

State of Idaho
Department of Water Resources
Water Right License
WATER RIGHT NO. 63-11984

Amended**Amended**

PRIORITY: December 28, 1992

Maximum Diversion Rate: 0.07 CFS

Maximum Diversion Volume: 18.0 AF

It is hereby certified that:

MARK JOHNSON 4690 N BURT PL EAGLE ID 83616 And
NANCY STONE 4690 N BURT PL EAGLE ID 83616

have complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated December 28, 1992, and has submitted Proof of Beneficial Use on April 29, 2014. An examination confirms water is diverted from:

SOURCE:
GROUND WATER

TRIBUTARY:

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>
IRRIGATION	03/01 to 11/15	0.07 CFS	18.0 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER SE¼SE¼ Sec. 30, Twp 05N, Rge 01E, B.M. ADA 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	
05N	01E	30																4.0	4.0

Total Acres: 4.0

CONDITIONS OF APPROVAL

1. This right when combined with all other rights shall provide no more than 0.03 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the place of use.
2. Point of diversion is located within Lot 5, Skyline Acres Subdivision No. 2.
3. Place of use is located within Lot 5, Skyline Acres Subdivision No. 2.
4. 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.

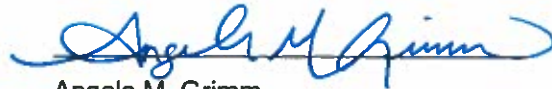
State of Idaho
Department of Water Resources
Water Right License
WATER RIGHT NO. 63-11984

Amended

Amended

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 28 day of JUNE, 2017.



Angela M. Grimm
Water Rights Supervisor

State of Idaho
Department of Water Resources
Attachment to Water Right License
63-11984

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.

01E



-  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

June 28, 2017

MARK JOHNSON
NANCY STONE
4690 N BURT PL
EAGLE ID 83616

RE: License No. 63-11984

Amendment of License Approval Notice

Dear Water Right Holder(s):

The Department of Water Resources has issued the enclosed Amendment of Water Right License confirming that an amended water right has been established in accordance with your permit. Please be sure to thoroughly review the conditions of approval and remarks listed on your license.

The amendment of license 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.

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,

Nick Miller
Western Regional Manager

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on June 28, 2017 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (Approved Amendment of License) to the person(s) listed below:

RE: WATER RIGHT NO.

63-11984

**MARK JOHNSON
NANCY STONE
4690 N BURT PL
EAGLE ID 83616**



**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: June 28, 2017
To: Water Right File 63-11984
From: Cody Parker
Re: Amended License

Water right license No. 63-11984 was amended on June 28, 2017, in response to a petition for reconsideration of the preliminary order dated June 16, 2017, which established that license. In their petition, the right owners contend that some irrigated acreage had not been included within the place of use, which reduced the number of acres of irrigation authorized by the license. I excluded this acreage in my original recommendation as it was unclear if the irrigation of the area was part of the same system. It was also unclear from the historic aerial imagery if this irrigation was established by the time that proof of beneficial use was submitted. The petition clarifies that the area in question is irrigated as part of the same system. A review of the imagery available from Google Earth supports the conclusion that this irrigation had been established after October 2013 and before June 2014. Proof of beneficial use was submitted April 29, 2014. I am unable to definitively conclude that this irrigation was established after the development period without any aerial imagery taken during the months directly preceding the date that proof was submitted. It seems reasonable to suggest that the owners would develop the irrigation of this land prior to the irrigation season, which begins on March 1 for this area. Therefore, the owners appear to be correct in their assertion that the area in question should be included as part of the place of use.

The place of use has been updated to include this area. The change increases the irrigated acreage on the license from 3.4 to 4.0 acres. The annual volume limit, which was determined using the headgate requirement of 4.5 afa/acre, has also been updated and is now 18.0 afa. The diversion rate was based on the system capacity and was determined from the parameters of the system provided by the permit holder at the time of the field exam. The diversion rate of 0.07 cfs is less than the 0.03 cfs/acre standard for irrigation of less than 5 acres. The estimate of the system capacity is not affected by the new information presented in the petition. Therefore, the original diversion rate is retained on the amended license.

Mark Johnson and Nancy Stone
4690 N Burt Pl
Eagle, ID 83616
(208) 939-6352
June 20, 2017

RECEIVED
JUN 22 2017
WATER RESOURCES
WESTERN REGION

Nick Miller
Western Regional Manager
State of Idaho
Department of Water Resources
2735 Airport Way
Boise, ID 83705-5082

RE: Water Right License
Water Right No. 63-11984
Petition for Reconsideration

Dear Mr. Miller:

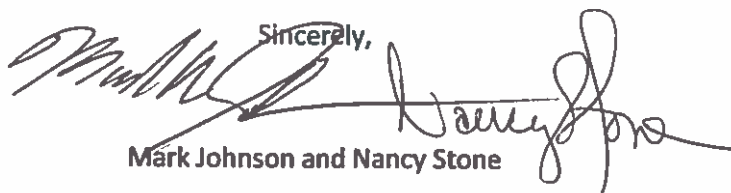
We have received our Water Right License (copy attached); and, due to an error resulting from the exam, some of our property has been excluded from water rights which should have been included. We are therefore writing this letter as a petition for Water Rights License reconsideration.

Attached is a copy of the aerial map. We have marked four areas which should have been included for irrigation:

- #1 – "Garden" – This is our vegetable and flower garden (irrigated on the same system as the lawns). There is also a drip irrigation line that runs along the east side of the entire yard which waters trees and shrubs
- #2 – "Trees and Shrubs" – Here we have both drip and pressurized irrigation for trees and shrubs
- #3 – "Trees/Garden/Shrubs" – This is all watered by the same pressurized irrigation as the lawn
- #4 – "House/garden" – We are assuming that this is outside the lines as it has always been irrigated as part of the house system.

All the irrigation was in place when Cody Parker came to examine the property earlier this year. In a phone conversation with him this morning, he advised that he believes he made an error during the exam. Cody said that writing a letter to petition for a change would result in our receiving a new Water Right License that would include these areas and by doing so would increase the total acres for irrigation water.

Thank you for your consideration.

Sincerely,

Mark Johnson and Nancy Stone

Enclosures

State of Idaho
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Attachment to Water Right License
63-11984

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