

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 65-23738

Priority: October 27, 2017

Maximum Diversion Rate: 0.03 CFS

This is to certify, that KEVIN O NEIL
3705 ELMORE RD
PARMA ID 83660

has applied for a permit to appropriate water from:

Source: PAYETTE LAKE**Tributary:** NORTH FORK PAYETTE RIVER

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

BENEFICIAL USE

IRRIGATION

PERIOD OF USE

04/15 to 10/31

RATE OF DIVERSION

0.03 CFS

LOCATION OF POINT OF DIVERSION:PAYETTE LAKE NE $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 35, Twp 19N, Rge 03E, B.M., VALLEY County**PLACE OF USE:** IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
19N 03E 35	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	0.5
					0.5												
					L 1												

Total Acres: 0.5

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **June 01, 2019**.
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. The right holder shall contact the watermaster by June 15 each year for authorization to continue diverting and using water. The right holder shall not divert water after June 15 each year unless the watermaster authorizes continued diversion and use of water under this water right. When the watermaster informs the right holder that water is not available to fill this right, the right holder shall cease diversion, shall rent water from the Payette River Rental Pool, or shall otherwise mitigate for the depletion of water caused by this water use. The department may amend the contact date listed in this administrative provision to more closely coincide with the date when water is not available to fill this water right.
5. Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 65.

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6. 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.
7. Prior to diversion of water under this right, the right holder shall install a lockable device, subject to the approval of the Department, in a manner that will provide the watermaster suitable control of the diversion.
8. Place of use is located within Tax #50 in Government Lot 1.
9. This right does not grant any right-of-way or easement across the land of another.
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.

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

Signed this 16th day of MAY, 2018.



Angela M. Grimm
Water Rights Supervisor

State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

65-23738

This map depicts the IRRIGATION 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



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

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

C.L. "Butch" Otter
Governor

Gary Spackman
Director

May 16, 2018

KEVIN O NEIL
3705 ELMORE RD
PARMA ID 83660

RE: Permit No. 65-23738

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 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,

A handwritten signature in black ink, appearing to read "Nick Miller", followed by a horizontal line and the word "for".

Nick Miller
Regional Manager

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on May 16, 2018, I served a true and correct copy of Permit to Appropriate Water No. 65-23738 by U.S. Mail, postage prepaid, to the following:

KEVIN O NEIL (Current Owner)
3705 ELMORE RD
PARMA ID 83660

JON BAUER (Attorney)
877 W MAIN ST STE 1000
BOISE ID 83702

WATER DISTRICT #65
RON SHURTLEFF (Watermaster)
102 N MAIN ST
PAYETTE ID 83661



Rachel Neely
Administrative Assistant I

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.

Publisher's Affidavit of Publication

STATE OF IDAHO } .SS
County of Valley

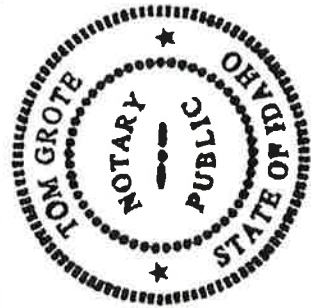
I, Tricia Warren, being duly sworn and say, I am the receptionist of The Star-News, a weekly newspaper published at McCall, in the County of Valley, State of Idaho; that said newspaper is in general circulation in the county of afore said and is a legal newspaper; that the PUBLIC NOTICE, a copy of which is enclosed hereto and is a part hereof, was published in said newspaper once a week for a period of two weeks in the regular and entire issue of every number thereof during the period of time of publication, and was published in the newspaper proper and not in a supplement; and that publication of such notice began April 5, 2018 and ended April 12, 2018.

Tricia Warren

Subscribed and sworn before me this the 12th day of April, 2018.
STATE OF IDAHO

COUNTY OF VALLEY }

On this 12th day of April in the year of 2018, before me, a Notary Public, personally appeared Tricia Warren, 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 she executed the same.



Tom Grote
Tom Grote
Notary Public for Idaho
Residing at McCall, Idaho
Commission Expires 1/19/2024

IDAHO DEPARTMENT OF LANDS

The following applications have been filed to appropriate the public waters of the State of Idaho: *✓ OK RN 4124118*
65-23737

JAMES F CLEARY JR
199 N CAPITOL BLVD STE 1000
BOISE, ID 83702

Point of Diversion NENW S35 T19N
R03E VALLEY County Source PAY-
ETTE LAKE Tributary NORTH FORK
PAYETTE RIVER

Use: IRRIGATION 04/15 to 10/31 0.03
CFS

Total Diversion: 0.03 CFS
Date Filed: 10/27/2017

Place of Use: IRRIGATION
T19N R03E S35 L1(NENW)

Total Acres: 0.5
65-23738

KEVIN O NEIL
3705 ELMORE RD
PARMA, ID 83660

Point of Diversion NENW S35 T19N
R03E VALLEY County Source PAY-
ETTE LAKE Tributary NORTH FORK
PAYETTE RIVER

Use: IRRIGATION 04/15 to 10/31 0.03
CFS

Total Diversion: 0.03 CFS
Date Filed: 10/27/2017

Place of Use: IRRIGATION
T19N R03E S35

Total Acres: 0.5
L1(NENW)

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 4/23/2018. The protestant must also send a copy of the protest to the applicant.
GARY SPACKMAN, Director
2tc4/12

RECEIVED

APR 12 2018

WATER RESOURCES
WESTERN REGION