

State of Idaho
Department of Water Resources
Permit to Appropriate Water
No. 63-34942

Priority: July 27, 2020

Maximum Diversion Rate: 0.08 CFS

This is to certify that

ROY KIRKLAND 7500 EL PASO RD CALDWELL ID 83607-7419 AND/OR
CARLENE KIRKLAND 7500 EL PASO RD CALDWELL ID 83607-7419

has applied for a permit to appropriate water from:

Source : GROUND WATER

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

Beneficial Use

IRRIGATION

Period of Use

03/01 to 11/15

Rate of Diversion

0.08 CFS

Location of Point(s) of Diversion

GROUND WATER SE¼ SE¼, Sec. 33, Twp 06N, Rge 03W, B.M. GEM County

Place of Use: IRRIGATION

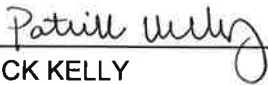
Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06N	03W	33																4.0	4.0

Total Acres: 4.0

Conditions of Approval

1. Proof of application of water to beneficial use shall be submitted on or before **December 01, 2025**.
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 4.5 afa per acre at the field headgate for irrigation of the place of use.
4. Right holder shall comply with the drilling permit requirements of Idaho Code § 42-235 and applicable Well Construction Rules of the Department.
5. 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 day of November, 2020.

 PATRICK KELLY

Water Rights Supervisor

State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

63-34942

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.



- 03W 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

November 30, 2020

CARLENE KIRKLAND
ROY KIRKLAND
7500 EL PASO RD
CALDWELL ID 83607-7419

RE: Water Permit No. 63-34942

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) 605-4621.

Sincerely,



Anna Kaiser

Nick Miller

Western Regional Manager

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on November 30, 2020, I served a true and correct copy of Permit to Appropriate Water No. 63-34942 by U.S. Mail, postage prepaid, to the following:

CARLENE KIRKLAND (Current Owner)
ROY KIRKLAND (Current Owner)
7500 EL PASO RD
CALDWELL ID 83607-7419



Anna Kaiser
Water Resource Agent

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: 63-34942

FROM: Anna Kaiser

DATE: 11-20-2020

RE: Irrigation District Comment Request

On August 19th and 26th of 2020 permit application 63-34949 was published in the Messenger Index. The application was not protested. On September 24th, I called a representative of Black Canyon Irrigation District to inform the District application 63-34942 proposes irrigation use within their service boundary. During that phone call, the representative requested the application be emailed to Black Canyon for review and potential comment. Email was sent on September 24th. As of November 2nd, I received no response from the September 24th email and sent a follow up email requesting comment by November 13th and stating lack of timely comment implies Black Canyon has no concerns about the approval of application 63-34942. As of today (November 20, 2020), I have received no comment from Black Canyon Irrigation District and can therefore reasonably assume Black Canyon does not object to permit application 63-34942.

Kaiser, Anna

From: Kaiser, Anna
Sent: Monday, November 2, 2020 8:52 AM
To: 'heather@blackcanyonirrigation.com'
Subject: Follow Up- Application for Permit No. 63-34942
Attachments: 63-34943.pdf

Good Morning,

I am emailing to follow up on the attached application for permit.

Does Black Canyon Irrigation District have any comment(s) or concern(s) regarding the attached permit application?

If I do not receive response by the end of next week (11/13/2020), I will assume Black Canyon Irrigation district does not have concerns about the attached permit application.

Thank you,

Anna

Anna Kaiser | Water Resource Agent
IDWR-Western Region
2735 W Airport Way, Boise ID 83705
(208).334.2190 | anna.kaiser@idwr.idaho.gov

From: Kaiser, Anna
Sent: Thursday, September 24, 2020 9:48 AM
To: 'heather@blackcanyonirrigation.com' <heather@blackcanyonirrigation.com>
Subject: Application for Permit No. 63-34942

Good morning,

Please see attached permit application for comment.

Thank you!
Anna

Anna Kaiser | Water Resource Agent
IDWR-Western Region
2735 W Airport Way, Boise ID 83705
(208).334.2190 | anna.kaiser@idwr.idaho.gov

RECEIVED

SEP 14 2020

WATER RESOURCES
WESTERN REGION

AFFIDAVIT OF PUBLICATION
STATE OF IDAHO

County of Gem

23100 25407

1 IDWR - WESTERN REGION

2735 AIRPORT WAY
BOISE, ID 83705

SHARON JESSEN

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

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 Emmett Messenger Index, a weekly newspaper published in the State of Idaho; that the said newspaper is in general circulation in the said county of Gem, and in the vicinity of Emmett, Idaho 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: 08/19/2020,
08/26/2020



SHARON JESSEN

STATE OF IDAHO

County of Canyon and Ada

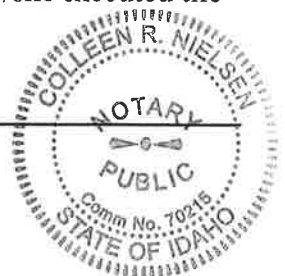
On this 10th day of September, in the year of 2020 before me a Notary Public, personally appeared. SHARON JESSEN, known or identified to me to be the person whose name is subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledge to me that he/she executed the same



Notary Public of Idaho

My commission expires

6/28/23



LEGAL NOTICE

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

63-34938

SHAUN HENRY

LEAH HENRY

7490 EL PASO RD CALDWELL, ID 83607-7404

Point of Diversion SESE S33 T06N R03W GEM County

Source GROUND WATER

Use: IRRIGATION 03/15 to 11/15 0.1 CFS

Total Diversion: 0.1 CFS

Date Filed: 07-23-2020

Place Of Use: IRRIGATION

T06N R03W S33 SWSE, SESE

Total Acres: 5

Water bearing zone to be appropriated is from 75 to 200 feet.

63-34942

ROY KIRKLAND

CARLENE KIRKLAND

7500 EL PASO RD CALDWELL, ID 83607-7419

Point of Diversion SESE S33 T06N R03W GEM County

Source GROUND WATER

Use: IRRIGATION 03/15 to 11/15 0.08 CFS

Total Diversion: 0.08 CFS

Date Filed: 07-27-2020

Place Of Use: IRRIGATION T06N R03W S33 SESE

Total Acres: 4

Water bearing zone to be appropriated is from 38 to number 275.

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://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 9/8/2020. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

August 19, 26, 2020

25407