

State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 95-17127

Priority: December 14, 2015

Maximum Diversion Volume: 49.5 AF

This is to certify, that TIMOTHY GRAY And/Or
HEATHER GRAY
23617 N LAKEVIEW BLVD
RATHDRUM ID 83858

has applied for a permit to appropriate water from:

Source: SPRING

Tributary: SINKS

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

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>ANNUAL VOLUME</u>
IRRIGATION STORAGE	01/01 to 12/31	49.5 AF
IRRIGATION FROM STORAGE	04/01 to 10/31	43.5 AF
FIRE PROTECTION STORAGE	01/01 to 12/31	6.0 AF
RECREATION STORAGE	01/01 to 12/31	6.0 AF

LOCATION OF POINT(S) OF DIVERSION:

SPRING SE1/4NW1/4SW1/4 Sec. 29, Twp 53N, Rge 02W, B.M. KOOTENAI County

PLACE OF USE: IRRIGATION STORAGE, FIRE PROTECTION STORAGE, AND RECREATION STORAGE

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
53N 02W 29											X						

PLACE OF USE: IRRIGATION FROM STORAGE

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
53N 02W 29									2.0	10.7	1.8						14.5

Total Acres: 14.5

State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 95-17127

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. Prior to the diversion and use of water under this approval, the right holder shall comply with applicable county zoning and use ordinances.
4. Right 95-17127 authorizes a total annual storage volume of 49.5 acre-feet to be used for the initial filling of the pond, for the replacement of losses caused by evaporation and for the storage of water for recreation, fire protection and irrigation purposes.
5. The pond established by the storage of water under this right shall not exceed a total capacity of 4.2 acre-feet or a total surface area of 0.6 acres.
6. Water shall not be diverted from fire protection storage except to fight or repel an existing fire.
7. Recreation storage is for swimming and fishing.
8. This right when combined with all other rights shall provide no more than 3.0 afa per acre at the field headgate for irrigation of the place of use.
9. 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 18 day of February, 2016.


KEITH E. FRANKLIN, Program Manager



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

February 25, 2016

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

TIMOTHY GRAY
23617 N LAKEVIEW BLVD
RATHDRUM ID 83858

HEATHER GRAY
23617 N LAKEVIEW BLVD
RATHDRUM ID 83858

RE: Permit No.95-17127

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 208 762-2800.

Sincerely,


Keith E. Franklin
Program Manager

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on February 25, 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.

95-17127

**HEATHER GRAY
23617 N LAKEVIEW BLVD
RATHDRUM ID 83858**

**TIMOTHY GRAY
23617 N LAKEVIEW BLVD
RATHDRUM ID 83858**



**Carolyn Monitz
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.

AFFIDAVIT OF PUBLICATION

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

Melinda Vansickle

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 "Coeur d'Alene Press," a newspaper printed and published daily except Sunday in Coeur d'Alene, Kootenai 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 issue of said newspaper for 2 consecutive Thursday weeks commencing on the 21 day of January, 2016 and ending on the 28 day of January, 2016 and such publication was made as often during said period as said newspaper was regularly issued.

4. That said newspaper has been continuously and uninterruptedly published in said Kootenai County, during a period of more than seventy-eight consecutive weeks immediately prior to the first publication of said notice.

On this 20 day of January in the year of 2016 before me, a Notary Public, personally appeared Melinda Vansickle

Melinda Vansickle
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 at Coeur d'Alene, Idaho

MY COMMISSION EXPIRES 8/29/17

RECEIVED
JAN 29 2016
IDWR / NORTH

RECEIVED
JAN 29 2016
IDWR / NORTH

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

95-17127

TIMOTHY GRAY

HEATHER GRAY

23617 N LAKEVIEW BLVD

RATHDRUM, ID 83858

Point of Diversion SENWSW S29 T53N R02W KOOTENAI CO

Source SPRING tributary SINKS

Use: RECREATION STORAGE 01/01 to 12/31 6 AF

Use: FIRE PROTECTION STORAGE 01/01 to 12/31 6 AF

Use: IRRIGATION STORAGE 01/01 to 12/31 49.5 AF

Use: IRRIGATION from STORAGE 04/01 to 10/31 43.5 AF

Total Diversion: 49.5 AF

Date Filed: 12/14/2015

Place of Use: RECREATION Storage T53N R02W S29 NWSW

Place of Use: FIRE PROTECTION Storage T53N R02W S29 NWSW

Place of Use: IRRIGATION Storage T53N R02W S29 NWSW

Place of Use: IRRIGATION from Storage T53N R02W S29 NESW

NWSW SWSW

Total Acres: 14.5

Recreation storage is for swimming and fishing.

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:

www.idwr.idaho.gov/apps/ExtSearch/WRfiling.asp.

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 2/8/2016. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

LEGAL 4952

JANUARY 21, 28, 2016



RECEIVED

FEB - 8 2016

IDWR/NORTHERN

IDAHO DEPARTMENT OF FISH AND GAME

PANHANDLE REGION

2885 West Kathleen Avenue

Coeur d'Alene, Idaho 83815

C.L. "Butch" Otter/Governor

Virgil Moore/Director

February 3, 2016

Mr. Shaun Maxey
Idaho Department of Water Resources
7600 N Mineral Drive, Suite 100
Coeur d'Alene, ID 83815

Dear Shaun:

REFERENCE: 95-17127 GRAYS POND

We have reviewed the above-named application by Mr. and Mrs. Gray to store 49.5 acre feet of water per year for irrigation, recreation, and fire protection. The source of the water is a spring on the bottom of an existing pond. The purpose of these comments is to assist the decision-making authority by providing technical information addressing potential effects on wildlife and wildlife habitat and how any adverse effects might be mitigated. It is not the purpose of Idaho Department of Fish and Game to support or oppose this proposal.

The applicants indicate fishing as one of the recreational uses of the pond. Private fish ponds have the potential to seriously harm aquatic wildlife populations through the introduction of disease and invasive species. Before stocking fish, the landowners are required to obtain a Private Fish Pond Permit from IDFG. The application is available on our website (fishandgame.idaho.gov under Fishing → Private Ponds). The Grays may contact our Regional Fisheries Manager, Andy Dux with questions or to review their application: 208-769-1414.

The diversion draws from an isolated spring and surface water connectivity in the area appears to be minimal. Any outlets from the pond must be screened if stocking is to occur (i.e. irrigation ditches). We do not anticipate adverse impacts to fish, wildlife, or habitat due to this pond and irrigation plan assuming State requirements for a private fish pond are met.

Thank you for the opportunity to comment.

Sincerely,

Chip Corsi
Regional Supervisor

CEC:KJS:njk

C: Sharon Kiefer, IDFG Boise

File: 95-17127_GraysPond

Keeping Idaho's Wildlife Heritage