

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 63-33579

Priority: September 23, 2011

Maximum Diversion Rate: 0.04 CFS

This is to certify, that CITY OF BOISE
PARKS & RECREATION DEPT
1104 ROYAL BLVD
BOISE ID 83706-2898

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>
MUNICIPAL FROM STORAGE	03/01 to 11/15		36.0 AF
MUNICIPAL STORAGE	01/01 to 12/31		50.0 AF
DIVERSION TO STORAGE	01/01 to 12/31	0.04 CFS	

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER SE1/4SW1/4 Sec. 15, Twp 03N, Rge 02E, B.M. ADA County

PLACE OF USE: MUNICIPAL FROM 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
03N	02E	15												X					

PLACE OF USE: MUNICIPAL 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
03N	02E	15												X					

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **April 01, 2017**.
2. Subject to all prior water rights.
3. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
4. This right does not grant any right-of-way or easement across the land of another.

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5. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which the permit holder had no control.
6. 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.
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. 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.
9. 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.
10. 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.
11. Place of use is located within Terry Day Park.
12. The capacity of the storage reservoir is 10 AF. The reservoir may be refilled multiple times up to the total diversion volume in a single year.
13. To prevent injury to prior water rights appropriating water from the Boise River and/or the underlying shallow aquifer tributary to Boise River, the new well used as a point of diversion for this water right located within Township 3N, Range 2E, Section 15 shall be constructed and maintained with unperforated casing and sealed into the first significant confining layer located 200 feet or more below ground surface.
14. Water bearing zone is 200 to 300 feet.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 4th day of April, 20 12.


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

April 4, 2012

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

CITY OF BOISE
PARKS & RECREATION DEPT
1104 ROYAL BLVD
BOISE ID 83706-2898

RE: Permit No. 63-33579

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.

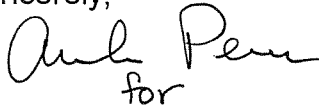
The Department will send you a 'Proof Due Notice' approximately 60 days prior to the above referenced date requesting you to file either a Proof of Beneficial Use form or a Request for Extension of Time form.

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 cursive script, appearing to read "John Westra".

for
John Westra

Western Regional Manager

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on April 4, 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.

63-33579

**CITY OF BOISE
PARKS & RECREATION DEPT
1104 ROYAL BLVD
BOISE ID 83706-2898**

A handwritten signature in black ink, appearing to read "Mandi Pearson", is written over a horizontal line.

**Mandi Pearson
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.

INTEROFFICE MEMORANDUM

TO: APPLICATION FOR PERMIT FILE 63-33579
FROM: VICKY MUSIC
SUBJECT: CLARIFICATION OF APPLICATION – B/U TERMS & VOLUME
DATE: 3/22/2012
CC:

The City of Boise Parks and Recreation department filed this application for the new Terry Day Park. The uses filed for were municipal, diversion to storage and municipal storage. There are NYID shares appurtenant to the property and this application is for ground water to supplement irrigation and for an aesthetic and wildlife pond. Water will be pumped to the pond and then to sprinklers. The application did not provide a rationale for the 50 afa for municipal storage and the Department beneficial use terms have changed. This memo serves to clarify the application.

The diversion to storage rate applied for is 0.04 cfs which is pretty low. At this rate it will take $10 \text{ af} / .04 \times 2 = 125$ days to fill the pond but it is acceptable.

IDWR use terms for storage purposes and the various components of a storage use have changed over the past few years and it can be pretty confusing for both staff and the regulated community. This application states a municipal use for 0.24 cfs which is for the irrigation of 8 acres within the park. The municipal use should be listed on the application as municipal from storage with a volume of 36 afa [$4.5 \text{ af} \times 8 \text{ acres}$] and not a diversion rate. This volume is based on the volume needed for a primary right and is fine at this stage of the application.

Based on the pond dimensions provided by the applicant, the pond capacity is about 9.3 af. This is the volume that should have been listed on the application as the reservoir capacity in 6b instead of 50 afa. The pond surface area is projected to be about 0.7 acre. The well will provide the initial pond fill, evaporative losses and pond refill all year.

I confirmed with the applicant the following rationale for the 50 afa municipal storage component and I used the IDWR standard for small ponds of a 1:1 acre consumptive use volume: 1 acre pond surface area = 3.5 afa.

$36 \text{ afa for irrigation} + 9.3 \text{ afa for pond capacity} + 3.5 \text{ afa evaporative loss of a pond with approx. 1 acre surface area} = 47.8 \text{ afa}$. This is acceptable at this point in the administrative process. The e-mails with the applicant and additional documentation are in the correspondence in the file.

MAR 09 2012

WATER RESOURCES
WESTERN REGION
Idaho Statesman
The Newspaper of the Treasure Valley
IDAHOSTATESMAN.COM
PO Box 40, Boise, ID 83707-0040

LEGAL PROOF OF PUBLICATION

Account #	Ad Number	Identification	PO	Amount	Cols	Lines
47628	0000589147	LEGAL NOTICE	CityofBoise	\$126.15	2	36

Attention: Steve Lester

IDAHO DEPT WATER RESOURCE

2735 AIRPORT WAY

BOISE

ID

83705

LEGAL NOTICE

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

✓ **63-33579**
CITY OF BOISE
PARKS & RECREATION DEPT
1104 ROYAL BLVD
BOISE, ID 83706-2898

Point of Diversion: SESW S15 T03N R02E ADA County Source
GROUND WATER

Use: DIVERSION TO STORAGE 01/01 to 12/31 0.04 CFS, MUNICIPAL
STORAGE 01/01 to 12/31 50 AF, MUNICIPAL FROM STORAGE 03/01
to 11/15 36 AF

Total Diversion: 0.04 CFS with 50 AF storage

Date Filed: 9/23/2011

Place of Use: MUNICIPAL STORAGE & MUNICIPAL FROM STORAGE
T03N R02E S15 SESW

Use is for aesthetic, wildlife, storage and supplemental irrigation uses in
Terry Day Park. Water bearing zone to be appropriated is from 200 to
300 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
3/19/2012. The protestant must also send a copy of the protest to the
applicant.

GARY SPACKMAN, Interim Director

Pub. Mar. 18, 2012

0000589147-01

JANICE HILDRETH, being duly
sworn, deposes and says: That
she is the Principal Clerk of The
Idaho Statesman, a daily
newspaper printed and
published at Boise, Ada County,
State of Idaho, and having a
general circulation therein, and
which said newspaper has been
continuously and uninterruptedly
published in said County during
a period of twelve consecutive
months prior to the first
publication of the notice, a copy
of which is attached hereto: that
said notice was published in The
Idaho Statesman, in conformity
with Section 60-108, Idaho
Code, as amended, for:

2 Insertions

Beginning issue of: 03/01/2012

Ending issue of: 03/08/2012

Janice Hildreth
(Legals Clerk)

STATE OF IDAHO)

.SS

COUNTY OF ADA)

On this 8 day of March in the
year of 2012 before me, a Notary
Public, personally appeared
before me Janice Hildreth known
or identified to me to be the
person whose name subscribed
to the within instrument, and
being by first duly sworn,
declared that the statements
therein are true, and
acknowledged to me that she
executed the same.

Cecily Brangman
Notary Public for Idaho
Residing at: Boise, Idaho

My Commission expires:

8-27-15

