

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN THE MATTER OF PERMIT NO. 65-23089	)	PRELIMINARY ORDER
IN THE NAME OF CHARTER RANCH LLC	)	REINSTATING A PERMIT
_____	)	

This matter having come before the Idaho Department of Water Resources ("Department"), the Department finds, concludes and orders as follows:

FINDINGS OF FACT

1. On June 5, 2007, the Department issued Permit No. 65-23089 ("Permit") in the name of Eagle Springs Ranch LLC ("Original Owner") authorizing the diversion of 2.0 cubic feet per second of ground water for municipal use in the area served by the public water supply system of Eagle Springs Ranch LLC generally located within Sections 27, 28, 34, and 35 of Township 09 North, Range 04 East, B.M., Boise County. A condition of permit approval required the Original Owner to submit proof of beneficial use of water to the Department on or before June 1, 2012.
2. On March 30, 2012, the Department notified the Original Owner by certified mail that proof of beneficial use was due and instructed the Original Owner of the steps to be taken to submit a *Statement of Completion for Submitting Proof of Beneficial Use* ("Proof"), or a *Request for Extension of Time* ("Extension Request").
3. On May 31, 2012, the Original Owner filed an Extension Request for an additional five years to submit proof of beneficial use for the Permit. The Department approved this Extension Request based on reasonable diligence and good cause. The approved Extension Request established a new proof of beneficial use due date of June 1, 2017.
4. On February 16, 2017, the Original Owner filed an Extension Request for an additional five years to submit proof of beneficial use for the Permit. The Department approved this Extension Request based on reasonable diligence and good cause. The approved Extension Request established a new proof of beneficial use due date of June 1, 2022.
5. On October 5, 2020, the Department received an *Assignment of Permit to Change Ownership of a Permit* assigning the Permit from Eagle Springs Ranch LLC to Charter Ranch LLC ("Permit Holder").
6. On March 31, 2022, the Department notified the Permit Holder by certified mail that proof of beneficial use was due and instructed the Permit Holder of the steps to be taken to submit a Proof or an Extension Request.
7. On June 1, 2022, the Permit lapsed because the Department had not received an acceptable Proof or Extension Request.
8. On June 8, 2022, the Department notified the Permit Holder the Permit lapsed because no Proof or Extension Request had been received.

9. On June 8, 2022, the Permit Holder filed an acceptable Proof.

CONCLUSIONS OF LAW

Idaho Code § 42-218a(1) states, in pertinent part:

A permit upon which the proof of beneficial use..., has not been submitted, or a request for extension of time has not been received on or before the date set for such proof or incremental statement, shall lapse and be of no further force nor effect... . Notice of said lapsing shall be sent by the department to the permit holder at the address of record by regular mail.

Idaho Code § 42-218a(2) states, in pertinent part:

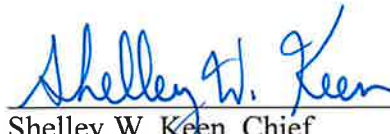
Within sixty (60) days after such notice of lapsing the department may, upon a showing of reasonable cause, reinstate the permit with the priority date advanced a time equal to the number of days that said showing is subsequent to the date set for proof.

By submitting an acceptable Proof, the Permit Holder has shown reasonable cause why this Permit should be reinstated. The Permit should be reinstated based upon the June 8, 2022 filing date.

ORDER

IT IS HEREBY ORDERED that Permit No. 65-23089 is **REINSTATED** and the Permit's priority date is advanced to October 13, 2006.

DATED this 22nd day of June, 2022.



Shelley W. Keen, Chief
Water Allocation Bureau

RECEIVED

RECEIVED

JUN 08 2022

WATER RESOURCES
WESTERN REGION

RECEIVED

JUN 09 2022

DEPARTMENT OF
WATER RESOURCES

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

STATEMENT OF COMPLETION

FOR SUBMITTING PROOF OF BENEFICIAL USE

FOR OFFICE USE ONLY

Amt. of Fee \$ 125.00Receipt No. WJ050494Received By LEDate Received 06/06/22

The Idaho Department of Water Resources (Department) considers this form a statement that the permit holder(s) applied water to beneficial use and completed development of a water right to the extent described below. **This form must be accompanied by an examination fee, when necessary, or by a completed Beneficial Use Field Report prepared by a certified water right examiner (CWRE).** Please refer to the instructions and fee schedule for this form. If ownership of the permit has changed, complete an Assignment of Permit form. If you wish to relinquish your permit because you have not established the authorized water use and are not applying for an extension, please notify the Department in writing.

1. Permit No. 65-23089 Name of Permit Holder(s) Charter Ranch, LLC

Telephone No. 208-462-3777 Email doyle@jackjohnsonconsulting.com

Mailing Address PO Box 4 City Garden Valley State ID Zip 83622

2. Source of Water Ground Water If Ground Water (well), Date Drilled mo. 6/2007 / yr. 7/2007 / 12/2007

Drilling Permit/Tag No. D0048202, D0052005, D0052579 Drilling Company's Name Stevens and Sons

3. Extent of use(s) completed as authorized by the water right permit:

Domestic (No. households) _____ Irrigation (No. acres) _____ Stockwater (No. and stock type) _____

Other Municipal

4. Total diversion rate or volume (storage only) for which proof is submitted 2.0 cfs OR _____ af
If the total developed water use is 5 acres of irrigation or less, is stockwater storage of 14.6 acre-feet or less, or has a diversion rate of less than 0.24 cfs, attach a map of the place of use and point of diversion and photographs showing beneficial use.

5. Describe the diversion and delivery system from the water source to the use (pump, lift, irrigation method, etc.)

Three wells equipped with submersible pumps deliver water to a municipal public water supply system. System includes 420,000-gallon storage tank.

6. Permit condition compliance. Refer to the permit approval conditions and check all the items required, then check "Yes" or "No" to indicate whether the required items were established, submitted, and/or installed:

Required? Yes No (If "Yes", attach required data, evidence of compliance, or evidence of installation)

- | | | | | |
|-------------------------------------|-------------------------------------|--------------------------|---|---|
| ☐ | ☐ | ☐ | Ground water level data, pumping information, or other diversion data | Condition 8 requires documentation that the system is regulated by IDEQ as a public water supply. The number of connections are currently insufficient to meet the IDEQ regulatory threshold. The number of connections is anticipated to exceed IDEQ's regulatory threshold in 2022 or 2023. |
| ☐ | ☐ | ☐ | Mitigation plan | |
| ☐ | ☐ | ☐ | Lockable controlling works | |
| ☐ | ☐ | ☐ | Measuring device | |
| ☐ | ☐ | ☐ | Fish screen | |
| ☒ | ☒ | ☐ | Other requirements of the water right permit | |
| ☐ | ☐ | ☐ | Reasonably Anticipated Future Needs ("RAFN") Municipal use | |

If RAFN Municipal use, additional increment of beneficial use developed? ☐ Yes (attach CWRE report) ☐ No

7. Fee Enclosed \$ 125.00 or ☐ CWRE field report attached or ☐ No fee required

See fee schedule on page 3 of the instructions. Proof statements filed without an appropriate fee are incomplete.

8. Person to contact to accompany a Department representative during the field examination of the water system:

Name: Doyle Pergande Telephone No. 208-941-2848 Email doyle@jackjohnsonconsulting.com

Mailing Address 8585 Parlevs Ln City Park City State UT Zip 84098

The information given on this form is my true statement of the extent to which the above numbered permit has been developed and water has been diverted and applied to beneficial use. I understand that any undeveloped portion of the permit is relinquished to the State of Idaho.

Linda Weilmunster

Linda Weilmunster, Manager

06/06/2022

SIGNATURE OF PERMIT HOLDER*

PRINTED NAME AND TITLE

DATE

*Attach power of attorney if completing on behalf of permit holder.



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

June 28, 2022

CHARTER RANCH LLC
PO BOX 4
GARDEN VALLEY ID 83622-0004

PROOF ACKNOWLEDGEMENT LETTER

RE: Permit No. 65-23089

Dear Permit Holder:

The Department acknowledges receipt of the Proof of Beneficial Use form ("proof") and license examination fee for the above-referenced water right permit. Enclosed is an order that reinstates this permit since proof and the license examination fee were submitted after the proof deadline. Please note that the priority date for this permit has been advanced to **October 13, 2006**, pursuant to Idaho Code § 42-218a(2).

The next step in the process of developing a water right is for the Department to conduct a field examination to determine and confirm the use being made of the water according to the conditions of the permit.

Please be advised that Idaho Code § 42-248, requires you or the owner of this water right to maintain current ownership and address records on file with the Department. Forms to file a change of ownership of a water right and/or a change in the address of the water right 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 field examination, please contact the Western Region Office of the Department located in Boise at (208) 334-2190.

Sincerely,

Debbi Judd
Technical Records Specialist

Enclosures

c: HDR – via email

CERTIFICATE OF SERVICE

I hereby certify that on **June 28, 2022** I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (**PRELIMINARY ORDER REINSTATING A PERMIT**) to the persons listed below:

RE: Preliminary Order in the Matter of Permit No. **65-23089**

**CHARTER RANCH LLC
PO BOX 4
GARDEN VALLEY ID 83622-0004**

**HDR
C/O SCOTT N KING – *via email*
300 E MALLARD DR STE 350
BOISE ID 83706
scott.king@hdrinc.com**



**Debbi Judd
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.



RECEIVED

JUN 08 2022

WATER RESOURCES
WESTERN REGION

June 7, 2022

Idaho Department of Water Resources
2735 W Airport Way
Boise, Idaho 83705

On behalf of our client, Charter Ranch LLC, enclosed please find a Statement of Completion for water right permit 65-23089. As described in the Statement, one condition of approval of permit 65-02389 required "...the right holder shall provide the department with documentation showing that the water supply system is being regulated by the Idaho Department of Environmental Quality as a public water supply and that it has been issued a public water supply number." The South Fork Landing community water supply system served under water right permit 65-23089 has not yet reached the number of active service connections required to qualify as a Public Drinking Water System as defined by IDEQ (see IDAPA 58.01.08.003.110), and therefore has not yet been issued a public water supply number. We anticipate that the system will meet the service connection threshold during 2022 or 2023 and will subsequently receive a public water supply number. Subsequent to issuance of the public water supply number, the permit holder will notify IDWR of IDEQ's regulation and issued number.

Please let me know if you have any questions.

Sincerely,

Scott N. King, P.E.
Project Manager

cc: Doyle Pergande (via email)