

State of Idaho
Department of Water Resources

Permit to Appropriate Water

NO. 72-16910

Priority: January 14, 2016

Maximum Diversion Rate: 0.24 CFS

This is to certify, that HEART OF IDAHO ANIMAL SANCTUARY
PO BOX 175
CHALLIS ID 83226

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>	<u>ANNUAL VOLUME</u>
DOMESTIC	01/01 to 12/31	0.04 CFS	
IRRIGATION	04/01 to 10/31	0.20 CFS	
STOCKWATER	01/01 to 12/31	0.04 CFS	

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER SW1/4SW1/4 Sec. 22, Twp 14N, Rge 19E, B.M.
CUSTER 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	
14N 19E 22											X						

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	
14N 19E 21																.1	.1
14N 19E 22											9.9						9.9

Total Acres: 10

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	
14N 19E 22											X						

State of Idaho
Department of Water Resources

Permit to Appropriate Water

NO. 72-16910

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **May 01, 2021**.
2. Subject to all prior water rights.
3. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
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.170.
5. 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.
6. The right holder shall install or construct a straight length of conduit or ditch suitable for installation of a device for measuring the entire flow of water being diverted in connection with this right. If the right holder uses conduit, the straight length of conduit shall be at least fifteen times the diameter of the conduit and shall be above ground or otherwise easily accessible.
7. Upon specific notification by the Department, the right holder shall install and maintain acceptable measuring device(s), including data logger(s), at the authorized point(s) of diversion, in accordance with Department specifications.
8. When notified by the Department or by a watermaster with regulatory authority over this right, the right holder shall report the amount of water diverted in connection with this right. The report shall be submitted in the manner and frequency specified by the Department or the watermaster.
9. The quantity of water under this right for domestic and stockwater uses shall not exceed 13,000 gallons per day.
10. Domestic use is for 1 building (animal shelter). Irrigation of lawn, dog runs and landscaping associated with the shelter is authorized under the irrigation component of this right.
11. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the place of use.

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

Dated this 27th day of April, 2016.



ALLEN D. MERRITT
Southern Region Manager

State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

72-16910

This map depicts the DOMESTIC and STOCKWATER 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.

19E



- 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

Attachment to Permit to Appropriate Water

72-16910

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.

19E



-  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

Southern Region • 650 Addison Ave W, Suite 500 • Twin Falls, Idaho 83301-5858
Phone: (208) 736-3033 • Fax: (208) 736-3037 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

April 27, 2016

HEART OF IDAHO ANIMAL SANCTUARY
PO BOX 175
CHALLIS ID 83226

RE: Permit No. 72-16910

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 208-736-3033.

Sincerely,

A handwritten signature in black ink, appearing to read "Allen Merritt". The signature is fluid and cursive, with a large initial "A" and "M".

Allen Merritt
Southern Region Manager

Enclosure(s)

cc: CINDY YENTER WATER MASTER

CERTIFICATE OF SERVICE

I hereby certify that on April 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. 72-16910

**HEART OF IDAHO ANIMAL SANCTUARY
PO BOX 175
CHALLIS ID 83226**

**CINDY YENTER WATER MASTER *Via e-mail*
WATER DISTRICT 170
650 ADDISON AVE W STE 500
TWIN FALLS ID 83301**

A handwritten signature in cursive script, reading "Denise Maline", is written over a solid horizontal line.

**Denise Maline
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 File: 72-16910

Date: 4/25/2016

From: Douglas Jones

RE: Domestic and Stockwater component review analysis

Applicant submitted the original application using non-standard beneficial use terms and rates of diversion. The reviewing agent worked with the Heart of Idaho Animal Sanctuary to understand the intentions for the appropriation, communicate the regulatory areas that could affect the plans and assisted them in filing an amended application to meet the goals.

One of the issues in the area is that the project is located within the Salmon River Wild and Scenic River area of concern. This new ground water appropriation would be subject to the conditions and limitations imposed by the limited quantity of available supply allocated for appropriation. The application identifies both stock water and domestic uses separately, but with a common (0.04), non-additive flow rate for each. Stock water is for about 8 large animals (horses, mules and donkeys) and for 20 dogs & 20 cats. Pens and kennels will need to be hosed out regularly and a building provides shelter, lavatories, clothes washer and dish washer.

In coordination with other region office and permit section staff it was concluded that the domestic use is supportive of the primary stock water use and therefore if the two are together limited to 13,000 gallons per day then the quantity would not count against the allocated block of water available for appropriation under the Wild and Scenic Rivers stipulation.

The permit has been conditioned as such: Conditions 01H, 198 and 215 have been added to the standard conditions normally put on new ground water permits and includes conditions for consumptive irrigation use.

State of Idaho
Department of Water Resources

RECOMMENDATION OF WATERMASTER

Application No: 72-16910
Water Right No:
Applicant Name: Heart of Idaho Animal Sanctuary

Watermaster's Recommendation:

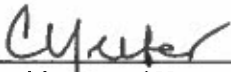
- a) ☐ I do not oppose approval of this application
b) ☒ I do not oppose approval of this application under the following terms:

Measuring device is required

- c) ☐ I oppose approval of this application(s) for the following reasons:
d) ☐ Additional comment:

Dated: March 23, 2016

Water District 170



Cindy Yenter, Watermaster

AFFIDAVIT OF PUBLICATION

State of Idaho, County of Custer, ss:

I, SUSAN CALLAHAN, representing the Challis Messenger, a weekly newspaper, published at Challis, Idaho, do solemnly swear that the notice hereto attached and made a part hereof, was published in the regular and entire issue of the Challis Messenger for 2 consecutive weeks, commencing with the issue dated FEB. 18 2016 and ending with the issue dated FEB. 25 2016.

Susan Callahan

STATE OF IDAHO

COUNTY OF CUSTER

On this 29th day of FEB. in the year of 2016, before me, a Notary Public,

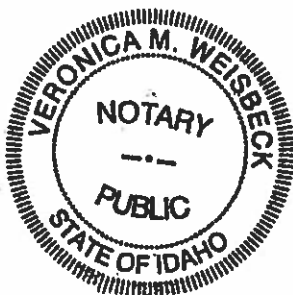
personally appeared SUSAN CALLAHAN, known or identified to me to be the person whose name, subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that he executed the same.

Veronica M. Weisbeck

Notary Public for Idaho

Residing at Challis, Idaho

My commission expires: 1/1/21



IDWR
The following application(s) have been filed to appropriate the public waters of the State of Idaho:
72-16910

HEART-OF-IDAHO ANIMAL SANCTUARY

PO BOX 175

CHALLIS, ID 83226

Point of Diversion SWSW S22 T14N R19E CUSTER County
Source GROUND WATER
Tributary

Use: DOMESTIC 01/01 to 12/31 0.04 CFS

Use: IRRIGATION 04/01 to 10/31 0.2 CFS

Use: STOCKWATER 01/01 to 12/31 0.04 CFS

Total Diversion: 0.24 CFS

Date Filed: 1/14/2016

Place Of Use: DOMESTIC, STOCKWATER

T14N R19E S22 SWSW

Place Of Use: IRRIGATION

T14N R19E S21 SESE

T14N R19E S22 SWSW

Total Acres: 10

Application for permit proposes the diversion of 0.24 cfs of ground water from a proposed well for the irrigation of 10 acres and for domestic and stockwater use at a non-profit animal rescue facility. Place of use and point of diversion will be located approximately 1.1 to 1.3 miles north and 0.8 to 1.0 miles east of the city center of Challis.

This application proposes the diversion and use of water tributary to a federally designated Wild & Scenic River. The decreed

minimum stream flow rights for the federal Wild & Scenic Rivers are subordinate to certain categories of water use and to specific amounts of water use established after the minimum stream flow. The water use proposed in this application will benefit from the subordination provision because it is for domestic and stockwater purposes, and the 0.20 cfs irrigation of 10 acres will be applied to the subordination amounts specified in the decree for the applicable Wild & Scenic River (Salmon River).

Permits will be subject to all prior water rights. For additional information concerning the property location, contact Southern Region office at (208) 736-3033; or, for a full description of the right(s), please see www.idwr.idaho.gov/WaterManagement/WaterRights/#NewListings. Protests may be submitted based on the criteria of Idaho Code § 42-203A. Any protest against the approval of this application must be filed with the Director, Dept. of Water Resources, Southern Region, 650 Addison Ave W, Ste 500, Twin Falls, ID 83301 together with a protest fee of \$25.00 for each application on or before March 7, 2016. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director
Published on February 18 and 25, 2016

✓ OK DM 3/16/2016
RECEIVED

MAR 16 2016

DEPT OF WATER RESOURCES
SOUTHERN REGION

Via E-mail



RECEIVED

FEB 23 2016

DEPT OF WATER RESOURCES
SOUTHERN REGION

IDAHO DEPARTMENT OF FISH AND GAME
SALMON REGION
99 Highway 93 North
Salmon, Idaho 83467

C.L. "Butch" Otter / Governor
Virgil Moore / Director

February 19, 2016

Denise Maline
State of Idaho Department of Water Resources
Southern Region
650 Addison Ave. W
Suite 500
Twin Falls, ID 83301

RE: Water Right Application No. 72-16910 (Idaho Animal Sanctuary)

Dear Denise:

The Idaho Department of Fish and Game (Department) has reviewed the application for permit no. 72-16910 submitted by Heart of Idaho Animal Sanctuary (Applicant). The Application seeks to appropriate 0.24 cfs of public water from a proposed well. The proposed beneficial uses are for animal shelter housing of 20 dogs, 20 cats and 8 horses. Irrigation for 8 acres horse pasture, 2 acre dog run and lawn. Domestic use: 2 bathrooms, dishwasher; washing machine; dog bath and kennel cleaning.

The purpose of these comments is to assist the decision-making authority by providing technical information addressing potential effects on fish and wildlife and their associated habitat and how any adverse effects might be avoided, minimized, or mitigated. It is not the purpose of the Department to support or oppose the water right application. The Department and Idaho Fish and Game Commission are expressly charged with statutory responsibility to preserve, protect, perpetuate, and manage all fish and wildlife in Idaho. I.C. § 36-103(a). In fulfillment of our statutory charge and direction as provided by the Idaho Legislature, we offer the following comments and recommendations.

Based on our findings this water withdrawal should not negatively impact fish or aquatic resources. We appreciate the opportunity to review this application and provide comments. If you need additional assistance, please contact the Region's Environmental Staff Biologist, Jeff Richards at (208) 756-2271.

Sincerely,

Tom Curet
Regional Supervisor

Keeping Idaho's Wildlife Heritage