

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 63-33260

Priority: August 06, 2009

Maximum Diversion Rate: 0.80 CFS

This is to certify, that KENNETH ASCHENBRENNER
And/Or
SHARON ASCHENBRENNER
6995 S RIDGEWOOD RD
NAMPA ID 83687-9018

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>
IRRIGATION	03/01 to 11/15	0.80 CFS

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER SE1/4NW1/4 Sec. 4, Twp 02N, Rge 01W, 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	
02N	01W	4																	40.0

Total Acres: 40

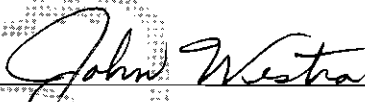
CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **April 01, 2011**.
2. Subject to all prior water rights.
3. 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.
4. 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.
5. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
6. 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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7. The right holder shall make full beneficial use of all surface water rights available to the right holder for irrigation of the lands authorized to be irrigated under this right. The right holder shall limit the diversion of ground water under this right to those times when the surface water supply is not available or the surface water supply is not reasonably sufficient to irrigate the place of use authorized under this right.
8. If the surface water right(s) appurtenant to the place of use is abandoned, forfeited, sold, transferred, leased or used on any other place of use, this right to divert ground water shall not be used without an approved transfer pursuant to Section 42-222, Idaho Code, or approval of the Department if a transfer is not required.
9. This right does not grant any right-of-way or easement across the land of another.
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 19th day of March, 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

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

March 19, 2010

KENNETH ASCHENBRENNER
And/Or
SHARON ASCHENBRENNER
6995 S RIDGEWOOD RD
NAMPA ID 83687-9018

RE: Permit No.63-33260

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.

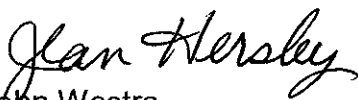
Enclosed is a form entitled 'Instructions for Proof of Beneficial Use.' Please read the instructions carefully since you must take further action to develop this permit into a licensed water right. Also enclosed is a form entitled 'Proof of Beneficial Use.' If your project is already completed, you should complete and submit this form immediately.

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

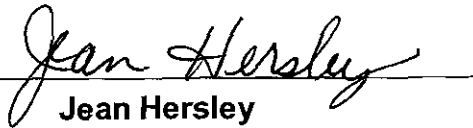
I hereby certify that on March 22, 2010 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved Permit) to the person(s) listed below:

RE: WATER RIGHT NO.

63-33260

**KENNETH ASCHENBRENNER
6995 S RIDGEWOOD RD
NAMPA ID 83687-9018**

**SHARON ASCHENBRENNER
6995 S RIDGEWOOD RD
NAMPA ID 83687-9018**

A handwritten signature in cursive script, reading "Jean Hersley", is written over a horizontal line.

**Jean Hersley
Office Specialist II**

Statement of Available Procedures and Applicable Time Limits

RESPONDING TO PRELIMINARY ORDERS ISSUED BY THE IDAHO DEPARTMENT OF WATER RESOURCES

(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 issuance 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

P.O. Box 40, Boise, Idaho 83707-0040

LEGAL ADVERTISING PROOF OF PUBLICATION

Account #	DT#	Identification	Amount
047628	488458	LEGAL NOTICE APPLICATION TO PROPRIATE PUBLIC WATERS	\$290.00
Attention:		P.O. #	Run Dates
DENISE BUFFINGTON			FEBRUARY 18, 25 2010
IDAHO DEPT. WATER RESOURCES WEST 2735 AIRPORT WY. BOISE, ID 83705		Number of Lines	76X2
		Affidavit	Legal #
		1	

LEGAL NOTICE

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

63-32146
CITY OF BOISE
PARKS & RECREATION DEPT
1104 ROYAL BLVD
BOISE, ID 83706-2898

Point of Diversion NENW S14 T04N R01E ADA County Source GROUND WA-

TER Tributary
Use: WILDLIFE STORAGE 01/01 to 12/31 20.4 AF
Use: MUNICIPAL STORAGE 01/01 to 12/31 20.4 AF
Use: RECREATION STORAGE 01/01 to 12/31 20.4 AF
Use: AESTHETIC STORAGE 01/01 to 12/31 20.4 AF
Total Diversion: 20.4 AF

Date Filed: 3/22/2005

Place Of Use: AESTHETIC STORAGE, WILDLIFE STORAGE, RECREATION STORAGE, MUNICIPAL STORAGE

T04N R01E S14 NENW NWNW

Water bearing zone to be appropriated is from 0 to 22 feet.

Mitigation is proposed for consumptive use.

63-33260
KENNETH ASCHENBRENNER
SHARON ASCHENBRENNER
6995 S RIDGEWOOD RD
NAMP, ID 83687-9018

Point of Diversion SENW S4 T02N R01W ADA County Source GROUND

WATER Tributary
Use: IRRIGATION 03/15 to 11/15 0.8 CFS
Total Diversion: 0.8 CFS

Date Filed: 8/6/2009

Place Of Use: IRRIGATION

T02N R01W S4 SENW

Total Acres: 40

Water bearing zone to be appropriated is from 100 to 200 feet.

PROPOSED CHANGE OF WATER RIGHT(S)

Boise Valley Irrigation Ditch Co of 8750 N Bogart Ln, Boise ID 83714 filed Application No. 73768 to transfer one water right with an 1865 priority date from the Boise River totaling 49.51 cfs. The purpose of the transfer is to change the nature of use for a portion of the right, previously used for irrigation of 1.7 acres, to diversion to storage and aesthetic storage uses for mitigation of the consumptive losses associated with a pond in City of Boise's Optimist Park located on the south side of Hill Rd and east of Horseshoe Bend Rd just over 2 miles east of Eagle. The unchanged portion of the right will remain within the current service area of the Boise Valley Irrigation Ditch Co, largest portion of which is generally located northeast of the Boise River from one mile east of Eagle south/southeast approximately six miles along Hwy 44 (State Street).

PROPOSED CHANGE OF WATER RIGHT(S)

The City of Garden City, City Hall, 6015 Glenwood St., Garden City, ID 83714-1347 filed Application No. 74948 to transfer nine water rights with 1951 to 1990 priority dates from ground water totaling 22.53 cfs. The purpose of the transfer is to identify one replacement well, describe all ten wells which serve the integrated city system under each right, and accurately reflect the city's current service area.

Permits will be subject to all prior water rights. Protests against permit applications may be submitted based on the criteria of Idaho Code § 42-203A. 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 detail provided under "new water right applications." 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 March 8, 2010. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Interim Director
Pub. Feb. 18, 25, 2010

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:

TWO

☒ consecutive weekly ☐ single
☐ consecutive daily ☐ odd skip
insertion(s)

beginning issue of: FEBRUARY 18, 2010

ending issue of: FEBRUARY 25 2010

Janice Hildreth

STATE OF IDAHO)

.SS

COUNTY OF ADA)

On this 25 day of FEBRUARY in the year of 2010
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 me first duly sworn, declared that the statements therein
are true, and acknowledged to me that she executed the same.

Janice Hildreth
Notary Public for Idaho
Residing at: Boise, Idaho
My Commission Expires: 5/23/14



RECEIVED

FEB 26 2010

WATER RESOURCES
WESTERN REGION

OK DB
3/10/2010