

State of Idaho
Department of Water Resources
Water Right License

WATER RIGHT NO. 96-09150

Priority: July 14, 2003

Maximum Diversion Rate: 0.20 CFS
Maximum Diversion Volume: 1.2 AF

It is hereby certified that GREG WHITELEY
7507 STEPDOWN COVE
AUSTIN TX 78731 has complied with the terms and
conditions of the permit, issued pursuant to Application for Permit dated July 14, 2003; and has
submitted Proof of Beneficial Use on July 27, 2012. An examination confirms water is diverted from:

SOURCE

FLUME CREEK

Tributary: RAPID LIGHTNING CREEK

and a water right has been established as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL DIVERSION VOLUME</u>
DOMESTIC	01/01 to 12/31	0.04 CFS	1.2 AF
FIRE PROTECTION	01/01 to 12/31	0.20 CFS	

LOCATION OF POINT(S) OF DIVERSION:

FLUME CREEK, NE1/4SW1/4, Sec. 14, Twp 58N, Rge 01E, B.M., BONNER County

PLACE OF USE: DOMESTIC And FIRE PROTECTION

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
58N 01E 14									X								

CONDITIONS OF APPROVAL

1. A fish screen of 1/4 inch or smaller mesh shall be installed and maintained at the point of diversion.
2. The approach velocity at the point of diversion shall not exceed 0.5 feet per second.
3. Domestic use is for 1 home.
4. The irrigation occurring under this domestic use shall not exceed 1/2 acre.
5. Water shall not be diverted for fire protection use under this right except to fight or repel an existing fire.
6. This right does not grant any right-of-way or easement across the land of another.
7. This right when combined with any other domestic water right is limited to the total irrigation of 1/2 acre.

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 on this 3 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

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

February 4, 2016

GREG WHITELEY
7507 STEPDOWN COVE
AUSTIN TX 78731

RE: License No. 96-9150
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 208-762-2800.

Sincerely,

Keith E. Franklin
Program Manager

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on February 4, 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.

96-9150

**GREG WHITELEY
7507 STEPDOWN COVE
AUSTIN TX 78731**



**Dianne L Ball
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

Northern Region, 7600 N. Mineral Drive, Suite 100 • Coeur d'Alene, Idaho 83815

Phone: (208) 762-2800 • Fax: (208) 762-2819 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

February 4, 2016

Greg Whiteley
7507 Stepdown Cove
Austin, TX 78731

Dear Mr. Whiteley:

Recently Idaho Department of Water Resources staff conducted a field exam to confirm your domestic and fire protection water right No. 96-9150. During the exam staff determined there was approximately 1 acre of land being irrigated.

You currently have two separate sources of water for domestic purposes. Ground water from a domestic well that was constructed in the year 2000, which is exempt from the need to file for a water right under Idaho Code § 42-111. The code allows for ground water to be used for in-house and stock water purposes and the irrigation of lawn and garden up to ½ acre.

The second source is surface water from Flume Creek that is covered by water right 96-9150. The domestic use under this right allows for water to be used for in-house purposes and the irrigation of up to ½ acre of lawn and garden. The two domestic water rights combined cannot exceed a total of ½ acre of lawn and garden irrigation.

Since it appears you are irrigating more than ½ acre you will need to file for an irrigation water right to make up the difference from either the well or Flume Creek. Please contact Adam Frederick, from our Coeur d'Alene office within the next 30 days and he will assist you in filing a new water right application.

If you have any questions, feel free to contact me at this office.

Thank you.

Sincerely,

Keith E Franklin
Program Manager Northern Region

COPY