Handwritten signatures of Anthony J. Burns and George L. Helmstetter. The signature of Anthony J. Burns is on the left, and the signature of George L. Helmstetter is on the right.

Anthony J. Burns

George L. Helmstetter

cc: James Cefalo, IDWR Eastern Regional Manager

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

4/15/2026

Water Right 22-14639

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	ANTHONY BURNS 6161 NE 3RD AVE MIAMI, FL 33137-2102 (307) 699-5387
Current Owner	GEORGE HELMSTETTER 6161 NE 3RD AVE MIAMI, FL 33137-2102 (307) 699-5387

Priority Date: 8/30/1990

Basis: License

Status: Active

Source
GROUND WATER

Tributary

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
MUNICIPAL	1 /1	12/31	0.210 CFS	43.4 AF
	<u>Total Diversion</u>		0.210 CFS	43.4 AF

Source and Point(s) of Diversion:

GROUND WATER	SWNW	Sec. 25, Twp 05N, Rge 45E, TETON County
GROUND WATER	NENW	Sec. 26, Twp 05N, Rge 45E, TETON County
GROUND WATER	NESE	Sec. 26, Twp 05N, Rge 45E, TETON County
GROUND WATER	NWNE	Sec. 35, Twp 05N, Rge 45E, TETON County
GROUND WATER	NWSE	Sec. 19, Twp 05N, Rge 46E, TETON County
GROUND WATER	NESW	Sec. 20, Twp 05N, Rge 46E, TETON County
GROUND WATER	NESW	Sec. 23, Twp 05N, Rge 45E, TETON County

Place Of Use:

MUNICIPAL within TETON County

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	45E	2	X L1 L2	X L2 L2															
05N	45E	23									X		X	X	X	X	X	X	
05N	45E	24							X		X	X	X	X	X	X	X	X	
05N	45E	25	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	

IDAHO DEPARTMENT OF WATER RESOURCES

4/15/2026

Proof Report

05N	45E	26	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
05N	45E	35	X	X	X	X	X	X	X	X	X				X	X	X	X
05N	45E	36		X			X	X	X	X			X					
05N	46E	19			X	X			X	X	X	X	X	X	X	X	X	X
05N	46E	30		X			X	X	X	X		X						

Conditions of Approval:

1. 124 Place of use is within the service area of the City of Driggs municipal water supply system as provided for under Idaho Law.
2. 180 A map generally depicting the service area for this water right at the time of this approval is attached to this document for illustrative purposes.
3. 01M After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.
4. 004 This right does not grant any right-of-way or easement across the land of another.
5. T07 The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
6. T08 Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

Dates and Other Information:

Owner Name Connector: AND
 Water District Number: 122
 Generic Max Rate Per Acre: 0.020
 Generic Max Volume Per Acre: 3.5
 Mitigation Plan: False

Combined Use Limits:

N/A

SubCase:

N/A

Water Supply Bank:

N/A