

State of Idaho
Department of Water Resources
Water Right License
WATER RIGHT NO. 87-10083

PRIORITY: April 07, 2016

Maximum Diversion Rate: 0.04 CFS

Maximum Diversion Volume: 2.8 AF

It is hereby certified that:

GREGORYS CUSTOM SAUSAGE 3025 HWY 8 E MOSCOW ID 83843 And/Or
PATSY GREGORY 3025 HWY 8 E MOSCOW ID 83843 And/Or
TERRY GREGORY 3025 HWY 8 E MOSCOW ID 83843

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated April 07, 2016, and has submitted Proof of Beneficial Use on June 16, 2016. 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>
DOMESTIC	01/01 to 12/31	0.04 CFS	2.8 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER NE¼SW¼ Sec. 15, Twp 39N, Rge 05W, B.M. LATAH County

PLACE OF USE: DOMESTIC

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
39N	05W	15										X							

CONDITIONS OF APPROVAL

- Domestic use is for a small meat processing facility.
- The irrigation occurring under this domestic use shall not exceed 1/2 acre.
- This right does not grant any right-of-way or easement across the land of another.

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 25th day of July, 2016.

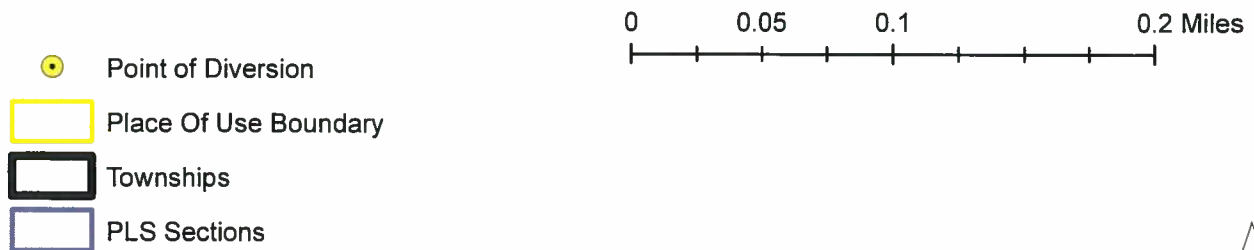


PAMELA S. SKAGGS
Water Rights Supervisor

State of Idaho
Department of Water Resources
Attachment to Water Right License
87-10083

This map depicts the DOMESTIC 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.

05W





State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

July 28, 2016

GREGORYS CUSTOM SAUSAGE
3025 HWY 8 E
MOSCOW ID 83843

PATSY GREGORY
TERRY GREGORY
3025 HWY 8 E
MOSCOW ID 83843

RE: License No. 87-10083

Issuance of License

Dear Water Right Holder(s):

Enclosed is an order that corrects and reinstates this permit with no advance in priority, since the Department issued a permit that identified the proof of beneficial use due date in error. The Department of Water Resources has also 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 and order correcting and reinstating the permit are PRELIMINARY ORDERS issued by the Department pursuant to section 67-5243, Idaho Code. They can and will become final orders 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 208-287-4951.

Sincerely,

Pamela Skaggs
Water Rights Supervisor

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on July 29, 2016, I mailed true and correct copies, postage prepaid, of the foregoing PRELIMINARY ORDERS (**Preliminary Order Correcting And Reinstating Permit**) & (**Approved License**) to the person(s) listed below:

RE: WATER RIGHT NO.

87-10083

**PATSY GREGORY
3025 HWY 8 E
MOSCOW ID 83843**

**TERRY GREGORY
3025 HWY 8 E
MOSCOW ID 83843**

**GREGORYS CUSTOM SAUSAGE
3025 HWY 8 E
MOSCOW ID 83843**



**Darla Block
Technical Records Specialist**

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.

BEFORE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF PERMIT NO. 87-10083)	
IN THE NAMES OF GREGORYS CUSTOM)	
SAUSAGE AND/OR PATSY GREGORY)	
AND/OR TERRY GREGORY)	
_____)	

**PRELIMINARY ORDER
CORRECTING AND
REINSTATING PERMIT**

This matter having come before the Department of Water Resources ("Department") as a result of an application to appropriate water, the Department finds, concludes and orders as follows:

FINDINGS OF FACT

1. On May 25, 2016, the Department approved water right permit 87-10083 ("permit") pursuant to the provisions of Section 42-204, Idaho Code.
2. Section 42-204, Idaho Code, directs the Department to require that the application of water to full beneficial use shall be complete within five (5) years of the date of approval. The application for permit requested one (1) year to complete work and apply water to beneficial use.
3. Condition no. 1 of the approved permit identified the proof of beneficial use due date as June 1, 2016, in error instead of June 1, 2017.
4. On June 1, 2016, the permit lapsed because the Department had not received an acceptable proof of beneficial use statement or a request for extension of time.
5. On June 16, 2016, the permit holder filed a Statement of Completion for submitting proof of beneficial use ("proof statement").

CONCLUSIONS OF LAW

1. The Department typically authorizes at least one (1) year after issuance of the permit to provide time for the permit holder to develop the proposed water use and receive required notice.
2. The date on the permit is a typographical error and does not provide time for the permit holder to establish the proposed beneficial use or receive required notice.

3. The Department should correct condition no. 1 on the permit to show the proof of beneficial use due date of June 1, 2017.
4. The permit holder has provided a reasonable showing why this permit should be reinstated, by submitting an acceptable proof statement.
5. Section 42-218a (3), Idaho Code, provides that the Department may reinstate a permit with no advance in priority upon a showing of Department error.
6. The Department should reinstate the permit with no change in priority date.

ORDER

IT IS HEREBY ORDERED that Permit No. 87-10083 is **REINSTATED** with no advance of the original priority date and permit approval condition no. 1 is **CORRECTED** to:

Proof of application of water to beneficial use shall be submitted on or before June 1, 2017.

Dated this 25th day of July, 2016.



Pamela S. Skaggs
Water Rights Supervisor