

State of Idaho
Department of Water Resources
Amendment of Permit

NO. 63-33744

Priority: February 12, 2013

Maximum Diversion Rate: 0.32 CFS

This is to certify, that BERANNA DAIRY
9166 PERCH RD
CALDWELL ID 83607

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>
IRRIGATION	03/01 to 11/15	0.30 CFS
STOCKWATER	01/01 to 12/31	0.02 CFS

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER SE1/4SE1/4 Sec. 9, Twp 02N, 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	
02N	03W	9				15.0													15.0

Total Acres: 15

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	
02N	03W	9				X													

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **April 01, 2019**.
2. Subject to all prior water rights.
3. 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.
4. The right holder shall install a measuring device acceptable to the Department at the point of diversion authorized under this right. The measuring device shall be capable of displaying diversion flow rate and totalized volume measurement. The right holder shall record the flow rate and volume measurements monthly for any calendar year in which water is diverted and used in connection with this right until proof of beneficial use is filed. The records shall be made available to the Department upon request. An alternative measuring device and/or conduit/ditch method proposed by the right holder may be considered by the Department for a right not exceeding 1.00 cfs and/or 50 acres of irrigation.

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5. The point of diversion (well) authorized for this right shall include a measuring device or other suitable method to allow measurement of the static water level in the well. Water level measurements shall be made monthly throughout the year from the beginning of the diversion and use of water in connection with this right until proof of beneficial use is filed. The records shall be made available to the Department upon request.
6. Proof of application of water to beneficial use shall be submitted no sooner than April 1, 2018, and no later than April 1, 2019. A report with no less than 4 years of diversion measurement and aquifer level water monitoring data shall be submitted in connection with filing proof of beneficial use. Submittal of a proof of beneficial use statement without the required report will not be accepted by the Department and may result in cancellation of the permit.
7. Prior to submitting proof of beneficial use, the right holder shall not assign ownership of the permit to another individual, corporation, partnership, or association without prior approval of the Department.
8. Failure of the right holder to comply with any condition of approval is cause for the Director to cancel the permit.
9. If the Department determines based on credible evidence, measurement reports, area data or otherwise that diversion and use of groundwater under this right is causing material injury to any senior water right(s), the Department may order the diversion reduced, the diversion curtailed, or the right holder provide adequate mitigation to remedy the injury.
10. 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.
11. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of 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.
13. This right does not grant any right-of-way or easement across the land of another.
14. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the place of use.
15. Stockwater use is for 15 range cattle.

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 November, 2019.



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

November 20, 2014

BERANNA DAIRY
9166 PERCH RD
CALDWELL ID 83607

RE: Permit No.63-33744

Amendment of Permit Approval Notice

Dear Permit Holder:

The Department of Water Resources has issued the enclosed Amendment of 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.

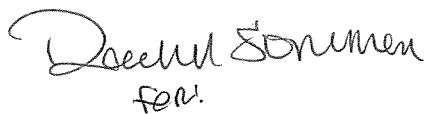
The Department will send you a 'Proof Due Notice' approximately 60 days prior to the above referenced date requesting you to file either a Proof of Beneficial Use form or a Request for Extension of Time form.

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 black ink that reads "Steve Lester" with a stylized flourish at the end.

Steve Lester
Interim Western Region Manager

Enclosures

CERTIFICATE OF SERVICE

I hereby certify that on November 20, 2014 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.

63-33744

**BERANNA DAIRY
9166 PERCH RD
CALDWELL ID 83607**

A handwritten signature in cursive script, reading "Rachel Sommer", is written over a horizontal line.

**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.

MEMORANDUM

TO: 63-33744

FROM: Kay Walker 

RE: Review of Amendment Application

Date: October 28, 2014

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This application was filed to change the point of diversion identified on this permit. The permit was issued on April 8, 2014, with conditions for the South Canyon County Ground Water Area. I notified the new permit holder of the requirements on permit when I sent acknowledgment of assignment and request for additional information for amendment application on 10/21/2014.

Pursuant to overlap review of proposed point of diversion I found one permit and one license on the well that is proposed to be used. The overlapping License is 63-11615 and the permit is 63-11865. Permit 63-11865 is for supplemental use. The license does not appear to be for supplemental use. The well was drilled in 1992 per review of the well log.

Permit 63-33744 is for irrigation of 15 acres and stockwater uses. There does not appear to be any overlapping water rights on this 15 acres. Recommend approval.



State of Idaho

DEPARTMENT OF WATER RESOURCES

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C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

October 21, 2014

BERANNA DAIRY
9166 PERCH RD
CALDWELL ID 83607

RE: Permit No. 63-33744

Gentlemen:

We are in receipt of the assignment of permit and application for amendment of permit forms that you submitted to our office. We have processed the assignment form and have included a proof report of the permit, showing you as the current owner, for your information. Please be advised that this permit was issued with many conditions of approval due to the location of the proposal. You, as the new permit holders, are required to comply with the conditions as listed on the enclosed report.

In review of the application for amendment form, it is noticed that you did not sign the form on page 2 where required. We are returning the form to you to complete this action. The form should be signed by someone in your organization that is authorized to sign for Beranna Dairy, along with their title in the corporation. You should also check the box on item 3 if there is no change in the place of use intended.

Please complete the above items and return the form to this office for processing. If you have any questions or concerns regarding this matter, please feel free to contact our office.

Sincerely,

A handwritten signature in black ink that reads "Kay Walker".

KAY WALKER
Sr. Water Resource Agent

Enclosures

Proof report 63-33744
Amendment Application