

State of Idaho
Department of Water Resources
Water Right License
WATER RIGHT NO. 63-12097

PRIORITY: January 26, 1994

Maximum Diversion Rate: 2.20 CFS

It is hereby certified that:

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

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated January 26, 1994, and has submitted Proof of Beneficial Use on July 26, 2018. An examination confirms water is diverted from:

SOURCE:
GROUND WATER

and a water right has been established as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>
IRRIGATION	03/01 to 11/15	2.20 CFS

LOCATION OF POINT(S) OF DIVERSION:GROUND WATER SW $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 4, Twp 02N, Rge 01E, B.M. ADA CountyGROUND WATER SW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 33, Twp 03N, Rge 01E, B.M. ADA County**PLACE OF USE:** IRRIGATION

Twp	Rge	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	24.0 L 1	31.0 L 2	32.0	23.0													110.0

Total Acres: 110

CONDITIONS OF APPROVAL

1. Rights 63-11831, 63-11874, and 63-12097 when combined shall not exceed a total diversion rate of 1.65 cfs.
2. 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 495 af at the field headgate for the lands above.
3. 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 lands above.

SUPERCEDED

SCANNED
SEP 17 2018

State of Idaho
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Water Right License
WATER RIGHT NO. 63-12097

4. 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 Section 42-222, Idaho Code, or other Department approval.
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.
6. When ordered by the Director, the right holder shall provide mitigation acceptable to the Director to offset depletion of lower Snake River flows needed for migrating anadromous fish. The amount of water required for mitigation, which is to be released into the Snake River or a tributary for this purpose, will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this right. Any order of the Director issued in accordance with this paragraph shall be in conformance with applicable rules allowing the right holder due process as the need for mitigation and the amount of mitigation are determined.
7. This right does not grant any right-of-way or easement across the land of another.

This license is issued pursuant to the provisions of Section 42-219, Idaho Code. The water right confirmed by this license is subject to all prior water rights and shall be used in accordance with Idaho law and applicable rules of the Department of Water Resources.

Signed this 14th day of September, 2018.



CLAY WEBSTER
Water Rights Supervisor

State of Idaho
Department of Water Resources
Attachment to Water Right License
63-12097

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.



0 0.075 0.15 0.3 Miles

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





State of Idaho

DEPARTMENT OF WATER RESOURCES

322 E FRONT ST STE 648 PO BOX 83720 • BOISE, ID 83720-0098

Phone: (208)287-4800 • Fax: (208)287-6700 • Website: www.idwr.idaho.gov

C.L. "Butch" Otter
Governor

Gary Spackman
Director

September 17, 2018

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

RE: License No. 63-12097

Issuance of License

Dear Water Right Holder(s):

The Department of Water Resources ("Department") has issued the enclosed Water Right License confirming that a water right has been established in accordance with your permit. Please be sure to thoroughly review all the conditions of approval listed on your license. The conditions may include ongoing requirements, such as maintenance of a measuring device or implementation of mitigation, as well as information about how your water use may be administered, such as regulation by a watermaster in a water district.

The license is a PRELIMINARY ORDER issued by the Department 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.

Also, please note that water right owners are required to report any change of water right 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. Water right forms are available from any office of the Department or on the Department's website at idwr.idaho.gov

If you have any questions concerning the enclosed information, please contact me at (208) 287-4910.

Sincerely,

Clay Webster
Water Rights Supervisor

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on September 18, 2018, I served a true and correct copy of Water Right License No. 63-12097 by U.S. Mail, postage prepaid, to the following:

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

MICHAEL C CREAMER (Attorney)
GIVENS PURSLEY LLP
PO BOX 2720
BOISE ID 83701-2720



Darla Block
Technical Records Specialist I

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 File 63-12097

FROM: Daniel Nelson – Analyst 3

DATE: August 14, 2018

SUBJECT: Licensing Review of Water Right 63-12097

This field exams for these rights were performed by Certified Water Right Examiner Terry Scanlan of SPF Water Engineering. Mr. Scanlan recommended 2.21 cfs and 497.3 af for the irrigation of 110.5 acres. I agree with most of Mr. Scanlan's recommendations. No volume is need on the face of the water right license, since the water use is supplemental and does not require a volume. However the license will have a condition that limits the total volume diverted to 495 af when combined with other rights. The acre amount should also be rounded to 110 acres per our standard rounding practices, which would also reduce the diversion rate to 2.20 cfs.

The only significant issue has to do with the water rights that are diverted from Well #1 in the SWSE of Section 33, Township 3 North, Range 1 East (Well #1). There are a number of water rights diverted from this well that are owned by 3 different owners. Originally, the well was owned by a single owner that irrigated lands only in Section 33, but that owner sold the well and a portion of the land. The original owner no longer has access to the well, and the well now serves 3 owners that irrigate 3 separate parcels. Two of the owners use the well for supplemental purposes and one of the owners uses the water as a primary source. This works well for the current owner's, but it does open the door for enlargement of the water use from Well #1 and the water rights currently being diverted from that well. The following is my analysis of the overlapping water rights:

License – 63-11874 = 2 POD's = 0.72 cfs
SWSW Well = 0.79 cfs
SWSE Well = 0.85 cfs (Well #1)

Transfer – 63-32232 = 3 POD's = 0.72 cfs

NESE Well = 2.00 cfs (This well may have been upgraded)
SWSW Well = 0.79 cfs
SWSE Well = 0.85 cfs (Well #1)

License – 63-11831 = 1 POD = 0.80 cfs

SWSE Well = 0.85 cfs (Well #1)

Decree 63-32649 = 1 POD = 1.89 cfs

NESE Well = 2.00 cfs (This well may have been upgraded)

Decree 63-32650 = 1 POD = 0.11 cfs

NESE Well = 2.00 cfs (This well may have been upgraded)

Water rights 63-32232 (Transfer), 63-32649 (Decree), and 63-32650 (Decree) no longer have access to Well #1. The permit shows ownership documentation that shows that owner of the property associated with 63-32232, 63-32649, and 63-32650 no longer has access to the Well #1 in the SWSE. With the transfer on water right 63-32232, the well in the NESE could have been upgraded, so these rights shouldn't be included in a combined limitation condition with Well #1.

Water right licenses 63-11874 and 63-11831 and permit 63-12097 were given access to Well #1 in sale of the well documentation in the permit file. Well #1 is the only well that supplies water these water rights. Therefore, when water rights 63-11874, 63-11831, and 63-12097 are combined, they should be limited to the diversion rate measured for this well of 0.93 cfs. Water right 63-11874 does list 2 points of diversion, but the owner of the property associated with water right 63-11874 no longer has access to the well in the SWSW. Therefore, it is totally dependent on Well #1. However, he could possibly file a water right transfer to change the point of diversion, since it hasn't been 5 years since 63-11874 was licensed. Therefore, we would need to include the 0.72 cfs limitation of water right 63-11874 into any combined limitation condition.

You will notice that the diversion rate measured in this field report (0.93 cfs) is different than the diversion rate measured in the previous field reports (0.85 cfs). The reason for the difference in diversion rate is that the water from Well #1 diverted for 63-12097 is open discharged into a pond, and the diversions for 63-11874 and 63-11831 were measured in a pressurized system. The larger diversion rate should be used in the combine condition, since it would limit the water availability for water right 63-12097 if the diversion rate is limited by the pressurized diversion rate. Therefore,, the combined diversion rate condition should have a maximum diversion rate of 1.65 cfs (0.72 cfs limitation form 63-11874 {including the second well} + 0.93 cfs capacity of Well #1 = 1.65 cfs)

I recommend that a condition be added that states the following:

Rights 63-11831, 63-11874, and 63-12097 when combined shall not exceed a total diversion rate of 1.65 cfs.

Conditions:

Condition 1 (R61), 2 (WB7), 3 (943), 4 (01M), and 6 (004) should be carried forward to licensing. The volume amount in WB7 will be changed to 495 af as mentioned above. Condition 5 (046) should be removed as is standard. Condition 7 (121) should be changed to condition 103 as is standard. We will need to add the X35 condition as mentioned above.

The following map shows the location of the Well #1 and Well #2. The map also shows the place of use of the overlapping water rights that also use Well #1 and the relationship between those properties. See memo for additional details concerning the overlapping water rights.

