

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 65-23631

Priority: October 11, 2016

Maximum Diversion Rate: 0.02 CFS

This is to certify, that KIRK A DARNELL
9780 SWEET OLA HWY
SWEET ID 83670

has applied for a permit to appropriate water from:

Source: UNNAMED STREAM

Tributary: LITTLE SQUAW CREEK

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>	<u>ANNUAL VOLUME</u>
STOCKWATER STORAGE	01/01 to 12/31		2.3 AF
STOCKWATER	01/01 to 12/31	0.02 CFS	

LOCATION OF POINT OF DIVERSION:

UNNAMED STREAM NE¼NE¼ Sec. 30, Twp 11N, Rge 03E, B.M., VALLEY County

PLACE OF USE: STOCKWATER 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	
11N 03E 30	X																

PLACE OF USE: STOCKWATER

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
11N 03E 30	X																

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **January 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 1.2 acre-feet or a total surface area of 0.2 acres.
4. Right 65-23631 authorizes the storage of an annual total of 2.3. acre-feet; 1.2 acre-feet to be used for the initial filling or carryover storage of the reservoir, 0.7 acre-feet for the replacement of losses due to seepage and evaporation, and up to 0.4 acre-feet for additional refills for stockwater storage use.
5. Use of water under this right will 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. 65A.
6. 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.

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7. Prior to diversion of water under this right, the right holder shall provide a means acceptable to the department to measure the amount of water entering the reservoir and the amount of water released from the reservoir.
8. 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.
9. Stockwater use is for 6 horses and 10 cows.
10. 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.
11. 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 29 day of DECEMBER, 2016.


Angela M. Grimm

Water Rights Supervisor

State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

65-23631

This map depicts the STOCKWATER and STOCKWATER 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.

03E

11N



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

December 29, 2016

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

KIRK A DARNELL
9780 SWEET OLA HWY
SWEET ID 83670

RE: Permit No.65-23631

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 that reads "Rachel Neely for". The signature is written in a cursive, flowing style.

Nick Miller

Western Regional Manager

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on December 29, 2016 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.

65-23631

**KIRK A DARNELL
9780 SWEET OLA HWY
SWEET ID 83670**

**ERIC HERR
8917 BUTTE RD
SWEET ID 83670**



**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: December 22, 2016
To: Water Right File 65-23631
From: Angela Grimm
Re: Stockwater Storage Volume Recommendation

Soils data in ArcMap for the location of the proposed on-stream reservoir indicates the soil type is SM, but does not break the soil profile into depths. The soils information for the immediate surrounding area indicates the top 12 inches or so of the soil profiles in this area are CL while the deeper portions of the soil profiles are SM. Considering the applicant is proposing to excavate approximately 12 inches (4 ft dam), it seems more accurate to recommend 0.3 AF for seepage based on CL unit (0.003 ft per day) rather than 16.8 AF for seepage based on SM (0.2 ft per day). The applicant proposes stockwater use for 16 head of mixed stock, which AP Memo No. 3 allows up to 0.4 af annually. Therefore, recommending a total of 2.3 AF for stockwater storage use; 1.2 AF for capacity/carryover, 0.3 AF seepage, 0.4 AF evaporation, and 0.4 AF refill for stockwater use.

RECEIVED

DEC 01 2016

WATER RESOURCES
WESTERN REGION

State of Idaho

Department Of Water Resources

WATERMASTER RECOMMENDATION FORM

Water District # 65

Application # 65-23631

Applicant Name Kirk A. Darnell

Watermaster Recommendation:

- a) X I do not oppose approval of this application.
- b) _____ I do not oppose approval of this application if it is conditioned as follows:
- c) _____ I oppose approval of this application for the following reasons:
- d) _____ Additional comments:

Dated this 1st day of December, 2016

Ron Shurtleff
Watermaster Signature

Ron Shurtleff
Printed Name

Publisher's Affidavit of Publication

STATE OF IDAHO }
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County of Valley

I, Kim C. Drake, being duly sworn and say, I am the receptionist of The Star-News, a weekly newspaper published at McCall, in the County of Valley, State of Idaho; that said newspaper is in general circulation in the county of afore said and is a legal newspaper; that the PUBLIC NOTICE, a copy of which is enclosed hereto and is a part hereof, was published in said newspaper once a week for a period of two weeks in the regular and entire issue of every number there of during the period of time of publication, and was published in the newspaper proper and not in a supplement; and that publication of such notice began November 3, 2016 and ended November 10, 2016.

Kim C. Drake

Subscribed and sworn before me this the 10th day of November 2016.

STATE OF IDAHO

COUNTY OF VALLEY

On this 10th day of November, in the year of 2016, before me, a Notary Public, personally appeared Kim C. Drake, 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.



Tom Grote

Tom Grote
Notary Public for Idaho
Residing at McCall, Idaho
Commission Expires 2/8/18

NOTICE

The following application has been filed to appropriate the public waters of the State of Idaho:

65-23631

KIRK A DARNELL
9780 SWEET OLA HWY
SWEET, ID 83670

Point of Diversion NENE
S30 T11N R03E VALLEY County
Source UNNAMED STREAM
Tributary LITTLE SQUAW CREEK
Use: STOCKWATER 01/01 to
12/31 0.02 CFS

Use: STOCKWATER STORAGE
01/01 to 12/31 18.3 AF
Total Diversion: 0.02 CFS
18.3 AF

Date Filed: 1/14/2016

Place of Use: STOCKWATER
STORAGE T11N R03E S30
NENE

Place of Use: STOCKWATER
T11N R03E S30 NENE

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), please see www.idwr.idaho.gov/WaterManagement/WaterRights. 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 11/21/2016. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director
21c11/10

RECEIVED
NOV 16 2016
WATER RESOURCES
WESTERN REGION

VOK RN
11/23/16