

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 63-33707

Priority: October 19, 2012

Maximum Diversion Rate: 0.25 CFS

This is to certify, that CHARLES MADENFORD FAMILY TRUST
3605 N POLLARD LN
STAR ID 83669

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>	<u>ANNUAL VOLUME</u>
DIVERSION TO STORAGE	01/01 to 12/31	0.25 CFS	
AESTHETIC STORAGE	01/01 to 12/31		26.0 AF
RECREATION STORAGE	01/01 to 12/31		26.0 AF
WILDLIFE STORAGE	01/01 to 12/31		26.0 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER NW1/4SW1/4 Sec. 33, Twp 05N, Rge 01W, B.M., ADA County

PLACE OF USE: AESTHETIC STORAGE

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 01W 33										X							

PLACE OF USE: RECREATION STORAGE

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 01W 33										X							

PLACE OF USE: WILDLIFE STORAGE

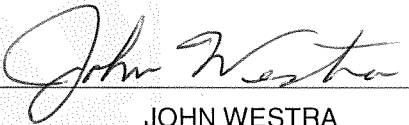
Twp Rge Sec	NE				NW				SW				SE				
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
05N 01W 33										X							

State of Idaho
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CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **June 01, 2014**.
2. Subject to all prior water rights.
3. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.
4. Right 63-33707 authorizes the diversion of an annual total of 26.0 acre-feet to be used for the initial filling of the pond and for the replacement of evaporation losses.
5. 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.
6. Any other applicable standard conditions for ground water well diversion to fill an existing excavated pond for aesthetic-recreation-wildlife storage with water from an existing well outside the Bs 63 Ground Water Restricted Area approximately 2 ¼ miles northeast of Star.
7. This right does not grant any right-of-way or easement across the land of another.
8. Storage is for one pond not to exceed a total capacity of 15 acre feet and a total surface area of 3 acres.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 29th day of May, 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

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

June 5, 2013

CHARLES MADENFORD FAMILY TRUST
3605 N POLLARD LN
STAR ID 83669

RE: Permit No.63-33707

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,

A handwritten signature in black ink that reads "Rachel Sommer". The signature is written in a cursive style with a large initial "R".

John Westra
Western Regional Manager

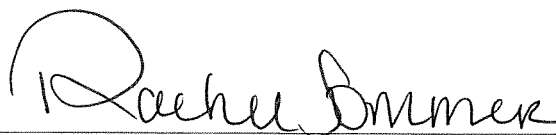
Enclosures

CERTIFICATE OF SERVICE

I hereby certify that on June 5, 2013, a true and correct copy of the foregoing PRELIMINARY ORDER (Approved Permit) was hand delivered to the persons listed below:

RE: WATER RIGHT NO. 63-33707

**CHARLES MADENFORD FAMILY TRUST
3605 N POLLARD LN
STAR ID 83669**

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.



State of Idaho

DEPARTMENT OF WATER RESOURCES

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C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

May 29, 2013

The Charles Madenford Family Trust
3605 N Pollard LN
Star ID 83669

RE: #63-33707 Application for Construction of a Small Dam

Dear Mr. Madenford:

The Idaho Department of Water Resources (IDWR) received your applications for permit to appropriate water and construction of a dam on October 19, 2012. The applications propose the storage of ground water in an existing dam and reservoir facility located in Section 33, Township 05N, Range 01W in Ada County.

Our survey completed in April revealed the existing facility has a maximum water storage elevation of 6.6 feet from the natural ground surface at the downstream toe and an estimated storage volume of 17 acre feet. Our on-site evaluation revealed an existing residence in close proximity to the west embankment.

Artificial barriers (dams) for the purpose of storing water which are 10 feet or less in water storage height and have storage capacity of 50 acre feet or less are not subject to Department dam safety regulation. Based on our review of the existing facility dimensions and storage capacity, the facility is not large enough to be subject to IDWR dam safety design review and regulation.. In addition, the collection of fees associated with your application for dam construction is waived. Your fees will be refunded later by separate letter. Note, that future modifications to increase water storage height or storage capacity may result in regulation of the facility and assessment of fees.

Please be aware that the owner is responsible and potentially liable for any damages to downstream life and property that may result from a failure of their dam and uncontrolled release of water, regardless the height or amount of reservoir storage thereof.

Should you have questions, please contact me at the Western Regional Office 208-334-2190 or John Falk at our state office, 208-287-4927.

Sincerely,

John Westra, Manager

Cc: J. Falk, SO
Water Right File #63-33707