

State of Idaho
Department of Water Resources
Water Right License

WATER RIGHT NO. 63-32103

Priority: April 20, 2004

Maximum Diversion Rate: 0.73 CFS
Maximum Diversion Volume: 466.0 AF

It is hereby certified that SORRENTO LACTALIS INC
PO BOX 1280
NAMPA ID 83653 has complied with the terms and conditions of the permit,
issued pursuant to Application for Permit dated April 20, 2004; and has submitted Proof of Beneficial Use on
May 28, 2015. An examination confirms water is diverted from:

SOURCE

GROUND WATER

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>
COMMERCIAL	01/01 to 12/31	0.73 CFS	466.0 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER SW¼SW¼ Sec. 8, Twp 03N, Rge 01W, B.M. CANYON County
GROUND WATER SW¼SW¼ Sec. 8, Twp 03N, Rge 01W, B.M. CANYON County

PLACE OF USE: COMMERCIAL

Twp Rge Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
03N 01W 8	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
							X										

CONDITIONS OF APPROVAL

1. Water bearing zone to be appropriated is from 50 to 318 feet.
2. The wells constructed and used as points of diversion for this right shall be no deeper than the blue clay layer located approximately 290 to 318 feet below ground surface.
3. Water diverted and used under this right shall be discharged into the Purdam Gulch Drain.
4. If the right holder cannot continue to discharge all the water diverted under this right into the Purdam Gulch Drain for any reason, the right holder shall cease diverting water under this right until the right holder implements an alternative mitigation plan that has been reviewed and approved by the Department.
5. The right holder shall maintain totalizing measuring devices approved by the Department to measure and record the rate and volume of ground water diverted in connection with this right and the volume of water being released from the commercial facility into Purdam Gulch Drain. The right holder shall measure and record the entire volume of water diverted under this right and the entire volume of water discharged to the Purdam Gulch Drain and shall make the records available to the Department for inspection at any time.

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CONDITIONS OF APPROVAL CONTINUED

6. Use of water under this right shall be non-consumptive.
7. Commercial use is for a cheese making process.

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.

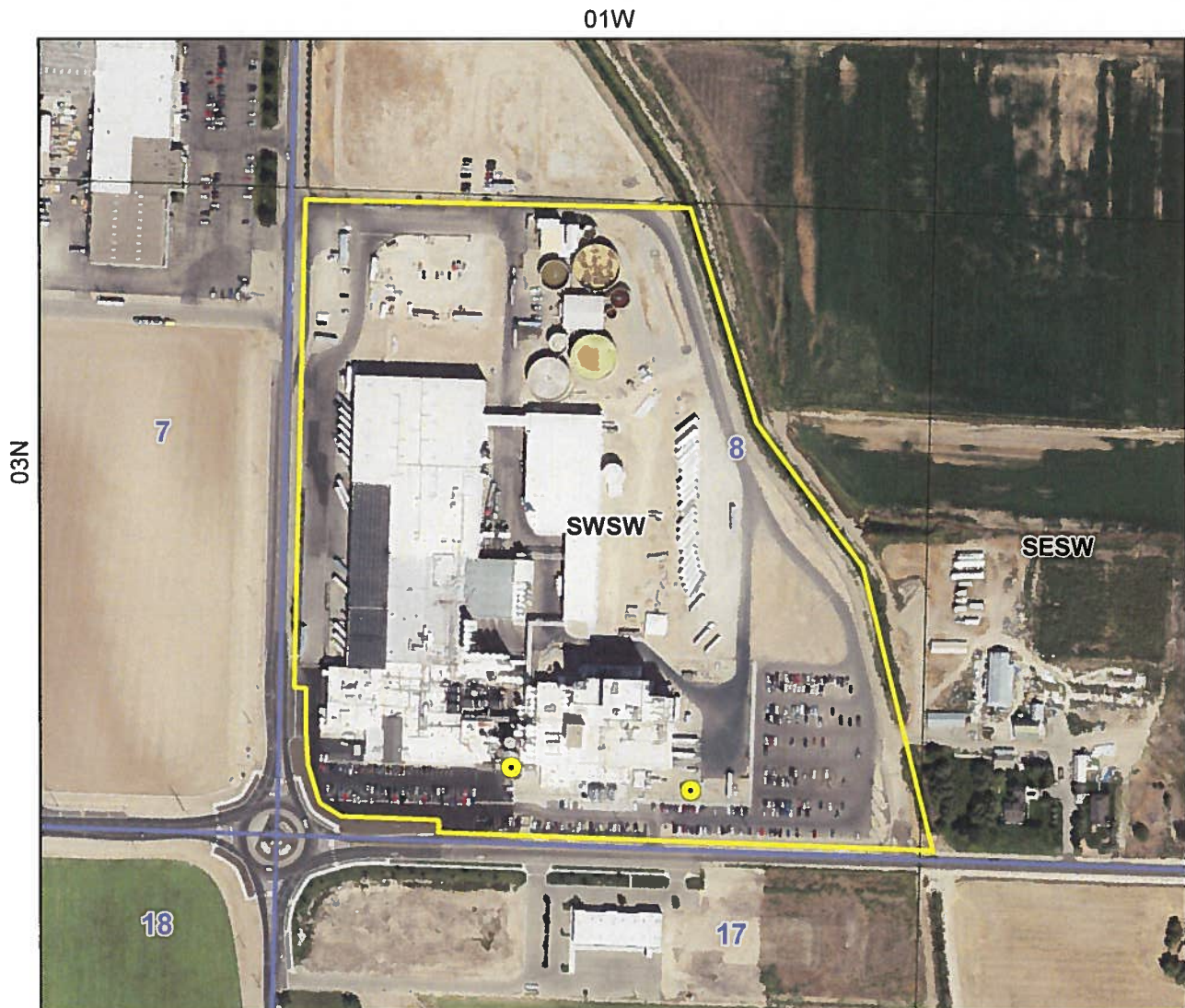
Signed and sealed this 5th day of August, 2015.



for GARY SPACKMAN
Director

State of Idaho
Department of Water Resources
Attachment To Water Right License
63-32103

This map depicts the COMMERCIAL 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
- Quarter Quarters

0 0.045 0.09 0.18 Miles





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

August 6, 2015

SORRENTO LACTALIS INC
PO BOX 1280
NAMPA ID 83653

RE: License No. 63-32103

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 208-287-4951.

Sincerely,

Pamela Skaggs

Water Rights Supervisor

Enclosure(s)

c: SPF WATER ENGINEERING LLC

CERTIFICATE OF SERVICE

I hereby certify that on August 7, 2015, 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.

63-32103

**SORRENTO LACTALIS INC
PO BOX 1280
NAMPA ID 83653**

**SPF WATER ENGINEERING LLC
C/O TERRY SCANLAN
300 E MALLARD DR STE 350
BOISE ID 83706**



**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.

MEMORANDUM

TO: Water Right File 63-32103

FROM: Daniel Nelson – Staff Hydrologist

DATE: July 27, 2015

SUBJECT: Licensing Review of Water Right 63-32103

This field exam was performed by Certified Field Examiner Terry Scanlan of SPF Water Engineering. Mr. Scanlan reported that 1.00cfs and 442.3 af of water were diverted for commercial use. There are a couple of issues that need to be addressed. Each will be addressed below:

Wells and Overlap:

Mr. Scanlan describes 2 wells supplying this permit. The first well is the 1972 well, and the second well is the 2007 well. The two wells are on the south side of the plant with the 1972 well being west of the 2007 well.

The 2007 well was specifically drilled for this permit. The permit had a condition that required this well to be drilled to a depth of 300 feet. The well was actually drilled to a depth of 324 feet and then filled with seal material to 318 feet. The reason given for the increased depth was that the production zone being sought was reached at 298 feet and went to 318 feet. In order to properly seal the well, they needed to continue to drill into the clay layer from 318 feet to 324 feet. Going beyond the 300 feet limitation seems necessary at this point to seal the well casing into the next clay layer. The major issue was to avoid going beyond a blue clay layer that is generally located around 300 feet. They didn't go beyond that blue clay layer, so the well appears to be constructed as needed. The condition limiting the water bearing zone from 50 to 300 feet should be corrected in the license to read 50 to 318 feet.

The only water right overlapping the point of diversion is water right 63-31628. This water right is the original water right for this property and is diverted from both of the existing wells.

Place of Use and Overlap:

Mr. Scanlan provided an excellent map of the place of use that also defines the location of the land application, waste treatment plant, and the cheese factory.

There are number of water rights that overlap this place of use including the City of Nampa, Nampa Meridian Irrigation District, and some small domestic uses on the other side of the road. The only significant overlapping water right is 63-31628.

Diversion Rate:

Please see attached spreadsheet for analysis of flow rate.

Mr. Scanlan provided theoretical calculations on his field report for the flow rates from the two wells. Mr. Scanlan did provide an actual measurement of 2007 well, but used a theoretical measurement for the 1972 well. Mr. Scanlan found diversion rates of 2.88 cfs to 3.05 cfs. However, a measurement is required on this system, so a request was made for the measurement records for this facility. The data in those records suggest that the maximum amount of water diverted into the plant from 2008 to June of 2015, was 2.33 cfs. Therefore, I am recommending a system capacity for these two wells of 2.33 cfs.

Water right 63-31628 already allows a diversion rate of 1.60 cfs from these wells, so I am limiting the diversion rate for licensing of permit 63-32103 to 0.73 cfs (2.33 cfs capacity – 1.60 cfs 63-31628 = 0.73 cfs available for permit 63-32103).

Diversion Volume:

Please see attached spreadsheet for analysis of volume.

Mr. Scanlan provided a table of volumes in the field report that found a high volume use of 842 af diverted from the wells in 2013. However, the information in the measurement records supplied by Mr. Scanlan doesn't support the information he included in the field report. My review of the measurement data suggests that the facility diverted 855 af in 2013 and 866 af in 2014. Without supporting data behind the table that accompanied the field report, I have to rely on the measurement data supplied by Mr. Scanlan. I found the maximum system capacity for this facility was diverted in 2014 at a volume of 866 af. Water right 63-31628 provides 400 af of the volume used in this plant. Therefore, this permit should be limited to a diversion volume of 466 af (866 af maximum use – 400 af 63-31628 = 466 af available for permit 63-32103). A diversion rate of 0.73 cfs can supply an annual volume of 528.5 af, so recommending 466 af for this permit sounds reasonable (0.73 cfs X 365 days X 1.9835 = 528.5 af maximum available volume per diversion rate).

Mitigation:

The right holder was required to divert an equal amount of effluent from this facility into the Purdam Gulch Drain to mitigate for the ground water use under this permit. Mr. Scanlan provided a table showing that 592 to 706 af of effluent has been diverted into the Purdam Gulch Drain each year from 2010 to 2014. The mitigation appears to have been met for this system. I am concerned that the table Mr. Scanlan used to determine the volume is the same table used to show the volume diverted into the Purdam Gulch Drain. However, The difference between Mr. Scanlan's calculations and the measurement data that was supplied was less than 10%. The diversions into Purdam Gulch Slough exceed the volume being diverted from the wells under this permit of 466 af by more than 27% ($[592 - 466] / 466 = 0.27$).

Conditions:

Conditions 1 (26A), 2 (046), 4 (004) and 10 (106) should be removed at licensing. Conditions 6 (027), 7, 8, and 11 should be carried over to licensing. Condition 9 should be updated to language similar to R19, while keeping the focus of the condition on the effluent being diverted into the Purdam Gulch Drain. Even though water right 63-31628 is diverted from the same wells and for the same use, an X35 combined limitation condition is not necessary, since the rates and volumes are additive. I did add condition F06 to show the water rights that diverted from the wells in question. The water bearing zones and depth to the blue clay layer condition was increased to 318 feet in the conditions.

Permit 63-32103 Measured Flows

Diversion Rate Calcs		Comments
0.00	min. cfs rate	done on 2/15/06 and 7/1/11
2.33	max. cfs rate	5 days in 2014 over 2.00 cfs 0.143%
0.84	ave. cfs rate	
0.79	median cfs rate	
1.15	ave. cfs rate 1/1/14 to 6/30/14	
0.86	ave. cfs rate 1/1/15 to 6/30/15	

Year	Meter Reading in MGY	Acre Feet	Yearly Average cfs
2005	129.9279	398.7353	0.55
2006	159.0307	488.0487	0.67
2007	160.3463	492.0862	0.68
2008	176.8016	542.5857	0.75
2009	180.2026	553.0232	0.76
2011	187.9560	576.8176	0.80
2012	228.7772	702.0935	0.97
2013	278.8888	855.8809	1.18
2014	282.2152	866.0892	1.20
1/12014 to 6/30/2014	142.8448	438.3758	1.22
1/12015 to 6/30/2015	100.2168	307.555	0.86

The applicant supplied meter readings for the processing plant from 2005 to 2014 or 3,539 days of data. From the data, it appears as though the maximum diversion rate diverted into the plant was 2.33 cfs diverted in December of 2014. I also found that the system diverted over 2.00 cfs 5 times or approximately 0.1413% with all of the over 2.00 cfs diversion rates being in 2014. The system diverted 1.50 cfs to 2.00 cfs 49 days or 1.38% of the time, and the system diverted 1.00 cfs to 1.50 cfs 756 days or 21.36 % of the time. According to the data, the plant didn't divert more than 1.00 cfs until May of 2008.

2014 seems to be the highest water use year. The average diversion rate in 2014 was 1.16 cfs. We received partial data from 1/1/2015 to 6/30/2015. I averaged the data for 2014 and 2015 for these months and found that in 2014 the average diversion rate was 1.51 cfs and in 2015 the average diversion rate was 0.86 cfs for January through June. Therefore, I feel we should use the 2014 data as standard for maximum capacity. I recommend a maximum diversion capacity going to the plant of 2.33 cfs.

The maximum volume was also diverted in 2014 with a total volume of 866 af. I also compared the 2014 data to the limited data we had in 2015. I found that 142.8 af was diverted for January and June in 2014, and 100.2 af was diverted for January and June in 2015. Once again, it appears the plant was operating at maximum capacity in 2014, so limiting the maximum system annual volume of 866 af does seem reasonable.

The above information doesn't match the numbers supplied by the consultant, but they are reasonably close. The consultant used theoretical calculations for the diversion rate, and this is an actual measurement. The volumes I found also don't match the volumes supplied by the consultant, but it appears to be a rounding error.