



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region • 2735 Airport Way • Boise, Idaho 83705-5082

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C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

6/12/2018

BID LLC
C/O DOUGLAS K BATES
777 W MAIN ST STE 900
BOISE ID 83702

TOM BASSISTA
IDAHO DEPARTMENT OF FISH AND GAME
3101 S POWERLINE RD
NAMPA ID 83686

Re: Withdrawal of Protest against Application for Permit No. 63-34414 (BID LLC)

Dear Parties:

The Department of Water Resources ("Department") acknowledges receipt of your December 27, 2017 *Stipulation for Withdrawal of Protests* ("agreement") regarding the above referenced application and application 63-34415. The parties have agreed to the protestant's withdrawal if the Department conditions any approval of the permit application substantially as provided in the stipulation. This letter relates only to 63-34414 and the Department will address application 63-34415 separately.

In any conditional withdrawal, the Department must review the agreement to ensure that conditions to be included in an approval are acceptable. The agreement included components that are to be addressed by the Department as conditions on the face of an approval and may have components that are the responsibility of the parties to accomplish and enforce. The attached draft approval contains the conditions stipulated by the parties as well as other conditions required by the Department.

Please review the draft approval carefully. If you think the draft approval is not substantially in conformance with your stipulated conditions, please contact the Department within 14 days of the date of this letter with your concerns. The application has no remaining protests; therefore, if we do not hear from you, the Department will take the steps necessary to bring the application to final resolution. As always, you may file a petition for reconsideration within 14 days after the preliminary order approving the permit is issued.

Please feel free to contact this office if you have any questions regarding this procedure.

Sincerely,

Nick Miller
Regional Manager

Enclosure

Cc: Terry Scanlan, SPF Water Engineering LLC

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 63-34414

DRAFT

Priority: July 03, 2017

Maximum Diversion Rate: 24.3 CFS

This is to certify, that BID LLC
C/O DOUGLAS K BATES
777 W MAIN ST STE 900
BOISE ID 83702

has applied for a permit to appropriate water from:

Source: BOISE RIVER**Tributary:** SNAKE RIVER

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>
WILDLIFE	09/01 to 02/28	24.3 CFS	
RECREATION	09/01 to 02/28	24.3 CFS	
WILDLIFE STORAGE	09/01 to 02/28		2,500 AF
RECREATION STORAGE	09/01 to 02/28		2,500 AF
DIVERSION TO STORAGE	09/01 to 02/28	24.3 CFS	

LOCATION OF POINT(S) OF DIVERSION:

BOISE RIVER L3 (NE¼NW¼) Sec. 36, Twp 05N, Rge 05W, B.M. CANYON County

PLACE OF USE: WILDLIFE

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
05N 05W 25						X	X			X							
05N 05W 26	X		X	X				X	X				X	X	X	X	

PLACE OF USE: RECREATION

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
05N 05W 25						X	X			X							
05N 05W 26	X		X	X				X	X				X	X	X	X	

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PLACE OF USE: WILDLIFE 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	
05N 05W 25						X	X			X							
05N 05W 26	X		X	X				X	X				X	X	X	X	

PLACE OF USE: RECREATION 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	
05N 05W 25						X	X			X							
05N 05W 26	X		X	X				X	X				X	X	X	X	

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **July 1, 2023**.
2. Subject to all prior water rights.
3. This right authorizes total annual storage volume of 2500 acre-feet, 91 acre-feet to be used for the initial filling or carryover storage of field flooding and 2409 acre-feet for the replacement of losses caused by seepage and evaporation.
4. The field flooding established by the storage of water under this right shall not exceed a total capacity of 91.0 acre-feet or a total surface area of 182 acre(s).
5. Rights 63-34414, 63-174, 63-175, and 63-5181 when combined shall not exceed a total diversion rate of 24.3 cfs.
6. Water diverted under the wildlife and recreation flow components of this water right, minus evaporation and seepage losses, shall be returned to the Boise River.
7. This right shall be junior and subordinate to future water rights authorizing the diversion and use of water from the Boise River and its tributaries, including ground water, for consumptive uses, except that this right shall not be subordinate to future water rights for similar wildlife, recreation and/or aesthetic uses.
8. This right shall be junior and subordinate to future minimum in-stream flow water rights that may be established for the Boise River and its tributaries.
9. This right does not authorize the diversion and use of water released from Lucky Peak Reservoir for stream flow maintenance purposes in connection with Water Right 63-3618.
10. Any obstruction in the Boise River channel for diversion of water under this right must provide for watercraft and fish passage. The right holder must bypass sufficient flows in the Boise River at the point of diversion to accommodate watercraft navigation and fisheries values in the Boise River downstream of the diversion. The quantity of the bypass flow may be established in the future by the filing of a petition with the Department to establish the bypass flows and subsequent proceedings as described in the Department's Rules of Procedure.

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11. 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.
12. Prior to diversion of water under this right, the right holder shall install and maintain a measuring device and lockable controlling works of a type acceptable to the Department as part of the diverting works.
13. The diversion and use of water described in this right may be subject to additional conditions and limitations agreed to by the protestant and the right holder under a separate agreement to which the Department is not a party. Because the Department is not a party, the Department is not responsible for enforcement of any aspect of the agreement not specifically addressed in other conditions herein. Enforcement of those portions of the agreement not specifically addressed in other conditions shall be the responsibility of the protestant and the water right holder.
14. The point of diversion for this water right is unsurveyed accretion land. The quarter-quarter description has been protracted from the adjacent public land survey.
15. This right does not grant any right-of-way or easement across the land of another.
16. Wildlife and wildlife storage use is to create shallow and moist soil wildlife habitats. These habitats are intended to provide resting, roosting, and refuge areas for waterfowl.
17. Recreation and recreation storage use is for waterfowl hunting and wildlife viewing. Recreation use under this right is for flow-through water and return flow water associated with recreation storage.
18. 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.
19. 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 _____ day of _____, 20_____.

Nick Miller
Manager, IDWR Western Region

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05W



A horizontal number line representing distance in miles. The line starts at 0 on the left and ends at 0.6 on the right. Major tick marks are labeled at 0, 0.15, 0.3, and 0.6. There are 11 equal intervals between 0 and 0.6, with tick marks at every 0.05-mile interval. The labels 0.15, 0.3, and 0.6 are placed above the line, while 0 is at the left end.

