

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 63-32125

Priority: February 08, 2005

Maximum Diversion Rate: 0.23 CFS

This is to certify, that NAGY SPRINGCREEK LLC
C/O DON KNICKREHM
PO BOX 1617
BOISE ID 83701

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>
IRRIGATION	03/01 to 11/15	0.23 CFS

LOCATION OF POINT OF DIVERSION:

GROUND WATER NE $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 20, Twp 04N, Rge 01E, 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	
04N 01E 20	11.7																11.7
Total Acres:	11.7																

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **June 01, 2010**.
2. Subject to all prior water rights.
3. 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.
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. Water bearing zone to be appropriated is from 0 to 50 feet.
6. 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.
7. Prior to diversion of water under this right, the right holder shall install and maintain a measuring device and lockable controlling works of a type acceptable to the Department as part of the diverting works.

State of Idaho
Department of Water Resources

Permit to Appropriate Water

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8. 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.

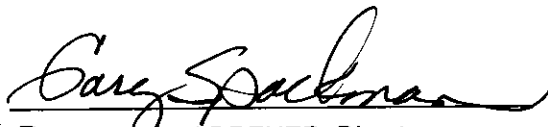
Right No.	Use Changed to Mitigation	Mitigation Rate (cfs)	Mitigation Volume (AF)	Mitigation Acres
63-0144C	Irrigation	0.36	52.7	11.7

The land that will no longer be irrigated under this right is located within the NENE, Section 20, Township 04N, 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.

9. If Claim 63-0144C is not decreed in the Snake River Basin Adjudication as recommended, the right holder shall cease diverting and using water under this right until he implements an alternative mitigation plan that has been reviewed and accepted by the Department.
10. Noncompliance with any condition of this right, including the requirement for mitigation, is cause for the director to issue a notice of violation, cancel or revoke the right, or, if the right is included in a water district, request that the watermaster curtail diversion and use of water.
11. 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.
12. 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 determine the amount of water diverted from power records and shall annually report the information to the Department.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 30th day of June, 2005.


For KARL J DREHER, Director

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

APPLICATION FOR PERMIT

To appropriate the public water of the State of Idaho

1. Name: NAGY SPRINGCREEK LLC
C/O DON KNICKREHM
PO BOX 1617
BOISE ID 83701
(208)939-6718

2. Source: GROUND WATER Tributary to: BOISE RIVER

3. Location of Point of Diversion:

#1 GROUND WATER NE $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 20, Twp 04N, Rge 01E, B.M., ADA County

4. Water will be used for the following purposes:

<u>Purpose</u>	<u>From</u> <u>To</u>	<u>RATE OF DIVERSION</u>
IRRIGATION	03/01 to 11/15	0.23 CFS

5. Total quantity to be appropriated is: 0.23 CFS

6. Proposed diverting works:

POINT OF DIVERSION #1

- a. Type and size of devices used to divert water from the source: SHALLOW WELL

- b. Height of storage dam _____ feet;
Active reservoir capacity _____ acre-feet;
Total reservoir capacity _____ acre-feet;

- c. Proposed well diameter is 8 inches;
Proposed depth of well is 50 feet.

- d. Is ground water with a temperature of greater than 85F being sought? N

- e. If well is already drilled, when? _____;
Drilling Firm _____;
Drilling Permit No. _____.

7. Time required for the completion of the works and application of the water to the proposed beneficial use is 5 year(s).

8. **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	
04N 01E 20	11.7																11.7

Total Acres: 11.7

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public water of the State of Idaho

9a. Who owns the property at the point of diversion? If other than applicant, describe the arrangement enabling the applicant to make this filing.

APPLICANT

9b. Who owns the land to be irrigated or place of use? If other than applicant, describe the arrangement enabling the applicant to make this filing.

APPLICANT

10. Remarks: Application for Permit 63-32109 split into 63-32125 (well) and 63-32126 (ponds) due to separate systems on application. There is no information in the application to show that the well will be connected to the ponds.

11. Map of proposed point of diversion and place of use attached? ☐

BE IT KNOWN that the undersigned hereby makes application for permit to appropriate the public waters of the State of Idaho as herein set forth.

Applicant

Received by _____ Date _____ Time _____ Preliminary check by _____
Publication prepared by _____ Date _____ Published in _____
Publication approved _____ Date _____

Receipt No. _____

Date: _____

Receipted by: _____

*see file 63-32109 - kw
6/24/05*

**NOW
STARTING
RIGHT
SIDE OF
FILE**



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street, P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 287-4800 Fax: (208) 287-6700 Web Site: www.idwr.idaho.gov

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

July 7, 2005

NAGY SPRINGCREEK LLC
C/O DON KNICKREHM
PO BOX 1617
BOISE ID 83701

RE: Permit No. 63-32125

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.

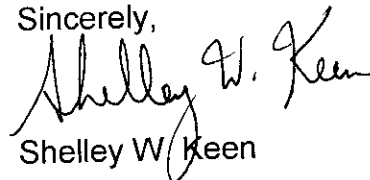
The Department will send you a 'Proof Due Notice' approximately 60 days prior to the above referenced date requesting you to file either a Proof of Beneficial Use form or a Request for Extension of Time form.

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 208-287-4947.

Sincerely,

A handwritten signature in black ink that reads "Shelley W. Keen". The signature is fluid and cursive, with the first name being the most prominent.

Shelley W. Keen

Water Rights Supervisor

SWK:klt

Enclosure(s)

cc: GIVENS PURSLEY LLP

CERTIFICATE OF SERVICE

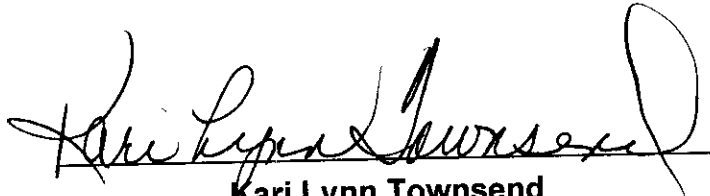
I hereby certify that on July 7, 2005 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved Permit) to the person(s) listed below:

RE: WATER RIGHT NO.

63-32125

**GIVENS PURSLEY LLP
C/O JEFFREY C FEREDAY
601 W BANNOCK ST
PO BOX 2720
BOISE ID 83701**

**NAGY SPRINGCREEK LLC
C/O DON KNICKREHM
PO BOX 1617
BOISE ID 83701**



**Kari Lynn Townsend
Secretary**

**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. 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.

Comment Report

63-32125

1. kwalker 6/29/2005 POD

Comment: Updated shape

2. kwalker 6/29/2005 POU

Comment: Updated Shape

3. kwalker 6/29/2005 Application Review

Comment: We have split application for permit 63-32109 into 2 parts (63-32125 well and 63-32126 ponds) because we could not find any relationship between the ponds and the well. Both applications are being mitigated with portions of Rt. 63-0144C which is currently in process in SRBA. The only overlapping right I could identify in place of use review was Rt. 63-0144C. This application falls within Boise Front GWMA but can be processed because it is for cold water only and will be diverted from a shallow well.

4. kwalker 6/30/2005 Mitigation Plan

Comment: The applicant intends to use Boise River Rt. 63-0144C to mitigate for the use of the well for irrigation of the 11.7 acres. The Boise River right has been recommended for 0.03 cfs per acre based on approved transfer 5344. The 11.7 acres were originally irrigated under the same Boise River right. I have prepared the proposed permit for a one to one proportionate allotment of the 11.7 acres which is for more rate than what the applicant intended. The 11.7 acres were allotted 0.36 cfs under right 63-0144C but application only requests 0.23 cfs for the irrigation of these same acres. Recommend approval as prepared.

06/29/2005

IDAHO DEPARTMENT OF WATER RESOURCES
 Adjudication Recommendation Report 63-144C V1

WATER RIGHT NUMBER: 63-144C V1

<u>Owner Type</u>	<u>Name and Address</u>
Original Owner	DOROTHY FEHL-HABER
Original Owner	MARIETTA WROTEN
Original Owner	HAROLD WESTOVER
Original Owner	JON W WROTEN
Original Owner	JANIS MEEK
Current Owner	NAGY SPRINGCREEK, LLC

Priority Date: 06/01/1865

Basis: Decreed

Status: Active

Source
 BOISE RIVER

Tributary
 SNAKE RIVER

Beneficial Use
 IRRIGATION

From To
 03/01 to 11/15 ✓

Diversion Rate
 0.760 CFS ✓

Annual Volume
 112.50 AF ✓

Total Diversion: 0.760 CFS

112.50 AF

Location of Point(s) of Diversion

BOISE RIVER

L8 (SE1/4NE1/4)

Sec. 21, Twp 04N, Rge 01E, 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	
04N	01E	20	23.0			2.0													25.0
			L1																

Total Acres: 25

Conditions of Approval:

1. C03 Right includes accomplished change in point of diversion pursuant to Section 42-1425, Idaho Code.
2. This right is also designated as Right No. 12 in the Boise River Stewart Decree and Boise River Distribution Report.

8.9 ac remain in
 NENE

same as water right

$25 \div 0.76 = 32.89$

$0.03 \times 11.7 = 0.36$

0.35 cfs

$25 \div 12.5 = 2$

4.5 AF/AC

$2 \times 11.7 = 23.4$

52.1

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-144C V1

3. 155 This right shall receive 100 percent of its decreed quantity until the natural flow of the waters of the Boise River shall decrease so that all rights containing this condition cannot receive 100 percent of their decreed quantities, at which time this right and the other rights containing this condition shall first be cut to 75 percent of their decreed quantities, as the natural flow of the river decreases, beginning with the latest rights containing this condition and proceeding to the earliest rights containing this condition in the order of their priority dates, and after all of the rights containing this condition shall have been reduced to 75 percent of their decreed quantities, should the natural flow of the waters of the river decrease below the amount necessary to supply 75 percent of those decreed quantities, then this right and the other rights containing this condition, beginning with the latest and proceeding to the earliest, shall be reduced to 60 percent of their decreed quantities.
4. C05 Right includes accomplished change in place of use pursuant to Section 42-1425, Idaho Code.
5. S45 Diversion for irrigation under this water right prior to April 1 and after October 31 shall occur only as authorized by the Water District 63 Water Master and only when water is being released for flood control by the United States from the Lucky Peak Dam outlet under procedures and requirements for the Memorandum of Agreement between the U.S. Department of the Army and the U.S. Department of the Interior for Flood Control Operations of the Boise River Reservoirs, dated November 20, 1953, the Water Control Manual for Boise River Reservoirs dated April 1985 and any future amendments or revisions made thereto pursuant to state or federal procedures or law; provided that any such use of this water right prior to April 1 and after October 31 shall be subordinated to water rights for storage in Lucky Peak Reservoir, Lake Lowell, Arrowrock Reservoir, and/or Anderson Ranch Reservoir, as decreed in SRBA Case No. 39576.
6. C18 This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

Remarks:Comments:

1. kbrown 5/6/2005 Transfer 3326

Comment: Transfer 3326 added points of diversion under a portion of right 63-144, splitting the right into parts A & B.

2. kbrown 5/6/2005 Transfer 5344

Comment: Transfer 5344 changed the point of diversion, place & nature of use under a portion of 63-144B; splitting the right into parts C & D.

3. kbrown 5/6/2005 Property Address

Comment: Property Address: 2267 S. Eagle Rd., Eagle 83616.

4. kbrown 5/6/2005 Parcel Number

Comment: Parcel No: S0520110290.

5. Igagnon 5/18/2005 CHANGE IN OWNERSHIP

Comment: THE DATA IN THE NAME FIELD HAS BEEN CHANGED TO SHOW THAT THIS RIGHT HAS A CHANGE IN OWNERSHIP.

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommendation Report 63-144C V1

Dates and Other Information:

Decreed Date:
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
Defendant:
Plaintiff:
Civil Case Number:
Judicial District:
Notice of Error Flag:
State or Federal: S
Owner Name Connector: OR
Water District Number:
Generic Max Rate Per Acre:
Generic Max Volume Per Acre:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Carey Act Number:
Mitigation Plan: False

Combined Use Limits:

<u>Rate</u>	<u>Volume</u>	<u>Acres</u>
2.37	351	52.3

Combined Water Rights: 63-144D , 63-144C

Water Supply Bank:

$$\begin{array}{rcl}
 63-144C & 0.76 \text{ cfs} & \\
 -63-32126 & 0.07 \text{ cfs} & \\
 \text{remaining} \rightarrow & \underline{0.69 \text{ cfs}} & \\
 -63-22125 & 0.36 \text{ cfs} & \\
 \text{remaining} \rightarrow & \underline{0.33 \text{ cfs}} &
 \end{array}$$

$$\begin{array}{rcl}
 112.5 \text{ AF} & 25 \text{ ac} & \\
 10.8 \text{ AF} & 2.4 \text{ ac} & \\
 \hline
 101.7 \text{ AF} & 22.6 \text{ ac} & \\
 52.7 \text{ AF} & 11.7 \text{ ac} & \\
 \hline
 49.0 \text{ AF} & 10.9 \text{ ac} &
 \end{array}$$