

State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 63-34618

Priority: September 18, 2018

Maximum Diversion Rate: 0.16 CFS

This is to certify, that MICHAEL KINNEE
22955 BUSKIRK DR
MIDDLETON ID 83644

BRENDA KINNEE
22955 BUSKIRK DR
MIDDLETON ID 83644

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>
IRRIGATION	03/01 to 11/15	0.10 CFS
STOCKWATER	01/01 to 12/31	0.02 CFS
DOMESTIC	01/01 to 12/31	0.04 CFS

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER SW¼SE¼ Sec. 32, Twp 05N, Rge 01E, B.M. ADA County

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				
	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>Totals</u>
05N 01E 32															3.5	1.5	5.0

Total Acres: 5.0

PLACE OF USE: STOCKWATER and DOMESTIC

Twp Rge Sec	NE				NW				SW				SE				
	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>Totals</u>
05N 01E 32															X	X	

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **February 01, 2024**.
2. Subject to all prior water rights.
3. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor exceed a combined annual maximum diversion volume of 22.5 af at the field headgate for the place of use.
4. This right when combined with all other rights shall provide no more than 4.5 afa per acre at the field headgate for irrigation of the place of use.

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5. The right holder shall make full beneficial use of all surface water available to the right holder for irrigation of lands within the authorized place of use for this right. The right holder may divert ground water under this right to irrigate land with appurtenant surface water rights when the surface water supply is not reasonably sufficient to irrigate the place of use for this water right or is not available due to drought, curtailment by priority, or the seasonal startup and shutoff or maintenance schedule for canal company deliveries. The right holder shall not divert ground water for irrigation purposes under this right if use of the surface water supply is intentionally discontinued or reduced (for example abandoned, forfeited, sold, disallowed by court decree, or leased to the Water Supply Bank), or is not deliverable due to non-payment of annual assessments, without an approved transfer pursuant to Idaho Code § 42-222 or other Department approval.
6. 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.
7. To prevent injury to prior water rights appropriating water from the Boise River and/or the underlying shallow aquifer tributary to Boise River, the new well used as a point of diversion for this water right shall be constructed and maintained with unperforated casing and sealed into the first significant confining layer located 200 feet or more below ground surface.
8. Right holder shall comply with the drilling permit requirements of Idaho Code § 42-235 and applicable Well Construction Rules of the Department.
9. Water bearing zone to be appropriated is 200 to 260 feet.
10. Domestic use is for 1 home, barn, and shop and does not include lawn, garden, landscape, or other types of irrigation.
11. Stockwater use is for 6 horses and 6 mixed cattle.
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.
13. 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 Section 42-204, Idaho Code.

Signed this 30th day of January, 2019



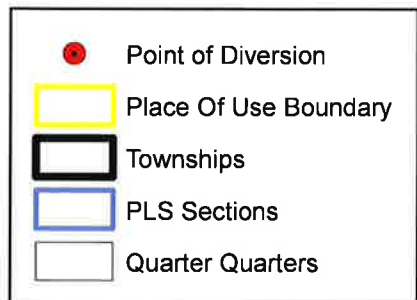
Nick Miller
Manager, IDWR Western Region

State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

63-34618

This map depicts the IRRIGATION, STOCKWATER, and DOMESTIC 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.



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

January 30, 2019

BRENDA KINNEE
MICHAEL KINNEE
22955 BUSKIRK DR
MIDDLETON ID 83644

RE: Permit No. 63-34618

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,

Anna Miller

Anna Miller

for

Nick Miller
Engineer, Manager 2

Enclosures

CERTIFICATE OF SERVICE

I hereby certify that on January 30, 2019, I served a true and correct copy of Permit to Appropriate Water No. 63-34618 by U.S. Mail, postage prepaid, to the following:

BRENDA KINNEE (Current Owner)
MICHAEL KINNEE (Current Owner)
22955 BUSKIRK DR
MIDDLETON ID 83644



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

DATE: 01/28/2019
TO: 63-34618
FROM: Phill Hummer
RE: Need for Supplemental Water

On November 11 2018, Earl Silverstein, President of Capitol View Irrigation District, called the western regional office and spoke to Angela M. Grimm (water rights supervisor). He indicated that CVID had always delivered surface water to the applicant's property and that the applicant did not need supplemental ground water. I asked the applicant to provide additional information demonstrating the need for supplemental water. On January 25, 2019 I received a letter attached in an email from the applicant that indicated delivered surface water is not always available, particularly in the early and late part of the irrigation season. Additionally, The applicant said there had been occasions in the past when CVID water was not available during maintenance shutdowns.

It is common for surface water delivered by a company to be unavailable during the early and late part of the irrigation season and reasonable to anticipate occasion maintenance shutdowns. For these reasons this application should be approved with "irrigation" as a beneficial use But the permit should be issued with conditions that clearly restrict the use of ground water for irrigation to supplemental use.

Middleton, ID. 83644

Permit Application # 63-34618 Additional Information

RECEIVED

JAN 25 2019

WATER RESOURCES
WESTERN REGION

Mr Phill Hummer

This letter is to forward the additional information you requested by phone on, 1/25/2019, about timing of the groundwater use.

The ground water would be used to supplement the delivered surface water in times of shortage. There have been shutdowns during typical early crop season, and late season and or times of irrigation maintenance or shut downs. These have happened in the past and at times the banks and or pumps fail.

The irrigation would utilize the delivered surface water whenever it is of adequate supply and volume, during seasonal delivery. We need to be able to water our hay production, and rotational pasture areas for our animals.

The water for livestock would be from groundwater supply. The surface water could be of lesser purity and subject to runoff contamination. We do intend to keep six plus horses, four to six cows, goats, and chickens year round.

The well would also provide the domestic water for use in the household and barn. No domestic water delivery is available to the subject property, (3040 Sunny Meadow, Eagle, ID. 83616).

Thank You

Michael Kinnee 714 904-0221

Michael Kinnee

Brenda Kinnee 714 904-0012

Brenda Kinnee

Please contact us with any further questions or needed information.

DEC 03 2018**WATER RESOURCES
WESTERN REGION****LEGAL PROOF OF PUBLICATION**

Account #	Ad Number	Identification	PO	Amount	Cols	Lines
263978	0003949868	63-34618 MICHAEL KINNEE BRENDA KINNEE	IDAHO DEPT OF WATER	\$129.73	1	77

Attention:

IDAHO DEPT OF WATER RESOURCES / WEST
2735 AIRPORT WAY
BOISE, ID 837055082

63-34618

MICHAEL KINNEE
BRENDA KINNEE
22955 BUSKIRK DR
MIDDLETON, ID 83644
Point of Diversion SWSE S32
T05N R01E ADA County Source
GROUND WATER
Use: DOMESTIC 01/01 to 12/31
0.04 CFS
Use: IRRIGATION 03/01 to
11/15 0.1 CFS
Use: STOCKWATER 01/01 to
12/31 0.02 CFS
Total Diversion: 0.16 CFS
Date Filed: 9/18/2018
Places of Use: IRRIGATION,
STOCKWATER, DOMESTIC
T05N R01E S32 SWSE SESE
Total Acres: 5
Water bearing zone to be appro-
priated is from 200 to 260 feet.
Domestic use is for number
homes 1 and/or a barn and shop
within Honey Creek Subdivision.

63-34517

MATT DAVIDSON
50 E NORTH TEMPLE ST 12TH
FLOOR
SALT LAKE CITY, UT 84150-
0012
Point of Diversion NENW S12
T04N R01W ADA County Source
GROUND WATER
Use: IRRIGATION 03/01 to
11/15 0.16 CFS
Total Diversion: 0.16 CFS
Date Filed: 3/19/2018
Place of Use: IRRIGATION
T04N R01W S12 NENW
Total Acres: 8.23
Water bearing zone to be appro-
priated is from 200 to 300 feet.
Permits will be subject to all prior
water rights. For additional infor-
mation 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/
WaterManagement/WaterRights](http://www.idwr.idaho.gov/WaterManagement/WaterRights).
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 Re-
sources, Western Region, 2735
Airport Way, Boise ID 83705 to-
gether with a protest fee of
\$25.00 for each application on
or before 12/3/2018. The prot-
estant must also send a copy of
the protest to the applicant.
GARY SPACKMAN,
DirectorPublished on
11/15/2018 and 11/22/2018
0003949868-01

, 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: 11/15/2018

Ending issue of: 11/22/2018

[Signature]
(Legals Clerk)

STATE OF IDAHO)

.SS

COUNTY OF ADA)

On this 26th 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.

