

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 2-10460

Priority: May 06, 2011

Maximum Diversion Rate: 1.88 CFS

This is to certify, that A D CATTLE CO INC
PO BOX 1582
BOISE ID 83701

has applied for a permit to appropriate water from:

Source: SNAKE RIVER

Tributary: COLUMBIA 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	03/01 to 11/15	1.88 CFS

LOCATION OF POINT OF DIVERSION:

SNAKE RIVER L5 (SE1/4NW1/4) Sec. 22, Twp 01N, Rge 03W, 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	
01N 03W 14	40.0	40.0	40.0	40.0													320.0

Total Acres: 320

CONDITIONS OF APPROVAL

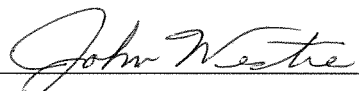
1. Proof of application of water to beneficial use shall be submitted on or before **March 01, 2013**.
2. Subject to all prior water rights.
3. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the place of use.
4. This right does not authorize the irrigation of land not previously irrigated.
5. 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.
6. The right holder shall not assign or sell the permit without first securing the written approval of the Department of Water Resources.
7. Water shall not be diverted under this right when flows in the Snake River are below 4750 cfs at Weiser.
8. This right does not grant any right-of-way or easement across the land of another.

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9. 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.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 15th day of March, 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

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

March 1, 2012

A D CATTLE CO INC
PO BOX 1582
BOISE ID 83701

RE: Permit No.2-10460

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.

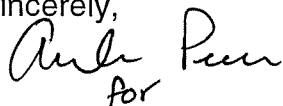
Enclosed is a form entitled 'Instructions for Proof of Beneficial Use.' Please read the instructions carefully since you must take further action to develop this permit into a licensed water right. Also enclosed is a form entitled 'Proof of Beneficial Use.' If your project is already completed, you should 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 208-334-2190.

Sincerely,

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

for

John Westra

Western Regional Manager

Enclosure(s)

cc: JOHN MARSHALL LAW PLLC

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.

CERTIFICATE OF SERVICE

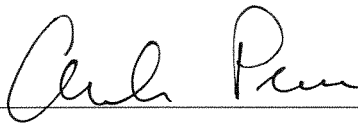
I hereby certify that on March 2, 2012 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved Permit) to the person(s) listed below:

RE: WATER RIGHT NO.

2-10460

**A D CATTLE CO INC
PO BOX 1582
BOISE ID 83701**

**JOHN MARSHALL LAW PLLC
ATTN: JOHN MARSHALL
575 W BANNOCK ST, STE B
BOISE ID 83702**

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

**Mandi Pearson
Office Specialist 2**

29512 601889

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:

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.

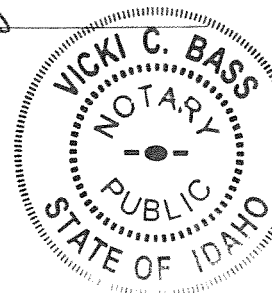
That said notice was published the following:
01/19/2012 01/26/2012

Amanda Weaver
STATE OF IDAHO)

County of Canyon)

On this 26th day of January 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



RECEIVED
JAN 27 2012
WATER RESOURCES
WESTERN REGION

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

2-10460

A D CATTLE CO INC
PO BOX 1582
BOISE, ID 83701
Point of Diversion L5(SENW) S22 T01N R03W CANYON County Source SNAKE RIVER
Tributary COLUMBIA RIVER
Use: IRRIGATION 3/01 to 11/15 1.88 CFS
Total Diversion: 1.88 CFS
Date Filed: 5/6/2011
Place Of Use: IRRIGATION
T01N R03W S14 NE (ALL) SE (ALL)
Total Acres: 320

2-10461

ALLEN NOBLE FARMS INC
PO BOX 1582
BOISE, ID 83701
Point of Diversion L5(SENW) S22 T01N R03W CANYON County Source SNAKE RIVER
Tributary COLUMBIA RIVER
Use: IRRIGATION 03/01 to 11/15 3.76 CFS
Total Diversion: 3.76 CFS
Date Filed: 5/6/2011
Place Of Use: IRRIGATION
T01N R03W S11 NW (ALL) SW (ALL)
T01N R03W S14 NW (ALL) SW (ALL)
Total Acres: 640

2-10462

BASIN LAND PROJECT
PO BOX 1582
BOISE, ID 83701
Point of Diversion L7(SWSWNE) S36 T01N R03W CANYON County Source SNAKE RIVER
Tributary COLUMBIA RIVER
Use: IRRIGATION 03/01 to 11/15 26 CFS
Total Diversion: 26 CFS
Date Filed: 5/6/2011
Place Of Use: IRRIGATION
T01N R02W S19 (ALL)
T01N R02W S20 NW (ALL)
T01N R02W S29 NWNW SWNW SENW SW (ALL)
T01N R02W S30 (ALL)
T01N R02W S31 NE (ALL) NW (ALL) NESW NWSE
T01N R02W S32 NENW NWNW SWNW
T01N R03W S23 (ALL)
T01N R03W S24 (ALL)
T01N R03W S25 NE (ALL) NENW NWNW SENW SE (ALL)
T01N R03W S26 NENE
T01N R03W S36 NENE SENE
Total Acres: 3715

2-10463

BIGFOOT FARM LLC
DAVID PALFREYMAN MANAGER
5001 FIFESHIRE PL N
BOISE, ID 83713
Point of Diversion L5(SENW) S22 T01N R03W CANYON County Source SNAKE RIVER
Tributary COLUMBIA RIVER
Use: IRRIGATION 03/01 to 11/15 0.94 CFS
Total Diversion: 0.94 CFS
Date Filed: 5/6/2011
Place Of Use: IRRIGATION
T01N R03W S15 SE (ALL)
T01N R03W S22 NENE SENE
Total Acres: 193

63-32562

DOUG MERGES
LORI ANN MERGES
27205 WING SETTER LN
PARMA, ID 83660
Point of Diversion L7(SESW) S17 T05N R05W CANYON County Source UNNAMED DRAIN
Tributary BOISE RIVER
Use: DIVERSION TO STORAGE 01/01 to 12/31 1 CFS
Use: WILDLIFE 01/01 to 12/31 0.27 CFS
Use: WILDLIFE STORAGE 01/01 to 12/31 29 AF
Total Diversion: 1 CFS
Date Filed: 10/23/2006
Place Of Use: WILDLIFE & WILDLIFE STORAGE
T05N R05W S17 L6(NESW)
Use existing irrigation ditch. Presumed tributary to Boise River via Ross East End Drain. Return flows to Ross East End Drain near wildlife pond.

✓ OK
SB 1.27.12

63-32608

PARMA PONDS LLC
6417 PLANTATION LN
BOISE, ID 83703Point of Diversion L7(SESW) S17 T05N R05W CANYON County Source UNNAMED
DRAIN Tributary BOISE RIVER

Use: DIVERSION TO STORAGE 01/01 to 12/31 2.8 CFS

Use: WILDLIFE 01/01 to 12/31 2.8 CFS

Use: WILDLIFE STORAGE 01/01 to 12/31 35 AF

Total Diversion: 2.8 CFS

Date Filed: 11/21/2006

Place Of Use: WILDLIFE & WILDLIFE STORAGE

T05N R05W S17 L6(NESW) L5(NWSW) L7(SESW)

Use existing irrigation ditch. Presumed tributary to Boise River via Ross East End Drain. Return flows to Ross East End Drain near wildlife ponds.

63-33593

JOHN LINDLEY
29453 GOTSCH RD
PARMA, ID 83660Point of Diversion SENE S1 T05N R05W CANYON County Source GROUND WATER
Tributary

Use: IRRIGATION 03/01 to 11/15 1.13 CFS

Total Diversion: 1.13 CFS

Date Filed: 10/26/2011

Place Of Use: IRRIGATION

T05N R05W S1 SWNE SENE NESE

Total Acres: 57

Permits will be subject to all prior water rights. For additional information concerning the proper 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 February 6, 2012. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Interim Director

January 19, 23, 2011

601889



should be 1/26 but ad ran as scheduled.

OK ✓

✓ OK
1-27-12

Borgeman, Sherry

From: Amanda Weaver [aweaver@idahopress.com]
Sent: Friday, January 27, 2012 11:59 AM
To: Borgeman, Sherry
Subject: Re: Affidavit ?

It ran for the requested dates it was just an error on the bottom of the ad. I'm so sorry, I'll keep better watch over that on the next one.

Amanda Weaver
Legal Clerk
Idaho Press-Tribune
& Emmett Messenger Index
(208) 465-8128
aweaver@idahopress.com

On 1/27/2012 11:56 AM, Borgeman, Sherry wrote:
Amanda,

We received the attached affidavit and the dates on the affidavit say it was published 1/19 & 1/26, which were the correct dates, but the ad copy says it ran 1/19 & 1/23, which would not be correct. Can you figure out what happened please?

Thanks,

Sherry Borgeman
Idaho Department of Water Resources, Western Region
208-334-2190 (ph)
208-334-2348 (fax)

63-32562

63-32608

63-33593

02-10460

02-10461

02-10462

02-10463