

State of Idaho
Department of Water Resources
Water Right License

WATER RIGHT NO. 61-07724

Priority: September 27, 1996

Maximum Diversion Rate: 0.67 CFS
Maximum Diversion Volume: 251.0 AF

It is hereby certified that BRIAN G BAALMAN and
SHERI L BAALMAN
4998 SOUTH RD 90 WEST
MENLO KS 67753 have complied with the terms and conditions of the
permit, issued pursuant to Application for Permit dated September 27, 1996; and have submitted Proof of
Beneficial Use on July 18, 2005. An examination indicates that water has been 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>
INDUSTRIAL	01/01 to 12/31	0.67 CFS	251.0 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER SW¼SE¼ Sec. 29, Twp 05S, Rge 10E, B.M. ELMORE County

PLACE OF USE: INDUSTRIAL

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
05S 10E 19					X	X L 1	X L 2	X	X	X L 3	X L 4	X		X	X		
05S 10E 29												X			X		
05S 10E 30		X	X		X	X L 1		X									

CONDITIONS OF APPROVAL

1. Industrial use is for the Glens Ferry food processing plant including the existing cogeneration operation.
2. Cogeneration is authorized only when water is being diverted and used for the primary industrial purpose.
3. Low temperature geothermal water diverted under this right shall be used primarily for its thermal properties. It shall be used primarily as water only after it has first been used for its heat value.
4. The place of industrial use authorized by this approval includes land upon which wastewater may be applied to satisfy water quality requirements. Water diverted under this right shall not be land-applied unless the water is first used in the industrial facility.
5. In accordance with applicable law, the right holder is responsible to ensure that pumpage under this approval does not reduce the water available under any prior right so as to cause material injury to the holder of the prior right, as determined by the Director, unless the right holder provides compensation or mitigation to the prior right holder.

State of Idaho
Department of Water Resources
Water Right License

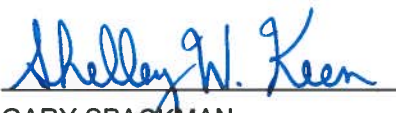
WATER RIGHT NO. 61-07724

CONDITIONS OF APPROVAL CONTINUED

6. In accordance with applicable law, the right holder is responsible to ensure that pumpage under this approval does not directly lower the hydraulic head in any domestic well drilled and in use prior to March 29, 1978, requiring modification to the well or pumping system, unless the right holder provides reasonable compensation or mitigation to the prior right holder.
7. Rights 61-2248B, 61-7189 and 61-7724 when combined shall not exceed a total diversion rate of 0.67 cfs.
8. The right holder shall record the quantity of water diverted and annually report diversions of water and/or other pertinent hydrologic and system information as required by Section 42-701, Idaho Code.
9. This right is for the use of trust water and is subject to review 20 years after the issuance of the permit to determine availability of water and to re-evaluate the public interest.
10. When ordered by the Director, the right holder shall provide mitigation acceptable to the Director to offset depletion of lower Snake River flows needed for migrating anadromous fish. The amount of water required for mitigation, which is to be released into the Snake River or a tributary for this purpose, will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this right. Any order of the Director issued in accordance with this paragraph shall be in conformance with applicable rules allowing the right holder due process as the need for mitigation and the amount of mitigation are determined.
11. The diversion and use of water described in Right 61-7724 may be affected by a series of separate agreements executed in March and May of 1999 to which the Department is not a party. Because the Department is not a party, the Department is not responsible for enforcement of any aspect of the agreement not specifically addressed in other conditions herein. Enforcement of those portions of the agreement not specifically addressed in other conditions shall be the responsibility of the protestant and the water right holder.

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.

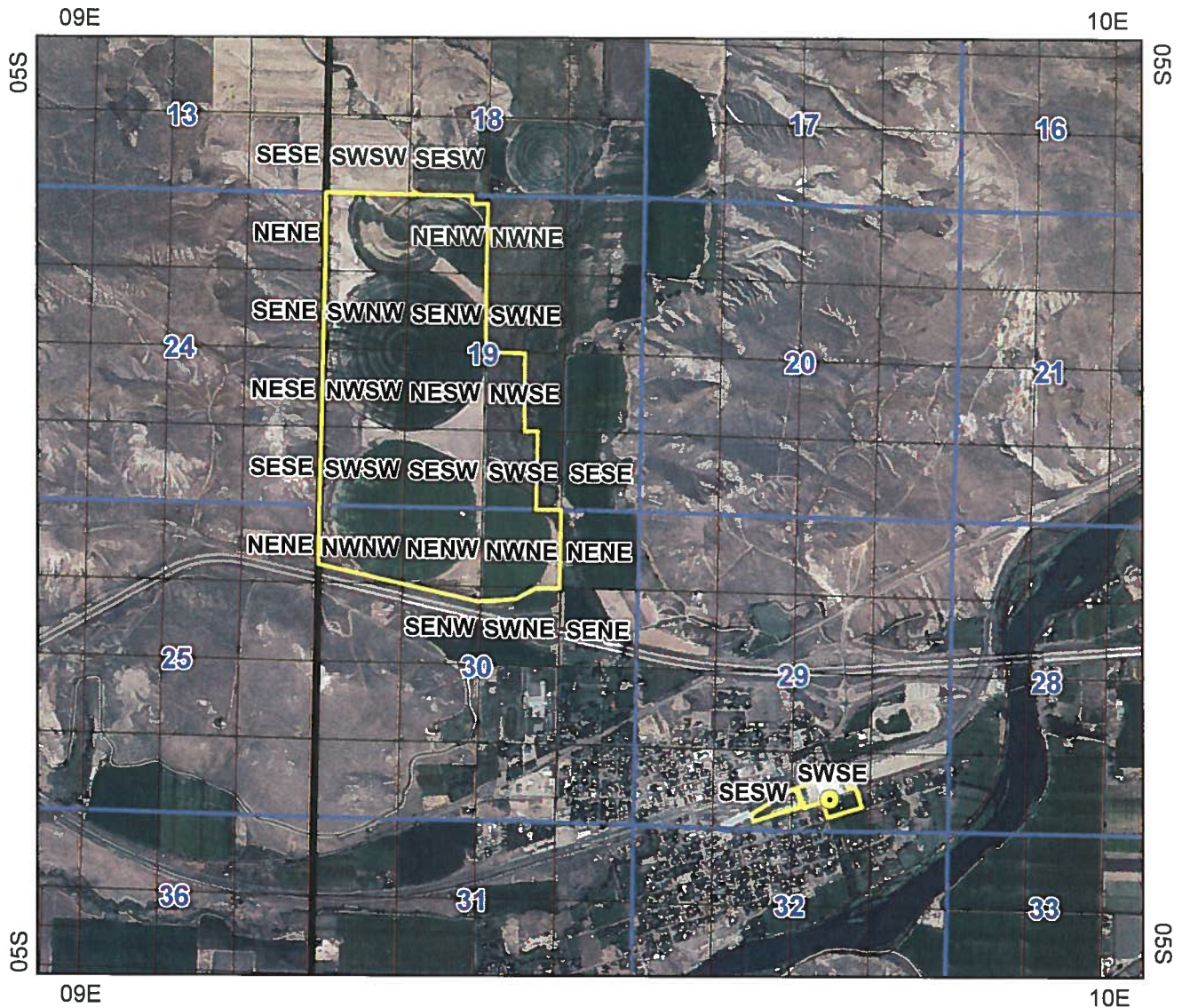
Signed and sealed this 6th day of November, 2014.


for GARY SPACKMAN
Director

Attachment To Water Right License

61-7724

This map depicts the INDUSTRIAL 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 0.35 0.7 1.4 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" OTTIER
Governor

GARY SPACKMAN
Director

November 12, 2014

BRIAN G BAALMAN
SHERI L BAALMAN
4998 SOUTH RD 90 WEST
MENLO KS 67753

RE: License No. 61-7724

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. Also enclosed is a copy of the approved application for amendment.

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)

cc: IDAHO FRESH PAK INC
IDAHO POWER CO
ENERGY OPERATIONS GROUP

CERTIFICATE OF SERVICE

I hereby certify that on November 13, 2014, 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. 61-7724

**BRIAN G BAALMAN
4998 SOUTH RD 90 WEST
MENLO KS 67753**

**SHERI L BAALMAN
4998 SOUTH RD 90 WEST
MENLO KS 67753**

**IDAHO FRESH PAK LLC
C/O LEO HERBERT
357 CONSTITUTION WAY
IDAHO FALLS ID 83402-3538**

**IDAHO POWER CO
PATRICK A HARRINGTON
1221 W IDAHO ST
BOISE ID 83702**

**ENERGY OPERATIONS GROUP
102 MAIN ST STE 200
PARK RIDGE IL 60068**



**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.

State of Idaho
Department of Water Resources
APPLICATION FOR AMENDMENT
(For Licensing Purposes)
WATER RIGHT NO. 61-07724

RECEIVED

OCT 14 2014

DEPARTMENT OF
WATER RESOURCES

Date of Priority: September 27, 1996

Maximum Diversion Rate: 0.67 CFS

Maximum Diversion Volume: 251.0 AF

Comes now IDAHO FRESH PAK LLC
C/O LEO HERBERT
357 CONSTITUTION WAY

IDAHO FALLS ID 83402-3538 and represents to the Director of the Idaho
Department of Water Resources that he is the owner and holder of Permit to Appropriate the
Public Waters of the State of Idaho No. 61-07724 and requests that the permit be changed as follows:

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
INDUSTRIAL	01/01 to 12/31	0.67 CFS	251.0 AF

LOCATION OF POINT(S) OF DIVERSION:

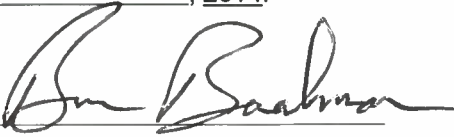
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PLACE OF USE: INDUSTRIAL

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05S 10E 29						L1	L2			L3	L4					X	
05S 10E 30		X	X		X	X		X									

Permit holder asserts that no one will be injured by such change and that such change will be made at

permit holder's own risk. Signed this 9th day of Oct., 2014.


(Signature)

State of Idaho
Department of Water Resources
APPLICATION FOR AMENDMENT
(For Licensing Purposes)
WATER RIGHT NO. 61-07724

FOR DEPARTMENT USE ONLY

Preliminary check by _____ Fee = \$100.00 Received by CS # C099513 Date 10/14/14

ACTION OF THE DEPARTMENT OF WATER RESOURCES

I, GARY SPACKMAN, of the Department of Water Resources hereby approve the
above Application for Amendment for Permit No. 61-07724 with the following:

CONDITIONS OF APPROVAL

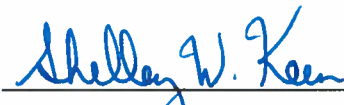
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APPLICATION FOR AMENDMENT
(For Licensing Purposes)
WATER RIGHT NO. 61-07724

CONDITIONS OF APPROVAL CONTINUED

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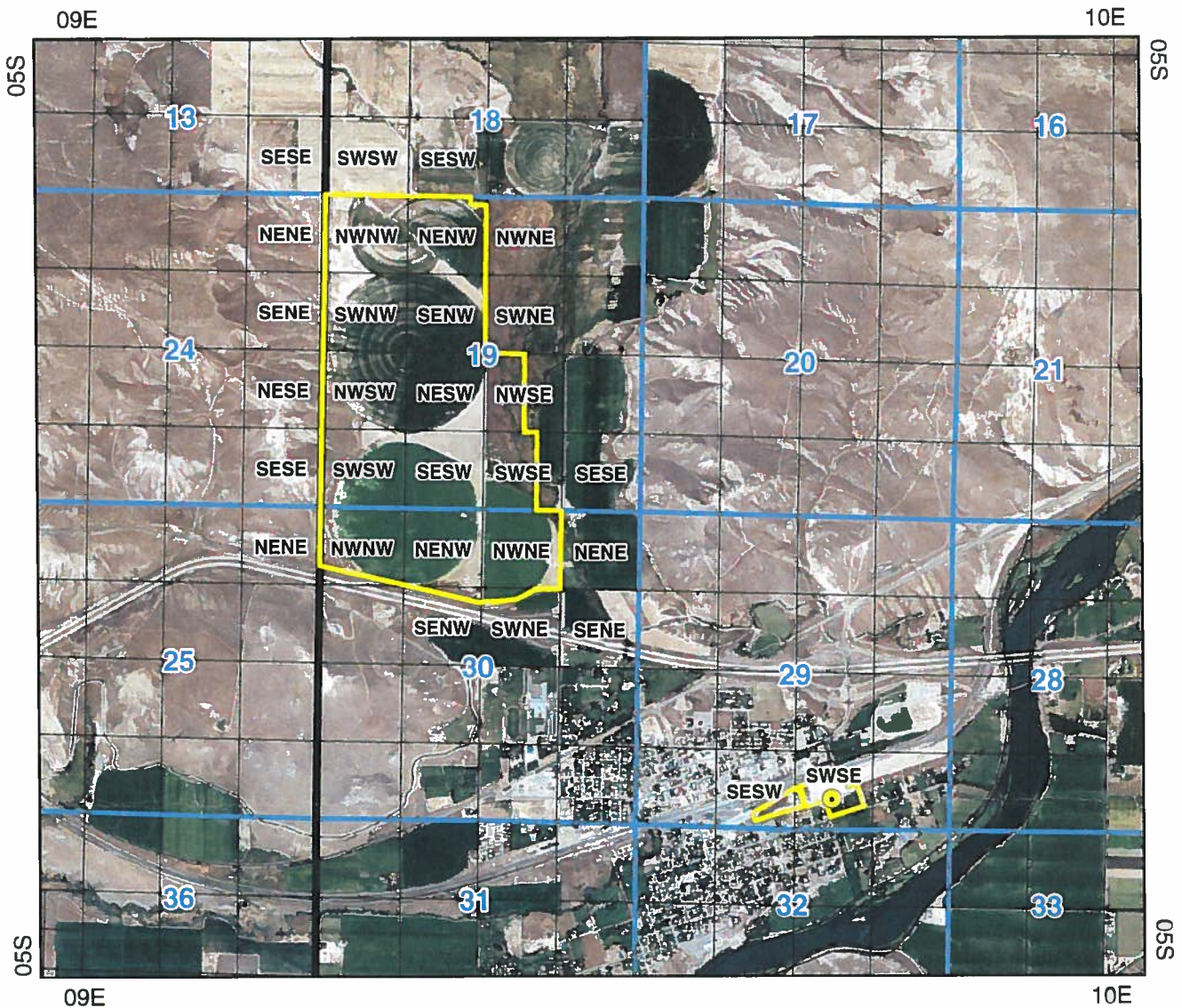
Witness my hand this 6th day of November, 2014.


for GARY SPACKMAN
Director

Attachment For Amendment To Water Right License

61-7724

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- Place Of Use Boundary
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- Quarter Quarters

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