

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 65-23168

Priority: September 10, 2007

Maximum Diversion Rate: 1.57 CFS
Maximum Diversion Volume: 30.0 AF

This is to certify, that SEVERANCE SAND & GRAVEL INC
PO BOX 644
GARDEN VALLEY ID 83622

has applied for a permit to appropriate water from:

Source: GROUND WATER

Tributary: SOUTH FORK PAYETTE 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>
STOCKWATER STORAGE	01/01 to 12/31		30.0 AF
IRRIGATION	03/15 to 10/31	0.90 CFS	
INDUSTRIAL	01/01 to 12/31	0.67 CFS	
IRRIGATION STORAGE	03/15 to 10/31		30.0 AF
IRRIGATION FROM STORAGE	03/15 to 10/31		30.0 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER NE1/4SE1/4 Sec. 27, Twp 09N, Rge 04E, B.M., BOISE County

PLACE OF USE: STOCKWATER STORAGE

Twp Rge Sec	NE				NW				SW				SE				
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
09N 04E 27													X				

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
09N 04E 27			4.0	20.0									21.0				45.0

Total Acres: 45

State of Idaho
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PLACE OF USE: INDUSTRIAL

Tw	Rge	Sec	NE				NW				SW				SE				Totals
09N	04E	27	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
															X				

PLACE OF USE: IRRIGATION STORAGE

Tw	Rge	Sec	NE				NW				SW				SE				Totals
09N	04E	27	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
															X				

PLACE OF USE: IRRIGATION FROM STORAGE

Tw	Rge	Sec	NE				NW				SW				SE				Totals
09N	04E	27	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
					4.0	20.0									21.0				45.0

Total Acres: 45

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **April 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. Prior to the diversion and use of water under this approval, the right holder shall comply with applicable county zoning and use ordinances.
5. 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.
6. The right holder shall contact the watermaster by June 15 each year for authorization to continue diverting and using water. The right holder shall not divert water after June 15 each year unless the watermaster authorizes continued diversion and use of water under this water right. When the watermaster informs the right holder that water is not available to fill this right, the right holder shall cease diversion, shall rent water from the Payette River Rental Pool, or shall otherwise mitigate for the depletion of water caused by this water use. The department may amend the contact date listed in this administrative provision to more closely coincide with the date when water is not available to fill this water right.
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. 65 & Payette Water District.

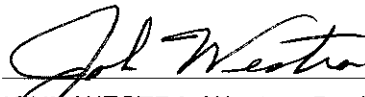
State of Idaho
Department of Water Resources

Permit to Appropriate Water

NO. 65-23168

8. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
9. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the lands above.
10. Stockwater use is for 15 head of cattle.
11. This right does not authorize the construction of any new well or the deepening or enlargement of any existing well.
12. Industrial use is for a rock processing plant.
13. The storage pond established under this right shall not exceed a total capacity of 30 af resulting from mineral extraction.
14. 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 6th day of March, 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

March 6, 2009

SEVERANCE SAND & GRAVEL INC
PO BOX 644
GARDEN VALLEY ID 83622

RE: Permit No. 65-23168

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

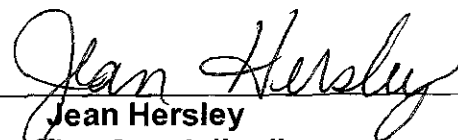
Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on March 9, 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. 65-23168

**SEVERANCE SAND & GRAVEL INC
PO BOX 644
GARDEN VALLEY ID 83622**



**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.

The Idaho World

P.O. Box 50248
Boise, ID 83705
(208) 429-1606

State of Idaho)
County of Boise)

Teri Hart, being duly sworn, deposes and says: that she is the Editor of THE IDAHO WORLD, a weekly newspaper published at Idaho City, in the County of Boise and the State of Idaho; the said paper has been and is in general circulation in the county aforesaid, and in the vicinity of Idaho City; that the advertisement, a copy of which is hereto attached, was published in said newspaper once a week for two (2) consecutive weeks in the entire and regular issue of every number of said paper during the period and time of publication and was published in the newspaper and not a supplement; that said paper has been established and regularly and continuously published for more than seventy eight weeks past previous to the first publication of this notice. Such notice was published with the issue beginning with February 4, 2009 and ending with the issue of February 11, 2009.

Teri Hart
State of Idaho)
County of Ada)

On this 16 day of February in the year 2009, before me, a notary public, personally appeared Teri Hart 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.

Kim Fox
Notary Public for Idaho
Residing at Boise, Idaho
Commission Expires 4-8-11

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

65-23168
SEVERANCE SAND & GRAVEL INC
PO BOX 644
GARDEN VALLEY ID 83622
Point(s) of Diversion NESE S27 T09N R04E
BOISE County
Source GROUND WATER
Tributary To SOUTH FORK PAYETTE RIVER
Use: IRRIGATION 03/15 To 10/31 0.9 CFS
Use: IRRIGATION STORAGE 03/15 To 10/31 30 AFA
Use: IRRIGATION FROM 03/15 To 10/31 30 AFA
STORAGE
Use: STOCKWATER STORAGE 01/01 To 12/31 30 AFA
Use: INDUSTRIAL 01/01 To 12/31 0.67 CFS
Total Diversion: 1.57 CFS 30 AFA
Date Filed: 09/10/2007
Place Of Use: STOCKWATER STORAGE
T09N R04E S27 NESE
Place Of Use: IRRIGATION
T09N R04E S27 SWNE SENE NESE
Number of Acres 45
Place Of Use: INDUSTRIAL
T09N R04E S27 NESE
Place Of Use: IRRIGATION STORAGE
T09N R04E S27 NESE
Place Of Use: IRRIGATION FROM STORAGE
T09N R04E S27 SWNE SENE NESE
Number of Acres 45
Remark: INDUSTRIAL USE IS FOR A GRAVEL WASH PLANT

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 02/23/2009. The protestant must also send a copy of the protest to the applicant.

DAVID R. TUTHILL, JR., Director

Published in the Idaho World February 4 and 11, 2009. DOW

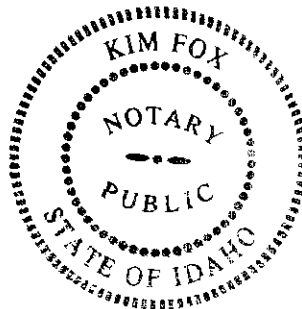
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RECEIVED

FEB 18 2009

WATER RESOURCES
WESTERN REGION

✓ OK DB 2/27/09



FEB 04 2009

WATER RESOURCES
WESTERN REGIONIDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDATION OF WATERMASTERApplication No: 65-23168Applicant's Name: Severance Sand & Gravel Inc.

Watermaster's Recommendation:

- a) I do not oppose approval of this application.
- b) X I do not oppose approval of this application if conditioned as follows:

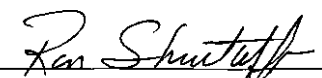
 X No water shall be diverted under this right after June 15* of each year without prior approval of the watermaster. New rights are curtailed each year based on the water supply (seniority system). Use of a new right can continue during water shortages if the new right is mitigated with a lease of storage water from the Watermaster.

Other conditions: To be under control of watermaster of Water DistrictNo. 65 and subject to Annual Reporting, Assessments and Rental Pool Fees.

- c) I oppose approval of this application for the following reasons:

- d) Additional comments:

Dated this 3rd day of February, 2009Water District No: 65


Watermaster's signature

* Watermaster provided copy of this recommendation to the applicant regarding 6/15 curtailments.



Payette River Basin, State of Idaho
Water District No. 65

Watermaster
Ron Shurtleff

102 North Main Street
Payette, Idaho 83661

Phone 208-642-4465
Fax 208-642-1042
E-mail, waterdist65@srvinet.com

February 3, 2009

Severance Sand & Gravel, Inc.
P.O. Box 644
Garden Valley, ID 83622

RECEIVED

FEB 04 2009

**WATER RESOURCES
WESTERN REGION**

Re; Application for Permit No. 65-23168

Dear Mr. and Mrs. Severance,

Enclosed is a copy of the Watermaster's Recommendation in regard to your Application for Permit to appropriate public water of the State of Idaho, Application Number 65-23168.

Please note the condition preventing the diversion of water after June 15 of each year without prior approval of the watermaster. This condition places the responsibility upon the diverting party to secure storage water from the watermaster, by annual rental. The storage water when secured will allow continued usage of water beyond the cutoff date of June 15 each year.

The required arrangements and Rental Agreement can be obtained by contacting my office.

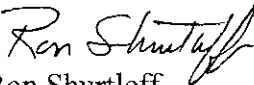
Subsequent to this formal agreement the Payette River Watermaster will reserve the specified volume of storage water for your purpose, and release sufficient volume when appropriate to mitigate in proportion to the rate of your diversion.

You should document your diversion rate(s) and diversion time(s). The best achievable data for your usage will be entered into the State's water accounting system, and storage consumption at your diversion will be calculated and applied to your rental pool account. Since you do not own sufficient storage space in one of the reservoirs within the Payette storage system you will be expected to pay a rental pool fee to compensate other space holders for storage waters maintenance costs, in relationship to the volume of water that you consumed.

The irrigation portion of this water right is subject an annual assessment fee of \$0.40 per acre, and the industrial portion of the right is subject to an annual water assessment of \$200.00.

Please contact my office if you have any questions regarding this notice.

Sincerely,


Ron Shurtleff
Watermaster