

State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 63-33744

Priority: February 12, 2013

Maximum Diversion Rate: 0.32 CFS

This is to certify, that EUGENE J DAFFNER And/Or
ALBERTA A DAFFNER And/Or
A & E FAMILY ENTERPRISES LLC
C/O ALBERTA & EUGENE DAFFNER
10729 FARNER RD
NAMPA ID 83686

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 SE1/4NE1/4 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 8th day of April, 2014.


JOHN WESTRA, Western Regional 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

April 9, 2014

EUGENE J DAFFNER
ALBERTA A DAFFNER
10729 FARNER RD
NAMPA ID 83686-9151

A & E FAMILY ENTERPRISES LLC
C/O ALBERTA & EUGENE DAFFNER
10729 FARNER RD
NAMPA ID 83686

RE: Permit No. 63-33744

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.

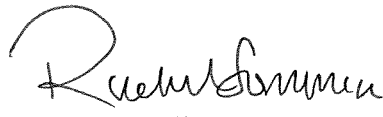
The Department will send you a 'Proof Due Notice' approximately 60 days prior to the above referenced date requesting you to file either a Proof of Beneficial Use form or a Request for Extension of Time form.

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,



For:

John Westra
Western Regional Manager

Enclosures

CERTIFICATE OF SERVICE

I hereby certify that on April 9, 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

**ALBERTA A DAFFNER
10729 FARNER RD
NAMPA ID 83686-9151**

**EUGENE J DAFFNER
10729 FARNER RD
NAMPA ID 83686-9151**

**A & E FAMILY ENTERPRISES LLC
C/O ALBERTA & EUGENE DAFFNER
10729 FARNER RD
NAMPA ID 83686**

A handwritten signature in cursive script, reading "Rachel Sommer", is positioned above 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.

Lester, Steve

From: Lester, Steve on behalf of Western Info
Sent: Monday, March 31, 2014 11:25 AM
To: 'alberta-gene@live.com'
Subject: Water Right Application #63-33744

Dear Mr. and Mrs. Daffner:

I received your March 30 reply regarding approving this application and possibly "delaying the start of the 14 day clock." The department is not authorized to issue a preliminary order approving an application but delaying the start of the 14 day response period. However, we can delay approving the application to fit your schedule for your return to this area around April 9. We will plan to mail the approval around April 9 to give you plenty of time to review it before the response period ends.

Meanwhile, please let me know if you need more information.

Regards,

Steve Lester
Water Rights Supervisor
IDWR Western Region
2735 Airport WY
Boise, ID 83705
(208-334-2190)

emails - pending approval of Application.

Lester, Steve

From: Nute, Crystal on behalf of Western Info
Sent: Monday, March 31, 2014 7:58 AM
To: Lester, Steve
Subject: FW: Water Right Application #63-33744

From: Alberta and Gene Daffner [<mailto:alberta-gene@live.com>]
Sent: Sunday, March 30, 2014 4:16 PM
To: Western Info
Subject: RE: Water Right Application #63-33744

Dear Mr. Lester:

Thank you for the good news.

We are currently on vacation and out of state until April 9th. Is there any way that our 14 day clock can start on April 9th, rather than the date letter is mailed?

We have only used flood irrigation on a small parcel; we will need the full time to research the two methods of water delivery from a well and the options that are available for measuring water levels and usage.

We really hope you can get us a time extension. Thank you for your consideration. We can be reached by our cell phone or e-mail.

Sincerely,

Alberta and Gene Daffner
208 559-8685

From: westerninfo@idwr.idaho.gov
To: alberta-gene@live.com
Subject: Water Right Application #63-33744
Date: Fri, 28 Mar 2014 17:37:36 +0000

Mr. Daffner:

You called a few times asking about possible approval of your application for an irrigation/stockwater well. The department is now able to approve your application. It will include some conditions of approval about measuring and keeping records for (1) water levels in your well, and (2) diversion rate and total volume of water usage. The second item includes two conditions of approval, one for conduit or ditch and another for a measuring device. Note your smaller use might be amenable to a simpler measurement method you might propose.

We will mail you an approved permit. The cover letter will let you know you have 14 days to reply ("petition") if anything does not look right. Also, please call me when you receive it if you want to discuss a simpler measurement method for your proposed use.

Thanks for your patience in this matter.

Regards,

Steve Lester
Water Rights Supervisor
IDWR Western Region
2735 Airport WY
Boise, ID 83705
(208-334-2190)

63-33744 APPLICATION APPROVAL



Steve Lester 3/28/2014

This application for a new well for primary irrigation and stockwater use is on the edge of a ground water area of concern in south Canyon County. The area is generally between Lake Lowell and the Snake River and mostly west of Hwy 45. Many large applications for a considerable amount of supplemental irrigation are pending throughout that area. Additional information for most of those applications has been submitted and is under review. Most of those other applications are protested. The protest process will help in evaluating those projects.

This application was advertised without protests. It is far removed from protested sites, marginally within the concern area, in a less sensitive part of the area and for a minor amount of water. The application can be approved for those reasons.

Approval conditions are modeled on recent approvals in the adjacent ground water concern area in south Ada County. Note the low temperature geothermal resource concern in south Ada County is absent in this part of Canyon County. Also, a simpler measurement method mentioned in the conditions of approval might be appropriate for such a minor use of ground water in this location.