

State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 65-23705

Priority: June 16, 2017

Maximum Diversion Rate: 0.02 CFS

This is to certify, that CHARLES F MICKALSON And/Or
JUDITH C MICKALSON
39235 SE TROUT CREEK RD
CORBETT OR 97019

has applied for a permit to appropriate water from:

Source: MIDDLE FORK PAYETTE RIVER **Tributary:** PAYETTE 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>
IRRIGATION	03/15 to 10/31	0.02 CFS

LOCATION OF POINT(S) OF DIVERSION:

MIDDLE FORK PAYETTE RIVER NE¼ NE¼ Sec. 34, Twp 10N, Rge 04E, B.M.
BOISE County

MIDDLE FORK PAYETTE RIVER NW¼ NE¼ Sec. 34, Twp 10N, Rge 04E, B.M.
BOISE 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	
10N	04E	34	0.9				0.1												1.0

Total Acres: 1.0

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **February 01, 2023**.
2. Subject to all prior water rights.
3. This right when combined with all other rights shall provide no more than 0.03 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the place of use.
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. 65.
5. Prior to diversion of water under this right, the right holder shall install a lockable device, subject to the approval of the Department, in a manner that will provide the watermaster suitable control of the diversion.
6. 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.

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7. The right holder shall contact the watermaster by June 15 each year for authorization to continue diverting and using water. The right holder shall not divert water after June 15 each year unless the watermaster authorizes continued diversion and use of water under this water right. When the watermaster informs the right holder that water is not available to fill this right, the right holder shall cease diversion, shall rent water from the Payette River Rental Pool, or shall otherwise mitigate for the depletion of water caused by this water use. The department may amend the contact date listed in this administrative provision to more closely coincide with the date when water is not available to fill this water right.
8. This right authorizes a single point of diversion.
9. Point of diversion is located within Lot 17 Pine Tree Ranch No. 11 Subdivision.
10. Place of use is located within Lot 17 Pine Tree Ranch No. 11 Subdivision.
11. 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.
12. 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 30 day of JANUARY, 20 18.



Angela M. Grimm
Water Rights Supervisor

State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

65-23705

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.



-  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

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

January 30, 2018

CHARLES F MICKALSON
JUDITH C MICKALSON
39235 SE TROUT CREEK RD
CORBETT OR 97019

RE: Permit No.65-23705

Permit Approval Notice

Dear Permit Holder:

The Department of Water Resources has issued the enclosed permit authorizing you to establish a new water right. Please be sure to thoroughly review the conditions of approval and remarks listed on your permit.

The permit 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 by the Department unless a party petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date as described in the enclosed information sheet.

As a permit owner you must commence the excavation or construction of the diverting works within one year of the date the permit was issued, and you must proceed diligently until the project is completed. The date shown under condition no. 1 is the date when the project must be completed.

The Department will send you a 'Proof Due Notice' approximately 60 days prior to the above referenced date requesting you to file either a Proof of Beneficial Use form or a Request for Extension of Time form.

Please note that a separate stream channel alteration permit must be obtained from the Department prior to any activity in the stream channel other than construction or maintenance of the diversion structure for your water right(s). Applications for stream channel alteration permits must be filed at least sixty days prior to the commencement of work in the stream.

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. Contact any office of the Department or visit the Department's homepage on the Internet to obtain the proper forms and instructions.

If you have any questions, please contact me at (208)334-2190.

Sincerely,

A handwritten signature in black ink, appearing to read "Rachel Neely". The signature is stylized with a large, sweeping initial "R" and a trailing flourish.

Nick Miller
Western Regional Manager

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on January 30, 2018 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved Permit) to the person(s) listed below:

RE: WATER RIGHT NO.

65-23705

**CHARLES F MICKALSON
JUDITH C MICKALSON
39235 SE TROUT CREEK RD
CORBETT OR 97019**

**RON SHURTLEFF
102 N MAIN
PAYETTE ID 83661**



**Rachel Neely
Administrative Assistant**

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: January 29, 2018
To: Water Right File 65-23705
From: agrimm
Re: Season of Use Permitted

Recommend permit issued with standard irrigation season of use per AP Memo No. 52. This change does not require an amendment to the application form per AP Memo No. 9.

The Idaho World

P.O. Box 220
Idaho City, ID 83631
(208) 342-3399

State of Idaho)
County of Boise)

Eileen Capson, being duly sworn, deposes and says: that she is the Publisher of THE IDAHO WORLD, a weekly newspaper published at Idaho City, in the County of Boise and the State of Idaho; the said paper has been and is in general circulation in the county aforesaid, and in the vicinity of Idaho City; that the advertisement, a copy of which is hereto attached, was published in said newspaper once a week for two (2) consecutive weeks in the entire and regular issue of every number of said paper during the period and time of publication and was published in the newspaper and not a supplement; that said paper has been established and regularly and continuously published for more than seventy eight weeks past previous to the first publication of this notice. Such notice was published with the issue beginning with Nov. 15, 2017 and ending with the issue of Nov. 22, 2017.

State of Idaho)
County of Boise)

On this 21 day of Dec. in the year 2017, before me, a notary public, personally appeared Eileen Capson known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that she executed the same.

Shirley A. Lutz
Notary Public for Idaho
Residing at Idaho City, Idaho
Commission Expires 6-27-2023

The following applications have been filed to appropriate the public waters of the State of Idaho:

65-23705
CHARLES F MICKALSON
JUDITH C MICKALSON
39235 SE TROUT CRK RD
CORBETT, OR 97019
Points of Diversion NWNE NENE
S34 T10N R04E BOISE County
Source MIDDLE FORK PAYETTE
RIVER Tributary PAYETTE RIVER
Use: IRRIGATION 05/01 to 09/30
0.02 CFS
Total Diversion: 0.02 CFS

Date Filed: 6/16/2017

Place of Use: IRRIGATION
T10N R04E S34 NENE
NENW
Total Acres: 1
The applicant proposes only one point of diversion within the referenced areas above.

65-23727
SANDS LLC
C/O STEVE LOOMIS
7154 W STATE ST #187
BOISE, ID 83714
Point of Diversion SESW S8 T06N
R02E BOISE County Source ROBBS
CREEK Tributary SHAFER CREEK
Use: STOCKWATER FROM STORAGE
01/01 to 12/31 2 AF
Use: STOCKWATER STORAGE 01/01
to 12/31 5 AF
Total Diversion: 5 AF

Date Filed: 8/28/2017

Places of Use: STOCKWATER STORAGE, STOCKWATER FROM STORAGE
T06N R02E S8 SESW

65-23728
SANDS LLC
C/O STEVE LOOMIS
7154 W STATE ST #187
BOISE, ID 83714
Point of Diversion NENENW S17
T06N R02E BOISE County Source
SPRING Tributary ROBBS CREEK
Use: STOCKWATER 01/01 to 12/31
0.05 CFS
Total Diversion: 0.05 CFS

Date Filed: 8/28/2017
Place of Use: STOCKWATER
T06N R02E S17 NENW

Permits will be subject to all prior water rights. For additional information concerning the property location, contact Western Region office at (208) 334-2190; or for a full

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DEC 26 2017
WATER RESOURCES
WESTERN REGION

description of the right(s), please see www.idwr.idaho.gov. 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 Resources, Western Region, 2735 Airport Way, Boise ID 83705 together with a protest fee of \$25.00 for each application on or before 12/4/2017. The protestant must also send a copy of the protest to the applicant.
GARY SPACKMAN, Director

Published in the Idaho World on 11/15/2017 and 11/22/2017.