

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 63-33853

Priority: September 11, 2013

Maximum Diversion Rate: 0.12 CFS

This is to certify, that KAIL SEIBERT
2807 W HOMER RD
EAGLE ID 83616

has applied for a permit to appropriate water from:

Source: GROUND WATER

and a permit is APPROVED for development of water as follows:

BENEFICIAL USE

IRRIGATION

PERIOD OF USE

03/01 to 11/15

RATE OF DIVERSION

0.12 CFS

LOCATION OF POINT OF DIVERSION:

GROUND WATER L1 (NW1/4NW1/4) Sec. 31, Twp 05N, Rge 01E, B.M., ADA County

PLACE OF USE: IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
05N	01E	31					2.2	2.0											4.2
								L 1											

Total Acres: 4.2

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **January 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. Water bearing zone to be appropriated is from 198 to 208 feet.
5. Upon determination by the Director that the diversion and use of water under this right is injuring prior water rights, the Director may require reconstruction of the well used as a point of diversion for this right and/or limit withdrawals of water under this right to prevent injury.
6. To prevent injury to prior water rights appropriating water from the Boise River or the underlying shallow aquifer, any replacement well or additional well used as a point of diversion for this water right shall be constructed and maintained with unperforated casing and sealed into the first significant confining layer located 200 feet or more below ground surface.
7. This right when combined with all other rights shall provide no more than 0.03 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the place of use.

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8. This right does not grant any right-of-way or easement across the land of another.
9. 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 31st day of December, 2013.



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

December 31, 2013

KAIL SEIBERT
2807 W HOMER RD
EAGLE ID 83616

RE: Permit No.63-33853

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,

A handwritten signature in black ink, appearing to read "John Westra".

John Westra
Western Regional Manager

Enclosures

cc: ERO RESOURCES CORP

CERTIFICATE OF SERVICE

I hereby certify that on December 31, 2013 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.

63-33853

**KAIL SEIBERT
2807 W HOMER RD
EAGLE ID 83616**

**ERO RESOURCES CORP
C/O DAVID SHAW
4001 E MAIN ST
EMMETT ID 83617**



**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.

LEGAL PROOF OF PUBLICATION

Account #	Ad Number	Identification	PO	Amount	Cols	Lines
263978	0000750882	LEGAL NOTICE The following applications	CARLTON BAY	\$231.45	2	74

Attention: RACHEL SOMMERS

IDAHO DEPT WATER RESOURCE/ WEST
2735 AIRPORT WAY
BOISE, ID 837055082

LEGAL NOTICE

The following applications have been filed to appropriate the public waters of the State of Idaho:

63-33772

CARLTON BAY HOMEOWNERS ASSN INC

PO BOX 810

STAR, ID 83669

(3)Points of Diversion SWSW S14 T04N R01E ADA County Source
GROUND WATER

Use: AESTHETIC STORAGE 01/01 to 12/31 15.9 AF

Total Diversion: 15.9 AF

Date Filed: 5/3/2013

Place of Use: AESTHETIC STORAGE

T04N R01E S14 SWSW

Water bearing zone to be appropriated is from 0 to 10 feet.

63-33792

EDGEWATER ESTATES OWNERS ASSN INC

C/O STAN GRAY

10140 W RIVER ROCK LN

BOISE, ID 83714

Point of Diversion L6(SENW) S23 T04N R01E ADA County Source

GROUND WATER Tributary BOISE RIVER

Use: AESTHETIC STORAGE 01/01 to 12/31 63 AF

Total Diversion: 63 AF

Date Filed: 6/17/2013

Place of Use: AESTHETIC STORAGE

T04N R01E S23 NENW L4(NWNW) L5(SWNW) L6(SENW)

Water bearing zone to be appropriated is from 0 to 21 feet.

63-33853

KAIL SEIBERT

2807 W HOMER RD

EAGLE, ID 83616

Point of Diversion L1(NWNW) S31 T05N R01E ADA County Source

GROUND WATER

Use: IRRIGATION 03/01 to 11/15 0.12 CFS

Total Diversion: 0.12 CFS

Date Filed: 9/11/2013

Place of Use: IRRIGATION

T05N R01E S31 NENW L1(NWNW)

Total Acres: 4.2

Water bearing zone to be appropriated is from 198 to 208 feet.

PROPOSED CHANGE OF WATER RIGHT

New Union Ditch Co. LTD of PO Box 31, Eagle, ID, 83616, filed Application No. 78771 to transfer a water right with an 1865 priority date from the Boise River totaling 13.76 cfs. The purpose of the transfer is to change the nature of use for a 6 acre portion of the right to mitigate consumptive use for 3 ponds in Carlton Bay (Application 63-33772) and 1 pond in Edgewater Estates (Application 63-33792) Developments located at Eagle Island on the south side of State Street, approximately 1 mile north of Chinden Blvd., and 2 miles west of Eagle Road. The unchanged portion of the right will remain within the ditch company service area.

Permits will be subject to all prior water rights. For additional information concerning the property location, contact Western Region office at (208) 334-2190; or for a full description of the rights &/or proposed transfer, please see www.idwr.idaho.gov/apps/ExtSearch/WRfiling.asp. Protests may be submitted based on the criteria of Sec 42-222 and 42-203A, Idaho Code. Any protest against the approval of this application(s) must be filed with the Director, Dept. of Water Resources, Western Region, 2735 Airport Way, Boise, ID 83705 together with a protest fee of \$25.00 for each application on or before 11/25/2013.

The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Pub. Nov. 7,14, 2013

0000750882-01

JANICE HILDRETH, being duly sworn, deposes and says: That she is the Principal Clerk of The Idaho Statesman, a daily newspaper printed and published at Boise, Ada County, State of Idaho, and having a general circulation therein, and which said newspaper has been continuously and uninterruptedly published in said County during a period of twelve consecutive months prior to the first publication of the notice, a copy of which is attached hereto: that said notice was published in The Idaho Statesman, in conformity with Section 60-108, Idaho Code, as amended, for:

2 Insertions

Beginning issue of: 11/07/2013

Ending issue of: 11/14/2013

Janice Hildreth
(Legals Clerk)

STATE OF IDAHO)

.SS

COUNTY OF ADA)

On this 14th day of November in the year of 2013 before me, a Notary Public, personally appeared before me Janice Hildreth known or identified to me to be the person whose name subscribed to the within instrument, and being by first duly sworn, declared that the statements therein are true, and acknowledged to me that she executed the same.

Heather Harradine

Notary Public FOR Idaho
Residing at: Boise, Idaho

My Commission expires: 2/08/2014

