

State of Idaho
 Department of Water Resources
Permit to Appropriate Water
 No. 82-12286

Priority: March 21, 2020

Maximum Diversion Rate: 0.09 CFS

This is to certify that

SCOTT E MC CARTY PO BOX 127 STITES ID 83552-0127 AND
 LANELLE F MC CARTY PO BOX 127 STITES ID 83552-0127

has applied for a permit to appropriate water from:

Source : SPRINGS

Tributary: SOUTH FORK CLEARWATER 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	03/15 to 11/15	0.03 CFS
STOCKWATER	01/01 to 12/31	0.02 CFS
DOMESTIC	01/01 to 12/31	0.04 CFS

Location of Point(s) of Diversion

SPRINGS L6 (SE¼ SE¼ NW¼), Sec. 10, Twp 31N, Rge 04E, B.M. IDAHO County
 SPRINGS L6 (SW¼ SE¼ NW¼), Sec. 10, Twp 31N, Rge 04E, B.M. IDAHO County

Place of Use: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals	
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
31N	04E	10																		5.0

Total Acres: 5.0

Place of Use: STOCKWATER And DOMESTIC

Twp	Rng	Sec	NE				NW				SW				SE					
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
31N	04E	10																		X L6

Conditions of Approval

1. Proof of application of water to beneficial use shall be submitted on or before **September 01, 2025**.
2. Subject to all prior water rights.
3. This right when combined with all other rights shall provide no more than 0.03 cfs per acre nor more than 3.0 afa per acre at the field headgate for irrigation of the place of use.
4. Domestic use is for 1 home. Irrigation of lawn, garden and landscaping associated with the home is authorized under the irrigation component of this right.

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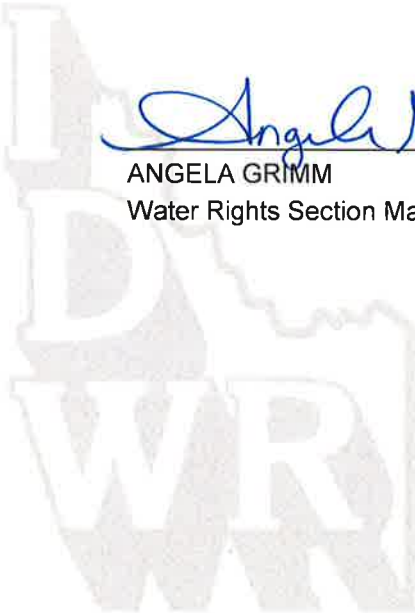
5. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.
6. Stockwater use is for 50 mixed stock.
7. This right does not grant any right-of-way or easement across the land of another.

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

Signed this 1st day of SEPTEMBER, 2020.



ANGELA GRIMM
Water Rights Section Manager



State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water






82-12286

This map depicts the IRRIGATION, DOMESTIC, and STOCKWATER 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.

04E

31N



-  Point of Diversion
-  Place Of Use Boundary
-  Townships
-  PLS Sections
-  Quarter Quarters

0 0.0425 0.085 0.17 Miles





State of Idaho

DEPARTMENT OF WATER RESOURCES

322 E FRONT ST STE 648 PO BOX 83720 • BOISE, ID 83720-0098

Phone: (208)287-4800 • Fax: (208)287-6700 • Website: www.idwr.idaho.gov

Brad Little
Governor

Gary Spackman
Director

September 3, 2020

SCOTT E MC CARTY
PO BOX 127
STITES ID 83552-0127

LANELLE F MC CARTY
PO BOX 127
STITES ID 83552-0127

RE: Permit No. 82-12286

Permit Approval Notice

Dear Permit Holders:

The Department of Water Resources ("Department") has issued the enclosed permit authorizing you to establish a new water right. Please be sure to thoroughly review all the conditions of approval listed on your permit. The conditions include requirements that you must accomplish, such as timely submittal of proof of beneficial use or installation of a measuring device, as well as information about how your water use may be administered, such as regulation by a watermaster in a water district. Failure to comply with the conditions of approval may result in your permit lapsing or being canceled.

The permit is a PRELIMINARY ORDER issued pursuant to Rule 730 of the Department's Rules of Procedure (IDAPA 37.01.01.730). It can and will become a final order without further action by the Department unless a party petitions for reconsideration, files exceptions, or requests a hearing as described in the enclosed information sheet.

The final step in the water right process is issuance of a water right license. To receive a water right license, you must first commence the excavation or construction of your diverting works within one year of the date the permit was issued, and you must proceed diligently until the project is complete. In addition, you must divert and use water to the full extent intended and submit a *Statement of Completion for Submitting Proof of Beneficial Use* by the date shown in condition no. 1 of your permit. The Department will send you a *Proof Due Notice* approximately 60 days prior to the date listed in condition no. 1 of your permit.

You may also require approvals from other Department programs, such as Ground Water Protection, Safety of Dams, or Stream Channel Protection, to accomplish your proposed development. Please call or visit any Department office or see the Department's website at idwr.idaho.gov for more information about these programs.

Also, please note that permit holders are required to report any change of 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. Forms to assign ownership or update your address are available from any office of the Department or on the Department's website.

If you have any questions concerning the enclosed information, please contact me at (208) 287-4951.

Sincerely,



Angela Grimm
Water Rights Section Manager

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on September 3, 2020, I served a true and correct copy of Permit to Appropriate Water No. 82-12286 by U.S. Mail, postage prepaid, to the following:

SCOTT E MC CARTY (Current Owner)
PO BOX 127
STITES ID 83552-0127

LANELLE F MC CARTY (Current Owner)
PO BOX 127
STITES ID 83552-0127



Debbi Judd
Technical Records Specialist

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.

MEMORANDUM

DATE: 09/01/20
TO: 82-12286
FROM: Phill Hummer, Water Rights Supervisor
RE: Point of Diversion and Source Clarification

The applicants called IDWR on August 31, 2020 to check on the status of their application for permit. I told them that the permit had not been approved because it was unclear from the POD location, map, and project description on the application where they planned to divert water. Only one POD was listed but the amended map showed two location. In addition, the narrative description indicated they wanted to collect water from “several spring outlets”. The applicants further described their proposed system as being a trench along a hillside that normally seeps water from several locations and runs down the hillside into an unnamed stream, which flows into the South Fork Clearwater River. The trench would collect the water and divert it into an underground cistern or tank fitted with a riser pipe.

Based on the applicant’s description of the project I think the permit should list the source as “Springs”. Also a second point of diversion should be added. I decided an amended application was not needed because the amended map and narrative description indicate two points of diversion are proposed and the second point of diversion is located within the same QQ. So although only 1 line is used in the location of the point of diversion portion of the application (section 4) it is clear from the rest of the application two POD were intended and the addition should be considered a clarification not a true amendment.

Since the place where water will be collected is a “wet hillside” and not clear emerging spring. It was difficult to understand the real nature of the source and the points of diversion. I think that describing two points of diversion and listing the source as “Springs” gives the applicant the most flexibility for development and would make any amendments, should they be required based on the field examination, easier than if the permit looked like it only authorized diversion from one specific spring.

Memo Describing the Approval of Permit 82-12286

David Hoekema

8/31/2020

In a phone discussion with Scott and Lanelle McCarty on August 31, 2020. Scott told me that he plans to dig a 10 foot deep trench to collect water in a perforated pipe from a spring that emerges into an unnamed stream at the southern end of his property. According to the application and Scott's verbal description this pipe will collect and deliver water from the spring to a single point. Scott expects the water to flow from a riser pipe that will emerge from the ground downstream of the spring. Scott indicated that he expects that development of this spring will result in the water being channeled to one location and no longer emerging at the surface where it has historically emerged. At the time of our conversation, Scott said that no water was emerging from the ground at the spring because of dry weather.

The Permit was approved with the source as SPRINGS and two POD's. Scott and Lanelle sent a diagram with their amended application, indicating that there are two springs on the property. This permit gives them the ability to divert water from at least two locations involving multiple seeps/springs along the hillside.

RECEIVED

JUN 26 2020

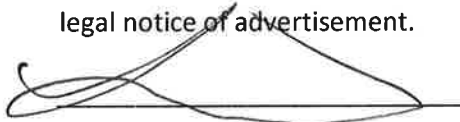
DEPARTMENT OF
WATER RESOURCES

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO

County of Idaho - ss.

Sarah Klement, being first duly sworn, says she is the Publisher of the IDAHO COUNTY FREE PRESS, a weekly newspaper published and issued weekly at Grangeville, Idaho County, State of Idaho, and is of general circulation in said county and state, that the said legal notice, of which the one hereto attached is a true copy, was published in said paper for two weeks, being published two times, the first publication being on the 17th day of June, 2020 and the last publication on the 24th day of June, 2020; and that the said legal notice was published in the newspaper proper and not a supplement; that said newspaper has been continuously and uninterruptedly published in said county during a period of seventy-eight consecutive weeks prior to the publication of said legal notice of advertisement.



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

82-12286
SCOTT E MC CARTY
LANELLE F MC CARTY
PO BOX 127
STITES, ID 83552-0127
Point of Diversion
L6(SWSNW) S10 T31N
R04E IDAHO County
Source SPRINGS Tributary
SOUTH FORK CLEARWATER RIVER
Use: DOMESTIC
01/01 to 12/31
0.04 CFS
Use: STOCKWATER
01/01 to 12/31
0.02 CFS
Use: IRRIGATION
03/15 to 11/15
0.03 CFS
Total Diversion:
0.09 CFS
Date Filed: 01-27-2020
Place Of Use: DOMESTIC, IRRIGATION, STOCKWATER
T31N R04E S10 L6(SENW)

Permits will be subject to all prior water rights. For additional information concerning the property location, contact the State office at (208) 287-4800; or for a full description of the right(s), please see <https://idwr.idaho.gov/apps/ExtSearch/WRAApplicationResults/>. Protests may be submitted based on the criteria of Idaho Code § 42-203A. Any protest against the approval of this application must be filed with the Director, Dept. of Water Resources, State Office, 322 E Front St, PO Box 83720, Boise, ID 83720 together with a protest fee of \$25.00 for each application on or before 7/6/2020. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Published on 6/17/2020 and 6/24/2020

STATE OF IDAHO)

COUNTY OF IDAHO)

On this 24th day of June in the year of 2020, before me a Notary Public personally appeared Sarah Klement, known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that he executed the same.

Handwritten note: Jmk 6-26-2020



Notary Public for Idaho

Residing at Grangeville, ID

My commission expires: 07/12/2025

SHAYLA M. KASCHMITTER
COMMISSION NO. 20191336
NOTARY PUBLIC
STATE OF IDAHO