

State of Idaho
 Department of Water Resources
Permit to Appropriate Water

NO. 63-33958

Priority: June 18, 2014

Maximum Diversion Rate: 4.44 CFS

This is to certify, that A J P FARMS INC
 23546 HARTLEY LN
 MIDDLETON ID 83644

And

GREG S PAYNE
 24295 FARMWAY RD
 CALDWELL ID 83607

have 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	4.44 CFS

LOCATION OF POINTS OF DIVERSION:

GROUND WATER	L2 (SW1/4SE1/4)	Sec. 32, Twp 05N, Rge 03W, B.M., CANYON County
GROUND WATER	L1 (NE1/4NE1/4)	Sec. 5, Twp 04N, Rge 03W, 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	
04N 03W 5	39.0	40.0		4.0	40.0												123.0
	L 1	L 2			L 3												
05N 03W 32													17.0	20.0	33.0	37.0	107.0
														L 2	L 1		

Total Acres: 230

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **March 01, 2020**.
2. Subject to all prior water rights.
3. 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.
4. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
5. 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 1035.0 af at the field headgate for the place of use.

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6. For each irrigation season, diversion and use of water under this right shall either be supplemental to the diversion and use of surface water to irrigate the place of use, or it shall be the sole, primary source of water to irrigate the place of use, depending on specific crop requirements. The right holder shall keep records to justify primary or supplemental use of water pursuant to this water right for each irrigation season. The right holder shall provide the records to the Department upon notification.
7. When this right is used for supplemental irrigation, the right holder shall make full beneficial use of all surface water rights 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 the surface water supply is not reasonably sufficient to irrigate the place of use authorized under this right.
8. If the surface water right(s) appurtenant to the place of use 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), this right to divert ground water shall not be used on the land with an appurtenant surface water right(s) without an approved transfer pursuant to Section 42-222, Idaho Code, or approval of the Department if a transfer is not required.
9. The right holder shall pay all assessments levied by Black Canyon Irrigation District, to maintain the right to receive surface water to irrigate the place of use authorized for this right.
10. 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.
11. 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.
12. 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. Witness the signature of the Director, affixed at Boise, this 11th day of February, 2015.



STEVE LESTER

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

February 13, 2015

A J P FARMS INC
23546 HARTLEY LN
MIDDLETON ID 83644

GREG S PAYNE
24295 FARMWAY RD
CALDWELL ID 83607

RE: Permit No.63-33958

Permit Approval Notice

Dear Permit Holders:

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 cursive script that reads "Rachel Sumner".

for:
Steve Lester
Interim Western Region Manager

Enclosures

CERTIFICATE OF SERVICE

I hereby certify that on February 13, 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. 63-33958

**GREG S PAYNE
24295 FARMWAY RD
CALDWELL ID 83607**

**A J P FARMS INC
23546 HARTLEY LN
MIDDLETON ID 83644**

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



**Rachel Sommer
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.

RECEIVED

DEC 15 2014

WATER RESOURCES
WESTERN REGION

29512 1205131

1 IDAHO DEPT. OF WATER RESOURCES

WESTERN REGION
2735 AIRPORT WAY
BOISE ID 83705

AFFIDAVIT OF PUBLICATION
STATE OF IDAHO

County of Canyon

)
)SS.
)

Tiffany Patchett
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 daiiy 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:
12/04/2014 12/11/2014

Linda Spencer

STATE OF IDAHO)
County of Canyon)

On this 11th day of December in the year of 2014 before me a Notary Public, personally appeared. Tiffany Patchett, 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.

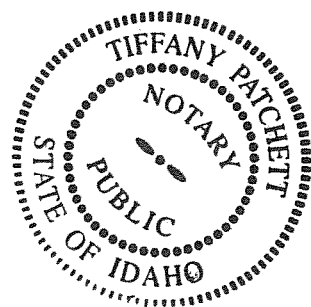
[Signature]

Notary Public for Idaho
Residing at Canyon County
My Commission expires 09/12/2018

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DEC 15 2014

WATER RESOURCES
WESTERN REGION



LEGAL NOTICE

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

✓ **63-33910**

BID LLC
950 W BANNOCK ST STE 1050
BOISE, ID 83702
Point of Diversion L4(SWNW) S26 T05N R05W CANYON
County Source BOISE RIVER Tributary SNAKE RIVER
Use: DIVERSION TO STORAGE, RECREATION, WILDLIFE
09/01 to 02/28 4.5 CFS
Use: RECREATION STORAGE, WILDLIFE STORAGE 09/01
to 02/28 15 AF
Total Diversion: 4.5 CFS
Date Filed: 2/3/2014
Place of Use: RECREATION, RECREATION STORAGE,
WILDLIFE, WILDLIFE STORAGE
T05N R05W S26 L4(NWNW) L4(SWNW)

✓ **63-33957**

A J P FARMS INC
23546 HARTLEY LN
MIDDLETON, ID 83644
Point of Diversion SENE S11 T04N R03W CANYON County
Source GROUND WATER
Point of Diversion SENW S12 T04N R03W CANYON County
Source GROUND WATER
Use: IRRIGATION 03/01 to 11/15 5 CFS
Total Diversion: 5 CFS
Date Filed: 6/18/2014
Place of Use: IRRIGATION
T04N R03W S11 SWNE SENE NENW SWNW SENW L3
(NESW) L4(NWSW) L1(NESE) L2(NWSE)
T04N R03W S12 SWNW SENW L3(NESW) L4(NWSW)
Total Acres: 250
Water bearing zone to be appropriated is from 20 to 180 feet.

✓ **63-33958**

A J P FARMS INC
23546 HARTLEY LN
MIDDLETON, ID 83644
GREG S PAYNE
24295 FARMWAY RD
CALDWELL, ID 83607
Point of Diversion L1(NENE) S5 T04N R03W CANYON
County Source GROUND WATER
Point of Diversion L2(SWSE) S32 T05N R03W CANYON
County Source GROUND WATER
Use: IRRIGATION 03/01 to 11/15 4.44 CFS
Total Diversion: 4.44 CFS
Date Filed: 6/18/2014
Place of Use: IRRIGATION
T04N R03W S5 L1(NENE) L2(NWNE) SENE L3(NENW)
T05N R03W S32 NESE NWSE L2(SWSE) L1(SESE)
Total Acres: 230
Water bearing zone to be appropriated is from 20 to 150 feet.

✓ **63-33960**

HIGHLAND LIVESTOCK & LAND CO LTD
PO BOX 488
EMMETT, ID 83617
Point of Diversion L3(NENW) S6 T05N R04W CANYON
County Source GROUND WATER
Use: IRRIGATION 03/01 to 11/15 1.8 CFS
Total Diversion: 1.8 CFS
Date Filed: 6/10/2014
Place of Use: IRRIGATION
T05N R04W S6 L3(NENW) L4(NWNW) L5(SWNW) SENW
Total Acres: 102
Water bearing zone to be appropriated is from 50 to 500 feet.

✓ **63-33995**

VALLIVUE SCHOOL DISTRICT #139
5207 S MONTANA
CALDWELL, ID 83607
(3) Points of Diversion SESW S35 T04N R04W CANYON
County Source GROUND WATER
Use: IRRIGATION 03/01 to 11/15 0.84 CFS
Total Diversion: 0.84 CFS
Date Filed: 10/9/2014
Place of Use: IRRIGATION
T04N R04W S35 SESW
Total Acres: 14
Water bearing zone to be appropriated is from 80 to 435 feet.
Place of use aka West Canyon Elementary School located at
19548 Ustick Rd, Caldwell, ID.

✓ **63-34003**

RICHARD J LUTHER
KAREN LUTHER
4901 HEMLOCK WAY
NAMPA, ID 83687
(2) Points of Diversion SWNW S8 T03N R01W CANYON
County Source GROUND WATER
Use: IRRIGATION 03/01 to 11/15 0.04 CFS
Total Diversion: 0.04 CFS
Date Filed: 10/22/2014
Place of Use: IRRIGATION
T03N R01W S8 SWNW
Total Acres: 1.4
Water bearing zone to be appropriated is from 18 to 145 feet.

✓ **EXTENSION OF TIME TO AVOID
FORFEITURE OF WATER RIGHT**

Dorel and Ligia Antimie of 844 W Heather Woods Dr, Nampa, ID 83686 filed an Application proposing an Extension of Time to Avoid Forfeiture for Water Right No. 63-32058 with a 1967 priority from ground water totaling 0.08 cfs. The applicants do not know the year the right was last used. The right serves property located in the Salmon Ridge Subdivision, southeast of the intersection of Farner Road and Lewis Lane in Nampa. The applicants requests the extension of time because they recently purchased the property, are currently building a home, and need additional time to install the irrigation system.

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, please see www.idwr.idaho.gov/apps/ExtSearch/WRFiling.asp. For specific details of the extension see this link www.idwr.idaho.gov/apps/ExtSearch/SearchWRAJ.asp using right no 63-32058. Protests may be submitted based on the criteria of Sec 42-203A and 42-222, 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 12/22/2014. The protestant must also send a copy of the protest to the applicant.
GARY SPACKMAN, Director

December 04, 11, 2014

1205131

OK
1-6-15
Rf.

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**WATER RESOURCES
WESTERN REGION**

