

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 63-33481

Priority: February 09, 2011

Maximum Diversion Rate: 2.23 CFS

This is to certify, that HIGHLAND LIVESTOCK & LAND CO LTD
PO BOX 488
EMMETT ID 83617

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	2.23 CFS

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER	NE1/4NW1/4	Sec. 25, Twp 05N, Rge 02W, B.M., CANYON County
GROUND WATER	NW1/4SW1/4	Sec. 19, Twp 05N, Rge 01W, B.M., ADA 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	
05N 02W 24											6.9	25.3					32.2
05N 02W 25					40.0	39.3											79.3

Total Acres: 111.5

CONDITIONS OF APPROVAL

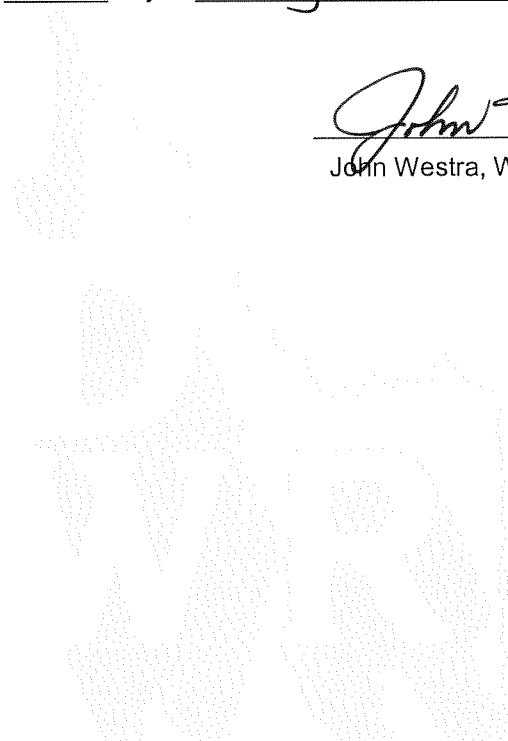
1. Proof of application of water to beneficial use shall be submitted on or before **August 01, 2016**.
2. Subject to all prior water rights.
3. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the 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. This right does not grant any right-of-way or easement across the land of another.
6. 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.

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7. 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 28th day of July, 20 11.



John Westra

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

July 28, 2011

HIGHLAND LIVESTOCK & LAND CO LTD
PO BOX 488
EMMETT ID 83617

RE: Permit No.63-33481

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 July 28, 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. 63-33481

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

**HIGHLAND LIVESTOCK & LAND CO LTD
PO BOX 488
EMMETT ID 83617**

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.

Memorandum

Application for Permit #63-33481

From: J. Westra JFW

Date: 07/21/11

RE: Point of Diversion Correction

It was noted after the public notice (advertising) was the legal description on the application for the existing well point of diversion did not match the map. The applicant's consultant was contacted. The map legal location was in fact correct NESW Section 19, 05N-01W. The application form was changed by Steve Hannula, Consultant on 07/20/11.

The correction was an oversight and consists of moving the P/D to adjacent 40 acre tract. The well already exists and serves other water rights. Because of this, it does not warrant the application being re-advertised. This memo will serve as record for the correction and action for permit approval.

RECEIVED

JUN 27 2011

29512 469274

1 IDAHO DEPT. OF WATER RESOURCES

WESTERN REGION
2735 AIRPORT WAY
BOISE ID 83705

AFFIDAVIT OF PUBLICATION
STATE OF IDAHO

WATER RESOURCES
WESTERN REGION

County of Canyon

)
SS.
)

Barbara Spencer
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:
06/16/2011 06/23/2011

Barbara Spencer
STATE OF IDAHO)

County of Canyon)

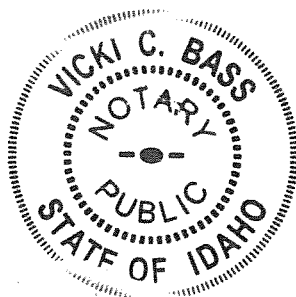
On this 23rd day of June in the year of
2011 before me a Notary Public, personally appeared.
Barbara Spencer, known or identified
to me to be the person whose name is subscribed
to the within instrument, and being by me first
duly sworn, declared that the statements therein
are true, and acknowledge to me that he/she
executed the same.

Vicki C Bass

Notary Public for Idaho

Residing at Nampa

My Commission expires 04/19/2014



LEGAL NOTICE

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

✓ **63-33481**
HIGHLAND LIVESTOCK & LAND CO LTD
PO BOX 488
EMMETT, ID 83617
Point of Diversion NENW S25 T05N R02W CANYON County Source GROUND WATER Tributary
Point of Diversion NWSW S19 T05N R01W ADA County Source GROUND WATER Tributary
Use: IRRIGATION 03/01 to 11/15 2.23 CFS
Total Diversion: 2.23 CFS
Date Filed: 2/9/2011
Place Of Use: IRRIGATION
T05N R02W S24 SWSW SESW
T05N R02W S25 NENW NWNW
Total Acres: 111.5
Water bearing zone to be appropriated is from 265 to 585 feet.

✓ **63-32644**
STAR SEWER & WATER DISTRICT
PO BOX 400
STAR, ID 83669
Point of Diversion NWNW S16 T04N R01W ADA County Source GROUND WATER Tributary
Point of Diversion SESW S8 T04N R01W ADA County Source GROUND WATER Tributary
Point of Diversion SESW S5 T04N R01W ADA County Source GROUND WATER Tributary
Point of Diversion SWNW S8 T04N R01W ADA County Source GROUND WATER Tributary
Point of Diversion SWNW S11 T04N R02W CANYON County Source GROUND WATER Tributary
Use: MUNICIPAL 01/01 to 12/31 7.31 CFS
Total Diversion: 7.31 CFS
Date Filed: 4/11/2007
Application previously published in June 2010 for 5 cfs. Now amended for higher diversion rate and priority date therefore advanced to 5/24/2011. Municipal use is for the district service area in Ada and Canyon Counties. Water bearing zone to be appropriated is 150-190 ft. for 1 existing well and 450-650 ft. for 2 existing plus 2 proposed wells. Proposed wells will be near Hwy 44/Plummer Road and Hwy 44/Kingsbury Road. Proposed use is for reasonably anticipated future needs in a 25 year planning horizon based on 1996 Municipal Water Rights Act (IC 42-202B etc.).

For a full description of the right(s), please see www.idwr.idaho.gov/apps/ExtSearch/WRFiling.asp. Permits will be subject to all prior water rights. 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 for each application on or before July 5, 2011. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Interim Director

June 16, 23, 2011

469274

✓ OK DB 7/11/2011

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	0000555911	LEGAL NOTICE	StarSewer&Water	\$550.42	3	114

Attention: Denise Buffington

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:

✓ **63-32644**
STAR SEWER & WATER DISTRICT
PO BOX 400
STAR, ID 83669
Point of Diversion: NWNW S16 T04N R01W AFA County Source: GROUND WATER Tributary
Point of Diversion: SESW S0 T04N R01W AFA County Source: GROUND WATER Tributary
Point of Diversion: SESW S0 T04N R01W AFA County Source: GROUND WATER Tributary
Point of Diversion: SWNW S0 T04N R01W AFA County Source: GROUND WATER Tributary
Point of Diversion: SWNW S11 T04N R02W CANYON County Source: GROUND WATER Tributary
Use: MUNICIPAL 01/01 to 12/31 7.31 CFS
Total Diversion: 7.31 CFS
Date Filed: 4/11/2007
Place of Use: MUNICIPAL
Application previously published in June 2010 for 5 cfs. Now amended for higher diversion rate and priority date therefore advanced to 5/24/2011. Municipal use is for the district service area in Ada and Canyon Counties. Water bearing zone to be appropriated is 150190 ft. for 1 existing well and 450250 ft. for 2 existing plus 2 proposed wells. Proposed wells will be near Hwy 44/Plummer Road and Hwy 44/Kingsbury Road. Proposed use is for reasonably anticipated future needs in a 25 year planning horizon based on 1995 Municipal Water Rights Act 82-42202B et al. Published in the Idaho Statesman & Idaho Press Tribune on 5/16 & 5/23/2011.

✓ **63-33052**
CITY OF BOISE
PARKS & RECREATION DEPT
1104 ROYAL BLVD
BOISE, ID 83706-2596
Point of Diversion: LBSSEW S19 T03N R03E ADA County Source: GROUND WATER Tributary BOISE RIVER
Point of Diversion: LBSSEW S30 T03N R03E ADA County Source: GROUND WATER Tributary BOISE RIVER
Use: MUNICIPAL STORAGE 01/01 to 12/31 70 AF
Total Diversion: 70 AF
Date Filed: 5/20/2008
Place of Use: MUNICIPAL STORAGE
T03N R03E S19 SWSW LBSSEW SWSW
T03N R03E S30 LBSSEW
Two shallow ground water ponds covering 5 acres will be mitigated by leaving a 6-acre portion of South Boise Mutual Irrigation Co. Ltd. irrigation right undeveloped in the Boise River. Water bearing zone to be appropriated is from 1 to 25 feet. Use is for Marianne Williams Park near the new Parkcenter Blvd. Bridge and Warm Springs Avenue.

✓ **63-33341**
CITY OF BOISE
PARKS & RECREATION DEPT
1104 ROYAL BLVD
BOISE, ID 83706-2596
Point of Diversion: LBSSEW S30 T03N R03E ADA County Source: BOISE RIVER Tributary SHARPE RIVER
Use: IRRIGATION 03/01 to 11/15 0.8 CFS
Total Diversion: 0.8 CFS
Date Filed: 2/18/2010
Place of Use: IRRIGATION
T03N R03E S19 SWSW LBSSEW SWSW
T03N R03E S30 NEALL NEW SENW
Total Acres: 117
Limited to 40 acres of irrigation in 117 acre area. Diversion via the Walling Catch. Mitigated by leaving a 40-acre portion of South Boise Mutual Irrigation Co. Ltd. right undeveloped in the Boise River. Use is for Marianne Williams Park near the new Parkcenter Blvd. Bridge and Warm Springs Avenue.

✓ **63-33472**
ROBERT H WEST
ALASKAN WEST
5035 WILLOW CREEK RD
EAGLE, ID 83615
Point of Diversion: NESE S20 T05N R01E AFA County Source: GROUND WATER Tributary
Use: IRRIGATION 03/01 to 11/15 0.11 CFS
Total Diversion: 0.11 CFS
Date Filed: 1/14/2011
Place of Use: IRRIGATION
T05N R01E S20 NESE
Total Acres: 2.5
Water bearing zone to be appropriated is from 300 to 350 feet.

✓ **63-33474**
ROGER K JORGENSEN
10124 W COLTON LN
EAGLE, ID 83615
Point of Diversion: NESE S0 T05N R01W ADA County Source: GROUND WATER Tributary
Use: IRRIGATION 03/01 to 11/15 0.12 CFS
Use: STOCKWATER 01/01 to 12/31 0.08 CFS
Use: HEATING 01/01 to 12/31 0.2 CFS
Use: DOMESTIC 01/01 to 12/31 0.02 CFS
Total Diversion: 0.2 CFS
Date Filed: 1/25/2011
Place of Use: IRRIGATION STOCKWATER HEATING & DOMESTIC
T05N R01W S0 NESE
Total Acres: 6
Water bearing zone to be appropriated is from 476 to 503 feet.

✓ **63-33481**
HIGHLAND LIVESTOCK & LAND CO LTD
PO BOX 488
EMMETT, ID 83617
Point of Diversion: NENW S25 T05N R02W CANYON County Source: GROUND WATER Tributary
Point of Diversion: NENW S31 T05N R01W ADA County Source: GROUND WATER Tributary
Use: IRRIGATION 03/01 to 11/15 2.23 CFS
Total Diversion: 2.23 CFS
Date Filed: 2/9/2011
Place of Use: IRRIGATION
T05N R02W S24 SWSW SESW
T05N R02W S31 NENW NENW
Total Acres: 111.5
Water bearing zone to be appropriated is from 265 to 585 feet.

For a full description of the rights(s), please see www.idwr.idaho.gov/apps/ExtSearch/ARFiling.asp. Permits will be subject to all prior water rights. 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 for each application on or before July 5, 2011. The protestant must also send a copy of the protest to the applicant. GARY SPACKMAN, Interim Director

Pub. June 16, 2011

0000555911-01

RECEIVED

JUN 24 2011

WATER RESOURCES
WESTERN REGION

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: 06/16/2011

Ending issue of: 06/23/2011

Janice Hildreth
(Legals Clerk)

STATE OF IDAHO)

SS

COUNTY OF ADA)

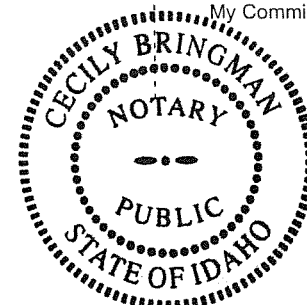
On this 23 day of June in the year of 2011 before me, a Notary Public, personally appeared before me Janice Hildreth known or identified to me to be the person whose name subscribed to the within instrument, and being by first duly sworn, declared that the statements therein are true, and acknowledged to me that she executed the same.

Cecily Bringman

Notary Public for Idaho
Residing at: Boise, Idaho

My Commission expires:

8-27-15



✓ ok DB 7-11-2011