

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 65-23544

Priority: May 16, 2013

Maximum Diversion Rate: 0.10 CFS

This is to certify, that MICHAEL THORNTON or GINA THORNTON
PO BOX 1072
EMMETT ID 83617

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	0.10 CFS

LOCATION OF POINT OF DIVERSION:

GROUND WATER L1 (SE1/4SE1/4) Sec. 24, Twp 07N, Rge 01E, B.M., GEM County

PLACE OF USE: IRRIGATION

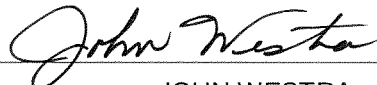
Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
07N 01E 24															.5	4.5	5.0
															L 1	L 1	

Total Acres: 5

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **October 01, 2014**.
2. Subject to all prior water rights.
3. This right does not grant any right-of-way or easement across the land of another.
4. 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.
5. 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.
6. Place of use is located within Parcel: Tax 4063.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 23rd day of September, 20 13.



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

September 25, 2013

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

MICHAEL THORNTON
GINA THORNTON
PO BOX 1072
EMMETT ID 83617

RE: Permit No.65-23544

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.

Enclosed is a form entitled 'Instructions for Proof of Beneficial Use.' Please read the instructions carefully since you must take further action to develop this permit into a licensed water right. Also enclosed is a form entitled 'Proof of Beneficial Use.' If your project is already completed, you should complete and submit this form immediately.

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,

Handwritten signature of Rachel Sommer in cursive script. The signature is written in dark ink and includes the first name 'Rachel' and the last name 'Sommer'.

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.

65-23544

**GINA THORNTON
PO BOX 1072
EMMETT ID 83617**

**MICHAEL THORNTON
PO BOX 1072
EMMETT ID 83617**

A handwritten signature in cursive script that reads "Rachel Sommer". The signature is written in dark ink and 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.

Curtis, Sharla

From: Gina Thornton [desertrose7179@juno.com]
Sent: Sunday, September 01, 2013 11:55 AM
To: Curtis, Sharla
Subject: Re: Application for Permit 65-23544

Thank you for your email and "yes" I was suppose to be 0.02 cfs per acre! Thank you for catching that.
Michael & Gina Thornton

----- Original Message -----

From: "Curtis, Sharla" <Sharla.Curtis@idwr.idaho.gov>
To: <desertrose7179@juno.com>
Subject: Application for Permit 65-23544
Date: Fri, 30 Aug 2013 10:14:39 -0600

Michael or Gina,

We are preparing to issue the approval on the above referenced application. I have one important question that needs to be answered before we can issue the approval. You listed 0.02 cfs as the total amount requested. This is a very small amount of water for irrigating 5 acres. Did you mean 0.02 cfs PER ACRE? (That is the rate normally assigned to irrigation use.) That would give you 0.10 cfs as a total rate of diversion. There would be **no additional filing fees** to cover this change.

I will be out of the office all next week. You can either respond by email or you can call me the week of September 9th (334-2190) and we can get this matter resolved so that we can issue the permit.

Thank you for your help in this matter.

Sharla Curtis

Sr. Water Resource Agent

Western Region

Curtis, Sharla

From: Curtis, Sharla
Sent: Friday, August 30, 2013 10:15 AM
To: 'desertrose7179@juno.com'
Subject: Application for Permit 65-23544

Michael or Gina,

We are preparing to issue the approval on the above referenced application. I have one important question that needs to be answered before we can issue the approval. You listed 0.02 cfs as the total amount requested. This is a very small amount of water for irrigating 5 acres. Did you mean 0.02 cfs PER ACRE? (That is the rate normally assigned to irrigation use.) That would give you 0.10 cfs as a total rate of diversion. There would be **no additional filing fees** to cover this change.

I will be out of the office all next week. You can either respond by email or you can call me the week of September 9th (334-2190) and we can get this matter resolved so that we can issue the permit.

Thank you for your help in this matter.

Sharla Curtis
Sr. Water Resource Agent
Western Region

29512 940881

1 IDAHO DEPT. OF WATER RESOURCES

WESTERN REGION
2735 AIRPORT WAY
BOISE ID 83705

LEGAL NOTICE

The following application has been filed to appropriate the public waters of the State of Idaho:

65-23544

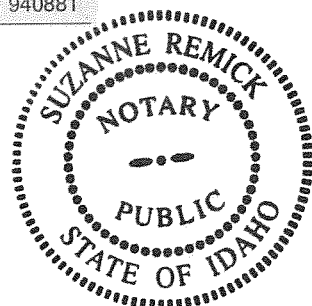
MICHAEL THORNTON
GINA THORNTON
PO BOX 1072
EMMETT, ID 83617
Point of Diversion L1(SESE)
S24 T07N R01E GEM
County Source GROUND
WATER
Use: IRRIGATION 03/01
to 11/15 0.02 CFS
Total Diversion: 0.02 CFS
Date Filed: 5/16/2013

Place of Use: IRRIGATION
T07N R01E S24
L1(SWSE) L1(SESE)
Total Acres: 5

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 right(s), please see www.idwr.idaho.gov/apps/ExtSearch/WRFiling.asp. Protests may be submitted based on the criteria of Idaho Code § 42-203A. Any protest against the approval of this application 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 8/26/2013. The protestant must also send a copy of the

protest to the applicant.
GARY SPACKMAN, Director

August 07, 14, 2013



**AFFIDAVIT OF PUBLICATION
STATE OF IDAHO**

County of Canyon

Shara Foreman
of Nampa, Canyon County, Idaho, being
first duly sworn, deposes and says:

1. That I am a citizen of the United States, and at all times hereinafter mentioned was over the age of eighteen years, and not a party to the above entitled action.
2. That I am the Principle Clerk of the Emmett Messenger-Index, a weekly newspaper published in the City of Emmett, in the County of Gem, State of Idaho; that the said newspaper is in general circulation in the said County of Gem, and in the vicinity of Emmett, and has been uninterruptedly published in said County during a period of seventy-eight consecutive weeks prior to the first publication of this notice, a copy of which is hereto attached.
3. That the notice, of which the annexed is a printed copy, was published in said newspaper 2 times(s) in the regular and entire issue of said paper, and was printed in the newspaper proper, and not in a supplement.
4. That said notice was published the following:
08/07/2013 08/14/2013

Shara Foreman
STATE OF IDAHO)
County of Canyon)

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

Suzanne Remick
Notary Public for Idaho
Residing at Canyon County
My Commission expires 07/25/2018

RECEIVED
AUG 19 2013
WATER RESOURCES
WESTERN REGION