State of Idaho
Department of Water Resources

Permit to Appropriate Water

NO. 63-33409

Priority: August 11, 2010 Maximum Diversion Rate: 0.24 CFS

This is to certify, that SHAWN WHITAKER
And/Or
REBECCA WADSWORTH
1348 N PENRITH
MERIDIAN ID 83642

has applied for a permit to appropriate water from:

Source: UNNAMED STREAM **Tributary:** WILLOW CREEK
GROUND WATER

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

BENEFICIAL USE	PERIOD OF USE	RATE OF DIVERSION	ANNUAL VOLUME
DOMESTIC	01/01 to 12/31	0.04 CFS	
IRRIGATION	03/01 to 11/15	0.20 CFS	
WILDLIFE STORAGE	01/01 to 12/31		23.5 AF
DIVERSION TO STORAGE	01/01 to 12/31	0.20 CFS	

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER	NW1/4SE1/4	Sec. 8, Twp 05N, Rge 01W, B.M., ADA County
UNNAMED STREAM	NW1/4SE1/4	Sec. 8, Twp 05N, Rge 01W, B.M., ADA 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	
05N 01W 8														X			

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 01W 8														10.0			10.0

Total Acres: 10

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PLACE OF USE: WILDLIFE 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	
05N 01W 8														X			

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.
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. The reservoir established by the storage of water under this right shall not exceed a total capacity of 20.0 acre-feet or a total surface area of 1.0 acres.
5. This right authorizes the diversion of an annual total of 23.5 acre-feet to be used for the initial filling of the reservoirs and for the replacement of losses caused by seepage and evaporation.
6. Use of surface 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.
7. After specific notification by the Department, the right holder shall install a lockable device, subject to the approval of the Department, in a manner that will provide the watermaster suitable control of the diversion.
8. After specific notification by the Department, the right holder shall provide a means acceptable to the department to measure the amount of water entering the reservoir and the amount of water released from the reservoir.
9. 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 ground water diverted and shall annually report the information to the Department.
10. The impoundment of water under this right is contingent upon the issuance of a certificate of approval per the dam safety provisions of Idaho Code and subsequent written authorization by the dam safety program administered by the Department.
11. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.

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12. Place of use is located within Lot 5, Blk. 1, Colton Ranch Subdivision.
13. 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, 2011.

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

January 28, 2011

SHAWN WHITAKER
And/Or
REBECCA WADSWORTH
1348 N PENRITH
MERIDIAN ID 83642

RE: Permit No. 63-33409

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.

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)

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. 63-33409

REBECCA WADSWORTH
1348 N PENRITH
MERIDIAN ID 83642

SHAWN WHITAKER
1348 N PENRITH
MERIDIAN ID 83642

Jean Hersley

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
DEC 27 2010
WATER RESOURCES
WESTERN REGION

LEGAL PROOF OF PUBLICATION

Account #	Ad Number	Identification	PO	Amount	Cols	Lines
47628	0000532452	LEGAL NOTICE	Gust,Smith,Whitaker	$262.50	2	66

Attention: Denice 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:

✓ **63-33263**
DALE GUST
STACY GUST
9285 W STIRRUP
BOISE, ID 83709
Point of Diversion NWNW S32 T01N R02E ADA County Source GROUND WATER Tributary
Use: IRRIGATION 03/01 to 11/15 0.8 CFS
Use: DOMESTIC 01/01 to 12/31 0.04 CFS
Total Diversion: 0.84 CFS
Date Filed: 8/12/2009
Place Of Use: IRRIGATION
T01N R02E S32 NENW NWNW
Place Of Use: DOMESTIC
T01N R02E S32 NWNW
Total Acres: 40
Water bearing zone to be appropriated is from 340 to 465 feet.

✓ **63-33380**
ROGER D SMITH
LESLIE M SMITH
5707 N WILLOW CREEK RD
EAGLE, ID 83616
Point of Diversion NWNE S29 T05N R01E ADA County Source GROUND WATER Tributary
Use: IRRIGATION 03/01 to 11/15 0.08 CFS
Total Diversion: 0.08 CFS
Date Filed: 5/11/2010
Place Of Use: IRRIGATION
T05N R01E S29 NWNE
Total Acres: 4
Water bearing zone to be appropriated is from 250 to 350 feet.

✓ **63-33409**
SHAWN WHITAKER
REBECCA WADSWORTH
1348 N PENRITH
MERIDIAN, ID 83642
Point of Diversion NWSE S8 T05N R01W ADA County Source GROUND WATER Tributary
Point of Diversion NWSE S8 T05N R01W ADA County Source UNNAMED STREAM Tributary WILLOW CREEK
Use: IRRIGATION 03/01 to 11/15 0.2 CFS
Use: WILDLIFE STORAGE 01/01 to 12/31 23.5 AF
Use: DOMESTIC 01/01 to 12/31 0.04 CFS
Use: DIVERSION TO STORAGE 01/01 to 12/31 0.2 CFS
Total Diversion: 0.24 CFS
Date Filed: 8/11/2010
Place Of Use: IRRIGATION, DOMESTIC & WILDLIFE STORAGE
T05N R01W S8 NWSE
Total Acres: 10
Water bearing zone to be appropriated is from 450 to 600 feet.

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 1/3/2011. The protestant must also send a copy of the protest to the applicant.
GARY SPACKMAN, Interim Director
Pub. Dec. 16,23, 2010

0000532452-01

TINA BARTLETT, 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: 12/16/2010

Ending issue of: 12/23/2010

Tina Bartlett
(Legals Clerk)

STATE OF IDAHO)
SS
COUNTY OF ADA)

On this 23 day of December in the year of 2010 before me, a Notary Public, personally appeared before me Tina Bartlett 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.

Heather Harradine
Notary Public for Idaho
Residing at: Boise, Idaho

My Commission expires: 2/08/2014

HEATHER HARRADINE NOTARY PUBLIC STATE OF IDAHO

✓ OK DB 1-7-2011

State of Idaho

Department of Water Resources

Application for Permit

RECOMMENDATION FORM

RECEIVED

DEC 10 2010

WATER RESOURCES
WESTERN REGION

Via e-mail

Application No.: 63-33409

Applicant's Name: SHAWN WHITAKER
REBECCA WADSWORTH
1348 N PENRITH
MERIDIAN, ID 83642

Watermaster's Recommendation:

a) _____ I do not oppose approval of this application.

b) XX I do not oppose approval of this application if it is conditioned as follows:

PER OFFICE VISIT 1/14/2010 - AH ⇒ Area's of Concern

c) ~~XX~~ RB I oppose approval of this application for the following reasons:

Drainage water being a critical portion of the operation of the lower Boise River this impoundment of water from Willow creek has the potential to reduce flows otherwise needed for river operations.

This pump may also be located in an area of concern for low aquifer levels.

d) _____ Additional comments:

Dated this _____**10** day of __**December , 2010**_____

Water District No. 63

____*Rex R. Barrie*

Watermaster's Signature

_____

Printed Name