

State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 63-32550

Priority: September 04, 2009

Maximum Diversion Volume: 183.0 AF

This is to certify, that PROVIDENCE DEVELOPMENT GROUP, LLC
701 S ALLEN ST STE 103
MERIDIAN ID 83642

has applied for a permit to appropriate water from:

Source: GROUND WATER **Tributary:** BOISE RIVER

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>
AESTHETIC STORAGE	01/01 to 12/31		183.0 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER	L3 (NE1/4SW1/4)	Sec. 7, Twp 04N, Rge 02W, B.M., CANYON County
GROUND WATER	L2 (NW1/4SE1/4)	Sec. 7, Twp 04N, Rge 02W, B.M., CANYON County
GROUND WATER	L2 (NW1/4SE1/4)	Sec. 7, Twp 04N, Rge 02W, B.M., CANYON County
GROUND WATER	L3 (NE1/4SW1/4)	Sec. 7, Twp 04N, Rge 02W, B.M., CANYON County
GROUND WATER	L3 (NE1/4SW1/4)	Sec. 7, Twp 04N, Rge 02W, B.M., CANYON County
GROUND WATER	L3 (NE1/4SW1/4)	Sec. 7, Twp 04N, Rge 02W, B.M., CANYON County

PLACE OF USE: AESTHETIC 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	
04N 02W 7									X			X		X			
									L3			L3		L2			

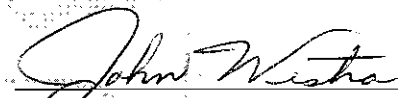
CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **December 01, 2010**.
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. Water stored under this right is subject to fluctuations of the water table caused by changes in the flow of local streams and by diversions under prior ground water rights. This right does not guarantee the maintenance of any particular ground water level.
5. The six (6) pond(s) established by the storage of water under this right shall not exceed a total capacity of 134 acre-feet or a total surface area of 13.0 acre(s).

State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 63-32550

6. This right authorizes the diversion of an annual total of 183 acre-feet to be used for the initial filling of the pond(s) (134 acre- feet) and for the replacement of losses caused by seepage and evaporation (49 acre-feet).
7. 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. 63, Boise River.
8. Upon specific notification by the Department, lockable devices subject to the approval of the Department shall be maintained on the outlet works, if any, from the ponds in a manner that will provide the watermaster suitable control of the diversion.
9. Aesthetic storage is for a water amenity in Middleton Lakes Subdivision.
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 2nd day of December, 2009.


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

December 2, 2009

PROVIDENCE DEVELOPMENT GROUP, LLC
701 S ALLEN ST STE 103
MERIDIAN ID 83642

RE: Permit No.63-32550

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)

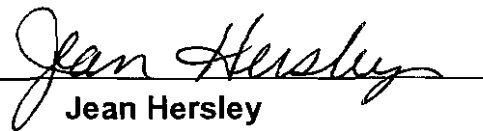
CERTIFICATE OF SERVICE

I hereby certify that on December 2, 2009 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.

63-32550

**PROVIDENCE DEVELOPMENT GROUP, LLC
701 S ALLEN ST STE 103
MERIDIAN ID 83642**

A handwritten signature in black ink, 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.

29512 63924

1 IDAHO DEPT. OF WATER RESOURCES

WESTERN REGION
2735 AIRPORT WAY
BOISE ID 83705

AFFIDAVIT OF PUBLICATION
STATE OF IDAHO)

)SS.

County of Canyon)

Marissa D. McNeal
of Nampa, Canyon County, Idaho, being
first duly sworn, deposes and says:

RECEIVED

OCT 14 2009

WATER RESOURCES
WESTERN REGION

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 Principle 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:
10/01/2009 10/08/2009

STATE OF IDAHO)

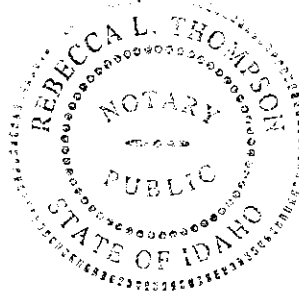
County of Canyon)

On this 8th day of October in the year of 2009 before me a Notary Public, personally appeared. Marissa McNeal, 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

LEGAL NOTICE

The following application(s) have been filed to appropriate the public waters of the State of Idaho:
63-32550

PROVIDENCE DEVELOPMENT GROUP, LLC
701 S ALLEN ST STE 103
MERIDIAN, ID 83642

Point of Diversion	L3 (NESW)	S7	T04N R02W	CANYON County Source	GROUND WATER
Point of Diversion	L2 (NWSE)	S7	T04N R02W	CANYON County Source	GROUND WATER
Point of Diversion	L2 (NWSE)	S7	T04N R02W	CANYON County Source	GROUND WATER
Point of Diversion	L3 (NESW)	S7	T04N R02W	CANYON County Source	GROUND WATER
Point of Diversion	L3 (NESW)	S7	T04N R02W	CANYON County Source	GROUND WATER
Point of Diversion	L3 (NESW)	S7	T04N R02W	CANYON County Source	GROUND WATER

Use: AESTHETIC STORAGE	01/01 to 12/31	183 AF
	Total Diversion:	183 AF

Date Filed: 9/27/2006

Place Of Use: AESTHETIC STORAGE
T04N R02W S7 L3 (NESW) L3 (SESW) L2 (NWSE)

Water bearing zone to be appropriated is from 1 to 12 feet for 6 shallow ground water ponds near the Boise River. Use is for water amenities at Middleton Lakes Subdivision.

Permits will be subject to all prior water rights. Protests may be submitted based on the criteria of Sec 42-203A, Idaho Code.

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 10/19/2009. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Interim Director

October 1, 8, 2009

63924

OK

OK Jmh
10-15-09

IDAHO PRESS TRIBUNE
AD AUTHORIZATION

Salesperson: MARISSA MCNEAL

Printed at 09/28/09 08:21 by \$LOGIN

Acct#: 29512 Ad#: 63924 Status: N
1 IDAHO DEPT. OF WATER RESOURCES Start: 10/01/09 Stop: 10/08/09
2735 AIRPORT WAY Times Ord: 2 Times Run: ****
BOISE ID 83705 LEG 4.00 X 37.00 Words: 254
Contact: DENISE BUFFINGTON Rate: L4 Cost: 235.81
Phone: (208) 334-2190 Class: 0001 LEGAL NOTICES
Fax#: Descript: 63-32550
Email: Denise.Buffington@idwr.idaho.gov Given by: *
Created: mmc14 09/28/09 08:16
Agency: Last Changed: mmc14 09/28/09 08:20

PUB ZONE ED TP START INS STOP SMTWTFSS
IPT A 96 S 10/01,08

AUTHORIZATION

Under this agreement rates are subject to change with 30 days notice. In the event of a cancellation before schedule completion, I understand that the rate charged will be based upon the rate for the number of insertions used.

Name (print or type)

DB ✓ OK
Name (signature)

LEGAL NOTICE

The following application(s) have been filed to appropriate the public waters of the State of Idaho:
63-32550

PROVIDENCE DEVELOPMENT GROUP, LLC
701 S ALLEN ST STE 103
MERIDIAN, ID 83642

Point of Diversion	L3 (NESW) S7 T04N R02W	CANYON County Source GROUND WATER
Point of Diversion	L2 (NWSE) S7 T04N R02W	CANYON County Source GROUND WATER
Point of Diversion	L2 (NWSE) S7 T04N R02W	CANYON County Source GROUND WATER
Point of Diversion	L3 (NESW) S7 T04N R02W	CANYON County Source GROUND WATER
Point of Diversion	L3 (NESW) S7 T04N R02W	CANYON County Source GROUND WATER
Point of Diversion	L3 (NESW) S7 T04N R02W	CANYON County Source GROUND WATER

Use: AESTHETIC STORAGE 01/01 to 12/31 183 AF
Total Diversion: 183 AF

Date Filed: 9/27/2006

Place Of Use: AESTHETIC STORAGE
T04N R02W S7 L3 (NESW) L3 (SESW) L2 (NWSE)

Water bearing zone to be appropriated is from 1 to 12 feet for 6 shallow ground water ponds near the Boise River. Use is for water amenities at Middleton Lakes Subdivision.

Permits will be subject to all prior water rights. Protests may be submitted based on the criteria of Sec 42-203A, Idaho Code.

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 10/19/2009. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Interim Director

October 1, 8, 2009

63924

E-mailed
Press Tribune
9-28-09: ✓ OK