

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 79-14263

Priority: October 14, 2015

Maximum Diversion Rate: 0.67 CFS

This is to certify, that PATRICK J KELLER And/Or
SANDRA E KELLER
PO BOX 367
LUCILE ID 83542

has applied for a permit to appropriate water from:

Source: SALMON RIVER

Tributary: SNAKE RIVER

and a permit is APPROVED for development of water as follows:

BENEFICIAL USE

MINING

PERIOD OF USE

01/01 to 12/31

RATE OF DIVERSION

0.67 CFS

LOCATION OF POINT(S) OF DIVERSION:

SALMON RIVER L7 (SE¼SW¼) Sec. 11, Twp 25N, Rge 01E, B.M. IDAHO County

PLACE OF USE: MINING

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
25N 01E 11												X					
25N 01E 11												X					
												L7					

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **March 01, 2017**.
2. Subject to all prior water rights.
3. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.
4. The right holder shall comply with any bonding requirements for matters administered by the Department of Water Resources that are applicable to the use of water under this right.
5. Water shall not be diverted under this right when flows in the Salmon River at White Bird are below established minimum flow amounts.
6. Prior to the diversion and use of water under this approval, the right holder shall comply with applicable water quality monitoring and/or permitting requirements administered by the Department of Environmental Quality or the Department of Agriculture.
7. 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.
8. This right does not grant any right-of-way or easement across the land of another.
9. Mining use is for highbanking from Salmon River.

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10. The Director retains jurisdiction to require the right holder to provide purchased or leased natural flow or stored water to offset depletion of Lower Snake River flows if needed for salmon migration purposes. The amount of water required to be released into the Snake River or a tributary, if needed for this purpose, will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this permit.

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

Signed this 29th day of February, 20 16.



Nick Miller
Manager, IDWR Western Region



State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

79-14263

This map depicts the MINING 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.

01E



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

0 0.015 0.03 0.06 Miles





State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way • Boise, Idaho 83705-5082

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Web Site: www.idwr.idaho.gov

February 29, 2016

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

PATRICK J KELLER
SANDRA E KELLER
PO BOX 367
LUCILE ID 83542

RE: Permit No.79-14263

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)334-2190.

Sincerely,

 Rachel Neely for:

Nick Miller

Western Regional Manager

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on February 29, 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.

79-14263

**PATRICK J KELLER
SANDRA E KELLER
PO BOX 367
LUCILE ID 83542**



**Rachel Neely
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: January 22, 2016
TO: D Merriman
FROM: IDWR Planning Section
RE: Application for Permit No. 79-14263

The IDWR Planning Section does not wish to raise any public interest concerns over Application No. 79-14263, which proposes the use of 0.67 cfs of water from the Salmon River. The applicant should be aware that the Idaho Water Resource Board holds minimum stream flow Water Right No. 79-14119 in the same reach or downstream of the applicant's point of diversion. As a junior water right holder, when the minimum stream flow is not being met (as measured at USGS Stream Gage 13317000 – Salmon River at White Bird) , the applicant should not divert.

RECEIVED

JAN 19 2016

WATER RESOURCES
WESTERN REGION

The following applications have been filed to appropriate the public waters of the State of Idaho:

79-14263
PATRICK J KELLER
SANDRA E KELLER
PO BOX 367
LUCILE, ID 83542

Point of Diversion L7(SES) S11
T25N R01E IDAHO County
Source SALMON RIVER Tributary
SNAKE RIVER
Use: MINING 01/01 to 12/31 0.67 CFS

Total Diversion: 0.67 CFS
Date Filed: 10/14/2015
Place of Use: MINING
T25N R01E S11 L7(SES) S11

79-14262
WALTER O LINDSEY
13654 HWY 95 S
WHITEBIRD, ID 83554

Point of Diversion NESE S10
T27N R01E IDAHO County
Source GROUND WATER
Use: DOMESTIC 01/01 to 12/31 0.02 CFS

Total Diversion: 0.02 CFS
Date Filed: 5/18/2015
Place of Use: DOMESTIC
T27N R01E S10 L8(SES) S10

77-14359
CHERYLYN ROE MURPHY
STEVE MURPHY
CORINNA RUPERT
3817 W PALOUSE ST
BOISE, ID 83705

Point of Diversion L3(SENW) S14
T22N R05E IDAHO County
Source GROUND WATER
Use: DOMESTIC 01/01 to 12/31 0.06 CFS

Total Diversion: 0.06 CFS
Date Filed: 3/26/2015
Place of Use: DOMESTIC
T22N R05E S14 SENW NESW

This application proposes the diversion and use of water tributary to a federally designated Wild & Scenic River. The decreed minimum stream flow rights for the federal Wild & Scenic Rivers are subordinate to certain categories of water use and to specific amounts of water use established after the minimum stream flow. The water use proposed in this application will benefit from the subordination provision because it is for domestic use.

78-12434

BILL RICE
PO BOX 2162
MC CALL, ID 83638

Point of Diversion NWSE S24
T24N R01W IDAHO County
Source PAPOOSE CREEK Tributary
SQUAW CREEK
Use: IRRIGATION 04/01 to 10/31 0.03 CFS

Total Diversion: 0.03 CFS
Date Filed: 8/24/2015
Place of Use: IRRIGATION
T24N R01W S24 NWSE
Total Acres: 2.5

Permits will be subject to all prior water rights. For additional information concerning the property location, contact Western Region office at (208) 334-2190; or for a full description of the right(s), please see www.idwr.idaho.gov/Water-Management/WaterRights. Protests may be submitted based on the criteria of Idaho Code § 42-203A. Any protest against the approval of the application(s) must be filed with the Director, Dept. of Water Resources, Western Region, 2735 Airport Way, Boise ID 83705 together with a protest fee of \$25.00 for each application on or before 1/25/2016. The protestant must also send a copy of the protest to the applicant.
GARY SPACKMAN, Director
Published on 1/6/2016 and 1/13/2016

J6-13

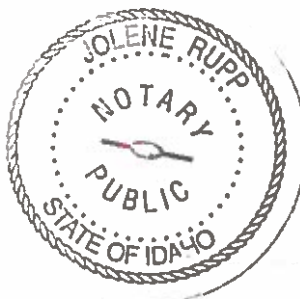
AFFIDAVIT OF PUBLICATION

STATE OF IDAHO
County of Idaho - ss.

Sarah S. Klement, being first duly sworn, says she is the Publisher of the IDAHO COUNTY FREE PRESS, a weekly newspaper published and issued weekly at Grangeville, Idaho County, State of Idaho, and is of general circulation in said county and state, that the said legal notice, of which the one hereto attached is a true copy, was published in said paper for two weeks, being published two times, the first publication being on the 6th day of January, 2016; and the last publication on the 13th day of January, 2016; and that the said legal notice was published in the newspaper proper and not a supplement; that said newspaper has been continuously and uninterruptedly published in said county during a period of seventy-eight consecutive weeks prior to the publication of said legal notice of advertisement.

STATE OF IDAHO)
COUNTY OF IDAHO)

On this 13th day of January in the year of 2016, before me a Notary Public personally appeared Sarah S. Klement, 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 she executed the same.



Jolene Rupp
Notary Public for Idaho
Residing at Grangeville, ID
My commission expires: 1-24-19