

State of Idaho  
Department of Water Resources  
**Amendment of Permit**

No. 63-33594

**Priority:** November 01, 2011

**Maximum Diversion Rate:** 0.20 CFS

This is to certify that

JOHNNA BUCHERT 5446 N HWY 16 EAGLE ID 83616 AND/OR  
TRAE BUCHERT 5446 N HWY 16 EAGLE ID 83616

has applied to amend a permit, and the amendment is APPROVED for development of water as follows:

**Source :** GROUND WATER

| <u>Beneficial Use</u> | <u>Period of Use</u> | <u>Rate of Diversion</u> |
|-----------------------|----------------------|--------------------------|
| IRRIGATION            | 03/01 to 11/15       | 0.18 CFS                 |
| COMMERCIAL            | 01/01 to 12/31       | 0.02 CFS                 |

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

GROUND WATER NW¼ SE¼, Sec. 28, Twp 05N, Rge 01W, B.M. ADA 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 |        |
| 05N | 01W | 28  |    |    |    |    |    |    |    |    |    |    |    |    |    | 18.0 |    |    | 18.0   |

Total Acres: 18.0

**Place of Use: COMMERCIAL**

| 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 | 01W | 28  |    |    |    |    |    |    |    |    |    |    |    |    |    | X  |    |    |        |

**Conditions of Approval**

1. Proof of application of water to beneficial use shall be submitted on or before **May 01, 2022**.
2. Subject to all prior water rights.
3. Commercial use is for a winery facility.
4. The total diversion and volume authorized under commercial use component is limited to 7.0 afa.
5. This right does not grant any right-of-way or easement across the land of another.
6. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the place of use.
7. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.

**State of Idaho**  
**Department of Water Resources**  
**Amendment of Permit**  
**No. 63-33594**

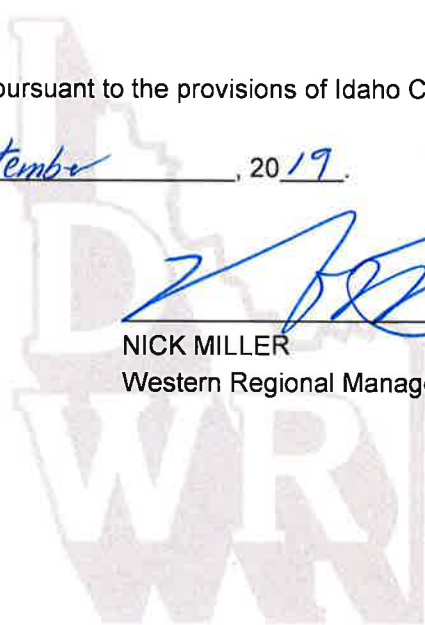
8. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which the permit holder had no control.
9. 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 amendment of permit is issued pursuant to the provisions of Idaho Code § 42-211.

Signed this 3<sup>rd</sup> day of September, 2019.



NICK MILLER  
Western Regional Manager



State of Idaho  
Department of Water Resources

# Attachment to Amendment of Permit to Appropriate Water 63-33594

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.

01W



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

0 0.0425 0.085 0.17 Miles



State of Idaho  
Department of Water Resources

# Attachment to Amendment of Permit to Appropriate Water 63-33594

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 0.045 0.09 0.18 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](http://www.idwr.idaho.gov)

Brad Little  
Governor

Gary Spackman  
Director

September 03, 2019

TRAE BUCHERT  
JOHNNA BUCHERT  
5446 N HWY 16  
EAGLE ID 83616

RE: Permit No. 63-33594

**Amendment of 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](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,



Anna Kaiser

For

Nick Miller

Western Regional Manager

Enclosures

## CERTIFICATE OF SERVICE

I hereby certify that on September 03, 2019, I served a true and correct copy of Amendment of Permit to Appropriate Water No. 63-33594 by U.S. Mail, postage prepaid, to the following:

TRAE BUCHERT (Current Owner)  
JOHNNA BUCHERT (Current Owner)  
5446 N HWY 16  
EAGLE ID 83616



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Anna Kaiser  
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.

# Idaho Statesman

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WATER RESOURCES  
WESTERN REGION

## AFFIDAVIT OF PUBLICATION

| Account # | Ad Number  | Identification                                     | PO           | Amount   | Cols | Depth    |
|-----------|------------|----------------------------------------------------|--------------|----------|------|----------|
| 263982    | 0004281403 | The following applications have been filed to appr | Legal Notice | \$172.48 | 1    | 10.33 In |

Attention: Anna Kaiser

IDAHO DEPT OF WATER RESOURCES / SOUTH  
2735 WAIRPORT WAY  
BOISE, ID 83705

The following applications have  
been filed to appropriate the  
public waters of the State of Ida-  
ho:

63-34741  
JULIA D MORTON MARCZAK  
4894 N CURLEW LN  
EAGLE, ID 83616-1850  
Point of Diversion NESW S30  
T05N R01E ADA County Source  
GROUND WATER  
Use: DOMESTIC 01/01 to 12/31  
0.04 CFS

Use: IRRIGATION 03/15 to  
11/15 0.2 CFS  
Use: STOCKWATER 01/01 to  
12/31 0.02 CFS

Total Diversion: 0.26 CFS  
Date Filed: 6/10/2019  
Place Of Use: DOMESTIC, IRRI-  
GATION STOCKWATER  
T05N R01E S30 NESW  
L3(NWSW)  
Total Acres: 10

Water bearing zone to be appro-  
priated is from 180 to 373 feet  
per well log.

63-34743  
RYAN HEUSER  
3072 N SUNNY MEADOW LN  
EAGLE, ID 83616-2700  
Point of Diversion SESE S32  
T05N R01E ADA County Source  
GROUND WATER

Use: DOMESTIC 01/01 to 12/31  
0.02 CFS  
Use: IRRIGATION 03/01 to  
11/15 0.1 CFS

Total Diversion: 0.12 CFS  
Date Filed: 6/17/2019  
Place Of Use: IRRIGATION, DO-  
MESTIC

T05N R01E S32 SESE  
Total Acres: 5  
Water bearing zone to be appro-  
priated is from 200 to 500 feet.  
PROPOSED AMENDMENT OF WAT-  
ER PERMIT

Trae and Johnna Buchert of  
5446 N Hwy 16, Eagle, ID  
83616, filed Application No.  
83373 on June 20, 2019 to  
amend a water permit no. 63-  
33594 with a 2011 priority from  
ground water totaling 0.20 cfs  
for irrigation. The permit pro-  
vides irrigation water for prop-  
erty located 5.2 miles northeast of  
Star, Idaho on Idaho State High-  
way 16, Emmett Highway. The  
applicant proposes to amend the  
permit to add a commercial use  
for 0.02 cfs from 1/1 to 12/31  
from the existing well at the cur-  
rent location. Acreage for the ex-

VICTORIA RODELA, being duly sworn,  
deposes and says: That she is the  
Principal Clerk of The Idaho  
Statesman, a daily newspaper printed  
and published at Boise, Ada County,  
State of Idaho, and having a  
general circulation therein, and which  
said newspaper has been  
continuously and uninterruptedly  
published in said County during a  
period of twelve consecutive months  
prior to the first publication of the  
notice, a copy of which is attached  
hereto: that said notice was published  
in The Idaho Statesman, in conformity  
with Section 60-108, Idaho Code, as  
amended, for:

2 Insertions

Beginning issue of: 07/04/2019

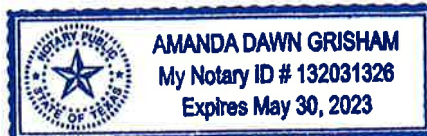
Ending issue of: 07/11/2019

*V. Rodela*  
(Legals Clerk)

On this 11th day of July in the year of  
2019 before me, a Notary Public,  
personally appeared before me  
Victoria Rodela known or identified to  
me to be the person whose name  
subscribed to the within instrument,  
and being by first duly sworn,  
declared that the statements therein  
are true, and acknowledged to me  
that she executed the same.

*Amanda Dawn Grisham*

Notary Public in and for the state of  
Texas, residing in Dallas County



Extra charge for lost or duplicate affidavits.  
Legal document please do not destroy!

isting irrigation right will be reduced from 20 acres to 18 acres with a proportional reduction in rate to 0.18 cfs. Permits will be subject to all prior water rights. For additional information concerning the property location, contact Western Region office at (208) 334-2190; or for a full description of the right(s) or proposed amendment(s), please see [www.idwr.idaho.gov](http://www.idwr.idaho.gov). Protests may be submitted based on the criteria of Idaho Code §§ 42-203A and 42-211. Any protest against the approval of the application(s) must be filed with the Director, Dept. of Water Resources, Western Region, 2735 Airport Way, Boise ID 83705 together with a protest fee of \$25.00 for each application on or before 7/22/2019. The protestant must also send a copy of the protest to the applicant. GARY SPACKMAN, Director  
Published on 7/4/2019 and 7/11/2019

0004281403-01

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JUL 22 2019  
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