

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 63-32366

Priority: March 27, 2006

Maximum Diversion Volume: 533.0 AF

This is to certify, that B W EAGLE INC
250 S BEECHWOOD STE 120
BOISE ID 83709

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>
AESTHETIC STORAGE	01/01 to 12/31		533.0 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER	NW1/4SW1/4	Sec. 21, Twp 04N, Rge 01E, B.M., ADA County
GROUND WATER	L6 (SE1/4NW1/4)	Sec. 21, Twp 04N, Rge 01E, B.M., ADA County
GROUND WATER	L5 (SW1/4NW1/4)	Sec. 21, Twp 04N, Rge 01E, B.M., ADA County
GROUND WATER	L5 (SW1/4NW1/4)	Sec. 21, Twp 04N, Rge 01E, B.M., ADA County
GROUND WATER	NE1/4SW1/4	Sec. 21, Twp 04N, Rge 01E, B.M., ADA County
GROUND WATER	NE1/4SW1/4	Sec. 21, Twp 04N, Rge 01E, B.M., ADA County
GROUND WATER	NW1/4SW1/4	Sec. 21, Twp 04N, Rge 01E, B.M., ADA County

PLACE OF USE: AESTHETIC 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
04N 01E 21			X				X	X	X	X	X	X					
			L 7				L 5	L 6									

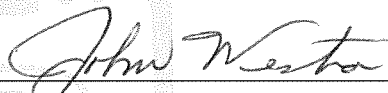
CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **December 01, 2016**.
2. Subject to all prior water rights.
3. 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.
4. Water bearing zone to be appropriated is from 1 to 28 feet.

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5. 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.
6. This right does not authorize construction of a well(s).
7. The 7 ponds established by storage of water under this right shall not exceed a total capacity of 533 acre-feet or a total surface area of 23 acres.
8. Transfers 73900 and 73930 when combined authorize the diversion of an annual total of 78.5 acre-feet to be use for the replacement of losses caused by seepage and evaporation.
9. 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.
10. Upon notification by the Department, the right holder shall maintain lockable controlling outlet works of a type approved by the Department in a manner that will provide the watermaster suitable control of outflows, if any, from the ponds.
11. Aesthetic storage is for Lakemoor Subdivision.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 12th day of December, 20 11.



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

December 12, 2011

B W EAGLE INC
250 S BEECHWOOD STE 120
BOISE ID 83709

RE: Permit No.63-32366

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,

for John Westra
Western Regional Manager

Enclosure(s)

cc: ERO RESOURCES CORP

CERTIFICATE OF SERVICE

I hereby certify that on December 13, 2011 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.

63-32366

**B W EAGLE INC
250 S BEECHWOOD STE 120
BOISE ID 83709**

**ERO RESOURCES CORP
C/O STEVE HANNULA
3314 GRACE ST
BOISE ID 83703**

A handwritten signature in cursive script, reading "Jean Hersley", is positioned above a horizontal line.

Jean Hersley

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.

LEGAL PROOF OF PUBLICATION

Account #	Ad Number	Identification	PO	Amount	Cols	Lines
47628	0000574043	LEGAL NOTICE	BWEagle Inc	\$286.45	2	82

Attention: Sherry Borgeman

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:

63-32366

B W EAGLE INC

250 S BEECHWOOD STE 120

BOISE, ID 83709

Point of Diversion NWSW S21 T04N R01E ADA County Source

GROUND WATER Tributary

Point of Diversion L6(SENW) S21 T04N R01E ADA County Source

GROUND WATER Tributary

Point of Diversion L5(SWNW) S21 T04N R01E ADA County Source

GROUND WATER Tributary

Point of Diversion NESW S21 T04N R01E ADA County Source

GROUND WATER Tributary

Point of Diversion NESW S21 T04N R01E ADA County Source

GROUND WATER Tributary

Point of Diversion NWSW S21 T04N R01E ADA County Source

GROUND WATER Tributary

Point of Diversion L5(SWNW) S21 T04N R01E ADA County Source

GROUND WATER Tributary

Use: AESTHETIC STORAGE 01/01 to 12/31 533 AF

Total Diversion: 533 AF

Date Filed: 3/27/2006

Place Of Use: AESTHETIC STORAGE

T04N R01E S21 L7(SWNE) L5(SWNW) L6(SENW) NESW

NWSW SWSW SESW

Water bearing zone to be appropriated is from 0 to 28 feet.

Mitigation is proposed for consumptive use.

63-33578

DONALD W PADDOCK

LINDA S PADDOCK

4982 N CURLEW LN

EAGLE, ID 83616

Point of Diversion NESW S30 T05N R01E ADA County Source

GROUND WATER Tributary

Use: IRRIGATION 03/01 to 11/15 0.2 CFS

Total Diversion: 0.2 CFS

Date Filed: 9/23/2011

Place Of Use: IRRIGATION

T05N R01E S30 NESW NWSW

Total Acres: 10

Water bearing zone to be appropriated is from 250 to 350 feet.

PROPOSED CHANGE OF WATER RIGHT

Thurman Mill Ditch Co Ltd of 10611 W Treeline Ct, Boise, ID 83713 filed Application No. 73900 to transfer one water right with an 1895 priority date from the Boise River totaling 0.66 cfs. The purpose of the transfer is to change the nature of use for 8.2 acres, 0.16 cfs and 23.9 afa to aesthetic storage and diversion to storage. The proposed change will mitigate for evaporative losses from the ponds in the Lakemoor subdivision. An application for permit 63-32366 was filed for the Lakemoor pond system. Water will be used in the Thurman Mill Ditch Co service area in the Lakemoor subdivision located northeast of the intersection of Chinden Blvd and Eagle Rd in Boise, ID.

PROPOSED CHANGE OF WATER RIGHTS

Warm Springs Ditch Co, c/o Hoff Companies, Inc., of 1840 N Lakes Ave., Meridian, ID 83642 filed Application No. 73930 to transfer three water rights with 1876 to 1889 priority dates from the Boise River totaling 7.76 cfs. The purpose of the transfer is to change the nature of use for 14 acres, 0.24 cfs and 40.7 afa to aesthetic storage and diversion to storage. The proposed change will mitigate for evaporative losses from the ponds in the Lakemoor subdivision. An application for permit 63-32366 was filed for the Lakemoor pond system. Water will be used in the Warm Springs Ditch Co service area in the Lakemoor subdivision located northeast of the intersection of Chinden Blvd and Eagle Rd.

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 see www.idwr.idaho.gov/apps/ExtSearch/WRFiling.asp for a full description of the rights &/or proposed transfer. Protests may be submitted based on the criteria of Idaho Code § 42-222 and 42-203A. Any protest against the approval of this application(s) 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 November 21, 2011. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Interim Director

Pub. Nov. 3, 10, 2011

0000574043-01

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: 11/03/2011

Ending issue of: 11/10/2011

Janice Hildreth
(Legals Clerk)

STATE OF IDAHO)

.SS

COUNTY OF ADA)

On this 10 day of November in the year of 2011 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 Bruijn
Notary Public for Idaho
Residing at: Boise, Idaho

My Commission expires:

8-27-15

✓ OK
8/11/16/2011