

State of Idaho
Department of Water Resources
Water Right License
Water Right No. 63-34104

Priority: August 27, 2015

Maximum Diversion Rate: 0.20 CFS

Maximum Diversion Volume: 3.1 AF

It is hereby certified that:

KELLY FULFER PO BOX 455 MERIDIAN ID 83680-0455 AND/OR
BRENDA FULFER PO BOX 455 MERIDIAN ID 83680-0455

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated July 06, 2015, and has submitted Proof of Beneficial Use on January 22, 2021. An examination confirms water is diverted from:

Source : GROUND WATER

<u>Beneficial Use</u>	<u>Period of Use</u>	<u>Rate of Diversion</u>	<u>Annual Volume</u>
INDUSTRIAL	01/01 to 12/31	0.20 CFS	3.1 AF

Location of Point(s) of Diversion

GROUND WATER NE¼ NW¼, Sec. 24, Twp 02N, Rge 01E, B.M. ADA County

Place of Use: INDUSTRIAL

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
02N	01E	24					X	X											

Conditions of Approval

1. Industrial use is for a gravel extraction operation.
2. When ordered by the Director, the right holder shall provide mitigation acceptable to the Director to offset depletion of lower Snake River flows needed for migrating anadromous fish. The amount of water required for mitigation, which is to be released into the Snake River or a tributary for this purpose, will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this right. Any order of the Director issued in accordance with this paragraph shall be in conformance with applicable rules allowing the right holder due process as the need for mitigation and the amount of mitigation are determined.

This license is issued pursuant to the provisions of Idaho Code § 42-219. The water right confirmed by this license is subject to all prior water rights and shall be used in accordance with Idaho law and applicable rules of the Department of Water Resources.

Signed this 12th day of November, 20 21.



PHILL HUMMER
Water Rights Supervisor

State of Idaho
Department of Water Resources
Attachment to Water Right License
63-34104

This map depicts the INDUSTRIAL 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.



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

0 0.075 0.15 0.3 Miles



Governor Brad Little

Director Gary Spackman

November 16, 2021

BRENDA FULFER
KELLY FULFER
PO BOX 455
MERIDIAN ID 83680-0455

RE: License No. 63-34104

ISSUANCE OF LICENSE

Dear Water Right Holders:

The Department of Water Resources ("Department") has issued the enclosed Water Right License confirming that a water right has been established in accordance with your permit. Please be sure to thoroughly review all the conditions of approval listed on your license. The conditions may include ongoing requirements, such as maintenance of a measuring device or implementation of mitigation, as well as information about how your water use may be administered, such as regulation by a watermaster in a water district.

The license is a PRELIMINARY ORDER issued by the Department 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.

Also, please note that water right owners are required to report any change of water right ownership and/or mailing address to the Department within 120 days of the change. Water right forms are available from any office of the Department or on the Department's website at idwr.idaho.gov

If you have any questions concerning the enclosed information, please contact me at (208) 287-4925.

Sincerely,



Phill Hummer
Water Rights Supervisor

Enclosures

CERTIFICATE OF SERVICE

I hereby certify that on November 16, 2021, I served a true and correct copy of Water Right License No. 63-34104 by U.S. Mail, postage prepaid, to the following:

BRENDA FULFER (Current Owner)
PO BOX 455
MERIDIAN ID 83680-0455

KELLY FULFER (Current Owner)
PO BOX 455
MERIDIAN ID 83680-0455

SPF WATER ENGINEERING LLC (Representative)
C/O LORI GRAVES – *via email*
300 E MALLARD DR STE 350
BOISE ID 83706-6660
lgraves@spfwater.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.

MEMORANDUM

TO: Water Right File 63-34104

FROM: Daniel Nelson – Analyst 3

DATE: October 25, 2021

SUBJECT: Licensing Review of Water Right 63-34104

The field exam for this right was performed by Certified Water Right Examiner Terry Scanlan of SPF Water Engineering. Mr. Scanlan recommended 0.20 cfs and 17.1 acre-feet for industrial uses. Mr. Scanlan also recommended that when overlapping water rights 63-31631 and 63-31724 are combined, they should be limited to 17.1 acre-feet. There were no diversion rate limits.

Upon my initial review, I discovered that Mr. Scanlan didn't include any water use for inside of the scale house/office. Mr. Scanlan sent me an email stating that the uses were less than 100 gallons per day.

History and Overlapping Water Rights:

The permit holder filed an application for permit for commercial use for this gravel operation in 2003, which was assigned water right number 63-31631. This permit had a diversion rate of 0.04 cfs and a volume limit 2,500 gallon per day for commercial use at this gravel extraction operation. A field exam was conducted in 2012, and no evaluation was made of the total volume diverted at that time. It was determined that the standard of 2,500 gallons per day created the volume limit due to several additional uses, and the permit was licensed without a volume, but with the 2,500 gallon per day limitation.

In 2016, a water right transfer (transfer number 80400) was filed on water right 63-31631 and water right 63-31724. This transfer authorized a second point of diversion for water right 63-31631. This second point of diversion is the same point of diversion authorized by this permit. The water right transfer also moved water right 63-31724 to the property, which would authorize an additional 0.06 cfs and 11.3 acre-feet of water to this gravel extraction operation.

Existing water rights 63-31631 and 63-31724 authorize a total of 0.10 cfs and up to 14.1 acre-feet of water for commercial and industrial use at this gravel extraction facility ($\{[2,500 \text{ gpd} \times 365 \text{ days}] / 32850\} + 11.3 \text{ acre-feet} = 14.1 \text{ acre feet}$).

Point of Diversion:

Mr. Scanlan stated in his narrative, that the water system for this gravel extraction operation consists of 2 wells. The first well is a six inch well that was described in the field exam for water right 63-31631. The second well is an 8 inch well that was added to water right 63-31631 and in water right transfer 80400. Both of these wells are also described as the points of diversion for water right 63-31724.

This permit described both wells as points of diversion. However, Mr. Scanlan found that the two wells were not interconnected, so he only included a single point of diversion in his field report. The point of diversion that Mr. Scanlan used was the 8 inch well. According to Mr. Scanlan, it appears as though the 8 inch well is the main production well for gravel washing, dust abatement, and truck washing, and the 6 inch well is used mainly for domestic purposes in the Scale House/Office.

I agree with Mr. Scanlan's assessment of this operation, and the 8 inch well should be the only well considered for the licensing of this permit.

Place of Use:

The place of use described in Mr. Scanlan's field report matches the place of use described in the permit. It also reflects the tax parcel for this facility on the northside of the road. I feel the place of use described in the permit and field report is reasonable.

Diversion Rate:

Mr. Scanlan recommended a diversion rate of 0.20 cfs, but found a much higher flow rate of 0.90 cfs. Mr. Scanlan also showed that when the two existing water rights are combined with this permit, the maximum diversion rate that can be authorized is 0.30 cfs.

Mr. Scanlan performed a timed fill measurement to determine the flow rate of this well. The measurement showed a 27-gallon vessel being filled in 4 seconds. The measurement was under the standard of at least 30 seconds to fill the vessel being used. Mr. Scanlan measured a flow rate of 0.90 cfs.

Mr. Scanlan provided a pump curve and theoretical calculation, but he didn't provide any real calculations as to how he came up with the total dynamic head (TDH). He also used different TDH calculations for each calculation.

A reasonable pumping level would be in the 360-foot pumping water level range and 60 psi range. Using these numbers, the well would produce about 0.62 cfs. I also calculated a pumping use at extreme conditions including the full depth of the well and maximum pressure needed to attain 0.30 cfs combined rate. The extreme conditions calculations clearly show that this well can easily produce more than the 0.30 cfs. I struggled with the flow rate numbers in Mr. Scanlan's calculations, because he used an efficiency rate of 78% instead of the 70% that is the Department's standards.

Even though the diversion rate calculations Mr. Scanlan sent could be considered suspect due to lack of supporting documentation, it is clear that this pumping system can clearly provide much more than the 0.30 cfs water right limitation for this system.

Diversion Volume:

In the initial review of this field report, I discovered that there wasn't any discussion of the scale/house office use. I contacted Mr. Scanlan and he stated that the office use was approximately 100 gallons per day or 0.1 acre-feet. This seems reasonable for 2 construction type workers at 50 gal/day as listed in our field examiner's handbook.

With the office use the total volume would increase from 17.1 acre-feet to 17.2 acre-feet.

Mr. Scanlan requested that this permit be authorized for a total volume of 17.2 acre-feet with a combined diversion rate condition limiting two existing water rights and this permit to a combined total of 17.2 acre-feet. The two existing rights have this point of diversion on them, so the volumes from each right could be used out either point of diversion. This permit is limited to just this single well, and it is the main production well for this gravel operation. Mr. Scanlan clearly stated that the smaller 6 inch well only serves the Scale House / Office. However, the water right authorizing that use can be diverted from either point of diversion.

Based on the information available, I am recommending that we do not have a limiting condition, and this permit be limited to 3.1 acre feet with no conditions limiting the diversion rates or volumes for these three water rights. Please see the attached spreadsheet for volume calculations.

Conditions:

None of the conditions should be carried forward to licensing. Condition 121 should be changed to condition 103 as is standard. The condition describing the use lists the use as a commercial use, but this use on the right is for industrial use. In order to cover all of the uses and possible changes in uses, I will change this condition to state the following:

Industrial use is for a gravel extraction operation.

THEORETICAL HORSEPOWER EQUATION WORKSHEET (cjh 1/92)

Water Right No.: 63-34101
 Reviewer: Dan Nelson
 Date of Review: 10/25/2021

P/D No.:

PUMP HORSEPOWER
 BOOSTER HORSEPOWER

PUMPING LEVEL

DISCHARGE PRESSURE

RATE OF FLOW (cfs)
 RATE OF FLOW (gpm)

My Reasonable Estimation of pumping uses	Diversion rate under extreme conditions.	Mr. Scanlan's Estimate at standard 70% efficiency	Mr. Scanlan's Estimate at standard 78% efficiency using Pump Curve Numbers
50	50	50	50
0	0	0	0
360	444	400	356
60	250		
0.618	0.302	0.770	0.964
277	135	346	433

The above calculates the formula =

$$Q = \frac{8.8 * (\text{Efficiency}) * \text{hp}}{\text{depth to water} + 2.31 * (\text{psi}) + \text{friction}}$$

Assumptions: %70 efficiency.
 No Friction

Examiners Notes: As you can see above, the pumping rates based on my or Mr. Scanlan's estimations have an extensive range. Mr. Scanlan did perform a timed fill test that lasted 4 seconds. This test wouldn't meet the standard of a minimum of 30 seconds for a timed fill test.

The most important estimation above is the diversion rates under the most extreme conditions. The two exiting rights and this permit are combined, the maximum authorized diversion rate is 0.30 cfs. In order to reduce the diversion from this well to the 0.30 cfs amount, the well pump would have to pump from the maximum depth of the well of 444 feet and at a pressure against the pump of 250 psi. There is no question that this pumping system can provide the diversion rate of 0.30 cfs when all three water rights are in use.

CFS Rate	Hours /Day	Days /Week	Weeks/ Year	Total Gallons	Total Acre Feet
0.20	6.00	3.00	39.30	3,809,773.44	11.69

Gallons/load	Loads per day	days per week	Weeks/ Year	Total Gallons	Total Acre Feet
4,000.00	2.00	5.00	39.30	1,572,000.00	4.82

Misc. Wash Down Water per Day	Days per Week	Weeks/Year	Total Gallons	Total Acre Feet
1,000.00	5.00	39.30	196,500.00	0.60

Office Use gpd	Days Per Week	Weeks/Year	Total Gallons	Total Acre Feet
100	5	52	26,000.00	0.08

TOTAL GALLONS =	5,604,273.44
TOTAL ACRE FEET =	17.20

Total Water Use In Acre-Feet	Max Volume for 63-31724 at 2,500 gpd X 365 days / 325,850	Max Volume for 63-31724	Volume Available for This Permit in Acre-Feet
17.2	2.8	11.3	3.1

Nelson, Dan

From: Nelson, Dan
Sent: Monday, October 25, 2021 11:26 AM
To: Terry Scanlan
Subject: RE: Field Exam for Permit 63-34104

Terry,

Thank you for this information. I will add an additional 0.1 acre-feet to the total.

Dan Nelson

From: Terry Scanlan <TScanlan@spfwater.com>
Sent: Friday, October 22, 2021 4:19 PM
To: Nelson, Dan <Dan.Nelson@idwr.idaho.gov>; Patrick Kelly <PKelly@spfwater.com>
Subject: RE: Field Exam for Permit 63-34104

Dan,

The office is still there, so I assume that they still have a restroom. Use would be minimal (a few intermittent staff), probably averaging less than 100 gpd (0.1 af).

Terry

From: Nelson, Dan <Dan.Nelson@idwr.idaho.gov>
Sent: Friday, October 22, 2021 3:50 PM
To: Terry Scanlan <TScanlan@spfwater.com>; Patrick Kelly <PKelly@spfwater.com>
Subject: Field Exam for Permit 63-34104

Hello Terry and Pat,

Permit 63-34104 has made it through the reinstatement holding period, and I am looking at the field exam for licensing purposes. You list a total volume of 17.1 af on this right, and in combination with the other two water rights. Permit 63-31631 mentions uses in the office for the office restroom uses. You didn't include any volume for those uses. Did they get rid of the bathrooms in the office, or are they still there on site?

If we limit all three rights, I want to make sure we are giving them all of the volume they will need.

Dan Nelson