

State of Idaho  
Department of Water Resources  
**Water Right License**  
WATER RIGHT NO. 41-07066

PRIORITY: May 10, 1996

Maximum Diversion Rate: 0.28 CFS

Maximum Diversion Volume: 56.0 AF

It is hereby certified that:

KERRY G And MERCY SPETH  
4136 N JONES RD #A  
OAK HARBOR WA 98277

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated April 08, 1983, and has submitted Proof of Beneficial Use on May 10, 1996. An examination confirms water is diverted from:

**SOURCE:**  
GROUND WATER

and a water right has been established as follows:

| <u>BENEFICIAL USE</u> | <u>PERIOD OF USE</u> | <u>DIVERSION RATE</u> | <u>ANNUAL<br/>DIVERSION VOLUME</u> |
|-----------------------|----------------------|-----------------------|------------------------------------|
| IRRIGATION            | 04/01 to 10/31       | 0.28 CFS              | 56.0 AF                            |

**LOCATION OF POINT(S) OF DIVERSION:**

GROUND WATER SE¼NW¼ Sec. 7, Twp 09S, Rge 30E, B.M. POWER 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 |        |
| 09S | 30E | 7   |    |    |    |    |    |    | 7.6 | 6.4 |    |    |    |    |    |    |    |    | 14.0   |

Total Acres: 14

**CONDITIONS OF APPROVAL**

1. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the place of use.
2. The use of water under this right shall not give rise to any claim against the holder of a senior water right based upon the theories of forfeiture, abandonment, adverse possession, waiver, equitable estoppel, estoppel by laches or customary preference.

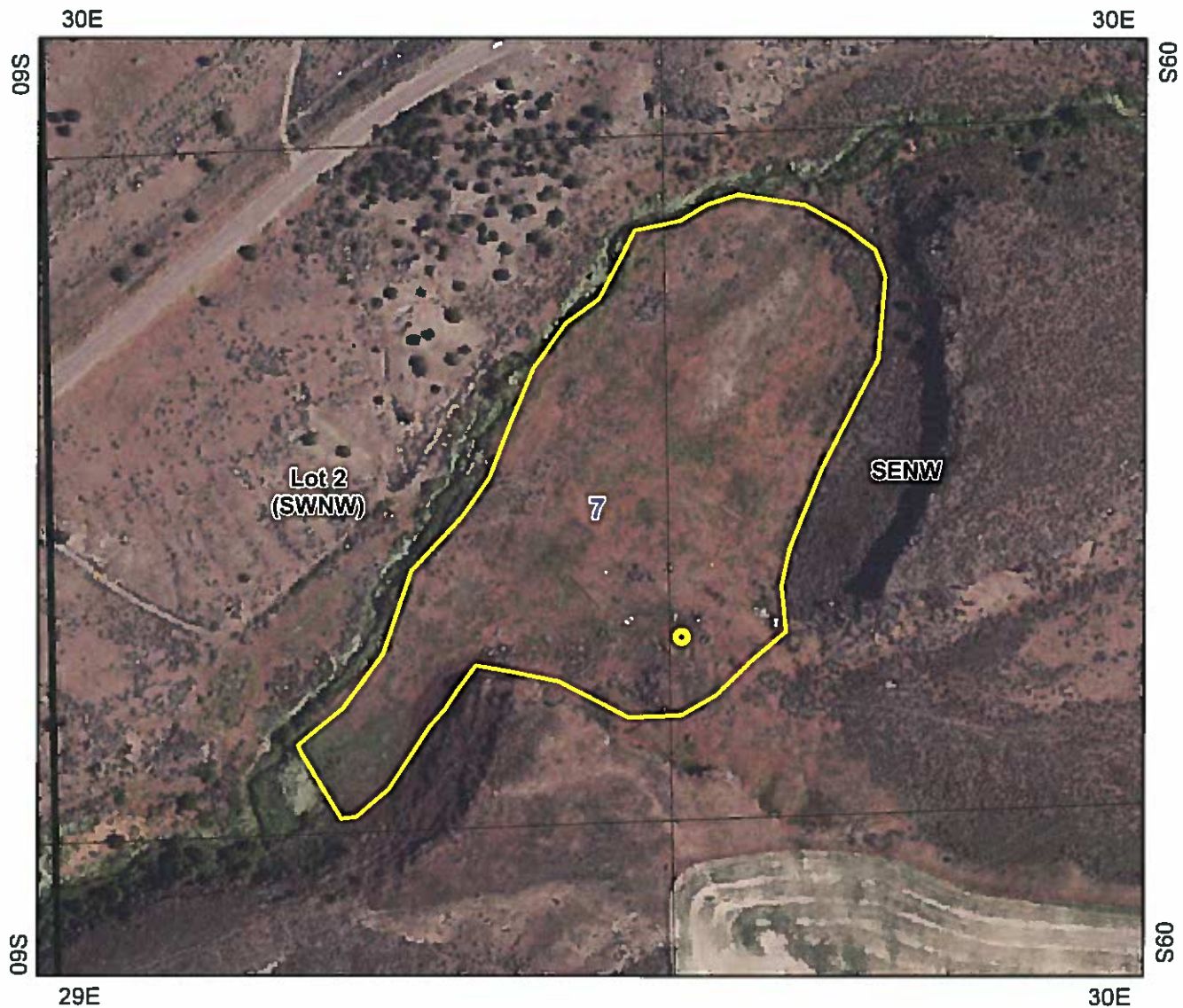
This license is issued pursuant to the provisions of Section 42-219, Idaho Code. The water right confirmed by this license is subject to all prior water rights and shall be used in accordance with Idaho law and applicable rules of the Department of Water Resources.

Signed this 26<sup>th</sup> day of September, 2016.

  
\_\_\_\_\_  
COREY SKINNER  
Southern Regional Manager

State of Idaho  
Department of Water Resources  
**Attachment to Water Right License**  
41-7066

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.



0 0.04 0.08 0.16 Miles

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





State of Idaho

## DEPARTMENT OF WATER RESOURCES

Southern Region • 650 Addison Ave W, Suite 500 • Twin Falls, Idaho 83301-5858

Phone: (208) 736-3033 • Fax: (208) 736-3037 • Website: [www.idwr.idaho.gov](http://www.idwr.idaho.gov)

C.L. "BUTCH" OTTER  
Governor

GARY SPACKMAN  
Director

September 26, 2016

KERRY G SPETH  
MERCY SPETH  
4136 N JONES RD #A  
OAK HARBOR WA 98277

RE: License No. 41-7066

### Issuance of License

Dear Water Right Holder(s):

The Department of Water Resources has issued the enclosed Water Right License confirming that a water right has been established in accordance with your permit. Please be sure to thoroughly review the conditions of approval and remarks listed on your license.

The license 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.

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 208-736-3033.

Sincerely,

Corey Skinner  
Southern Regional Manager

Enclosure(s)

## **CERTIFICATE OF SERVICE**

I hereby certify that on September 26, 2016 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (Approved License) to the person(s) listed below:

**RE: WATER RIGHT NO.**

**41-7066**

**KERRY G SPETH  
MERCY SPETH  
4136 N JONES RD #A  
OAK HARBOR WA 98277**

A handwritten signature in cursive script, reading "Denise Maline", is written over a horizontal line.

**Denise Maline  
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.



State of Idaho

## DEPARTMENT OF WATER RESOURCES

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C.L. "BUTCH" OTTER  
Governor

GARY SPACKMAN  
Director

September 12, 2016

KERRY SPETH  
MERCYDINA SPETH  
4136 N JONES RD, #A  
OAK HARBOR, WA 98277

RE: Fees received related to Water Right Permit No. 41-7066

Dear Water Right Holder(s):

This office has received your Notice of Change of Water Right Ownership (enclosed), recently submitted. We also received check number 321 in the amount of \$25; however, we are returning it to you. The ownership was previously updated via the Assignment of Permit form and \$25 fee received from you on August 5, 2016. Therefore, no further action is necessary at this time.

Thank you for your cooperation, and we apologize for any confusion this may have caused. If you have any questions regarding this letter, feel free to contact this office at (208) 736-3033.

Sincerely,

*Denise Maline*  
Denise Maline  
Administrative Assistant

Enclosures

**COPY** SEP 09 2016

MERCYDINA B SPETH  
KERRY G SPETH  
PH. 360-829-8548  
4136 JONES RD. APT A  
OAK HARBOR, WA 98277-7715

77-2/913 321

DATE 8/31/16

PAY TO THE ORDER OF DWR  
Twenty-five and 00/100 \$25.00

**usbank** All of us serving you®  
Change in Water Right Ownership

MEMO *hpsif*

DOLLARS

MP

June 10, 2016

Kerry and Mercy Speth  
4136 Jones Rd.  
Oak Harbor, WA 98277  
Phone: (360) 679 - 0518  
email: kerryspeth@hotmail.com

RECEIVED

JUN 16 2016

DEPT OF WATER RESOURCES  
SOUTHERN REGION

RE: Request Extension - Water Permit No. 41-7066

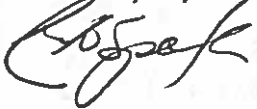
Dear Jana Reeder

*My name is Mercy Speth the wife of Kerry Speth, due to the nature of his job he's unable to respond your letter, I do have a power of attorney to conduct business on his behalf. I am writing this letter in response to your letter dated, May 18, 2016 regarding the Water Right Permit No. 41- 7066. Due to his job circumstances I'd like to request an additional two years for an extension to supply information of beneficial use of water at said location in the map you enclosed.*

*Here, is the historical record of Water Use - Permit No. 41-7066. On 1996 we've installed a commercial pump, and had been inspected by IDWR in order to continue a long standing "Right of Use Water" on this ranch. At that time, my husband was still an active military and often stationed over seas. For many years the ranch had been rented out through cattle owners, for those years they have used and water the grass that valley for grazing cattle. On 2013 the ranch got caught on a lightning fire that caused to loose our cabin and the power line, hence that we are unable to pump water. Since the downturn of our country's economy of 2008, my husband has not been had a stable job, in fact he just got hired 6 months ago to an all out of state job which this makes it more harder for now for us to work on this issue. Due to this circumstances we humbly hope that you'll approve our extension request. Thank you.*

Sincerely,

Mercy Speth





State of Idaho

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Copy

C.L. "BUTCH" OTTER  
Governor

GARY SPACKMAN  
Director

May 18, 2016

Kerry and Kathleen Speth  
4136 N. Jones Rd. #A  
Oak Harbor, WA 98277

RE: Water Right Permit No. 41-7066

### Notice of Pending Order to Void Permit

Dear Permit Holder(s):

On May 10, 1996 the Department of Water Resources (IDWR) received the Proof of Beneficial Use statement you submitted for Permit 41-7066, which described the diversion of 0.28 cfs of ground water in the NW¼, Section 7, Township 9 South, Range 30 East, for irrigation purposes. On May 17, 2016, I conducted an examination to verify your water use. I found that your irrigation system appears to be shut down and that the well is abandoned. I am, therefore, unable to verify that you have diverted water and applied it to a beneficial use as described by your permit.

The final step in the water appropriation process is the issuance of a Water Right License. By issuing a license, IDWR recognizes that you have met the requirements for establishing a water right. A license can be issued only for development that occurred prior to the date that the Proof of Beneficial Use statement was filed. No water right has been established, and no license can be issued, if you have not diverted water and applied it to a beneficial use within the time period authorized by your permit. After a Proof of Beneficial Use statement has been submitted, a permit cannot be retained to cover future development of the resource.

Unless you supply information within thirty days to demonstrate that you have developed a beneficial use of water in accordance with Permit 41-7066, the Department may take action to void your permit. If you are no longer interested in your permit, you can shorten the voiding process by signing and returning the enclosed relinquishment form.

If you have any question, please contact me at 208-736-3033.

Respectfully,

Jana Reeder  
Sr. Water Right Agent  
IDWR

Enclosure