

State of Idaho
Department of Water Resources

Permit to Appropriate Water

NO. 36-16962

Priority: December 03, 2012

Maximum Diversion Rate: 1.32 CFS

This is to certify, that MONTY B MONTGOMERY
3581 S 1425 E
WENDELL ID 83355

And/Or

JENNIE L MONTGOMERY
3581 S 1425 E
WENDELL ID 83355

has applied for a permit to appropriate water from:

Source: WASTE WATER

Tributary: SNAKE RIVER

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	03/15 to 11/15	1.32 CFS

LOCATION OF POINT(S) OF DIVERSION:

WASTE WATER	SW1/4SW1/4	Sec. 34, Twp 08S, Rge 14E, B.M.
GOODING 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		
08S 14E 33																	27.0	27.0
08S 14E 34											39.0							39.0

Total Acres: 66

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **April 01, 2014**.
2. Subject to all prior water rights.
3. Prior to diversion of water under this right, the right holder shall install and maintain a measuring device and lockable controlling works of a type acceptable to the Department as part of the diverting works.
4. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No.130.

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6. This right does not authorize the irrigation of land not previously irrigated under ground water right 36-2491.
7. The waste water diverted under this right is subject to the right of the original appropriator, in good faith and in compliance with state laws governing changes in use and/or expansion of water rights, to cease wasting water, to change the place of use or manner of wasting it, or to recapture it.
8. Any license issued by IDWR pursuant to the right or portion thereof for the use of trust water is subject to a term review of 20 years after the date of this approval to determine availability of water for the use and to re-evaluate the public interest at the end of the term.
9. Rights 36-2491, and 36-16962 when combined shall not exceed a total diversion rate of 1.32 cfs, a total annual maximum diversion volume of 264 af at the field headgate, and the irrigation of 66 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 13th day of March, 20 13.

F012



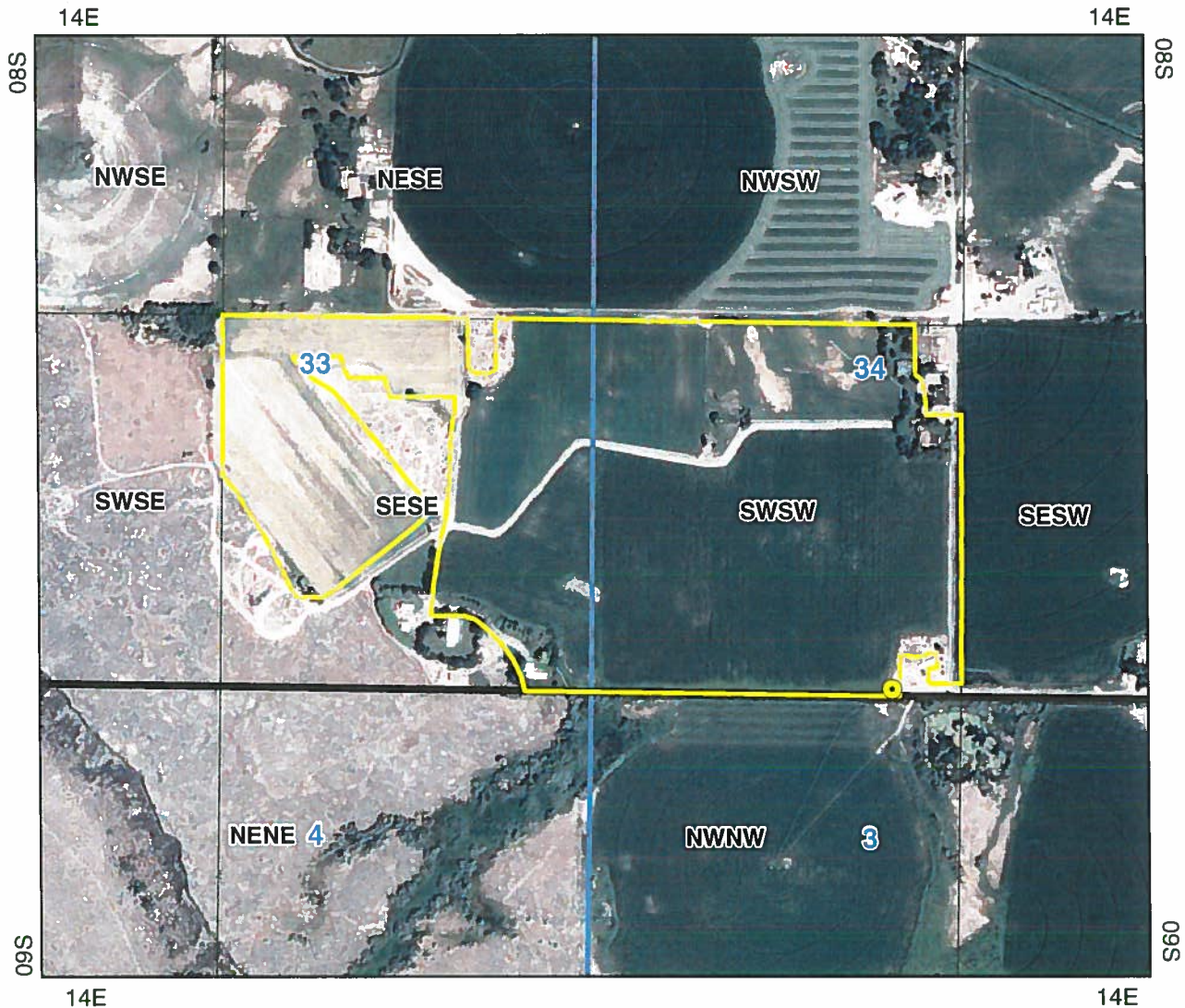
GARY SPACKMAN, Director

State of Idaho
Department of Water Resources

Attachment To Permit to Appropriate Water

36-16962

This map depicts the IRRIGATION place of use boundary for this water right at the time of this approval and is attached to the approval document solely for illustrative purposes.



-  Point of Diversion
-  Place Of Use Boundary
-  Townships
-  PLS Sections
-  Quarter Quarters

0 0.075 0.15 0.3 Miles





State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 1341 Fillmore Street, Suite 200 • Twin Falls, Idaho 83301-3380

Phone: (208) 736-3033 • Fax: (208) 736-3037 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

March 13, 2013

MONTY B MONTGOMERY
JENNIE L MONTGOMERY
3581 S 1425 E
WENDELL ID 83355

RE: Permit No. 36-16962

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.

Please note that a separate stream channel alteration permit must be obtained from the Department prior to any activity in the stream channel other than construction or maintenance of the diversion structure for your water right(s). Applications for stream channel alteration permits must be filed at least sixty days prior to the commencement of work in the stream.

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 208-736-3033.

Sincerely,

A handwritten signature in black ink, appearing to read "Allen Merritt". The signature is stylized with a large, sweeping initial "A" and a cursive "Merritt".

Allen Merritt
Southern Region Manager

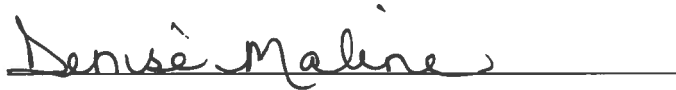
Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on March 13, 2013 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (Approved Permit) to the person(s) listed below:

RE: WATER RIGHT NO. 36-16962

**MONTY B MONTGOMERY
JENNIE L MONTGOMERY
3581 S 1425 E
WENDELL ID 83355**

A handwritten signature in cursive script, reading "Denise Maline", is written over a solid horizontal line.

**Denise Maline
Administrative Assistant**

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

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C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

March 13, 2013

CINDY YENTER WATERMASTER
WATER DISTRICT # 130
1341 FILLMORE ST, STE 200
TWIN FALLS ID 83301

Hand-Delivered

Re: **APPROVED Permit No. 36-16962 (Monty and Jennie Montgomery)**

Dear Ms. Yenter:

For your information and records, we have enclosed a copy of an APPROVED Application for Permit within your District.

If you have any questions, please contact this office, or the applicant.

Sincerely,

A handwritten signature in cursive script that reads "Denise Maline". The signature is written in dark ink and is positioned above the printed name and title.

Denise Maline
Administrative Assistant

Enclosure

State of Idaho
Department of Water Resources

RECOMMENDATION OF WATERMASTER

Application No: 36-16962
Water Right No:
Applicant Name: Montgomery

Watermaster's Recommendation:

- a) ☐ I do not oppose approval of this application
- b) ☒ I do not oppose approval of this application with the following conditions:

R05, WD130
01J Suitable device/controlling works
074 No irrigation of new lands
176 wastewater

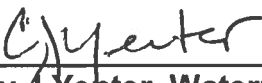
- c) ☐ I oppose approval of this application(s) for the following reasons:

- d) ☒ Additional comment:

This conversion project is being constructed in association with AWEP cost share contract. Mitigation of new permit is non-use of ground water right 36-2491 on same acres. Gravity distribution system is being converted to pivot, am awaiting maps from NRCS to see if water right shape needs to be modified or transferred.

Dated: February 28, 2013

Water District 130



Cindy J. Yeater, Watermaster

Affidavit of Publication
STATE OF IDAHO)
COUNTY OF TWIN FALLS) SS.

RECEIVED
JAN 25 2013
DEPT. OF WATER RESOURCES
SOUTHERN REGION

I, Ruby Aufderheide, being first duly sworn upon oath, depose and say that I am Legal Clerk of the TIMES-NEWS, published daily at, Twins Falls, Idaho, and do solemnly swear that a copy of the notice of advertisement, as per clipping attached, was published in the regular and entire issue of said newspaper, and not in any supplement thereof, for two consecutive weeks, commencing with the issue dated 17th day of January, 2013 and ending with the issue dated 24th day of January, 2013

And I do further certify that said newspaper is a consolidation, effective February 16, 1942, of the Idaho Evening Times, published theretofore daily except Sunday, and the Twin Falls News, published theretofore daily except Monday, both of which newspapers prior to consolidation had been published under said names in said city and county continuously and uninterruptedly during a period of more than twelve consecutive months, and said TIMES-NEWS, since such consolidation, has been published as a daily newspaper except Saturday, until July 31, 1978, at which time said newspaper began daily publication under said name in said city and county continuously and uninterruptedly.

And I further certify that pursuant to Section 60-108 Idaho Code, Thursday of each week has been designated as the day on which legal notice by law or by order of any court of competent jurisdiction within the state of Idaho to be issued thereof Thursday is announced as the day on which said legal will be published.

Ruby Aufderheide
Ruby Aufderheide, Legal Clerk

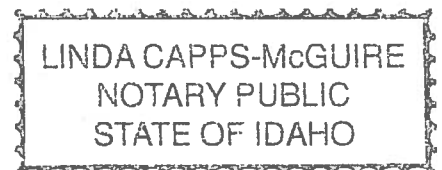
STATE OF IDAHO
COUNTY OF TWIN FALLS

On this 24th day of January, 2013, before me,

a Notary Public, personally appeared Ruby Aufderheide,
known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that he executed the same.

Linda Capps McGuire
Notary Public for Idaho
Residing at Twin Falls, Idaho.

My commission expires: 5-19-15



all ✓
DM 2/5/2013

NOTICE

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

✓ 36-16962

MONTY B MONTGOMERY

JENNIE L MONTGOMERY

3581 S 1425 E

WENDELL, ID 83355

Point of Diversion SWSW S34 T08S R14E GOODING County

Source WASTE WATER Tributary SNAKE RIVER

Use: IRRIGATION 03/15 to 11/15 1.32 CFS

Total Diversion: 1.32 CFS

Date Filed: 12/3/2012

Place Of Use: IRRIGATION

T08S R14E S33 SESE

T08S R14E S34 SWSW

Total Acres: 66

Application for permit proposes to divert up to 1.32 cfs of waste water for the irrigation of 66 acres, located approximately 6.3 miles south and 5.4 miles west of the city of Wendell. The applicant proposes to mitigate the surface water use by non use of ground water when surface water is available. No new acres are proposed.

✓ ~~45-14428~~

CORY KING

VICKY KING

317 W 659 S

HEYBURN, ID 83336

Point of Diversion L8(NESE) S26 T10S R23E MINIDOKA County

Source GROUND WATER Tributary

Use: COOLING 01/01 to 12/31 0.08 CFS

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

Use: HEATING 01/01 to 12/31 0.08 CFS

Total Diversion: 0.12 CFS

Date Filed: 1/4/2013

Place Of Use: HEATING, COOLING & DOMESTIC

T10S R23E S26 L8(NESE)

Application for Permit 45-14428, filed in the name of Corey and Vicky King, seeks to appropriate 0.12 cfs of ground water for heating, cooling, and domestic use. After using water for heating and cooling, waste water will be discharged to the Snake River. The proposed place of use and point of diversion are located approximately 2 miles east and 2.5 miles south of the City of Heyburn.

NOTICE OF PROPOSED CHANGE OF WATER RIGHT TRANSFER NO. 78301

✓ SIX S RANCH LLC, 1354 E SIX S RANCH RD, DECLO, ID 83323 has filed Application No. 78301 for changes to the following water rights within CASSIA County(s): Right No(s). 45-14376, 45-2625, 45-7021. The purpose of the transfer is to change a portion of the above rights as follows: Transfer proposes adding a new point of diversion consisting of a new well to be drilled for three groundwater rights that currently allow for the diversion of up to 7.33 cfs for irrigation of up to 770.8 acres within a 2,620.6 acre permissible place of use on property located approximately 4.0 - 6.25 miles east and 1.5 miles north - 2.0 miles south of Declo. The new well will be located approximately 5.75 miles east and 1.4 miles south of Declo. The application proposes allowing for the pumping of water from the new well and injecting it into Marsh Creek and then rediverting water from up to four existing diversions located downstream on Marsh Creek for irrigation of the property.

Permits will be subject to all prior water rights. For additional information concerning the property location, contact Southern Region office at (208) 736-3033; or for a full description of the rights &/or proposed transfer, please see www.idwr.idaho.gov/apps/ExtSearch/WRFiling.asp. Protests may be submitted based on the criteria of Sec 42-222 and 42-203A, Idaho Code. Any protest against the approval of this application(s) must be filed with the Director, Dept. of Water Resources, Southern Region, 1341 Fillmore St, Suite 200, Twin Falls, ID 83301 together with a protest fee of \$25.00 for each application on or before February 4, 2013. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

PUBLISH: January 17 and 24, 2013

all:
✓ OK DM 2/5/2013