

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 65-23636

Priority: February 12, 2016

Maximum Diversion Rate: 0.02 CFS

This is to certify, that SUSAN L SEBASTIAN
PO BOX 356
GARDEN VALLEY ID 83622

has applied for a permit to appropriate water from:

Source: MIDDLE FORK PAYETTE RIVER

Tributary: PAYETTE RIVER

and a permit is APPROVED for development of water as follows:

BENEFICIAL USE

IRRIGATION

PERIOD OF USE

03/15 to 10/31

RATE OF DIVERSION

0.02 CFS

LOCATION OF POINT(S) OF DIVERSION:

MIDDLE FORK PAYETTE RIVER NE¼NW¼ Sec. 10, Twp 09N, Rge 04E, B.M. BOISE 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	
09N	04E	10					0.5												0.5
Total Acres:			0.5																

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **July 01, 2019**.
2. Subject to all prior water rights.
3. This right when combined with all other rights shall provide no more than 0.02 cfs nor more than 1.8 afa at the field headgate for irrigation of the place of use.
4. 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. 65.
5. Upon specific notification by the Department, the right holder shall install a lockable device of a type acceptable to the Department in a manner that will provide the watermaster suitable control of the diversion.
6. 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.
7. Water shall not be diverted under this right when flows in the South Fork of the Payette River and the main stem of the Payette River are below established minimum flow amounts.

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8. 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.
9. 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.

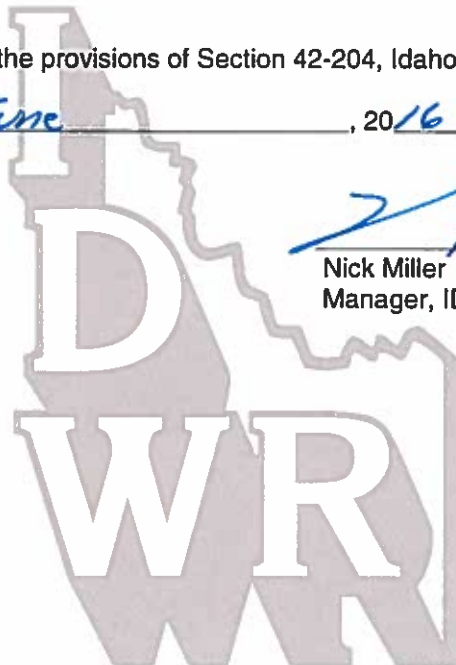
This permit is issued pursuant to the provisions of Section 42-204, Idaho Code.

Signed this 27th day of June, 2016.



Nick Miller

Manager, IDWR Western Region



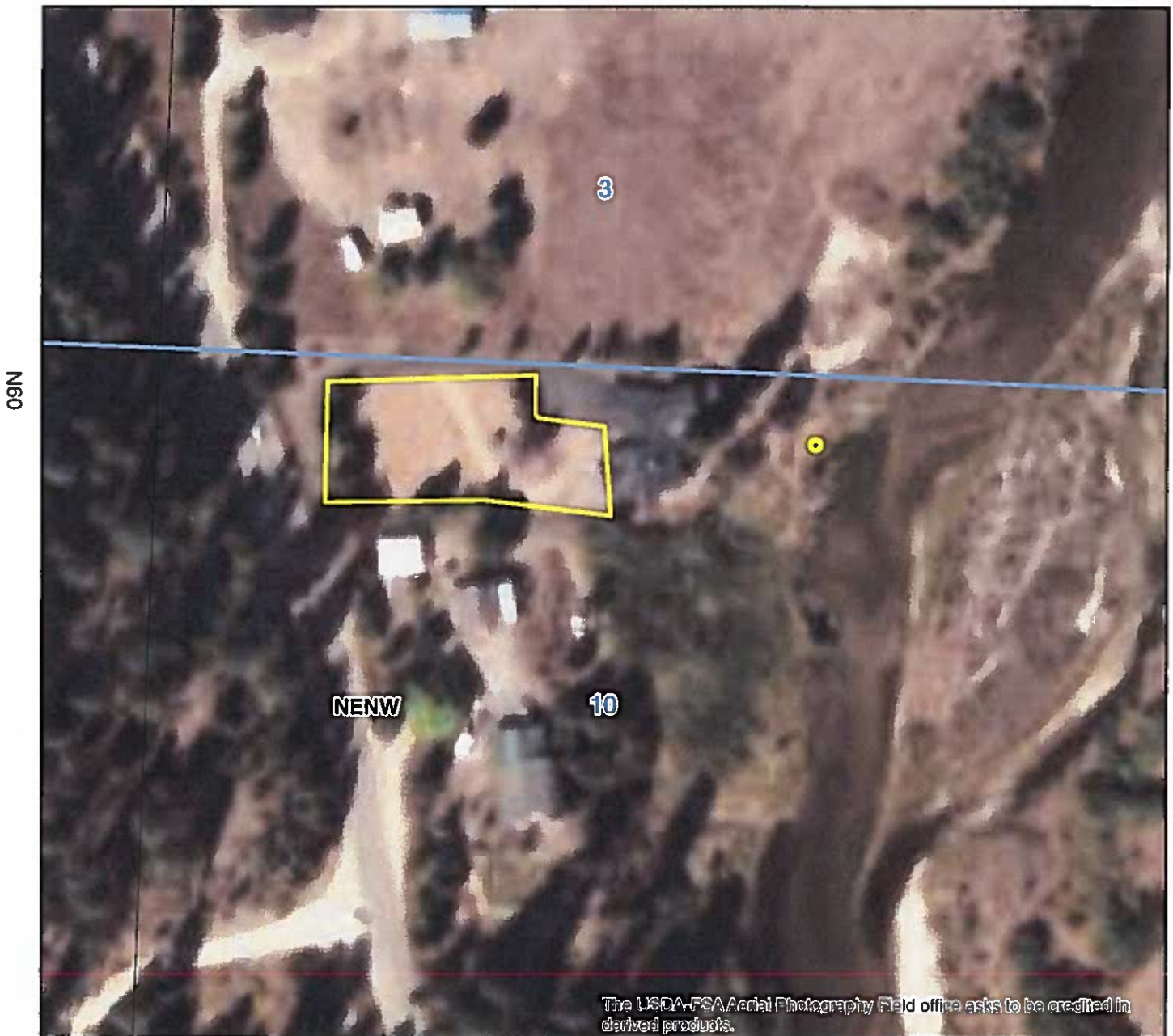
State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

65-23636

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.

04E



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

0 0.0125 0.025 0.05 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

June 27, 2016

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

SUSAN L SEBASTIAN
PO BOX 356
GARDEN VALLEY ID 83622

RE: Permit No.65-23636

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 style with a large, stylized initial "R".

Nick Miller
Western Regional Manager

Enclosure(s)

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.

65-23636

**SUSAN L SEBASTIAN
PO BOX 356
GARDEN VALLEY ID 83622**

**RON SHURTLEFF
WATERMASTER OF DISTRICT 65
102 N MAIN
PAYETTE ID 83661**



**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.

Neely, Rachel

From: Thiel, Sandra
Sent: Wednesday, June 08, 2016 9:32 AM
To: Neely, Rachel
Subject: FW: Application for Permit No. 65-23636
Attachments: MSF_MEMO_65_23636.docx

Good morning, I don't know if this memo every made it to your office. The Board isn't protesting but we do want to comment

I see that you have spent time with Matt's kittens. I'm hoping to see them again when Elise returns.

Sandra Beer Thiel
Idaho Department of Water Resources
322 East Front Street
Boise, Idaho 83720-0098
(208)287-4881
sandra.thiel@idwr.idaho.gov

From: Thiel, Sandra
Sent: Friday, May 13, 2016 10:03 AM
To: Clark, Cynthia (Bridge)
Subject: RE: Application for Permit No. 65-23636

Hello, I have written memos in the past. But, I can easily use the form if you prefer.

Sandra Beer Thiel
Idaho Department of Water Resources
322 East Front Street
Boise, Idaho 83720-0098
(208)287-4881
sandra.thiel@idwr.idaho.gov

From: Clark, Cynthia (Bridge)
Sent: Friday, May 13, 2016 8:57 AM
To: Thiel, Sandra
Subject: FW: Application for Permit No. 65-23636

Sandy,

You may have already seen this application but if not can you review the attached application for permit on behalf of the IWRB. We can discuss how to respond to the recommendation form. Let me know if you want to set aside some time to discuss this, otherwise this may be a good topic for our meeting on May 26.

As always, thank you for your help.
Cynthia

Cynthia Bridge Clark, P.E.
Water Projects Section Manager
Idaho Department of Water Resources
Phone (208) 287-4817

From: Neely, Rachel
Sent: Friday, May 13, 2016 8:45 AM
To: Clark, Cynthia (Bridge)
Subject: Application for Permit No. 65-23636

May 13, 2016

IDAHO DEPARTMENT OF WATER RESOURCES
WATER PROJECTS SECTION MANAGER
ATTN: CYNTHIA (BRIDGE) CLARK
322 E FRONT ST
PO BOX 83720
BOISE ID 83720-0098

RE: Application for Permit No. 65-23636

Dear Ms. Clark:

The Idaho Department of Water Resources (IDWR) is seeking written comment and/or recommendation(s) from your agency regarding the above referenced water right application(s). Copy(s) of the application(s) are enclosed with this email for your reference. Please review the application(s), complete the enclosed recommendation form, and submit your reply, if any, to this office by the protest deadline of June 6, 2016.

If your agency desires to formally protest approval of this application, you may do so by filing a written protest along with a \$25.00 filing fee for each protested application by the protest deadline.

IDWR will assume your agency does not object to this application if a timely response is not received. Please contact me if you have any questions regarding the application. Thank you for your help.

Sincerely,

Rachel Neely

Administrative Assistant I
IDWR-Western Region
2735 Airport Way Boise, ID 83705
Rachel.Neely@idwr.idaho.gov

MEMORANDUM

DATE: May 13, 2016
TO: Western
FROM: Sandra Thiel
RE: Application for Permit No. 65-23636

The purpose of this memo is to provide the Planning Section's comments on the application for permit 65-23636. Susan Sebastian submitted an application on February 12, 2016. A point of diversion on the Middle Fork of the Payette River in Boise County will potentially supply 0.02 cfs for 0.5 acres of irrigation

The applicant should be aware that the Idaho Water Resource Board holds minimum stream flow (MSF) water right 65-12733 on the South Fork and main stem of the Payette River, downstream from the proposed diversion. This right has a priority date of April 26, 1985. From April 19 through July 16, the MSF is 1,100 cfs. From July 16 through December 31 the MSF is 212 cfs. The Idaho Water Resource Board would like assurance that this water right will be actively administered to protect the Board's minimum stream flow right.

The Idaho World

P.O. Box 50248
Boise, ID 83705
(208) 429-1606

RECEIVED

JUN 06 2016

WATER RESOURCES
WESTERN REGION

State of Idaho)
County of Boise)

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

65-23636
SUSAN L SEBASTIAN
PO BOX 358
GARDEN VALLEY, ID 83622
Point of Diversion NENW S10 T09N
R04E BOISE County Source MIDDLE
FORK PAYETTE RIVER Tributary PAY-
ETTE RIVER
Use: IRRIGATION 03/15 to 10/31 0.02
CFS
Total Diversion: 0.02 CFS

Date Filed: 2/12/2016

Place of Use: IRRIGATION
T09N R04E S10 NENW
Total Acres: 0.5

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 6/8/2016. The protestant must also send a copy of the protest to the applicant.
GARY SPACKMAN, Director
Published in the Idaho World 5/18 and 5/25/2016

Theresa Hart, being duly sworn, deposes and says: that she is the Editor of THE IDAHO WORLD, a weekly newspaper published at Idaho City, in the County of Boise and the State of Idaho; the said paper has been and is in general circulation in the county aforesaid, and in the vicinity of Idaho City; that the advertisement, a copy of which is hereto attached, was published in said newspaper once a week for Two (2) consecutive weeks in the entire and regular issue of every number of said paper during the period and time of publication and was published in the newspaper and not a supplement; that said paper has been established and regularly and continuously published for more than seventy eight weeks past previous to the first publication of this notice. Such notice was published with the issue beginning with May 18, 2016 and ending with the issue of May 25, 2016.

Theresa Hart

State of Idaho)
County of Ada)

On this 28th day of May in the year 2016, before me, a notary public, personally appeared Theresa Hart 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.

Nancy Lee Rotman

Notary Public for Idaho
Residing at Boise, Idaho
Commission Expires 8-3-2019

NANCY LEE ROTMAN
NOTARY PUBLIC
STATE OF IDAHO