

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

NO. 63-32084

Priority: February 25, 2005

Maximum Diversion Rate: 0.20 CFS

Maximum Diversion Volume: 4.9 AF

This is to certify, that EAGLE PRECAST  
PO BOX 990  
CALDWELL ID 83606

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>
INDUSTRIAL	01/01 to 12/31	0.20 CFS	4.3 AF
COMMERCIAL	01/01 to 12/31	0.04 CFS	0.6 AF

**LOCATION OF POINT(S) OF DIVERSION:**GROUND WATER NE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$  Sec. 22, Twp 04N, Rge 04W, B.M. CANYON CountyGROUND WATER NW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$  Sec. 23, Twp 04N, Rge 04W, B.M. CANYON County**PLACE OF USE:** INDUSTRIAL and COMMERCIAL

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 04W 22													X				
04N 04W 23									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. Water bearing zone to be appropriated is from 100 to 250 feet.

State of Idaho  
Department of Water Resources  
**Permit to Appropriate Water**  
NO. 63-32084

CONDITIONS OF APPROVAL CONTINUED

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.

Right No.	Use Changed to Mitigation	Mitigation Rate	Mitigation Volume	Mitigation Acres
63-7194	Irrigation	0.03 cfs	6.8 af	1.5

The land that will no longer be irrigated under this right is located within the SE1/4NE1/4, S21, Twp. 01N, Rge. 01W.

Prior to the diversion and use of water under this right, the right holder shall demonstrate ownership of the mitigation right to the Department pursuant to Idaho Code Section 42-248. When the ownership change is complete, the official record for the mitigation water right will be changed to show that diversion and use of water is not authorized because the right, or portion thereof, is being dedicated to mitigation purposes. 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 right shall be reduced by the same proportion as the reduction to the mitigation right.

7. 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.
8. Industrial use is for pre-cast concrete manufacturing.
9. Commercial use is for an office.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 26<sup>th</sup> day of May, 2005.

  
FOR KARL J DREHER, Director

RECEIVED

FORM 202

FEB 25 2005

RECEIVED

STATE OF IDAHO

WATER RESOURCES  
WESTERN REGION

DEPARTMENT OF WATER RESOURCES

Ident. No. 63-32084 12/99

# APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name of Applicant Eagle Precast Company Phone (208) 454-8116  
Mailing address P.O. Box 990, Caldwell, ID 83606
2. Source of water supply ground water which is a tributary of NA
3. Location of point of diversion is Township 4N Range 4W Sec. 22, in the NE  $\frac{1}{4}$ , SE  $\frac{1}{4}$ , Govt. Lot \_\_\_\_\_, B.M., Canyon County;  
additional points of diversion if any: NWSW of Section 23, T4N R4W
4. Water will be used for the following purposes:  
Amount 0.20 cfs for industrial purposes from 1/1 to 12/31 (both dates inclusive)  
(cfs or acre-feet per annum)  
Amount 0.04 cfs for commercial purposes from 1/1 to 12/31 (both dates inclusive)  
(cfs or acre-feet per annum)  
Amount \_\_\_\_\_ for \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_ (both dates inclusive)  
(cfs or acre-feet per annum)  
Amount \_\_\_\_\_ for \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_ (both dates inclusive)  
(cfs or acre-feet per annum)
5. Total quantity to be appropriated is (a) 0.20 and/or (b) \_\_\_\_\_  
cubic feet per second acre feet per annum
6. Proposed diverting works:  
a. Describe type and size of devices used to divert water from the source Two wells with electric pumps, buried piping to office and concrete mixing and forming facilities.  
b. Height of storage dam \_\_\_\_\_ feet; active reservoir capacity \_\_\_\_\_ acre-feet;  
total reservoir capacity \_\_\_\_\_ acre-feet  
c. Proposed well diameter is 6 and 8 inches; proposed depth of well is 200 feet  
d. Is ground water with a temperature of greater than 85°F being sought? No  
e. If well is already drilled, when? \_\_\_\_\_; Drilling firm \_\_\_\_\_;  
Well was drilled for (well owner) \_\_\_\_\_; Drilling Permit No. \_\_\_\_\_
7. Time required for completion of works and application of water to proposed beneficial use is 5 years (minimum 1 year)
8. Description of proposed uses (if irrigation only, go to item 9):  
a. Hydropower; show total feet of head and proposed capacity in kW. \_\_\_\_\_  
b. Stockwatering; list number and kind of livestock. \_\_\_\_\_  
c. Municipal; show name of municipality. \_\_\_\_\_  
d. Domestic; show number of households. \_\_\_\_\_  
e. Other; describe fully. Industrial use is for pre-cast concrete facility.

9. Description of place of use:

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

b. If water is used for other purposes, place a symbol of the use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
4N	4W	22													C,I				
		23										C,I							

C=commercial, I=industrial

Total number of acres to be irrigated \_\_\_\_\_

10. Describe any other water rights used for the same purposes as described above. \_\_\_\_\_

11. a. Who owns the property at the point of diversion? Applicant

b. Who owns the land to be irrigated or place of use? Applicant

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: \_\_\_\_\_

12. Remarks: Applicant proposes two wells for use at a pre-cast concrete facility. One well will be used primarily for commercial purposes (sinks, toilets) at an office facility and the other will be used primarily for industrial uses for pre-cast concrete manufacturing. The use will be mitigated by retirement of a 1.5-acre portion of irrigation water right 63-7194 which has historically been utilized for irrigation of alfalfa with a consumptive irrigation requirement of 3.23 acre feet per acre (987 mm/yr based on Swan Falls Power House site, Allen & Brockway, 1983). Annual volume will be limited to 4.85 acre feet (i.e., 1.5 ac x 3.23 af/ac. Estimated annual volume will be 4.25 acre feet for industrial use and 0.6 acre feet for commercial use. Water-bearing zone to be appropriated is 100 to 250 feet.

13. **MAP OF PROPOSED PROJECT REQUIRED** - Attach an 8½"x11" map clearly identifying the proposed point of diversion, place of use, section #, township & range. (A photocopy of a USGS 7.5 minute topographic quadrangle map is preferred.)

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

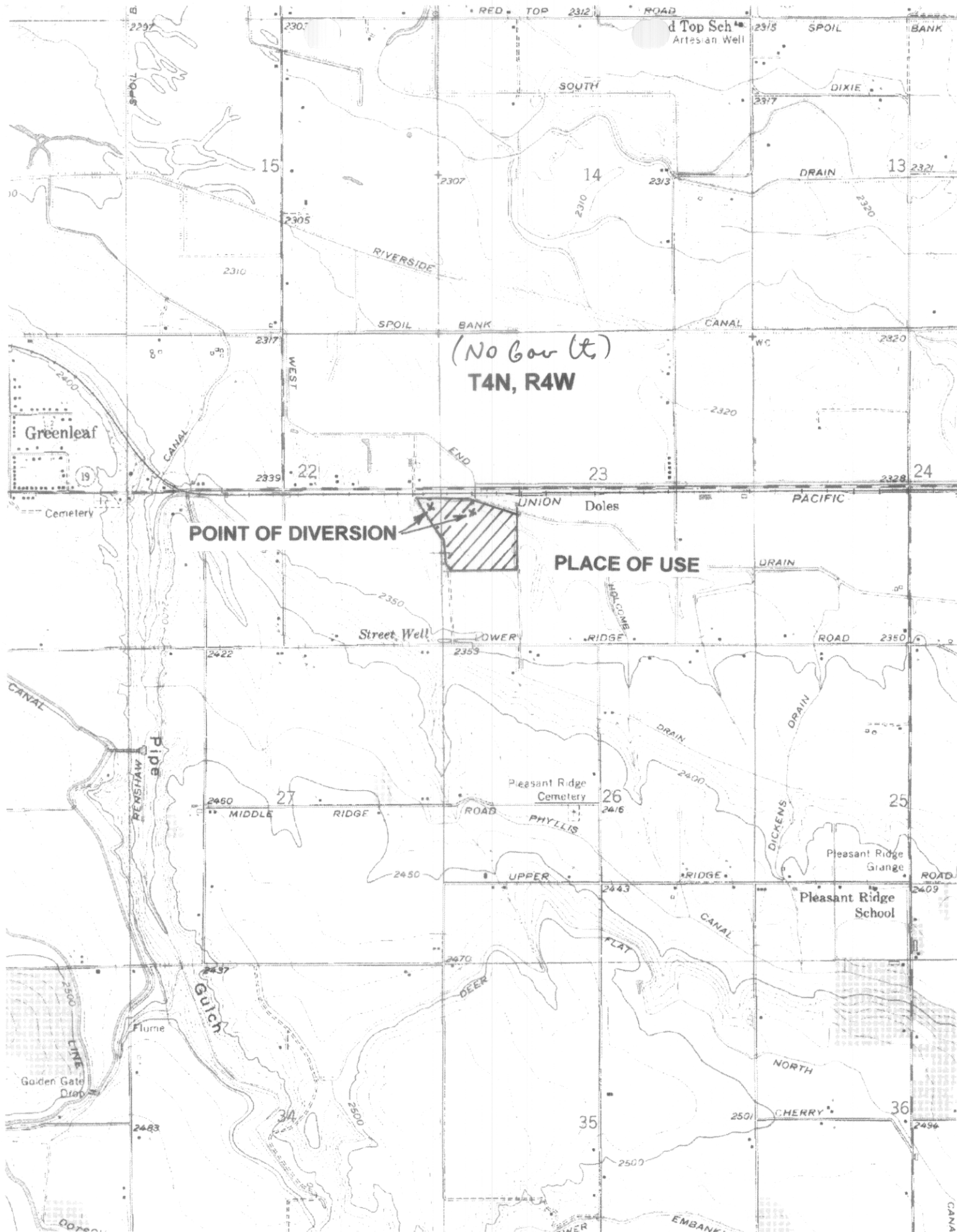
Robert L Walker Plant Manager  
Signature of Applicant (and title, if applicable)

Received by DB Date 2-25-05 Time 12:00 pm Preliminary check by g

Fee \$ 100- Receipted by DB # W032637 Date 2-25-05

Publication prepared by sk Date 4-7-14-05 Published in PRESS TRIBUNE

Publication approved sk Date 4-25-05





T1N R1W



Sec 16

Sec 21

Sec 21

Sec 22

# EXPLANATION

-  Water Right 63-7194
-  Eagle Precast: 1.5 ac

Eagle Precast portion of  
water right 63-7194.

1

0 250 500  
Feet  
March 22, 2005



Water Engineering, LLC  
water resource consultants  
400 E. Royal Pines Lane, Ste. 100, Boise, Idaho 83706  
tel: 208.363.4140 fax: 208.363.4150

**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](http://www.idwr.idaho.gov)

DIRK KEMPTHORNE  
Governor

KARL J. DREHER  
Director

June 1, 2005

EAGLE PRECAST  
PO BOX 990  
CALDWELL ID 83606

RE: Permit No. 63-32084

### 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.

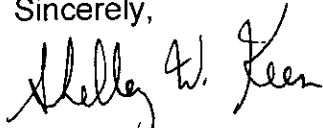
The right to drill a well is not a part of this permit to appropriate water. Beginning in July of 1987, a statute was enacted which requires a drilling permit for new well construction and deepening of existing wells. If the well(s) proposed for use under this water right permit were drilled or deepened 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, appearing to read "Shelley W. Keen". The signature is fluid and cursive, with the first name "Shelley" being the most prominent.

Shelley W. Keen

Water Rights Supervisor

SWK:kit

Enclosure(s)

cc: SPF WATER ENGINEERING LLC

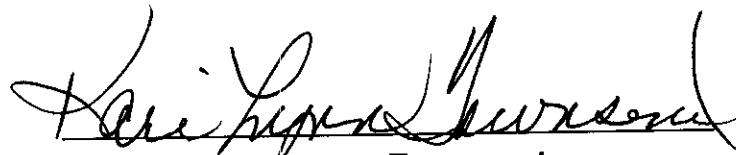
## **CERTIFICATE OF SERVICE**

I hereby certify that on June 1, 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. 63-32084**

**EAGLE PRECAST  
PO BOX 990  
CALDWELL ID 83606**

**SPF WATER ENGINEERING LLC  
C/O TERRY SCANLAN  
600 E RIVER PARK LN STE 105  
BOISE ID 83706**

A handwritten signature in black ink, appearing to read "Kari Lynn Townsend", written over a horizontal line.

**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.

## MEMORANDUM

**Date:** May 26, 2005  
**To:** Water Right File 63-32084  
**From:** Shelley Keen (SWK)  
**Re:** Overlapping Right

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Water Right License 63-7222 was issued to Treasure Valley By Products for the diversion of ground water for commercial purposes at the same location as the use proposed in Application 63-32084. However, there is no indication on aerial photography of any commercial use on the property since at least 1987. Moreover, Right 63-7222 has not been claimed in the Snake River Basin Adjudication. There is no entity called Treasure Valley By Products registered to do business in Idaho. The water use authorized by Right 63-7222 has likely been forfeited or abandoned.











# Idaho Department of Water Resources

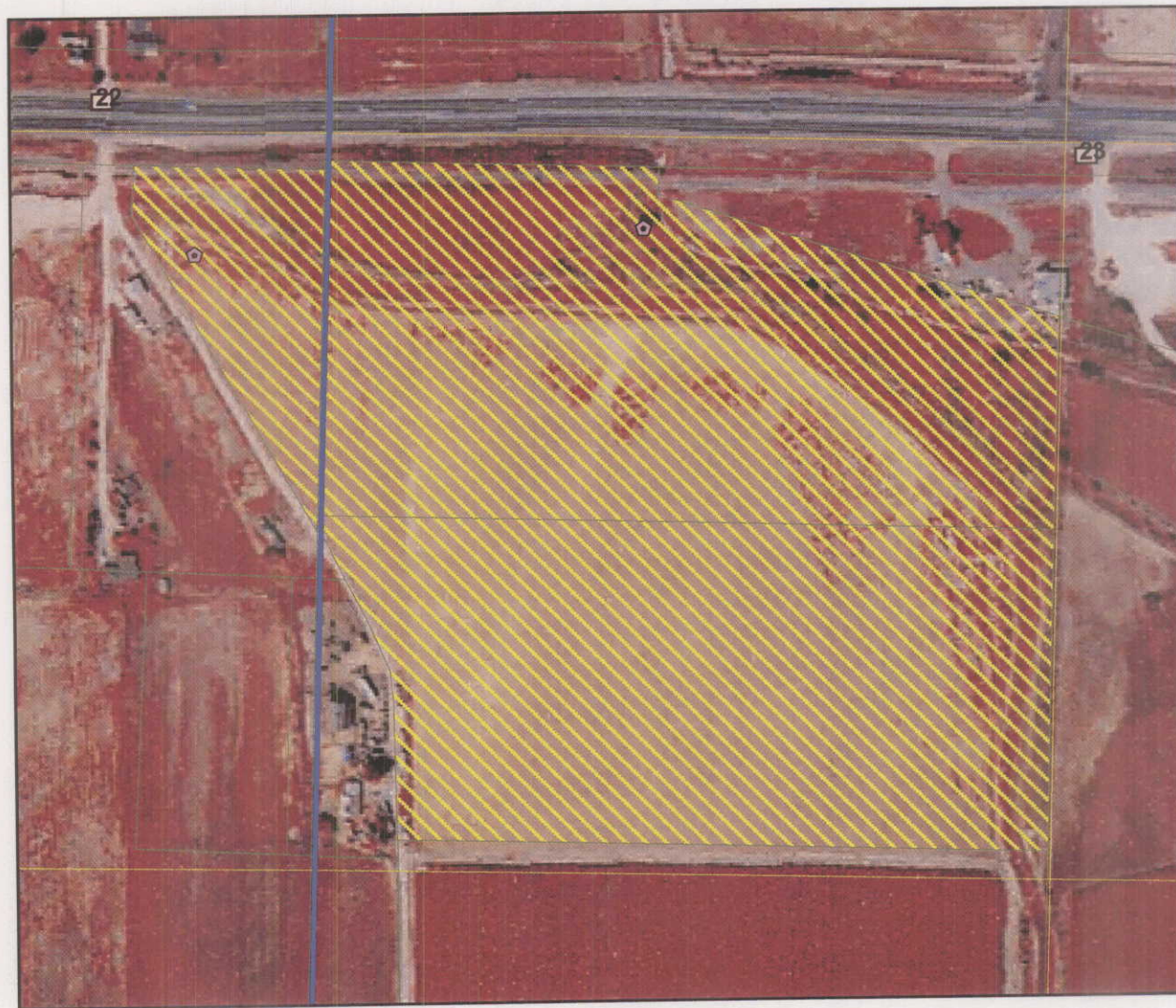
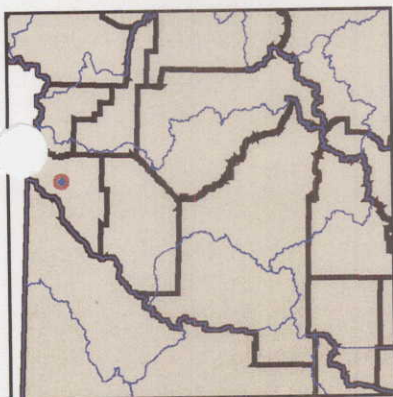
Water Permit Number:

**63-32084**


**T04N R04W**

## Legend

-  Sections
-  QQ
-  Canyon taxlots
-  Permit POD
-  Permit POU
-  Administrative BasinsAdminbas.shp



0 0.1 0.2 Miles

A scale bar with markings for 0, 0.1, and 0.2 miles.

Prepared by S. Keen  
On Thursday, May 26, 2005  
2000 Aerial Photography

RECEIVED

APR 15 2005

WATER RESOURCES  
WESTERN REGION

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO )

County of Canyon )

) SS.

Corina L. Buck  
of Nampa, Canyon County, Idaho, being  
first duly sworn, deposes and says:

1. That I am a citizen of the United States, and at all times hereinafter mentioned was over the age of eighteen years, and not a party to the above entitled action.
2. That I am the Principal Clerk of the Idaho Press-Tribune, a daily newspaper published in the City of Nampa, in the County of Canyon, State of Idaho; that the said newspaper is in general circulation in the said County of Canyon, and in the vicinity of Nampa and Caldwell, and has been uninterruptedly published in said County during a period of seventy-eight consecutive weeks prior to the first publication of this notice, a copy of which is hereto attached.
3. That the notice, of which the annexed is a printed copy, was published in said newspaper 2 time(s) in the regular and entire issue of said paper, and was printed in the newspaper proper, and not in a supplement.
4. That said notice was published the following:  
04/07/2005, 04/14/2005

Corina L. Buck

STATE OF IDAHO )

County of Canyon )

On the 14<sup>th</sup> day of April in the year of 2005  
before me, a Notary Public, personally appeared.

Corina L. Buck,  
known or identified to me to be the person  
whose name is subscribed to the within  
instrument, and being by me first duly sworn,  
declared that the statements therein are true, and  
acknowledge to me that he/she executed the same.

Rebecca L. Thompson

Notary Public for Idaho

Residing at Nampa

My commission expires April 19, 2008

e0100285 04522067  
1 Idaho Dept. of Water Resourc  
2735 Airport Way  
BOISE ID 83705



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**LEGAL NOTICE**

**The following application(s) have been filed to appropriate the public waters of the State of Idaho:**  
63-32084

EAGLE PRECAST  
PO BOX 990  
CALDWELL ID 83606

*✓*

Point(s) of Diversion	NESE	S22	T04N	R04W	CANYON County	Source GROUND WATER
Point(s) of Diversion	NWSW	S23	T04N	R04W	CANYON County	Source GROUND WATER
Use:	INDUSTRIAL				01/01 To 12/31	0.2 CFS
Use:	COMMERCIAL				01/01 To 12/31	0.04 CFS
Total Diversion:	0.2 CFS					
Date Filed:	02/25/2005					
Place Of Use:	INDUSTRIAL					
T04N R04W	S22			NESE		
T04N R04W	S23			NWSW		
Place Of Use:	COMMERCIAL					
T04N R04W	S22			NESE		
T04N R04W	S23			NWSW		

Remark: Applicant agrees to mitigate consumptive use in the future as needed. Water bearing zone to be appropriated is from 100 to 250 feet. Industrial use is for a pre-cast concrete facility.

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 Way, Boise ID 83705 together with a protest fee of \$25.00 for each application on or before 04/25/2005. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director

April 7, 14, 2005

04522067

**Kreger (Taylor), Sue**

---

To: srae@deq.state.id.us  
Subject: comment letters

**IDAHO DEPARTMENT OF WATER RESOURCES  
WESTERN REGION  
2735 AIRPORT WAY  
BOISE ID 83705**

April 4, 2005

ID DEPT ENV QUALITY  
STEVE RAE  
1445 N ORCHARD  
BOISE ID 83706-2239

Re: Applications for Permit

Dear Mr. Rae:

Attached is a copy(s) of one or more applications that may be of interest to you and/or to a local District Health office should you choose to delegate review of the application(s) to that organization. Please contact the applicant if your agency and/or District Health have concerns about the application(s). It is not necessary to provide agency comments to the Idaho Department of Water Resources (IDWR), although your comments are welcome if you think IDWR would benefit from them.

If your agency and/or a local District Health office desires to file a formal protest against approval of any of these applications, a written protest along with the \$25.00 protest fee for each application protested must be received in this office by March 25, 2005. A copy of the protest must also be sent to the applicant.

If you have any questions regarding these applications, please contact this office at 334-2190.

Sincerely,



63-32066.pdf



63-32083.pdf



63-32084.pdf



RECEIVED

MAR 18 2005

WATER RESOURCES  
WESTERN REGION

March 17, 2005

Lori Graves  
Western Region Office  
Idaho Department of Water Resources  
2735 Airport Way  
Boise, ID 83705

Subject: Application for Permit – Eagle Precast Company

Dear Lori:

In response to your inquiry, I have enclosed a list of corporate officers for Eagle PreCast Company. The application for permit was signed by Rob Walker, Plant Manager for Eagle Precast Company. Rob has signing authority for matters associated with company activities in southwest Idaho.

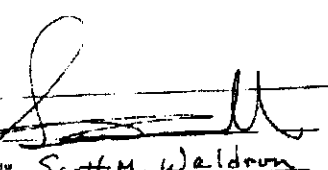
You also asked for an explanation of the requested diversion volumes for industrial and commercial uses. The 4.25-acre foot industrial diversion volume assumes 5300 gallons of water per day and 260 days of operation per year. The 5,300 gallons per day includes 2,300 gallons for clean up and miscellaneous uses, and 3,000 gallons for concrete mixing (100 cubic yards at 30 gallons per yard). The 0.6 acre foot volume for commercial assumes 750 gallons of water per day and 260 days of operation per year

Sincerely,

Terry M. Scanlan, P.E.

Cc: Rob Walker



<b>No. C 144137</b> Return to: SECRETARY OF STATE 700 WEST JEFFERSON PO BOX 83720 BOISE, ID 83720-0080  <b>NO FILING FEE IF RECEIVED BY DUE DATE</b>	<b>Due no later than June 30, 2004</b> <b>Annual Report Form</b> EAGLE PRECAST COMPANY 8087 WEST 5400 SOUTH SALT LAKE CITY, UT 84118	<b>2. Registered Agent and Office NO PO BOX</b> ROBERT WALKER 2755 E STATE ST EAGLE, ID 83616  <b>3. New Registered Agent Signature</b>																											
<b>4. Corporations: Enter Names and Business Addresses of President, Secretary and Directors.</b>																													
<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 15%;">Office held</th> <th style="width: 25%;">Name</th> <th style="width: 25%;">Street or P.O. Address</th> <th style="width: 10%;">City</th> <th style="width: 10%;">State</th> <th style="width: 15%;">Zip</th> </tr> </thead> <tbody> <tr> <td>President</td> <td>Scott M. Waldron</td> <td>6087 W. 5400 S.</td> <td>SLC</td> <td>UT</td> <td>84118</td> </tr> <tr> <td>Vice Pres.</td> <td>William F. Howes</td> <td>6087 W. 5400 S.</td> <td>SLC</td> <td>UT</td> <td>84118</td> </tr> <tr> <td>CFO</td> <td>William H. Ashton</td> <td>6087 W. 5400 S.</td> <td>SLC</td> <td>UT</td> <td>84118</td> </tr> </tbody> </table>	Office held	Name	Street or P.O. Address	City	State	Zip	President	Scott M. Waldron	6087 W. 5400 S.	SLC	UT	84118	Vice Pres.	William F. Howes	6087 W. 5400 S.	SLC	UT	84118	CFO	William H. Ashton	6087 W. 5400 S.	SLC	UT	84118					
Office held	Name	Street or P.O. Address	City	State	Zip																								
President	Scott M. Waldron	6087 W. 5400 S.	SLC	UT	84118																								
Vice Pres.	William F. Howes	6087 W. 5400 S.	SLC	UT	84118																								
CFO	William H. Ashton	6087 W. 5400 S.	SLC	UT	84118																								
<b>5. Organized Under the Laws of:</b> UTAH C 144137			<b>6. Signature</b>  Date <u>4/28/04</u> Name (Printed) <u>Scott M. Waldron</u> Title <u>President</u>																										
Issued 04/01/2004			Do Not Tape or Staple																										
			2004085263																										

**Graves, Lori**

---

**From:** Terry Scanlan [TScanlan@spfwater.com]

**Sent:** Monday, March 14, 2005 3:41 PM

**To:** Graves, Lori

**Subject:** Eagle Precast

To clarify, the 1.5 acre portion of water right 63-7194 being purchased by Eagle Precast will be retired to mitigate for a new permit. It will not be transferred.

3/14/2005



RECEIVED

MAR 11 2005

WATER RESOURCES  
WESTERN REGION

March 10, 2005

Steve Lester  
Western Region Office  
Idaho Department of Water Resources  
2735 Airport Way  
Boise, ID 83705

Subject: Application for Permit – Eagle Precast Company

Dear Steve:

As a follow-up to my letter of February 24, 2005 regarding the application referenced above, I enclose an executed copy of Eagle Pre-Cast's contract to purchase 1.5 acres of irrigation water right for mitigation purposes.

Please contact me with any questions.

Sincerely,

Terry M. Scanlan, P.E.

Cc: Rob Walker

## CONTRACT FOR SALE OF A WATER RIGHT

THIS CONTRACT FOR SALE OF A WATER RIGHT ("Agreement") is made by and between MELLIN PROPERTIES LIMITED PARTNERSHIP ("Seller"), an Idaho limited partnership, and EAGLE PRECAST COMPANY ("Buyer"), an Idaho corporation. Buyer and Seller may be referred to hereinafter as a "Party" or collectively as "Parties."

### RECITALS

A. Seller owns a ground water right ("Water Right"), represented by license number 63-7194 in the records of the Idaho Department of Water Resources ("IDWR"), appropriated and used for irrigation purposes with a February 7, 1969 priority date. A copy of the Water Right license is attached hereto as Exhibit A. The Water Right authorizes a diversion rate of 2.38 cubic feet per second (cfs) and 642 acre-feet per year (afa). The Water Right is appurtenant to and has been beneficially used to irrigate 142.5 acres on Seller's property, also identified under the Water Right as the authorized place of use.

*RW* B. *RW* Seller desires to sell and Buyer desires to buy a portion of the Water Right that is appurtenant to ~~1.0~~ <sup>1.5</sup> acre of the irrigated lands within the Water Right's authorized place of use, identified by Seller pursuant to Section 1.1 below.

### COVENANTS

NOW THEREFORE, in consideration of the recitals, the mutual covenants, representations and warranties contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

*RW* 1. Property Purchased. Seller hereby agrees to sell to Buyer, and Buyer agrees to buy from Seller, on the terms and conditions herein specified, a portion of Water Right #63-7194 appurtenant to ~~1.0~~ <sup>1.5</sup> acre within the Water Right's authorized place of use described as follows (hereinafter referred to as the "Purchased Right"):

Quantity: *RW*  
0.03 6.75  
(0.02 cfs / 4.5 afa)

*RW* Acres / Place of Use:  
~~1.0~~ <sup>1.5</sup> acre (SENE Section 21, Township 1 North, Range 1 West, Ada County, Idaho)

2. Property Retained. Seller expressly reserves and retains, and is not conveying any part of the remaining portion of Water Right #63-7194 that will remain appurtenant to the 141.5 acres within the Water Right's authorized place of use owned by Seller, described as follows:

Quantity: *RW* *RW*  
2.36 637.25  
(2.36 cfs / 637.5 afa)

Acres / Place of Use:  
141.5 acres (NENE, NWNE, SWNE, SENE, Section 21, Township 1 North, Range 1 West, Ada County, Idaho)

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Buyer's Initials: *RW*  
Seller's Initials: *RW*

3. Purchase Price. The Purchase Price for the relevant portion of Water Right #63-7194 identified above (0.02 cfs / 4.5 afa / 1.0 acre) shall be ~~five thousand dollars (\$5,000.00)~~ payable as follows: 0.03 6.75 1.5

a. Down Payment. The sum of ~~(\$5,000.00)~~, which equals 20% of the purchase price, shall be paid down upon execution of this Agreement in current, certified funds, receipt of which is hereby acknowledged. This down payment shall be credited against the purchase price at Closing. Seller shall refund the money to Buyer in the event the Idaho Department of Water Resources (IDWR) denies the transfer contemplated in Section 5.

b. Balance of Purchase Price. ~~(\$4,000.00)~~ being the Purchase Price less the down payment, shall be due and payable to Seller at Closing.

4. Closing.

a. Closing Date. Within fourteen (14) days of IDWR's final approval of the transfer application, the Parties shall conclude and finalize the purchase and sale of the Purchased Right ("Closing"). The Closing shall take place at the office of Barker Rosholt & Simpson LLP, located at 205 North 10<sup>th</sup> St., Boise, Idaho, or at such other escrow agent designated by Buyer in writing ("Closing Agent") on a date mutually convenient for Buyer and Seller. Buyer and Seller shall work expeditiously to conclude the Closing.

b. Documents to be Delivered at Closing. Buyer and Seller shall execute (with acknowledgement, if needed) and deposit into escrow with Closing Agent all instruments, documents and the remaining balance (~~\$4,000.00~~ in current, certified funds) necessary to complete the purchase and sale in accordance with this Agreement, or reasonably requested by the Closing Agent. The documents that Seller shall deliver to Buyer at Closing shall include, but not be limited to: (i) a Water Right Grant Deed in the form of the specimen attached to this Agreement as Exhibit B; (ii) a Notice of Change of Ownership confirming Buyer's ownership of the Purchased Right and the assignment of the appropriate portion of the Snake River Basin Adjudication Claim for the Purchased Right, and (iii) any other documents reasonably requested to confirm the conveyance of the Purchased Right.

c. Actions of Closing Agent. The Closing Agent shall close the transaction as soon as it has received all instruments, documents and monies necessary to complete the purchase and sale of the Purchased Right in accordance with this Agreement, including receipt of a final transfer approval by IDWR. Upon Closing, the Closing Agent shall record the Water Right Grant Deed, disburse the funds owing to Seller, and provide all instruments and documents to the Party entitled thereto.

d. Fees and Costs of Closing. The cost of the Closing Agent's Closing fees and recording relating to the transaction contemplated herein shall be equally divided between Seller and Buyer. All other expenses not specifically referenced in this



Agreement and incurred by Seller or Buyer with respect to this transaction shall be borne and paid exclusively by the Party incurring the same, without reimbursement.

5. Transfer of Purchased Right.

- a. Application to IDWR. It is understood and agreed, by and between the Parties, that Buyer intends to immediately file an application for transfer with IDWR. The Buyer shall have the right to file an application for transfer of the Purchased Right with IDWR. The application for transfer may entail a change to the place of use, nature of use, time of use, and point and means of diversion as Buyer determines; in the alternative, it may entail an application for a new water right permit in which the retirement or other approved use of the Purchased Right will be used for mitigation, or a similar purpose.
- b. Cooperation with Transfer Efforts. Seller hereby grants to Buyer permission to make said transfer and agrees to sign any documentation to that effect required by IDWR, pertaining to said transfer. At Buyer's request, Seller shall cooperate with Buyer in Buyer's pursuit of any such transfer, and shall provide Buyer with any information that Seller has concerning the Water Right that Buyer may reasonably request in pursuit of the transfer. All matters pertaining to said transfer, including preparation of the application and all costs associated with the transfer proceeding, shall be the responsibility of Buyer. Buyer shall reimburse Seller for any attorney or consultant fees Seller incurs as a result of responding to such requests; however, Seller shall be entitled to receive such reimbursement only if Seller provides written demand for it within thirty (30) days after such expenses are billed to Seller from such attorney or consultant. Buyer shall pay such fees within thirty (30) days after receiving a timely demand.
- c. IDWR Approval or Denial of Transfer. Buyer shall request IDWR provide a notice of preliminary approval of the transfer to Buyer and Seller. Lacking any protests, the transfer should become effective fourteen (14) days after IDWR's final approval. If IDWR's preliminary approval notice indicates IDWR will grant said transfer as applied for, or if the approval should reduce the quantity of the said water right it would allow to be transferred, and Buyer should accept said reduction, and continue with the transfer, then the amount of the reduction of the water right will be borne by the Buyer, without any reimbursement by Seller to Buyer. If IDWR's preliminary approval notice indicates IDWR will deny said transfer, for any reason, the Parties shall not be obligated to close the sale pursuant to Section 4 of this Agreement.
- d. Failure to Close After IDWR Final Approval. If Buyer fails to close the sale for any reason within fourteen (14) days of IDWR's final approval of the transfer application, Buyer hereby authorizes Seller to request IDWR to rescind the transfer. In that event, Buyer also agrees that the transfer is null and void. Buyer further agrees that Seller's presentation of a duly signed and executed copy of this Agreement to IDWR, along with Buyer's failure to present an executed Water Right Grant Deed from Seller, shall constitute irrefutable evidence of Buyer's failure to close.

6. Protection of Purchased Right / 2005 Irrigation Season and Thereafter. Until final approval of the transfer by IDWR, Seller is authorized to continue to use the Purchased Right on the Water Right's authorized place of use for irrigation purposes during the 2005 irrigation season or any time thereafter. However, should IDWR finally approve the transfer during the 2005 irrigation season or at any time thereafter, Seller shall immediately comply with all conditions of the transfer approval, including ceasing to divert the Purchased Right.

7. Seller's Representations and Warranties. Seller hereby represents and warrants to Buyer, as of the effective date of this Agreement and again as of the closing for the Purchased Right, as follows:

a. Authority. Seller owns the Purchased Right in fee simple. Seller has the full legal right, power and authority to enter into and perform this Agreement.

b. Good Title. Seller has good and marketable title to the Purchased Right, and Seller shall remove, or cause to be removed, all liens, claims, or encumbrances, whether of record or not, upon or affecting the Purchased Right on or before closing.

c. Appurtenance. The Purchased Right is appurtenant to and has been beneficially used as the sole water source to irrigate the authorized place of use on Seller's property.

d. Not Forfeited. To the best of Seller's knowledge, the Purchased Right has not been forfeited or abandoned in whole or in part, has been placed to continual beneficial use on the Seller's property, and has never been subject to a continuous five-year period of non-use except as such non-use may have occurred while the Purchased Right was in an appropriate water bank, claimed in the Snake River Basin Adjudication, or the appurtenant place of use was enrolled in a government annual grain base or long-term crop land set-aside program, or such non-use may have occurred by reason of any other applicable defense set forth in Idaho Code § 42-223 that protected the Purchased Right from forfeiture.

e. Snow River Basin Adjudication Status. The Seller filed a water right claim for the Purchased Right in the Snake River Basin Adjudication (SRBA), but makes no representations or warranties regarding the outcome of that proceeding as it might affect the Purchased Right. A review of IDWR's electronic records presently reveals that IDWR will recommend to the SRBA District Court that the Water Right should be decreed as claimed by Seller. See Exhibit C. IDWR's formal recommendation of the Water Right, however, may change when it is ultimately forwarded to the Court.

f. Broker. Seller has not engaged or dealt with any broker or finder in connection with the sale of the Purchased Right.

g. No Other Warranty. Seller makes no other guarantees or warranties as to the Purchased Right, its yield upon transfer, or its transferability. Seller further disclaims any warranty as to the Purchased Right's availability in times of shortage, including any

This is the #  
He will ask

curtailment that may be ordered by IDWR to satisfy other senior ground or surface water rights.

8. Buyer's Representations and Warranties. Buyer hereby represents and warrants to Seller that Buyer has the legal power, right and authority to enter into this Agreement and to perform Buyer's obligations hereunder and has not engaged any broker or finder in connection with the purchase of the Purchased Right.

9. Termination / Remedies

a. Buyer's Termination for Default. Buyer may terminate this Agreement for material default by Seller. In the event of such default, Buyer shall provide a written demand to Seller and provide Seller with thirty (30) days to cure. If Seller fails to cure, Buyer may terminate this Agreement upon written notice to Seller.

b. Buyer's Remedy on Default. If Seller breaches this Agreement, Buyer's remedy for Seller's default, other than any default resulting from IDWR's reduction or rejection of the transfer application, shall be limited to: 1) ten percent (10%) of the total Purchase Price which equals ~~five hundred dollars (\$500.00)~~ 2) plus the return of the down payment (~~\$1,000.00~~) identified in Section 3.a.

c. Seller's Termination for Default. Seller may terminate this Agreement for material default by Buyer. In the event of such default, Seller shall provide a written demand to Buyer and provide Buyer with thirty (30) days to cure.

d. Seller's Remedy on Default. If Buyer breaches this Agreement, Seller's remedy for Buyer's default, other than any default resulting from IDWR's reduction or rejection of the transfer application, shall be limited to: 1) the right to request IDWR to rescind the transfer; 2) plus the retention of the down payment (~~\$1,000.00~~) identified in Section 3.a.

10. Attorneys' Fees. In any suit, action or appeal therefrom, to enforce this Agreement or any term or provision hereof, or to interpret this Agreement, the prevailing Party shall be entitled to recover all its costs reasonably incurred therein (and on appeal), including reasonable attorneys' fees.

11. Notices. Any notice under this Agreement shall be in writing and be delivered in person, by U.S. Mail, by private courier, or by facsimile. Notice shall be provided to the following:

Seller

Ralph Mellin  
c/o Mellin Properties L.P.  
4500 North Tumbleweed  
Boise, Idaho 83713  
Telephone: (208) 322-7500

Buyer

Scott Waldron  
Eagle Precast Company  
6087 West 5400 South  
Salt Lake City, Utah 84118  
Telephone: (801) 966-1060

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Buyer's Initials: RW  
Seller's Initials: RM

Seller's Attorney

Travis L. Thompson  
Barker Rosholt & Simpson LLP  
113 Main Ave. West, Ste. 303  
Twin Falls, Idaho 83301-6167  
Telephone: (208) 733-0700  
Facsimile: (208) 735-2444

Buyer's Representative

Terry Scanlan  
SPF Water Engineering LLC  
600 East River Park Lane, Ste. 105  
Boise, Idaho 83706  
Telephone: (208) 383-4140  
Facsimile: (208) 383-4156

12. Entire Agreement. This is the entire agreement of Buyer and Seller with respect to matters covered hereby and supercedes all prior agreements between them, written or oral. This Agreement may be modified only in writing, signed by Buyer and Seller.

13. Counterparts. This Agreement may be executed in any number of counterparts for the convenience of the Parties, all of which, when taken together and after execution by all Parties hereto, shall constitute one and the same Agreement.

14. Idaho Law. This agreement shall be governed by the laws of the State of Idaho.

15. Severability. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision hereof.

16. Successors. This Agreement is for the benefit only of the Parties hereto and shall inure to the benefit of and bind the heirs, personal representatives, successors and assigns of the Parties hereto.

17. Effective Date. The Effective Date of this Agreement shall be the date on which both Buyer and Seller executed this Agreement, if executed on the same day, or the later date, if executed on different days.

IN WITNESS WHEREOF, the undersigned have duly executed this Agreement.

DATED this fourth day of March, 2005

SELLER:

Mellin Properties Limited Partnership

Ralph Mellin  
Ralph Mellin, General Partner

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Buyer's Initials: rw  
Seller's Initials: Rm

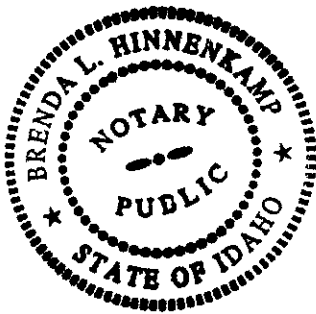
STATE OF IDAHO )

) ss.

County of Ada )

On this 4 day of March, 2005, before me, a Notary Public for said County and State, personally appeared Ralph Mellin, known or identified to me, to be the person whose name is subscribed to the within instrument, and acknowledged to me that he/she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



Brenda L. Hinnenkamp  
NOTARY PUBLIC FOR IDAHO  
Residing at: Bowen, Idaho  
My commission expires: 9/2008

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2005

BUYER:

Eagle Precast Company

Robert L. Walker  
~~Scott Waldron, President~~  
Robert L. Walker Plant Manager

STATE OF Idaho )  
County of Ada ) ss.

On this 24 day of Feb., 2005, before me, a Notary Public for said County and State, personally appeared Robert Levi Walker known or identified to me, to be the person whose name is subscribed to the within instrument, and acknowledged to me that he/she executed the same.

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Buyer's Initials: RW  
Seller's Initials: RLW



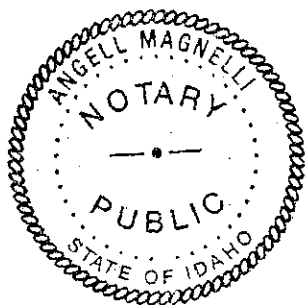
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

Anger A Magnelli

NOTARY PUBLIC FOR Idaho

Residing at: Nampa Idaho

My commission expires: 1-2-2010



**IDAHO DEPARTMENT OF WATER RESOURCES  
WESTERN REGION  
2735 AIRPORT WAY  
BOISE ID 83705**

March 29, 2005

**Legal Notice Department**  
PRESS-TRIBUNE  
PO BOX 9399  
Nampa ID 83652

RE: Transfer No. 71645  
Water Right No(s). 63-8737 63-8738  
Water Right No. 63-32084

**Dear LEGAL NOTICE DEPARTMENT:**

Enclosed you will find a legal notice which we wish to have published in your newspaper on the dates indicated (once a week for two consecutive weekly issues). If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before 04/25/2005. Your cooperation is appreciated.

Sincerely

Sue Kreger  
Administrative Assistant

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

63-32084

EAGLE PRECAST  
PO BOX 990  
CALDWELL ID 83606

Point(s) of Diversion NESE S22 T04N R04W CANYON County Source GROUND WATER

Point(s) of Diversion NWSW S23 T04N R04W CANYON County Source GROUND WATER

Use: INDUSTRIAL 01/01 To 12/31 0.2 CFS

Use: COMMERCIAL 01/01 To 12/31 0.04 CFS

Total Diversion: 0.2 CFS

Date Filed: 02/25/2005

Place Of Use: INDUSTRIAL

T04N R04W S22 NESE

T04N R04W S23 NWSW

Place Of Use: COMMERCIAL

T04N R04W S22 NESE

T04N R04W S23 NWSW

Remark: Applicant agrees to mitigate consumptive use in the future as needed.

Water bearing zone to be appropriated is from 100 to 250 feet.

Industrial use is for a pre-cast concrete facility.

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 Way, Boise ID 83705 together with a protest fee of \$25.00 for each application on or before 04/25/2005.

The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director

Published in the Press Tribune on April 7 and 14, 2005.



RECEIVED

FEB 25 2005

WATER RESOURCES  
WESTERN REGION

February 24, 2005

Rob Whitney  
Steve Lester  
Western Region Office  
Idaho Department of Water Resources  
2735 Airport Way  
Boise, ID 83705

Subject: Application for Permit – Eagle Precast Company

Dear Rob and Steve:

On behalf of Eagle Precast Company, I am pleased to submit the enclosed Application for Permit for their precast concrete facility near Greenleaf. A check for the \$100.00 application fee is enclosed. The proposed permit will be mitigated through retirement of a 1.5-acre portion of water right 63-7194. Eagle Precast has signed a contract for purchase of the 1.5-acre water right and submitted a down-payment to the water right seller. We will forward an executed copy of the contract to your office when it is signed by the seller.

I understand that a drilling permit application has been submitted to your office for the first well proposed under the permit, along with a \$75 check. I understand that the fee is \$200 for the drilling permit. Therefore, I have enclosed a check for the balance of the permit fee, \$175.

Please contact me with any questions.

Sincerely,

Terry M. Scanlan, P.E.

Cc: Rob Walker

Rob has <sup>drilling</sup> permit  
in hold file  
w/ tag #  
D0038424.