

State of Idaho
Department of Water Resources
Amendment of Permit

NO. 63-33074

Priority: July 14, 2008

Maximum Diversion Rate: 3.30 CFS

This is to certify, that LAVAR THORNTON
2800 S TEN MILE RD
KUNA ID 83634
And/Or
LAYNE THORNTON
3224 SWAN FALLS RD
KUNA ID 83634

has applied for an amendment of a permit and the amendment is APPROVED for development of water as follows:

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>
IRRIGATION	03/01 to 11/15	3.30 CFS

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER	SE1/4NE1/4	Sec. 3, Twp 01N, Rge 01E, B.M., ADA County
GROUND WATER	NE1/4SE1/4	Sec. 3, Twp 01N, Rge 01E, B.M., ADA County
GROUND WATER	NE1/4NE1/4	Sec. 3, Twp 01N, Rge 01E, 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	
01N 01E 2							40.0	40.0			23.0	33.0					136.0
01N 01E 3	40.0	40.0	40.0	40.0				36.0	20.0				40.0	40.0		14.0	310.0
	L 1	L 2															

Total Acres: 446

CONDITIONS OF APPROVAL

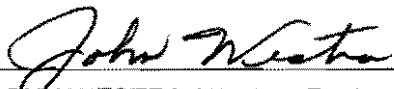
1. Proof of application of water to beneficial use shall be submitted on or before **July 01, 2014**.
2. Subject to all prior water rights.
3. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
4. This right does not grant any right-of-way or easement across the land of another.
5. 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.

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6. 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.
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.
8. 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.
9. Rights 63-2986, 63-31950, 63-31951, 63-31952 and 63-31953 are also diverted through the point(s) of diversion in the NESE and NENE of Section 3, Township 01N, Range 01E, B.M.

This amendment of permit is issued pursuant to the provisions of Section 42-211, Idaho Code. Witness the signature of the Director, affixed at Boise, this 3rd day of June, 2011.


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

June 3, 2011

LAVAR THORNTON
2800 S TEN MILE RD
KUNA ID 83634
Or
LAYNE THORNTON
3224 SWAN FALLS RD
KUNA ID 83634

RE: Permit No.63-33074

Amendment of Permit Approval Notice

Dear Permit Holder:

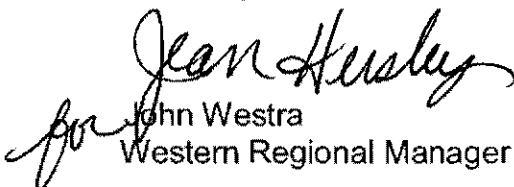
The Department of Water Resources has issued the enclosed amendment of permit approving your application to amend the permit referenced above. Please be sure to thoroughly review every element including the conditions of approval listed on your permit.

The amendment of 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.

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", is written over a printed name and title. The signature is fluid and cursive.

John Westra
Western Regional Manager

Enclosure(s)

cc: SPF WATER ENGINEERING LLC

CERTIFICATE OF SERVICE

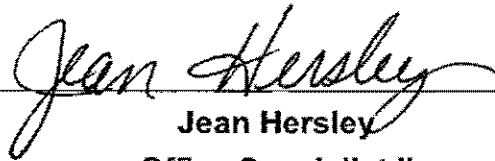
I hereby certify that on June 6, 2011 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved Amendment of Permit) to the person(s) listed below:

RE: WATER RIGHT PERMIT NO. 63-33074

**LAVAR THORNTON
2800 S TEN MILE RD
KUNA ID 83634**

**LAYNE THORNTON
3224 SWAN FALLS RD
KUNA ID 83634**

**SPF WATER ENGINEERING LLC
C/O LORI GRAVES
300 E MALLARD DR STE 350
BOISE ID 83706**

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.

Idaho Statesman

The Newspaper of the Treasure Valley
IDAHOSTATESMAN.COM

PO Box 40, Boise, ID 83707-0040

RECEIVED

MAY 13 2011

WATER RESOURCES
WESTERN REGION

LEGAL PROOF OF PUBLICATION

Account #	Ad Number	Identification	PO	Amount	Cols	Lines
47628	0000549609	LEGAL NOTICE	Lesley	\$130.20	1	64

Attention: Denise Buffington

IDAHO DEPT WATER RESOURCE

2735 AIRPORT WAY

BOISE

ID

83705

LEGAL NOTICE PROPOSED CHANGE OF WATER RIGHT(S)

✓ **James S. Lesley** of 7551 South Flat Lane Kuna, ID 83634 filed Application No. 76872 to transfer one water right with a 1971 priority date from ground water totaling 0.20 cfs. The purpose of the transfer is to change the point of diversion to a new well for irrigation of 10 acres under the right. Water will be used at the current place of use approximately one quarter mile north of the intersection of Poen Rd and Kuna Meridian Rd southeast of Kuna.

✓ **Marian Shaw** of 13975 N. Broken Horn Rd. Boise, ID 83714 filed Application No. 76948 to transfer one water right with a 1944 priority date from Dry Creek totaling 0.86 cfs. The purpose of the transfer is to move the point of diversion downstream approximately 0.25 miles. Water will be used at the current place of use generally located northwest of the intersection of Dry Creek Rd and Broken Horn Rd approximately five miles northeast of Eagle.

PROPOSED AMENDMENT OF WATER PERMIT

✓ **Lavar Thornton** of 2800 S Ten Mile Rd Kuna ID 83634 filed Application No. 76575 to amend a water permit with a 2008 priority from ground water totaling 3.3 cfs for irrigation. The permit provides irrigation water for property located east of S Cloverdale Rd between Kuna Mora Rd and the railroad tracks north of Barker Rd. The applicant proposes to amend the permit to add a new well as a point of diversion.

Please see www.idwr.idaho.gov/apps/ExtSearch/WRFiling.asp for a full description of the right and the proposed transfer(s). Protests may be submitted based on the criteria of Sec 42-222, Idaho Code. Any protest against the proposed change must be filed with the Director, IDWR Western Region, 2735 Airport Way, Boise ID 83705-5082 together with a protest fee of \$25.00 for each application on or before May 23, 2011. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Interim Director
Pub. May 5, 12, 2011

0000549609-01

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: 05/05/2011

Ending issue of: 05/12/2011

Janice Hildreth
(Legal Clerk)

STATE OF IDAHO)

SS

COUNTY OF ADA)

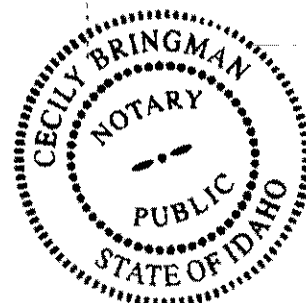
On this 12 day of May in the year of 2011 before me, a Notary Public, personally appeared before me Janice Hildreth known or identified to me to be the person whose name subscribed to the within instrument, and being by first duly sworn, declared that the statements therein are true, and acknowledged to me that she executed the same.

Cecily Brangman

Notary Public for Idaho
Residing at: Boise, Idaho

My Commission expires:

8-27-15



✓ ok DB 5/26/2011