

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 63-33761

Priority: June 13, 2013

Maximum Diversion Rate: 2.00 CFS

This is to certify, that RUBEN ASUMENDI And/Or
DOMINGO ASUMENDI
23032 HWY 20 26
PARMA ID 83660

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	2.00 CFS

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER	NE1/4SE1/4	Sec. 23, Twp 05N, Rge 04W, B.M.	CANYON County
GROUND WATER	L1 (NW1/4NW1/4)	Sec. 30, Twp 05N, Rge 03W, B.M.	CANYON County
GROUND WATER	SE1/4NE1/4	Sec. 23, Twp 05N, Rge 04W, B.M.	CANYON County
GROUND WATER	NE1/4NE1/4	Sec. 25, Twp 05N, Rge 04W, B.M.	CANYON County

PLACE OF USE:

Twp Rge Sec	IRRIGATION				NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE					
05N 03W 30							32.0											32.0			
05N 04W 23				40.0			L 1									35.0		75.0			
05N 04W 25	38.0	40.0			30.0													108.0			

Total Acres: 215

CONDITIONS OF APPROVAL

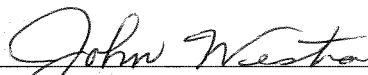
1. Proof of application of water to beneficial use shall be submitted on or before **March 01, 2019**.
2. Subject to all prior water rights.
3. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the 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. This right does not grant any right-of-way or easement across the land of another.
5. 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.

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6. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
7. 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.
8. 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 967.5 af at the field headgate for the place of use.
9. 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 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.
10. If the surface water right(s) appurtenant to the place of use is abandoned, forfeited, sold, transferred, leased or used on any other place of use, this right to divert ground water shall not be used without an approved transfer pursuant to Section 42-222, Idaho Code, or approval of the Department if a transfer is not required.
11. Use of this right is combined with water from Black Canyon Irrigation District.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 26th day of February, 20 14.



JOHN WESTRA, Western Regional Manager

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

**IN THE MATTER OF APPLICATION FOR)
PERMIT #63-33761 IN THE NAME OF RUBEN) VOID ORDER WITHDRAWAL
AND/OR DOMINGO ASUMENDI)
_____)**

FINDINGS OF FACT

1. On December 12, 2013, a preliminary order was issued by the Idaho Department of Water Resources (IDWR) voiding Application for Permit #63-33761 in the name of Ruben and/or Domingo Asumendi (Applicants) for failing to respond to an information and authorization request.

2. On December 27, 2013, the Applicants submitted to IDWR a petition for reconsideration regarding the void order. The petition requested the deadline for submitting the information and authorization be extended to February 15, 2014.

3. The petition was granted by Department Order on January 15, 2014, and the preliminary void order was stayed until the February 15, 2014 deadline.

4. On February 12, 2014, the Applicants submitted an amended application that no longer required an authorization from the Black Canyon Irrigation District or additional delivery/conveyance information.

CONCLUSIONS OF LAW

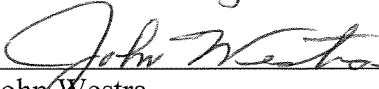
1. Pursuant to Idaho Code §67-5243 (3) A party may file a petition for reconsideration of the order to IDWR within 14 days of the service date of the order. IDWR will act on a petition for reconsideration within 21 days of its receipt.

2. The applicant has submitted an amended application to IDWR in a timely manner. The parameters of IC §67-5243 (3) have been met. The Stayed Preliminary Void Order should be withdrawn.

ORDER

IT IS HEREBY ORDERED the Stayed Preliminary Order Voiding Application for Permit #63-33761 in the name of Ruben and/or Domingo Asumendi be **WITHDRAWN**. .

Dated this 14th day of February, 2014



John Westra

Manager, Western Regional Office



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

February 27, 2014

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

RUBEN ASUMENDI
DOMINGO ASUMENDI
23032 HWY 20 26
PARMA ID 83660

RE: Permit No.63-33761

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

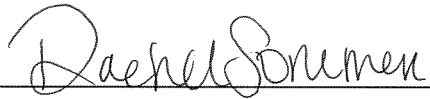
I hereby certify that on February 27, 2014 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDERS - **Approved Permit & Void Order Withdrawal** - to the persons listed below:

RE: WATER RIGHT NO.

63-33761

DOMINGO ASUMENDI
23032 HWY 20 26
PARMA ID 83660

RUBEN ASUMENDI
23032 HWY 20 26
PARMA ID 83660

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.