

State of Idaho
Department of Water Resources
Permit to Appropriate Water
No. 63-34944

Priority: July 27, 2020

Maximum Diversion Rate: 0.18 CFS

This is to certify that

CITY OF NAMPA 411 3RD ST S NAMPA ID 83651-3721

has applied for a permit to appropriate water from:

Source : INDIAN CREEK

Tributary: BOISE RIVER

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>
WATER QUALITY IMPROVEMENT	01/01 to 12/31	0.18 CFS

Location of Point(s) of Diversion

INDIAN CREEK SW¼ NE¼, Sec. 16, Twp 03N, Rge 02W, B.M. CANYON County

Place of Use: WATER QUALITY IMPROVEMENT

Twp	Rng	Sec	NE				NW				SW				SE				Totals	
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
03N	02W	16			X															

Conditions of Approval

1. Proof of application of water to beneficial use shall be submitted on or before **October 01, 2025**.
2. Subject to all prior water rights.
3. Prior to the diversion and use of water under this approval, the right holder shall comply with applicable water quality monitoring and/or permitting requirements administered by the Department of Environmental Quality or the Department of Agriculture.
4. The diversion of water pursuant to this right shall be junior and subordinate to future upstream water rights authorizing the diversion and use of water from Indian Creek and its tributaries, including ground water. However, the right holder shall not be precluded from participating in the statutory process to demonstrate, on a case-by-case basis, that its water use should not be subordinate to a particular water use proposal. This right shall not be subordinate to future water rights for similar water quality improvement purposes and to water rights for hydropower. This right shall also not be subordinate to future upstream non-consumptive water rights authorizing the diversion and use of water from Indian Creek and its tributaries, including ground water, if the return flows from the future upstream non-consumptive water rights discharge into a different water body, such as the Boise River, or return to Indian Creek downstream from the right holder's point of diversion, thereby making the water unavailable to this water right holder.
5. 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. 63.
6. Use of water under this right shall be non-consumptive.

State of Idaho
Department of Water Resources
Permit to Appropriate Water
No. 63-34944

This permit is issued pursuant to the provisions of Idaho Code § 42-204.

Signed this 08 day of October, 2020.

Patrick Kelly

PATRICK KELLY
Water Rights Supervisor



Attachment to Permit to Appropriate Water

63-34944

This map depicts the WATER QUALITY IMPROVEMENT 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.

02W



- 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

October 08, 2020

CITY OF NAMPA
411 3RD ST S
NAMPA ID 83651-3721

RE: Permit No. 63-34944

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.

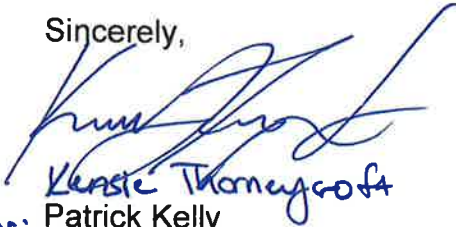
The final step in the water right process is issuance of a water right license. To receive a water right license, you must first commence the excavation or construction of your diverting works within one year of the date the permit was issued, and you must proceed diligently until the project is complete. In addition, 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.

Also, please note that permit holders are required to report any change of ownership and/or mailing address to the Department within 120 days of the change. Failure to report these changes could result in a \$100 late filing fee. Forms to assign ownership or update your address are available from any office of the Department or on the Department's website.

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

Sincerely,



Kerrie Thomeygroft
Patrick Kelly
Water Rights Supervisor

For:

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on October 08, 2020, I served a true and correct copy of Permit to Appropriate Water No. 63-34944 by U.S. Mail, postage prepaid, to the following:

CITY OF NAMPA
411 3RD ST S
NAMPA ID 83651-3721

SPF WATER ENGINEERING LLC
C/O TERRY SCANLAN
300 E MALLARD DR STE 350
BOISE ID 83706-6660

WATER DISTRICT #63
REX BARRIE
PO BOX 767
STAR ID 83669-0767



Kensie Thorneycroft
Administrative Assistant 1

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.

**AFFIDAVIT OF PUBLICATION
STATE OF IDAHO**

County of Canyon and Ada

23100 29238
1 IDWR - WESTERN REGION

2735 AIRPORT WAY
BOISE, ID 83705

RECEIVED

SEP 25 2020

**WATER RESOURCES
WESTERN REGION**

SHARON JESSEN

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

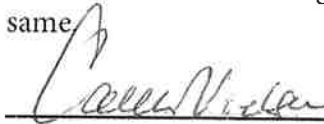
1. That I am a citizen of the United States, and at all times hereinafter mentioned was over the age of eighteen years, and not a party to the above entitled action.
2. That I am the Principle Clerk of the Idaho Press-Tribune, a daily newspaper published in the Counties of Canyon and Ada, State of Idaho; 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: 09/03/2020, 09/10/2020

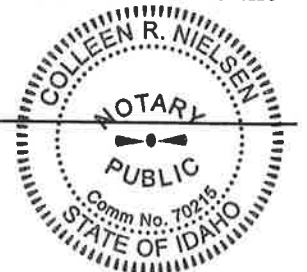


SHARON JESSEN
STATE OF IDAHO
County of Canyon and Ada

On this 21st 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:

63-34944 ✓ OK ✓ 9/24/2020
 CITY OF NAMPA
 411 3RD ST S NAMPA, ID 83651-3721
 Point of Diversion SWNE S16 T03N R02W CANYON County
 Source INDIAN CREEK Tributary BOISE RIVER
 Use: WATER QUALITY IMPROVEMENT 01/01 to 12/31 0.18 CFS
 Total Diversion: 0.18 CFS
 Date Filed: 07-27-2020
 Place Of Use: WATER QUALITY IMPROVEMENT
 T03N R02W S16 SWNE

63-34947 ✓ OK ✓ 9/24/2020
 COLBY BROWN AMY BROWN
 24403 FALCON LN CALDWELL, ID 83607-0815
 Point of Diversion NESE S34 T05N R03W CANYON County
 Source GROUND WATER
 Use: IRRIGATION 03/15 to 11/15 0.14 CFS
 Total Diversion: 0.14 CFS
 Date Filed: 07-29-2020
 Place Of Use: IRRIGATION
 T05N R03W S34 NESE
 Total Acres: 4.5
 Water bearing zone to be appropriated is from 58 to 174 feet.

63-34948 ✓ OK ✓ 9/28/2020
 KIETH BRADSHAW
 LAUREL BRADSHAW
 161 W 850 S LEHI, UT 84043-3157
 Point of Diversion NWNW S17 T05N R03W CANYON County
 Source GROUND WATER
 Use: DOMESTIC 01/01 to 12/31 0.04 CFS
 Use: IRRIGATION 03/01 to 11/15 0.1 CFS
 Total Diversion: 0.14 CFS
 Date Filed: 08-17-2020
 Place Of Use: DOMESTIC, IRRIGATION T05N R03W S17
 NWNW
 Total Acres: 3.3
 Domestic use is for 1 home in Butterfly Ridge No. 1
 Subdivision. Water bearing zone to be appropriated is from
 100 to 250 feet.

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 9/21/2020. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

September 3, 10, 2020

29238

RECEIVED

SEP 25 2020

WATER RESOURCES
 WESTERN REGION