

State of Idaho
Department of Water Resources
Amendment of Permit
NO. 86-12054

PRIORITY: July 25, 2006

Maximum Diversion Rate: 0.03 CFS
Maximum Diversion Volume: 2.5 AF

It is hereby certified that:

ELLA And/Or JAMES R DILLING 21349 ARROW RIM LN JULIAETTA ID 83535

has applied for an amendment of permit and the amendment is partially APPROVED as follows:

SOURCE: GROUND WATER

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL DIVERSION VOLUME</u>
DOMESTIC	01/01 to 12/31	0.03 CFS	2.4 AF
STOCKWATER	01/01 to 12/31	0.02 CFS	0.1 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER SE¼NW¼ Sec. 7, Twp 36N, Rge 03W, B.M. NEZ PERCE County

PLACE OF USE: DOMESTIC and STOCKWATER

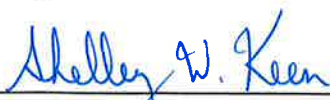
Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
36N	03W	7					X L 10												

CONDITIONS OF APPROVAL

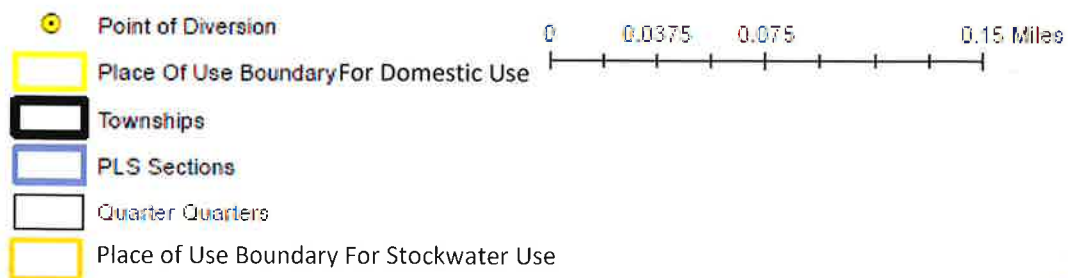
- Domestic use is for 2 homes.
- Rights 86-11971 and 86-12054 when combined shall not exceed 2 homes nor the irrigation of 1/2 acre per home.
- This right does not grant any right-of-way or easement across the land of another.
- When notified by the Department, the right holder shall install and maintain a measuring device of a type acceptable to the Department as part of the diverting works.
- The diversion and use of water described in this right may be subject to additional conditions and limitations under a separate agreement to which the Department is not a party. Because the Department is not a party, the Department is not responsible for enforcement of any aspect of the agreement not specifically addressed in other conditions herein. Enforcement of those portions of the agreement not specifically addressed in other conditions shall be the responsibility of the parties subject to the agreement.

This amendment of permit is issued pursuant to the provisions of Section 42-211, Idaho Code.

Signed this 8th day of January, 2019.


SHELLEY W. KEEN
Water Allocation Bureau Chief

State of Idaho
Department of Water Resources
Amendment of Permit
NO. 86-12054





State of Idaho

DEPARTMENT OF WATER RESOURCES

322 E Front Street, Suite 648 • PO Box 83720 • Boise ID 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700

Website: idwr.idaho.gov • Email: idwrinfo@idwr.idaho.gov

BRAD LITTLE
Governor

GARY SPACKMAN
Director

January 9, 2019

ELLA DILLING
21349 ARROW RIM LN
JULIAETTA ID 83535

RE: Water Right Permit No. 86-12054 (formerly 85-15685)

Dear Permit Holder:

The Department of Water Resources (IDWR) has completed an investigation of your permit development and review of your Application for Amendment of a Permit. This letter provides an explanation of IDWR's findings and application approval.

First, permit no. 85-15685 has been renumbered. The new number for your permit is 86-12054. Please refer to this new number in all future correspondence with IDWR regarding this permit.

Second, IDWR issued the enclosed Amendment of Permit modifying the permit referenced above. IDWR is issuing the Amendment of Permit in compliance with the terms of the permit and in accordance with how your water system and water use were developed. Please be sure to review every element of the Amendment of Permit, including the conditions of approval, as this Amendment of Permit document may reflect your final licensed water right document.

A condition of your permit requires that the well located at 25233 Arrow Highline Rd (Teare's property) be used for domestic purpose only. In your Application for Amendment of a Permit you asked IDWR to remove that condition. Idaho Code § 42-211 states that such amendment can be approved so long rights of others will not be adversely affected. IDWR finds that the Water Use and Maintenance Agreement between you and the Teares supports the condition. Therefore, the well on Teare's property may not be used for irrigation purposes other than irrigation that fits within the domestic definition pursuant to Idaho Code § 42-111 (½ acre of land per home) pursuant to the condition on your permit.

IDWR's investigation found that the well on your property wasn't developed to irrigate your pasture. Because the well on the Teare property is prohibited from irrigating more than ½ acre at your property and because the well on your property has not been developed to irrigate your pasture, IDWR could not include the irrigation component in this amendment.

Your Amended Permit and subsequent license authorize diversion from the well on your property for the following purposes: domestic for two homes (yours and Teares') and stockwater at your property.

Note that the Teares' predecessor, the Quillens, established water right no. 86-11971, which authorizes diversion of water from the well on the Teare property for domestic purposes at your property, in addition to the Teare property. Because your water use from the well on the Teare property is already covered by water right no. 86-11971, only the well on your property is listed as the authorized point of diversion for water right no. 86-12054.

If you would like to irrigate more than the ½ acre around your home, you will need to submit a new Application for Permit, including written authorization from the Teares allowing you to use the well on their property for irrigation purposes.

The Amendment of Permit is a **preliminary order** issued by IDWR pursuant to Rule 730 of the Department's Rules of Procedure (IDAPA 37.01.01.130). **It can and will become a final order without further action by IDWR unless a party petitions for reconsideration or files an exception and/or brief as described in the enclosed information sheet.**

If you have any questions, please call me at (208) 287-4944.

Sincerely,

A handwritten signature in black ink, appearing to read "Cherie Palmer", with a stylized flourish at the end.

Cherie Palmer
Water Compliance Bureau

Enclosure(s): Application for Amendment

CERTIFICATE OF MAILING

I hereby certify that on the 9th day of **January, 2019**, I mailed a true and correct copy, postage prepaid, of the foregoing **PRELIMINARY ORDER (Amendment of Permit)** to the person(s) listed below:

RE: AMENDMENT OF PERMIT 86-12054

**ELLA DILLING
21349 ARROW RIM LN
JULIAETTA ID 83535**



**Jean Hersley
Technical Records Specialist II**

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.