

State of Idaho  
Department of Water Resources

**Permit to Appropriate Water**

No. 63-34857

**Priority:** February 13, 2020

**Maximum Diversion Rate:** 2.40 CFS  
**Maximum Diversion Volume:** 590.0 AF

This is to certify that

JOHN M KIMURA 1381 TORTOSA CT YUBA CITY CA 95993-1179

has applied for a permit to appropriate water from:

**Source :** BOISE RIVER

**Tributary:** SNAKE 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>	<u>Annual Volume</u>
WILDLIFE STORAGE	09/01 to 02/28		590.0 AF
WILDLIFE	09/01 to 02/28	2.40 CFS	
RECREATION	09/01 to 02/28	2.40 CFS	
RECREATION STORAGE	09/01 to 02/28		590.0 AF
DIVERSION TO STORAGE	09/01 to 02/28	2.40 CFS	

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

BOISE RIVER NW¼ SW¼, Sec. 8, Twp 05N, Rge 05W, B.M. CANYON County  
BOISE RIVER NW¼ SW¼, Sec. 8, Twp 05N, Rge 05W, B.M. CANYON County

**Place of Use:** WILDLIFE, WILDLIFE STORAGE, RECREATION, RECREATION STORAGE

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
05N	05W	8										X							

**Conditions of Approval**

1. Proof of application of water to beneficial use shall be submitted on or before **June 01, 2025**.
2. Subject to all prior water rights.
3. This right shall be junior and subordinate to future water rights authorizing the diversion and use of water from the Boise River and its tributaries, including ground water, for consumptive uses, except that this right shall not be subordinate to future water rights for similar wildlife, recreation and/or aesthetic uses.
4. This right authorizes total annual storage volume of 590 acre-feet, 8.0 acre-feet to be used for the initial filling or carryover storage of the pond and 582 acre-feet for the replacement of losses caused by seepage and evaporation.
5. The three (3) ponds established by the storage of water under this right shall not exceed a total capacity of 8.0 acre-feet or a total surface area of 16.0 acres.
6. Any obstruction in the Boise River channel for diversion of water under this right must provide for watercraft and fish passage. The right holder must bypass sufficient flows in the Boise River at the point of diversion to accommodate watercraft navigation and fisheries values in the Boise River downstream of the diversion. The quantity of the bypass flow may be established in the future by the filing of a petition with the Department to establish the bypass flows and subsequent proceedings as described in the Department's Rules of Procedure.

State of Idaho  
Department of Water Resources  
**Permit to Appropriate Water**  
No. 63-34857

7. 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.
8. Prior to diversion of water under this right, the right holder shall install and maintain a measuring device and lockable controlling works of a type acceptable to the Department as part of the diverting works.
9. Recreation and recreation storage use is for waterfowl viewing and hunting purposes. Recreation use under this right is for flow-through water and return-flow water associated with recreation storage.
10. Water diverted under the recreation flow component of this water right, minus evaporation and seepage losses, shall be returned to the Boise River.
11. This right does not authorize the diversion and use of water released from Lucky Peak Reservoir for stream flow maintenance purposes in connection with Water Right 63-3618.
12. 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 2<sup>nd</sup> day of June, 2020.



NICK MILLER  
Western Regional Manager

State of Idaho  
Department of Water Resources






# Attachment to Permit to Appropriate Water

63-34857

AMENDED

This map depicts the WILDLIFE, WILDLIFE STORAGE, RECREATION & RECREATION STORAGE places 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

0 0.0425 0.085 0.17 Miles





Brad Little  
Governor

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)

Gary Spackman  
Director

June 2, 2020

JOHN M KIMURA  
1381 TORTOSA CT  
YUBA CITY CA 95993-1179

RE: Permit No. 63-34857

### Permit Approval Notice

Dear Permit Holder:

**The Department of Water Resources has amended the permit approval to correct a data entry error in the place of use during the approval process. The amended approval supersedes the approval sent on May 29, 2020.**

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](http://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,



Kensi Thorneycroft

For: Nick Miller  
Western Regional Manager

Enclosure(s)

## CERTIFICATE OF SERVICE

I hereby certify that on June 2, 2020, I served a true and correct copy of Permit to Appropriate Water No. 63-34857 by U.S. Mail, postage prepaid, to the following:

JOHN M KIMURA  
1381 TORTOSA CT  
YUBA CITY CA 95993-1179

SPF WATER ENGINEERING LLC  
C/O LORI GRAVES  
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.



State of Idaho  
Department of Water Resources  
**Permit to Appropriate Water**  
No. 63-34857

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Maximum Diversion Volume: 590.0 AF

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JOHN M KIMURA 1381 TORTOSA CT YUBA CITY CA 95993-1179

has applied for a permit to appropriate water from:

Source : BOISE RIVER

Tributary: SNAKE 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>	<u>Annual Volume</u>
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**Location of Point(s) of Diversion**

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BOISE RIVER NW¼ SW¼, Sec. 8, Twp 05N, Rge 05W, B.M. CANYON County

**Place of Use:** WILDLIFE, WILDLIFE STORAGE, RECREATION, RECREATION STORAGE

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
05N	06W	8										X							

**Conditions of Approval**

1. Proof of application of water to beneficial use shall be submitted on or before **June 01, 2025**.
2. Subject to all prior water rights.
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State of Idaho  
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This permit is issued pursuant to the provisions of Idaho Code § 42-204.

Signed this 29<sup>th</sup> day of May, 2020.



NICK MILLER  
Western Regional Manager

State of Idaho  
Department of Water Resources

# Attachment to Permit to Appropriate Water 63-34857

This map depicts the WILDLIFE, WILDLIFE STORAGE, RECREATION & RECREATION STORAGE places 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

0 0.0425 0.085 0.17 Miles





Brad Little  
Governor

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)

Gary Spackman  
Director

May 29, 2020

JOHN M. KIMURA  
1381 TORTOSA CT  
YUBA CITY CA 95993-1179

RE: Permit No. 63-34857

### 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.

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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,

A handwritten signature in blue ink, appearing to read "Kensi Thorneycroft".

Kensi Thorneycroft  
For: Nick Miller  
Western Regional Manager

Enclosure(s)

## CERTIFICATE OF SERVICE

I hereby certify that on May 29, 2020, I served a true and correct copy of Permit to Appropriate Water No. 63-34857 by U.S. Mail, postage prepaid, to the following:

JOHN M KIMURA  
1381 TORTOSA CT  
YUBA CITY CA 95993-1179

SPF WATER ENGINEERING LLC  
C/O LORI GRAVES  
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)

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### **EXCEPTIONS AND BRIEFS**

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- 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.

RECEIVED

MAR 16 2020

WATER RESOURCES  
WESTERN REGION

29512 1999524

1 IDWR - WESTERN REGION

2735 AIRPORT WAY  
BOISE ID 83705

AFFIDAVIT OF PUBLICATION  
STATE OF IDAHO

County of Canyon and Ada

SS.

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

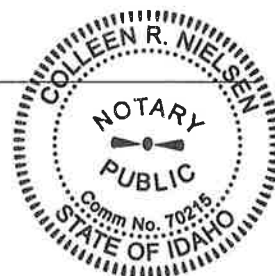
1. That I am a citizen of the United States, and at all times hereinafter mentioned was over the age of eighteen years, and not a party to the above entitled action.
2. That I am the Principle Clerk of the Idaho Press-Tribune, a daily newspaper published in the Counties of Canyon and Ada, State of Idaho; 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 time(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:  
03/05/2020 03/12/2020

*Sharon Jessen*  
Sharon Jessen  
STATE OF IDAHO)  
County of Canyon and Ada)

On this 12th day of March 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 for Idaho  
My Commission expires 06/28/2023



LEGAL NOTICE

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

63-34855

JOELENE GOULD JARED GOULD  
PO BOX 189 MELBA, ID 83641-0189  
Point of Diversion NESE S10 T01S R02W CANYON  
County Source GROUND WATER  
Use: IRRIGATION 03/01 to 11/15 0.14 CFS  
Use: DOMESTIC 01/01 to 12/31 0.04 CFS  
Use: STOCKWATER 01/01 to 12/31 0.01 CFS  
Total Diversion: 0.19 CFS  
Date Filed: 02-11-2020  
Place Of Use: DOMESTIC, IRRIGATION, STOCKWATER  
T01S R02W S10 NESE  
Total Acres: 7  
Water bearing zone to be appropriated is from 60 to 140 feet.

63-34857

JOHN M KIMURA  
1381 TORTOSA CT YUBA CITY, CA 95993-1179  
(2) Point of Diversion NWSW S8 T05N R05W CANYON  
County Source BOISE RIVER Tributary SNAKE RIVER  
Use: DIVERSION TO STORAGE 09/01 to 02/28 2.4 CFS  
Use: WILDLIFE & RECREATION STORAGE 09/01 to 02/28 590 AF  
Use: WILDLIFE & RECREATION 09/01 to 02/28 2.4 CFS  
Total Diversion: 2.4 CFS 590 AF  
Date Filed: 02-13-2020  
Place Of Use: DIVERSION TO STORAGE, RECREATION, RECREATION STORAGE T05N R05W S8 NWSW  
Total Acres: 16

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 3/23/2020. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

March 5, 12, 2020

1999524

State of Idaho

Department Of Water Resources

**WATERMASTER RECOMMENDATION FORM**

**Water District #**      63

**Application #**        63-34857

**Applicant Name**      John M. Kimura

RECEIVED

MAR 02 2020

WATER RESOURCES  
WESTERN REGION

Watermaster Recommendation:

- a) \_\_\_\_\_ I do not oppose approval of this application.
- b)   x   I do not oppose approval of this application if it is conditioned as follows:

Install a flow meter on the pump.

- c) \_\_\_\_\_ I oppose approval of this application for the following reasons:

- d) \_\_\_\_\_ Additional comments:

Dated this   2   day of   March  , 2019

  
Watermaster Signature

Mike Meyers  
Printed Name