

State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 63-33415

Priority: August 19, 2010

Maximum Diversion Rate: 2.98 CFS

This is to certify, that D YAMAMOTO DEVELOPMENT LLC
PO BOX 64
KUNA ID 83634

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	2.98 CFS

LOCATION OF POINTS OF DIVERSION:

GROUND WATER	SW1/4SW1/4	Sec. 5, Twp 01N, Rge 01E, B.M., ADA County
GROUND WATER	SE1/4SE1/4	Sec. 5, Twp 01N, Rge 01E, B.M., ADA County
GROUND WATER	NW1/4SW1/4	Sec. 5, Twp 01N, Rge 01E, B.M., ADA County
GROUND WATER	SE1/4SW1/4	Sec. 5, Twp 01N, Rge 01E, B.M., ADA County
GROUND WATER	NE1/4NW1/4	Sec. 8, Twp 01N, Rge 01E, B.M., ADA 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	
01N 01E 5			40.0			40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	480.0
01N 01E 8					40.0	40.0	40.0	40.0									160.0

Total Acres: 640

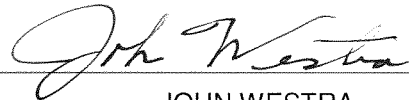
CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **October 01, 2018**.
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. 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 2880 af at the field headgate for the place of use.
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. 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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8. Failure of the right holder to comply with any condition of approval is cause for the Director to cancel this permit.
9. 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.
10. Diversion and use of water with a temperature greater than 85 degrees Fahrenheit is not authorized under this right.
11. 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 notified by the Department. The records shall be made available to the Department upon request.
12. One 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 notified by the Department. The records shall be made available to the Department upon request.
13. Proof of application of water to beneficial use shall be submitted no sooner than October 1, 2017, and no later than October 1, 2018. 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.
14. If the Department determines, based on credible evidence, measurement reports, area data, or otherwise, there is a substantial likelihood that diversion and use of groundwater under this right is causing material injury to any senior water right(s), the Department may issue an order to the right holder to show cause why existing diversions should not be reduced under the permit, forego additional diversions, or provide adequate mitigation to remedy any such material injury. Any senior water user alleging material injury may petition the Department to commence a show cause hearing, and the Department shall conduct a hearing.
15. Water bearing zone to be appropriated is from 250 to 400 feet.
16. This right does not authorize the irrigation of land not previously irrigated.
17. 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.
18. 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.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 25th day of September, 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

September 25, 2013

D YAMAMOTO DEVELOPMENT LLC
PO BOX 64
KUNA ID 83634

RE: Permit No.63-33415

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.

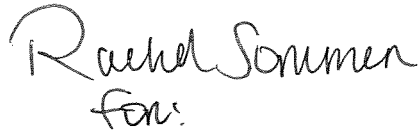
The Department will send you a 'Proof Due Notice' approximately 60 days prior to the above referenced date requesting you to file either a Proof of Beneficial Use form or a Request for Extension of Time form.

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 that reads "Rachel Sommer" with "for:" written below it in a smaller, cursive script.

John Westra
Western Regional Manager

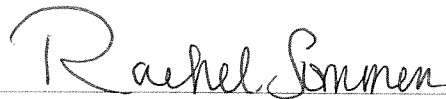
Enclosures

CERTIFICATE OF SERVICE

I hereby certify that on September 25, 2013 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved Permit) to the persons listed below:

RE: WATER RIGHT NO. 63-33415

**D YAMAMOTO DEVELOPMENT LLC
PO BOX 64
KUNA ID 83634**

A handwritten signature in cursive script, reading "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 42-1701 A(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.

RESPONSE FORM

RECEIVED

JUL 22 2013

WATER RESOURCES
WESTERN REGION

Applicant Name: D. YAMAMOTO DEVELOPMENT LLC
PO BOX 64
KUNA ID 83634

Application No: 63-33415

(Please read carefully and mark one)

☒ **YES**—I am willing to comply with the additional measurement/
monitoring conditions as part of an approval of my
application for permit.

OR

☐ **NO**—I am not willing to accept the additional measurement/
monitoring conditions as part of an approval of my
application for permit. I request my application continued
to be held by the Department--up to 1 year.

OR

☐ **WITHDRAW**--I request my application for permit be withdrawn.

Signed this 18 day of July 2013

Applicant Signature *Juane Yamamoto*

Printed Applicant Name JUANE YAMAMOTO

Return Form on or before **September 1, 2013**

Untimely responses will result in the application ordered void.

Submit the Form to: **Attn: J. Westra**
Idaho Department of Water Resources
2735 Airport Way
Boise ID 83705



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082

PHONE: (208) 334-2190 FAX: (208) 334-2348 www.idwr.idaho.gov

C.L. "BUTCH" OTTER, Governor
GARY SPACKMAN, Director

July 12, 2013

D. Yamamoto Development LLC
PO BOX 64
Kuna Id 83634

RE: South Ada County Ground Water Area

Ground Water Application for Permit 63-33415— D. Yamamoto Development LLC

Dear D. Yamamoto Development LLC

Background

As you aware, the processing of the above ground water application has been delayed by the Department due to concerns regarding the cold water aquifer in the area. The cold water aquifer has been steadily declining since the 1960's when ground water diversions were approximately only 100 cfs. Today, the diversion rate has grown to approximately 600 cfs. Low temperature ground water (greater than 85 degrees F) is now being encountered in some areas at depths near 400 feet. Our water statutes prohibit the use of low temperature geothermal water for irrigation unless the heat value is primarily utilized first. At present, the Department has very limited data and knowledge regarding the area hydrology and aquifer characteristics. To obtain a true picture of the area, additional monitoring data and study is needed.

New Appropriations

Our water statutes require the Department to evaluate certain criteria in the processing of new appropriation applications. *Injury to existing water rights and sufficiency of water supply* are two priority criteria. The Department director is also charged with the promotion of full economic and multiple use development of the water resources of the state. Given these dual responsibilities which must be balanced, the Department will consider authorizing some new water appropriations contingent on the permit holder's willingness to comply with certain measurement and aquifer monitoring activities. As data and information is compiled by the permit holders, a better picture of the area aquifer hydrology and source sufficiency will materialize. Please consider the following measurement and monitoring conditions that could likely be placed on a new water appropriation approval:

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.

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.

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.

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.

*Proof of application of water to beneficial use shall be submitted no sooner than **January 1, 2017, and no later than January 1, 2018.** 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.*

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

Diversion and use of water with a temperature greater than 85 degrees Fahrenheit is not authorized under this right.

Failure of the right holder to comply with any condition of approval is cause for the Director to cancel this permit.

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.

Costs-Factors

Bear in mind, there are significant costs associated with these conditions-- flow/volume meters, well modifications, and equipment installations. These costs would be in addition to the project investment and would be shouldered by the permit holder. The factors of the diversion possibly being reduced/curtailed, project investment, and actual water benefit should all be weighed carefully.

Intent

The purpose of this letter is to request your intent and willingness to comply with the above additional monitoring conditions as part of a potential approval of your application. The Department asks you to convey your intent by marking your choice on the attached response form:

YES—I am willing to comply with the additional measurement/monitoring conditions contingent on the approval of my application for permit.

OR

NO—I am not willing to accept the additional measurement/monitoring conditions as part of an approval of my application for permit. I request my application continued to be held by the Department—an applicant may request an application be held up to 1 year.

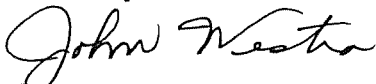
OR

WITHDRAW—I request my application for permit be withdrawn.

Please sign, date, and return the response form to the Department on or before **September 1, 2013**. An untimely or no response will result in the application being ordered void.

Should you have questions, please contact me or Rachel Sommer at the Western Regional Office, phone 208-334-2190.

Sincerely,



John Westra, Manager

Enclosure: response form, flow meter standards and listing

RESPONSE FORM

Applicant Name: D. YAMAMOTO DEVELOPMENT LLC
PO BOX 64
KUNA ID 83634

Application No: 63-33415

(Please read carefully and mark one)

_____ **YES**—I am willing to comply with the additional measurement/
monitoring conditions as part of an approval of my
application for permit.

OR

_____ **NO**—I am not willing to accept the additional measurement/
monitoring conditions as part of an approval of my
application for permit. I request my application continued
to be held by the Department--up to 1 year.

OR

_____ **WITHDRAW**--I request my application for permit be withdrawn.

Signed this _____ day of _____ 2013

Applicant Signature _____

Printed Applicant Name _____

Return Form on or before **September 1, 2013**

Untimely responses will result in the application ordered void.

Submit the Form to: **Attn: J. Westra**

**Idaho Department of Water Resources
2735 Airport Way
Boise ID 83705**