

State of Idaho  
 Department of Water Resources  
**Permit to Appropriate Water**

NO. 63-34267

Priority: September 01, 2016

Maximum Diversion Rate: 2.14 CFS

This is to certify, that ROSE COTTAGE LLC  
 2273 E RIBIER DR  
 MERIDIAN ID 83646

has applied for a permit to appropriate water from:

**Source:** GROUND WATER

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	03/01 to 11/15	2.14 CFS

**LOCATION OF POINT(S) OF DIVERSION:**

GROUND WATER	SW¼NW¼	Sec. 5,	Twp 03N,	Rge 04W, B.M.	CANYON County
GROUND WATER	SW¼SE¼	Sec. 5,	Twp 03N,	Rge 04W, B.M.	CANYON County
GROUND WATER	SE¼SE¼	Sec. 5,	Twp 03N,	Rge 04W, B.M.	CANYON 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	
03N	04W	5							12.0					36.0	29.0	40.0	40.0		157.0

Total Acres: 157

**CONDITIONS OF APPROVAL**

1. Proof of application of water to beneficial use shall be submitted on or before **August 01, 2022**.
2. Subject to all prior water rights.
3. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the place of use.
4. 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.
5. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
6. The right holder shall make full beneficial use of all surface water available to the right holder for irrigation of the lands authorized to be irrigated under this right. The right holder shall limit the diversion of ground water under this right for land with an appurtenant surface water right(s) to those times when the surface water supply is not available or reasonably sufficient to irrigate the place of use authorized under this right.

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7. If the surface water right(s) appurtenant to the place of use for this right is unavailable for any reason other than drought or curtailment by priority (for example abandoned, forfeited, sold, transferred, leased, used on another place of use, or disallowed by court decree), the right holder shall not divert ground water for irrigation purposes on the land with appurtenant surface water rights without an approved transfer pursuant to Section 42-222, Idaho Code, or approval of the Department if a transfer is not required.
8. 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.
9. This right does not grant any right-of-way or easement across the land of another.
10. 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 31<sup>st</sup> day of JULY, 2012.



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](http://www.idwr.idaho.gov)

C.L. "BUTCH" OTTER  
Governor

GARY SPACKMAN  
Director

July 31, 2017

ROSE COTTAGE LLC  
2273 E RIBIER DR  
MERIDIAN ID 83646

RE: Permit No.63-34267

**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.

The right to drill a well is not a part of this permit to appropriate water. Beginning in July of 1987, a statute was enacted which requires a drilling permit for new well construction and deepening of existing wells. If the well(s) proposed for use under this water right permit were drilled or deepened after July 1, 1987, a separate drilling permit must be obtained from this Department. Please contact the Ground Water Protection Section located here at this office or our regional office nearest you.

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 that reads "Rachel Neely for". The signature is written in a cursive style and is positioned to the right of a stylized, circular scribble.

Nick Miller  
Western Regional Manager

Enclosure(s)

cc: SPF WATER ENGINEERING LLC

**CERTIFICATE OF SERVICE**

I hereby certify that on July 31, 2017 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.                      63-34267**

**ROSE COTTAGE LLC  
2273 E RIBIER DR  
MERIDIAN ID 83646**

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



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**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.

RECEIVED

APR 21 2017

WATER RESOURCES  
WESTERN REGION

29512 1601028

1 IDAHO DEPT OF WATER RESOURCES

WESTERN REGION  
2735 AIRPORT WAY  
BOISE ID 83705

AFFIDAVIT OF PUBLICATION  
STATE OF IDAHO )

County of Canyon )

)SS.

Sharon Jessen  
of Nampa, Canyon County, Idaho, being  
first duly sworn, deposes and says:

LEGAL NOTICE

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

63-34056 *JOK RN 5/21/17*  
ROCK CONTRACTORS INC  
444 W KARCHER RD  
NAMPA, ID 83687  
Point of Diversion NENW S21 T04N R02W CANYON  
County Source FIFTEEN MILE CREEK Tributary BOISE  
RIVER  
Points of Diversion SESW SWSW L5(NWSW) S16 T04N  
R02W CANYON County Source FIFTEEN MILE CREEK  
Tributary BOISE RIVER  
Use: DIVERSION TO STORAGE 01/01 to 12/31 200 CFS  
Use: IRRIGATION 03/01 to 11/15 0.5 CFS  
Use: WATER QUALITY IMPROVEMENT 01/01 to 12/31  
200 CFS  
Use: WATER QUALITY IMPROVEMENT STORAGE 01/01  
to 12/31 2382.9 AF  
Use: WILDLIFE 01/01 to 12/31 200 CFS  
Use: WILDLIFE STORAGE 01/01 to 12/31 2382.9 AF  
Total Diversion: 200 CFS 2382.9 AF  
Date Filed: 3/10/2015  
Places of Use: IRRIGATION, WATER QUALITY IM  
PROVEMENT, WILDLIFE, WATER QUALITY IMPROVE  
MENT STORAGE, WILDLIFE STORAGE, DIVERSION TO  
STORAGE  
T04N R02W S16 NWSW SWSW SESW NESE  
T04N R02W S21 NENW  
Total Acres: 35

63-34057 *JOK RN 5/21/17*  
TREE TOP RANCHES LP  
C/O BILL MULDER  
PO BOX 8126  
BOISE, ID 83707  
Points of Diversion SWNW NWNW S23 T05N R05W  
CANYON County Source SAND HOLLOW CREEK Tribu  
tary SNAKE RIVER  
Points of Diversion SWSE SESE S15 T05N R05W  
CANYON County Source SAND HOLLOW CREEK Tribu  
tary SNAKE RIVER  
Point of Diversion NENE NWNE S22 T05N R05W  
CANYON County Source SAND HOLLOW CREEK Tribu  
tary SNAKE RIVER  
Use: DIVERSION TO STORAGE 01/01 to 12/31 150 CFS  
Use: IRRIGATION 03/01 to 11/15 0.32 CFS  
Use: WATER QUALITY IMPROVEMENT 01/01 to 12/31  
150 CFS  
Use: WATER QUALITY IMPROVEMENT STORAGE 01/01  
to 12/31 3097.2 AF  
Use: WILDLIFE 01/01 to 12/31 150 CFS  
Use: WILDLIFE STORAGE 01/01 to 12/31 3097.2 AF  
Total Diversion: 150 CFS  
Date Filed: 3/10/2015  
Places of Use: IRRIGATION, WATER QUALITY IM  
PROVEMENT, WATER QUALITY IMPROVEMENT STOR  
AGE, WILDLIFE, WILDLIFE STORAGE, DIVERSION TO  
STORAGE  
T05N R05W S15 SWSE SESE  
T05N R05W S22 NENE NWNE NENW SESE  
T05N R05W S23 SWNW  
Total Acres: 16

1. That I am a citizen of the United States, and at all times hereinafter mentioned was over the age of eighteen years, and not a party to the above entitled action.
2. That I am the Principle Clerk of the Idaho Press-Tribune, a daily newspaper published in the City of Nampa, in the County of Canyon, State of Idaho; that the said newspaper is in general circulation in the said County of Canyon, and in the vicinity of Nampa and Caldwell, and has been uninterruptedly published in said County during a period of seventy-eight consecutive weeks prior to the first publication of this notice, a copy of which is hereto attached.
3. That the notice, of which the annexed is a printed copy, was published in said newspaper 2 time(s) in the regular and entire issue of said paper, and was printed in the newspaper proper, and not in a supplement.

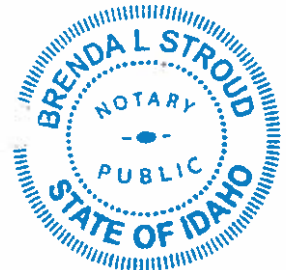
That said notice was published the following:  
04/06/2017 04/13/2017

*Sharon Jessen*  
STATE OF IDAHO)  
County of Canyon)

On this 13th day of April in the year of  
2017 before me a Notary Public, personally appeared.  
Sharon Jessen, known or identified  
to me to be the person whose name is subscribed  
to the within instrument, and being by me first  
duly sworn, declared that the statements therein  
are true, and acknowledged to me that he/she  
executed the same.

*Brenda L. Stroud*

Notary Public for Idaho  
Residing at Canyon County  
My Commission expires 05/04/2021



63-34058

GARY W HOWARD  
NANCY L HOWARD  
1081 LA REATA  
MIDDLETON, ID 83644  
Point of Diversion L2(NWNE) S2 T04N R03W CANYON  
County Source EAST HARTLEY GULCH CREEK Tributary  
BOISE RIVER  
Use: DIVERSION TO STORAGE 01/01 to 12/31 60 CFS  
Use: IRRIGATION 03/01 to 11/15 0.5 CFS  
Use: WATER QUALITY IMPROVEMENT 01/01 to 12/31 60  
CFS  
Use: WATER QUALITY IMPROVEMENT STORAGE 01/01  
to 12/31 1548.6 AF  
Use: WILDLIFE 01/01 to 12/31 60 CFS  
Use: WILDLIFE STORAGE 01/01 to 12/31 1548.6 AF  
Total Diversion: 60 CFS  
Date Filed: 9/10/2015  
Places of Use: IRRIGATION, WATER QUALITY IM  
PROVEMENT, WATER QUALITY IMPROVEMENT STOR  
AGE, WILDLIFE, WILDLIFE STORAGE, DIVERSION TO  
STORAGE  
T04N R03W S2 NWNE SWNE SENW NESW  
Total Acres: 25

*VOK RN 5/21/17*

63-34318

CITY OF BOISE  
PUBLIC WORKS DEPT  
150 N CAPITOL BLVD  
PO BOX 500  
BOISE, ID 83701-0500  
Point of Diversion SENW S36 T05N R05W CANYON  
County Source DIXIE SLOUGH Tributary BOISE RIVER  
Use: DIVERSION TO STORAGE 01/01 to 12/31 200 CFS  
Use: WATER QUALITY IMPROVEMENT 10/16 to 03/31  
200 CFS  
Use: WATER QUALITY IMPROVEMENT STORAGE 01/01  
to 12/31 144.8 AF  
Total Diversion: 200 CFS  
Date Filed: 11/15/2016  
Places of Use: WATER QUALITY IMPROVEMENT, WA  
TER QUALITY IMPROVEMENT STORAGE  
T05N R05W S36 SENW

*VOK RN 5/21/17*

63-34262

RON BITNER  
16645 PLUM RD  
CALDWELL, ID 83607  
Point of Diversion NESE S5 T03N R04W CANYON County  
Source GROUND WATER  
Point of Diversion SESW S33 T04N R04W CANYON  
County Source GROUND WATER  
Use: IRRIGATION 03/01 to 11/15 0.09 CFS  
Total Diversion: 0.09 CFS  
Date Filed: 8/24/2016  
Place of Use: IRRIGATION  
T03N R04W S5 NESE  
Total Acres: 10  
Water bearing zone to be appropriated is from 45 to 500  
feet.

*VOK RN 5/21/17*

63-34264

ROSE COTTAGE LLC  
2273 E RIBIER DR  
MERIDIAN, ID 83646  
Point of Diversion SESW S33 T04N R04W CANYON  
County Source GROUND WATER  
Points of Diversion SESE SWSE S5 T03N R04W CANYON  
County Source GROUND WATER  
Use: IRRIGATION 03/01 to 11/15 1.95 CFS  
Total Diversion: 1.95 CFS  
Date Filed: 8/25/2016  
Place of Use: IRRIGATION  
T03N R04W S5 L1(NENE) L2(NWNE) SWNE SENE L3  
(NENW) SENW SE(ALL)  
Total Acres: 248  
Water bearing zone to be appropriated is from 45 to 600  
feet.

*VOK RN 5/21/17*

63-34267

ROSE COTTAGE LLC  
2273 E RIBIER DR  
MERIDIAN, ID 83646  
Points of Diversion SWNW SWSE SESE S5 T03N R04W  
CANYON County Source GROUND WATER  
Use: IRRIGATION 03/01 to 11/15 2.14 CFS  
Total Diversion: 2.14 CFS  
Date Filed: 9/1/2016  
Place of Use: IRRIGATION  
T03N R04W S5 SWNW SW(ALL)  
Total Acres: 157  
Water bearing zone to be appropriated is from 182 to 600  
feet.

*VOK RN 5/21/17*

Permits will be subject to all prior water rights. For addition-  
al information concerning the property location, contact West-  
ern Region office at (208) 334-2190; or for a full description  
of the right(s), please see [www.idwr.idaho.gov](http://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  
4/24/2017. The protestant must also send a copy of the  
protest to the applicant.

GARY SPACKMAN, Director

April 6, 13, 2017

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