

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 63-33592

Priority: October 20, 2011

Maximum Diversion Rate: 0.09 CFS

This is to certify, that WESTERN FARMS INC
16909 MARSING RD
CALDWELL ID 83607

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	0.09 CFS

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER SE1/4SE1/4 Sec. 11, Twp 03N, Rge 04W, B.M. CANYON 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	
03N	04W	11													4.6				4.6

Total Acres: 4.6

CONDITIONS OF APPROVAL

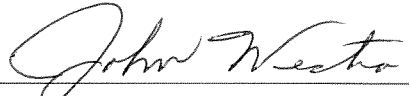
1. Proof of application of water to beneficial use shall be submitted on or before **April 01, 2013**.
2. Subject to all prior water rights.
3. This right does not grant any right-of-way or easement across the land of another.
4. The right holder shall make full beneficial use of all surface water rights 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.
5. 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.

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 63-33592

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. 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.

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

WESTERN FARMS INC
16909 MARSING RD
CALDWELL ID 83607

RE: Permit No.63-33592

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,

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

for

John Westra

Western Regional Manager

Enclosure(s)

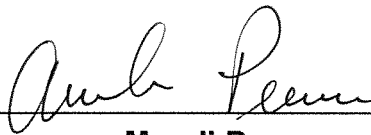
CERTIFICATE OF SERVICE

I hereby certify that on April 5, 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.

63-33592

**WESTERN FARMS INC
16909 MARSING RD
CALDWELL ID 83607**

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

**Mandi Pearson
Office Specialist II**

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
STATEMENT OF COMPLETION
FOR SUBMITTING PROOF OF BENEFICIAL USE

FOR OFFICE USE ONLY

Amt. of Fee \$: _____
Receipt No. _____
Receipt By: _____
Date Received: _____

The Idaho Department of Water Resources considers this form a statement by the permit holder(s) that development of a water right has been **completed** and that water has been applied to beneficial use to the extent described below. **This form must be accompanied by an examination fee, when necessary, or by a completed Beneficial Use Field Report prepared by a certified water right examiner.** Please refer to the instructions and fee schedule for this form. If ownership of the permit has changed, please contact any Department office or visit the Department's website at: www.idwr.idaho.gov for an *Assignment of Permit* form. If you wish to relinquish your permit because you have not established the authorized use of the water and are not applying for an extension, please notify the Department in writing.

1. Permit No.: _____ Telephone No.: _____

2. Name of Permit Holder(s): _____

3. Mailing Address: _____ City: _____

State: _____ Zip: _____ Email: _____

4. Source of Water: _____ If **GROUND WATER** (well), Date Drilled: mo. _____ / yr. _____

Well Driller: _____ Drilling Permit Number: _____

5. Extent of use(s) completed (as authorized by the water right permit):

Domestic (No. of households): _____ Stockwater (No. and type of stock): _____

Irrigation (No. of acres): _____ Other: _____

6. Total rate of diversion or storage volume for which proof is submitted: _____ cfs **OR** _____ acre-feet.

7. Compliance with a measuring device requirement, lockable controlling device requirement, and/or other conditions of permit: **Refer to the approval conditions on your permit and respond accordingly. The Department will not issue a license if permit conditions are not met.**

Measuring Device: Is a measuring device required?

Yes ☐	No ☐
Yes ☐	No ☐

If yes, has the measuring device been installed?

Lockable Controlling Device: Is a lockable device required to control the diversion?

Yes ☐	No ☐
Yes ☐	No ☐

If yes, has the lockable device been installed?

Other Conditions of Permit: Do the approval conditions on your permit require you to submit additional information in connection with your proof of beneficial use? If yes, list the conditions below and attach documents with the required information.

_____ Completed?

Yes ☐	No ☐
------------------------------	-----------------------------

8. Fee Enclosed: \$_____ See fee schedule on back of the instructions for filing proof of beneficial use. Proofs filed without an appropriate fee, will be considered incomplete.

9. Person to contact to accompany the Department representative during field examination of the water system.

Name: _____ Telephone Number: _____

Mailing Address: _____ City: _____

State: _____ Zip: _____ Email: _____

The information given on this form is my true statement of the extent to which the above numbered permit has been developed and water has been diverted and applied to a beneficial use. I understand that any undeveloped portion of the permit is relinquished to the State of Idaho.

Signature of permit holder: _____ Date: _____
(Include your title, if on behalf of company or organization)

Mail to: Idaho Department of Water Resources, PO Box 83720, Boise, ID 83720-0098

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

INSTRUCTIONS FOR FILING PROOF OF BENEFICIAL USE

HOW TO MAKE PROOF:

In order for a permit holder to fulfill the conditions of the permit to obtain a water right license, the permit holder must submit the Statement of Completion for Submitting Proof of Beneficial Use form (proof) together with the license examination fee (if required) **OR** submit the proof together with a completed field examination report prepared by a certified water right examiner on or before the date set in the permit for the proof. The information submitted by the permit holder will enable the department to determine the extent of beneficial use before the license is issued. The information entered on the proof form should show the extent of actual development of the project and should correspond to that authorized by the permit. If it does not, an amendment (change) to the permit may be required.

WHAT TO DO IN CASE YOU HAVE NOT FULLY APPLIED THE WATER TO BENEFICIAL USE:

If the development authorized by the permit has not been completed in the time allowed, the permit holder may submit a request for extension of time in which to submit the proof. In order for a request for extension of time to be considered without loss of priority, it must be filed prior to the date on which proof of beneficial use is due. Each request for extension of time will be considered on its own merits.

WHAT IF YOU FAIL TO MAKE PROOF OF BENEFICIAL USE ON TIME:

If you have applied the water to beneficial use, but did not submit the proof of beneficial use on or before the date set for the proof, the permit will lapse. A lapsed permit may be reinstated **within sixty (60) days** from the date the department sends the lapse notice. In order for the department to reinstate the permit, the permit holder must show reasonable cause why the permit should be reinstated. Submission of an acceptable proof of beneficial use form within the sixty (60) day period will be considered as reasonable cause for reinstatement.

If you applied the water to beneficial use and **more than sixty (60) days** have passed since mailing of the lapse notice, proof of beneficial use must be submitted with a statement of reasonable cause for filing late proof of beneficial use, a Beneficial Use Field Report prepared by a certified water right examiner, and a reinstatement application fee of \$250 pursuant to Section 42-218a(2), Idaho Code.

EXAMINATION FEE:

Section 42-217 and Section 42-221, Idaho Code, require an examination fee as part of the proof of beneficial use submittal if a completed field examination report prepared by a certified water right examiner is not submitted as part of the proof. The fee is based upon the rate of diversion or volume of water claimed on the proof of beneficial use form. **The appropriate fee can be determined from the license examination fee schedule on the back of these instructions.**

ISSUANCE OF LICENSE:

The department will issue a license of water right based on the determination of the amount of water beneficially used in compliance with existing law. The license will include specific information to describe the water right developed.

NOTE - You must comply with the conditions of approval of your permit or seek to have the department waive the conditions. (See the section titled "Conditions of Approval" near the bottom of your permit).

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

A license examination fee is not required in connection with permits which use a ground water (well) source **AND** have a total rate of diversion of 0.04 cfs or less or where the total volume stored is 4.0 AF per annum or less.

A license exam fee is required for ANY permit which uses surface water.

Checks should be made payable to the Idaho Department of Water Resources (IDWR.)

LICENSE EXAMINATION FEE SCHEDULE
(C.F.S. = cubic feet per second AF = acre-feet)

CFS			AF			FEE
0	–	0.20	0	–	20	\$ 50.00
0.21	–	1.00	21	–	100	\$ 100.00
1.01	–	2.00	101	–	200	\$ 125.00
2.01	–	3.00	201	–	300	\$ 150.00
3.01	–	4.00	301	–	400	\$ 175.00
4.01	–	5.00	401	–	500	\$ 200.00
5.01	–	6.00	501	–	600	\$ 225.00
6.01	–	7.00	601	–	700	\$ 250.00
7.01	–	8.00	701	–	800	\$ 275.00
8.01	–	9.00	801	–	900	\$ 300.00
9.01	–	10.00	901	–	1000	\$ 325.00
10.01	–	11.00	1001	–	1100	\$ 350.00
11.01	–	12.00	1101	–	1200	\$ 375.00
12.01	–	13.00	1201	–	1300	\$ 400.00
13.01	–	14.00	1301	–	1400	\$ 425.00
14.01	–	15.00	1401	–	1500	\$ 450.00
15.01	–	16.00	1501	–	1600	\$ 475.00
16.01	–	17.00	1601	–	1700	\$ 500.00
17.01	–	18.00	1701	–	1800	\$ 525.00
18.01	–	19.00	1801	–	1900	\$ 550.00
19.01	–	20.00	1901	–	2000	\$ 575.00
20.01	–	21.00	2001	–	OVER	\$ 600.00

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.

29512 617337

1 IDAHO DEPT. OF WATER RESOURCES

WESTERN REGION
2735 AIRPORT WAY
BOISE ID 83705

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

✓ 63-33592

WESTERN FARMS INC
16909 MARSING RD
CALDWELL, ID 83607
Point of Diversion: SESE
S11 T03N R04W CANYON
County Source GROUND
WATER

Use: IRRIGATION 03/01 to
11/15 0.09 CFS

Total Diversion: 0.09 CFS

Date Filed: 10/20/2011

Place of Use: IRRIGATION

T03N R04W S11 NESE

Total Acres: 4.6

Water bearing zone to be ap-
propriated from existing well is
from 60 to 125 feet.

Permits will be subject to all
prior water rights. For addi-
tional information concerning
the property location, contact
Western Region office at (208)
334-2190; or for a full descrip-
tion 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
3/5/2012. The protestant must
also send a copy of the protest
to the applicant.

GARY SPACKMAN,
Interim Director

Published on 2/16/2012 and
2/23/2012

Feb. 16, 23, 2012 617337

OK
JC 3/19/12

AFFIDAVIT OF PUBLICATION STATE OF IDAHO)

)SS.

County of Canyon)

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

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:
02/16/2012 02/23/2012

Amanda Weaver
STATE OF IDAHO)

County of Canyon)

On this 23rd day of February 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.

Vicki C Bass
Notary Public for Idaho

Residing at Caldwell

My Commission expires 04/19/2014

