

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 57-11908

Priority: October 10, 2017

Maximum Diversion Rate: 0.09 CFS

This is to certify, that JEAN MCGHEE
PO BOX 253
GRAND VIEW ID 83624

has applied for a permit to appropriate water from:

Source: SHOOFLY CREEK**Tributary:** SNAKE 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	03/01 to 11/15	0.09 CFS

LOCATION OF POINT(S) OF DIVERSION:

SHOOFLY CREEK SW ¼ NE ¼ Sec. 35, Twp 05S, Rge 03E, B.M. OWYHEE County

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
05S 03E 22																	3.0

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **May 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 4.5 afa per acre at the field headgate for irrigation of the place of use.
4. This right is for the use of trust water, and it is subject to review 5 years after its initial approval (date of permit approval) to re-evaluate the availability of trust water for the authorized use and to re-evaluate the public interest criteria for reallocating trust water.
5. When the minimum stream flow water rights in the Snake River at Murphy Gage are not being satisfied, the right holder shall cease diverting water for the consumptive uses authorized by this right.
6. This right does not grant any right-of-way or easement across the land of another.
7. 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 2 day of May, 20 18.


Angela M. Grimm

Water Rights Supervisor

State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

57-11908

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



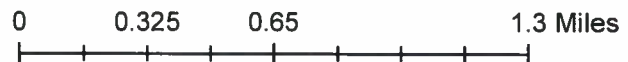
Place Of Use Boundary



Townships



PLS Sections





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 02, 2018

JEAN MCGHEE
PO BOX 253
GRAND VIEW ID 83624

RE: Permit No. 57-11908

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,

 *Nick Miller*

Nick Miller
Regional Manager

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on May 02, 2018, I served a true and correct copy of Permit to Appropriate Water No. 57-11908 by U.S. Mail, postage prepaid, to the following:

JEAN MCGHEE (Current Owner)
PO BOX 253
GRAND VIEW ID 83624

CHARLES L HONSINGER (Representative)
HONSINGER LAW PLLC
PO BOX 517
BOISE ID 83701



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.

RECEIVED

MAR 26 2018

WATER RESOURCES
WESTERN REGION

1010 W. Jefferson, Suite 200
Post Office Box 2139
Boise, ID 83701-2139
(208) 336-0700 telephone
(208) 344-6034 facsimile
brs@idahowaters.com

163 Second Avenue West
Post Office Box 63
Twin Falls, ID 83301-0063
(208) 733-0700 telephone
(208) 735-2444 facsimile

ALBERT P. BARKER
JOHN A. ROSHOLT
JOHN K. SIMPSON
TRAVIS L. THOMPSON
SHELLEY M. DAVIS
SCOTT A. MAGNUSON
JONAS A. REAGAN

BARKER
ROSHOLT
&
SIMPSON
LLP

John K. Simpson
jks@idahowaters.com

March 26, 2018

VIA E-MAIL ONLY

Mr. Nick Miller
Idaho Department of Water Resources
Western Regional Office
2735 Airport Way
Boise, Idaho 83705-5082

Re: *Application for Permit No. 57-11908, Jean McGhee*

Dear Mr. Miller,

On behalf of Idaho Power Company, please find the following comments concerning the above referenced application for permit.

Idaho Power Company continues to review new applications for water rights in the vicinity to Swan Falls dam to ensure that such applications which propose to divert water tributary to the Snake River above Swan Falls are appropriately recognized and reviewed in accordance with the 1984 Swan Falls Settlement. The proposed application proposes to divert water from the Snake River above Swan Falls dam. Idaho Power believes that it continues to be the State's responsibility to manage water use to ensure that the terms of the Settlement are recognized and that new appropriations do not impair the existing uses inside the trustwater area.

While Idaho Power does not formally protest application no. 57-11908, the Director should condition the application to require the right holder to provide mitigation necessary to offset the use of water pursuant to this permit, if needed, to ensure flows do not violate the terms of the Settlement. Idaho Power has consistently provided IDWR with proposed Trustwater language for inclusion into any approved permit and would offer the following language for inclusion by IDWR:

This right is for the use of trust water which is identified and defined in the 1984 Swan Falls Agreement and subsequent Settlement. The right shall be subject to review 5 years after its initial approval (date of permit approval) to re-evaluate the availability of trust water for the authorized use and to re-evaluate the public interest criteria for reallocating trust water. Further, the right holder shall cease diverting if such diversions would impact the established minimum stream flows of 3,900 cfs from April 1 through October 31 and 5,600 cfs from November 1 through March 31 at the Murphy gage.

Idaho Department of Water Resources
March 26, 2018
Page 2

Thank you for your consideration on this matter. Please contact me if you have any questions.

Very truly yours,
BARKER ROSHOLT & SIMPSON LLP



John K. Simpson

JKS/jlw

cc: Charles Honsinger (via email)
Jean McGhee (via U.S. mail)

The Owyhee Avalanche

P.O. Box 97 • HOMEDALE, ID 83628 • 208/337-4681

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO)

) ss

COUNTY OF OWYHEE)

RECEIVED

MAR 23 2018

WATER RESOURCES
WESTERN REGION

RECEIVED

MAR 22 2018

DEPARTMENT OF
WATER RESOURCES

I, Robert E. Aman, being first duly sworn, depose and say:

1. That I am a citizen of the United States of America, and at all times hereinafter mentioned was and now over the age of twenty-one years, not a party to nor interested in the proceedings hereinafter mentioned.

2. That during the time of publication of the notice hereinafter mentioned, I was and now am the president of The Owyhee Avalanche, a newspaper of general circulation printed and published weekly, on Wednesday of each and every week, in the City of Homedale, County of Owyhee and State of Idaho.

3. That the said The Owyhee Avalanche has been printed and published continuously and uninterruptedly in said County during a period of more than seventy-eight weeks prior to the first publication of the attached notice.

4. That said notice of which a printed copy, taken from said newspaper, is hereto affixed, was published in the regular issue thereof, and not a supplement thereto, in said newspaper, in TWO (2)
(consecutive) calendar weekly issue(s) of said newspaper, in the following date(s):

MARCH 7, 14, 2018

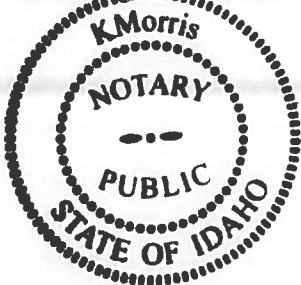
SIGNED: _____

STATE OF IDAHO }

COUNTY OF OWYHEE }

On this 14th day of March in the year of 2018 before me, a

Notary Public, personally appeared ROBERT E. AMAN
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 he executed the same.



Notary Public of Idaho

Residing at WILDER, IDAHO

My commission expires: August 18, 2023

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

57-11901

PAULINE COLYER

MARGIE BYBEE

PO BOX 172

GRAND VIEW, ID 83624

Point of Diversion SWNE S35
T05S R03E OWYHEE County
Source SHOOFLY CREEK
Tributary SNAKE RIVER

Use: IRRIGATION 03/01 to
11/15 0.26 CFS

Total Diversion: 0.26 CFS

Date Filed: 5/18/2017

Place of Use: IRRIGATION

T05S R03W S23 NESW

Total Acres: 13

57-11908

JEAN MCGHEE

PO BOX 253

GRAND VIEW, ID 83624

Point of Diversion SWNE S35
T05S R03E OWYHEE County
Source SHOOFLY CREEK
Tributary SNAKE RIVER

Use: IRRIGATION 03/01 to
11/15 0.09 CFS

Total Diversion: 0.09 CFS

Date Filed: 10/10/2017

Place of Use: IRRIGATION

T05S R03E S22 NESE

Total Acres: 3

57-11979

DENNIS TURNER

2830 RIVER RD

HOMEDALE, ID 83628

Point of Diversion SWNW
S4 T03N R05W OWYHEE
County Source SUCCOR CREEK
Tributary SNAKE RIVER

Use: IRRIGATION 03/01 to
11/15 3.24 CFS

Total Diversion: 3.24 CFS

Date Filed: 1/10/2018

Place of Use: IRRIGATION

T03N R05W S4 L3(NWNW)
SWNW NWSW

T03N R05W S5 L1(NENE)
SENE NESE

T03N R05W S32 L4(SESE)

T03N R05W S33 L3(SWSW)

Total Acres: 162

**NOTICE OF PROPOSED
CHANGE OF WATER
RIGHT**

TRANSFER NO. 82053
JACK POST, PO BOX 298,
MOUNTAIN HOME, ID 83647,
filed Application No. 82053 to
transfer Water Right 2-10545
affecting 0.54 cfs, 165.4 af,
and 27.0 acres. This transfer
proposes to change the place of
use on right 2-10545 to describe
property owned by the applicant,
approximately two miles west,
and create an 80 acre permissible
place of use. The proposed place
of use is located between 20 Mile
Rd and A&A approximately one
mile west of Mud Flat Rd and four
miles south of Snake River and
Grand View, Idaho in Owyhee
County.

*✓ OK RN
3/27/18*

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) or proposed transfer (s)
please see www.idwr.idaho.gov.
Protests may be submitted based
on the criteria of Idaho Code
§§ 42-203A and 42-222. 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 3/26/2018. The protestant
must also send a copy of the
protest to the applicant.

GARY SPACKMAN,
Director
3/7,14/2018