**State of Idaho**
**Department of Water Resources**

# Permit to Appropriate Water

**No. 84-12304**

**Priority**: June 05, 2020 **Maximum Diversion Rate:** 0.02 CFS

This is to certify that

GEORGE E DUNCAN PO BOX 2032 OROFINO ID 83544-2032 AND/OR
MARLA C DUNCAN PO BOX 2032 OROFINO ID 83544-2032

has applied for a permit to appropriate water from:

**Source :** SPRING **Tributary:** OROFINO CREEK

and a permit is APPROVED for development of water as follows:

| Beneficial Use | Period of Use | Rate of Diversion |
|---|---|---|
| DOMESTIC | 01/01 to 12/31 | 0.02 CFS |

**Location of Point(s) of Diversion**
SPRING SW¼ NE¼ SW¼, Sec. 18, Twp 36N, Rge 03E, B.M. CLEARWATER County

**Place of Use:** DOMESTIC

| Twp | Rng | Sec | NE | | | | NW | | | | SW | | | | SE | | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | No QQ | |
| 36N | 03E | 18 | | | | | | | | | X | | | | | X | X | | | |

**Conditions of Approval**

1. Proof of application of water to beneficial use shall be submitted on or before **July 01, 2024.**
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. Water shall not be diverted under this right when flows in Orofino Creek, 84-12216, are below established minimum flow amounts
5. Domestic use is for 4 homes.
6. The irrigation occurring under this domestic use shall not exceed 1/2 acre per home.
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 10th day of July, 2020.

Adam Frederick

ADAM FREDERICK
Water Rights Supervisor

**State of Idaho**
**Department of Water Resources**

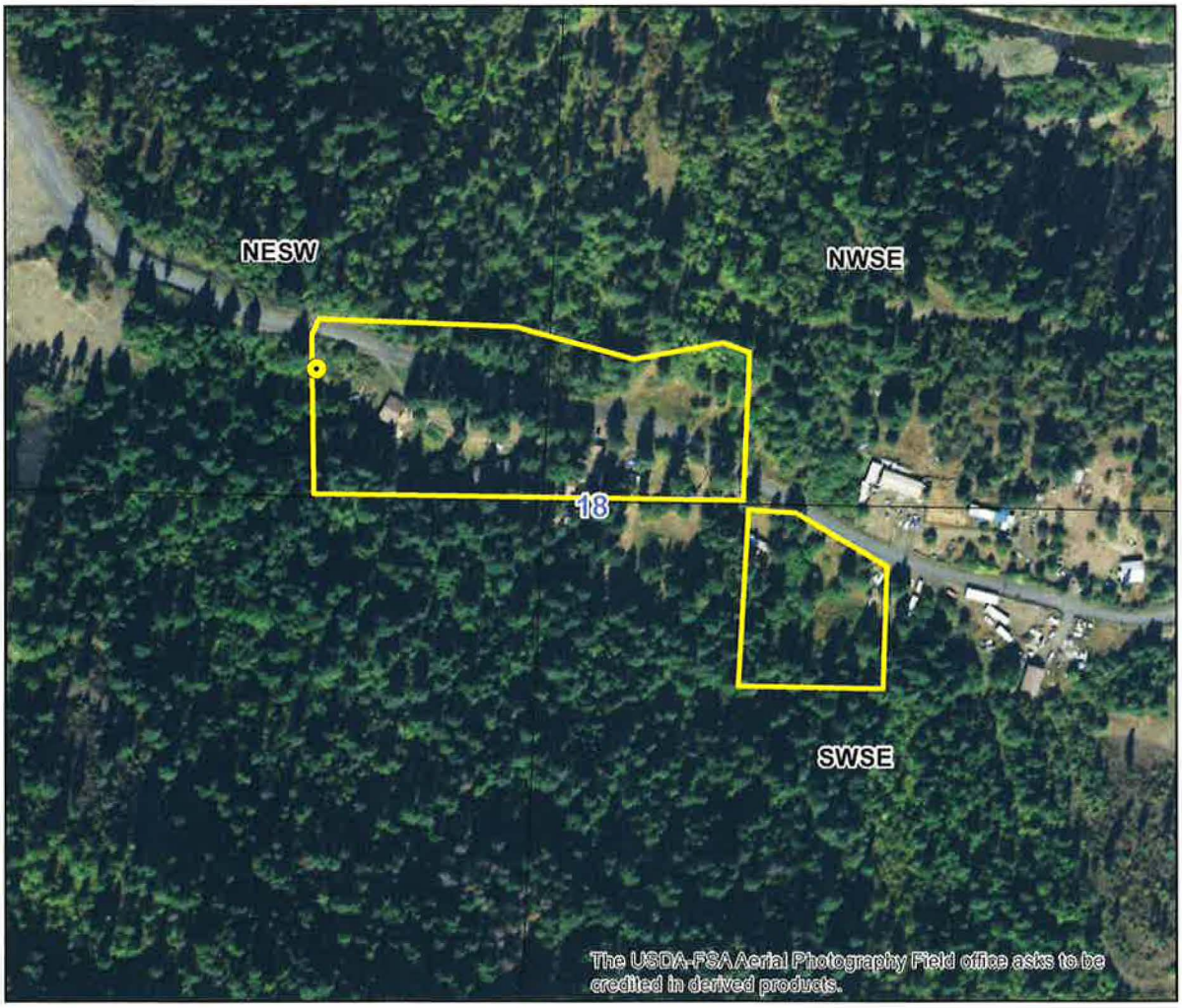
# Attachment to Permit to Appropriate Water

**84-12304**

This map depicts the DOMESTIC 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.

03E

36N




Point of Diversion

Place Of Use Boundary

Townships

PLS Sections

Quarter Quarters

0 0.035 0.07 0.14 Miles

N

State of Idaho
DEPARTMENT OF WATER RESOURCES
Northern Region • 7600 N MINERAL DR STE 100 • COEUR D ALENE, ID 83815-7763
Phone: (208)762-2800 • Fax: (208)769-2819 • Website: www.idwr.idaho.gov

Brad Little
Governor

Gary Spackman
Director

July 10, 2020

MARLA C DUNCAN
GEORGE E DUNCAN
PO BOX 2032
OROFINO ID 83544-2032

RE: Permit No. 84-12304

**Permit Approval Notice**

Dear Permit Holder(s):

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 the Northern Region Office at (208) 762-2800.

Sincerely,

Adam Frederick

Adam Frederick
Water Rights Supervisor

Enclosure(s)

## CERTIFICATE OF SERVICE

I hereby certify that on July 10, 2020, I served a true and correct copy of Permit to Appropriate Water No. 84-12304 by U.S. Mail, postage prepaid, to the following:

MARLA C DUNCAN (Current Owner)
PO BOX 2032
OROFINO ID 83544-2032

GEORGE E DUNCAN (Current Owner)
PO BOX 2032
OROFINO ID 83544-2032

Tammy Alleman
Administrative Assistant 1

# 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

**To:** **Water Right Application 84-12304**

**From:** **Luke Bates** JSB

**Date:** **7/8/2020**

**Re:** **Application for a Permit to Appropriate Water within the Salmon and Clearwater River Basins.**

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**Re:** **Regional Analysis and Recommendation in accordance with Water Appropriation Rules (IDAPA 37.03.08.040.05).**

**Water Supply Information**
Water from the spring is on the applicant's property and should be available.

**Good Faith, Delay, or Speculative Information**
The applicant plans to divert water for his/her own use on property that he/she owns and there are no known issues with any other party.

**Financial Resources Information**
There should be no significant resources required to develop the spring and unnamed stream.

**Local Public Interest**
The Idaho Department of Fish & Game (F & G), the Department of Environmental Quality (DEQ), and the Water Resource Board have been asked to comment by the Idaho Department of Water Resources. Neither DEQ, F & G, nor the Water Resource Board commented on the application for permit.

**Injury to Other Water Rights**
None anticipated.

**Recommendation**
The Northern Region recommends proceeding with the processing of this water right application.

# AFFIDAVIT OF PUBLICATION

**STATE OF IDAHO )**
**) ss.**
**County of Clearwater )**

MARCIE STANTON

being first duly sworn in, on oath, deposes and says:

That I am and at all times herein mentioned have been a citizen of the United States and of the State of Idaho, over 21 years of age, and that I am not a party to nor interested in the above entitled proceeding; that I am and at all times herein mentioned have been the Editor, Foreman, of THE CLEARWATER TRIBUNE; that said Clearwater Tribune is a newspaper of general circulation, printed and published weekly at Orofino, in the County of Clearwater and State of Idaho; that the Clearwater Tribune has been continuously and uninterruptedly published in Clearwater County, Idaho, during the period of seventy-eight consecutive weeks prior to the first publication of attached copy of:

**Department of Water Resources**
**DUNCAN PUBLIC**
**WATERS APPLICATION**

of which the annexed is a full, true and correct printed copy, was published in the regular and entire issue of said newspaper, and not in any supplement thereof, for a period of two consecutive weeks, commencing on the 17th day of June 2020 and ending on the 24th day of June 2020.

Marcie Stanton

STATE OF IDAHO )
)
COUNTY OF CLEARWATER )

On this 24th day of June in the year of 2020, before me, a Notary Public, personally appeared

Marcie Stanton

known or identified to me to be the person whose name subscribed to the within instrument, and being by me duly sworn, declared that the statements therein are true, and acknowledged to me that she executed the same.

Michelle D. Donner

Notary Public for Idaho
Resident at Orofino, Idaho
My commission expires: 10/3/2023

MICHELLE D. DONNER
NOTARY
PUBLIC
Comm No. 45496
STATE OF IDAHO

The following application(s) have been filed to appropriate the public waters of the State of Idaho:
**84-12304**
GEORGE E DUNCAN
MARLA C DUNCAN
PO BOX 2032
OROFINO, ID 83544-2032
Point of Diversion SWNESW
S18 T36N R03E
CLEARWATER County
Source SPRING
Tributary OROFINO CREEK
Use: DOMESTIC
01/01 to 12/31
Total Diversion: 0.02 CFS
Date Filed: 06-05-2020
Place Of Use: DOMESTIC
T36N R03E S18
NESW,NWSE,SWSE

Permits will be subject to all prior water rights. For additional information concerning the property location, contact the Northern office at (208)762-2800; or for a full description of the right(s), please see https://idwr.idaho.gov/apps/ExtSearch/WRApplicationResults/. 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, Northern Region, 7600 N MINERAL DR STE 100, COEUR D ALENE ID 83815-7763 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

**6-17,24-20c**

RECEIVED
JUN 29 2020
IDWR / NORTH