

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 63-33888

Priority: January 03, 2014

Maximum Diversion Rate: 0.67 CFS

This is to certify, that CITY OF IDAHO CITY
PO BOX 130
IDAHO CITY ID 83631

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>
MUNICIPAL	01/01 to 12/31	0.67 CFS

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER	SW1/4SW1/4	Sec. 26, Twp 06N, Rge 05E, B.M.	BOISE County
GROUND WATER	SW1/4SW1/4	Sec. 26, Twp 06N, Rge 05E, B.M.	BOISE County

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **November 01, 2019**.
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. Place of use is within the service area of the City of Idaho City municipal water supply system as provided for under Idaho Law.
5. A map depicting the place of use boundary for this water right at the time of this approval is attached to this document for illustrative purposes.
6. 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.
7. The right holder shall not provide water diverted under this right for the irrigation of land having appurtenant surface water rights as a primary source of irrigation water except when the surface water rights are not available for use. This condition applies to all land with appurtenant surface water rights, including land converted from irrigated agricultural use to other land uses but still requiring water to irrigate lawns and landscaping.
8. The water bearing zone to be appropriated under this right shall not begin less than 201 feet below land surface.
9. Diversion and use of water with a temperature greater than 85 degrees Fahrenheit is not authorized under this right.
10. To prevent injury to prior water rights, the wells used as points of diversion for this right shall be constructed and maintained with unperforated casing and a full length annular seal consisting of approved seal material extending from land surface to a confining layer located 200 feet or more below ground surface.

State of Idaho
Department of Water Resources

Permit to Appropriate Water

NO. 63-33888

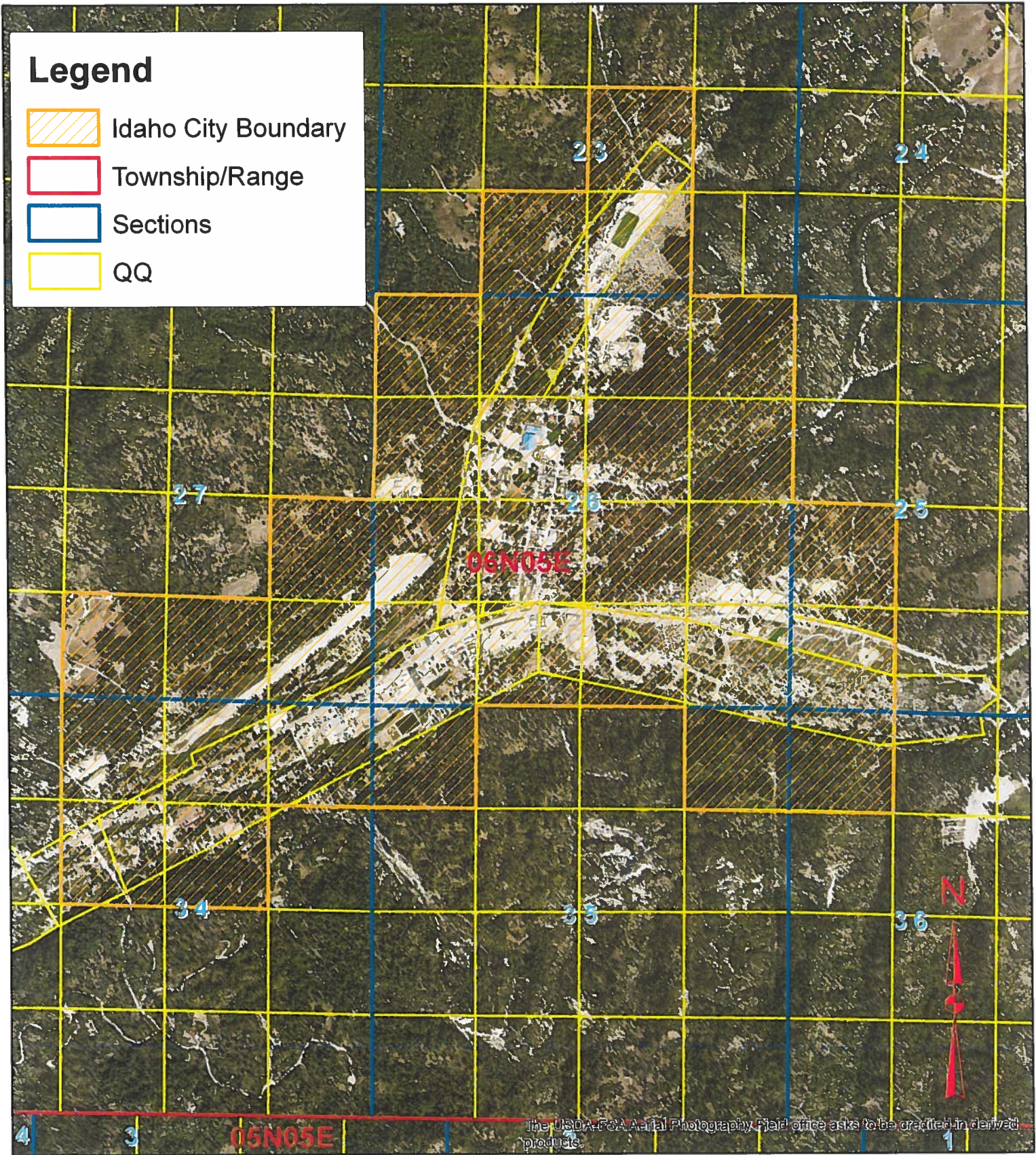
11. This right authorizes 0.67 cfs for reasonably anticipated future needs for a planning horizon that ends on December 31, 2029, within the service area pursuant to Chapter 2, Title 42, Idaho Code.
12. A water diversion and distribution system designed and constructed to satisfy requirements for fire protection above the peak municipal demand requirements shall not be considered part of the municipal beneficial use for water right licensing purposes. Similarly, additional wells and pumps designed and constructed as part of the water diversion system and used to satisfy requirements for redundant ground water supply do not constitute an additional increment of municipal beneficial use.
13. Rights 63-2627 and 63-33888 when combined shall not exceed a total diversion rate of 0.87 cfs.
14. Proof of application of water to beneficial use shall be submitted no sooner than April 1, 2019, and received no later than the beneficial use due date of November 1, 2019.
15. The full system capacity necessary to provide water for the reasonably anticipated future needs authorized under this right must be constructed by the date the permit holder submits proof of application of water to beneficial use.
16. Included with the proof of application of water to beneficial use, the permit holder shall submit to the Department the following material: an updated summary of all other water rights belonging to the permit holder, a revised description of the service area, a revised planning horizon, and a revised analysis of reasonably anticipated future needs, including a gap analysis comparing the revised water right summary to the revised reasonably anticipated future need. Proof of beneficial use shall be deemed incomplete and returned to the permit holder if all material required by this condition is not provided.
17. When submitting a proof of beneficial use statement for this permit, the permit holder shall also submit a Beneficial Use Field Report prepared by a certified water right examiner. The report must clearly confirm and establish the extent of the beneficial use of water established in connection with the permit during the time authorized by the permit and any extensions of time previously approved. The report shall be on the form or forms specified by the director and shall provide the information specified in Section 42-217, Idaho Code, and the department's Beneficial Use Examination Rules (IDAPA 37.03.02) for confirming beneficial use and such other information as may be required by the director. Proof of beneficial use shall be deemed incomplete and returned to the permit holder if the proof of beneficial use statement that is not accompanied by this report.
18. The right holder shall not assign or sell the permit without first securing the written approval of the Department of Water Resources.
19. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
20. This right does not grant any right-of-way or easement across the land of another.
21. 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 30th day of October, 2019.



Steve Lester
Interim Western Region Manager

Service Area Boundary City of Idaho City Permit No. 63-33888



0 0.15 0.3 0.6 Miles



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 4, 2014

CITY OF IDAHO CITY
PO BOX 130
IDAHO CITY ID 83631

RE: Permit No.63-33888

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)334-2190.

Sincerely,



Rachel Sommer
for.

Steve Lester
Interim Western Region Manager

Enclosures

CERTIFICATE OF SERVICE

I hereby certify that on November 4, 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. 63-33888

**CITY OF IDAHO CITY
PO BOX 130
IDAHO CITY ID 83631**

**PHARMER ENGINEERING
C/O JOSH REED
1998 W JUDITH LN
BOISE ID 83705**



**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: File

FROM: Rick Collingwood *RC*

DATE: 9-26-14

RE: 63-33888 Idaho City RAFN Application Meeting

On September 26, 2014, a meeting was held to review the documents and data submitted by Pharmer Engineering, LLC, City Engineer for the City of Idaho City, as requested by the Department for RAFN Application 63-33888. Meeting attendee's were Jeff Peppersack, Shelly Keen, and Ashley Newbry from the State Office, and Steve Lester and Rick Collingwood from the Western Region Office.

Service Area:

A map delineating the corporate city limits for Idaho City was submitted as requested. Although the service area map and the corporate city limits map did not match, it was determined that the corporate city limits is located within the designated service area.

One concern was with the city population growth within the 15-year planning horizon, does there exist adequate private land adjacent to the corporate city limits in which the City could grow. The City is surrounded by BLM and USFS land. Ownership maps were generated to determine if there was adequate private land adjacent to the corporate city limits for growth. A substantial amount of private land exists to north and east of the corporate city limits. Based on this information, it was determined that the service area map submitting with the application was acceptable.

Planning Horizon:

The planning horizon established by the City in the Drinking Water Facilities Plan designates a 20-year planning horizon beginning in 2009 and ending in 2029. The City's RAFN application was not submitted until January, 2014. By submitting the application in 2014, the 20-year planning horizon would end in 2034. In order to grant a 20-year planning horizon which would end in 2034, the City would be required to submit and amended Drinking Water Facilities Plan to DEQ for approval, and conduct public hearings. The amended Drinking Water Facilities Plan would likely not be approved until the Spring of 2015. Issuance of the permit in 2015 does not meet the City's desire to drill the wells this fall, and placement of the wells in service in 2015.

In earlier discussions with Pharmer Engineering, LLC, regarding the planning horizon discrepancy, the Department was informed that a 15-year planning horizon is acceptable to the City. Due to the City's time constraints, it was determined that planning horizon for the City of Idaho City's RAFN application would be acceptable.

Water Demand:

Based on water demand calculations prepared by the Department, it was determined that based on an unaccounted for water (UAW) of 10%, the maximum combined diversion rate between the current 0.36 cfs surface water right from Elk Creek, and the proposed 0.67 cfs of ground water would be 0.87 cfs. The final licensing diversion rate at the end of the planning horizon will be dependent upon the City's UAW. The calculated maximum combined diversion rate of 0.87 cfs was accepted.

Unaccounted for Water (UAW):

In lieu of placing a condition on the permit, it was agreed upon to issue a cover letter to address the UAW at the end of the planning horizon. At that time, if the City has failed to attain the 10% UAW threshold established by the Department, the Department would issue a license with a reduced diversion rate. The amount of the reduction of the water right diversion rate will be determined prior to issuance of the cover letter.

Redundancy and Fire Flow:

It was agreed upon that the water system redundancy and fire flow will be accommodated by the installation of two (2) water storage tanks, and not the distribution main line upgrades. Approximately 3,000 lineal feet of 6" main line will be replaced with 10" main line to accommodate the estimate population growth during the planning horizon.

Conclusion:

It was agreed upon that a draft permit approval be prepared for review.