

NO. 67-15049

Maximum Diversion Rate: 0.43 CFS

has applied for a permit to appropriate water from:

Source: GROUND WATER

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

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER	L1 (NE1/4NE1/4)	Sec. 19, Twp 11N, Rge 06W, B.M., WASHINGTON County
GROUND WATER	NW1/4NW1/4	Sec. 20, Twp 11N, Rge 06W, B.M. WASHINGTON County,

PLACE OF USE: IRRIGATION

[illegible]

Total Acres: 12.4

PLACE OF USE: STOCKWATER

[illegible]

State of Idaho
Department of Water Resources

Permit to Appropriate Water

NO. 67-15049

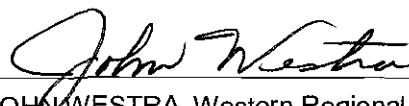
PLACE OF USE: DOMESTIC

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
11N 06W 19	X																
20N 06W 20						X											

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **January 01, 2016**.
2. Subject to all prior water rights.
3. Use of water under this right is subject to policies set forth in the State of Idaho Water Plan, including Policy No. 5G.
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. 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. 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 lands above.
8. Domestic use is for 10 homes. Irrigation of lawn, garden and landscaping associated with the home is authorized under the irrigation component of this right.
9. Stockwater use is for 50 cow/calf pairs.
10. 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 11th 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 11, 2011

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

ESTATE OF ESTHER M SMITH
C/O DONNA LAKE EXECUTOR
2307 TOWELL RD
MIDVALE ID 83645

RE: Permit No.67-15049

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)

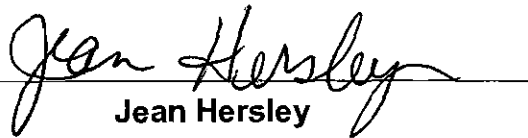
CERTIFICATE OF SERVICE

I hereby certify that on January 12, 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.

67-15049

**ESTATE OF ESTHER M SMITH
C/O DONNA LAKE EXECUTOR
2307 TOWELL RD
MIDVALE ID 83645**

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 #67-15049—Estate of Ester M Smith

From: J. Westra

Date: 01/07/11

The application is completely new and replaces previously rejected applications #67-15018 & #67-15019 and lapsed permits #67-7927 and #67-8017. I met with the Smith Family at the regional office to discuss their needs and plans.

The domestic use is for a development of 10 homes domestic internal use. The irrigation is for acreage that is not covered by Galloway ditch surface water. Stockwater is for the pasture cattle/calf pairs (50). There is no overlap with other water rights.

There are a number of existing wells on the parcel, however little is known about the construction and water yield of the sources. The application states that no more than 8 wells will be utilized as P/Ds. The applicant plans to make use of the existing wells as much as possible; construction of new P/Ds will be only if needed. Looking at some of the well logs, it appears there is significant blue clay in the profile, which makes wells very unproductive.

Injury

There are several domestic (hobby farm) wells in the local area. Any large irrigation tracts are irrigated by surface water. To the south east 1+ mile there are several < 5ac tracts irrigated by ground water. There should be minimal effect on nearby wells. Any new well construction should not have any direct communication with the Snake River.

Sufficiency

There should be sufficiency of water for the domestic and stock water uses. However, there may be marginal sufficiency for the irrigation acreage- 12.4 acres given the location.

Financial /Good Faith

The Smith family has owned the property for several generations. Several of the wells considered for the source already exist. Surface water irrigation system infrastructure already exists for adjacent lands. The estate is being managed by the

children and grandchildren. Regional staff have assisted the applicants in submitting the application of which there appears to be good faith shown.

Public Interest

This is a rural agriculture area sparsely populated and there should not be an affect from the water use on others. The proposed project presents economic benefits to the applicant and community.

Conditions

121, 044, 046, 26A, 01M, R65, X02 (50 cow/calf pairs) 132 (10 homes)

- A maximum of 8 wells will be utilized for points of diversion.

IDAHO DEPARTMENT OF WATER RESOURCES

Water Permit Report 67-8017

WATER RIGHT NUMBER: 67-8017

Related Permit
Lapsed

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	ESTHER M SMITH 727 OLDS FERRY RD WEISER, ID 83672 (208) 549-8688

Priority Date: 03/18/1998

Basis:

Status: Lapsed

<u>Source</u>	<u>Tributary</u>
GROUND WATER	

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
DOMESTIC	1/01	to 12/31	0.500 CFS	
FIRE PROTECTION	1/01	to 12/31	0.500 CFS	
	<u>Total Diversion:</u>		0.500 CFS	

Location of Point(s) of Diversion

GROUND WATER	NW1/4NW1/4	Sec. 20, Twp 11N, Rge 06W, B.M.
WASHINGTON 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	
11N	06W	19	X																
			L 1																
11N	06W	20					X												

FIRE PROTECTION same as DOMESTICConditions of Approval:

- Two points of diversion are located within NWNW, S20, T11N, R06W.
Domestic use is for 120 trailer homes and does not include lawn, garden, landscape, or other types of irrigation.
- 26A 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 permit holder had no control.
- 077 Water shall not be diverted for fire protection use under this right except to fight or repel an existing fire.
- 046 Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.

IDAHO DEPARTMENT OF WATER RESOURCES

Water Permit Report 67-8017

5. 01M 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 determine the amount of water diverted from power records and shall annually report the information to the department.

Remarks:

Comments:

1. dgibson 6/9/2005 Extension of Time

Comment: Request for extension of time granted extending proof deadline to 6/1/2007 based on governmental agency delay.

2. erushing 6/24/2009 Proof due

Comment: When the extension was granted in 2005, the proof due date was not updated in workflow. Therefore no proof due notice was sent out. Proof due date is changed to 9/1/09 to give the permit holder 60 days to submit proof of beneficial use. No further extensions for due diligence.

3. erushing 1/7/2010 Proof due date

Comment: Proof due date restored to actual proof due date of 6/1/07.

Water Supply Bank:

IDAHO DEPARTMENT OF WATER RESOURCES

WATER RIGHT NUMBER: 67-7927

LapsedOwner Type

Current Owner

Name and Address

ESTHER M SMITH
727 OLDS FERRY RD
WEISER, ID 83672
(208) 549-8688

Permit me 11/1/15
expected to lapse ASAP

Priority Date: 09/21/1993

Basis:

Status:

Source

GROUND WATER

TributaryBeneficial Use

DOMESTIC

From To

1/01 to 12/31

Diversion Rate

0.400 CFS

Annual VolumeTotal Diversion: 0.400 CFSLocation of Point(s) of Diversion

GROUND WATER

L1 (NE1/4NE1/4)

Sec. 19, Twp 11N, Rge 06W, B.M.

WASHINGTON County

Place of Use

DOMESTIC

Twp	Rge	Sec	NE				NW				SW				SE				Totals
11N	06W	19	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
			X	X															
			L1	L2															

Conditions of Approval:

- 01G Prior to the diversion of water under this right a flow measurement port or other device as specified by the Department shall be installed to provide for the installation of measuring equipment and the determination of the rate of diversion by the Department.
- Two points of diversion are located within Lot 1 (NENE), S19, T11N, R06W.
Domestic use is for 90 mobile homes.
The domestic use authorized under this permit shall not exceed 13,000 gallons per day per dwelling in accordance with Section 42-111, Idaho Code.
- 46B The right holder shall comply with Idaho well construction standards when constructing a well pursuant to this right.
- 046 Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.
- 26A 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 permit holder had no control.

IDAHO DEPARTMENT OF WATER RESOURCES

Water Permit Report 67-7927

Remarks:Comments:

1. ZIMMERMA 10/8/1993 DIVERSION DISCRPTION

Comment: Drilling permits #67-93-W-0066/0067/0068 propose 8" by 100' deep wells each; wells, pumps, pressure system and pipeline.

2. VAULT 11/3/1998 Extension of Time Received .

Comment: Extension of Time Received

Dates and Other Information:

Permit Proof Due Date: 11/1/2010

Permit Proof Made Date:

Permit Approved Date: 10/26/1993

Permit Moratorium Expiration Date:

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Field Exam Date:

Date Sent to State Office:

Date Received at State Office:

State or Federal:

Owner Name Connector:

Water District Number:

Generic Max Rate Per Acre:

Generic Max Volume Per Acre:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Carey Act Number:

Mitigation Plan: False

Combined Use Limits:Water Supply Bank:

No. 782

AFFIDAVIT OF PUBLICATION

RECEIVED

JAN 04 2011

WATER RESOURCES
WESTERN REGION

STATE OF IDAHO }
County of Washington } ss.

Sarah Biles, being duly sworn,
deposes and says:

That he/she is the clerk of
THE WEISER SIGNAL AMERICAN, a bi-weekly news-
paper published at Weiser, in the County of Washington
and State of Idaho; that said paper has been and is in
general circulation in the county aforesaid, and in the
vicinity of Weiser; that the advertisement, a copy of which
is attached hereto, was published in said newspaper once a

week for two consecutive weeks in the regular and
entire issue of said paper during the period and time of
publication, and was published in the newspaper proper
and not in a supplement; that said paper has been estab-
lished and regularly published for more than seventy-eight
consecutive weeks prior to the date of first publication of
said advertisement.

Such notice was published in the issue beginning with

December 16, 2010, and ending
with the issue of December 23, 2010

Sarah Biles

Fees \$ 136.63

Subscribed and sworn to before me this 16
day of Dec, 2010

[Signature]
Notary Public, residing at Weiser, Idaho

My commission expires 14

No. 782

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

67-15049

ESTATE OF ESTHER M SMITH
C/O DONNA LAKE EXECUTOR
2307 TOWELL RD
MIDVALE, ID 83645

Point of Diversion L1(NENE) S19 T11N R06W WASHINGTON
County Source GROUND WATER Tributary
Point of Diversion NWNW S20 T11N R06W WASH-
INGTON County Source GROUND WATER Tributary
Use: IRRIGATION 03/01 to 11/15 0.25 CFS
Use: STOCKWATER 01/01 to 12/31 0.03 CFS
Use: DOMESTIC 01/01 to 12/31 0.15 CFS
Total Diversion: 0.43 CFS

Date Filed: 10/22/2010

Place Of Use: IRRIGATION

T11N R06W S19 L1(NENE)

Place Of Use: STOCKWATER & DOMESTIC

T11N R06W S19 L1(NENE)

T11N R06W S20 NWNW

Total Acres: 12.4

Domestic use is for 10 homes. Up to 8 wells in the
above described point of diversion locations.

Permits will be subject to all prior water rights. Pro-
tests 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 prot-
estant must also send a copy of the protest to the
applicant.

GARY SPACKMAN, Interim Director
Published on 12/15 & 12/22/2010

92-2S

✓ OK DB 1-7-2011