

State of Idaho  
 Department of Water Resources  
**Permit to Appropriate Water**  
 No. 65-24037

**Priority:** June 03, 2021

**Maximum Diversion Rate:** 0.02 CFS

This is to certify that

MICHELE DUNLAP 33 RIVER RANCH RD GARDEN VALLEY ID 83622-5053 OR  
 ANTHONY HICKS 33 RIVER RANCH RD GARDEN VALLEY ID 83622-5053

has applied for a permit to appropriate water from:

**Source :** MIDDLE FORK PAYETTE RIVER                      **Tributary:** PAYETTE RIVER

and a permit is APPROVED for development of water as follows:

<u><b>Beneficial Use</b></u>	<u><b>Period of Use</b></u>	<u><b>Rate of Diversion</b></u>
IRRIGATION	03/15 to 10/31	0.02 CFS

**Location of Point(s) of Diversion**

MIDDLE FORK PAYETTE RIVER NE¼ SW¼, Sec. 23, Twp 10N, Rge 04E, B.M. BOISE 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		
10N	04E	23																		0.9

Total Acres: 0.9

**Conditions of Approval**

1. Proof of application of water to beneficial use shall be submitted on or before **October 01, 2026**.
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 3.5 afa per acre at the field headgate for irrigation of the place of use.
4. Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 65.
5. The right holder shall contact the watermaster by June 15 each year for authorization to continue diverting and using water. The right holder shall not divert water after June 15 each year unless the watermaster authorizes continued diversion and use of water under this water right. When the watermaster informs the right holder that water is not available to fill this right, the right holder shall cease diversion, shall rent water from the Payette River Rental Pool, or shall otherwise mitigate for the depletion of water caused by this water use. The department may amend the contact date listed in this administrative provision to more closely coincide with the date when water is not available to fill this water right.
6. Prior to diversion of water under this right, the right holder shall install a lockable device, subject to the approval of the Department, in a manner that will provide the watermaster suitable control of the diversion.
7. When notified by the Department, the right holder shall install and maintain a measuring device of a

State of Idaho  
Department of Water Resources  
**Permit to Appropriate Water**  
No. 65-24037

- type acceptable to the Department as part of the diverting works.
8. Water shall not be diverted under this right when flows in the South Fork of the Payette River and the main stem of the Payette River under right 65-12733 are below established minimum flow amounts.
  9. Prior to the diversion and use of water under this approval, the right holder shall comply with all fish screening and/or fish passage requirements of the Idaho Department of Fish and Game.
  10. Point of diversion and place of use is located within Lot 3, Blk. 1, River Ranch Subdivision.
  11. 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 24<sup>th</sup> day of September, 2021.



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NICK MILLER  
Western Regional Manager

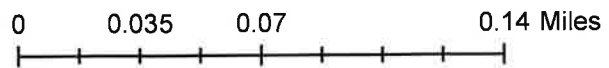
State of Idaho  
Department of Water Resources  
**Attachment to Permit to Appropriate Water**  
65-24037

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.

04E



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





**Governor Brad Little**

**Director Gary Spackman**

September 24, 2021

MICHELE DUNLAP  
ANTHONY HICKS  
33 RIVER RANCH RD  
GARDEN VALLEY ID 83622-5053

RE: Permit No: 65-24037

### **Permit Approval Notice**

Dear Permit Holders:

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](http://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](http://www.idwr.idaho.gov).**

If you have any questions concerning the enclosed information, please contact me at (208) 334-2190.

Sincerely,

  
DENISE LAUERMAN

for Nick Miller  
Western Regional Manager


Enclosures

## CERTIFICATE OF SERVICE

I hereby certify that on September 24, 2021, I served a true and correct copy of Permit to Appropriate Water No. 65-24037 by U.S. Mail, postage prepaid, to the following:

MICHELE DUNLAP (Current Owner)  
ANTHONY HICKS (Current Owner)  
33 RIVER RANCH RD  
GARDEN VALLEY ID 83622-5053

WATER DISTRICT #65  
RON SHURTLEFF (Watermaster)  
102 N MAIN ST  
PAYETTE ID 83661

  
Denise Lauerman  
Administrative Assistant

## **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.

State of Idaho  
Department of Water Resources  
Transfer of Water Right(s)  
RECOMMENDATION FORM

RECEIVED

SEP 02 2021

WATER RESOURCES  
WESTERN REGION

RE: Application for Permit No. 65-24037

New Appropriation Applicant's  
Name:

MICHELE DUNLAP  
ANTHONY HICKS  
33 RIVER RANCH RD  
GARDEN VALLEY, ID 83622-5053

Recommendation:

- a)  I do not oppose approval of this application.
- b)  I do not oppose approval of this application if it is conditioned as follows:
- c)  I oppose approval of this application for the following reasons:
- d)  **Additional comments:** We request the applicant consider using a screen on the pump intake with screen having openings not exceeding 3/32 inch to avoid entrainment of fish. The pump intake should be arranged to reduce water velocity at the screen (referred to as "approach velocity") to avoid impinging fish on the screen. This could be accomplished by establishing an enclosure with the screen to keep fish away from the intake. IDFG can provide screen manufacturer recommendations if needed.

Dated this 2 day of September, 2021

\_\_\_\_\_  
Signature

# The Idaho World

P.O. Box 220  
 Idaho City, ID 83631  
 (208) 202-9288

RECEIVED

AUG 30 2021

WATER RESOURCES  
 WESTERN REGION

State of Idaho )  
 )  
 County of Boise )

Eileen Capson, being duly sworn, deposes and says: that she is the Publisher of THE IDAHO WORLD, a weekly newspaper published at Idaho City, in the County of Boise and the State of Idaho; the said paper has been and is in general circulation in the county aforesaid, and in the vicinity of Idaho City; that the advertisement, a copy of which is hereto attached, was published in said newspaper once a week for two (2) consecutive weeks in the entire and regular issue of every number of said paper during the period and time of publication and was published in the newspaper and not a supplement; that said paper has been established and regularly and continuously published for more than seventy eight weeks past previous to the first publication of this notice. Such notice was published with the issue beginning with August 4, 2021 and ending with the issue of August 11, 2021.

*Eileen Capson*

State of Idaho )  
 )  
 County of Boise )

On this 26 day of August in the year 2021, before me, a notary public, personally appeared Eileen Capson known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that she executed the same.

*Shirley A. George*

Notary Public for Idaho  
 Residing at Idaho City, Idaho  
 Commission Expires 6-27-2023

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

65-24036 WILLIAM BOLLINGER DEBRA BOLLINGER 25 LOIS LN HORSESHOE BEND, ID 83629-5099	Point of Diversion S7 T07N R03E BOISE County Source GROUND WATER Use: DOMESTIC 01/01 to 12/31 0.04 CFS Use: IRRIGATION 03/15 to 10/31 0.12 CFS Total Diversion: 0.16 CFS Date Filed: 06-03-2021 Place Of Use: DOMESTIC, IRRIGATION T07N R03E S7 NWSE Total Acres: 4	Source MIDDLE FORK PAYETTE RIVER Tributary PAYETTE RIVER Use: IRRIGATION 03/15 to 10/31 0.02 CFS Total Diversion: 0.02 CFS Date Filed: 06-03-2021 Place Of Use: IRRIGATION T10N R04E S23 NESW Total Acres: 0.9
65-24037 MICHELE DUNLAP ANTHONY HICKS 33 RIVER RANCH RD GARDEN VALLEY, ID 83622-5053 Point of Diversion NESW S23 T10N R04E BOISE County	Point of Diversion I3 (SESW) S23 T10N R04E BOISE County Source MIDDLE FORK PAYETTE RIVER Tributary PAYETTE RIVER Use: IRRIGATION 03/15 to 10/31 0.1 CFS Total Diversion: 0.1 CFS Date Filed: 06-08-2021 Place Of Use: IRRIGATION T10N R04E S23 NESW, I3 (SESW) Total Acres: 3.6	Source MIDDLE FORK PAYETTE RIVER Tributary PAYETTE RIVER Use: IRRIGATION 03/15 to 10/31 0.1 CFS Total Diversion: 0.1 CFS Date Filed: 06-08-2021 Place Of Use: IRRIGATION T10N R04E S23 NESW, I3 (SESW) Total Acres: 3.6

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/WRAApplicationResults/>. 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 8/23/2021. The protestant must also send a copy of the protest to the applicant.  
 GARY SPACKMAN, Director  
 Published in the Idaho World on 8/4/2021 and 8/11/2021.

