

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 63-33366

Priority: April 23, 2010

Maximum Diversion Rate: 0.75 CFS

This is to certify, that CTI SSI FOOD SERVICES LLC
22303 HWY 95
WILDER ID 83676

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>
INDUSTRIAL	01/01 to 12/31	0.75 CFS

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER	NE1/4SE1/4	Sec. 10, Twp 04N, Rge 05W, B.M., CANYON County
GROUND WATER	NE1/4SE1/4	Sec. 10, Twp 04N, Rge 05W, B.M., CANYON County
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GROUND WATER	NE1/4SE1/4	Sec. 10, Twp 04N, Rge 05W, B.M., CANYON County

PLACE OF USE: INDUSTRIAL

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N 05W 8									X	X	X	X				X	
04N 05W 10													X				
04N 05W 17	X	X	X		X	X	X	X									

CONDITIONS OF APPROVAL

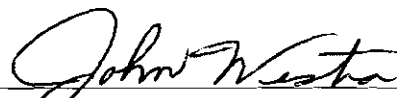
1. Proof of application of water to beneficial use shall be submitted on or before **November 01, 2015**.
2. Subject to all prior water rights.
3. This right does not grant any right-of-way or easement across the land of another.
4. Right holder shall comply with the drilling permit requirements of Section 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.

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6. Prior to the diversion and use of water under this approval, the right holder shall comply with applicable water quality permitting requirements administered by the Department of Environmental Quality or the Department of Agriculture.
7. Water bearing zone to be appropriated is from 125 to 460 feet.
8. Industrial use is for a food processing plant.
9. 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 3rd day of November, 2010.


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

November 3, 2010

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

CTI SSI FOOD SERVICES LLC
22303 HWY 95
WILDER ID 83676

RE: Permit No.63-33366

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 Jan Hersley
John Westra
Western Regional Manager

Enclosure(s)

cc: SPF WATER ENGINEERING LLC

CERTIFICATE OF SERVICE

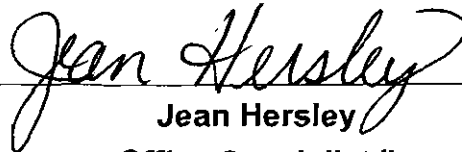
I hereby certify that on November 4, 2010 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (Approved Permit) to the person(s) listed below:

RE: WATER RIGHT NO.

63-33366

**CTI SSI FOOD SERVICES LLC
22303 HWY 95
WILDER ID 83676**

**SPF WATER ENGINEERING LLC
C/O TERRY SCANLAN
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.

RECEIVED

OCT 19 2010

WATER RESOURCES
WESTERN REGION

29512 313558

1 IDAHO DEPT. OF WATER RESOURCES

WESTERN REGION
2735 AIRPORT WAY
BOISE ID 83705

AFFIDAVIT OF PUBLICATION
STATE OF IDAHO

County of Canyon

)
)SS.
)

Katherine Holmquist
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 Principal 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:
10/07/2010 10/14/2010

STATE OF IDAHO

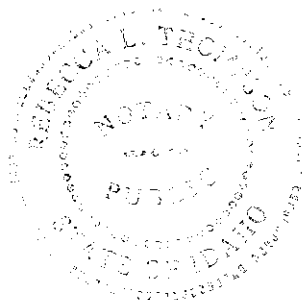
County of Canyon

On this 14th day of October in the year of 2010 before me a Notary Public, personally appeared. Katherine Holmquist, 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.

Notary Public for Idaho

Residing at Nampa

My Commission expires April 19, 2014



✓ OK

✓ 63-33366

CTI SSI FOOD SERVICES LLC

22303 HWY 95

WILDER, ID 83676

Point of Diversion NESE S10 T04N R05W CANYON County Source GROUND WATER Tributary

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Point of Diversion NESE S10 T04N R05W CANYON County Source GROUND WATER Tributary

Use: INDUSTRIAL 01/01 to 12/31 0.75 CFS

Total Diversion: 0.75 CFS

Date Filed: 4/23/2010

Place Of Use: INDUSTRIAL

T04N R05W S8 SW (ALL) SWSE

T04N R05W S10 NESE

T04N R05W S17 NENE NWNE SWNE NW (ALL)

Water bearing zone to be appropriated is from 125 to 460 feet.

Industrial use is for food processing plant.

✓ **PROPOSED CHANGE OF WATER RIGHT**

A.B.L. Water Users of 17165 Elmcrest Dr., Caldwell, ID, 83607, filed Application No. 76570 to transfer one water right with a 1990 priority date from a ground water source totaling 0.03 cfs. The purpose of the transfer is to add a new point of diversion for four of the existing homes in

Elm Crest Subdivision. Water will be used at the current place of use south of Goodson Road and west of Wagner Road.

✓ **NOTICE OF DRAFT PERMIT**

Notice is given of draft permit(s) allowing the operation of an injection well as per provisions of Title 42, Chapter 39, Idaho Code for the following injection well(s) listed in this format // Well Number, Location, Operator, Injectate //: // 63-W-056-001, T1N-R2W-S30-SESESE, C. Vanderstelt, Agricultural Runoff // 63-W-057-001, T1N-R2W-S30-SWSWSE, C. Vanderstelt, Agricultural Runoff. Copies can be requested from the Idaho Department of Water Resources at (208) 287-4800. Comments or requests for fact-finding hearings must be filed with the Department within

30 days of the initial publication date of this notice.

Permits will be subject to all prior water rights. Protests may be submitted based on the criteria of Idaho Code § 42-211 / § 42-222. For specific details regarding the application, please contact the Idaho Department of Water Resources (IDWR) Western Region at 208-334-2190 or visit www.idwr.idaho.gov with details provided under "new water right applications." 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 \$25.00 for each application on or before October 25, 2010. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Interim Director

Published on 10/7 & 10/14/2010

October 7, 14, 2010

313558

✓ OK DB 10/29/2010