



ATTORNEYS AT LAW

DYLAN B. LAWRENCE
DYLAN@VARINTHOMAS.COM

242 N. 8TH STREET, SUITE 220
P.O. BOX 1676
BOISE, IDAHO 83701
P: 208.345.6021
F: 1.866.717.1758
VARINTHOMAS.COM

October 8, 2025

VIA EMAIL

Mountain Home City Council
c/o Tiffany Belt
City Clerk's Office
tbelt@mountain-home.us

Mountain Home City Council
c/o Geoff Schroeder
MSBT Law
gas@msbtlaw.com

Re: Elmore County Snake River Water Permit

Dear Tiffany and Geoff:

I am writing to follow up with City of Mountain Home leadership regarding my letter of April 7, 2025 about Elmore County's then-pending water permit application from the Snake River. Please include this letter in the City Council members' packets for their next meeting.

By way of update, I am pleased to report that the Idaho Department of Water Resources (IDWR) formally approved the application to divert 20 cfs of Snake River water on September 12, 2025. I have enclosed a copy of the approved permit number 2-10535 for your reference.

As you will see, the permit authorizes diversions of water from the Snake River for two purposes—aquifer recharge and supplemental irrigation within the Mountain Home Irrigation District. As you will recall, the County's initial permit application also contemplated potential municipal use of water under the permit by the City of Mountain Home. Keri Hill, Terry Scanlan, and I attended City Council meetings on December 10, 2024 and February 25, 2025 to discuss that possibility. At the conclusion of that process, City Council provided the enclosed letter dated March 19, 2025 stating that, depending on cost, "the City would welcome opportunities to utilize Snake River water for municipal purposes in and around the City." The letter then proceeded to describe how the City could put the water to use, such as in pressurized irrigation systems for new subdivisions and by offsetting existing municipal groundwater irrigation in the central, eastern, and northern portions of the City.

Ultimately, however, IDWR did not approve the municipal component of the application. I have enclosed with this letter a copy of an internal IDWR memo explaining its reasoning. Even though the City's letter was signed by a majority of the City Council members, it appears IDWR significantly relied on a follow-up letter from Mayor Sykes that I have also enclosed with this letter.

Mountain Home City Council
October 8, 2025
Page 2

Despite having provided a letter in support of this permit application in 2017, the more recent letter states that “the City of Mountain Home does not have any future plans” to participate in the County’s Snake River project and that it therefore “supersedes all my previous letters of support for Elmore County’s water permit applications.”

Based on the foregoing, Elmore County elected to accept the permit in its present form instead of challenging the denial of the municipal component. County representatives updated the Idaho Water Resource Board’s finance committee regarding the Snake River project on September 9, 2025, and we expect to lodge a request with the Board to assist with an alternatives study for the project in the near future.

Elmore County has been working closely and cooperatively with the Idaho Water Resource Board and the Mountain Home Irrigation District to address the local groundwater deficit for several years. More recently, the County and the Mountain Home Air Force Base have also been in regular communication regarding water supply issues. If the City ever desires to join in these efforts, please contact Francene Payne with the Elmore County Clerk’s office to schedule a meeting with the County Commissioners. We would welcome Mountain Home’s perspective and input on these regional challenges.

Thank you for your attention to this matter.

Sincerely,

VARIN THOMAS LLC



Dylan B. Lawrence

Enclosures (4)

cc: Shelley Essl, Elmore County Clerk (*via email to sessl@elmorecounty.org*)
Keri Hill (*via email to keri.hill@panoramaenv.com*)
Terry Scanlan (*via email to Terry.Scanlan@hdrinc.com*)

State of Idaho
Department of Water Resources
Permit to Appropriate Water
No. 2-10535

Priority: March 27, 2017

Maximum Diversion Rate: 20.0 CFS

This is to certify that

ELMORE COUNTY BOARD OF COMMISSIONERS 150 S 4TH E MOUNTAIN HOME ID
83647-3060

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:

<u>Beneficial Use</u>	<u>Period of Use</u>	<u>Rate of Diversion</u>
GROUND WATER RECHARGE	01/01 to 12/31	20.0 CFS
IRRIGATION	03/15 to 11/15	20.0 CFS

Location of Point(s) of DiversionSNAKE RIVER L4 (SW $\frac{1}{4}$ SW $\frac{1}{4}$), Sec. 22, Twp 05S, Rge 04E, B.M. ELMORE County**Place of Use: GROUND WATER RECHARGE**

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
03S	06E	10	X			X													
03S	06E	11						X											
03S	06E	2											X						

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	
03S	06E	1	40 L1	40 L2	40	40	40 L3	40 L4	40	40	40	40	40	40	40	40	40	40	600.0
03S	06E	2	40 L1	40 L2	40	40				40	40	40	40	40	40	40	40	40	520
03S	06E	9	40	40	40	40	40			40	40			0.1	40	40	40	40	440.1
03S	06E	15	40	40	40	40	40	0.3	0.3	40					40	40	40	40	400.6
03S	06E	22	0.5	0.4															0.9
03S	06E	25	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
03S	06E	26	40	40	40	40	40	40	40	40	40	0.1	0.1	40	40	40	40	40	560.2
03S	06E	27	0.2			40													40.2
03S	06E	36	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
04S	06E	1	40 L1	40 L2	40	40	40 L3	40 L4	40	40	40	40	0.5	40	40	40	40	40	600.5
04S	06E	11	0.3			0.1													0.4
04S	06E	12	40	40	40	40	40	40	40	0.7	0.5		0.3	40	40	40	40	40	481.5
03S	06E	11		40	40		40	40	40	40	40	40	40	40	40	40	40	40	560.0
03S	06E	12		40			40	40			40	40	40	40		40	20		340
03S	06E	13		0.1			40	40											80.1
03S	07E	31		40	40		40	42 L1	42 L2	40	40	43 L3	43 L4	40	40	40	40	40	570.0

State of Idaho
Department of Water Resources
Permit to Appropriate Water
No. 2-10535

04S	06E	13	40	0.6		0.3												40.9
04S	06E	24	0.1			0.2								0.3				0.6
04S	06E	25	0.5			0.6								0.7			0.8	2.6
04S	07E	6	39	40	40	40	40	43	42	39	39	42	41	39	40	41	41	647.0
			L1	L2				L3	L4			L6	L7					
04S	07E	7	40	40	40	40	39	41	41	39	40	41	41	40	41	41	40	645
								L1	L2			L3	L4					
04S	07E	17	38	40	40	40	40	40	40	40	40	40	40	40	40	40	40	638
04S	07E	18	40	40	40	40	40	41	41	40	0.7	0.7	0.2	40	40	0.6	40	484.2
								L1	L2			L3	L4					
04S	07E	19	40	40	40	40	40	40	40	40	40	40	1.5	40	40	40	40	601.5
								L1	L2			L3	L4					
04S	07E	20	1.4	1.0			40	40	40	40	41	41	41		39	40		405.4
04S	07E	29	39	40	40	40	40	40	40	40	39	40	0.2	0.1	0.3	0.3		398.9
04S	07E	30	40	40	40	40	40	40	40	40	40	40	40	40	40	40	38	638
								L1	L2			L3	L4					
04S	07E	31	0.1	0.1			0.1	0.1										0.4
								L1										
03S	06E	3				41								40	41	40	40	202.0
03S	06E	10			0.1			24	16	0.2	40	40	40	40	0.2	40	40	320.5
03S	06E	14					40	40	40	40	40	40	40					320
03S	06E	23			40		40	40	39	40	40		0.3	40		40	40	399.3
03S	07E	30					40	41	41	40	40	41	41	40			40	364.0
								L1	L2			L3	L4					
04S	07E	21		40	0.6		40	40	1.0	0.8								122.4
02S	06E	35												40		40	40	120
02S	06E	36									40	40	40	40	40	40	40	320
04S	07E	8					39	40	40	39	40	41	41	40		39		359.0
04S	07E	16							39	38	40	40	40	40		39	40	316.0
04S	07E	28					6.9	39	40	28		0.3						114.2
03S	06E	4																0.1
03S	06E	24											40	40		40	40	160.0
03S	07E	19									40	40	40	40		40		200.0
												L3	L4					
04S	07E	5											40	40				80.0

Right Acre Limit: 7,420.2

Total Acres: 14,374.5

Conditions of Approval

1. Proof of application of water to beneficial use shall be submitted on or before **September 01, 2030**.
2. Subject to all prior water rights.
3. Rights 61-263, 61-264, 61-266, 61-363, 61-10417, 61-10419, 61-10421, 63-19893, 63-2188, 63-2214, 63-20139, 63-34348, and 2-10535 when combined shall not exceed the irrigation of 7,420.2 acres within the boundaries of the Mountain Home Irrigation District.
4. In any given year, this right may only be used for irrigation on the same lands irrigated within the Mountain Home Irrigation District service area with Rights 61-263, 61-264, 61-266, 61-363, 61-10417, 61-10419, 61-10421, 63-19893, 63-2188, 63-2214, 63-20139 and 63-34348.
5. Water shall only be used for irrigation to supplement existing rights 61-263, 61-264, 61-266, 61-363, 61-10417, 61-10419, 61-10421, 63-19893, 63-2188, 63-2214, 63-20139 and 63-34348.
6. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the place of use.
7. Pursuant to Idaho Code § 42-234(4), to ensure that other water rights are not injured by the

State of Idaho
Department of Water Resources

Permit to Appropriate Water

No. 2-10535

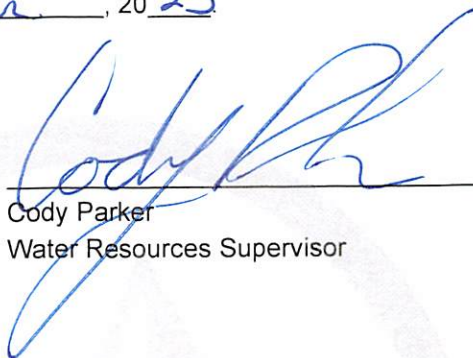
- operations of the recharge project authorized by this right, the Director has authority to approve, disapprove, or require alterations in the methods employed to achieve ground water recharge.
8. Pursuant to Idaho Code § 42-234(3), the Director may reduce the amount of water that may be diverted for recharge purposes under this right even though there is sufficient water to supply the entire amount authorized for appropriation under this right.
 9. This approval does not constitute approval by the Idaho Water Resource Board, which may also be required pursuant to Idaho Code § 42-1737.
 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. Consistent with Idaho Code § 42-234(5), seepage from canals incidental to or coincident with delivery of water pursuant to water rights for any other beneficial use 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.
 12. 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.
 13. This right is for the use of trust water, and it is subject to review 5 years after its initial approval (date of permit approval) to re-evaluate the availability of trust water for the authorized use and to re-evaluate the public interest criteria for reallocating trust water.
 14. When the minimum stream flow water rights in the Snake River at Murphy Gage are not being satisfied, the right holder shall cease diverting water for the uses authorized by this right. The minimum stream flow water rights are for 3,900 cfs from April 1 through October 31 and 5,600 cfs from November 1 through March 31.
 15. 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. 02.
 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.
 17. Irrigation place of use is within the area served by Mountain Home Irrigation District.
 18. The boundary encompassing the irrigation place of use for this water right is described with a digital boundary as authorized by Idaho law. The data comprising the digital boundary are stored in the electronic document management system of the Department and are incorporated into this approval by this reference. A map depicting the place of use is attached to this approval document to illustrate the place of use described by the digital boundary.
 19. The Director retains jurisdiction to require the right holder to provide purchased or leased natural flow or stored water to offset depletion of Lower Snake River flows if needed for salmon migration purposes. The amount of water required to be released into the Snake River or a tributary, if needed for this purpose, will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this permit.
 20. This right does not grant any right-of-way or easement across the land of another.
 21. The diversion and use of water described in this right may be subject to additional conditions and

State of Idaho
Department of Water Resources
Permit to Appropriate Water
No. 2-10535

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.

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

Signed this 12th day of September, 20 25



Cody Parker
Water Resources Supervisor



P.O. Box 10 • Mountain Home, ID 83647

www.mountain-home.us

March 19, 2025

Dylan Lawrence
Varin Thomas LLC
242 N 8th Street, Suite 220
Boise, ID 83702-5892
via email to dylan@varinthomas.com

Subject: Response to IDWR Letter of 10/28/2024 Regarding Application 02-10535

Dear Dylan:

The City of Mountain Home appreciates having had the opportunity to discuss Elmore County's application for water right permit 02-10535 with you, Keri Hill, and Terry Scanlan at City Council meetings on December 7, 2024 and February 25, 2025. While the City provided a letter in support of that application when the County first filed it in 2017, that was some time ago, and none of the current City Council members were members at that time. These meetings have allowed the County to update and re-educate City leaders regarding the County's water right application and to discuss our concerns. As we expressed at the meetings, the City fully supports the County's efforts to bring more water to the local area, which can help stabilize aquifer water levels and sustain our community.

We understand that the County's application seeks 20 cfs of Snake River water for year-round groundwater recharge, year-round municipal use within the City of Mountain Home, and seasonal supplemental irrigation uses within Mountain Home Irrigation District. If the County is successful at obtaining water right permit approval, the City would welcome opportunities to utilize Snake River water for municipal purposes in and around the City. But, as stressed at our meetings, City participation in the project and use of the water will be contingent on costs. Thus, as the project develops, we look forward to learning more about up-to-date costs for project construction and operation. We are also interested in learning about identified funding opportunities, and based on our meetings, we understand the County has already been involved in extensive evaluation of such opportunities. Once actual costs are more fully defined, the City can evaluate whether to participate going forward. We are hopeful that the County can develop a cost-effective project that warrants City involvement.

We also understand that the Idaho Department of Water Resources (IDWR) requested additional information related to Elmore County's application for permit in a letter dated October 28, 2024. Specifically, IDWR's letter asked, how will the water be used for municipal purposes? Based in part on our recent discussions, this letter provides additional information to answer that question. Therefore, please feel free to include this letter in the County's response to IDWR.

If Snake River water were made available to the City of Mountain Home for municipal purposes, the water could be used in the following ways.

Pressurized Irrigation. First and foremost, Snake River water could be conveyed to new residential subdivisions in both the City and the County¹, to provide non-potable municipal pressurized irrigation supply to replace potable municipal and domestic groundwater supplies as irrigation sources. This makes the most sense and would be easily achievable for new developments where the City or County can mandate developer-funded installation of non-potable pressurized irrigation distribution systems

We understand that the County has provided IDWR with a conceptual design and cost estimate to bring the water from the River to the edge of the City at the intersection of Airbase Road (Highway 67) and S 18th W Street (Elmcrest Street or Highway 51). This location is ideal for supplying pressurized irrigation to the southwestern portion of the City. From this location, distribution piping can be extended south and east into the City, as appropriate, to provide pressurized irrigation in this area.

The County's conceptual design then conveys water north from Airbase Road along S 18th W Street (Elmcrest Street and NW Canal Road), under I84 to Beaman Street, then bifurcating with pipelines north to Canyon Creek for recharge and east to Mountain Home Reservoir for supplemental irrigation within the irrigation district. The S 18th W Street pipeline route provides opportunities for pressure irrigation supply to developing areas on the west and northwest sides of Mountain Home and the Beaman Street pipeline provides opportunities to supply County subdivisions north of I84.

Longer-term, there may also be opportunities to convey municipal water to the central, eastern and northern areas of the City through the Mountain Home Irrigation District gravity conveyance systems. The irrigation district currently delivers non-pressurized water through these areas. Both the NW Canal Road and Beaman Street sections of pipeline will cross or parallel irrigation district canals. If additional capacity in these irrigation district conveyance systems is available or can be developed, then it may be feasible to construct satellite pump stations from irrigation district canals to provide pressurized municipal irrigation to City or County subdivisions in these areas.

Maintenance and operation of individual pressurized irrigation systems will be the responsibility of the City, the County, or home owners associations, as appropriate. Distribution piping within the City limits, but outside of residential subdivisions, will likely be owned and maintained by the City. Distribution piping within individual subdivisions might be owned and maintained by either the City or the subdivision home owners association. There might also be an opportunity to create a municipal irrigation district. All of these details can be worked out during the project design and development process. Furthermore, it is likely that pressurized irrigation systems will be developed or expanded throughout the permit development period rather than all being constructed immediately upon water infrastructure reaching the City. This sequential

¹ We understand that a permit amendment may be required to supply municipal irrigation to subdivisions outside of the City boundary. We also understand that supplying water outside city limits is discretionary on the part of the city and may require agreements to annex in the future and upon contiguity, if approved at all.

development will allow the City and County to determine the most appropriate assignment of responsibility for these portions of the overall project.

By shifting supply of irrigation from groundwater to surface water on some lands within the City, the City might defer spending on additional municipal supply wells currently needed to support growth.

Direct Municipal Use. At some time in the future, the City could also consider constructing a surface water treatment plant to treat Snake River water for potable municipal purposes to support future growth. Treatment for potable purposes is feasible (as demonstrated by the Mountain Home Air Force Base project currently under construction) but expensive. The City has not conducted a planning study to estimate the cost of a treatment system. Whether such a project, or even a study, will be implemented within the permit development period is unknown. But the ability for the City to have such an option is important as an available alternative to support future growth.

In summary, we want to reiterate that the City is supportive of the County's efforts to bolster the water supply in the Mountain Home area. The City will continue to cooperate in these efforts as the project evolves, and we look forward to finding out more about project costs so that we can determine if the City can commit to participation. In the meantime, we hope this information regarding how the City could utilize the municipal component of the application is helpful.

Sincerely,



Daniel Brennan
Councilmember



Scott Harjo
Councilmember



Jenny Wirkkala
Councilmember

MEMORANDUM

TO Water Right 2-10535
FROM Cody Parker
RE Permit 2-10535 Proposed Municipal Use
DATE August 18, 2025

Application for Permit 2-10535 proposes to continuously divert 20 cfs year-round from the Snake River for ground water recharge, municipal, and irrigation uses. Attachment A of the amended application received March 15, 2019, describes the project:

Water will be pumped from the Snake River to the City of Mountain Home. Water will then either be directed into the City of Mountain Home municipal delivery system for municipal use or to the Mountain Home Irrigation District delivery system for supplemental irrigation use, or gravel pit area for ground water recharge.

In an October 28, 2024 letter, IDWR requested information required to evaluate whether the application meets the criteria of § 42-203A *Idaho Code*. With respect to municipal use, the letter requested:

A detailed description of the proposed municipal uses and delivery system(s) and other information required by IDAPA Water Appropriation Rule 40.04.c.ix.

The applicant requested, and was granted, additional time to reply. The applicant submitted their reply to IDWR via email on April 4, 2025. The reply included a copy of a March 19, 2025 letter from council members for the City of Mountain Home (labeled *Attachment A*). In the letter, the council members convey support for the municipal use proposed in the application, with the City's participation contingent upon the actual development costs for the municipal aspect of the project. The letter says the most likely municipal use would be for pressurized irrigation in new subdivisions throughout the City and County limits. The City contemplates using existing Mountain Home Irrigation District infrastructure and new construction to facilitate the development of such a pressurized irrigation system or systems.

Given the singular nature of this type of use it would be better characterized as irrigation, which would require the applicant to specify the number of acres to be irrigated. The City Council's letter supports the idea that the City or County could deliver water for irrigation to lands other than those within the irrigation district boundary, and could include lands both within the city limits as well as developments outside the city limits. However, the applicant has not characterized this use as irrigation and has not provided the information needed to determine if such an irrigation use satisfies the criteria of § 42-203A *Idaho Code*.

The other, less likely, potential municipal use of water under this permit would be for the City to construct a surface water treatment plant for potable use. Neither the City nor the County appear to have investigated this option in any detail. The City Council members write:

At some time in the future, the City could also consider constructing a surface water treatment plant to treat Snake River water for potable municipal purposes to support future growth. Treatment for potable purposes is feasible...but expensive. The City has not conducted a planning study to estimate the cost of a treatment system. *Whether such a project, or even a study, will be implemented within the permit development period is unknown.* [emphasis added] But the ability for the City to have such an option is important as an available alternative to support future growth.

On April 4, 2025, the Mayor of the City of Mountain Home submitted a letter to IDWR in support of the application. Notably, the mayor states “the City of Mountain [Home] does not have any future plans to design, maintain, or fund a municipal use project utilizing water from the Elmore County’s Snake River Project.”

The applicant has not seriously evaluated or considered the treatment of water for potable uses and has not provided plans definite enough to allow for determination of the project impacts and implications. It is unlikely the City or County would be successful in funding, designing, and constructing a treatment plant within a five-year development period for the permit. Furthermore, there is no guarantee that the Department will grant an extension of time to submit proof of beneficial use for this permit in the future. For these reasons, the Department must conclude there are obvious impediments that prevent the successful completion of the project. Thus, municipal use is not recommended for the permit pursuant to *IDAPA Water Appropriation Rule 045.01* and § 42-203A(5) *Idaho Code*.



Re: Application for Snake River Water Permit 02-10535

Date: 4/2/2025

Dear Cody Parker and Nick Miller,

The City of Mountain Home has followed the efforts of Elmore County to mitigate the 43,000 acre/ft declining aquifer. As outlined in Table 20, Ground Water Diversion Summary, Elmore County Water Supply Alternatives Study, dated February 28, 2017, conducted by SFP Water Engineering, LLC, Elmore County uses approximately 80,000 acre/ft annually. As of 2024, the City of Mountain Home uses approximately 4,775 acre/feet annually, less than 6% of aquifer total beneficial use.

The City of Mountain Home does rely on the regional aquifer as its water source. As aquifer recharge is a component of this project, there would be a small beneficial use by the City of Mountain Home. Even though the City of Mountain does not have any future plans to design, maintain, or fund a municipal use project utilizing water from the Elmore County's Snake River Project, the City supports the county's project. The approval of this application would be in the best interest for the entire region to sustain irrigated agriculture family farms, offsetting ranching livestock feed costs, and sustain economic impact to all of Elmore County communities and the State of Idaho.

This letter supersedes all my previous letters of support for Elmore County's water permit applications. If you have any questions pertaining to this letter, please contact me at (208)587-2104, Mayor@mountain-home.us.

Sincerely,

Rich Sykes
Mayor