

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 65-23355

Priority: September 03, 2009

Maximum Diversion Volume: 6.0 AF

This is to certify, that SANDS LLC
C/O STEVE LOOMIS
7154 W STATE ST #187
BOISE ID 83714

has applied for a permit to appropriate water from:

Source: UNNAMED STREAM **Tributary:** ROBBS CREEK

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>
IRRIGATION STORAGE	01/01 to 12/31		6.0 AF
IRRIGATION FROM STORAGE	03/15 to 10/31		5.0 AF

LOCATION OF POINT(S) OF DIVERSION:

UNNAMED STREAM SW 1/4 NE 1/4 Sec. 8, Twp 06N, Rge 02E, B.M., BOISE County

PLACE OF USE: IRRIGATION STORAGE

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06N	02E	8			X														

PLACE OF USE: IRRIGATION FROM STORAGE

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06N	02E	8			3.5				6.0		15.5								25.0

Total Acres: 25

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **February 01, 2016**.
2. Subject to all prior water rights.

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NO. 65-23355

3. 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. 65.
4. 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.
5. 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.
6. The right holder shall contact the watermaster by June 15 each year for authorization to continue diverting and using water. The right holder shall not divert water after June 15 each year unless the watermaster authorizes continued diversion and use of water under this water right. When the watermaster informs the right holder that water is not available to fill this right, the right holder shall cease diversion, shall rent water from the Payette River Rental Pool, or shall otherwise mitigate for the depletion of water caused by this water use. The department may amend the contact date listed in this administrative provision to more closely coincide with the date when water is not available to fill this water right.
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. Storage of water under this right may be subject to the Idaho Dam Safety statutes, and the Department of Water Resources Dam Safety rules and regulations. Prior to diversion and storage of water a completed "Application for Construction of a Small Dam" with fees must be submitted to the Department of Water Resources Dam Safety Section for review and authorization of storage.
9. Storage is for 1 pond not to exceed a total active storage capacity of 5 acre feet and a total surface area of 0.5 acres.
10. Prior to storage of water under this right, the right holder shall provide an adjustable and lockable reservoir storage outlet works and a means acceptable to the department to measure the amount of water entering the reservoir and the amount of water released from the reservoir.
11. 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 January, 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

January 28, 2011

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

SANDS LLC
C/O STEVE LOOMIS
7154 W STATE ST #187
BOISE ID 83714

RE: Permit No. 65-23354 & 65-23355

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.

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,


for John Westra
Western Regional Manager

Enclosure(s)

cc: SPF WATER ENGINEERING LLC

CERTIFICATE OF SERVICE

I hereby certify that on January 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.

65-23354 & 65-23355

**SANDS LLC
C/O STEVE LOOMIS
7154 W STATE ST #187
BOISE ID 83714**

**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.

The Idaho World

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

RECEIVED

NOV 16 2010

WATER RESOURCES
WESTERN REGION

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 20, 2010 and ending with the issue of October 27, 2010.

Teri Hart

State of Idaho)
County of Ada)

On this 15th day of November in the year 2010, 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. Rothman

Notary Public for Idaho
Residing at Boise, Idaho
Commission Expires 03-Aug-13

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

65-23354
SANDS LLC
C/O STEVE LOOMIS
7154 W STATE ST #187
BOISE, ID 83714
Point of Diversion NESW S8 T06N R02E
BOISE County Source HOME LAKE
Tributary ROBBS CREEK
Point of Diversion SWSW S8 T06N R02E
BOISE County Source SIPHON LAKES
Tributary ROBBS CREEK
Point of Diversion SWSW S8 T06N R02E
BOISE County Source SIPHON LAKES
Tributary ROBBS CREEK
Use: IRRIGATION STORAGE
01/01 to 12/31 87 AF
Use: IRRIGATION FROM STORAGE
03/15 to 10/31 69 AF
Use: DIVERSION TO STORAGE
01/01 to 12/31 0.33 CFS
Total Diversion: 0.33 CFS
Date Filed: 9/3/2009
Place Of Use: IRRIGATION STORAGE
T06N R02E S8 SW (ALL)
Place Of Use: IRRIGATION FROM STORAGE
T06N R02E S8 SWNE SENW
NESW
Total Acres: 25
65-23355

SANDS LLC
C/O STEVE LOOMIS
7154 W STATE ST #187
BOISE, ID 83714
Point of Diversion SWNE S8 T06N
R02E BOISE County Source UNNAMED
STREAM Tributary ROBBS CREEK
Use: IRRIGATION STORAGE
01/01 to 12/31 6 AF
Use: IRRIGATION FROM STORAGE
03/15 to 10/31 5 AF
Total Diversion: 6 AF
Date Filed: 9/3/2009
Place Of Use: IRRIGATION STORAGE
T06N R02E S8 SWNE
Place Of Use: IRRIGATION FROM STORAGE
T06N R02E S8 SWNE SENW
NESW
Total Acres: 25

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 Wy, Boise ID 83705 together with a protest fee of \$25.00 for each application on or before 11/8/2010. The protestant must also send a copy of the protest to the applicant.
GARY SPACKMAN, Interim Director
Published in the Idaho World October 20 and 27, 2010. DOW66

✓ OK DB
11-17-2010

DOUGLAS A. ROTHMAN
NOTARY PUBLIC
STATE OF IDAHO