

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 36-16936

Priority: April 09, 2012

Maximum Diversion Rate: 0.04 CFS

This is to certify, that CARMEN M ZABALA And IGNACIO NICK ZABALA
PO BOX 262
HAGERMAN ID 83332

has applied for a permit to appropriate water from:

Source: SPRING**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>	<u>ANNUAL VOLUME</u>
DOMESTIC	01/01 to 12/31	0.04 CFS	

LOCATION OF POINT(S) OF DIVERSION:

SPRING SE1/4NE1/4SE1/4 Sec. 2, Twp 07S, Rge 13E, B.M.
GOODING County

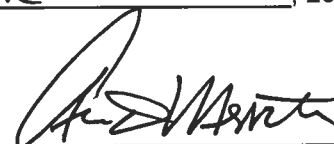
PLACE OF USE: DOMESTIC

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
07S	13E	2																	X

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **July 01, 2017**.
2. Subject to all prior water rights.
3. The quantity of water under this right for domestic use shall not exceed 13,000 gallons per day.
4. Domestic use is for one homes and does not include lawn, garden, landscape, or other types of irrigation.
5. This right does not grant any right-of-way or easement across the land of another.
6. 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.

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 June, 2012.



FOR GARY SPACKMAN, Interim Director

State of Idaho
Department of Water Resources

Attachment To Permit to Appropriate Water

36-16936

This map depicts the DOMESTIC 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.

R13E

T07S



0 0.025 0.05 0.1 Miles

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





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
Interim Director

July 2, 2012

IGNACIO NICK ZABALA
CARMEN M ZABALA
PO BOX 262
HAGERMAN ID 83332

RE: Permit No. 36-16936

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.

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, looped initial "A" and a cursive "Merritt".

Allen Merritt
Southern Region Manager

Enclosure(s)

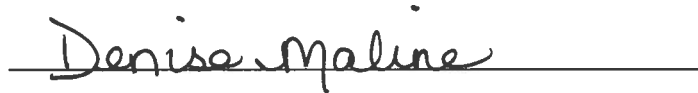
CERTIFICATE OF SERVICE

I hereby certify that on July 2, 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.

36-16936

**IGNACIO NICK ZABALA
CARMEN M ZABALA
PO BOX 262
HAGERMAN ID 83332**

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.

MEMORANDUM

TO: 36-16936 FILE
FROM: J. COOPER
SUBJECT: WATER DISTRICT REGULATION
DATE: 6/29/2012

I spoke with the Watermaster for WD 130 (Cindy Yenter) regarding comments on a new domestic filing (36-16936). After reviewing maps and WMIS data, Cindy concluded that the Point of Diversion (POD) is in the water district boundary but has historically been unregulated and should remain that way. She requests that the 130 Flag in the SDE layer be removed and kept off this right in the future.

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

RECEIVED
APR 27 2012
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, Twin 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 19th day of April, 2012 and ending with the issue dated 26th day of April, 2012

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

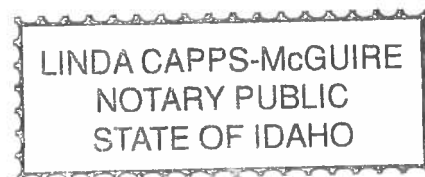
STATE OF IDAHO
COUNTY OF TWIN FALLS

On this 26th day of April, 2012, 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



✓ OK

Pg. 2

RECEIVED
APR 27 2012
DEPT. OF WATER RESOURCES
SOUTHERN REGION

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

36-16936

✓ **IGNACIO NICK ZABALA**

CARMEN M ZABALA

PO BOX 262

HAGERMAN, ID 83332

Point of Diversion SENESE S2 T07S R13E GOODING County

Source SPRING Tributary SNAKE RIVER

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

Total Diversion: 0.04 CFS

Date Filed: 4/9/2012

Place Of Use: DOMESTIC

T07S R13E S2 NWSE

Application proposes to divert up to 0.04 CFS from an unnamed spring for in-house domestic use for a home located approximately 1.4 miles N of Hagerman. The unnamed spring is located approximately 700 ft due east of the proposed place of use and is proposed to be delivered through an existing pipeline.

NOTICE OF PROPOSED CHANGE OF WATER RIGHT

TRANSFER NO. 77851

✓ **GW FINANCE CO LLC**, 22 N YALE RD, DECLO, ID 83323 has filed Application No. 77851 for changes to the following water rights within CASSIA County(s): Right No(s). 43-13640, 43-13642. The purpose of the transfer is to change a portion of the above rights as follows: Transfer proposes adding a new well to be drilled on a farm located approximately 14.0-14.8 mi. east and 2.2-2.7 mi. south of Declo. The new well and an existing well will be used to divert 4.75 cfs and 976 AF for the irrigation of 244 acres on the farm.

NOTICE OF PROPOSED CHANGE OF WATER RIGHT

TRANSFER NO. 77425

✓ **MILLENKAMP PROPERTIES**, 471 N 300 W, JEROME, ID 83338 has filed Application No. 77425 for changes to the following water rights within JEROME County(s): Right No(s). 36-7507, 36-16916. The purpose of the transfer is to change a portion of the above rights as follows: Application 77425 proposes changing the point of diversion (POD) and the recorded place of use (POU) for a 1.06 CFS (71 acres, 284 AFA) portion associated with an irrigation groundwater right (36-7507) currently appurtenant to property located approximately 3.5 to 4.0 mi. W & 4.5 to 5.0 mi. N of Jerome. Applicant proposes to move this portion to an adjacent farm and well, located SE of the, current authorized place of use, to cover 71 acres proposed to be dried up under right 36-8054 involved in companion transfers 77522 & 77523.

NOTICE OF PROPOSED CHANGE OF WATER RIGHT

TRANSFER NO. 77522

✓ **MILLENKAMP PROPERTIES, LLC**, 471 N 300 W, JEROME, ID 83338 has filed Application No. 77522 for changes to the following water rights within JEROME County(s): Right No(s). 36-16914. The purpose of the transfer is to change a portion of the above rights as follows: Application proposes transferring a 3 acre portion (0.06 cfs) of an irrigation groundwater right from a farm located approximately 4.0 - 4.5 miles north and 3.0 - 3.5 miles west of the center of Jerome to 3 acres of irrigation associated with a home and landscaping at a CAFO facility located adjacent to the farm. The transferred portion of this right (0.06 cfs) will be diverted from three existing wells and a new well to be drilled at the CAFO site.

→
OVER

✓ OK
DM 5/9/2012

**NOTICE OF PROPOSED CHANGE OF WATER RIGHT
TRANSFER NO. 77523**

✓
MILLENKAMP PROPERTIES, LLC, 471 N 300 W, JEROME, ID 83338 has filed Application No. 77523 for changes to the following water rights within JEROME County(s): Right No(s). 36-14152, 36-16242, 36-16244, 36-4157F, 36-16915. The purpose of the transfer is to change a portion of the above rights as follows: Application proposes transferring a 68 acre portion (1.36 cfs) of an irrigation groundwater right from a farm located approximately 4.0 - 4.5 miles north and 3.0 - 3.5 miles west of the center of Jerome to commercial and stockwater use to a CAFO located adjacent to the farm at approximately 4.5 - 5.0 miles north and 2.75 - 3.75 miles west of the center of Jerome. The transferred portion of this right (1.36 cfs) and an additional existing domestic and stockwater right (0.04 cfs) will be added to three existing commercial and stockwater rights for the CAFO. These five water rights will be diverted from three existing wells and a new well to be drilled at the CAFO site.

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 May 7, 2012. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Interim Director

PUBLISH: April 19th & 26th, 2012

✓ OK DM
5.9.2012