



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region • 2735 Airport Way • Boise, Idaho 83705-5082

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

08/11/2017

ROBERT AND KELLY THOMAS
17947 SHORTCUT RD
MURPHY ID 83650

CHARLIE HONSINGER
HONSINGER LAW PLLC
PO BOX 517
BOISE ID 83701

Re: Withdrawal of Protest against Application for Permit No. 57-11884 (Kelly and Robert Thomas)

Dear Parties:

The Department of Water Resources acknowledges receipt of your stipulation for withdrawal of protest ("stipulation") against the above referenced application. The parties have agreed to the protestant's withdrawal if approval of the permit application is conditioned substantially as provided in the stipulation.

In any conditional withdrawal, the Department must review the agreement to ensure that conditions to be included in an approval are acceptable. The agreements included components that are to be addressed by the Department as conditions on the face of an approval as well as components that are the responsibility of the parties to accomplish and enforce. The attached draft approval contains the conditions stipulated by the parties as well as other conditions required by the Department.

Please review the draft approval carefully. If you think the draft approval is not substantially in conformance with your stipulated conditions, please contact the Department within 14 days of the date of this letter with your concerns. The application has no remaining protests; therefore, if we do not hear from you, the Department will take the steps necessary to bring the application to final resolution. As always, you may file a petition for reconsideration within 14 days after the preliminary order approving the permit is issued.

Please feel free to contact this office if you have any questions regarding this procedure.

Sincerely,

Nick Miller
Regional Manager

Enclosure

cc:
SPF WATER ENGINEERING LLC
C/O LORI GRAVES
300 E MALLARD DR STE 350
BOISE ID 83706

State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 57-11884

Priority: September 20, 2016

Maximum Diversion Rate: 2.45 CFS

This is to certify, that ROBERT A THOMAS
KELLY A THOMAS
17947 SHORTCUT RD
MURPHY ID 83650

has applied for a permit to appropriate water from:

Source: GROUND WATER

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	2.45 CFS

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER	NE¼SW¼	Sec. 29,	Twp 04S,	Rge 01E, B.M.	OWYHEE County
GROUND WATER	NW¼SW¼	Sec. 29,	Twp 04S,	Rge 01E, B.M.	OWYHEE County
GROUND WATER	SW¼SW¼	Sec. 29,	Twp 04S,	Rge 01E, B.M.	OWYHEE County
GROUND WATER	SE¼SW¼	Sec. 29,	Twp 04S,	Rge 01E, 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	
04S	01E	27									3.0	20.0	15.0	2.0					40.0
04S	01E	28							4.0	2.0	33.0	30.0	6.0	2.0	16.0	30.0	16.0	18.0	157.0
04S	01E	29												3.0	29.0	10.0	25.0	26.0	93.0

Total Acres: 290

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **September 01, 2022**.
2. Subject to all prior water rights.
3. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor exceed a combined annual maximum diversion volume of 1305 af at the field headgate for the place of use.
4. This right when combined with all other rights shall provide no more than 4.5 afa per acre at the field headgate for irrigation of the place of use.
5. This right shall not be used as the sole source of irrigation for more than 200 acres within the place of use described above.
6. The right holder shall make full beneficial use of all surface water available to the right holder for irrigation of the lands authorized to be irrigated under this right. The right holder shall limit the diversion of ground water under this right for land with an appurtenant surface water right(s) to those times when the surface water supply is not available or reasonably sufficient to irrigate the place of use authorized under this right.

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7. If the surface water right(s) appurtenant to the place of use for this right is unavailable for any reason other than drought or curtailment by priority (for example abandoned, forfeited, sold, transferred, leased, used on another place of use, or disallowed by court decree), the right holder shall not divert ground water for irrigation purposes on the land with appurtenant surface water rights without an approved transfer pursuant to Section 42-222, Idaho Code, or approval of the Department if a transfer is not required.
8. This right authorizes a single point of diversion.
9. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.
10. To prevent injury to prior water rights appropriating water from Castle Creek and/or the underlying shallow aquifer tributary to Castle Creek, the well(s) used as a point(s) of diversion for this water right shall be constructed and maintained with unperforated casing and sealed into the first significant confining layer located below the ground surface.
11. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
12. 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.
13. 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.
14. 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.
15. 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 _____ day of _____, 20_____.

Nick Miller
Manager, IDWR Western Region

State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

57-11884

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.

