

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 85-15777

Priority: September 23, 2016

Maximum Diversion Rate: 0.04 CFS

This is to certify, that BARNEY E SMITH And/Or
PATTI K SMITH
1101 MAREK RD
WINCHESTER ID 83555

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>
DOMESTIC	01/01 to 12/31	0.04 CFS

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER SE1/4SE1/4 Sec. 1, Twp 32N, Rge 03W, B.M. LEWIS 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		
32N 03W 1																	X	

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **November 01, 2017**.
2. Subject to all prior water rights.
3. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
4. Domestic use is for 1 home.
5. The irrigation occurring under this domestic use shall not exceed 1/2 acre.
6. 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 14th day of November, 2016.

Morgan Case
MORGAN CASE, Northern Regional Manager

State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

85-15777

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.

03W



- 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 Mineral Drive, Suite 100, Coeur d'Alene, Idaho 83815

Phone: (208) 762-2800 FAX: (208) 762-2819 www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

November 15, 2016

BARNEY E SMITH And/Or
PATTI K SMITH
1101 MAREK RD
WINCHESTER ID 83555

RE: Permit No.85-15777

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.

The right to drill a well is not a part of this permit to appropriate water. Beginning in July of 1987, a statute was enacted which requires a drilling permit for new well construction and deepening of existing wells. If the well(s) proposed for use under this water right permit were drilled or deepened after July 1, 1987, a separate drilling permit must be obtained from this Department. Please contact the Ground Water Protection Section located here at this office or our regional office nearest you.

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,



Morgan Case
Northern Regional Manager

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on November 15, 2016 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.

85-15777

**BARNEY E SMITH
1101 MAREK RD
WINCHESTER ID 83555**

**PATTI K SMITH
1101 MAREK RD
WINCHESTER ID 83555**



**Dianne L. Ball
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.

MEMORANDUM

To: Water Right Application 85-15777

From: Adam Frederick

Date: 11/7/16

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).

Good Faith, Delay, or Speculative Information

The applicant plans to divert water for his/her own use on property that he/she owns and there are no known issues with any other party.

Financial Resources Information

The applicant will use its own resources to complete the project

Local Public Interest

It is in the public's best interest to approve this permit because it is a domestic use.

Injury to Other Water Rights

There does not appear to be any foreseen impacts to the minimum stream flow requirement on the Clearwater River.

Recommendation

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

Affidavit of Publication

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

I, STEVE A. WHERRY, being first duly sworn, depose and say that I am Editor of the LEWIS COUNTY HERALD, a weekly newspaper, published and issued weekly at Nezperce, Lewis County, State of Idaho, which is of general circulation in said county and state, that the said notice, of which the hereto attached is a true copy, was published in said newspaper for

2 weeks, being published 2 times, the

first publication being on the 5th day of

October, 2016, and the last publication on the

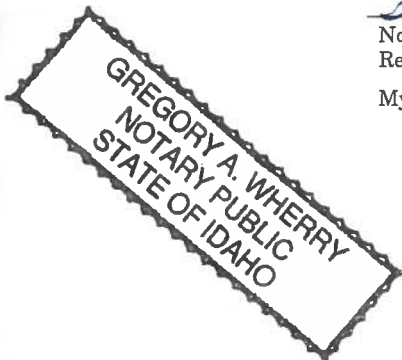
13th day of October, 2016; and that

the said notice was published in the newspaper proper and not in a supplement; that said newspaper has been continuously and uninterruptedly published in said county during a period of seventy-eight (78) consecutive weeks prior to the first publication of said notice or advertisement.

Steve A. Wherry

STATE OF IDAHO, }
County of Idaho, }
On this 2nd day of November in the year of 2016,
before me, a Notary Public, personally appeared Steve A. Wherry,
know or identified to me to be the person whose name is 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.

Gregory A. Wherry
Notary Public for Idaho
Residing at Cartersville, IN
My commission expires: 9/22/2020



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

85-15777

BARNEY E SMITH

PATTI K SMITH

1101 MAREK RD

WINCHESTER, ID 83555

Point of Diversion SESE S1 T32N R03W LEWIS County

Source GROUND WATER

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

Total Diversion: 0.04 CFS

Date Filed: 9/23/2016

Place of Use: DOMESTIC T32N R03W S1 SESE

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

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 10/24/2016. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Published on 10/6/2016 and 10/13/2016

RECEIVED
NOV 07 2016
IDWR / NORTH

Ball, Dianne

From: Ball, Dianne
Sent: Wednesday, November 02, 2016 10:36 AM
To: Legal Notices-CotChron-FOR LEWIS COUNTY HERALD
Cc: Frederick, Adam; Case, Morgan
Subject: Legal Notice for Permit No. 85-15777 ~scheduled to publish October 6 and 13, 2015.
Attachments: LegalNotice 09-27-16 LC e-mail 85-15777.doc

Good morning, Greg,

Back on September 27, 2016, I sent to you a legal notice with request to publish in the Lewis County Herald on October 6 and 13, 2016, once a week for two consecutive weekly issues. I requested a proof/preview copy and received that stating it would publish on those dates. The legal notice was for application No. 85-15777 for Barney & Patti Smith.

To date, I have not received an affidavit of publication or a bill for that legal notice. That was to be sent to me at our office here in Coeur d'Alene.

Did that actually publish on those dates, or did it slip through the cracks, or did the affidavit and bill perhaps be sent to another one of our regional offices, or to our state office in Boise, Hopefully it wasn't sent to the applicants.

I cannot complete the processing on this file if I don't have the affidavit and bill. Please check your records to determine what happened and let me know so we can clear this matter.

Thanks you,

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