

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 63-34332

Priority: January 17, 2017

Maximum Diversion Volume: 35.2 AF

This is to certify, that H & B CRUSHING LLC
PO BOX 117
KUNA ID 83634

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>ANNUAL VOLUME</u>
AESTHETIC STORAGE	01/01 to 12/31	35.2 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER NE¼ NE¼ Sec. 15, Twp 02N, Rge 01E, B.M. ADA County

PLACE OF USE: AESTHETIC 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	
02N	01E	15	X																

CONDITIONS OF APPROVAL

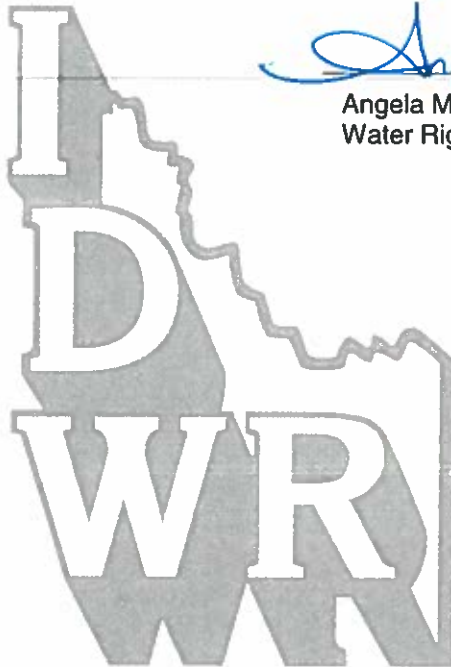
1. Proof of application of water to beneficial use shall be submitted on or before **April 01, 2022**.
2. Subject to all prior water rights.
3. The pond established by the storage of water under this right shall not exceed a total capacity of 30 acre-feet or a total surface area of 2 acres.
4. This right authorizes a total annual storage volume of 35.2 acre-feet, 30 acre-feet to be used for the initial filling or carryover storage of the pond and 5.2 acre-feet for the replacement of losses caused by evaporation.
5. Water stored under this right is subject to fluctuations of the water table caused by changes in the flow of local streams and by diversions under prior ground water rights. This right does not guarantee the maintenance of any particular ground water level.
6. This right does not grant any right-of-way or easement across the land of another.
7. 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.

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8. 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 3 day of April, 2017.




Angela M. Grimm
Water Rights Supervisor

State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

63-34332

This map depicts the AESTHETIC STORAGE 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



0 0.035 0.07 0.14 Miles

-  Point of Diversion
-  Place Of Use Boundary
-  Townships
-  PLS Sections





State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

April 3, 2017

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

H & B CRUSHING LLC
PO BOX 117
KUNA ID 83634

RE: Permit No.63-34332

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, appearing to read "Rachel Neely". The signature is fluid and cursive, with a large initial "R" and "N".

Nick Miller
Western Regional Manager

Enclosure(s)

cc: SPF WATER ENGINEERING LLC

CERTIFICATE OF SERVICE

I hereby certify that on April 3, 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.

63-34332

**H & B CRUSHING LLC
PO BOX 117
KUNA ID 83634**

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



**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.

LEGAL PROOF OF PUBLICATION

Account #	Ad Number	Identification	PO	Amount	Cols	Lines
263878	0002948325	LEGAL NOTICE The following applications have	H&B Crushing	\$207.20	2	64

Attention: RACHEL NEELY

IDAHO DEPT OF WATER RESOURCES / WEST
2735 AIRPORT WAY
BOISE, ID 837055082

RECEIVED

MAR 13 2017

LEGAL NOTICE

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

63-34332
H & B CRUSHING LLC
PO BOX 117
KUNA, ID 83634
Point of Diversion NENE S15 T02N R01E ADA County Source
GROUND WATER
Use: AESTHETIC STORAGE 01/01 to 12/31 35.2 AF
Total Diversion: 35.2 AF Date Filed: 1/17/2017
Place of Use: AESTHETIC STORAGE
T02N R01E S15 NENE
Water bearing zone to be appropriated is from 0 to 15 feet.

WATER RESOURCES
WESTERN REGION

✓ OK RN 3/21/17

NOTICE OF PROPOSED CHANGE OF WATER RIGHT TRANSFER NO. 81189

CITY OF MERIDIAN, 33 E BROADWAY STE 206, MERIDIAN, ID 83642; has filed Application No. 81189 for changes to the following water rights within ADA County(s): Right No(s). 63-34034; to see a full description of these rights and the proposed transfer, please see www.idwr.idaho.gov/apps/wr/QueryNewTransfers/QueryNewTransfers.aspx. The City of Meridian proposes to change the point of diversion on this water right to allow them to divert water from a new well to be constructed within Storey Park. The water right authorizes the use of water for irrigation and industrial purposes within the park which is located near the intersection of S Main St and E Franklin Rd in Meridian ID.

✓ OK RN 3/21/17

NOTICE OF PROPOSED CHANGE OF WATER RIGHT TRANSFER NO. 81280

NICHOLSON PROPERTIES LP, 18106 S CLOVERDALE, KUNA, ID 83634; has filed Application No. 81280 for changes to the following water rights within ADA County(s): Right No(s). 63-7756; to see a full description of these rights and the proposed transfer, please see www.idwr.idaho.gov/apps/wr/QueryNewTransfers/QueryNewTransfer.aspx. The applicant proposes to change the place of use for a portion of the water right to reflect the change in property ownership and irrigation practices. The new place of use is located southeast of Kuna ID near the intersection of S Cloverdale RD and Chiefs Farm Ln.

✓ OK RN 3/21/17

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 description of the right(s) or proposed transfer (s) please see www.idwr.idaho.gov. Protests may be submitted based on the criteria of Idaho Code §§ 42-203A and 42-222. 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 3/20/2017. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Pub. Mar. 2,9, 2017

0002948325-01

JANICE HILDRETH, being duly sworn, deposes and says: That she is the Principal Clerk of The Idaho Statesman, a daily newspaper printed and published at Boise, Ada County, State of Idaho, and having a general circulation therein, and which said newspaper has been continuously and uninterruptedly published in said County during a period of twelve consecutive months prior to the first publication of the notice, a copy of which is attached hereto: that said notice was published in The Idaho Statesman, in conformity with Section 60-108, Idaho Code, as amended, for:

2 Insertions

Beginning issue of: 03/02/2017

Ending issue of: 03/09/2017

Janice Hildreth
(Legals Clerk)

STATE OF IDAHO)

.SS

COUNTY OF ADA)

On this 9th day of March in the year of 2017 before me, a Notary Public, personally appeared before me Janice Hildreth known or identified to me to be the person whose name subscribed to the within instrument, and being by first duly sworn, declared that the statements therein are true, and acknowledged to me that she executed the same.

Anna Gomm

Notary Public FOR Idaho

Residing at: Boise, Idaho

My Commission expires: 08/17/2022

