

State of Idaho
Department of Water Resources
Permit to Appropriate Water
No. 67-15327

Priority: June 24, 2019

Maximum Diversion Rate: 0.04 CFS
Maximum Diversion Volume: 2.1 AF

This is to certify that

DONALD SHERRY 2335 MILL CREEK RD COUNCIL ID 83612-5220 AND/OR
DEBI SHERRY 2335 MILL CREEK RD COUNCIL ID 83612-5220

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>
AESTHETIC STORAGE	01/01 to 12/31		2.1 AF
DIVERSION TO STORAGE	01/01 to 12/31	0.04 CFS	

Location of Point(s) of Diversion

GROUND WATER SE¼ SW¼, Sec. 35, Twp 17N, Rge 01W, B.M. ADAMS County

Place of Use: AESTHETIC STORAGE

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
17N	01W	35												X					

Conditions of Approval

1. Proof of application of water to beneficial use shall be submitted on or before **November 01, 2020**.
2. Subject to all prior water rights.
3. The one (1) pond established by the storage of water under this right shall not exceed a total capacity of 1.0 acre-feet or a total surface area of 0.4 acres.
4. This right authorizes total annual storage volume of 2.1 acre-feet, 1.0 acre-feet to be used for the initial filling or carryover storage of the pond and 1.1 acre-feet for the replacement of losses caused by seepage and evaporation.
5. Right holder shall comply with the drilling permit requirements of Idaho Code § 42-235 and applicable Well Construction Rules of the Department.
6. 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.

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

Signed this 30th day of October, 2019.

NICK MILLER

Western Regional Manager

State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

67-15327

This map depicts the AESTHETIC STORAGE 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.

01W



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

0 0.035 0.07 0.14 Miles





State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region • 2735 W AIRPORT WAY • BOISE, ID 83705-5082

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

Brad Little
Governor

Gary Spackman
Director

October 30, 2019

DONALD SHERRY
DEBI SHERRY
2335 MILL CREEK RD
COUNCIL ID 83612-5220

RE: Permit No. 67-15327

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 divert and use water to the full extent intended and submit a *Statement of Completion for Submitting Proof of Beneficial Use* ("Proof") 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. If you have already diverted and used water to the full extent intended, you may complete and submit the enclosed Proof form immediately.

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) 334-2190.

Sincerely,





Nick Miller
Western Regional Manager

Enclosures

CERTIFICATE OF SERVICE

I hereby certify that on October 30, 2019, I served a true and correct copy of Permit to Appropriate Water No. 67-15327 by U.S. Mail, postage prepaid, to the following:

DONALD SHERRY (Current Owner)
DEBI SHERRY (Current Owner)
2335 MILL CREEK RD
COUNCIL ID 83612-5220



Anna Kaiser
Water Resource Agent

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.

RECEIVED

SEP 16 2019

WATER RESOURCES
WESTERN REGION

STATE OF IDAHO)
) SS
COUNTY OF ADAMS)

Dara J Victorino being duly sworn, deposes and says that she is the Principle Clerk of the Adams County Record, a weekly newspaper printed and published at Council, Adams County, State of Idaho and having a general circulation therein and which said newspaper has been published continuously and uninterrupted in said County for a period of seventy-eight (78) consecutive weeks prior to the first publication of the advertisement, a copy of which is attached thereto: that advertisement was published in the regular edition of The Adams County Record for two (2) insertions beginning with the Issue of September 04, 2019 and ending with the Issue of September 11, 2019.

Dara J Victorino

On this 11th day of September, 2019, before me, a Notary Public, personally appeared Dara J Victorino, known or identified to me to be the person whose name subscribed to the written instrument, and being by me first and duly sworn, declared that the statements therein are true and acknowledged to me that she executed the same.

Melissa Dougherty

Notary Public of Idaho

Residing at Council, Id.

My Commission Expires 11/30/2023

MELISSA DOUGHERTY
Notary Public - State of Idaho
Commission Number 20171031
My Commission Expires Nov 30, 2023

To: IDAHO DEPARTMENT OF WATER RESOURCES

Subject: UPDATED NOTICE OF APPLICATIONS TO APPROPRIATE 67-15326, 67-15327, 78-12515 - REPRINT

LEGAL NOTICE

The following applications have been filed to appropriate the public waters of the State of Idaho:

67-15326

DEBRA LYNN BUCKNER

1327 HIGHWAY 95

MESA, ID 83643-5006

Point of Diversion SWSE S15 T15N R01W ADAMS

County Source UNNAMED STREAM Tributary BACON CREEK

Use: AESTHETIC STORAGE 01/01 to 12/31 15 AF

Use: IRRIGATION 03/15 to 10/31 0.15 CFS

Use: IRRIGATION FROM STORAGE 03/15 to 10/31 15 AF

Use: IRRIGATION STORAGE 01/01 to 12/31 15 AF

Total Diversion: 0.15 CFS 15 AF

Date Filed: 5/14/2019

Place Of Use: IRRIGATION, IRRIGATION FROM STORAGE, AESTHETIC STORAGE, IRRIGATION STORAGE T15N R01W S15 SWSE

Total Acres: 5

67-15327

DONALD SHERRY

DEBI SHERRY

2335 MILL CREEK RD

COUNCIL, ID 83612-5220

Point of Diversion SESW S35 T17N R01W ADAMS

County Source GROUND WATER

Use: AESTHETIC STORAGE 01/01 to 12/31 4 AF

Use: DIVERSION TO STORAGE 01/01 to 12/31 0.04 CFS

Total Diversion: 0.04 CFS 4 AF

Date Filed: 6/18/2019

Place Of Use: AESTHETIC STORAGE

T17N R01W S35 SESW

78-12515

JEFFREY J CLEMMER

3862 CEMETERY RD

NEW MEADOWS, ID 83654-5026

Point of Diversion L1(NWNW) S27 T19N R02E ADAMS

County Source GOOSE CREEK Tributary LITTLE SALMON RIVER

Use: IRRIGATION 04/01 to 10/31 0.74 CFS

Total Diversion: 0.74 CFS

Date Filed: 7/10/2019

Place Of Use: IRRIGATION

T19N R02E S8 NWSW

Total Acres: 37

Permits will be subject to all prior water rights. For additional information concerning the property location, contact Western Region office at (208) 334-2190; or for a full description of the right(s), please see www.idwr.idaho.gov. Protests may be submitted based on the criteria of Idaho Code § 42-203A. Any protest against the approval of the application(s) must be filed with the Director, Dept. of Water Resources, Western Region, 2735 Airport Way, Boise ID 83705 together with a protest fee of \$25.00 for each application on or before 9/23/2019. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Published on 9/4/2019 and 9/11/2019



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

BRAD LITTLE
Governor

GARY SPACKMAN
Director

September 5, 2019

DON SHERRY
DEBI SHERRY
2335 MILL CREEK RD
COUNCIL ID 83612

Application for Permit No. 67-15327

Dear Applicant(s) and Interested Parties:

The Department of Water Resources (Department) submitted legal notice of the above referenced application to THE RECORD for publication on 8/21/2019 & 8/28/2019. Unfortunately, due to publishing company error, the notice did not run the second week (8/28/2019).

The Department requires legal notices run two consecutive weeks followed immediately by the ten day protest period. Therefore, the legal notice must be republished.

The legal notice of the application has been rescheduled for publication in THE RECORD on 9/4/2019 & 9/11/2019. Protests to this application may be submitted for a period ending ten (10) days after the second publication.

Please contact this office if you have any questions regarding the application or advertising procedures.
Thank you for your patience.

Sincerely,

Anna Kaiser
Administrative Assistant