

State of Idaho
Department of Water Resources
Water Right License
WATER RIGHT NO. 75-14645

PRIORITY: July 29, 2010

Maximum Diversion Rate: 0.01 CFS

It is hereby certified that:

CHRISTINE HAILEY 650 E 200 N RICHMOND UT 84333 And/Or

DAVID HAILEY 650 E 200 N RICHMOND UT 84333

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated July 29, 2010, and has submitted Proof of Beneficial Use on May 23, 2012. An examination confirms water is diverted from:

SOURCE: MC KIM CREEK

TRIBUTARY: SALMON RIVER

and a water right has been established as follows:

BENEFICIAL USE

IRRIGATION

PERIOD OF USE

04/01 to 10/31

DIVERSION RATE

0.01 CFS

LOCATION OF POINT(S) OF DIVERSION:

MC KIM CREEK NE¼SW¼ Sec. 16, Twp 17N, Rge 21E, B.M. LEMHI 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	
17N	21E	16									0.3								.3

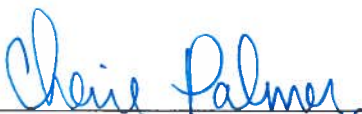
Total Acres: 0.3

CONDITIONS OF APPROVAL

1. Rights 75-7657 and 75-14645 when combined shall not exceed the irrigation of 0.5 acres.
2. The point of diversion is located in Lot 17, Blk. 3, Salmon River Country Estates.
3. The place of use is located within Lot 17, Blk. 3, Salmon River Country Estates.
4. Upon specific notification by the Department, the right holder shall install a lockable device of a type acceptable to the Department in a manner that will provide suitable control of the diversion.
5. This right when combined with all other rights shall provide no more than 0.01 cfs nor more than 1.1 afa at the field headgate for irrigation of the place of use.

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 3rd day of June, 2016.


CHERIE PALMER
Water Rights Supervisor

State of Idaho
Department of Water Resources
Water Right License
75-14645

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.



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





State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

June 6, 2016

CHRISTINE HAILEY
DAVID HAILEY
650 E 200 N
RICHMOND UT 84333

RE: License Nos. 75-14644 & 75-14645

Issuance of Licenses

Dear Water Right Holder(s):

The Department of Water Resources has issued the enclosed Water Right Licenses confirming that water rights have been established in accordance with your permits. Please be sure to thoroughly review the conditions of approval and remarks listed on your licenses.

The licenses are PRELIMINARY ORDERS issued by the Department pursuant to section 67-5243, Idaho Code. They can and will become final orders 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 208-287-4951.

Sincerely,

Pamela Skaggs
Water Rights Supervisor

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on June 7, 2016, I mailed true and correct copies, postage prepaid, of the foregoing PRELIMINARY ORDERS (Approved Licenses) to the person(s) listed below:

RE: WATER RIGHT NOS.

75-14644 & 75-14645

**CHRISTINE HAILEY
650 E 200 N
RICHMOND UT 84333**

**DAVID HAILEY
650 E 200 N
RICHMOND UT 84333**

A handwritten signature in black ink, reading "Darla Block", is written over a horizontal line.

**Darla Block
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.

RECEIVED

MAY 20 2016

DEPARTMENT OF
WATER RESOURCES

May 18, 2016

Sandra Thiel
Sr. Water Resource Agent
State of Idaho Department of Water Resources
322 East Front Street
PO Box 83720
Boise, ID 83720-0098

Dear Ms. Thiel,

I am writing to you in response to your letter dated May 3, 2016. Your letter indicated that a field examiner did not find a fish screen on our diversion for permits 75-14644 and 75-14645. In order to resolve this issue, I contacted you to better understand the type of fish screen we would need. Based on your recommendation, I contacted Larry Weeks, Easement Specialists with Idaho Department of Fish and Game.

Attached to this letter is a copy of a letter from Larry Weeks, Easement Specialist, with Idaho Department of Fish and Game. Mr. Weeks has agreed to provide a fish screen after we complete the "Irrigation Pump Screen Inspection Agreement". I have included a copy of this agreement for your records as well.

Given the need to respond to your letter within 30 days, I wanted to be certain you understood we are in the process of obtaining a fish screen in order to be in compliance. We will work with Larry to obtain our fish screen as soon as possible.

Thank you for your help,

Christine Hailey

Christine Hailey
650 E 200 N
Richmond UT 84333
Christine.e.hailey@gmail.com



IDAHO DEPARTMENT OF FISH AND GAME

SALMON REGION
99 Highway 93 North
P.O. Box 1336
Salmon, Idaho 83467

C.L. "Butch" Otter / Governor
Virgil Moore / Director

May 11, 2016

David and Christine Hailey
650 E 200 N
Richmond, UT 84333

Dear David and Christine Hailey:

Enclosed please find an "Irrigation Pump Screen Inspection Agreement" for your review and signature. Please fill in all spaces that are applicable to your operation and return the application in the envelope provided.

If you will call me and let me know when you are going to be in town, I will make some arrangements to get you a fish screen.

Where you are not presently living at your McKim Creek property, you can use the legal description, (NENESW etc.), as described on your water right, instead of the GPS location.

Please feel free to call me if you have any questions.

Sincerely,

Larry Weeks
Easement Specialist
Anadromous Fish Screen and
Passage Program
(208)756-6022

Enclosures: 1

IRRIGATION PUMP SCREEN INSPECTION AGREEMENT

Between

David and Christine Hailey

And

IDAHO DEPARTMENT OF FISH AND GAME

This AGREEMENT is made and entered into this 18 day of May, ²⁰¹⁶~~2014~~ by and between, David and Christine Hailey hereinafter referred to as OWNERS, and the Idaho Department of Fish and Game, hereinafter referred to as IDFG, WITNESSETH:

WHEREAS: Idaho Code § 36-906(b) requires a suitable screen be installed and maintained by the owner or operator on any water conduit receiving or taking water from any Idaho stream or river, to prevent fish from entering into said conduit; and

WHEREAS: OWNERS are presently pumping irrigation water from the McKim River Creek; and

WHEREAS: The existing pumping apparatus is not adequately screened to prevent entry or injury of fish by the conduit; and

WHEREAS: Under Idaho Code §36-906(c) the IDFG has the program responsibility for specifying the type, design, and location of devices for screening fish from pump irrigation diversions within waterways of the state; and

WHEREAS: The National Marine Fisheries Service has designated the Snake River spring, summer, and fall chinook, and sockeye salmon as endangered species, which dictates the protection and enhancement of fish; and

WHEREAS: In order to expedite compliance with Idaho Code and the ESA, IDFG will assist with installation of proper screen protection by entering into a cooperative pump screen inspection agreement with pump diversion OWNERS.

THEREFORE IT IS AGREED;

A. Idaho Department of Fish and Game (IDFG) will:

1. Design, purchase, and install a screen on OWNERS' pump diversion not to exceed one and one-half (1.5) miner's inches of water (0.03cfs) per acre. If deemed necessary, IDFG will purchase and install a foot-valve or suction line on OWNERS' pump diversion. Any additional cost will be borne by the water user.
2. Should technical or biological criteria change requiring replacement and installation of a new pump screen, IDFG will assume responsibility for furnishing and installing replacement.

B. OWNERS will:

1. Cooperate with IDFG in evaluating the existing or proposed pumping system, including making available all pumping equipment technical literature and known data, such as pumping flow operational difficulties such as silting, related to the operation of the pump system diversion.

2. Upon satisfactory installation of pump screening facilities by IDFG, assume screen ownership and all responsibility and costs for operation and maintenance except as otherwise noted herein.
3. Ensure Idaho Code § 36-906(b) is met and guarantee pump screening equipment is in place and operating properly whenever the pump is in operation.

C. INDEMNITY:

The OWNERS shall indemnify and hold harmless IDFG and its representatives against and from any and all demands, claims, or liabilities of every nature arising directly or indirectly from or in any way connected with the execution of the provisions authorized under this agreement.

D. APPROPRIATION BY LEGISLATURE REQUIRED:

It is understood and agreed that IDFG is a government entity, and this agreement shall in no way or manner be construed so as to bind or obligate the state of Idaho to expend funds beyond that available in a specific appropriation of funds by the state legislature as may exist from time to time.

AGREEMENT:

For and in consideration of the IDFG designing, furnishing, and installing screening equipment on OWNERS' diversion pump system, OWNERS do hereby agree to allow authorized IDFG agents permission to inspect pump screen when permission has been obtained. Permission to inspect pump screen will be based on contact with the owner a half day prior to inspection. Said inspection agreement is located in Lemhi County upon lands of the OWNERS or OWNERS' having the following description
17 N 21 E Sec 16 SW NE0.5

IN WITNESS WHEREOF, the parties have hereunto executed their signatures below.

Program Coordinator

Idaho Dept. of Fish and Game

Christine Hailey

Owner(s)

David E. Hailey

Christine Hailey

Owner (please print name)

650E 200N

Address

RICHMOND UT 84333

City, State, Zip

435 757 9646

Fire Number/ 911 Number

435 881 5040

Phone Number

17 N 21 E Sec 16 SW NE0.5
GPS Reading

Date

May 18, 2016
Date

Pump Information

Flight RV Potable Water
Make/Model Supply Pump

12VDC

Horsepower/Phase

3/8" FNPT

Intake Size

3/8" FNPT

Discharge Size

one

Number of Heads



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Web Site: www.idwr.idaho.gov

GARY SPACKMAN
Director

C.L. "BUTCH" OTTER
Governor

May 3, 2016

CHRISTINE HAILEY
DAVID HAILEY
650 E 200 N
RICHMOND, UT 84333

Application for Permit Nos. 75-14644 and 75-14645

Dear Mr. and Mrs. Hailey:

In September 3, 2014, Idaho Department of Water Resources (IDWR) staff performed a field examination on permits 75-14644 and 75-14645. During the field examinations, the IDWR staff did not find any fish screens on your point where you divert water from Mc Kim Creek. IDWR staff are required to confirm that all of the conditions of the permit have been complied with prior to licensing a water right permit. The following is the fish screen condition listed on permits 75-14644 and 75-14645:

Prior to the diversion and use of water under this approval, the right holder shall comply with all fish screening and/or fish passage requirements of the Idaho Department of Fish and Game.

The Department's field examiner found no fish screen on your diversion, so you must resolve this issue before a license can be issued. Idaho Code § 42-219(8), states in part the following:

(8) In the event that the department shall find that the applicant has not fully complied with the law and the conditions of permit, it may issue a license for that portion of the use which is in accordance with the permit, or may refuse issuance of a license and void the permit.

You have the following options to resolve this issue.

- 1.) You can submit documentation (photos or receipts) showing that you do have a fish screen on the point of diversion in compliance with the above condition.
- 2.) You can provide written documentation from the Idaho Fish and Game Department stating that a fish screen is not required on your point of diversion from the creek. If you have this documentation, you can request the condition be waived and removed from the permit.
- 3.) Return the enclosed relinquishment form and cease using water from Mc Kim Creek.

IDWR will withhold further action on your permit for 30 days from the date of this letter in order to allow you time to respond. If IDWR does not receive a response from you within this time period, it will be assumed that you are not interested in pursuing a water right license, and action will be taken to void your permit. If you need additional time to respond, please contact me to discuss your options.

If you have any questions please do not hesitate to contact me at (208)287-4881 or sandra.thiel@idwr.idaho.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Sandra Thiel", with a long horizontal stroke extending to the right.

Sandra Thiel
Sr. Water Resource Agent