



IDAHO DEPARTMENT OF
WATER RESOURCES

322 E Front Street, Suite 648, Boise ID 83702 • PO Box 83720, Boise ID 83720-0098
Phone: 208-287-4800 • Fax: 208-287-6700 • Email: idwrinfo@idwr.idaho.gov • Website: idwr.idaho.gov

Governor Brad Little

Director Gary Spackman

September 09, 2022

EDENS GATE LLC
3150 ECHO RD
NYSSA OR 97913-5022

RE: Permit Nos. 63-34832 through 63-34838 and 63-34840 through 63-34846

Revised Permit Approval Notice

Dear Permit Holder(s):

The Department of Water Resources ("Department") has issued the enclosed revised permits authorizing you to establish a new water right. These revised permits are being issued in response to the *Memorandum Decision and Judgement in Eden's Gate LLC v Idaho Dep't of Water Res.*, No. CV14-21-10116 (Canyon Cnty. Dist. Ct. Idaho, 2022) to replace the permits issued on May 28, 2021. Please be sure to thoroughly review all the conditions of approval listed on your permits. The conditions include requirements that you must accomplish, such as timely submittal of proof of beneficial use or installation of a measuring device, as well as information about how your water use may be administered, such as regulation by a watermaster in a water district. Failure to comply with the conditions of approval may result in your permits lapsing or being canceled.

The permits are a FINAL ORDER issued pursuant to Rule 740 of the Department's Rules of Procedure (IDAPA 37.01.01.740). This is a final order of the agency. Any party may file a petition for reconsideration of this final order within fourteen (14) days of the service date of this order as described in the enclosed information sheet.

The final step in the water right process is issuance of a water right license. To receive a water right license, you must divert and use water to the full extent intended and submit a *Statement of Completion for Submitting Proof of Beneficial Use* by the date shown in condition no. 1 of your permits. The Department will send you a *Proof Due Notice* approximately 60 days prior to the date listed in condition no. 1 of your permits.

You may also require approvals from other Department programs, such as Ground Water Protection, Safety of Dams, or Stream Channel Protection, to accomplish your proposed development. Please call or visit any Department office or see the Department's website at idwr.idaho.gov for more information about these programs.

Please be advised that Idaho Code § 42-248, requires you or the owner of this water permit to maintain current ownership and address records on file with the Department. Forms to file a change in the address of the permit owner are available from any Department office or at the Department's website at www.idwr.idaho.gov.

If you have any questions concerning the enclosed information, please contact me at (208) 287-4951.

Sincerely,

A handwritten signature in cursive script that reads "Angela M. Hansen". The signature is written in dark ink and is positioned above the printed name and title.

Angela M. Hansen
Water Rights Section Manager

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on September 09, 2022, I served a true and correct copy of Permit to Appropriate Water Nos. 63-34832 through 63-34838 and 63-34840 through 63-34846 by U.S. Mail, postage prepaid, and email (if listed) to the following:

EDENS GATE LLC
3150 ECHO RD
NYSSA OR 97913-5022

ALBERT P. BARKER
MICHAEL A. SHORT
BARKER RSHOLT & SIMPSON
PO BOX 2139
BOISE ID 83701-2139
apb@idahowaters.com

HDR INC
C/O LORI GRAVES
412 E PARKCENTER BLVD STE 100
BOISE ID 83706-6659
lori.graves@hdrinc.com

FARMERS COOPERATIVE DITCH CO
C/O SAWTOOTH LAW OFFICES PLLC
ATTN S BRYCE FARRIS
1101 W RIVER ST STE 110
PO BOX 7985
BOISE ID 83707-7985
bryce@sawtoothlaw.com



Jean Hersley
Technical Records Specialist II

EXPLANATORY INFORMATION TO ACCOMPANY A FINAL ORDER

(Required by Rule of Procedure 740.02)

The accompanying order is a "Final Order" issued by the department pursuant to section 67-5246 or 67-5247, Idaho Code.

Section 67-5246 provides as follows:

- (1) If the presiding officer is the agency head, the presiding officer shall issue a final order.
- (2) If the presiding officer issued a recommended order, the agency head shall issue a final order following review of that recommended order.
- (3) If the presiding officer issued a preliminary order, that order becomes a final order unless it is reviewed as required in section 67-5245, Idaho Code. If the preliminary order is reviewed, the agency head shall issue a final order.
- (4) Unless otherwise provided by statute or rule, any party may file a petition for reconsideration of any order issued by the agency head within fourteen (14) days of the service date of that order. The agency head shall issue a written order disposing of the petition. The petition is deemed denied if the agency head does not dispose of it within twenty-one (21) days after the filing of the petition.
- (5) 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.
- (6) A party may not be required to comply with a final order unless the party has been served with or has actual knowledge of the order. If the order is mailed to the last known address of a party, the service is deemed to be sufficient.
- (7) A non-party shall not be required to comply with a final order unless the agency has made the order available for public inspection or the nonparty has actual knowledge of the order.

(8) The provisions of this section do not preclude an agency from taking immediate action to protect the public interest in accordance with the provisions of section 67-5247, Idaho Code.

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a final order within fourteen (14) days of the service date of this order as shown on the certificate of service. **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 67-5246(4) Idaho Code.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, any party aggrieved by a final order or orders previously issued in a matter before the department may appeal the final order and all previously issued orders in the matter 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: a) of the service date of the final order, b) the service date of an order denying petition for reconsideration, or c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration, whichever is later. See section 67-5273, Idaho Code. The filing of an appeal to district court does not in itself stay the effectiveness or enforcement of the order under appeal.