

State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 95-17380

Priority: November 02, 2017

Maximum Diversion Volume: 19.7 AF

This is to certify, that CLINTON BARNES And/Or
JUDY BARNES
14205 W WINCH AVE
RATHDRUM ID 83858

has applied for a permit to appropriate water from:

Source: UNNAMED STREAM

Tributary: HOWELL GULCH CREEK

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

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>ANNUAL VOLUME</u>
FIRE PROTECTION STORAGE	01/01 to 12/31	19.7 AF
RECREATION STORAGE	01/01 to 12/31	19.7 AF
STOCKWATER STORAGE	01/01 to 12/31	19.7 AF

LOCATION OF POINT(S) OF DIVERSION:

UNNAMED STREAM SW1/4SW1/4 Sec. 4, Twp 51N, Rge 05W, B.M. KOOTENAI County

PLACE OF USE: FIRE PROTECTION STORAGE, RECREATION STORAGE, and STOCKWATER STORAGE

Twp Rge Sec	NE				NW				SW				SE				
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
51N 05W 4											X	X					

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **December 01, 2018**.
2. Subject to all prior water rights.
3. Recreation storage is for fishing and swimming.
4. Stockwater is for 50 head of mixed stock.
5. Water shall not be diverted from fire protection storage except to fight or repel an existing fire.
6. Right 95-17380 authorizes a total annual storage volume of 19.7 acre-feet, 15.9 acre-feet to be used for the initial filling of the pond and 3.8 acre-feet for the replacement of losses caused by seepage and evaporation.
7. The pond established by the storage of water under this right shall not exceed a total capacity of 15.9 acre-feet or a total surface area of 2.45 acres.
8. 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 Section 42-204, Idaho Code.

Signed this 12th day of December, 2017.


DOUGLAS JONES, Northern Regional Manager

State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

95-17380

This map depicts the FIRE PROTECTION STORAGE, RECREATION STORAGE, and STOCKWATER 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.

05W



0 0.0275 0.055 0.11 Miles

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





State of Idaho

DEPARTMENT OF WATER RESOURCES

Northern Region • 7600 N. Mineral Drive, Suite 100 • Coeur d'Alene, Idaho 83815-7763

Phone: (208) 762-2800 • Fax: (208) 762-2819 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

December 13, 2017

CLINTON & JUDY BARNES
14205 W WINCH AVE
RATHDRUM ID 83858

RE: Permit No. 95-17380

Permit Approval Notice

Dear Permit Holder:

The Department of Water Resources has issued the enclosed permit authorizing you to establish a new water right. Please be sure to thoroughly review the conditions of approval and remarks listed on your permit.

The permit 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 by the Department unless a party petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date as described in the enclosed information sheet.

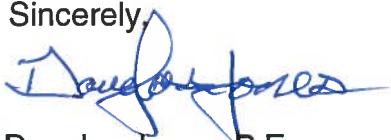
Enclosed is a form entitled 'Instructions for Proof of Beneficial Use.' Please read the instructions carefully since you must take further action to develop this permit into a licensed water right. Also enclosed is a form entitled 'Proof of Beneficial Use.' If your project is already completed, you should complete and submit this form immediately.

Please note that a separate stream channel alteration permit must be obtained from the Department prior to any activity in the stream channel other than construction or maintenance of the diversion structure for your water right(s). Applications for stream channel alteration permits must be filed at least sixty days prior to the commencement of work in the stream.

Also, please note that water right owners are required to report any change of water right 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. Contact any office of the Department or visit the Department's homepage on the Internet to obtain the proper forms and instructions.

If you have any questions, please contact our Northern Regional Office at 208-762-2800.

Sincerely,

A handwritten signature in blue ink, appearing to read "Douglas Jones", written over a horizontal line.

Douglas Jones, P.E.

Northern Regional Manager

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on December 13, 2017 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved Permit) to the person(s) listed below:

RE: WATER RIGHT NO.

95-17380

**CLINTON & JUDY BARNES
14205 W WINCH AVE
RATHDRUM ID 83858**



**Tammy Alleman
Administrative Assistant**

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.

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO, }
County of Kootenai, } ss.

Geri Hagler being first duly sworn
upon oath deposes and says:

1. I am now and at all times hereinafter mentioned was a citizen of the United States, resident of the State of Idaho, over the age of twenty-one years and not a party of the above entitled action.

2. I am now and at all times hereinafter mentioned was the printer (principal clerk) of the "Coeur d'Alene Press," a newspaper printed and published daily except Sunday in Coeur d'Alene, Kootenai County, Idaho, and having a general circulation in said county.

3. The

Legal notice

of which the annexed is a printed copy, was published in the regular Thursday issue of said newspaper for 2 consecutive weeks commencing on the 16 day of November, 2017, and ending on the 23 day of November, 2017, and such publication was made as often during said period as said daily newspaper was regularly issued.

4. That said newspaper has been continuously and uninterruptedly published in said Kootenai County, during a period of more than seventy-eight consecutive weeks immediately prior to the first publication of said notice. On this 23 day of November in the year of 2017, before me, a Notary Public, personally appeared Geri Hagler, 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 he executed the same.



Katrina George
Notary Public for the State of Idaho,
residing at Coeur d'Alene, Idaho

MY COMMISSION EXPIRES 8/29/23

IDWR WATER APPLICATIONS

The following application has been filed to amend Permit to Appropriate Water:
95-17195

LONE MOUNTAIN WATER ASSN INC

10063 NAVION DR
HAYDEN, ID 83835
Point of Diversion NESE
S10 T52N R04W
KOOTENAI County
Source GROUND WATER
Use: DOMESTIC

01/01 to 12/31 0.16 CFS
Total Diversion: 0.16 CFS
Date Filed: 11/1/2017

Place Of Use: DOMESTIC
T52N R04W S1

SWNW SENW NESW
NWSW SWSW

T52N R04W S2
SENE NESE NWSE SWSE
SESE

This amendment of permit proposes to move the point of diversion nearly 1.5 miles SW near the intersection of Ramsey Rd and Diagonal Rd. The permitted diversion rate, nature of use, and place of use will remain the same.

The following application has been filed to appropriate the public waters of the State of Idaho:

95-17380

CLINTON & JUDY BARNES

14205 W WINCH AVE
RATHDRUM, ID 83858
Point of Diversion SWSW
S4 T51N R05W

KOOTENAI County
Source UNNAMED STREAM
Tributary HOWELL GULCH
CREEK

Use: FIRE PROTECTION
STORAGE

01/01 to 12/31 19.7 AF

Use: RECREATION

STORAGE

01/01 to 12/31 19.7 AF

Use: STOCKWATER

STORAGE

01/01 to 12/31 19.7 AF

Total Diversion: 19.7 AF

Date Filed: 11/2/2017

Place Of Use: FIRE

PROTECTION STORAGE

T51N R05W S4 NWSW
SWSW

Place Of Use: RECREATION
STORAGE

T51N R05W S4 NWSW
SWSW

Place Of Use: STOCKWATER

T51N R05W S4 NWSW
SWSW

Permits will be subject to all prior water rights. For additional information concerning the property locations, contact Northern Region office at (208) 762-2800. 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 Mineral Drive, Suite 100, Coeur D'Alene ID 83815 together with a protest fee of \$25.00 for each application on or before 12/4/2017. The protestant must also send a copy of the protest to the applicant.
GARY SPACKMAN,

Director

CDA LEGAL 8624

NOVEMBER 16, 23, 2017