

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 63-34002

Priority: October 22, 2014

Maximum Diversion Volume: 238.5 AF

This is to certify, that BANBURY MEADOWS LLC
C/O BRIAN HOFF
1840 N LAKES AVE
MERIDIAN ID 83642

has applied for a permit to appropriate water from:

Source: GROUND WATER**Tributary:** BOISE RIVER

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>
AESTHETIC STORAGE	01/01 to 12/31		238.5 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER SW1/4NW1/4 Sec. 20, Twp 04N, Rge 01E, B.M., ADA County
GROUND WATER L6 (SE1/4NW1/4) Sec. 20, Twp 04N, Rge 01E, B.M., ADA County
GROUND WATER NE1/4SE1/4 Sec. 20, Twp 04N, Rge 01E, B.M., ADA County
GROUND WATER L1 (NE1/4NE1/4) Sec. 19, Twp 04N, Rge 01E, B.M., ADA County
GROUND WATER L1 (NE1/4NE1/4) Sec. 19, Twp 04N, Rge 01E, B.M., ADA County
GROUND WATER L7 (SW1/4NE1/4) Sec. 20, Twp 04N, Rge 01E, B.M., ADA County
GROUND WATER NE1/4SE1/4 Sec. 20, Twp 04N, Rge 01E, B.M., ADA County

PLACE OF USE: AESTHETIC STORAGE

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N 01E 19	X			X													
	L 1																
04N 01E 20			X			X	X	X					X	X			
			L 7			L 5		L 6									

CONDITIONS OF APPROVAL

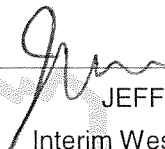
1. Proof of application of water to beneficial use shall be submitted on or before **June 01, 2016**.
2. Subject to all prior water rights.
3. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 63.
4. Mitigation for consumptive use of water under this right shall be provided by Rights 63-192, 63-19425 and 63-216C as approved by Transfer 79654.
5. If the specified mitigation rights are not deliverable due to a shortage of water or a priority call, then the amount of water authorized for diversion under this permit shall be reduced by the same proportion as the reduction to the mitigation rights.

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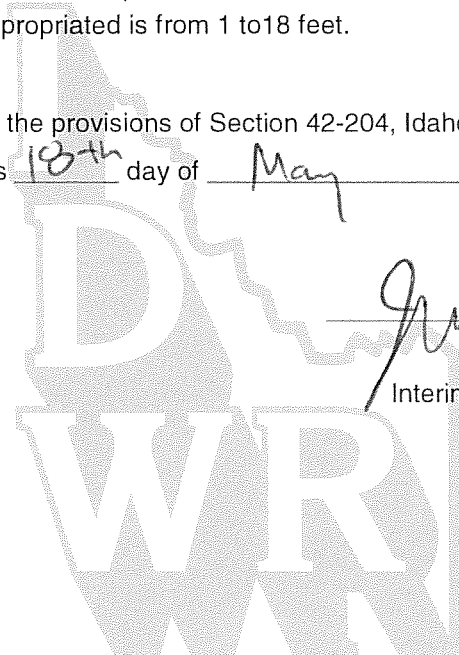
CONDITIONS OF APPROVAL

6. Noncompliance with any condition of this right, including the requirement for mitigation, is cause for the director to issue a notice of violation, cancel or revoke the right, or, if the right is included in a water district, request that the watermaster curtail diversion and use of water.
7. The seven (7) ponds established by the storage of water under this right and Rt. 63-31690 shall not exceed a total capacity of 297 acre-feet or a total surface area of 16.5 acres.
8. Water stored under this right is subject to fluctuations of the water table caused by changes in the flow of local streams and by diversions under prior ground water rights. This right does not guarantee the maintenance of any particular ground water level.
9. Aesthetic storage use is for excavated ponds.
10. Water bearing zone to be appropriated is from 1 to 18 feet.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 18th day of May, 2015.



JEFF PEPPERSACK
Interim Western Region Manager





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

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

May 19, 2015

BANBURY MEADOWS LLC
C/O BRIAN HOFF
1840 N LAKES AVE
MERIDIAN ID 83642

RE: Permit No.63-34002

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.

Enclosed is a form entitled 'Instructions for Proof of Beneficial Use.' Please read the instructions carefully since you must take further action to develop this permit into a licensed water right. Also enclosed is a form entitled 'Proof of Beneficial Use.' If your project is already completed, you should complete and submit this form immediately.

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,

Rachel Neely

For:

Jeff Peppersack
Interim Manager, Western Region

Enclosures

CERTIFICATE OF SERVICE

I hereby certify that on May 19, 2015 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.

63-34002

**BANBURY MEADOWS LLC
C/O BRIAN HOFF
1840 N LAKES AVE
MERIDIAN ID 83642**

A handwritten signature in black ink, appearing to read 'Rachel Neely', is written over a horizontal line.

**Rachel Neely
Administrative Assistant I**

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.



State of Idaho

DEPARTMENT OF WATER RESOURCES

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C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

May 19, 2015

REX BARRIE
WATER DISTRICT #63
PO BOX 767
10769 W STATE ST
STAR ID 83669-0767

RE: Application for Permit No's. 63-34002

Dear Rex Barrie:

I have attached a permit approval for your convenience. This was sent to the applicants and to other interested parties on May 19, 2015.

Let me know if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Rachel Neely', is written over a large, light-colored oval shape.

Rachel Neely
Administrative Assistant I
Western Regional Office

Enclosures

LEGAL PROOF OF PUBLICATION

Account #	Ad Number	Identification	PO	Amount	Cols	Lines
263978	0001623610	LEGAL NOTICE The following applications	LARSON	\$277.93	1	181

Attention: RACHEL SOMMERIDAHO DEPT WATER RESOURCE/ WEST
2735 AIRPORT WAY
BOISE, ID 837055082**RECEIVED****MAR 30 2015****WATER RESOURCES
WESTERN REGION****LEGAL NOTICE**

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

63-33977

ANDREA LARSON
KYLE LARSON
1860 S CANONERO WAY
BOISE, ID 83709
Point of Diversion SENW S22
T03N R01E ADA County Source
GROUND WATER
Use: AESTHETIC STORAGE
01/01 to 12/31 0.3 AF
Use: DIVERSION TO STORAGE
01/01 to 12/31 0.13 CFS
Use: IRRIGATION 03/01 to 11/15
0.13 CFS
Use: STOCKWATER STORAGE
01/01 to 12/31 0.1 AF
Total Diversion: 0.13 CFS
Date Filed: 8/8/2014
Place of Use: AESTHETIC STORAGE, IRRIGATION, STOCKWATER STORAGE
T03N R01E S22 NENW SENW
Total Acres: 4.2
Water bearing zone to be appropriated is from 150-160 feet.

63-34002

BANBURY MEADOWS LLC
C/O BRIAN HOFF
1840 N LAKES AVE
MERIDIAN, ID 83642
Points of Diversion SWNW NESE
NESE L6(SENW) L7(SWNE) S20
T04N R01E ADA County Source
GROUND WATER
(2)Points of Diversion L1(NENE)
S19 T04N R01E ADA County
Source GROUND WATER
Use: AESTHETIC STORAGE
01/01 to 12/31 238.5 AF
Total Diversion: 238.5 AF
Date Filed: 10/22/2014
Place of Use: AESTHETIC STORAGE
T04N R01E S19 L1(NENE)
SENE
T04N R01E S20 L7(SWNE)
L5(NWNW) SWNW L6(SENW)
NESE NWSE
Water bearing zone to be appropriated is from 1 to 18 feet.

63-34005

M & C STANLEY LLC
2224 N RAM AVE
EAGLE, ID 83616
Point of Diversion NENW S35
T05N R01E ADA County Source
GROUND WATER
Use: IRRIGATION 03/01 to 11/15
0.2 CFS
Total Diversion: 0.2 CFS
Date Filed: 10/31/2014
Place of Use: IRRIGATION
T05N R01E S35 NW(ALL)
NESW NWSW
Total Acres: 132
Water bearing zone to be appropriated is from 200 to 500 feet. Applicant proposes irrigation of 20 acres within place of use.

63-34033

SCS BRIGHTON, LLC
12601 WEST EXPLORER DRIVE,
SUITE 200
BOISE, ID 83713
Points of Diversion NWSW NESW
S14 T03N R01W ADA County
Source GROUND WATER
Use: IRRIGATION 03/01 to 11/15
0.76 CFS
Total Diversion: 0.76 CFS

JANICE HILDRETH, being duly sworn, deposes and says: That she is the Principal Clerk of The Idaho Statesman, a daily newspaper printed and published at Boise, Ada County, State of Idaho, and having a general circulation therein, and which said newspaper has been continuously and uninterruptedly published in said County during a period of twelve consecutive months prior to the first publication of the notice, a copy of which is attached hereto: that said notice was published in The Idaho Statesman, in conformity with Section 60-108, Idaho Code, as amended, for:

2 InsertionsBeginning issue of: 03/19/2015Ending issue of: 03/26/2015

Janice Hildreth
(Legals Clerk)

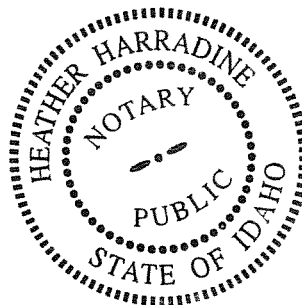
STATE OF IDAHO)

.SS

COUNTY OF ADA)

On this 26th day of March in the year of 2015 before me, a Notary Public, personally appeared before me Janice Hildreth known or identified to me to be the person whose name subscribed to the within instrument, and being by first duly sworn, declared that the statements therein are true, and acknowledged to me that she executed the same.

Heather Harradine
Notary Public FOR Idaho
Residing at: Boise, Idaho

My Commission expires: 2/11/2021

Date Filed: 1/27/2015
Place of Use: IRRIGATION
T03N R01W S14 NESW NWSW
Total Acres: 76
Water bearing zone to be appropriated is from 50 to 300 feet. Applicant proposes irrigating 38 acres. Applicant proposes using a single well in either location.

63-34034

CITY OF MERIDIAN
33 E BROADWAY STE 206
MERIDIAN, ID 83642
Point of Diversion L4(SWSW) S7
T03N R01E ADA County Source
GROUND WATER Tributary
NINEMILE CREEK
Use: IRRIGATION 03/01 to 11/15
0.9 CFS
Total Diversion: 0.9 CFS
Date Filed: 1/29/2015
Place of Use: IRRIGATION
T03N R01E S18 NENW
L1(NWNW) SENW
Total Acres: 19
Water bearing zone to be appropriated is from 1 to 80 feet. Applicant proposes supplemental irrigation of 16 acres within the proposed place of use.

PROPOSED CHANGE OF WATER RIGHTS

Warm Springs Ditch Co. of 1840 N. Lakes Ave., Meridian, ID, 83646, filed Application No. 79654 to transfer three water rights with 1876 to 1889 priority dates from the Boise River totaling 7.76 cfs. The purpose of the transfer is to change the nature of use for 3.5 acres, 0.07 cfs and 10.2 af to aesthetic storage and diversion to storage uses. The proposed change will mitigate for evaporative losses from the ponds in Banbury Meadows. An application for permit 63-34002 was filed for the Banbury pond system. Water will be used in the Warm Springs Ditch Co. service area in the Banbury Meadows subdivision located south of W. Colchester Drive, west of N. Locust Grove Road and east of S. Eagle Road.

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 rights &/or proposed transfer, please see www.idwr.idaho.gov/WaterManagement/WaterRights/#NewListings. Protests may be submitted based on the criteria of Sec 42-222 and 42-203A, Idaho Code. Any protest against the approval of this 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 4/6/2015. The protestant must also send a copy of the protest to the applicant.
GARY SPACKMAN, Director

Pub. Mar. 19, 26, 2015

0001623610-01

RECEIVED

MAR 30 2015

WATER RESOURCES
WESTERN REGION

OK
4-8-15

PS.