

State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 63-32126

Priority: February 08, 2005

Maximum Diversion Volume: 20.4 AF

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>ANNUAL VOLUME</u>
AESTHETIC STORAGE	01/01 to 12/31	20.4 AF
WILDLIFE STORAGE	01/01 to 12/31	20.4 AF

LOCATION OF POINTS OF DIVERSION:

GROUND WATER	NE¼NE¼	Sec. 20, Twp 04N, Rge 01E, B.M., ADA County
GROUND WATER	NE¼NE¼	Sec. 20, Twp 04N, Rge 01E, B.M., ADA County
GROUND WATER	NE¼NE¼	Sec. 20, Twp 04N, Rge 01E, B.M., ADA County

PLACE OF USE: AESTHETIC STORAGE & WILDLIFE 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	01E	20	X																

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. 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.
6. 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.

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7. 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 portions thereof, are being dedicated to mitigation purposes.

Right No.	Use Changed to Mitigation	Mitigation Rate (cfs)	Mitigation Volume (AF)	Mitigation Acres
63-144C	Irrigation	0.07	10.8	2.4

The land that will no longer be irrigated under this right is located within the NENE, Section 20, Township 4N, Range 1E, B.M.

8. Aesthetic and wildlife storage uses are for three ponds that shall not exceed 2.4 acres in surface area.
9. 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.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 29th 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
#2 GROUND WATER NE $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 20, Twp 04N, Rge 01E, B.M., ADA County
#3 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>ANNUAL VOLUME</u>
AESTHETIC STORAGE	01/01 to 12/31	20.4 AF
WILDLIFE STORAGE	01/01 to 12/31	20.4 AF

5. Total quantity to be appropriated is: 20.4 AF

6. Proposed diverting works:

POINT OF DIVERSION #1

- a. Type and size of devices used to divert water from the source: POND #1 OF 3
b. Height of storage dam 0 feet;
Active reservoir capacity 20.4 acre-feet;
Total reservoir capacity 20.4 acre-feet;
c. Proposed well diameter is _____ inches;
Proposed depth of well is _____ feet.
d. Is ground water with a temperature of greater than 85F being sought?
e. If well is already drilled, when? _____;
Drilling Firm _____;
Drilling Permit No. _____.

POINT OF DIVERSION #2

- a. Type and size of devices used to divert water from the source: POND #2 OF 3
b. Height of storage dam _____ feet;
Active reservoir capacity _____ acre-feet;
Total reservoir capacity _____ acre-feet;
c. Proposed well diameter is _____ inches;
Proposed depth of well is _____ feet.
d. Is ground water with a temperature of greater than 85F being sought?
e. If well is already drilled, when? _____;
Drilling Firm _____;
Drilling Permit No. _____.

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

APPLICATION FOR PERMIT

To appropriate the public water of the State of Idaho

POINT OF DIVERSION #3

- a. Type and size of devices used to divert water from the source: POND #3 OF 3
- b. Height of storage dam _____ feet;
Active reservoir capacity _____ acre-feet;
Total reservoir capacity _____ acre-feet.
- c. Proposed well diameter is _____ inches;
Proposed depth of well is _____ feet.
- d. Is ground water with a temperature of greater than 85F being sought?
- 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: 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 01E 20	X																

PLACE OF USE: WILDLIFE 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 01E 20	X																

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 63-32109 split into 63-32125 and 63-32126 due to proposal of 2 separate systems to be developed. There is no indication in the file that the well and ponds will be connected.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public water of the State of Idaho

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

June 30, 2005

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

RE: Permit No. 63-32126

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.

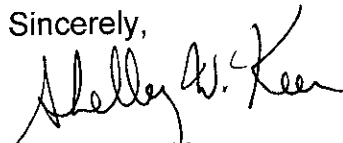
The Department will send you a 'Proof Due Notice' approximately 60 days prior to the above referenced date requesting you to file either a Proof of Beneficial Use form or a Request for Extension of Time form.

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 written in a cursive style with a large, stylized 'S' and 'K'.

Shelley W. Keen

Water Rights Supervisor

SWK:klt

Enclosure(s)

cc: GIVENS PURSLEY LLP

CERTIFICATE OF SERVICE

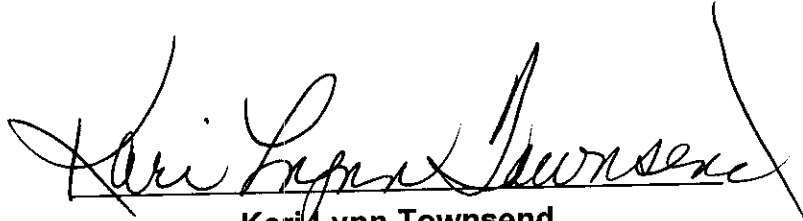
I hereby certify that on June 30, 2005 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved Permit) to the person(s) listed below:

RE: WATER RIGHT NO.

63-32126

**GIVENS PURSLEY LLP
C/O JEFFREY C FEREDAY
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

63-32126

1. kwalker 6/24/2005 POD

Comment: Updated shape

2. kwalker 6/24/2005 POD

Comment: Updated shape

3. kwalker 6/24/2005 POD

Comment: Updated shape

4. kwalker 6/24/2005 POU

Comment: Updated Shape

5. kwalker 6/24/2005 POU

Comment: Updated Shape

6. kwalker 6/27/2005 Application Review

Comment: Application falls within Boise Front GWMA but this application is for cold water so not a problem. This application was originally entered as Rt. 63-32109 with additional use of irrigation. The ponds and the well to be used for the irrigation portion (63-32125) had no connection except on the same property so we split 63-32109 into 2 separate applications. The ponds are being mitigated with a portion of Rt. 63-0144C.

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 63-144C

WATER RIGHT NUMBER: 63-144C

<u>Owner Type</u>	<u>Name and Address</u>
Original Owner	FRANK N GRAHAM
Original Owner	WILLIAM GILBERT
Original Owner	JAMES L GRAHAM
Current Owner	JANIS MEEK
Current Owner	JAMES WR0TEN
Current Owner	WESTOE INC
Current Owner	JON W WR0TEN
Current Owner	DOROTHY FEHL-HABER

$0.03 \times 2.4 = 0.07 \text{ cfs}$
 $25 \overline{) 0.76}$ for ponds
 from
 irrig.

Priority Date: 06/01/1865

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
BOISE RIVER	SNAKE RIVER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	4/01 to 11/01	0.760 CFS	112.50 AF
	<u>Total Diversion:</u>	0.760 CFS	112.50 AF

Location of Point(s) of Diversion

BOISE RIVER	L2 (NW1/4NE1/4)	Sec. 20, Twp 04N, Rge 01E, B.M.
ADA County		
BOISE RIVER	L8 (NE1/4NE1/4)	Sec. 21, Twp 04N, Rge 01E, B.M.
ADA County		
BOISE RIVER	L1 (NE1/4NE1/4)	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	22.0			3.0													25.0
			L 1			L 8													

Total Acres: 25

Conditions of Approval:

$4.5 \text{ AF/AC} \times 2.4 = 10.8$
 $25 \overline{) 112.50}$ for ponds
 from
 irrigation

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 63-144C

1. No more than 0.76 cfs nor 112.5 afa shall be diverted under this right.
The points of diversion under this right are: Graham-Gilbert Ditch located within Lot 8 (NENE), Sec. 21; and two points located within Lot 1 (NENE), Sec. 20; and Lot 2 (NWNE), Sec. 20; T04N, R01E.
Water under this right shall not be diverted into the Mace-Catlin Ditch.
Water used under this right is limited to irrigation of land to the south of the Boise River.
A measuring device and lockable controlling works of a type acceptable to the Department shall be permanently installed and maintained as part of each diverting works.
Access for the watermaster shall be provided to each point of diversion.
Use of water under this right is subject to control by the watermaster of State Water District No. 63, Boise River.

Remarks:Comments:

1. PSKAGGS 11/24/1997 TRANSFER 3326

Comment: Transfer 3326 adds points of diversion under a portion of Right 63-00144, splitting the right into parts A & B.

2. PSKAGGS 12/18/1998 TRANSFER 5344

Comment: Transfer 5344 changes the point of diversion, place & nature of use under a portion of Right 63-00144B, splitting the right into Parts C & D.

Dates and Other Information:

Licensed Date:
Decreed Date: 1/18/1906
Water Supply Bank Enrollment Accepted:
Water Supply Bank Enrollment Removed:
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
State or Federal:
Owner Name Connector:
Water District Number: 63
Generic Max Rate Per Acre:
Generic Max Volume Per Acre:
Decree Defendant: Riverside Irrigation District, Ltd, et al
Decree Plaintiff: Farmers Cooperative Ditch Co
Civil Case Number:
Judicial District: Seventh District
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Carey Act Number:
Mitigation Plan: False

Combined Use Limits:Water Supply Bank: