

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 86-12036

Priority: October 26, 2015

Maximum Diversion Volume: 3.4 AF

This is to certify, that DONALD L BOYLE
2150 THREE BEAR RD
KENDRICK ID 83537

has applied for a permit to appropriate water from:

Source: UNAMED STREAM **Tributary:** BEDBUG CREEK

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

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>ANNUAL VOLUME</u>
FIRE PROTECTION STORAGE	01/01 to 12/31	3.4 AF
WILDLIFE STORAGE	01/01 to 12/31	3.4 AF

LOCATION OF POINT(S) OF DIVERSION:

UNAMED STREAM NW1/4, SE1/4, Sec. 1, Twp 38N, Rge 01W, B.M., LATAH County

PLACE OF USE: FIRE PROTECTION STORAGE and WILDLIFE STORAGE

Twp Rge Sec	NE				NW				SW				SE				
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
38N 01W 1														X			

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **January 01, 2017**.
2. Subject to all prior water rights.
3. This right does not grant any right-of-way or easement across the land of another.
4. Prior to the diversion and use of water under this approval, the right holder shall comply with applicable county zoning and use ordinances.
5. Water shall not be diverted from fire protection storage except to fight or repel an existing fire.
6. Right 86-12036 authorizes total annual storage volume of 3.4 acre-feet, 2.4 acre-feet to be used for the initial filling or carryover storage of the pond and 1.0 acre-feet for the replacement of losses caused by evaporation.
7. Place of use is located within Parcel 9; Cedar Creek subdivision.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Signed, this 28 day of December, 2015.


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

December 29, 2015

GARY SPACKMAN
Director

DONALD L BOYLE
2150 THREE BEAR RD
KENDRICK ID 83537

RE: Permit No.86-12036

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,

A handwritten signature in blue ink that reads "Keith E. Franklin". The signature is written in a cursive style with a large, stylized "K" and "F".

Keith E. Franklin
Program Manager

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on December 29, 2015 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.

86-12036

**DONALD L BOYLE
2150 THREE BEAR RD
KENDRICK ID 83537**



**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.

MEMORANDUM

Date: December 23, 2015
To: Water Right File 86-12036
From: smaxey
Re: Legal Notice Error

IDWR INCORRECTLY PUBLISHED THE MAXIMUM DIVERSION VOLUME IN TWO LEGAL NOTICES IN THE MOSCOW, IDAHO NEWSPAPER. THE AMOUNT PUBLISHED WAS 4.6 AF THE CORRECT AMOUNT IS 3.4 AF.

THE ERROR OCCURED BECAUSE POND SEEPAGE (1.2 AF) WAS CALCULATED. POND SEEPAGE SHOULD NOT HAVE BEEN INCLUDED IN THE TOTAL BECUSE THE POND IS IN-STREAM AND SEEPAGE LOSSES ARE OFFSET BY INFLOW.

IDWR NORTHERN REGION STAFF DETERMINED THAT REPUBLICATION OF THE LEGAL NOTICES IS NOT REQUIRED. THE PLACE OF USE AND POINT OF DIVERSION LEGAL DESCRIPTIONS ARE CORRECT AS PUBLISHED.AND NO PORTION OF THE APPLICANTS PROPERTY LIES WITHIN A DIFFERENT LEGAL DESCRIPTION.

NO PROTESTS HAVE BEEN RECEIVED AS OF THE DEADLINE DATE. NO INJURY TO OTHER WATER RIGHTS IS LIKELY BECAUSE THE AMOUNT TO BE PERMITTED (3.4 AF) IS LESS THAN THE PUBLISHED AMOUNT.

To: Water Right Application for Permit 86-12035 (renumbered from 83-11984)

From: Shaun M. Maxey

Date: December 18, 2015

SUBJECT: Idaho Department of Water Resources (IDWR) Regional Analysis and Recommendation in accordance with Water Appropriation rules (IDAPA 37.03.08.040.05).

Water Supply Information.

Idaho Department of Fish & Game (IDFG) and Idaho Department of Environmental Quality (IDEQ) were contacted and have no adverse comments concerning the Applicant's (BOYLE) proposal to store up to 2.6 Acre Feet Annually (AFA) using water from an unnamed stream that is tributary to Bedbug Creek and the Potlatch River. Fire Protection Storage and Wildlife Storage are the intended beneficial uses.

The unnamed stream is tributary to the Clearwater River. There is no information to indicate that use of water from the unnamed stream will adversely affect groundwater or surface water, minimum stream flows, or beneficial uses of ground or surface water.

Good Faith, Delay, or Speculative Information.

The Place of Use and Point of Diversion are on property owned by the Applicant. IDWR is not aware of any information that indicates the Application is not being made in good faith, is intended to delay, or speculative.

Financial Resources Information.

The scope of the project, proposed by the Applicant, appears to be achievable. IDWR has no information that indicates the Applicant is financially incapable of completing the project.

Local Public Interest

IDFG and IDEQ were contacted on November 17, 2015 and have no adverse comments concerning damage to the public interest. No comments or protests were received indicating the proposal is controversial or likely to cause damage to the local public interest.

Injury to Other Water Rights:

The source of water shown in the Application is an unnamed stream that is tributary to the Clearwater River. Diversion of water from this source is not expected to adversely affect water supply in the vicinity or any other water rights.

Recommendation

IDWR Northern Region recommends processing of Application for Permit 86-12036 be allowed to continue.



Shaun M. Maxey
Idaho Department of Water Resources, Northern Region
7600 Mineral DR, Ste. 100
Coeur d'Alene, ID 83815



STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY

1118 F Street • Lewiston, Idaho 83501 • (208) 799-4370
www.deq.idaho.gov

C.L. "Butch" Otter, Governor
John H. Tippels, Director

December 4, 2015

DEC - 8 2015

Shawn Maxey
Idaho Department of Water Resources
7600 North Mineral Drive, Suite 100
Coeur d'Alene, Idaho 83815

IDWR/NORTHERN

Subject: Application for Permit to Appropriate Waters of the State, 86-12036

DEQ received a request for comment on an application for a water appropriation permit for 4.6 acre feet storage volume from a pond that has been constructed in an unnamed tributary of Bedbug Creek located on property in Latah County. The appropriated water is stored in an existing pond for wildlife storage and fire protection from 01/01 to 12/31. Assuming all federal, state and local permits have been obtained, regulations met, and reviews completed, we offer the following comments.

The water requested for appropriation is included in water body ID17060306CL046_02 and is currently listed in Category 2 of Idaho's 2012 Integrated Report as fully supporting aquatic life and contact recreation beneficial uses. There are no TMDL load or wasteload allocations immediately downstream that will be directly affected by the requested appropriation at this time. As per IDAPA 37.03.08.045.01.e.iii, we have determined this appropriation application does not conflict with applicable water quality standards.

Thank you for the opportunity to comment on your application. If you have any questions regarding the Idaho Water Quality Standards, please call us at (208) 799-4370.

Sincerely,

A handwritten signature in black ink, appearing to read "Cindy Barrett", with a long horizontal flourish extending to the right.

Cindy Barrett
Surface Water Quality Manager

c: Donald Boyle, Kendrick
John Cardwell, DEQ
TRIM

NEWS REVIEW PUBLISHING COMPANY

The Moscow-Pullman Daily News

P.O.Box 374

Lewiston, Idaho 83501

(208) 743-9411

Date:

11/26/2015

INVOICE NO.

117862

Account No.

30010311

Description

117862 The foll

Times

2

Lines

61

Tab. lines

\$ 190.33

RECEIVED**DEC - 2 2015**

PO#

86-12035

IDWR/NORTHERN**LEGAL ADVERTISING
INVOICE**

Sold To: IDAHO DEPT/ WATER RESOURCES
7600 N. MINERAL DR STE 100
COEUR D'ALENE ID 83814

NOTICE: This is a invoice of Purchase made by you. Statement will be rendered the first of the month
Please Retain This Invoice as Your Statement Will Refer to Invoice by No. Only.

The following application(s) have been filed to appropriate
the public waters of the State of Idaho:
117862
86-12035

GARY HANCHETT
KAY HANCHETT
723 15TH ST
LEWISTON, ID 83501
Point of Diversion NESE S1 T38N R01W LATAH County
Source UNAMED STREAM tributary BEDBUG CREEK
Use: FIRE Protection Storage 01/01 to 12/31 1.4 AF
Use: WILDLIFE Storage 01/01 to 12/31 1.4 AF
Total Diversion: 1.4 AF

Date Filed: 10/26/2015
Place of Use: WILDLIFE STORAGE T38N R01W S1 NESE
Place of Use: FIRE PROTECTION STORAGE
Same as Wildlife Storage
86-12036

DONALD L BOYLE
2150 THREE BEAR RD
KENDRICK, ID 83537
Point of Diversion NWSE S1 T38N R01W LATAH County
Source UNAMED STREAM tributary BEDBUG CREEK
Use: FIRE Protection Storage 01/01 to 12/31 4.6 AF
Use: WILDLIFE Storage 01/01 to 12/31 4.6 AF
Total Diversion: 4.6 AF

Date Filed: 10/26/2015
Place of Use: WILDLIFE STORAGE T38N R01W S1 NWSE
Place of Use: FIRE PROTECTION STORAGE
Same as Wildlife Storage
86-12037

FRENCH CATTLE LLC
PO BOX 164
DEARY, ID 83823
Point of Diversion L1(NWNW) S19 T40N R01W LATAH CO
Source GROUND WATER
Use: DOMESTIC 01/01 to 12/31 0.04 CFS
Use: IRRIGATION 04/01 to 10/31 0.03 CFS
Use: STOCKWATER 01/01 to 12/31 0.02 CFS
Total Diversion: 0.09 CFS

Date Filed: 11/4/2015
Place of Use: DOMESTIC T40N R01W S19 L1(NWNW)
Place of Use: IRRIGATION and STOCKWATER
Same as Domestic
Total Acres: 1
Domestic use is for 1 home.
Stockwater use is for 15 head sheep, & 4 head mixed stock.
Permits will be subject to all prior water rights. For additional
information concerning the property location, contact North-
ern 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 ap-
plication must be filed with the Director, Dept. of Water Re-
sources, 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 12/08/2015. The protestant
must also send a copy of the protest to the applicant.
GARY SPACKMAN, Director
Published on 11/19/2015 and 11/26/2015

AFFIDAVIT OF PUBLICATION

Karen J. Lewis, Legal Clerk
being first duly sworn, on oath deposes
and says: I am the printer of
Moscow-Pullman Daily News, a newspaper
of general circulation, published daily
except Sunday at Moscow, Latah County,
Idaho, in compliance with Sections 60-106,
60-107, and 60-108 of the Idaho Code and the
amendments thereto; and an official newspaper
for Whitman County, Washington as required
by R.C.W. 36.72.071 and other provisions of
the Revised Code of Washington and the
amendments thereto; that the notice of which the
annexed is a full, true and correct printed
copy was published in the regular and entire
issues of said newspaper and not in a
supplement thereto, upon the following dates:

Nov. 19, 26, 2015

the same being the date designated for
the publication of said notice.

Karen J. Lewis
On this 27th day of November
in the year of 2015 before me, a Notary Public,
personally appeared Karen J. Lewis
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.

Carl Peterson
Notary Public for Idaho,
Residing at Lewiston, Idaho
My Commission Expires 9-1-2017

