

State of Idaho
Department of Water Resources
Water Right License
WATER RIGHT NO. 63-12486

PRIORITY: September 14, 1998

Maximum Diversion Rate: 0.03 CFS

Maximum Diversion Volume: 2.0 AF

It is hereby certified that:

MICHAEL H KLING 13070 HORSESHOE BEND RD BOISE ID 83714-9647 And/Or

RUTH E KLING 13070 HORSESHOE BEND RD BOISE ID 83714-9647

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated September 14, 1998, and has submitted Proof of Beneficial Use on December 29, 2010. An examination confirms water is diverted from:

SOURCE: GROUND WATER

and a water right has been established as follows:

BENEFICIAL USE
IRRIGATION

PERIOD OF USE
03/01 to 11/15

DIVERSION RATE
0.03 CFS

**ANNUAL
DIVERSION VOLUME**
2.0 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER SE¼SE¼ Sec. 34, 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	34																1.0	1.0

Total Acres: 1

CONDITIONS OF APPROVAL

1. The daily diversion volume for the irrigation use authorized under this right shall not exceed 2,500 gallons per day.
2. 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.
3. Water bearing zone is 20 to 114 feet.
4. Point of diversion is located within Lot 6, Blk. 2, Maryglen Subdivision No. 1.
5. Place of use is located within Lot 6, Block 2, Maryglen Subdivision No. 1.
6. 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

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mitigation and the amount of mitigation are determined.

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 7th day of September, 2016.



Nick Miller
Manager, IDWR Western Region



State of Idaho
Department of Water Resources
Attachment to Water Right License
63-12486

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 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

September 7, 2016

MICHAEL H KLING
RUTH E KLING
13070 HORSESHOE BEND RD
BOISE ID 83714-9647

RE: License No. 63-12486

Issuance of License

Dear Water Right Holder(s):

The Department of Water Resources has issued the enclosed Water Right License confirming that a 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 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,

 Rachel Neely for:

Nick Miller
Western Regional Manager

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on September 7, 2016 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved License) to the person(s) listed below:

RE: WATER RIGHT NO.

63-12486

**MICHAEL H KLING
RUTH E KLING
13070 HORSESHOE BEND RD
BOISE ID 83714-9647**

A handwritten signature in black ink, appearing to read 'Rachel Neely', is written over a horizontal line.

**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

TO: Water Right File – 63-12486

FROM: Patrick Kelly – Water Resource Agent

DATE: June 19, 2015

SUBJECT: Review of Water Right File for Licensing

A field exam was conducted by Rick Collingwood of IDWR on April 26, 2013. Confusion about existing water rights on the property and the number of wells came into question during overlap review. Mr. Collingwood did a follow up visit to identify all the wells on the property on May 28, 2014 and found a total of 3 wells – 1 irrigation and 2 domestic / stock.

Review of the field exam report was found complete. A recommended diversion rate of 0.03 cfs and 4.5 af for the irrigation use was made by Mr. Collingwood.

My review of the recommendation is as follows:

There are 4 active licenses associated with the property.

2 domestic wells (1 old one serves as backup, new dom well drilled in 2003) serve:

63-22813	Domestic right in name of Kevin Smith
63-30998	Kling Dom/Stock
63-31365	Kling Dom/Stock
63-31366	Kling Stockwater from Spring

Permit 63-12485 is a Stockwater Storage permit & 63-12486 is an irrigation permit for the irrigation well. According to Rick Collingwood's notes, there are a total of 3 wells

The Place of Use was suggested to be 1.0 acres of land. Aerial photography does not support a clear determination of irrigated land. Photographs taken during the field exam show a sparsely irrigated field with risers for sprinkler irrigation around the home and pasture.

The system was not running during the exam, however the recommended 0.03 cfs follows standard diversion rate for acreage less the 5 acres.

Problems with the permit arose when reviewing the conditions of the permit that state:

Water bearing zone to be appropriated is from 200 to 300 feet.

To prevent injury to prior water rights appropriating water from the Boise River and/or the underlying shallow aquifer to the Boise River, the new well used as a point of diversion for this water right located within Section 34, Township 05N, Range 01E shall be constructed and maintained with unperforated casing and sealed into the first significant confining layer located 200 feet or more below ground surface.

Information provided by permit owner Michael Kling suggested a well depth of 216 ft, static level 27 ft, pump set at 115 ft, pump hp 1.5 & pump capacity 10 gpm. Based on this information, it is determined that the well was not constructed to keep shallow ground water deemed tributary to the Boise River.

Instead of voiding the permit, it was determined that the use could be best described under 42-111 b., which allows any use not to exceed 0.04 cfs and 2,500 gallons of water per day. If the land owner used 2,500 gallons of water in a day during the irrigation season of 260 days, then he uses 1.995 af in a season. This is less than the standard 4.5 af per acre. However, when considering the use from the photos that were taken during the field exam this is a reasonable amount of water for the property.

It is my recommendation that a license be issued to appropriate 0.03 cfs, 2.0 af on 1.0 acres.