

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 77-14359

Priority: November 24, 2015

Maximum Diversion Rate: 0.06 CFS

This is to certify, that CHERYLYN ROE MURPHY Or
STEVE MURPHY Or
CORINNA RUPERT
3817 W PALOUSE ST
BOISE ID 83705

has 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	0.06 CFS

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER L3 (SE¼NW¼) Sec. 14, Twp 22N, Rge 05E, B.M. IDAHO 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	NE	NW	SW	SE		
22N	05E	14																	X	X

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. Domestic use is for 2 homes and does not include lawn, garden, landscape, or other types of irrigation.
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. Prior to diversion and use of water under this approval, the right holder shall obtain Forest Service authorization necessary to access the point of diversion or place of use or to convey water across federal land.
6. This right does not grant any right-of-way or easement across the land of another.
7. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.

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

Signed this 18th day of February, 20 16.



Nick Miller
Manager, IDWR Western Region

State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

77-14359

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.

05E



- 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 18, 2016

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

CHERYLYN ROE MURPHY
STEVE MURPHY
CORINNA RUPERT
3817 W PALOUSE ST
BOISE ID 83705

RE: Permit No.77-14359

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.

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)334-2190.

Sincerely,



Rachel Neely for:

Nick Miller

Western Regional Manager

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on February 18, 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.

77-14359

**CHERYLYN ROE MURPHY
CORINNA RUPERT
STEVE MURPHY
3817 W PALOUSE ST
BOISE ID 83705**



**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.

Merriman, Danielle

From: Spencer, Steven M -FS [sspencer@fs.fed.us]
Sent: Friday, January 22, 2016 3:48 PM
To: Merriman, Danielle
Subject: Application 77-14359
Attachments: Idaho Water Appropriation Rule 45.docx

Danielle,

I see that Application For Permit 77-14359 filed by Cherylyn Murphy, Steve Murphy and Corinna Ruper is being advertised. In addition I received written notification from IDWR that included a 'Recommendation Form'. This message is in response to that form.

In Number 10a of the application the applicants clearly identify that owner of the property at the POD is the US Forest Service. This is correct.

In Number 10c of the application the applicants clearly describe that they are "Filing for special use permit with US Forest Service". This is also correct.

The situation is that new special use permit proposals must pass through many steps that include initial screening, analysis, evaluation and regulatory clearances that ultimately lead to a decision whether or not to approve a new occupancy of National Forest System (NFS) land. This process can take quite some time. So at the present time the applicants do not have authorization to occupy and use NFS land for the purposes proposed in Application For Permit 77-14359. It may be several months before a decision is made. Because of this we request that further processing of this application cease under the provisions of the evaluation criteria commonly known as IDWR Administrative Rule 45 until the decision by the Forest Service on this occupancy is made.

In the alternative a procedure was worked out several years ago with retired Western Regional Manager John Westra where the Department would approve the application and include on the permit a condition something to the effect that the permit is 'subject to the authorization by and special use permit approved by the Forest Service as well as other state and federal laws'. A clause like this has been used in similar situations across the state. It allows IDWR to process the application rather than having to place it in a pile of similarly postured applications waiting for approvals that may take years if endangered species, historic preservation, water quality, access, appeals or other matters are involved that significantly complicate and prolong final project decisions. The permit is by its own terms subject to the outcome of those associated decisions.

If you have any questions about this matter please contact me.

Thank you,

Steve

<http://adm.idaho.gov/adminrules/rules/idapa37/0308.pdf>

045.EVALUATION CRITERIA (RULE 45).

01. Criteria for Evaluating All Applications to Appropriate Water. The Director will use the following criteria in evaluating whether an application to appropriate unappropriated water or trust water should be approved, denied, approved for a smaller amount of water or approved with conditions.

c. Criteria for determining whether the application is made in good faith. The criteria requiring that the Director evaluate whether an application is made in good faith or whether it is made for delay or speculative purposes requires an analysis of the intentions of the applicant with respect to the filing and diligent pursuit of application requirements. The judgment of another person's intent can only be based upon the substantive actions that encompass the proposed project. Speculation for the purpose of this rule is an intention to obtain a permit to appropriate water without the intention of applying the water to beneficial use with reasonable diligence. Speculation does not prevent an applicant from subsequently selling the developed project for a profit or from making a profit from the use of the water. An application will be found to have been made in good faith if: (7-1-93)

i. The applicant shall have legal access to the property necessary to construct and operate the proposed project, has the authority to exercise eminent domain authority to obtain such access, or in the instance of a project diverting water from or conveying water across land in state or federal ownership, has filed all applications for a right-of-way. Approval of applications involving Desert Land Entry or Carey Act filings will not be issued until the United States Department of Interior, Bureau of Land Management has issued a notice classifying the lands suitable for entry; and (7-1-93) ii. The applicant is in the process of obtaining other permits needed to construct and operate the project; and (7-1-93) iii. There are no obvious impediments that prevent the successful completion of the project. (7-1-93)

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) W
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(SESE)
79-14359

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
BIL RICE
PO BOX 2162
MC CALL, ID 83638
Point of Diversion NWSE S24
T24N R01W IDAHO County
Source PAPOOSE GREEK 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

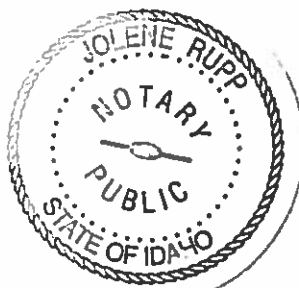
STATE OF IDAHO
County of Idaho - ss.

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.

[Signature]

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.



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