

State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 63-33263

Priority: August 12, 2009

Maximum Diversion Rate: 0.84 CFS

This is to certify, that DALE GUST and/or STACY GUST
9285 W STIRRUP
BOISE ID 83709

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	0.80 CFS
DOMESTIC	01/01 to 12/31	0.04 CFS

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER NW1/4NW1/4 Sec. 32, Twp 01N, Rge 02E, 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 02E 32					20.0	20.0											40.0

Total Acres: 40

PLACE OF USE: DOMESTIC

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 02E 32						X											

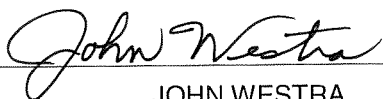
CONDITIONS OF APPROVAL

1. Subject to all prior water rights.
2. 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.
3. 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.

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4. 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.
5. Proof of application of water to beneficial use shall be submitted no sooner than July 1, 2017, and no later than July 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.
6. 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.
7. Diversion and use of water with a temperature greater than 85 degrees Fahrenheit is not authorized under this right.
8. Failure of the right holder to comply with any condition of approval is cause for the Director to cancel the permit.
9. 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.
10. 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.
11. 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.
12. This right does not grant any right-of-way or easement across the land of another.
13. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the place of use.
14. Domestic use is for 1 home. Irrigation of lawn, garden and landscaping associated with the home is authorized under the irrigation component of this right.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 18th day of July, 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

July 18, 2013

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

DALE GUST
STACY GUST
9285 W STIRRUP
BOISE ID 83709

RE: Permit No.63-33263

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

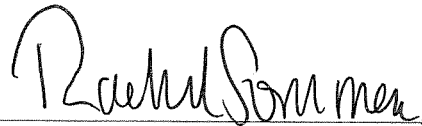
I hereby certify that on July 18, 2013 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved Permit) to the persons listed below:

RE: WATER RIGHT NO.

63-33263

**DALE GUST
9285 W STIRRUP
BOISE ID 83709**

**STACY GUST
9285 W STIRRUP
BOISE ID 83709**

A handwritten signature in black ink, 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 42-1701A(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.

RESPONSE FORM

RECEIVED
FEB 22 2013
WATER RESOURCES
WESTERN REGION

Applicant Name: DALE &/OR STACIE GUST
9285 W STIRRUP DR
BOISE ID 83709

Application No: 63-33263

(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 21st day of February 2013

Applicant Signature Dale Gust

Printed Applicant Name Dale Gust

Return Form on or before **April 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**

Idaho Statesman

The Newspaper of the Treasure Valley
IDAHOSTATESMAN.COM

PO Box 40, Boise, ID 83707-0040

RECEIVED

DEC 27 2010

WATER RESOURCES
WESTERN REGION

LEGAL PROOF OF PUBLICATION

Account #	Ad Number	Identification	PO	Amount	Cols	Lines
47628	0000532452	LEGAL NOTICE	Gust,Smith,Whitaker	\$262.50	2	66

Attention: Denice Buffington

IDAHO DEPT WATER RESOURCE

2735 AIRPORT WAY

BOISE

ID

83705

LEGAL NOTICE

The following application(s) have been filed to appropriate the public waters of the State of Idaho:

✓ 63-33263

DALE GUST

STACY GUST

9285 W STIRRUP

BOISE, ID 83709

Point of Diversion NWNW S32 T01N R02E ADA County Source GROUND

WATER Tributary

Use: IRRIGATION 03/01 to 11/15 0.8 CFS

Use: DOMESTIC 01/01 to 12/31 0.04 CFS

Total Diversion: 0.84 CFS

Date Filed: 8/12/2009

Place Of Use: IRRIGATION

T01N R02E S32 NENW NWNW

Place Of Use: DOMESTIC

T01N R02E S32 NWNW

Total Acres: 40

Water bearing zone to be appropriated is from 340 to 465 feet.

✓ 63-33380

ROGER D SMITH

LESLIE M SMITH

5707 N WILLOW CREEK RD

EAGLE, ID 83616

Point of Diversion NWNE S29 T05N R01E ADA County Source GROUND WA-

TER Tributary

Use: IRRIGATION 03/01 to 11/15 0.08 CFS

Total Diversion: 0.08 CFS

Date Filed: 5/11/2010

Place Of Use: IRRIGATION

T05N R01E S29 NWNE

Total Acres: 4

Water bearing zone to be appropriated is from 250 to 350 feet.

✓ 63-33409

SHAWN WHITAKER

REBECCA WADSWORTH

1348 N PENRITH

MERIDIAN, ID 83642

Point of Diversion NWSE S8 T05N R01W ADA County Source GROUND WA-

TER Tributary

Point of Diversion NWSE S8 T05N R01W ADA County Source UNNAMED

STREAM Tributary WILLOW CREEK

Use: IRRIGATION 03/01 to 11/15 0.2 CFS

Use: WILDLIFE STORAGE 01/01 to 12/31 23.5 AF

Use: DOMESTIC 01/01 to 12/31 0.04 CFS

Use: DIVERSION TO STORAGE 01/01 to 12/31 0.2 CFS

Total Diversion: 0.24 CFS

Date Filed: 8/11/2010

Place Of Use: IRRIGATION, DOMESTIC & WILDLIFE STORAGE

T05N R01W S8 NWSE

Total Acres: 10

Water bearing zone to be appropriated is from 450 to 600 feet.

Permits will be subject to all prior water rights. 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 Wy, Boise ID 83705 together with a protest fee of \$25.00 for each application on or before 1/3/2011. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Interim Director
Pub. Dec. 16, 23, 2010

0000532452-01

TINA BARTLETT, 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: 12/16/2010

Ending issue of: 12/23/2010

Tina Bartlett
(Legals Clerk)

STATE OF IDAHO)

SS

COUNTY OF ADA)

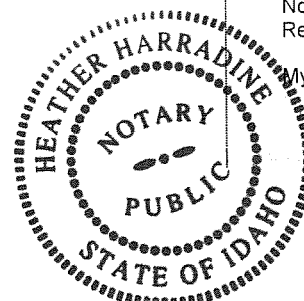
On this 23 day of December in the year of 2010 before me, a Notary Public, personally appeared before me Tina Bartlett known or identified to me to be the person whose name subscribed to the within instrument, and being by first duly sworn, declared that the statements therein are true, and acknowledged to me that she executed the same.

Heather Harradine

Notary Public for Idaho
Residing at: Boise, Idaho

My Commission expires:

2/08/2014



✓ OK DB 1-7-2011