

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

**IN THE MATTER OF LICENSE NO.)
63-32066 IN THE NAME OF BID LLC)
_____)**

**ORDER GRANTING PETITION
FOR RECONSIDERATION**

This matter having come before the Department of Water Resources (Department) as a petition to reconsider the issuance of a water right license, the Department finds, concludes, and orders as follows:

FINDINGS OF FACT

On March 21, 2018, the Department issued a license for water right no. 63-32066 (license) to BID LLC. The license included an annual diversion volume limit of 3,820 acre-feet. That volume was intended to reflect the largest volume of water diverted annually during the development period. The volume was calculated by the field examiner based on statements from the permit holder's representative that the full diversion rate of 20.5 cubic feet per second was diverted for 94 days.

The license was issued as a preliminary order (order) of the Department pursuant to Idaho Code § 67-5243 and Rule 730 of the Department's Rules of Procedure (IDAPA 37.01.01.730).

Rule 730.02.a of the Department's Rules of Procedure (IDAPA 37.01.01.730.02.a) provides in pertinent part as follows:

Any party may file a petition for reconsideration of this preliminary order with the hearing officer issuing the order within fourteen (14) days of the service date of this order. The hearing officer issuing this order will dispose of the petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law.

On March 28, 2018, the Department received a Petition for Reconsideration (petition) asking the Department to reconsider the annual diversion volume authorized by the license. The petition stated that the field examiner misunderstood the statements made by the permit holder's representative and that diversions typically occur for 107 days, rather than 94 days. The petition asks that the license be revised to include an annual diversion volume limit of 4,350.8 acre-feet.

CONCLUSIONS OF LAW

The petition was timely.

The Department should grant the petition.

ORDER

IT IS HEREBY ORDERED that the petition is GRANTED pursuant to Rule 730.02.a of the Department's Rules of Procedure.

IT IS FURTHER HEREBY ORDERED that an amended license for water right no. 63-32066 is issued as the accompanying approval document.

Dated this 10th day of April 2018



Nick Miller
Manager, IDWR Western Region

State of Idaho
Department of Water Resources
Water Right License
WATER RIGHT NO. 63-32066

Amended**Amended****PRIORITY:** December 08, 2004

Maximum Diversion Rate: 20.5 CFS
Maximum Diversion Volume: 4,350 AF

It is hereby certified that:

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

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated December 08, 2004, and has submitted Proof of Beneficial Use on July 02, 2010. An examination confirms water is diverted from:

SOURCE:
BOISE RIVER

TRIBUTARY:
SNAKE RIVER

and a water right has been established as follows:

BENEFICIAL USE
WILDLIFE

PERIOD OF USE
11/15 to 03/01

DIVERSION RATE
20.5 CFS

ANNUAL DIVERSION VOLUME
4,350 AF

LOCATION OF POINT(S) OF DIVERSION:

BOISE RIVER L2 (SW¼SE¼) Sec. 25, 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	23									X	X	X	X		X	X		
05N	05W	26	X	X L 2	X	X	X			X					X	X			
05N	05W	26	X L 1		X L 2	X L 1				X L 3									
05N	05W	26			X L 8	X L 9													

CONDITIONS OF APPROVAL

1. Use of water under this right shall be non-consumptive. At such time in the future as the Director determines necessary to protect the prior rights of other users, the Director may require determination of the rate of loss within the system using a procedure approved by the Director, and the Director may require mitigation for all system losses.
2. The point of diversion and place of use for this water right include unsurveyed accretion land. The quarter-quarter descriptions has been protracted from the adjacent public land survey.
3. When notified by the Department, the right holder shall install and maintain a measuring device of a type acceptable to the Department as part of the diverting works.

State of Idaho
Department of Water Resources
Water Right License
WATER RIGHT NO. 63-32066

Amended

Amended

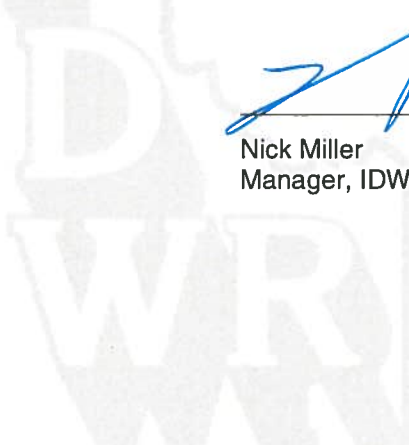
4. Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 63.
5. This right does not authorize the diversion and use of water released from Lucky Peak Reservoir for stream flow maintenance purposes in connection with Water Right 63-3618.
6. Wildlife use is for habitat improvement during the non-irrigation season.

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 10th day of April, 2018.



Nick Miller
Manager, IDWR Western Region





State of Idaho

DEPARTMENT OF WATER RESOURCES

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

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

April 10, 2018

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

WATER DISTRICT #63
REX BARRIE
PO BOX 767
STAR ID 83669-0767

CHARLES L HONSINGER
HONSINGER LAW PLLC
PO BOX 517
BOISE ID 83701

Re: Water Right License No. 63-32066

Dear Interested Parties:

The accompanying order issued by the Department is an Order Granting Petition for Reconsideration and Amended Water Right License.

If you have any questions regarding this matter, please call me at 208-334-2190.

Sincerely,

 *Nick Miller*

Nick Miller
Western Regional Manager

CERTIFICATE OF SERVICE

I hereby certify that on this 10th day of April, 2018, true and correct copies of the foregoing **ORDER GRANTING PETITION FOR RECONSIDERATION and AMENDED WATER RIGHT LICENSE** were served by placing a copy of the same with postage prepaid, and properly addressed to the following:

RE: 63-32066

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

WATER DISTRICT #63
REX BARRIE
PO BOX 767
STAR ID 83669-0767

CHARLES L HONSINGER
HONSINGER LAW PLLC
PO BOX 517
BOISE ID 83701



Rachel Neely
Administrative Assistant