

State of Idaho  
 Department of Water Resources  
**Permit to Appropriate Water**  
 No. 67-15377

**Priority:** January 25, 2021

**Maximum Diversion Rate:** 2.96 CFS

This is to certify that

WELDON BRANCH 3621 N CRANE RD MIDVALE ID 83645-5521

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	03/15 to 10/31	2.96 CFS

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

GROUND WATER L2 ( NW¼ NE¼), Sec. 1, Twp 12N, Rge 02W, B.M. WASHINGTON 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	
12N	02W	1	4.0 L1	30 L2	27	33										14			108
13N	02W	36															20	20	40

Total Acres: 148

**Conditions of Approval**

1. Proof of application of water to beneficial use shall be submitted on or before **August 01, 2026**.
2. Subject to all prior water rights.
3. The right holder shall make full beneficial use of all surface water available to the right holder for irrigation of lands within the authorized place of use for this right. The right holder may divert ground water under this right to irrigate land with appurtenant surface water rights when the surface water supply is not reasonably sufficient to irrigate the place of use for this water right or is not available due to drought, curtailment by priority, or the seasonal startup and shutoff or maintenance schedule for canal company or irrigation district deliveries. The right holder shall not divert ground water for irrigation purposes under this right if use of the surface water supply is intentionally discontinued or reduced (for example abandoned, forfeited, sold, disallowed by court decree, or leased to the Water Supply Bank), or is not deliverable due to non-payment of annual assessments, without an approved transfer pursuant to Idaho Code § 42-222 or other Department approval.
4. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor exceed a combined annual maximum diversion volume of 592 af at the field headgate for the place of use.
5. This right when combined with all other rights shall provide no more than 4.0 afa per acre at the field headgate for irrigation of the place of use.
6. After specific notification by the Department, the right holder shall install a suitable measuring device

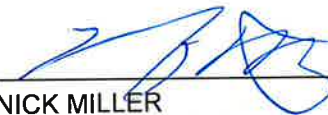
State of Idaho  
Department of Water Resources  
**Permit to Appropriate Water**  
No. 67-15377

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.

7. Right holder shall comply with the drilling permit requirements of Idaho Code § 42-235 and applicable Well Construction Rules of the Department.
8. 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 30<sup>th</sup> day of July, 2021.



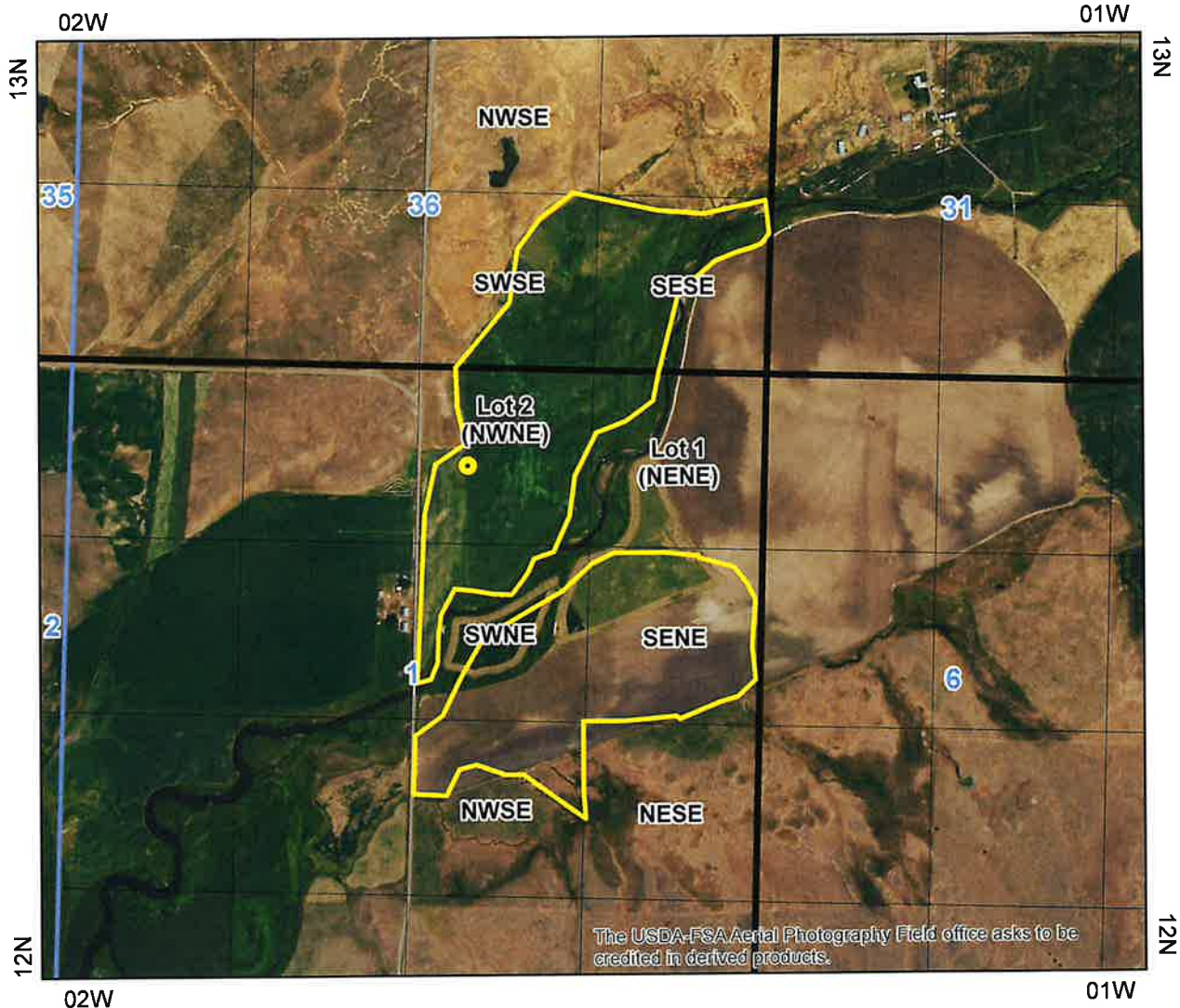
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NICK MILLER  
Western Regional Manager

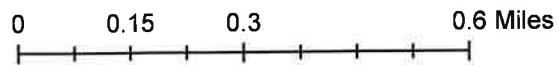
# Attachment to Permit to Appropriate Water

67-15377

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.



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





State of Idaho

## DEPARTMENT OF WATER RESOURCES

Western Region • 2735 W AIRPORT WAY • BOISE, ID 83705-5082

Phone: (208)334-2190 • Fax: (208)334-2348 • Website: [www.idwr.idaho.gov](http://www.idwr.idaho.gov)

Brad Little  
Governor

Gary Spackman  
Director

July 30, 2021

WELDON BRANCH  
3621 N CRANE RD  
MIDVALE ID 83645-5521

RE: Permit No. 67-15377

### 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](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 July 30, 2021, I served a true and correct copy of Permit to Appropriate Water No. 67-15377 by U.S. Mail, postage prepaid, to the following:

WELDON BRANCH (Current Owner)  
3621 N CRANE RD  
MIDVALE ID 83645-5521

  
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.

## MEMORANDUM

TO: Water Right Files: 67-15377

FROM: Anna Kaiser

DATE: June 14, 2021

RE: Conversational Memo

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On January 25, 2021, Weldon Branch (applicant) submitted application for permit no. 67-15377 proposing 148 acres of groundwater irrigation. Upon evaluation, IDWR discovered that the applicant currently has access to surface water for irrigation uses from Crane Creek shares and water right no. 67-2286 over a portion of the proposed place of use (pou).

On June 9, 2021 IDWR sent a letter to the applicant explaining that IDWR typically considers the use surface water favorable to the use ground water, and also considers the use of surface water as a primary source in alignment with public interested as defined in section 42-202B of Idaho Code. The letter provided the applicant with two options regarding his application- agree to utilize surface water as the primary source and limit use of groundwater for irrigation to times when surface water is unavailable, or demonstrate that his proposal to utilize groundwater as a primary irrigation source is in the public interest and consistent with conservation of water resources.

On June 14, 2021, I received a phone call from the applicant in which he agreed to utilize his surface water as a primary irrigation source, and limit his proposed ground water to use only in times when surface water is unavailable over the areas that Crane Creek shares or right 67-2286 overlap with the proposed pou of 67-15377.



State of Idaho

## DEPARTMENT OF WATER RESOURCES

Western Region • 2735 W Airport Way • Boise ID 83705-5082

Phone: (208) 334-2190 • Fax: (208) 334-2348

Website: [idwr.idaho.gov](http://idwr.idaho.gov) • Email: [westerninfo@idwr.idaho.gov](mailto:westerninfo@idwr.idaho.gov)

BRAD LITTLE  
Governor

GARY SPACKMAN  
Director

June 9, 2021

WELDON BRANCH  
3621 N CRANE RD  
MIDVALE ID 83645-5521

### RE: Application for Permit 63-34743

Dear Applicant:

The Department is evaluating your application to appropriate ground water for irrigation purposes. The information in the file suggests the proposed permit will provide primary irrigation water and that a portion of the proposed place of use (POU) is irrigated through shares from Crane Creek Reservoir (Crane Creek) and through the use of your water right no. 67-2286. The purpose of this letter is to request information relative to the availability of surface water to help the Department decide whether it can authorize your proposed use of ground water as a primary irrigation source on land historically irrigated with surface water.

Among the criteria the Department must evaluate in deciding whether to approve an application for permit to appropriate water is whether it will conflict with the local public interest as defined in section [42-202B](#), Idaho Code, and whether it is contrary to conservation of water resources within the state of Idaho. In evaluating these criteria for applications seeking to appropriate ground water, the Department considers the availability of surface water for irrigation. Idaho's ground water is a limited resource in certain areas and is generally a higher quality water source. Additionally, the extensive delivery systems maintained by organized surface water delivery entities play an essential role in the availability of surface water to various lands. The public interest is served by encouraging existing users of those systems to continue participating in the delivery organization to maintain the availability of surface water to as much land as possible. The public interest and conservation of water resources are both further served through the use of surface water by the benefits associated with incidental ground water recharge that helps maintain existing ground water levels.

Where surface water is reasonably available, it is not in the public interest and not consistent with conservation of water resources to appropriate ground water as the primary water source for irrigation<sup>1</sup>. The Department typically addresses this concern by conditioning new permits to require that the right holder first use available surface water for irrigation and limit ground water

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<sup>1</sup> The strong public policy in favor of the use of surface water first when both ground water and surface water sources are available is also reflected in Idaho's land use code. Idaho Code § 67-6537 provides, in relevant part, that "[a]ll applicants proposing to make land use changes shall be required to use surface water, where reasonably available, as the primary water source for irrigation." Idaho Code § 67-6537(1).

use to those times when surface water is not available. The Department's standard condition is as follows:

*The right holder shall make full beneficial use of all surface water available to the right holder for irrigation of lands within the authorized place of use for this right. The right holder may divert ground water under this right to irrigate land with appurtenant surface water rights when the surface water supply is not reasonably sufficient to irrigate the place of use for this water right or is not available due to drought, curtailment by priority, or the seasonal startup and shutoff or maintenance schedule for canal company deliveries. The right holder shall not divert ground water for irrigation purposes under this right if use of the surface water supply is intentionally discontinued or reduced (for example abandoned, forfeited, sold, disallowed by court decree, or leased to the Water Supply Bank), or is not deliverable due to non-payment of annual assessments, without an approved transfer pursuant to Idaho Code § 42-222 or other Department approval.*

With the foregoing in mind, two options available to you for the portion of land overlapping with Crane Creek shares and water right no. 67-2286 are as follows:

- 1) **Agree to utilize surface water as a primary source and limit use of ground water for irrigation to those times when surface water is unavailable.** If you select this option, any permit issued pursuant to your application will contain the condition quoted above.
  
- 2) **Demonstrate that your proposal to utilize ground water as a primary irrigation source is in the public interest and consistent with conservation of water resources in Idaho.** Information to support such a position could include a statement from the existing irrigation delivery entity supporting the proposal to cease using surface water, and/or a demonstration that surface water is not reasonably available, or other facts specific to the project that support a decision in favor of the proposal.

**Please provide a written response regarding how you choose to proceed and include supporting information as necessary.**

Please submit the requested information within 30 days of the date of this letter. You may seek additional time to provide the information by making a written request to interrupt processing for up to six months. The application will be voided without a timely written reply within the next thirty (30) days. Refunds are not issued for voided applications.

Sincerely,



Anna Kaiser

Water Resource Agent  
IDWR Western Region

AFFIDAVIT OF PUBLICATION

RECEIVED

MAY 10 2021

STATE OF IDAHO )  
County of Washington ) ss.

Sarah Boles

WATER RESOURCES  
WESTERN REGION  
, being duly sworn,

deposes and says:

That she is the Clerk of  
THE WEISER SIGNAL AMERICAN, a weekly newspaper  
published at Weiser, in the County of Washington and State of  
Idaho; that said paper has been and is in general circulation in  
the county aforesaid, and in the vicinity of Weiser; that the ad-  
vertisement, a copy of which is attached hereto, was published in

said newspaper once a week for two consecutive weeks in  
the regular and entire issue of said paper during the period and  
time of publication, and was published in the newspaper proper  
and not in a supplement; that said paper has been established  
and regularly published for more than seventy-eight consecutive  
weeks prior to the date of first publication of said advertisement.

Such notice was published in the issue beginning with

April 7, 2021

and ending

with the issue of April 14, 2021

Sarah Boles

Fees, \$ 256.55

Subscribed and sworn to before me this 14

date of April 2021

Judith Parsons  
Notary Public, residing at Weiser, Idaho.

My commission expires 2-12-26

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

67-15377  
WELDON BRANCH  
3621 N CRANE RD  
MIDVALE, ID 83645-5521  
Point of Diversion L2 (NWNE) S1 T12N R02W WASHING-  
TON County Source GROUND WATER  
Use: IRRIGATION 03/15 to 10/31 2.96 CFS  
Total Diversion: 2.96 CFS  
Date Filed: 01-25-2021  
Place Of Use: IRRIGATION  
T12N R02W S1 L1 (NENE), L2 (NWNE), NWSE, SWNE,  
SENE  
Place Of Use: IRRIGATION  
T13N R02W S36 SWSE, SESE  
Total Acres: 148

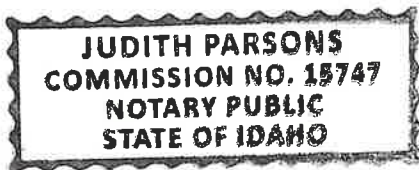
67-15379  
BARBARA ALLARD-WARD  
649 THAT RD  
WEISER, ID 83672-5113  
Point of Diversion L2 (NESW) S33 T11N R06W WASH-  
INGTON County Source WASTE WATER Tributary WEIS-  
ER RIVER  
Use: IRRIGATION 03/15 to 11/15 0.22 CFS  
Total Diversion: 0.22 CFS  
Date Filed: 03-18-2021  
Place Of Use: IRRIGATION  
T11N R06W S33 L2 (NESW)  
Total Acres: 11

67-15380  
GENE E WYSS  
CATHERINE M WYSS  
1688 GENTRY LN  
WEISER, ID 83672-5310  
Point of Diversion NWNE S23 T11N R05W WASHING-  
TON County Source GROUND WATER  
Use: DOMESTIC 01/01 to 12/31 0.04 CFS  
Total Diversion: 0.04 CFS  
Date Filed: 03-22-2021  
Place Of Use: DOMESTIC  
T11N R05W S23 NWNE

67-15381  
HOLMES FAMILY TRUST  
1924 COVE RD  
WEISER, ID 83672-5346  
Point of Diversion SESW S5 T10N R04W WASHINGTON  
County Source GROUND WATER  
Use: DOMESTIC 01/01 to 12/31 0.04 CFS  
Total Diversion: 0.04 CFS  
Date Filed: 03-23-2021  
Place Of Use: DOMESTIC  
T10N R04W S5 SESW

Permits will be subject to all prior water rights. For addi-  
tional 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/ExtS-research/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 pro-  
test fee of \$25.00 for each application on or before 4/26/2021.  
The protestant must also send a copy of the protest to the  
applicant.

GARY SPACKMAN, Director  
Published on 4/7/2021 and 4/14/2021



✓ OK  
DL  
05.11.2021

✓ OK  
DL  
05.11.2021

✓ OK  
DL  
05.11.2021

✓ OK  
DL  
05.11.2021