

State of Idaho
Department of Water Resources
Water Right License

WATER RIGHT NO. 63-11439

Priority: February 22, 1991

Maximum Diversion Rate: 1.00 CFS
Maximum Diversion Volume: 12.6 AF

It is hereby certified that HT RECOVERY LLC
PO BOX 1617
BOISE ID 83701-1617 has complied with the terms and conditions of the
permit, issued pursuant to Application for Permit dated January 11, 1991; and has submitted Proof of
Beneficial Use on November 13, 2000. An examination confirms water is diverted from:

SOURCE

SPRINGS

Tributary: SOUTH FORK BOISE RIVER

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>
COMMERCIAL	01/01 to 12/31	1.00 CFS	12.6 AF

LOCATION OF POINTS OF DIVERSION:

SPRING	NW1/4SE1/4NE1/4	Sec. 5, Twp 02N, Rge 10E, B.M., ELMORE County
SPRING	NW1/4SE1/4NE1/4	Sec. 5, Twp 02N, Rge 10E, B.M., ELMORE County
SPRING	NW1/4SE1/4NE1/4	Sec. 5, Twp 02N, Rge 10E, B.M., ELMORE County

PLACE OF USE: COMMERCIAL

Twp Rge Sec	NE				NW				SW				SE				
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
02N 10E 5				X													

CONDITIONS OF APPROVAL

1. Commercial use is for bottling water for commercial sale and distribution.
2. Water may be diverted under this right only (a) during periods when Lucky Peak Reservoir is spilling flood flows, or (b) as an exchange when an equivalent amount is provided by other sources, such as storage water.
3. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 63.

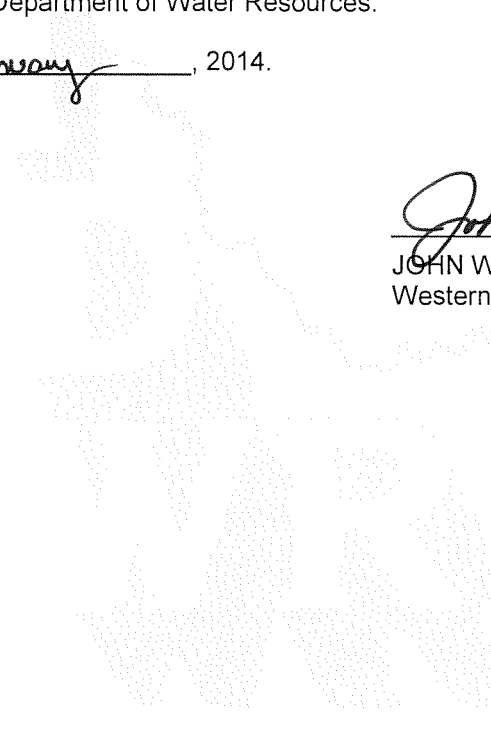
State of Idaho
Department of Water Resources
Water Right License

WATER RIGHT NO. 63-11439

4. Upon notification, the right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
5. The Department retains jurisdiction of this license to require the submittal of additional flow measurements or information as determined necessary to evaluate the adequacy of the exchange agreement.

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 this 16th day of January, 2014.



JOHN WESTRA
Western Regional Manager

RECEIVED

JAN 13 2014

WATER RESOURCES
WESTERN REGION

State of Idaho
Department of Water Resources
APPLICATION FOR AMENDMENT

(For Licensing Purposes)

WATER RIGHT NO. 63-11439

Date of Priority: February 22, 1991

Maximum Diversion Rate: 1.00 CFS

Maximum Diversion Volume: 12.6 AF

Comes now

HT Recovery, LLC, an Idaho limited liability company

C/O HAWLEY TROXELL ENNIS & HAWLEY LLP

877 W MAIN STE 1000

BOISE ID 83702 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. 63-11439, and requests that the permit be changed as follows:

Source: SPRINGS

Tributary: SOUTH FORK BOISE RIVER

BENEFICIAL USE

COMMERCIAL

PERIOD OF USE

01/01 to 12/31

RATE OF DIVERSION

1.00 CFS

ANNUAL VOLUME

12.6 AF

LOCATION OF POINTS OF DIVERSION:

SPRING NW1/4SE1/4NE1/4 Sec. 5, Twp 02N, Rge 10E, B.M., ELMORE County

SPRING NW1/4SE1/4NE1/4 Sec. 5, Twp 02N, Rge 10E, B.M., ELMORE County

SPRING NW1/4SE1/4NE1/4 Sec. 5, Twp 02N, Rge 10E, B.M., ELMORE County

PLACE OF USE: COMMERCIAL

Twp Rge Sec	NE			NW			SW			SE			Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
02N 10E 5				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 13th day of January, 2014.



(Signature & Title)

HT Recovery, LLC

By: Hawley Troxell Ennis & Hawley LLP

The Sole member of HT Recovery, LLC

By its Partner:

John F. Kurtz, Jr.

State of Idaho
Department of Water Resources
APPLICATION FOR AMENDMENT

(For Licensing Purposes)
WATER RIGHT NO. 63-11439

FOR DEPARTMENT USE ONLY

Preliminary check by kw Fee = 100.00 Receipted by MG # W041770 Date 1/13/14

ACTION OF THE DEPARTMENT OF WATER RESOURCES

I, JOHN WESTRA, of the Department of Water Resources hereby approve the
above Application for Amendment for Permit No. 63-11439 with the following:

CONDITIONS OF APPROVAL

1. Commercial use is for bottling water for commercial sale and distribution.
2. Water may be diverted under this right only (a) during periods when Lucky Peak Reservoir is spilling flood flows, or (b) as an exchange when an equivalent amount is provided by other sources, such as storage water.
3. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 63.
4. Upon notification, the right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
5. The Department retains jurisdiction of this license to require the submittal of additional flow measurements or information as determined necessary to evaluate the adequacy of the exchange agreement.

Witness my hand this 16th day of January, 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

January 16, 2014

HT RECOVERY LLC
PO BOX 1617
BOISE ID 83701-1617

RE: License No. 63-11439

Issuance of License

Dear Water Right Holders:

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.

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)334-2190.

Sincerely,

John Westra for:

John Westra
Western Regional Manager

Enclosures

CERTIFICATE OF SERVICE

I hereby certify that on January 16, 2014 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved License) to the persons listed below:

RE: WATER RIGHT NO.

63-11439

**HT RECOVERY LLC
PO BOX 1617
BOISE ID 83701-1617**

**REX R BARRIE
WATER MASTER
10769 W STATE ST
PO BOX 767
STAR ID 83669**

A handwritten signature in cursive script, appearing to read "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.