

State of Idaho
Department of Water Resources

Amended

Permit to Appropriate Water

Amended

NO. 35-13521

Priority: August 31, 2004

Maximum Diversion Rate: 5.20 CFS

Maximum Diversion Volume: 1,040.0 AF

This is to certify, that ANDREW E POVEY
2602 POVEY RD
AMERICAN FALLS ID 83211

has applied for a permit to appropriate water from:

Source: GROUND WATER

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>
IRRIGATION	04/01 to 10/31	5.20 CFS	1,040.0 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER NW¼NW¼NE¼ Sec. 35, Twp 06S, Rge 29E, B.M. POWER 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	
06S 29E 35	32.5	32.5	32.5	32.5	32.5	32.5	32.5	32.5	32.5								260.0

Total Acres: 260

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **March 1, 2010**.
2. Subject to all prior water rights.
3. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
4. Failure to comply with these conditions of approval is cause for the Director to void the permit.
5. The right holder shall record the quantity of water diverted and annually report diversions of water and/or other pertinent hydrologic and system information as required by Section 42-701, Idaho Code.
6. Prior to the diversion and use of water under this right, the right holder shall install and maintain acceptable measuring device(s), including data logger(s), at the authorized point(s) of diversion and in accordance with Department specifications, or shall obtain an approved variance from the Department to determine the amount of water diverted from power records or to maintain an existing measuring device.
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. 120. In addition, use of water under the mitigation rights 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, the mitigation rights are located within Water District No. 120 and Water District No. 130.

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CONDITIONS OF APPROVAL CONTINUED

8. The watermasters of Water District Nos. 120 and 130 are instructed to obtain and report annual water diversions under both this right and the mitigation rights to assure compliance with the mitigation requirements of this water right. GIS shape files for the place of use of each of the above mitigation rights will be obtained, reviewed, and retained in IDWR files for the rights.
9. 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 rights 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	Mitigation Volume	Acres
35-2727A	Irrigation	1.99 cfs	383.2	95.8
35-7603C	Irrigation	0.87 cfs	296.8	74.2

The land that will no longer be irrigated under these rights is located within W1/2NE, E1/2NW, NWNW, S17; SENE, S18; T04S, R31E.

36-16291	Irrigation	0.11 cfs	20.8	5.2
36-16293	Irrigation	0.16 cfs	31.2	7.8
36-16295	Irrigation	0.04 cfs	7.6	1.9
36-16297	Irrigation	0.01 cfs	4.4	1.1

The land that will no longer be irrigated under these rights is located within NWSE, S24, T08S, R21E.

43-13345	Irrigation	0.84 cfs	200.0	50.0
43-13347	Irrigation	0.15 cfs	96.0	24.0

The land that will no longer be irrigated under these rights is located within N½NE, SWNE, S02, T10S, R26E.

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

10. If Claim 36-16218, the parent record for Claim 36-16297, is not decreed in the Snake River Basin Adjudication as recommended, the right holder shall provide an alternative source of mitigation or shall reduce the use of water under this right by 1.1 acres and 4.4 acre-feet per year.
11. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the lands above.

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CONDITIONS OF APPROVAL CONTINUED

12. Any license issued by IDWR pursuant to the right or portion thereof for the use of trust water is subject to a term review of 20 years after the date of this approval to determine availability of water for the use and to re-evaluate the public interest at the end of the term. However, as long as mitigation is provided in the manner described in approval condition no. 9 or in a similar manner with water rights that are for the diversion and use of the public waters, not Trust Water, then the permit and any subsequent license are not subject to review to re-evaluate the availability of water and the public interest in the water right.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 9th day of June, 2005.



FOR KARL J DREHER, Director