

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 63-33952

Priority: May 15, 2014

Maximum Diversion Rate: 1.60 CFS

This is to certify, that SNAKE RIVER DAIRIES LLC
15188 S CAN ADA RD
MELBA ID 83641

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>RATE OF DIVERSION</u>
IRRIGATION	03/01 to 11/15	1.60 CFS

LOCATION OF POINT(S) OF DIVERSION:GROUND WATER NE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 24, Twp 01S, Rge 02W, B.M. CANYON 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	
01S 02W 24					40.0	32.0	40.0	40.0	3.0	7.0							162.0

Total Acres: 162.0

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **July 01, 2021**.
2. Subject to all prior water rights.
3. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor exceed a combined annual maximum diversion volume of 729.0 af at the field headgate for the place of use.
4. This right when combined with all other rights shall provide no more than 4.5 afa per acre at the field headgate for irrigation of the place of use.
5. The right holder shall make full beneficial use of all surface water available to the right holder for irrigation of the lands authorized to be irrigated under this right. The right holder shall limit the diversion of ground water under this right for land with an appurtenant surface water right(s) to those times when the surface water supply is not available or reasonably sufficient to irrigate the place of use authorized under this right.
6. If the surface water right(s) appurtenant to the place of use for this right is unavailable for any reason other than drought or curtailment by priority (for example abandoned, forfeited, sold, transferred, leased, used on another place of use, or disallowed by court decree), the right holder shall not divert ground water for irrigation purposes on the land with appurtenant surface water rights without an approved transfer pursuant to Section 42-222, Idaho Code, or approval of the Department if a transfer is not required.

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7. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.
8. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
9. 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.
10. 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 27th day of June, 2016.



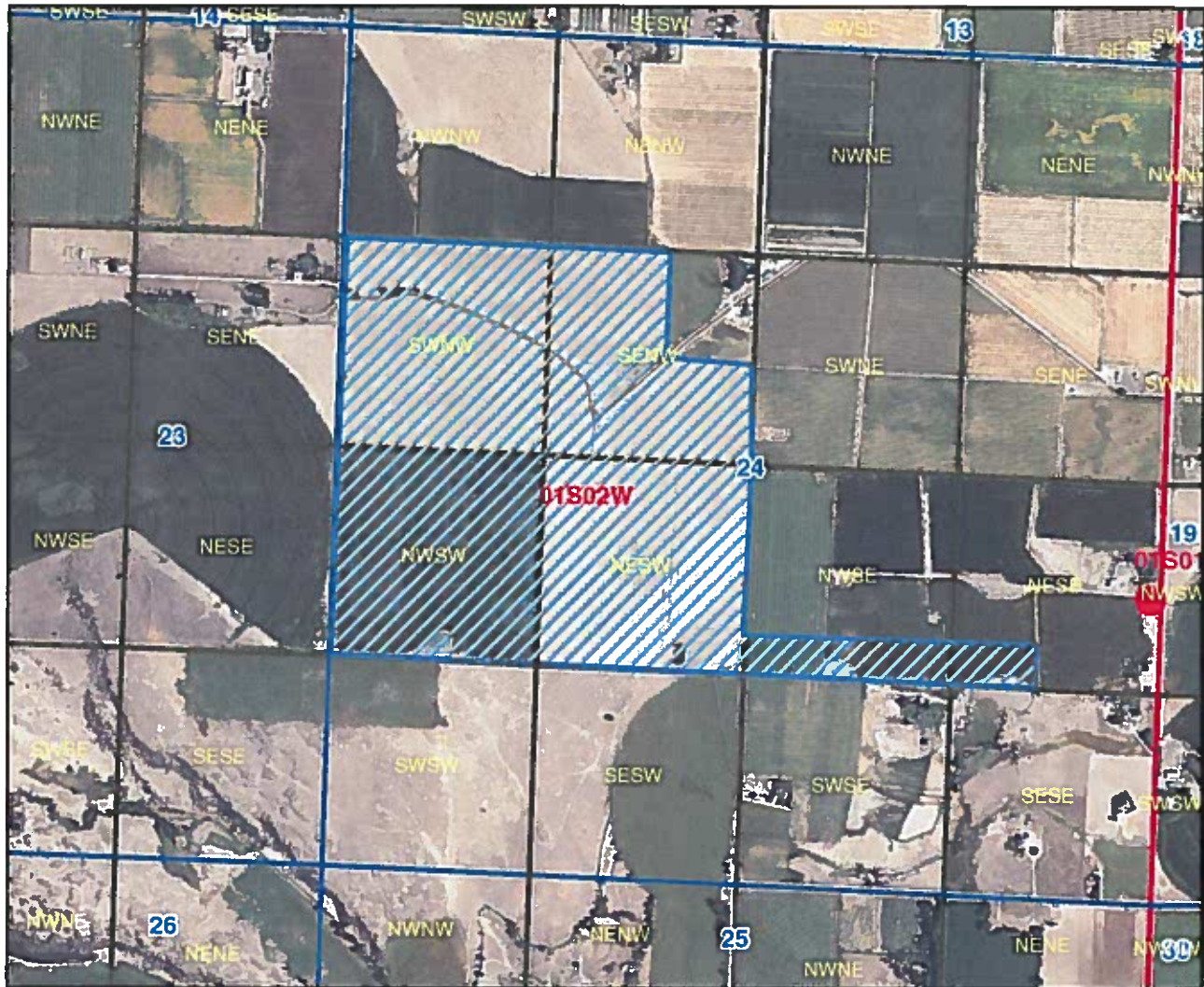
Nick Miller
Manager, IDWR Western Region

State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

63-33952

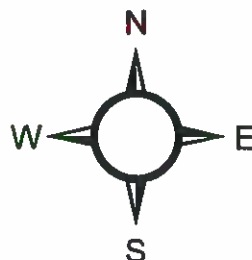
This map depicts the IRRIGATION point of diversion and place of use boundary for this water right at the time of this approval and is attached to the approval document solely for illustrative purposes.



0 0.175 0.35 0.7 Miles

Legend

-  place_of_use
-  point_of_diversion
-  Township/Range
-  Sections
-  QQ



2013 aerial imagery



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

June 27, 2016

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

SNAKE RIVER DAIRIES LLC
15188 S CAN ADA RD
MELBA ID 83641

RE: Permit No.63-33952

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 "Nick Miller", followed by the text "for:".

Nick Miller
Western Regional Manager

Enclosure(s)

cc: DYLAN LAWRENCE

CERTIFICATE OF SERVICE

I hereby certify that on June 27, 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.

63-33952

**DYLAN LAWRENCE
VARIN WARDWELL
242 N 8TH STREET SUITE 220
PO BOX 1676
BOISE ID 83701**

**SNAKE RIVER DAIRIES LLC
15188 S CAN ADA RD
MELBA ID 83641**



**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 23, 2016
To: File
From: Nick Van Dyke
Re: Application for Permit No. 63-33952. Snake River Dairies LLC

This memo addresses the manner in which the place of use description has changed from application filing to permit approval. In general, the intent of the application is to shore up supplemental ground water irrigation coverage on acreage located approximately 3.5 miles south of Melba. Total acres irrigated are 227. The entire place of use has primary Boise-Kuna Irrigation District surface water. 65 of the 227 acres, specifically the NWSE and NESE of Section 24 T1S R2W, are covered by supplemental ground water right 63-11633. This application picks up the remaining 162 acres so the entire 227 acre place of use has supplemental ground water as an additional source. An existing well drilled in 1992 will be used for the point of diversion.

Timeline:

- Application originally filed for 162 acres. Specifically, 3 acres and 7 acres are shown for the NESE and NWSE, respectively, of Sec. 24 T1S R2W on page two of the application. It is these two 40 acre tracts where the back and forth occurred. The application map outlines the entirety of both tracts, albeit 5 acres in the NESE that are not irrigated. My interpretation was this application intended to set up the permit in a PPU like form.
- In correspondence with the applicant's attorney, I recommended the application be amended to show 40 acres in the NWSE and 35 acres in the NESE making the entire place of use 227 acres, then remark the right be limited to 162 acres. This approach I thought better matched the map. I sent the applicant's attorney an amended page 2 of the application following my recommendation. Note the acreage amounts between both tracts (40 and 35) were accidentally transposed. This was an oversight.
- The second amended version, initialed by the applicant's attorney, was received 4/28/2016. The application was advertised as amended, no protests were received.
- After supervisor final review, it was decided the initial manner in which the application was filled out is more correct. Either approach satisfies the applicant's desire to complete supplemental coverage on the entire 227 acre place of use. 65 acres covered under 63-11633, 162 acres covered under this right.
- Additionally, the map attachment to the permit approval shows a place of use shapefile representing the 162 acres authorized under this right. The 3 and 7 acre representation in the NWSE and NESE tracts was arbitrarily picked because the location of those 10 acres cannot be determined.

RECEIVED

JUN 02 2016

WATER RESOURCES
WESTERN REGION

29512 1459268

IDAHO DEPT OF WATER RESOURCES

WESTERN REGION
2735 AIRPORT WAY
BOISE ID 83705

AFFIDAVIT OF PUBLICATION STATE OF IDAHO

County of Canyon

Sharon Jessen
of Nampa, Canyon County, Idaho, being
first duly sworn, deposes and says:

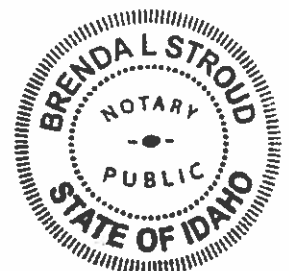
1. That I am a citizen of the United States, and at all times hereinafter mentioned was over the age of eighteen years, and not a party to the above entitled action.
2. That I am the Principle Clerk of the Idaho Press-Tribune, a daily newspaper published in the City of Nampa, in the County of Canyon, State of Idaho; that the said newspaper is in general circulation in the said County of Canyon, and in the vicinity of Nampa and Caldwell, and has been uninterruptedly published in said County during a period of seventy-eight consecutive weeks prior to the first publication of this notice, a copy of which is hereto attached.
3. That the notice, of which the annexed is a printed copy, was published in said newspaper 2 times(s) in the regular and entire issue of said paper, and was printed in the newspaper proper, and not in a supplement.

That said notice was published the following:
05/19/2016 05/26/2016

Sharon Jessen
STATE OF IDAHO
County of Canyon)

On this 26th day of May in the year of 2016 before me a Notary Public, personally appeared. Sharon Jessen, known or identified to me to be the person whose name is subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledge to me that he/she executed the same.

Brenda L. Stroud
Notary Public for Idaho
Residing at Canyon County
My Commission expires 05/04/2021



LEGAL NOTICE

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

VOK RN 6/7/16
63-34217
B & S INVESTMENTS LLC
1980 S MERIDIAN RD
STE 140
MERIDIAN, ID 83642
Point of Diversion NESW
S36 T05N R05W CANYON
County Source DIXIE
SLOUGH Tributary BOISE
RIVER
Use: IRRIGATION 03/01 to
11/15 0.4 CFS
Total Diversion: 0.4 CFS
Date Filed: 4/14/2016
Place of Use: IRRIGATION
T05N R05W S36 NESW
Total Acres: 25
Application proposes 20
acres of irrigation within a
total 25 acre permissible
place of use.

VOK RN 6/7/16
63-34215
MICHELLE G VAN LITH
JOEL S VAN LITH
18641 CHICKEN DINNER
RD
CALDWELL, ID 83607
Point of Diversion NESE
S35 T04N R04W CANYON
County Source GROUND
WATER
Use: IRRIGATION 03/01 to
11/15 0.58 CFS
Total Diversion: 0.56 CFS
Date Filed: 4/8/2016
Place of Use: IRRIGATION
T04N R04W S35 NENE
NWNE SENE NESE
Total Acres: 82
Water bearing zone to be
appropriated is from 170 ft
to 325 ft.

VOK RN 6/7/16
63-33952
SNAKE RIVER DAIRIES
LLC
15188 S CAN ADA RD
MELBA, ID 83641
Point of Diversion NESE
S24 T01S R02W CANYON
County Source GROUND
WATER
Use: IRRIGATION 03/01 to
11/15 1.6 CFS
Total Diversion: 1.6 CFS
Date Filed: 5/15/2014
Place of Use: IRRIGATION
T01S R02W S24 SWNW
SENE NESW NWSW
NESE NWSE
Total Acres: 227
Application seeks to irrigate
162 acres within a 227 acre
place of use. Water bearing

zone to be appropriated is
from 145 to 173 feet.

NOTICE OF PROPOSED CHANGE OF WATER RIGHT TRANSFER NO. 80380

VOK RN 6/7/16
EUREKA DITCH CO NO 2,
C/O BILL DORAMUS 21766
HOWE RD, CALDWELL, ID
83607; has filed Application
No. 80380 for changes to the
following water rights within
CANYON County(s): Right
No(s). 63-21361, 63-21362,
63-21363, 63-222D, 63-223K,
63-32241, 63-3572; to see a
full description of these rights
and the proposed transfer,
please see www.idwr.idaho.gov/apps/wr/QueryNewTransfers/QueryNewTransfers.aspx. The purpose of the transfer is to change a portion of the above rights as follows: Add one point of injection from the Eureka Canal into the North Drain and add two points of re-diversion from the North Drain. A total of 3.22 cfs is sought to be transferred based on the pro-rated amount of water allocated for ground served by the two new re-diversion points. General location is approximately 3 miles west of Notus, ID.

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/Water-Management/WaterRights. 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 6/6/2016. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN,
Director

May 19, 26, 2016

1459268