

State of Idaho
 Department of Water Resources
Permit to Appropriate Water
 No. 63-34970

Priority: October 28, 2020

Maximum Diversion Rate: 0.31 CFS

This is to certify that

MOSAICS PUBLIC SCHOOL PO BOX 3304 NAMPA ID 83653-3304 AND/OR
 TVM INC PO BOX 3304 NAMPA ID 83653-3304

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	03/01 to 11/15	0.11 CFS
DOMESTIC	01/01 to 12/31	0.20 CFS

Location of Point(s) of Diversion

GROUND WATER SW¼ SE¼, Sec. 14, Twp 04N, Rge 03W, B.M. CANYON 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						
04N	03W	14																					3.5	3.5

Total Acres: 3.5

Place of Use: DOMESTIC

Twp	Rng	Sec	NE				NW				SW				SE				Totals					
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE						
04N	03W	14																					X	

Conditions of Approval

1. Proof of application of water to beneficial use shall be submitted on or before **January 01, 2022**.
2. Subject to all prior water rights.
3. 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 15.8 af at the field headgate for the place of use.
4. This right when combined with all other rights shall provide no more than 4.5 afa per acre at the field headgate for irrigation of the place of use.
5. Domestic use is for 20 homes and does not include lawn, garden, landscape, or other types of irrigation.

State of Idaho
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No. 63-34970

6. 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.
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 16th day of December, 2020.



PATRICK KELLY
Water Rights Supervisor






Attachment to Permit to Appropriate Water

63-34970

This map depicts the IRRIGATION and DOMESTIC 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.

03W



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

0 0.035 0.07 0.14 Miles





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

Brad Little
Governor

Gary Spackman
Director

December 16, 2020

MOSAICS PUBLIC SCHOOL
PO BOX 3304
NAMPA ID 83653-3304

TVM INC
PO BOX 3304
NAMPA ID 83653-3304

RE: Permit No. 63-34970

Permit Approval Notice

Dear Permit Holder(s):

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) 334-2190.

Sincerely,



Wynne Evans

for: Patrick Kelly
Water Rights Supervisor

Enclosure(s)

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.

CERTIFICATE OF SERVICE

I hereby certify that on December 16, 2020, I served a true and correct copy of Permit to Appropriate Water No. 63-34970 by U.S. Mail, postage prepaid, to the following:

MOSAICS PUBLIC SCHOOL
PO BOX 3304
NAMPA ID 83653-3304

TVM INC
PO BOX 3304
NAMPA ID 83653-3304



Lynne Evans
Office Specialist II

Novak, Shilynn

From: Novak, Shilynn
Sent: Tuesday, December 15, 2020 2:07 PM
To: 'Mike Mussell'
Subject: RE: 63-34970 - Info Request

Good afternoon,

Thank you for getting back to me! Your response answered all of my questions. Since you already have shares for the property, the department will recommend maintaining them. The permit will include conditions that will make ground water use supplementary to the surface water available. This means that you can fully use the water permitted for use from March 1 to November 15, but should use the surface water as much as possible when available. This helps maintain ground water in the aquifer. 63-34970 will be permitted with conditions making the use of the ground water supplemental. It is encouraged to develop a system that also uses the surface water along with the ground water if possible.

No further action is needed at this time and I appreciate your promptness. The application should be permitted soon. If you have any questions about the status of your permit, feel free to contact the office at 208-334-2190 and someone can update you.

Thank you again for your help,
Shilynn

From: Mike Mussell [mailto:mike@mussellconstruction.com]
Sent: Monday, December 14, 2020 2:47 PM
To: Novak, Shilynn <Shilynn.Novak@idwr.idaho.gov>
Subject: Re: 63-34970 - Info Request

Good afternoon Shilynn,

We visited with the irrigation district and they directed us towards a well. They verified that we have water rights (shares) for surface water but they couldn't deliver enough volume to run our sprinkler system. Our system will run 25-30% less water but requires more water volume for a short period of time.

Please understand that if we were farming, the gravity irrigation water would be adequate but we now have a school and a few patio homes.

Does this answer all of your questions? Please let me know if you need any additional information. We certainly would like your input.

Thank you

On Thu, Dec 10, 2020 at 8:21 AM Novak, Shilynn <Shilynn.Novak@idwr.idaho.gov> wrote:

Hello Mike,

Your application for permit is in the final part of the permitting process. As part of the permitting process if surface water is available to the user through an irrigation organization such as Franklin Ditch Co, they must use the surface water provided as a primary source of irrigation and use the ground water to supplement irrigation use. Please see the supplementary ground water use condition below that is applied to water permits.

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.

This land appears to have been historically irrigated using surface water from the irrigation district, but we need to verify this is correct. Please let us know if TVM/Mosaics currently has shares from the irrigation district or if shares are unavailable to this project so we know how to proceed with permitting.

Thank you,

Shilynn Novak | Water Resource Agent

Idaho Department of Water Resources

Western Regional Office

Phone: (208) 334-2190

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Mike Mussell

Mussell Construction

P.O. Box 3304

Nampa, ID 83653

Cell: (208) 850-7777

Office: (208) 466-3331

Fax: (208) 466-5717

RECEIVED

NOV 19 2020

AL DAVIT OF PUBLICATION
STATE OF IDAHO

County of Canyon and Ada

WATER RESOURCES
WESTERN REGION

SHARON JESSEN

of the State of Idaho, being of first duly sworn, deposes
and says:

23100 46295
1 IDWR - WESTERN REGION

2735 AIRPORT WAY
BOISE, ID 83705

1. That I am a citizen of the United States, and at all times hereinafter mentioned was over the age of eighteen years, and not a party to the above entitled action.
2. That I am the Principle Clerk of the Idaho Press-Tribune, a daily newspaper published in the Counties of Canyon and Ada, State of Idaho; that the said newspaper is in general circulation in the said counties of Canyon and Ada, and in the vicinity of Nampa, Caldwell, and Boise, and has been uninterruptedly published in said Counties during a period of seventy -eight consecutive weeks prior to the first publication of this notice, a copy of which is hereto attached.
3. That the notice, of which the annexed is a printed copy, was published in said newspaper 2 times(s) in the regular and entire issue of said paper, and was printed in the newspaper proper, and not in a supplement

That said notice was published the following: 11/05/2020, 11/12/2020

Sharon Jessen

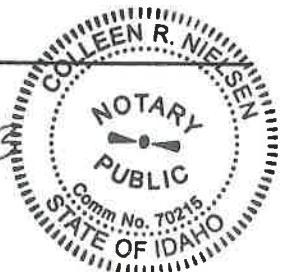
SHARON JESSEN
STATE OF IDAHO
County of Canyon and Ada

On this 12th day of November, in the year of 2020 before me a Notary Public, personally appeared. SHARON JESSEN, known or identified to me to be the person whose name is subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledge to me that he/she executed the same.

Colleen R. Nielsen

Notary Public of Idaho
My commission expires

6/28/23



LEGAL NOTICE

The following applications have been filed to appropriate the public waters of the State of Idaho:

63-34958

UNDURRAGA FARMS LLC
9971 N BOGUS BASIN RD BOISE, ID 83702-1566
(2) Points of Diversion SWNW S12 T06N R06W CANYON
County Source ROSS DRAIN Tributary SNAKE RIVER
Use: WILDLIFE STORAGE 09/15 to 03/14 915.4 AF
Use: RECREATION STORAGE 09/15 to 03/14 915.4 AF
Use: AESTHETIC STORAGE 09/15 to 03/14 915.4 AF
Use: DIVERSION TO STORAGE 09/15 to 03/14 3 CFS]
Total Diversion: 3 CFS 915.4 AF
Date Filed: 09-17-2020
Place Of Use: AESTHETIC STORAGE, DIVERSION TO
STORAGE, RECREATION STORAGE, WILDLIFE STORAGE
T06N R06W S12 SWNW

*Vol
AK
11-24-2020*

63-34962

MUSSELL CONSTRUCTION
PO BOX 3304 NAMPA, ID 83653-3304
Point of Diversion SWSE S5 T02N R02W CANYON County
Source GROUND WATER
Use: IRRIGATION 03/01 to 11/15 0.03 CFS
Use: FIRE PROTECTION 01/01 to 12/31 3.34 CFS
Use: COMMERCIAL 01/01 to 12/31 0.04 CFS
Total Diversion: 3.41 CFS
Date Filed: 09-25-2020
Place Of Use: COMMERCIAL, FIRE PROTECTION, IRRIGATION
T02N R02W S5 SWSE
Total Acres: 1
Water bearing zone to be appropriated is from 160 to 220
feet.

*Vol
AK
11-24-2020*

63-34970

MOSAICS PUBLIC SCHOOL
PO BOX 3304 NAMPA, ID 83653-3304
TVM INC PO BOX 3304 NAMPA, ID 83653-3304
Point of Diversion SWSE S14 T04N R03W CANYON County
Source GROUND WATER
Use: DOMESTIC 01/01 to 12/31 0.2 CFS
Use: IRRIGATION 03/01 to 11/15 0.11 CFS
Total Diversion: 0.31 CFS
Date Filed: 10-22-2020
Place Of Use: DOMESTIC, IRRIGATION T04N R03W S14 SWSE
Total Acres: 3.5
Water bearing zone to be appropriated is from 18 to 135 feet.

*Vol
AK
11-24-2020*

Permits will be subject to 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://dwr.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 11/23/2020. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

November 5, 12, 2020

46295