

State of Idaho
Department of Water Resources
Permit to Appropriate Water
No. 29-14401

Priority: July 21, 2021

Maximum Diversion Rate: 0.04 CFS
Maximum Diversion Volume: 6.0 AF

This is to certify that

LAVA RANCH PROPERTY OWNERS ASSN
PO BOX 131
LAVA HOT SPGS ID 83246-0131

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>	<u>Annual Volume</u>
DOMESTIC	01/01 to 12/31	0.04 CFS	6.0 AF

Location of Point(s) of Diversion

GROUND WATER SE¼ SE¼, Sec. 7, Twp 10S, Rge 38E, B.M. BANNOCK County

Place of Use: DOMESTIC

Twp	Rng	Sec	NE				NW				SW				SE			
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE
10S	38E	5											X	X				
10S	38E	7												X	X	X	X	X
10S	38E	8					X	X	X	X		X						
10S	38E	17		X L2	X		X L3	X L4	X	X	X	X		X	X	X	X	X
10S	38E	18	X L1	X L2	X	X									X	X	X	X
10S	38E	19	X	X	X	X	X		X L2	X	X	X L3		X	X	X	X	X
10S	38E	20	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
10S	38E	29	X	X	X	X	X	X	X	X	X				X	X		
10S	38E	30	X	X	X	X	X			X	X			X	X	X	X	X

Conditions of Approval

1. Proof of application of water to beneficial use shall be submitted on or before **January 01, 2023**.
2. Subject to all prior water rights.
3. Domestic use is for a pump station to fill portable water containers with water for culinary use at 470 lots and does not include lawn, garden, landscape, or other types of irrigation.
4. Place of use is within the Lava Ranch Subdivision.
5. 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.

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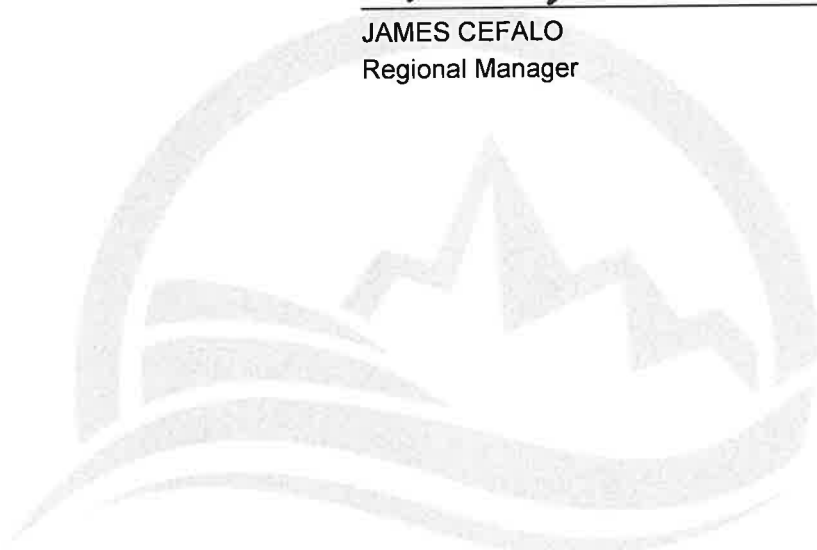
6. Upon specific notification by the Department, the right holder shall install a lockable device of a type acceptable to the Department in a manner that will provide the watermaster suitable control of the diversion.

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

Signed this 16th day of December, 2021.



JAMES CEFALO
Regional Manager





Governor Brad Little

Director Gary Spackman

December 16, 2021

LAVA RANCH PROPERTY OWNERS ASSN
PO BOX 131
LAVA HOT SPGS ID 83246-0131

RE: Permit No. 29-14401

Permit Approval Notice

Dear Permit Holder:

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) 497-3784.

Sincerely,

A handwritten signature in black ink, appearing to read 'J Cefalo', written in a cursive style.

James Cefalo
Eastern Regional Manager

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on December 16, 2021, I served a true and correct copy of Permit to Appropriate Water No. 29-14401 by U.S. Mail, postage prepaid, to the following:

LAVA RANCH PROPERTY OWNERS ASSN
PO BOX 131
LAVA HOT SPGS ID 83246-0131

TRAVIS L THOMPSON
BARKER ROSHOLT & SIMPSON LLP
PO BOX 63
TWIN FALLS ID 83303-0063

MICHAEL BEER
C/O BEARD ST. CLAIR GAFFNEY PA
955 PIER VIEW DR
IDAHO FALLS ID 83402-4918



Christina Henman
Administrative Asst. I

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.