

State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 95-17374

Priority: September 26, 2017

Maximum Diversion Rate: 0.01 CFS

This is to certify, that KIM PHELPS And/Or
SHAWN PHELPS
24500 E THORTON AVE
LIBERTY LAKE WA 99019

has applied for a permit to appropriate water from:

Source: TWIN LAKES

Tributary: RATHDRUM CREEK

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	03/15 to 11/15	0.01 CFS

LOCATION OF POINT(S) OF DIVERSION:

TWIN LAKES SE1/4NE1/4 Sec. 6, Twp 52N, Rge 04W, B.M. KOOTENAI County

PLACE OF USE: IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
52N	04W	6				.2													.2

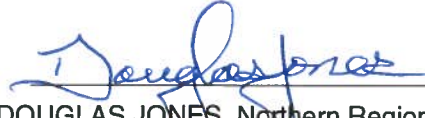
Total Acres: 0.2

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **November 01, 2019**.
2. Subject to all prior water rights.
3. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which the permit holder had no control.
4. A fish screen of 1/4 inch or smaller mesh shall be installed and maintained at the point of diversion.
5. 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.
6. 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. 95C.
7. 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 26th day of October, 20 17.


DOUGLAS JONES, Northern Regional Manager

State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

95-17374

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.

04W



-  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

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

October 27, 2017

SHAWN & KIM PHELPS
24500 E THORTON AVE
LIBERTY LAKE WA 99019

RE: Permit No. 95-17374

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.

As a permit owner you must commence the excavation or construction of the diverting works within one year of the date the permit was issued, and you must proceed diligently until the project is completed. The date shown under condition no. 1 is the date when the project must be completed.

The Department will send you a 'Proof Due Notice' approximately 60 days prior to the above referenced date requesting you to file either a Proof of Beneficial Use form or a Request for Extension of Time form.

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 the Northern Regional Office at 208-762-2800.

Sincerely,

A handwritten signature in blue ink, appearing to read "Douglas Jones", with a long horizontal flourish extending to the right.

Douglas Jones, P.E.

Northern Regional Manager

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on October 27, 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.

95-17374

**SHAWN & KIM PHELPS
24500 E THORTON AVE
LIBERTY LAKE WA 99019**

A handwritten signature in cursive script, reading "Tammy Alleman", is positioned above a horizontal line.

**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.

RECEIVED

OCT 23 2017

AFFIDAVIT OF PUBLICATION

IDWR / NORTH

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 5 day of October 20 17, and ending on the 12 day of October 20 17, 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 12 day of October 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

NOTICE OF APPLICATIONS

The following application(s) have been filed to appropriate the public waters of the State of Idaho:

95-17365

DAVE TODD
VHALLERI T HOHN
1302 15TH ST NW
CALGARY, AB T2N 26
Point of Diversion L5(SWNW)
S5 T52N R04W
KOOTENAI County
Source TWIN LAKES
Use: IRRIGATION
03/15 to 11/15 0.03 CFS
Total Diversion: 0.03 CFS
Date Filed: 8/21/2017
Place Of Use: IRRIGATION
T52N R04W S5 L5(SWNW)
Total Acres: 0.5

95-17374

SHAWN PHELPS
KIM PHELPS
24500 E THORNTON AVE
LIBERTY LAKE, WA 99019
Point of Diversion SENE
S6 T52N R04W
KOOTENAI County
Source TWIN LAKES
Use: IRRIGATION
03/15 to 11/15 0.01 CFS
Total Diversion: 0.01 CFS

Date Filed: 9/26/2017

Place Of Use: IRRIGATION
T52N R04W S6 SENE

Permits will be subject to all prior water rights. For additional information concerning the property location, 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 10/23/2017. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director
LEGAL 8416
OCTOBER 5, 12, 2017



STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY

2110 Ironwood Parkway, Coeur d'Alene, ID 83814 (208) 769-1422

C. L. "Butch" Otter, Governor
John H. Tippets, Director

October 6, 2017

Idaho Department of Water Resources
7600 North Mineral Drive, Suite 100
Coeur d'Alene, Idaho 83815
Tammy.Alleman@idwr.idaho.gov

Subject: Comments on Application for Permit #95-17374

The Idaho Department of Environmental Quality (DEQ) Coeur d'Alene Regional Office received a request for comment regarding the subject Application for Permit from Shawn and/or Kim Phelps. The permit request is for drawing surface water for irrigation purposes to serve a residence located on Twin Lakes. DEQ has the following comments.

- Based on the applicant's information, the Phelps residence is served drinking water from the Twin Lakes Service Area public drinking water system (PWS #ID1280099). This PWS is owned and operated by the North Kootenai Water and Sewer District (NKWSD).
- It was not clear to DEQ where the point of use for the proposed permit would tie in to the property. If the Phelps surface water irrigation system will remain separate in configuration and not be connected to the residence or potable system, DEQ does not have any further comment.
- If the Phelps surface water irrigation system is intended to be configured in such a manner where it is connected to the house or any outbuildings also served potable water from NKWSD, this is unapproved and would be considered a cross connection.
- DEQ recommends Shawn and/or Kim Phelps contact NKWSD at 208-687-5393 to discuss future plans for this irrigation permit and subsequent system, as well as District backflow protection requirements on the potable service.

Thank you for the opportunity to comment on the Application for Permit #95-17374. If you have questions or comments regarding Idaho Rules for Public Drinking Water Systems please contact DEQ at (208) 769-1422.

Sincerely,

A handwritten signature in blue ink, appearing to read "Anna Moody".

Anna Moody
Drinking Water Program Supervisor
Anna.Moody@deq.idaho.gov

Ec: Shane and/or Kim Phelps, sphelps@msn.com
Mike Galante, NKWSD Administrator, mikeg@nkwsd.com
Jessie Camburn, NKWSD Operator, jessiec@nkwsd.com
Matt Plaisted, DEQ Regional Engineering Manager, Matthew.Plaisted@deq.idaho.gov
Suzanne Scheidt-Miller, DEQ Coeur d'Alene, Suzanne.ScheidtMiller@deq.idaho.gov
Filed in TRIM PWSID1280099