

State of Idaho
Department of Water Resources
Water Right License
WATER RIGHT NO. 65-23753

PRIORITY: February 13, 2018

Maximum Diversion Rate: 0.04 CFS
Maximum Diversion Volume: 0.7 AF

It is hereby certified that:

D & A COMMERCIAL WAREHOUSING LLC
PO BOX 51092 6261 S DOUG ANDRUS DR IDAHO FALLS ID 83402

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated February 13, 2018, and has submitted Proof of Beneficial Use on August 14, 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>	<u>ANNUAL DIVERSION VOLUME</u>
COMMERCIAL	01/01 to 12/31	0.04 CFS	0.1 AF
DIVERSION TO STORAGE	01/01 to 12/31	0.04 CFS	
FIRE PROTECTION STORAGE	01/01 to 12/31		0.6 AF
FIRE PROTECTION FROM STORAGE	01/01 to 12/31		0.6 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER NE $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 2, Twp 07N, Rge 05W, B.M. PAYETTE County

PLACE OF USE: COMMERCIAL, FIRE PROTECTION STORAGE, AND FIRE PROTECTION FROM STORAGE

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
07N	05W	2									X	X							

CONDITIONS OF APPROVAL

1. Commercial use is for potable uses associated with a container warehouse.
2. Water shall not be diverted from fire protection storage except to fight or repel an existing fire.
3. 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.

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 30th day of August, 2018.



PAMELA S. SKAGGS
Water Rights Section Manager

State of Idaho
Department of Water Resources
Attachment to Water Right License
65-23753

This map depicts the COMMERCIAL and FIRE PROTECTION 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.

05W



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

0 0.035 0.07 0.14 Miles



State of Idaho
Department of Water Resources
Attachment to Water Right License
65-23753

This map depicts the FIRE PROTECTION 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.

05W



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

0 0.035 0.07 0.14 Miles





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

August 31, 2018

D & A COMMERICAL WAREHOUSING LLC
PO BOX 51092
6261 S DOUG ANDRUS DR
IDAHO FALLS ID 83402

RE: License No. 65-23753

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) 287-4951.

Sincerely,

Pamela S. Skaggs, Manager
Water Rights Section

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on September 4, 2018, I served a true and correct copy of Water Right License No. 65-23753 by U.S. Mail, postage prepaid, to the following:

D & A COMMERICAL WAREHOUSING LLC (Current Owner)
PO BOX 51092
6261 S DOUG ANDRUS DR
IDAHO FALLS ID 83402

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



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 65-23753

FROM: Daniel Nelson – Analyst 3

DATE: August 29, 2018

SUBJECT: Licensing Review of Water Right 65-23753

This field exam for this right was performed by Certified Field Examiner Scott King of SPF Water Engineering.

Mr. King recommended that permit 65-23753 be license for 0.04 cfs for all of the diversion rates and the total diversion rates. Mr. King also recommended 0.07 af for commercial use and 0.64 af for fire protection storage and fire protection from storage for a total of 0.71 af. Due to Department standards, the volume for commercial will be rounded up to 0.1 af and the fire protection storage and fire protection from storage will be rounded to 0.6 af. The total volume will be limited to 0.7 af. This is a very good field report, and I didn't find any issues with the field report.

This permit is within the borders of the City of Fruitland, but it doesn't appear as though the permit holder has access to the City's water system. It is also within the border of the irrigation district, but there is no irrigation component to this right.

Conditions:

Conditions 2 (26A), 3 (106) and 5 (046) should be removed at licensing as is standard. Conditions 2 (218), and 4 should be carried forward to licensing. Condition 6 (121) will be changed to condition 103.