

State of Idaho
Department of Water Resources
Permit to Appropriate Water - corrected -
NO. 63-33031

Priority: April 14, 2008

Maximum Diversion Volume: 10.8 AF

This is to certify, that JIM STEPHENS
100 S SHORT RD
EAGLE ID 83616

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		10.8 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER NW 1/4NW 1/4 Sec. 15, Twp 04N, Rge 01W, B.M., ADA 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 01W 15						X											

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **July 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. 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

State of Idaho
Department of Water Resources**Permit to Appropriate Water**

NO. 63-33031

6. To mitigate for the depletion of water resulting from the use of water under this right and to prevent injury to senior water right holders, the right holder shall cease diverting and using water as authorized by the following water rights for the purposes and amounts specified below. Moreover, the official record for the following water right will be changed to show that diversion and use of water is not authorized because the rights, or portion thereof, are being dedicated to mitigation purposes.

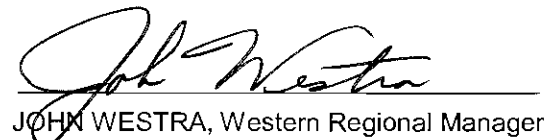
Right No.	Use Changed to Mitigation Irrigation	Mitigation Rate (cfs)	Mitigation Volume (AF)	Mitigation Acres
63-183		0.02		1.0

The land that will no longer be irrigated under this right is located within the NWNW, Section 15, Township 4N, Range 01E, B.M.

If the specified mitigation right, or portion thereof, is sold, transferred, leased, used on any place of use, or is not deliverable due to a shortage of water or a priority call, then the amount of water authorized for diversion under this permit approval shall be reduced by the same proportion as the reduction to the mitigation rights.

7. This right does not authorize the construction of a well.
8. Storage is for one pond not to exceed a total capacity of 10.8 acre feet and total surface area of 1.0 acres.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 6th day of July, 2009.


JOHN WESTRA, Western Regional Manager

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 63-33031

Priority: April 14, 2008

Maximum Diversion Volume: 10.8 AF

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100 S SHORT RD
EAGLE ID 83616

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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		10.8 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER NW1/4NW1/4 Sec. 15, Twp 04N, Rge 01W, B.M., ADA 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 01W 15						X											

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **July 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.
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State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 63-33031

6. To mitigate for the depletion of water resulting from the use of water under this right and to prevent injury to senior water right holders, the right holder shall cease diverting and using water as authorized by the following water rights for the purposes and amounts specified below. Moreover, the official record for the following water right will be changed to show that diversion and use of water is not authorized because the rights, or portion thereof, are being dedicated to mitigation purposes.

Right No.	Use Changed to Mitigation	Mitigation Rate (cfs)	Mitigation Volume (AF)	Mitigation Acres
63-83	Irrigation	0.02		1.0

The land that will no longer be irrigated under this right is located within the NWNW, Section 15, Township 4N, Range 01E, B.M.

If the specified mitigation right, or portion thereof, is sold, transferred, leased, used on any place of use, or is not deliverable due to a shortage of water or a priority call, then the amount of water authorized for diversion under this permit approval shall be reduced by the same proportion as the reduction to the mitigation rights.

7. This right does not authorize the construction of a well.
8. Storage is for one pond not to exceed a total capacity of 10.8 acre feet and total surface area of 1.0 acres.

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 July, 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

DAVID R. TUTHILL, JR.
Director

July 6, 2009

JIM STEPHENS
100 S SHORT RD
EAGLE ID 83616

RE: Permit No. 63-33031

Permit Approval Notice

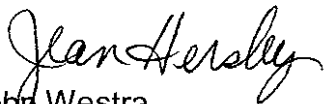
Dear Permit Holder:

The Department of Water Resources has reissued the enclosed permit authorizing you to establish a new water right. The right listed on Condition #6 should have been 63-183. Please be sure to thoroughly review the conditions of approval and remarks listed on your permit. We apologize for the error. All other conditions and requirements that were stated in the original letter still apply.

Again, we apologize for the error. Thank you for your patience.

If you have any questions, please contact me at 208-334-2190.

Sincerely,


for John Westra
Western Regional Manager

Enclosure(s)

cc: RENNISON FODREA

CERTIFICATE OF SERVICE

I hereby certify that on July 6, 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. 63-33031

**JIM STEPHENS
100 S SHORT RD
EAGLE ID 83616**

**RENNISON FODREA
ATTN KEVIN MC CARTHY PE
430 E STATE ST STE 140
EAGLE ID 83616**



**Jean Hersley
Office Specialist II**



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

DAVID R. TUTHILL, JR.
Director

July 2, 2009

JIM STEPHENS
100 S SHORT RD
EAGLE ID 83616

RE: Permit No. 63-33031

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,

A handwritten signature in black ink, appearing to read "John Westra".

for John Westra
Western Regional Manager

Enclosure(s)

cc: RENNISON FODREA

CERTIFICATE OF SERVICE

I hereby certify that on July 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.

63-33031

**JIM STEPHENS
100 S SHORT RD
EAGLE ID 83616**

**RENNISON FODREA
ATTN KEVIN MC CARTHY PE
430 E STATE ST STE 140
EAGLE ID 83616**



**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.

RECEIVED

JUN 03 2009

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

LEGAL ADVERTISING PROOF OF PUBLICATION

WATER RESOURCES
WESTERN REGION

Account #	DTI#	Identification	Amount:
047628	440202	PROPOSED CHANGE OF WATER RIGHTS JIM STEPHENS	\$121.00
Attention:	P.O. #	Run Dates	
DENISE BUFFINGTON		MAY 21, 28, 2009	
IDAHO DEPT. WATER RESOURCES WEST 2735 AIRPORT WY. BOISE, ID 83705		Number of Lines	2 X 29
		Affidavit	Legal #
		1	

LEGAL NOTICE

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

63-33031

JIM STEPHENS

100 S SHORT RD

EAGLE ID 83616

Point(s) of Diversion NWNW S15 T04N R01W ADA County

Source GROUND WATER

Tributary to BOISE RIVER
Use: AESTHETIC STORAGE 01/01 To 12/31 10.8 AFA

Total Diversion: 10.8 AFA

Date Filed: 04/14/2008

Place Of Use: AESTHETIC STORAGE

T04N R01W S15 NWNW

Remark: Water bearing zone to be appropriated is from 0 to 25 feet.

Mitigation is proposed for consumptive use by leaving 0.02 cfs of Pioneer Ditch Co. water undiverted in the Boise River.

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 Resource, Western Region, 2735 Airport Wy, Boise ID 83705 together with a protest fee of \$25.00 for each application on or before 06/08/2009. The protestant must also send a copy of the protest to the applicant.

DAVID R. TUTHILL, JR., Director

Pub. May 21,28, 2009

-0000440202-01

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:

TWO

X	consecutive weekly		single
	consecutive daily		odd skip
insertion(s)			

beginning issue of: MAY 21, 2009

ending issue of: MAY 28, 2009

Tina Bartlett

STATE OF IDAHO)
).SS

COUNTY OF ADA)

On this 28 day of MAY in the year of 2009

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 me first duly sworn, declared that the statements therein

are true, and acknowledged to me that she executed the same.

Notary Public for Idaho

Residing at: Boise, Idaho

My Commission expires _____

✓ ok DB 6/12/09

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.

Scott A. Bennett
Notary Public for Idaho
Residing at: Boise, Idaho
My Commission expires: 5/28/19