

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

NO. 63-32499

Priority: July 28, 2006

Maximum Diversion Rate: 10.00 CFS

This is to certify, that MAYFIELD TOWNSITE LLC  
11204 N. BAR 21 DRIVE  
GLENS FERRY ID 83623

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>
MUNICIPAL	01/01 to 12/31	10.00 CFS

**LOCATION OF POINT(S) OF DIVERSION:**

GROUND WATER	SW1/4NE1/4	Sec. 24, Twp 01N, Rge 04E, B.M.	ELMORE County
GROUND WATER	SE1/4SW1/4	Sec. 23, Twp 01N, Rge 04E, B.M.	ELMORE County
GROUND WATER	SE1/4NE1/4	Sec. 27, Twp 01N, Rge 04E, B.M.	ELMORE County
GROUND WATER	NW1/4SW1/4	Sec. 24, Twp 01N, Rge 04E, B.M.	ELMORE County
GROUND WATER	SW1/4SW1/4	Sec. 24, Twp 01N, Rge 04E, B.M.	ELMORE County
GROUND WATER	SE1/4SE1/4	Sec. 24, Twp 01N, Rge 04E, B.M.	ELMORE County
GROUND WATER	SW1/4SE1/4	Sec. 18, Twp 01N, Rge 05E, B.M.	ELMORE County
GROUND WATER	L2 (SW1/4NW1/4)	Sec. 19, Twp 01N, Rge 05E, B.M.	ELMORE County

**PLACE OF USE:** MUNICIPAL (See Condition of Approval #3)

**CONDITIONS OF APPROVAL**

1. Proof of application of water to beneficial use shall be submitted on or before **January 01, 2021**.
2. Subject to all prior water rights.
3. Place of use is within the area served by the public water supply system of Mayfield Townsite. The place of use is generally located within Sections 12-15 and 22-27, Township 1N, Range 4E and Sections 5, 7, 8 and 17-21, Township 1N, Range 5E.
4. A map depicting the place of use boundary for this water right at the time of this approval is attached to this document for illustrative purposes.
5. Prior to submitting proof of beneficial use, the right holder shall not assign ownership of the permit to another owner without prior notification to the Department.
6. Prior to or in connection with the proof of beneficial use statement to be submitted for municipal water use under this right, the right holder shall provide the department with documentation showing that the water supply system is being regulated by the Idaho Department of Environmental Quality as a public water supply and that it has been issued a public water supply number.
7. 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.
8. This right does not grant any right-of-way or easement across the land of another.

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9. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
10. The Director retains jurisdiction to require the right holder to provide purchased or leased natural flow or stored water to offset depletion of Lower Snake River flows if needed for salmon migration purposes. The amount of water required to be released into the Snake River or a tributary, if needed for this purpose, will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this permit.
11. The right holder shall install or construct a straight length of conduit or ditch suitable for installation of a device for measuring the entire flow of water being diverted in connection with this right. If the right holder uses conduit, the straight length of conduit shall be at least fifteen times the diameter of the conduit and shall be above ground or otherwise easily accessible.
12. 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 municipal type irrigation within the place of use.
13. Diversion of water under this water right will impact the sufficiency of the supply for the Swan Falls minimum flows, because of the direct hydraulic connection between the ground water being appropriated by the applications and the Snake River above Swan Falls Dam. The water right holder shall fully participate in any requirement imposed upon other junior water right holders and trust water right holders needed to satisfy the Swan Falls minimum flows.
14. Prior to diversion and use of water under this right, the right holder shall install a flow measurement and volume totalizing device of a type approved by the Department on each point of diversion to measure flow and volume of water diverted.
15. Diversion and use of water in connection with this right is subject to a Monitoring-Reporting Plan. The right holder shall provide the Department with a plan for monitoring-reporting aquifer levels, diversion flow rates, and volumes. The monitoring-reporting should occur in parallel with land development and production and should include identification of non-production wells and timelines for measuring and reporting. The right holder shall not divert water in connection with this right until the plan is approved by the Department. Failure to comply with the plan once it is accepted shall be cause for the Department to cancel or revoke the right.
16. Common areas, parks, school grounds, golf courses, and any other large parcels may only be irrigated under this water right with wastewater that has been previously beneficially used for potable or culinary purposes, has been treated in a waste water treatment plant, and is delivered from the wastewater treatment plant to the parcel to be irrigated.
17. Water diverted under this right may be used for direct irrigation of up to ½ acre per residential lot upon which a home has been constructed.
18. This right is limited to a total diversion volume of 4320.0 acre-feet annually.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code.

Signed this 13<sup>th</sup> day of January, 2016.

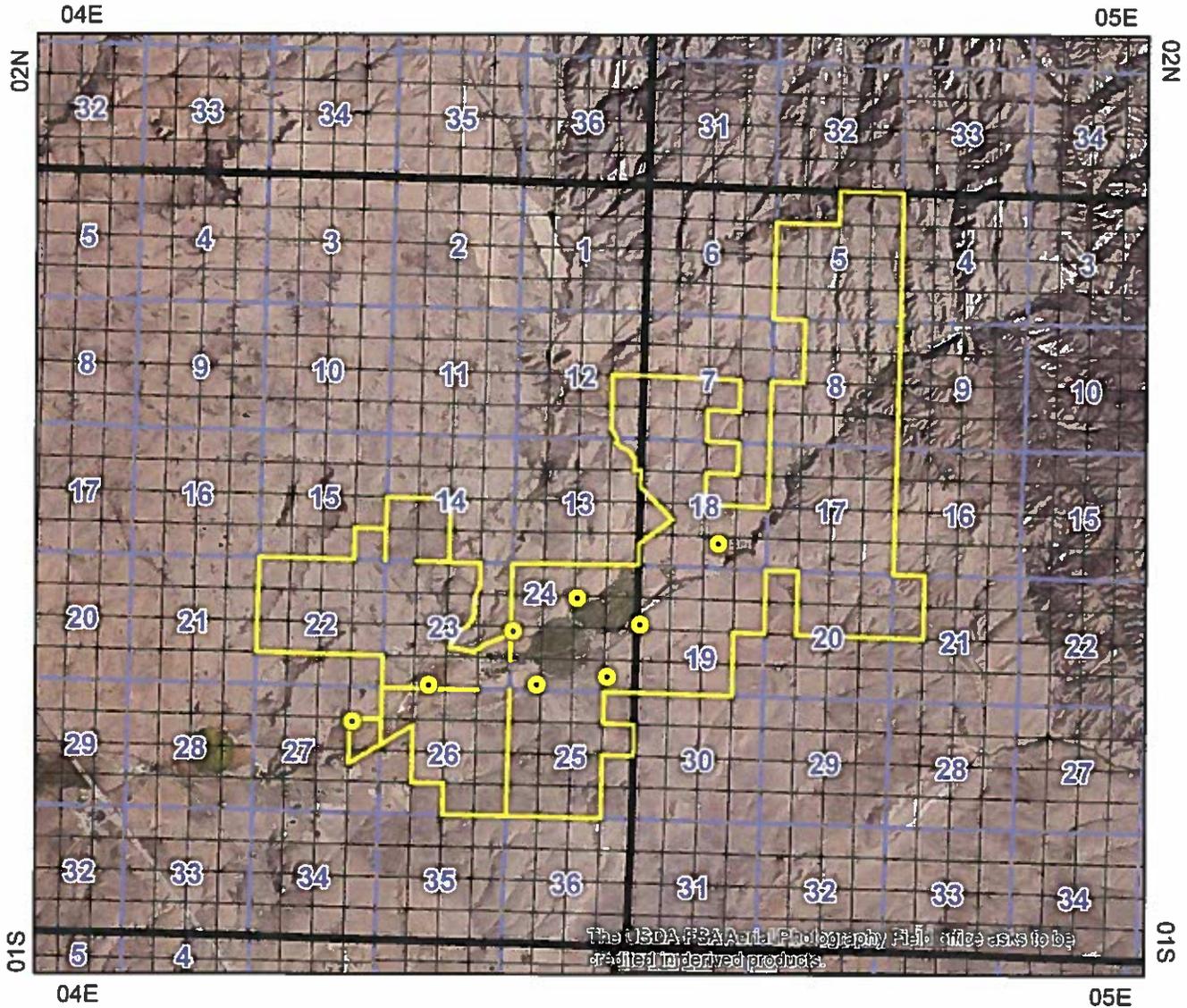


Nick Miller  
Manager, IDWR Western Region

# Attachment to Permit to Appropriate Water

63-32499

This map depicts the MUNICIPAL place of use boundary for this water right at the time of this approval and is attached to the approval document solely for illustrative purposes.



-  Point of Diversion
-  Water Service Area Boundary
-  Townships
-  PLS Sections





State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region • 2735 Airport Way • Boise, Idaho 83705-5082

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Website: [www.idwr.idaho.gov](http://www.idwr.idaho.gov)

C.L. "BUTCH" OTTER  
Governor

GARY SPACKMAN  
Director

January 13, 2016

MAYFIELD TOWNSITE LLC  
11204 N. BAR 21 DRIVE  
GLENN'S FERRY ID 83623

BRUCE M. SMITH  
ATTORNEY AT LAW  
950 W. BANNOCK ST STE 520  
BOISE ID 83702

RE: Permit No. 63-32499

**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. **Note condition number 13 of this approval arises from a final order issued by the Department on November 4, 2013 pursuant to Section 67-5246, Idaho Code. That condition is not subject to further review as part of this preliminary order.**

Enclosed is a form entitled 'Instructions for Proof of Beneficial Use.' Please read the instructions carefully since you must take further action to develop this permit into a licensed water right. Also enclosed is a form entitled 'Proof of Beneficial Use.' If your project is already completed, you should complete and submit this form immediately.

Please note that a separate stream channel alteration permit must be obtained from the Department prior to any activity in the stream channel other than construction or maintenance of the diversion structure for your water right(s). Applications for stream channel alteration permits must be filed at least sixty days prior to the commencement of work in the stream.

Also, please note that water right owners are required to report any change of water right ownership and/or mailing address to the Department within 120 days of the change. Failure to report these changes could result in a \$100 late filing fee. Contact any office of the Department or visit the Department's homepage on the Internet to obtain the proper forms and instructions.

If you have any questions, please contact me at (208)334-2190.

Sincerely,

A handwritten signature in black ink, appearing to read 'Nick Miller'.

Nick Miller  
Western Regional Manager

Enclosure

**CERTIFICATE OF SERVICE**

I hereby certify that on January 13, 2016 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. 63-32499**

MAYFIELD TOWNSITE LLC  
11204 N. BAR 21 DRIVE  
GLENN'S FERRY ID 83623

BRUCE M. SMITH  
ATTORNEY AT LAW  
950 W. BANNOCK ST STE 520  
BOISE ID 83702



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Rachel Neely  
Administrative Assistant

## **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. **Note: the petition must be received by the department within this fourteen (14) day period.** The department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3) Idaho Code.

### **EXCEPTIONS AND BRIEFS**

Within fourteen (14) days after: (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding with the Director. Otherwise, this preliminary order will become a final order of the agency.

### **REQUEST FOR HEARING**

Unless a right to a hearing before the Department or the Water Resource Board is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Director and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

### **ORAL ARGUMENT**

If the Director grants a petition to review the preliminary order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

## CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with IDAPA Rules 37.01.01302 and 37.01.01303 (Rules of Procedure 302 and 303).

## FINAL ORDER

The Director will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Director may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its service date 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.