

State of Idaho  
Department of Water Resources  
**Permit to Appropriate Water**

NO. 1-10609

Priority: March 20, 1998

Maximum Diversion Rate: 3,738.00 CFS

This is to certify, that STATE OF IDAHO  
IDAHO WATER RESOURCE BOARD  
322 E FRONT ST  
PO BOX 83720  
BOISE ID 83720-0098

has applied for a permit to appropriate water from:

**Source:** SNAKE RIVER**Tributary:** COLUMBIA 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**

3,738.00 CFS

**LOCATION OF POINT(S) OF DIVERSION**

SNAKE RIVER	SW1/4NE1/4	Sec. 20, Twp 10S, Rge 22E, B.M.	CASSIA County
SNAKE RIVER	L7 (SW1/4SW1/4)	Sec. 31, Twp 08S, Rge 26E, B.M.	BLAINE County
SNAKE RIVER	SE1/4SW1/4	Sec. 1, Twp 09S, Rge 25E, B.M.	CASSIA County
SNAKE RIVER	L2 (SW1/4SW1/4)	Sec. 24, Twp 10S, Rge 21E, B.M.	JEROME County
SNAKE RIVER	L5 (SW1/4NW1/4)	Sec. 28, Twp 10S, Rge 21E, B.M.	JEROME County
SNAKE RIVER	L8 (NE1/4SE1/4)	Sec. 29, Twp 10S, Rge 21E, B.M.	TWIN FALLS County

**PLACE OF USE:** GROUND WATER RECHARGE

See condition 3.

**CONDITIONS OF APPROVAL**

1. Proof of application of water to beneficial use shall be submitted on or before **June 01, 2022**.
2. Subject to all prior water rights.
3. Place of use is within the service area of: Southwest Irrigation District, Burley Irrigation District, Northside Canal Company, Twin Falls Canal Company, and A & B Irrigation District. The place of use description by government lot or quarter-quarter, section, township, and range is in a scanned document called "Place of Use 1-10609", which is available among the Department's digital records for this right.
4. This right does not grant any right-of-way or easement across the land of another.
5. Places of use for groundwater recharge describing federal public lands within the canal and discharges outside of the canals onto federal public land are not authorized, unless specifically authorized in writing by the United States.
6. Prior to diversion and use of water under this approval, the right holder shall obtain Bureau of Land Management authorization necessary to access the point of diversion or place of use or to convey water across federal land.
7. 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 of Water Resources (IDWR) is not a party. Because the Department of Water Resources 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 and the water right holder.

**SCANNED**

JUN 19 2017

State of Idaho  
Department of Water Resources  
**Permit to Appropriate Water**  
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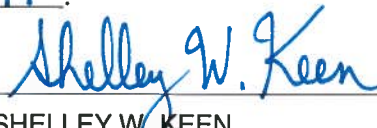
State of Idaho  
Department of Water Resources  
**Permit to Appropriate Water**

NO. 1-10609

8. 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.
9. 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.
10. 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.
11. 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.
12. 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 Section 42-701, Idaho Code. 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.
13. The right holder shall record the daily quantity of return flows discharged via the surface water delivery system into the original water source or a tributary of the original water source and shall report the return flow data for the prior calendar year to the Department by February 1 each year. Reporting shall occur in the manner specified by the Department. To facilitate this requirement, the right holder shall install and maintain a totalizing measuring device at each point of return flow discharge.
14. Consistent with Section 42-234(5), Idaho Code, 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.
15. 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 Section 42-1416B, or any other proposal to utilize credit for the recharge effort.
16. 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.

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

Signed this 9<sup>th</sup> day of June, 2017.

  
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SHELLEY W. KEEN

Water Rights Section Manager



**State of Idaho**

**DEPARTMENT OF WATER RESOURCES**

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Web Site: [www.idwr.idaho.gov](http://www.idwr.idaho.gov)

GARY SPACKMAN  
Director

C.L. "BUTCH" OTTER  
Governor

June 16, 2017

STATE OF IDAHO  
IDAHO WATER RESOURCE BOARD  
322 E FRONT ST  
PO BOX 83720  
BOISE ID 83720-0098

RE: Permit No.1-10609

**Permit Approval Notice**

Dear Permit Holder:

The Department of Water Resources has issued the enclosed permit authorizing you to establish a new water right. Please be sure to thoroughly review the conditions of approval and remarks listed on your permit.

The permit is a PRELIMINARY ORDER issued by the Department pursuant to Section 67-5243, Idaho Code. It can and will become a final order without further action by the Department unless a party petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date as described in the enclosed information sheet.

As a permit owner you must commence the excavation or construction of the diverting works within one year of the date the permit was issued, and you must proceed diligently until the project is completed. The date shown under condition no. 1 is the date when the project must be completed.

The Department will send you a 'Proof Due Notice' approximately 60 days prior to the above referenced date requesting you to file either a Proof of Beneficial Use form or a Request for Extension of Time form.

Please note that a separate stream channel alteration permit must be obtained from the Department prior to any activity in the stream channel other than construction or maintenance of the diversion structure for your water right(s). Applications for stream channel alteration permits must be filed at least sixty days prior to the commencement of work in the stream.

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. Failure to report these changes could result in a \$100 late filing fee. Contact any office of the Department or visit the Department's homepage on the Internet to obtain the proper forms and instructions.

If you have any questions, please contact me at 208-287-4951.

Sincerely,



Pamela Skaggs, Water Rights Supervisor  
Water Right Permits Section

Enclosure(s)

c: OFFICE OF THE ATTORNEY GENERAL  
WATER DISTRICT #01

**CERTIFICATE OF SERVICE**

I hereby certify that on June 19, 2017 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (**Approved Permit**) to the person(s) listed below:

**RE: WATER RIGHT NO.**

**1-10609**

**STATE OF IDAHO  
IDAHO WATER RESOURCE BOARD  
322 E FRONT ST  
PO BOX 83720  
BOISE ID 83720-0098**

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

**WATER DISTRICT #01  
LYLE SWANK  
90 N SKYLINE DR STE A  
IDAHO FALLS ID 83402-1718**

**PETER R ANDERSON  
TROUT UNLIMITED  
910 W MAIN ST STE 342  
BOISE ID 83701**

**JAMES C TUCKER  
IDAHO POWER COMPANY  
1221 W IDAHO ST  
PO BOX 70  
BOISE ID 83707**

**KEVIN L LEWIS  
IDAHO RIVERS UNITED  
PO BOX 633  
BOISE ID 83701**

**DALLAS BURKHALTER  
IDAHO DEPT OF FISH & GAME  
PO BOX 25  
BOISE ID 83707**

**FREDERIC W PRICE  
US BUREAU OF LAND MANAGEMENT  
IDAHO STATE OFFICE  
1387 S VINNELL WAY  
BOISE ID 83709**

**NORMAN SEMANKO  
IDAHO WATER USERS ASSN INC  
1010 W JEFFERSON ST STE 101  
BOISE ID 83702**

**AMERICAN FALLS RESERVOIR DISTRICT #2  
C/O KENT W FLETCHER  
FLETCHER LAW OFFICE  
PO BOX 248  
BURLEY ID 833318**

**A&B, BURLEY, MILNER IRRIGATION DISTRICTS  
NORTH SIDE AND TWIN FALLS CANAL COMPANIES  
C/O TRAVIS L THOMPSON  
BARKER ROSHOLT & SIMPSON LLP  
PO BOX 63  
TWIN FALLS ID 83303-0063**

**US FISH & WILDLIFE SERVICE  
911 NE 11<sup>TH</sup> AVE  
PORTLAND OR 97232-4181**

**FRED F KIPPES  
3951 N 1100 E  
BUHL ID 83316**

**BETTY KIPPES  
3951 N 1100 E  
BUHL ID 83316**



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Darla Block  
Technical Records Specialist

## 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.