

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 94-09491

Priority: September 23, 2016

Maximum Diversion Rate: 0.04 CFS

This is to certify, that PAMELA J PENN
711 S BROOKS RD
MEDICAL LAKE WA 99022

And/Or

ULYSSES PENN JR
711 S BROOKS RD
MEDICAL LAKE WA 99022

have 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 NE1/4,SW1/4, Sec. 29, Twp 50N,Rge 04E, B.M., SHOSHONE 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					
50N	04E	29									X								

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **November 01, 2021**.
2. Subject to all prior water rights.
3. This right does not grant any right-of-way or easement across the land of another.
4. 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.
5. Domestic use is for 1 home.
6. The irrigation occurring under this domestic use shall not exceed 1/2 acre.
7. Place of use is located within Mineral Survey 1748, Lot 5, Coeur d'Alene River Cabin Sites subdivision.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code.

Signed, this 17th day of November, 2016.

Morgan Case
MORGAN CASE, Northern Regional Manager

State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

94-9491

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.



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

0 0.01 0.02 0.04 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

November 9, 2016

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

PAMELA J PENN And/Or
ULYSSES PENN JR
711 S BROOKS RD
MEDICAL LAKE WA 99022

RE: Permit No.94-9491

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.

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,

A handwritten signature in blue 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 November 9, 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. 94-9491

**PAMELA J PENN
711 S BROOKS RD
MEDICAL LAKE WA 99022**

**ULYSSES PENN JR
711 S BROOKS RD
MEDICAL LAKE WA 99022**



**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

Date: November 04, 2016
To: Water Right File 94-9491
From: smaxey
Re: OWNERSHIP

SHOSHONE COUNTY INTERNET WEB SITE, UPDATED OCTOBER 2016, CONFIRMS THAT PAMELA J. PENN IS CURRENT OWNER OF RECORD FOR PLACE OF USE TAX PARCEL RPO10500000050.

PRIOR OWNER SHEPHERD IS STILL SHOWN ON ARCMAP TAXLOTS AS OF NOV 4 2016.

AFFIDAVIT OF PUBLICATION

RECEIVED

OCT 17 2016

IDWR / NORTH

STATE OF IDAHO, }
County of Shoshone } ss.

Holly Fredericks 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 "Shoshone News Press", a newspaper printed and published daily except Sunday and Monday in Kellogg, Shoshone 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 Thurs issue of said newspaper for 2 consecutive weeks commencing on the 6 day of Oct, 2016, 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 Shoshone County, during a period of more than seventy-eight consecutive weeks immediately prior to the first publication of said notice Holly Fredericks.

On this 13 day of Oct in the year of 2016, before me, a Notary Public, personally appeared Holly Fredericks, 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 in Coeur d'Alene, Idaho



MY COMMISSION EXPIRES 8/29/17

RECEIVED
OCT 17 2015
IDWR / NORTH

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

94-9491

ULYSSES PENN JR
PAMELA J PENN
711 S BROOKS RD
MEDICAL LAKE, WA 99022
Point of Diversion NESW S29 T50N R04E SHOSHONE 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 T50N R04E S29 NESW
Domestic use is for 1 home.

94-9492

MARK BERGER
ANNA BERGER
PO BOX 274
WALLACE, ID 83873
Point of Diversion NWNE S21 T48N R04E SHOSHONE County
Source REVENUE GULCH CREEK tributary SOUTH FORK
COEUR D ALENE RIVER
Use: DIVERSION to STORAGE 01/01 to 12/31 0.2 CFS
Use: RECREATION 01/01 to 12/31 0.2 CFS
Use: RECREATION STORAGE 01/01 to 12/31 7.9 AF
Total Diversion: 0.2 CFS
Date Filed: 9/22/2016
Place of Use: RECREATION STORAGE T48N R04E S21
NWNE
Place of Use: RECREATION T48N R04E S21 NWNE
Recreation use is for fishing and swimming.
Permits will be subject to all prior water rights. For additional in-
formation 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/WRAApplicationResult>
s/.

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 applica-
tion on or before 10/24/2016. The protestant must also send a
copy of the protest to the applicant.

GARY SPACKMAN, Director
LEGAL 2353
OCTOBER 6, 13, 2016

Maxey, Shaun

From: Spencer, Steven M -FS [sspencer@fs.fed.us]
Sent: Thursday, October 13, 2016 10:24 AM
To: Maxey, Shaun
Subject: Application for Permit 94-09491
Attachments: 94-09491 Penn Application For Permit.docx

Shaun,

Thank you for talking with me a few moments ago about my concerns with the legal description of this application. As you can see from the attachment the legal location for Application For Permit 94-09491 is shown as the NESW Section 29 T50N R4E. It is important to realize that this quarter-quarter is split private and federal ownership. The private land is east of the North Fork Coeur d'Alene River on Mineral Survey 1748. The land west of the North Fork Coeur d'Alene River is National Forest System (NFS) land that would be Lot 9. Lot 9 also includes NFS land in the SESW of Section 29. While there is widespread dependence on using quarter-quarters for on the ground locations, in the context of the actual legal description of this property it also needs to show on any subsequent Permit and License that the property is part of Mineral Survey 1748. This would be an added piece of valuable information with respect to the location of the well and that it is on private land. I am requesting the Department include that the property (POD and POU) is on part of Mineral Survey 1748 to avoid any confusion or misunderstanding in the future. It would also preserve the mining history and legacy important in this area.

Thank you for working with me on this matter. If you have any questions please contact me.

Steve



Steven M. Spencer
Water Use Specialist

Forest Service
Intermountain Region

p: 208-365-7055
sspencer@fs.fed.us

1805 Hwy 16 Rm 5
Emmett, ID 83617

www.fs.usda.gov



Caring for the land and serving people

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MEMORANDUM

Date: October 13, 2016
To: Water Right File 94-9491
From: smaxey
Re: MINERAL SURVEY

FOREST SERVICE CONCERN AND COMMENT ABOUT INCLUSION OF MINERAL SURVEY
NUMBER IN CONDITIONS SHOULD BE MET BY INLCUDING CONDITION X60 IN PERMIT
CONDITIONS.