

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 84-12288

Priority: March 15, 2017

Maximum Diversion Rate: 0.04 CFS

This is to certify, that JOHN STEMRICH And/Or
SANDRA STEMRICH
5321 HARMONY HEIGHTS LOOP
OROFINO ID 83544

has applied for a permit to appropriate water from:

Source: SPRING

Tributary: WHISKEY 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>
DOMESTIC	01/01 to 12/31	0.04 CFS

LOCATION OF POINT(S) OF DIVERSION:

SPRING L2 (NE1/4SW1/4NW1/4) Sec. 3, Twp 36N, Rge 02E, B.M. CLEARWATER County

PLACE OF USE: DOMESTIC

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
36N	02E	3																	

X
L2

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before May 01, 2018.
2. Subject to all prior water rights.
3. Domestic use is for 1 home.
4. The irrigation occurring under this domestic use shall not exceed 1/2 acre.
5. 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 3rd day of May, 2017.


MORGAN CASE, Northern Regional Manager

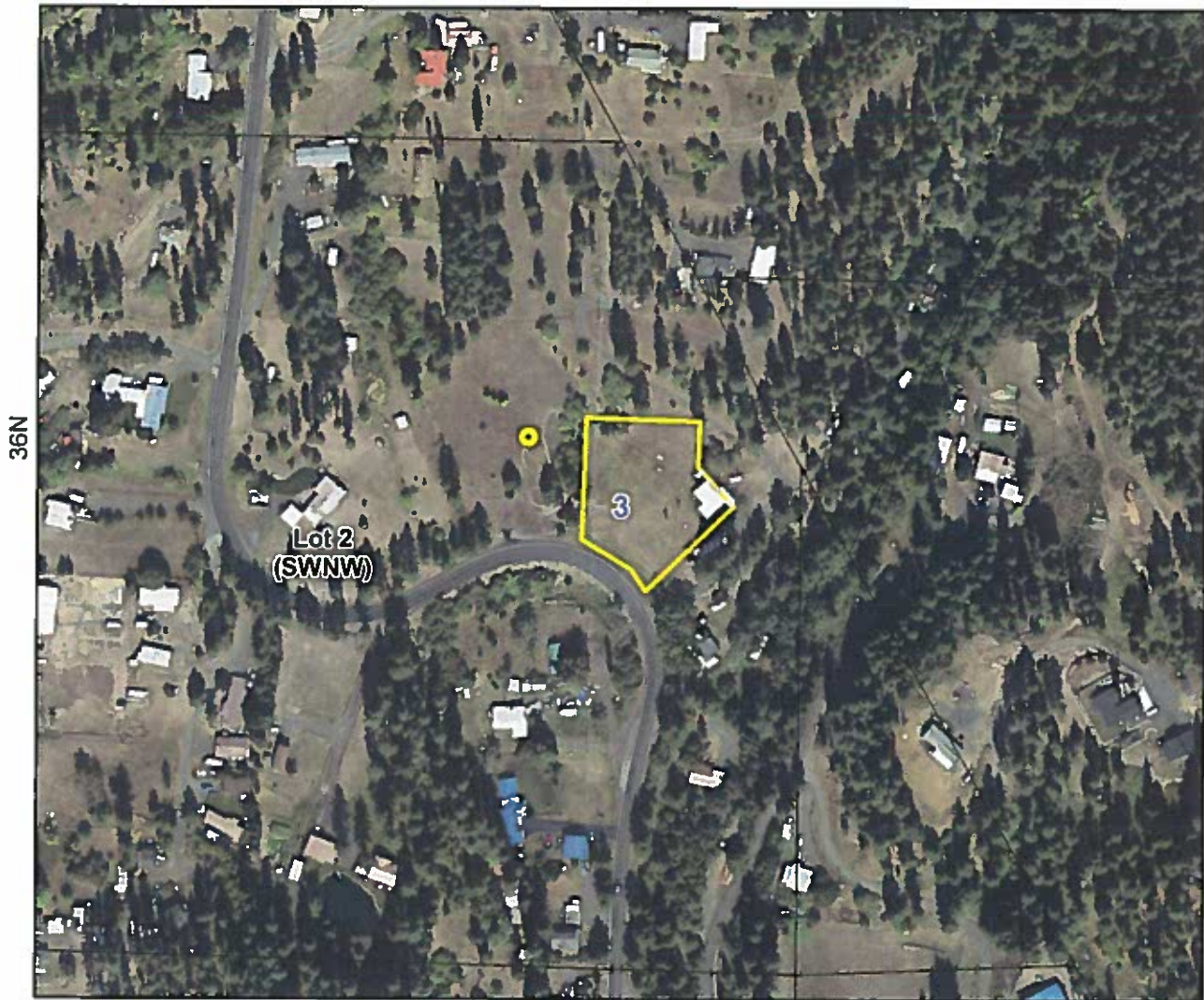
State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

84-12288

This map depicts the DOMESTIC 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.

02E



-  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

May 4, 2017

JOHN STEMRICH
SANDRA STEMRICH
5321 HARMONY HEIGHTS LOOP
OROFINO ID 83544

RE: Permit No. 84-12288

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 me at 208-762-2800.

Sincerely,

A handwritten signature in black ink that reads "Morgan Case". The signature is written in a cursive, flowing style.

Morgan Case

Northern Regional Manager

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on May 4, 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. 84-12288

**JOHN STEMRICH
5321 HARMONY HEIGHTS LOOP
OROFINO ID 83544**

**SANDRA STEMRICH
5321 HARMONY HEIGHTS LOOP
OROFINO ID 83544**



**Natalie Steading
Technical Records Specialist**

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.

MEMORANDUM

To: Water Right Application 84-12288

From: Adam Frederick *AE*

Date: 04/28/2017

Re: Application for a Permit to Appropriate Water within the Salmon and Clearwater River Basins.

Re: Regional Analysis and Recommendation in accordance with Water Appropriation Rules (IDAPA 37.03.08.040.05).

Water Supply Information

Water from the spring on the neighbor's property should be available as long as spring produces water. Because of the small quantity of water for domestic use, it should not adversely affect MSF in the area.

Good Faith, Delay, or Speculative Information

The applicant plans to divert water for neighbor's property with an easement and there are no known issues with any other party.

Financial Resources Information

No significant resources required.

Local Public Interest

The Idaho Department of Fish & Game and the Department of Environmental Quality have been asked to comment by the Idaho Department of Water Resources. Department of Environmental Quality responded by letter that this proposed action should not be allowed to impair existing beneficial uses of groundwater and interconnected surface water. Idaho Department of Fish & Game did not respond.

Injury to Other Water Rights

The spring is tributary to Whiskey Creek. There is no evidence to suggest that there will be injury to other users. No comment from IWRB about injury to MSF.

Recommendation

The Northern Region recommends proceeding with the processing of this water right application.

AFFIDAVIT OF PUBLICATION

RECEIVED

APR 17 2017

IDWR / NORTH

STATE OF IDAHO)
) ss.
County of Clearwater)

CLOANN MCNALL

being first duly sworn in, on oath, deposes and says:

That I am and at all times herein mentioned have been a citizen of the United States and of the State of Idaho, over 21 years of age, and that I am not a party to nor interested in the above entitled proceeding; that I am and at all times herein mentioned have been the Editor, Foreman, of THE CLEARWATER TRIBUNE; that said Clearwater Tribune is a newspaper of general circulation, printed and published weekly at Orofino, in the County of Clearwater and State of Idaho; that the Clearwater Tribune has been continuously and uninterruptedly published in Clearwater County, Idaho, during the period of seventy-eight consecutive weeks prior to the first publication of attached copy of:

Idaho Department of Water Resources STEMRICH APPLICATION

of which the annexed is a full, true and correct printed copy, was published in the regular and entire issue of said newspaper, and not in any supplement thereof, for a period of two consecutive weeks, commencing on the 6th day of April 2017 and ending on the 13th day of April 2017.

CloAnn McNall

STATE OF IDAHO)
)
COUNTY OF CLEARWATER)

On this 13th day of April in the year of 2017, before me, a Notary Public, personally appeared

CloAnn McNall

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 she executed the same.

Marcie Stanton

Notary Public for Idaho
Resident at Orofino, Idaho
My commission expires: 5-16-20

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

84-12288

JOHN STEMRICH

SANDRA STEMRICH

5321 HARMONY HEIGHTS LOOP

OROFINO, ID 83544

Point of Diversion L2 (NESWNW) S3 T36N R02E CLEARWATER County

Source SPRING tributary WHISKEY CREEK

Use: DOMESTIC 01/01 to 12/31 0.04 CFS

Total Diversion: 0.04 CFS

Date Filed: 3/15/2017

Place of Use: DOMESTIC T36N R02E S3 L2 (SWNW)

Domestic use is for 1 home with irrigation of up to 1/2 acre.

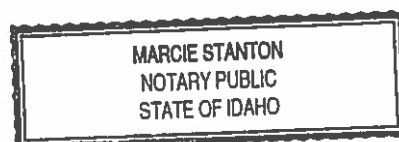
Permits will be subject to all prior water rights. For additional information concerning the property location, contact Northern Region office at (208) 762-2800; or for a full description of the right(s), please see: <http://www.idwr.idaho.gov/apps/ExtSearch/WRAApplicationResults/>.

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 4/24/2017. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Published on 4/6/2017 and 4/13/2017

4-6,13-17c





STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY

1118 F Street • Lewiston, Idaho 83501 • (208) 799-4370
www.deq.idaho.gov

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

March 30, 2017

Mr. Adam Frederick
Idaho Department of Water Resources
7600 North Mineral Drive, Suite 100
Coeur d'Alene, Idaho 83815

RECEIVED
APR - 3 2017
IDWR/NORTHERN

Subject: Water Appropriation, Permit # 84-12288

Dear Mr. Frederick:

We received a request for comment along with a copy of an application for a water appropriation permit to appropriate 0.04 CFS from a spring located on property in Clearwater County at township 36N, range 02E Section 3. The appropriated water will be used for domestic use and to irrigate ½ acre from January 1 to December 31. Assuming all federal, state and local permits have been obtained, regulations met, and reviews completed, we offer the following comments.

Because we assume any water of the State which occurs beneath the surface of the earth in a saturated geological formation of rock or soil to be ground water (Idaho Code 58.01.02.010.38), we assume there to be hydrologic gradient connectivity to surface waters of the State. It is the policy of the State of Idaho Ground Water Management Plan that existing and projected beneficial uses of ground water and interconnected surface water be maintained and protected and degradation that would impair beneficial uses of ground water and interconnected surface water not be allowed.

Thank you for the opportunity to comment on your application. If you have any questions regarding the Idaho Water Quality Standards, please contact us at (208) 983-0808, or by email at Daniel.stewart@deq.idaho.gov

Sincerely,

A handwritten signature in black ink, appearing to read "Daniel D. Stewart".

Daniel D. Stewart
Water Quality Analyst

c: John and Sandra Stemrich, Orofino, ID
Cynthia Barrett, DEQ
TRIM

Ball, Dianne

From: Ball, Dianne
Sent: Wednesday, March 29, 2017 9:34 AM
To: rhennekey@idfg.idaho.gov; Cynthia.Barrett@deq.idaho.gov; Clark, Cynthia (Bridge)
Subject: RE: Application for Permit No. 84-12288
Attachments: 84-12288-App-map-and-warranty-deed.pdf

Good morning, Ray, Cindy and Cynthia:

The Department of Water Resources is seeking written comment and/or recommendations from your agency regarding the above referenced water right application. A copy of the application is enclosed for your reference.

This is being prepared for publication on April 6 and 13, 2017 with April 24 2017 as final date for protests to be received in our office.

Your prompt response to this request is appreciated. If your agency desires to formally protest the approval of this application, you may do so after the notice is published by filing a written protest along with a \$25.00 filing fee within 10 days after final publication.

Please contact this office if you have any questions regarding the application.

Sincerely,

Dianne Ball

Administrative Assistant
Idaho Department of Water Resources
7600 N Mineral Dr., Ste. 100
Coeur d'Alene, ID 83815
208-762-2800 Fax 208-762-2819