

State of Idaho
 Department of Water Resources
Permit to Appropriate Water
 No. 63-35204

Priority: February 25, 2022

Maximum Diversion Rate: 0.19 CFS

This is to certify that

MICHELLE G VAN LITH 18641 CHICKEN DINNER RD CALDWELL ID 83607-9172 AND/OR
 JOEL S VAN LITH 18641 CHICKEN DINNER RD CALDWELL ID 83607-9172

has applied for a permit to appropriate water from:

Source : GROUND WATER

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>
IRRIGATION	03/01 to 11/15	0.15 CFS
DOMESTIC	01/01 to 12/31	0.04 CFS

Location of Point(s) of Diversion

GROUND WATER NW¼ SW¼, Sec. 36, Twp 04N, Rge 04W, B.M. CANYON 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					
04N	04W	36											5.0										5.0

Total Acres: 5.0

Place of Use: DOMESTIC

Twp	Rng	Sec	NE				NW				SW				SE				Totals				
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE					
04N	04W	36											X										

Conditions of Approval

1. Proof of application of water to beneficial use shall be submitted on or before **September 01, 2027**.
2. Subject to all prior water rights.
3. This right when combined with all other rights shall provide no more than 0.03 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the place of use.
4. 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.
5. Domestic use is for 1 home. Irrigation of lawn, garden and landscaping associated with the home is authorized under the irrigation component of this right.
6. Right holder shall comply with the drilling permit requirements of Idaho Code § 42-235 and applicable Well Construction Rules of the Department.

State of Idaho
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Permit to Appropriate Water
No. 63-35204

7. 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.

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

Signed this 16th day of August, 2022.



SCOTT STORMS
Water Rights Supervisor

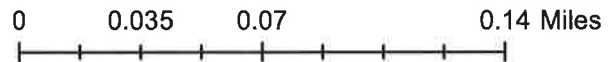
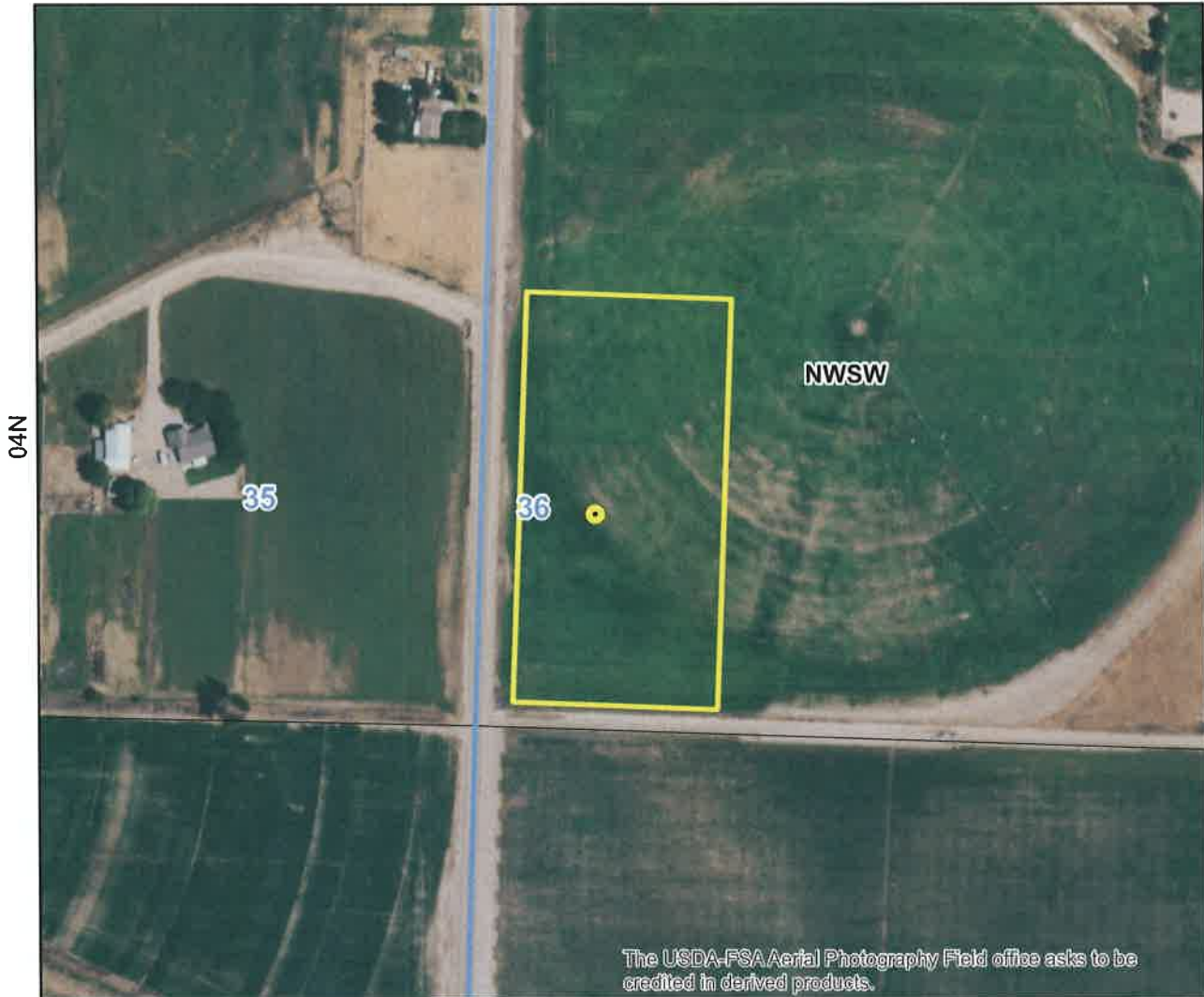








Attachment to Permit to Appropriate Water

63-35204

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.

04W



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

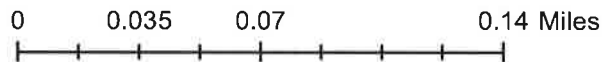







Attachment to Permit to Appropriate Water

63-35204

This map depicts the DOMESTIC 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.

04W



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





August 17, 2022

JOEL S VAN LITH
18641 CHICKEN DINNER RD
CALDWELL ID 83607-9172

MICHELLE G VAN LITH
18641 CHICKEN DINNER RD
CALDWELL ID 83607-9172

RE: Permit No. 63-35204

Permit Approval Notice

Dear Permit Holder(s):

The Department of Water Resources ("Department") has issued the enclosed permit authorizing you to establish a new water right. Please be sure to thoroughly review all the conditions of approval listed on your permit. 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 permit lapsing or being canceled.

The permit is a PRELIMINARY ORDER issued 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.

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 permit. The Department will send you a *Proof Due Notice* approximately 60 days prior to the date listed in condition no. 1 of your permit.

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 an assignment of permit and/or 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) 605-4624.

Sincerely,



Scott Storms
Water Rights Supervisor

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on August 18, 2022, I served a true and correct copy of Permit to Appropriate Water No. 63-35204 by U.S. Mail, postage prepaid, to the following:

JOEL S VAN LITH (Current Owner)
18641 CHICKEN DINNER RD
CALDWELL ID 83607-9172

MICHELLE G VAN LITH (Current Owner)
18641 CHICKEN DINNER RD
CALDWELL ID 83607-9172

HDR INC (Representative)
C/O LORI GRAVES
412 E PARKCENTER BLVD STE 100
BOISE ID 83706-6659



Scott Storms
Water Rights Supervisor

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.

Shearer, Justin

From: Wilder Irrigation <wilderirrigation1@hotmail.com>
Sent: Wednesday, July 20, 2022 1:11 PM
To: Shearer, Justin
Cc: Graves, Lori; chellie@vl-livestock.com
Subject: Van Lith Application for Permit 63-35204

Justin,

I have had communication with Michelle Van Lith and Lori Graves regarding the application for permit 63-35204. This office will confirm that this permit can be issued as sole source because Van Lith is assessed 37.47 deeded acres including the 5 to be split to a flower farm with surface water rights for 23.35.

It is my understanding that the pivot has been converted from a 360 turn to a 3/4 pivot to exclude what will become the flower farm. This will allow the water rights assessed by Wilder Irrigation District to be delivered and used through the pivot delivery system.

If you have any questions, please feel free to contact me at this office.

Lisa Sweet

Secretary Treasurer

Wilder Irrigation District

Phone- 208-459-3421

Fax: 208-459-6407

Email: wilderirrigation1@hotmail.com

Shearer, Justin

From: Graves, Lori <Lori.Graves@hdrinc.com>
Sent: Wednesday, July 20, 2022 8:47 AM
To: Shearer, Justin
Subject: RE: Van Lith Application for Permit 63-35204

Follow Up Flag: Follow up
Flag Status: Completed

Justin,
Lisa with Wilder Irrigation District will be emailing you this morning. Please let me know if you need anything else.

Lori Graves, Sr. Water Rights Specialist
D 208.872.9519 M 208.850.4601

hdrinc.com/follow-us

From: Shearer, Justin <Justin.Shearer@idwr.idaho.gov>
Sent: Monday, July 18, 2022 1:58 PM
To: Graves, Lori <Lori.Graves@hdrinc.com>
Subject: RE: Van Lith Application for Permit 63-35204

CAUTION: [EXTERNAL] This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Thanks Lori, sounds good!
-Justin

From: Graves, Lori <Lori.Graves@hdrinc.com>
Sent: Monday, July 18, 2022 9:44 AM
To: Shearer, Justin <Justin.Shearer@idwr.idaho.gov>
Subject: RE: Van Lith Application for Permit 63-35204

Hi Justin,
I reached out to the client. I emailed and am waiting for a response. I'll let you know as soon as I know. Thanks Justin.

Lori Graves, Sr. Water Rights Specialist
D 208.872.9519 M 208.850.4601

hdrinc.com/follow-us

From: Shearer, Justin <Justin.Shearer@idwr.idaho.gov>
Sent: Friday, July 15, 2022 3:23 PM
To: Graves, Lori <Lori.Graves@hdrinc.com>
Subject: Van Lith Application for Permit 63-35204

CAUTION: [EXTERNAL] This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good afternoon Lori,

In drafting the permit for the Van Liths I am needing some clarification on the POU overlap of Wilder Irrigation shares for the 5 acres of proposed groundwater irrigation. The application states that the proposed well will be the sole source of water supply for a future flower farm and home and that the applicants have 23.35 acres of assessed surface water from Wilder Irrigation District delivered through a separate system for the adjoining pivot with no overlap on the proposed 5 acres. However, aerial imagery shows that the proposed 5 acres is definitely being/has been irrigated, so I am wondering what to make of this? If I don't have to condition it as supplemental, I don't want to, but I am just needing further clarification on this matter.

Thanks and regards,



Justin Shearer | *Water Resource Agent, Sr.*
IDWR Western Region | *Phone: (208)-334-2190*
Email: justin.shearer@idwr.idaho.gov

RECEIVED

MAY 16 2022

WATER RESOURCES
WESTERN REGION

**AFFIDAVIT OF PUBLICATION
STATE OF IDAHO**

County of Canyon and Ada

23100 231719
1 IDWR - WESTERN REGION

2735 AIRPORT WAY
BOISE, ID 83705

SHARON JESSEN

**of the State of Idaho, being of first duly sworn, deposes
and says:**

1. That I am a citizen of the United States, and at all times hereinafter mentioned was over the age of eighteen years, and not a party to the above entitled action.
2. That I am the Principle Clerk of the Idaho Press-Tribune, a daily newspaper published in the Counties of Canyon and Ada, State of Idaho; that the said newspaper is in general circulation in the said counties of Canyon and Ada, and in the vicinity of Nampa, Caldwell, and Boise, and has been uninterruptedly published in said Counties during a period of seventy -eight consecutive weeks prior to the first publication of this notice, a copy of which is hereto attached.
3. That the notice, of which the annexed is a printed copy, was published in said newspaper 2 times(s) in the regular and entire issue of said paper, and was printed in the newspaper proper, and not in a supplement

That said notice was published the following: 05/05/2022,
05/12/2022

Sharon Jessen

SHARON JESSEN
STATE OF IDAHO

On this 12th day of May, in the year of 2022 before me a Notary Public, personally appeared. SHARON JESSEN, known or identified to me to be the person whose name is subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledge to me that he/she executed the same.

Colleen R. Nielsen

Notary Public of Idaho
My commission expires

6/28/23



LEGAL NOTICE

The following application(s) have been filed to appropriate the public waters of the State of Idaho:

63-35151

TED CALDWELL
PO BOX 38 DAVIS, CA 95617-0038
Point of Diversion NWNE S16 T04N R03W CANYON County
Source GROUND WATER Tributary BOISE RIVER
Use: IRRIGATION 03/01 to 11/15
0.04 CFS
Total Diversion: 0.04 CFS
Date Filed: 03-15-2022
Place Of Use: IRRIGATION
T04N R03W S16 NWNE
T04N R03W S9 SWSE
Water bearing zone to be appropriated is from 0 to 12.22 feet.

de ✓
JMB

63-35204

MICHELLE G VAN LITH
JOEL S VAN LITH
18641 CHICKEN DINNER RD CALDWELL, ID 83607-9172
Point of Diversion NWSW S36 T04N R04W CANYON County
Source GROUND WATER
Use: IRRIGATION 03/01 to 11/15
0.15 CFS
Use: DOMESTIC 01/01 to 12/31
0.04 CFS
Total Diversion: 0.19 CFS
Date Filed: 02-25-2022
Place Of Use: DOMESTIC, IRRIGATION
T04N R04W S36 NWSW
Water bearing zone to be appropriated is from 100 to 250 feet.

de ✓
JMB

63-35212

TREY URIZAR
14157 OASIS RD CALDWELL, ID 83607
Point of Diversion L6(NENE) S3 T05N R03W CANYON
County
Source GROUND WATER
Use: IRRIGATION 03/1 to 11/15
0.15 CFS
Total Diversion: 0.15 CFS
Date Filed: 04-05-2022
Place Of Use: IRRIGATION
T05N R03W S3 L6(NENE)
Total Acres: 6.8
Water bearing zone to be appropriated is from 128 to 277 feet.

de ✓
JMB

63-35218

TOLL SOUTHWEST LLC
3103 W SHERYL DR STE 100 MERIDIAN, ID 83642-5761
Point of Diversion SESE S4 T03N R03W CANYON County
Source GROUND WATER
Use: IRRIGATION 03/01 to 11/15
0.38 CFS
Total Diversion: 0.38 CFS
Date Filed: 02-17-2022
Place Of Use: IRRIGATION
T03N R03W S4 SESE Total Acres: 19
Water bearing zone to be appropriated is from 100 to 250 feet.

de ✓
JMB

Permits will be subject to all prior water rights. For additional information concerning the property location, contact the Western office at (208)334-2190; or for a full description of the right(s), please see <https://idwr.idaho.gov/apps/ExtSearch/WRApplicationResults/>. Protests may be submitted based on the criteria of Idaho Code § 42-203A. Any protest against the approval of this application must be filed with the Director, Dept. of Water Resources, Western Region, 2735 W AIRPORT WAY, BOISE ID 83705-5082 together with a protest fee of \$25.00 for each application on or before 5/23/2022. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

May 5, 12, 2022

231719