

State of Idaho
Department of Water Resources
Permit to Appropriate Water
No. 63-34595

Priority: August 08, 2018

Maximum Diversion Rate: 2.21 CFS

This is to certify that

WILSON PROPERTIES LP 1101 W RIVER ST STE 150 BOISE ID 83702

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>	<u>Annual Volume</u>
RECREATION STORAGE	01/01 to 12/31		86.2 AF
DIVERSION TO STORAGE	01/01 to 12/31	2.21 CFS	

Location of Point(s) of Diversion

GROUND WATER SW¼ SE¼, Sec. 33, Twp 03N, Rge 01E, B.M. ADA County
GROUND WATER SW¼ NE¼, Sec. 4, Twp 02N, Rge 01E, B.M. ADA County

Place of Use: 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	
02N	01E	4	X L1	X L2	X														

Conditions of Approval

1. Proof of application of water to beneficial use shall be submitted on or before **April 01, 2024**.
2. Subject to all prior water rights.
3. This right authorizes total annual storage volume of 86.2 acre-feet, 39.2 acre-feet to be used for the initial filling or carryover storage of the pond(s) and 47.0 acre-feet for the replacement of losses caused by seepage and evaporation.
4. The seven (7) pond(s) established by the storage of water under this right shall not exceed a total capacity of 39.2 acre-feet or a total surface area of 4.9 acre(s).
5. 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.

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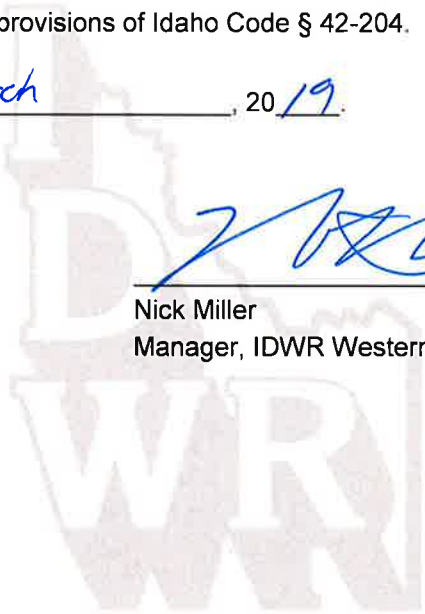
6. The Director retains jurisdiction to require the right holder to provide purchased or leased natural flow or stored water to offset depletion of Lower Snake River flows if needed for salmon migration purposes. The amount of water required to be released into the Snake River or a tributary, if needed 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.
7. 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 12th day of March, 2019.



Nick Miller
Manager, IDWR Western Region



State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

63-34595

This map depicts the RECREATION 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.



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

0 0.075 0.15 0.3 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

March 12, 2019

WILSON PROPERTIES LP
1101 W RIVER ST STE 150
BOISE ID 83702

RE: Permit No. 63-34595

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 Miller

For

Nick Miller
Engineer, Manager 2

Enclosures

CERTIFICATE OF SERVICE

I hereby certify that on March 12, 2019, I served a true and correct copy of Permit to Appropriate Water No. 63-34595 by U.S. Mail, postage prepaid, to the following:

WILSON PROPERTIES LP (Current Owner)
1101 W RIVER ST STE 150
BOISE ID 83702

SPF WATER ENGINEERING LLC (Representative)
C/O LORI GRAVES
300 E MALLARD DR STE 350
BOISE ID 83706-6660



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.

MEMORANDUM

TO: Water right permit 63-34595 file
FROM: Cody Parker
RE: Pump capacity and recommended storage volume
DATE: March 4, 2019

Pumping Capacity

This application proposes the diversion of groundwater from two separate wells into a series of ponds for Recreation Storage. The first well is located in the SWSE of Sec 33, T03N, R01E, B.M. There are at least four other water rights that divert from this well (63-11831, 63-11874, 63-12097, and 63-32232). According to a memo dated October 2, 2018 in the backfile for water right 63-12097, there is concern that 63-11874 relies solely on this well due to lack of access to the other well described on that right. As a result 63-12097 has a combined use limit stating that:

"Rights 63-11831, 63-11874, 63-32232, and 63-12097 when combined shall not exceed a total diversion rate of 0.93 cfs from the well located in SWSE, Section 33, T03N, R01E."

I have not included the same condition on this permit approval because we don't want to restrict potential development of the permit if the pumping capacity of the well changes. However, if the field examiner finds that the same 30-hp pump is used and 63-11874 still uses only this well, the above combined –use limit should be added at licensing.

Recommended Storage Volume

According to the field exam report for 63-12097 both ground water and surface water (New York Irrigation District) are currently being diverted into the ponds for irrigation use. 63-12097 does not have a total volume, but the WB7 condition states that surface water plus supplemental ground water is limited to a total volume of 495 afa for the irrigation of 110 acres, which comes out to 4.5 afa per acre. Therefore, we can assume that the total volume diverted for irrigation is used for irrigation.

If the above is true, then the new application is for the diversion and storage of ground water for recreation purposes year-round. The applicant has described a storage volume necessary to fill the ponds and to keep them full all year (39.2 af pond capacity + 47.0 af evaporation and storage = 86.2 afa). The irrigation water is "passed over the top of the pond system" to the pump station as needed. No water is stored for irrigation purposes.

LEGAL PROOF OF PUBLICATION

Account #	Ad Number	Identification	PO	Amount	Cols	Lines
263982	0003921676	LEGAL NOTICE The following application has been	Wilson Properties	\$111.20	1	64

Attention: RACHEL NEELYIDAHO DEPT OF WATER RESOURCES / SOUTH
2735 W AIRPORT WAY
BOISE, ID 83705**LEGAL NOTICE**

The following application has been filed to appropriate the public waters of the State of Idaho:

63-34595**WILSON PROPERTIES LP**

1101 W RIVER ST STE 150

BOISE, ID 83702

Point of Diversion SWSE S33

T03N R01E ADA County Source

GROUND WATER

Point of Diversion SWNE S4

T02N R01E ADA County Source

GROUND WATER

Use: DIVERSION TO STORAGE

01/01 to 12/31 2.21 CFS

Use: RECREATION STORAGE

01/01 to 12/31 86.2 AF

Total Diversion: 2.21 CFS, 86.2

AF

Date Filed: 8/8/2018

Place of Use: RECREATION
STORAGE

T02N R01E S4 L1(NENE)

L2(NWNE) SWNE

Water bearing zone to be appropriated is from 225 to 335 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 11/19/2018. The protestant must also send a copy of the protest to the applicant.

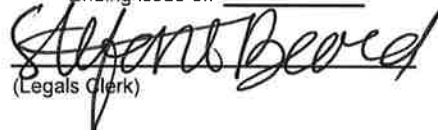
GARY SPACKMAN, Director

Pub. Nov. 18, 2018

0003921676-01

JOK AK 11/7/18

, 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 InsertionsBeginning issue of: 11/01/2018Ending issue of: 11/08/2018
(Legals Clerk)

STATE OF IDAHO)

.SS

COUNTY OF ADA)

On this 12th day of November in the year of 2018 before me, a Notary Public, personally appeared before me 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.

