

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 63-33615

Priority: January 30, 2012

Maximum Diversion Volume: 5.0 AF

This is to certify, that SHAUN HENRY
And/Or
LEAH HENRY
21941 LANSING LN
MIDDLETON ID 83644

has applied for a permit to appropriate water from:

Source: GROUND WATER

Tributary: BOISE 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>	<u>ANNUAL VOLUME</u>
IRRIGATION STORAGE	01/01 to 12/31		5.0 AF
IRRIGATION FROM STORAGE	03/01 to 11/15		5.0 AF
STOCKWATER FROM STORAGE	01/01 to 12/31		1.0 AF
STOCKWATER STORAGE	01/01 to 12/31		1.0 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER NE1/4NE1/4 Sec. 16,Twp 04N, Rge 02W, B.M. CANYON County

PLACE OF USE: IRRIGATION STORAGE

Twp Rge Sec	NE				NW				SW				SE				Totals
04N 02W 16	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
	X																

PLACE OF USE: IRRIGATION FROM STORAGE

Twp Rge Sec	NE				NW				SW				SE				Totals
04N 02W 16	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
	1.0																1.0

Total Acres: 1

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Department of Water Resources

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PLACE OF USE: STOCKWATER FROM STORAGE

Twp	Rge	Sec	NE				NW				SW				SE				Totals
04N	02W	16	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
			X																

PLACE OF USE: STOCKWATER STORAGE

Twp	Rge	Sec	NE				NW				SW				SE				Totals
04N	02W	16	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
			X																

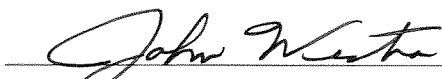
CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **November 01, 2013**.
2. Subject to all prior water rights.
3. This right does not authorize the construction of a well.
4. This right does not grant any right-of-way or easement across the land of another.
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. The right holder 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. The right holder 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.
7. If the surface water right(s) appurtenant to the place of use is abandoned, forfeited, sold, transferred, leased or used on any other place of use, this right to divert ground water shall not be used without an approved transfer pursuant to Section 42-222, Idaho Code, or approval of the Department if a transfer is not required.
8. Water stored under this right is subject to fluctuations of the water table caused by changes in the flow of local streams and by diversions under prior ground water rights. This right does not guarantee the maintenance of any particular ground water level.
9. The one pond or reservoir established by the storage of water under this right shall not exceed a total capacity of 2.0 acre-feet and 3.0 acre feet for refill or a total surface area of 0.1 acre.
10. 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.

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11. 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. 63.
12. The right holder shall continue to pay all assessment levied by Canyon County Water Co.
13. Stockwater use is for mixed stock.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 31st day of October, 2012.


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

November 1, 2012

SHAUN HENRY
AND/OR
LEAH HENRY
21941 LANSING LN
MIDDLETON ID 83644

RE: Permit No. 63-33615

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

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on November 1, 2012 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.

63-33615

**LEAH HENRY
21941 LANSING LN
MIDDLETON ID 83644**

**SHAUN HENRY
21941 LANSING LN
MIDDLETON ID 83644**

**REX R. BARRIE
10769 WEST STATE STREET
P.O. BOX 767
STAR IDAHO 83669**

A handwritten signature in black ink, reading "Rachel Sommer", is written over a horizontal line.

**Rachel Sommer
Office Specialist II**

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.

RECEIVED
JUL 30 2012

WATER RESOURCES
WESTERN REGION

29512 710366

1 IDAHO DEPT. OF WATER RESOURCES

WESTERN REGION
2735 AIRPORT WAY
BOISE ID 83705

AFFIDAVIT OF PUBLICATION
STATE OF IDAHO)

County of Canyon)

SS.

Amanda Weaver
of Nampa, Canyon County, Idaho, being
first duly sworn, deposes and says:

LEGAL NOTICE

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

63-33615

SHAUN HENRY
LEAH HENRY
21941 LANSING LN
MIDDLETON, ID 83644

Point of Diversion NENE S16 T04N R02W CANYON County
Source GROUND WATER
Use: IRRIGATION FROM STORAGE 03/01 to 11/15 5 AF,
IRRIGATION STORAGE 01/01 to 12/31 5 AF,
STOCKWATER FROM STORAGE 01/01 to 12/31 1 AF,
STOCKWATER STORAGE 01/01 to 12/31 1 AF
Total Diversion: 6 AF
Date Filed: 1/30/2012
Place Of Use: IRRIGATION STORAGE, IRRIGATION FROM
STORAGE, STOCKWATER FROM STORAGE, STOCKWATER
STORAGE
T04N R02W S16 NENE
Total Acres: 1

63-33668

STEPHEN C ALLTON
23988 BLESSINGER RD
STAR, ID 83669

Point of Diversion L4(NWNW) S1 T04N R02W CANYON
County Source GROUND WATER
Use: DOMESTIC 01/01 to 12/31 0.04 CFS, IRRIGATION
03/01 to 11/15 0.03 CFS
Total Diversion: 0.04 CFS
Date Filed: 6/22/2012
Place Of Use: IRRIGATION, DOMESTIC
T04N R02W S1 L4(NWNW)
Total Acres: 1
Water bearing zone to be appropriated is from 150 to 225 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 8/6/2012. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Interim Director

July 19, 26, 2012

710366

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:
07/19/2012 07/26/2012

Amanda Weaver
STATE OF IDAHO)
County of Canyon)
On this 26th day of July in the year of
2012 before me a Notary Public, personally appeared.
Amanda Weaver, 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.

Sheila Thayer
Notary Public for Idaho
Residing at Caldwell
My Commission expires 03/20/2013

