

State of Idaho  
Department of Water Resources  
**Permit to Appropriate Water**

NO. 65-23455

Priority: May 17, 2011

Maximum Diversion Rate: 0.04 CFS

This is to certify, that US DEPT OF AGRICULTURE  
FOREST SERVICE  
1249 S VINNELL WAY STE 200  
BOISE ID 83709-1663

has applied for a permit to appropriate water from:

**Source:** GROUND WATER

and a permit is APPROVED for development of water as follows:

**BENEFICIAL USE**

DOMESTIC

**PERIOD OF USE**

01/01 to 12/31

**RATE OF DIVERSION**

0.04 CFS

**LOCATION OF POINT(S) OF DIVERSION:**

GROUND WATER

L2 (NW1/4SW1/4)

Sec. 27, Twp 09N, Rge 07E, B.M., BOISE County

**PLACE OF USE:**

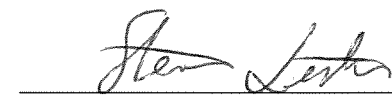
DOMESTIC

| Twp Rge Sec | NE |    |    |    | NW |    |    |    | SW |     |    |    | SE |    |    |    | Totals |
|-------------|----|----|----|----|----|----|----|----|----|-----|----|----|----|----|----|----|--------|
|             | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW  | SW | SE | NE | NW | SW | SE |        |
| 09N 07E 27  |    |    |    |    |    |    |    |    |    | X   |    |    |    |    |    |    |        |
|             |    |    |    |    |    |    |    |    |    | L 2 |    |    |    |    |    |    |        |

**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. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
5. The irrigation occurring under this domestic use shall not exceed 1/2 acre.
6. The quantity of water under this right shall not exceed 13,000 gallons per day.
7. Domestic use is for 3 recreation residences.
8. Place of use is located within Lots 1, 2 & 3, Lowman Summer Home Tract.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 21<sup>st</sup> day of November, 20 11.

  
for 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](http://www.idwr.idaho.gov)

C. L. "BUTCH" OTTER  
Governor

GARY SPACKMAN  
Interim Director

November 22, 2011

US DEPT OF AGRICULTURE  
FOREST SERVICE  
1249 S VINNELL WAY STE 200  
BOISE ID 83709-1663

RE: Permit No.65-23455

**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)

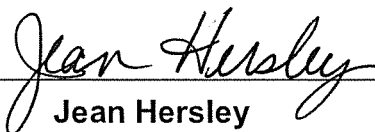
## **CERTIFICATE OF SERVICE**

I hereby certify that on November 22, 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.**

**65-23455**

**US DEPT OF AGRICULTURE  
FOREST SERVICE  
1249 S VINNELL WAY STE 200  
BOISE ID 83709-1663**

A handwritten signature in cursive script, reading "Jean Hersley", is written over 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.

**Westra, John**

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**From:** Spencer, Steven [sspencer@fs.fed.us]  
**Sent:** Friday, September 16, 2011 4:47 PM  
**To:** Westra, John  
**Cc:** Kidd, John  
**Subject:** RE: Application for Permit #65-23455  
**Attachments:** Application for Permit #65-23455

John,

It is our understanding that one of the cabins waters a little lawn and the others may have some greenery, however we also understand the parameters of a domestic water right and are certain that the irrigation does not exceed 1/2 acre and that the daily water use will not exceed 13,000 gpd. Our folks in Lowman will keep track of this and assure that these limitations are followed.

If you have any questions about this matter please contact me. And thank you for your help.

# Idaho Department of Water Resources Receipt

Receipt ID: W039237

Payment Amount \$100.00 Date Received 5/17/2011 9:10 AM Region WESTERN

Payment Type Check Check Number 108

Payer WINEGAR, SCOTT/VICKERS, DEBBIE/GANNON, JAMES

Comments APPLICATION FOR PERMIT .04 CFS - in the name of USDA Forest Service  
T9N R7E SEC 27 SENWSW

## Fee Details

| Amount   | Description | PCA   | Fund | Fund Detail | Subsidiary | Object |
|----------|-------------|-------|------|-------------|------------|--------|
| \$100.00 | PERMITS     | 62103 | 0229 | 21          |            | 1155   |

  
Signature Line (Department Representative)

# The Idaho World

P.O. Box 50248  
Boise, ID 83705  
(208) 429-1606

RECEIVED

NOV 07 2011

WATER RESOURCES  
WESTERN REGION

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

65-23455

US DEPT OF AGRICULTURE  
FOREST SERVICE

1249 S VINNELL WAY STE 200

BOISE, ID 83709-1663

Point of Diversion L2(NWSW) S27 T09N

R07E BOISE County Source GROUND

WATER Tributary

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

Total Diversion: 0.04 CFS

Date Filed: 5/17/2011

Place Of Use: DOMESTIC

T09N R07E S27 L2(NWSW)

Domestic use is for 3 recreational residences

EXTENSION OF TIME TO AVOID

FORFEITURE OF WATER RIGHT

Sands, LLC in care of Steve Loomis,

7154 W. State St., No. 187, Boise, ID,

83714, filed an Application proposing

an Extension of Time to Avoid Forfeiture

for Water Right No. 65-3504 with

a 1918 priority from springs tributary

to Robbs Creek totaling 0.08 cfs. The

irrigation, domestic and stockwater right

was last used in 2004. The right serves

property located 2.4 miles southwest

of Horseshoe Bend on the west side

of the Horseshoe Bend Highway. The

applicant proposes to resume use of the

right by 2016. The applicant requests

the extension of time to transfer the

water right from the existing location to

another property.

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/](http://www.idwr.idaho.gov/apps/ExtSearch/WRFiling.asp)

[apps/ExtSearch/WRFiling.asp](http://www.idwr.idaho.gov/apps/ExtSearch/WRFiling.asp) for a full

description of the right(s). 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

November 7, 2011. The protestant

must also send a copy of the protest to

the applicant.

GARY SPACKMAN, Interim Director

Published in the Idaho World October

19 and 26, 2011. IDOW 60

State of Idaho )

County of Boise )

Teri Hart, being duly sworn, deposes and says: that she is the Editor of THE IDAHO WORLD, a weekly newspaper published at Idaho City, in the County of Boise and the State of Idaho; the said paper has been and is in general circulation in the county aforesaid, and in the vicinity of Idaho City; that the advertisement, a copy of which is hereto attached, was published in said newspaper once a week for two (2) consecutive weeks in the entire and regular issue of every number of said paper during the period and time of publication and was published in the newspaper and not a supplement; that said paper has been established and regularly and continuously published for more than seventy eight weeks past previous to the first publication of this notice. Such notice was published with the issue beginning with October 19, 2011 and ending with the issue of October 26, 2011.

State of Idaho )

County of Ada )

On this 5<sup>th</sup> day of November in the year 2011, before me, a notary public, personally appeared Teri Hart 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 she executed the same.

Douglas A Rotman  
Notary Public for Idaho  
Residing at Boise, Idaho  
Commission Expires 03-19-13

DOUGLAS A. ROTMAN  
NOTARY PUBLIC  
STATE OF IDAHO

✓ OK  
88 11/9/2011