

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 63-33717

Priority: November 15, 2012

Maximum Diversion Rate: 0.16 CFS

This is to certify, that MARK V PHIPPS
12440 KARCHER RD
NAMPA ID 83687

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	0.16 CFS
STOCKWATER	01/01 to 12/31	0.02 CFS

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER SW1/4SE1/4 Sec. 12, Twp 03N, Rge 03W, B.M., CANYON 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
03N 03W 12																8.1	8.1

Total Acres: 8.1

PLACE OF USE: STOCKWATER

Twp Rge Sec	NE				NW				SW				SE				
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
03N 03W 12																X	

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. To the extent surface water is reasonably available to irrigate the above described place of use, the right holder (1) 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, and (2) 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.

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4. 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 36.5 af at the field headgate for the place of use.
5. 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.
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. Stockwater use is for 10 range cattle.
8. 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.
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 9th day of MAY, 20 13.


For _____

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

May 10, 2013

MARK V PHIPPS
12440 KARCHER RD
NAMPA ID 83687

RE: Permit No.63-33717

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,



for:

John Westra
Western Regional Manager

Enclosures

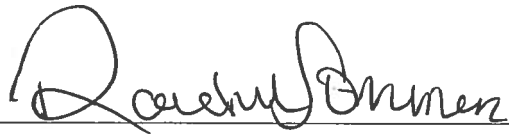
CERTIFICATE OF SERVICE

I hereby certify that on May 10, 2013 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved Permit) to the person listed below:

RE: WATER RIGHT NO.

63-33717

**MARK V PHIPPS
12440 KARCHER RD
NAMPA ID 83687**

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

MEMORANDUM

Date: May 08, 2013
To: Water Right File 63-33717
From: Steve Lester 
Re: Supplemental Use

Although paying for Pioneer Irrigation District water, the owner said ditch water has never been available and cannot reasonably be delivered. Also said is working on excluding the site from the district. Supplemental conditions 065 (modified) & WB7 were used in case surface water somehow becomes available and used (unlikely). Supplemental condition 105 was not used since owner is trying to get land excluded from the district.

LEGAL NOTICE

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

63-33701

BOISE VALLEY FEEDERS LLC
2201 RIDGEWAY RD
PARMA, ID 83660

Point of Diversion NWSW SESW S13 T06N R05W CANYON County Source GROUND WATER
Point of Diversion NWSE S14 T06N R05W CANYON County Source GROUND WATER
Point of Diversion NENW S24 T06N R05W CANYON County Source GROUND WATER
Use: STOCKWATER 01/01 to 12/31 2.75 CFS
Total Diversion: 2.75 CFS

Date Filed: 9/27/2012

Place Of Use: STOCKWATER

T06N R05W S13 NWNW SWNW NESW NWSW
T06N R05W S14 NENE SENE NESE

Water bearing zone to be appropriated is from 300 to 600 feet.
Stockwater use is for 12,500 head of beef feeder cattle.

63-33717

MARK V PHIPPS
12440 KARCHER RD
NAMPA, ID 83687

Point of Diversion SWSE S12 T03N R03W CANYON County Source GROUND WATER
Use: IRRIGATION 03/01 to 11/15 0.16 CFS
Use: STOCKWATER 01/01 to 12/31 0.02 CFS
Total Diversion: 0.16 CFS

Date Filed: 11/15/2012

Place Of Use: IRRIGATION, STOCKWATER

T03N R03W S12 SWSE

Total Acres: 8.2

Water bearing zone to be appropriated is from 80 to 120 feet.

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 4/22/2013. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

April 04, 11, 2013

864768

OK
5-2-13
RS

non FIRM Error.
(8.1)



29512 864768

1 IDAHO DEPT. OF WATER RESOURCES

WESTERN REGION
2735 AIRPORT WAY
BOISE ID 83705

AFFIDAVIT OF PUBLICATION
STATE OF IDAHO)

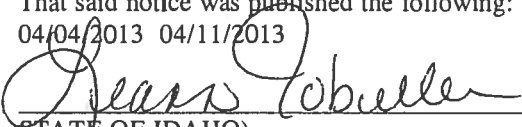
County of Canyon)

Leann Nobella
of Nampa, Canyon County, Idaho, being
first duly sworn, deposes and says:

RECEIVED
APR 15 2013
WATER RESOURCES
WESTERN REGION

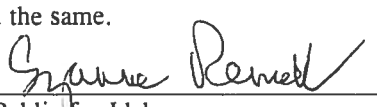
1. That I am a citizen of the United States, and at all times hereinafter mentioned was over the age of eighteen years, and not a party to the above entitled action.
2. That I am the Principle Clerk of the Idaho Press-Tribune, a daily newspaper published in the City of Nampa, in the County of Canyon, State of Idaho; that the said newspaper is in general circulation in the said County of Canyon, and in the vicinity of Nampa and Caldwell, 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.

That said notice was published the following:
04/04/2013 04/11/2013



STATE OF IDAHO)
County of Canyon)

On this 11th day of April in the year of
2013 before me a Notary Public, personally appeared.
Leann Nobella, 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.



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

