

State of Idaho
Department of Water Resources
Permit to Appropriate Water
No. 63-34858

Priority: January 27, 2020

Maximum Diversion Rate: 0.14 CFS

This is to certify that

CANYON COUNTY 1115 ALBANY ST CALDWELL ID 83605-3522

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>
COMMERCIAL	01/01 to 12/31	0.10 CFS
FIRE PROTECTION	01/01 to 12/31	0.04 CFS

Location of Point(s) of Diversion

GROUND WATER NE¼ NE¼, Sec. 20, Twp 02N, Rge 03W, B.M. CANYON County

Place of Use: COMMERCIAL and FIRE PROTECTION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
02N	03W	20	X	X	X	X									X	X	X	X	
02N	03W	21		X	X		X	X	X	X	X	X	X	X		X	X	X	

Conditions of Approval

1. Proof of application of water to beneficial use shall be submitted on or before **June 01, 2022**.
2. Subject to all prior water rights.
3. Water shall not be diverted for fire protection use under this right except to fight or repel an existing fire.
4. Commercial use is for dust control at Pickles Butte Sanitary Landfill.
5. Right holder shall comply with the drilling permit requirements of Idaho Code § 42-235 and applicable Well Construction Rules of the Department.
6. 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 04 day of June, 2020.

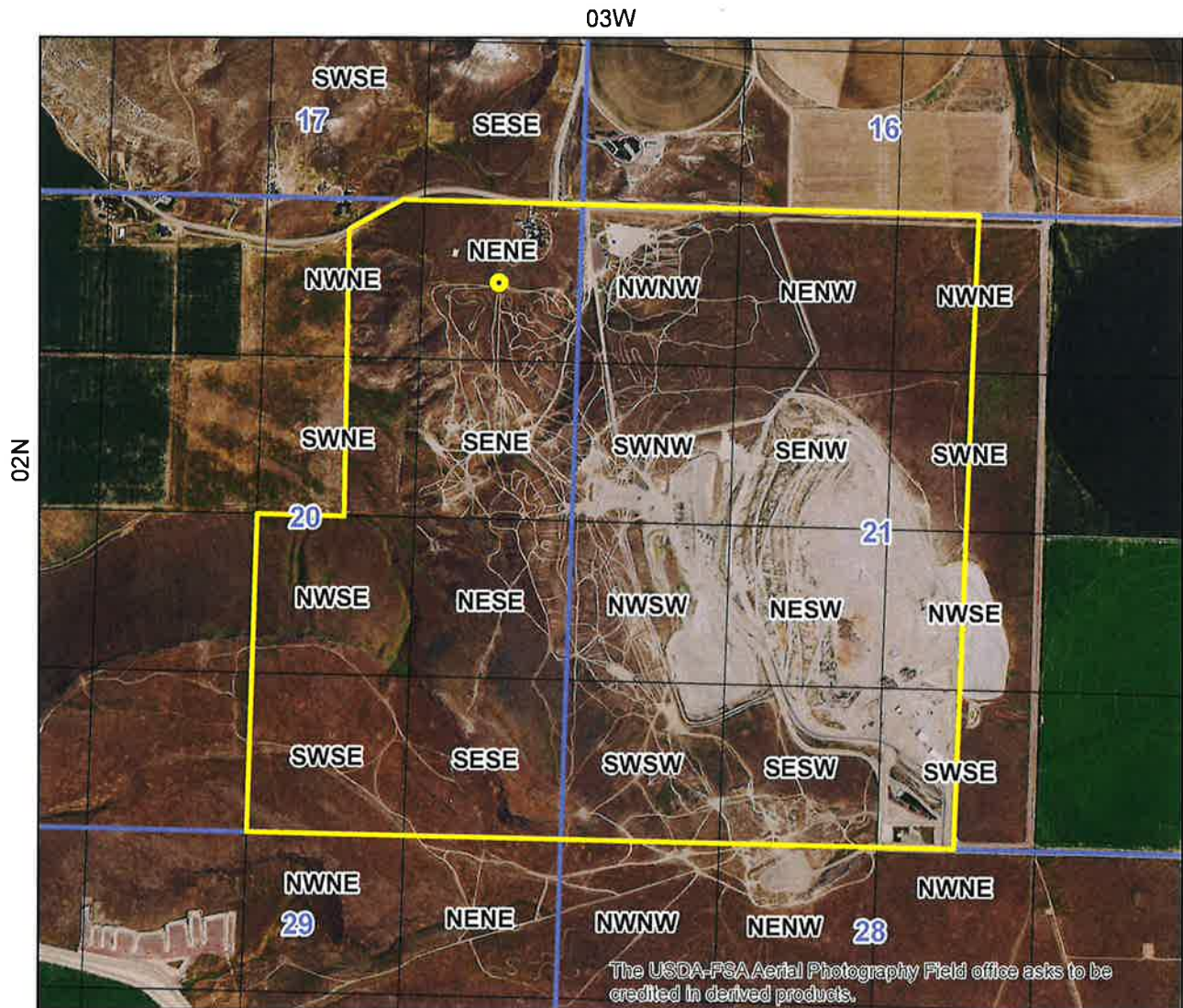

PATRICK KELLY
Water Rights Supervisor

State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

63-34858

This map depicts the COMMERCIAL 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

0 0.175 0.35 0.7 Miles

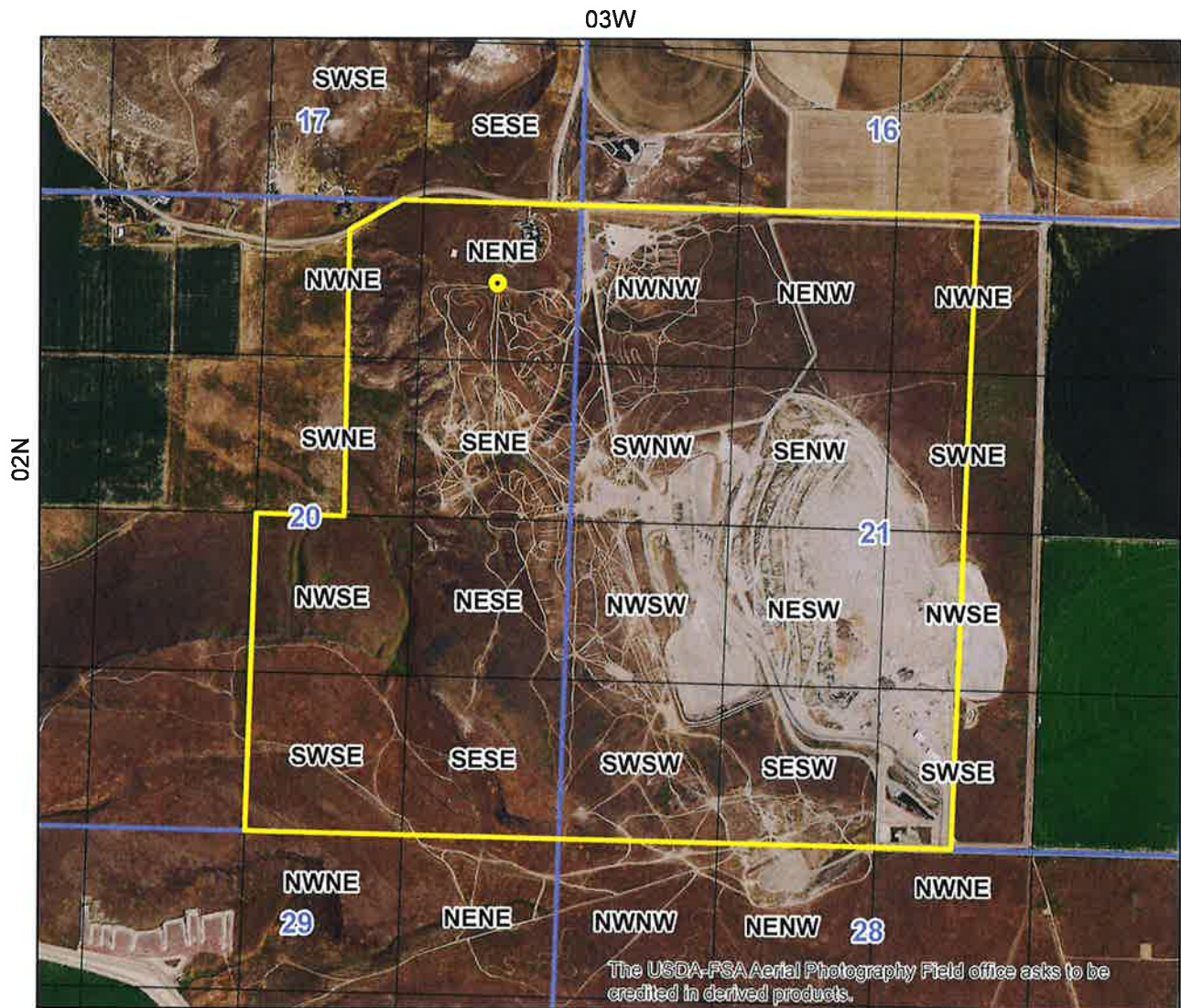


State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

63-34858

This map depicts the FIRE PROTECTION 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

0 0.175 0.35 0.7 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

June 04, 2020

CANYON COUNTY
1115 ALBANY ST
CALDWELL ID 83605-3522

RE: Permit No. 63-34858

Permit Approval Notice

Dear Permit Holders:

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,

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

Kensi Thorneycroft
For: Patrick Kelly
Water Rights Supervisor

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on June 04, 2020, I served a true and correct copy of Permit to Appropriate Water No. 63-34858 by U.S. Mail, postage prepaid, to the following:

CANYON COUNTY
1115 ALBANY ST
CALDWELL ID 83605-3522

CANYON COUNTY SOLID WASTE DEPT
15500 MISSOURI AVE
NAMPA ID 83686-9142

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.

CONVERSATION MEMORANDUM

To: File
From: Allen Bradbury, WRA
Date: June 1, 2020
Subj: Application for Permit #63-34858

Regarding application 63-34858, amendments to the application were received on 3/6/20 with a total amount of 0.14 cfs for commercial and fire protection. The application was advertised on April 2 and April 9, 2020 with a commercial rate of 0.10 cfs and fire protection rate of 0.04 cfs. At permitting the draft permit was returned to the WRA to determine if the intent of the applicant was met at advertising.

I spoke to Mr. David Loper, Director of Canyon County Solid Waste, Pickles Butte Sanitary Landfill on 6/1/20, in reference to the advertised rates. He referenced the amendments to the application and stated that he did not see any problem given the total rate is 0.14 which is what he applied for. He would like the permit to go forward as it is.

29512 2004662

1 IDWR - WESTERN REGION

2735 AIRPORT WAY
BOISE ID 83705

AFFIDAVIT OF PUBLICATION
STATE OF IDAHO

County of Canyon and Ada

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

RECEIVED

APR 10 2020

WATER RESOURCES
WESTERN REGION

LEGAL NOTICE

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

63-34858
CANYON COUNTY 1115 ALBANY ST CALDWELL, ID
83605-3522
Point of Diversion NENE S20 T02N R03W CANYON
County Source GROUND WATER
Use: COMMERCIAL 01/01 to 12/31 0.1 CFS
Use: FIRE PROTECTION 01/01 to 12/31 0.04 CFS
Total Diversion: 0.14 CFS
Date Filed: 01-27-2020
Place Of Use: COMMERCIAL, FIRE PROTECTION T02N,
R03W S20 NENE, NESE, NWNE, NWSE, SWNE, SWSE,
SENE, SESE
Place Of Use: COMMERCIAL, FIRE PROTECTION T02N,
R03W S21 SENW, SESW, NENW, NESW, NWNE,
NWNW, NWSW, NWSE, SWNE, SWNW, SWSW, SWSE
Water bearing zone to be appropriated is from 1115 to
1120 feet.

63-34865
FLAMINGO WEST LLC
10906 W VEGA LN STAR, ID 83669-5458
(2) Point of Diversion NENE S26 T04N R02W CANYON
County Source GROUND WATER
Point of Diversion NWNE S26 T04N R02W CANYON
County Source GROUND WATER
Use: DOMESTIC 01/01 to 12/31 0.13 CFS
Use: COMMERCIAL 01/01 to 12/31 0.56 CFS
Use: FIRE PROTECTION 01/01 to 12/31 3.3 CFS
Total Diversion: 3.3 CFS
Date Filed: 03-06-2020
Place Of Use: COMMERCIAL, DOMESTIC, FIRE
PROTECTION T04N R02W S26 NENE, NWNE
Water bearing zone to be appropriated is from 42 to 245
feet and 820 to 920 feet.

Permits will be subject to all prior water rights. For addition-
al 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 submit-
ted 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 Re-
gion, 2735 W AIRPORT WAY, BOISE ID 83705-5082 togeth-
er with a protest fee of \$25.00 for each application on or be-
fore 4/20/2020. The protestant must also send a copy of the
protest to the applicant.

GARY SPACKMAN, Director

April 2, 9, 2020

2004662

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:
04/02/2020 04/09/2020

Sharon Jessen
STATE OF IDAHO
County of Canyon and Ada)

On this 9th day of April 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 for Idaho
My Commission expires 06/28/2023

