

State of Idaho
Department of Water Resources
Permit to Appropriate Water
No. 63-34686

Priority: March 01, 2019

Maximum Diversion Rate: 0.10 CFS

This is to certify that

KELLY SIMPER 4597 W DEER FLAT RD KUNA ID 83634-1547

has applied for a permit to appropriate water from:

Source : WASTE WATER

Tributary: WEST FORK GOLDEN GULCH DRAIN

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>
IRRIGATION	03/01 to 11/15	0.10 CFS	
IRRIGATION STORAGE	01/01 to 12/31		20.0 AF
IRRIGATION FROM STORAGE	03/01 to 11/15		20.0 AF

Location of Point(s) of Diversion

WASTE WATER NE¼ NW¼, Sec. 20, Twp 02N, Rge 01W, B.M. CANYON County

Place of Use: IRRIGATION and IRRIGATION FROM 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	
02N	01W	20					4.8												4.8

Total Acres: 4.8

Place of Use: IRRIGATION 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	
02N	01W	20					X												

Conditions of Approval

1. Proof of application of water to beneficial use shall be submitted on or before **May 01, 2023**.
2. Subject to all prior water rights.
3. Right 63-34686 authorizes the storage of an annual total of 20.0 acre-feet, comprised of 1.0 acre-feet to be used for the initial filling or carryover storage of the pond and up to 19.0 acre-feet for additional refills for irrigation from storage use.
4. The pond established by the storage of water under this right shall not exceed a total capacity of 1.0 acre-feet or a total surface area of 0.4 acre(s).
5. 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.
6. This right when combined with all other rights shall provide no more than 5.0 afa per acre for irrigation storage and irrigation from storage for the place of use.

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7. The waste water diverted under this right is subject to the right of the original appropriator, in good faith and in compliance with state laws governing changes in use and/or expansion of water rights, to cease wasting water, to change the place of use or manner of wasting it, or to recapture it.
8. 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.
9. Prior to diversion of water under this right, the right holder shall install a lockable device, subject to the approval of the Department, in a manner that will provide the watermaster suitable control of the diversion.
10. Prior to diversion of water under this right, the right holder shall provide a means acceptable to the department to measure the amount of water entering the reservoir and the amount of water released from the reservoir.
11. 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.
12. 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.

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

Signed this 15th day of May, 2019.



Nick Miller
Manager, IDWR Western Region

State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

63-34686

This map depicts the IRRIGATION STORAGE 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 0.035 0.07 0.14 Miles



State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

63-34686

This map depicts the IRRIGATION and IRRIGATION FROM STORAGE 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 0.035 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

May 15, 2019

KELLY SIMPER
4597 W DEER FLAT RD
KUNA ID 83634-1547

RE: Permit No. 63-34686

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.

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,


Anna Kaiser

For Nick Miller
Engineer, Manager 2

Enclosures

CERTIFICATE OF SERVICE

I hereby certify that on May 15, 2019, I served a true and correct copy of Permit to Appropriate Water No. 63-34686 by U.S. Mail, postage prepaid, to the following:

KELLY SIMPER (Current Owner)
4597 W DEER FLAT RD
KUNA ID 83634-1547

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



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.

APR 16 2019

APR 18 2019

WATER RESOURCES
WESTERN REGIONWATER RESOURCES
WESTERN REGION

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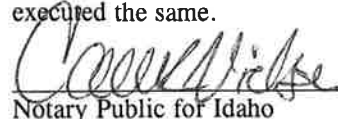
2735 AIRPORT WAY
BOISE ID 83705AFFIDAVIT OF PUBLICATION
STATE OF IDAHO)

County of Canyon)

)SS.

Sharon Jessen
of Nampa, Canyon County, Idaho, being
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 City of Nampa, in the County of Canyon, State of Idaho; that the said newspaper is in general circulation in the said County of Canyon, and in the vicinity of Nampa and Caldwell, and has been uninterruptedly published in said County 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:
04/04/2019 04/11/2019STATE OF IDAHO)
County of Canyon)On this 11th day of April in the year of
2019 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
Residing at Canyon County
My Commission expires 06/28/2023

LEGAL NOTICE

The following applications have been filed to appropriate the public waters of the State of Idaho:

2-10573

MICHAEL FAUTT
MARY BETH FAUTT
25121 MARINA CT
WILDER, ID 83676

Point of Diversion SENE S14 T03N R05W CANYON
County Source SNAKE RIVER Tributary COLUMBIA RIVER

Use: IRRIGATION 03/01 to 11/15 0.16 CFS

Total Diversion: 0.16 CFS

Date Filed: 11/19/2018

Place Of Use: IRRIGATION

T03N R05W S14 L2(NENE) L2(ENE)

Total Acres: 9.16

63-34673

HANCOCK FAMILY LIVING TRUST
C/O DONALD HANCOCK
20629 CALHOUN AVE

CALDWELL, ID 83605-8125

Point of Diversion NESW S17 T05N R03W CANYON
County Source GROUND WATER

Point of Diversion NWSE 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 0.12 CFS

Use: STOCKWATER 01/01 to 12/31 0.02 CFS

Total Diversion: 0.18 CFS

Date Filed: 2/6/2019

Place Of Use: IRRIGATION, STOCKWATER

T05N R03W S17 NESW NWSE SWSE

Place Of Use: DOMESTIC

T05N R03W S17 NESW NWSE

Total Acres: 4

Water bearing zone to be appropriated is from 50 to 350 feet.

63-34682

DIXIE LAND LLC

22993 HOWE RD

CALDWELL, ID 83607-9019

JEFF DANCER

411 E KARCHER RD

NAMPA, ID 83687-3001

Point of Diversion L1(NENE) S1 T04N R05W CANYON
County Source DIXIE SLOUGH Tributary BOISE RIVER

Use: DIVERSION TO STORAGE 09/01 to 02/28 3 CFS

Use: IRRIGATION 03/01 to 11/15 0.18 CFS

Use: RECREATION 09/01 to 02/28 3 CFS

Use: RECREATION STORAGE 09/01 to 02/28 330.3 AF

Use: WILDLIFE 09/01 to 02/28 3 CFS

Use: WILDLIFE STORAGE 09/01 to 02/28 330.3 AF

Total Diversion: 3 CFS 330.3 AF

Date Filed: 2/22/2019

Place Of Use: IRRIGATION, WILDLIFE, WILDLIFE

STORAGE, RECREATION, RECREATION STORAGE

T05N R05W S36 SESW

Total Acres: 9

63-34686

KELLY SIMPER

4597 W DEER FLAT RD

KUNA, ID 83634-1547

Point of Diversion NENW S20 T02N R01W CANYON
County Source WASTE WATER Tributary WEST FORK
GOLDEN GULCH DRAIN

Use: IRRIGATION 04/01 to 10/01 0.1 CFS

Use: IRRIGATION FROM STORAGE 04/01 to 10/01 20 AF

Use: IRRIGATION STORAGE 04/01 to 10/01 20 AF

Total Diversion: 0.1 CFS

Date Filed: 3/1/2019

Place Of Use: IRRIGATION, IRRIGATION STORAGE,

IRRIGATION FROM STORAGE

T02N R01W S20 NENW

63-34689

MDC LLC

C/O DOUGLAS CARNAHAN

7270 N TREE HAVEN PL

MERIDIAN, ID 83646-4979

Point of Diversion NWSE S24 T04N R02W CANYON

County Source GROUND WATER

Use: IRRIGATION 03/01 to 11/15 0.58 CFS

Total Diversion: 0.58 CFS

Date Filed: 3/6/2019

Place Of Use: IRRIGATION

T04N R02W S24 NWSE

Total Acres: 29

Water bearing zone to be appropriated is from 40 to 300 feet.

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), please see www.idwr.idaho.gov. Protests may be submitted based on the criteria of Idaho Code § 42-203A. 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 4/22/2019. The protestant must also send a copy of the protest to the applicant

GARY SPACKMAN, Director

April 4, 11, 2019

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