

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 94-09417

Priority: August 19, 2015

Maximum Diversion Rate: 0.04 CFS

This is to certify, that KENNETH GABRIEL
311 W MILL AVE
COEUR D ALENE ID 83814

And/Or

WENDY GABRIEL
311 W MILL AVE
COEUR D ALENE ID 83814

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	0.04 CFS

LOCATION OF POINT(S) OF DIVERSION:
GROUND WATER NW1/4, SE1/4, Sec. 24, Twp 50N, Rge 04E, B.M., SHOSHONE County

<u>PLACE OF USE:</u> DOMESTIC																			
Twp	Rge	Sec	NE				NW				SW				SE				
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
50N	04E	24															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. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
5. Domestic use is for 2 homes.
6. The irrigation occurring under this domestic use shall not exceed 1/2 acre.
7. Place Of Use is located within Tract 12; Charles Johnson Short Plat subdivision.
8. Point Of Diversion and Place Of Use located within H.E.S. # 188.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Coeur d'Alene, this 15 day of December, 2015.


For, GARY SPACKMAN, Director

State of Idaho
Department of Water Resources
Application For Permit
94-9417



0 0.0125 0.025 0.05 Miles

-  Point of Diversion
-  Place Of Use Boundary
-  Quarter Quarters
-  Taxlots



Prepared By: Maxey, Shaun



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 16, 2015

GARY SPACKMAN
Director

KENNETH GABRIEL
WENDY GABRIEL
311 W MILL AVE
COEUR D ALENE ID 83814

RE: Permit No.94-9417

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 208-762-2800.

Sincerely,

A handwritten signature in blue ink that reads "Keith E. Franklin". The signature is fluid and cursive, with the first name "Keith" and last name "Franklin" clearly legible.

Keith E. Franklin
Program Manager

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on December 16, 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.

94-9417

**KENNETH GABRIEL
311 W MILL AVE
COEUR D ALENE ID 83814**

**WENDY GABRIEL
311 W MILL AVE
COEUR D ALENE ID 83814**



**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.

AFFIDAVIT OF PUBLICATION

RECEIVED

NOV 16 2015

IDWR / NORTH

STATE OF IDAHO, }
County of Shoshone } ss.

Jamie Rowley

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 "Shoshone News Press", a newspaper printed and published daily except Sunday and Monday in Kellogg, Shoshone 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 Thursday issue of said newspaper for two consecutive Weeks commencing on the 5th day of November, 20 15, and such publication was made as often during said period as said daily newspaper was regularly issued.

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

On this 12th day of November in the year of 2015, before me, a Notary Public, personally appeared Jamie Rowley, 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 in Coeur d'Alene, Idaho



MY COMMISSION EXPIRES 8/29/17

RECEIVED
NOV 16 2015
IDWR/NORTH

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

94-9417

KENNETH GABRIEL
WENDY GABRIEL
311 W MILL AVE
COEUR D ALENE, ID 83814
Point of Diversion NWSE S24 T50N R04E SHOSHONE CO
Source GROUND WATER
Use: DOMESTIC 01/01 to 12/31 0.04 CFS
Total Diversion: 0.04 CFS

Date Filed: 8/19/2015
Place of Use: DOMESTIC T50N R04E S24 NWSE
Domestic use is up to 2 cabins and/or RVs.

94-9418

CLARK SCHMIDT
CONNIE SCHMIDT
4915 CANTERBURY RD
COEUR D ALENE, ID 83815
Point of Diversion NWSE S24 T50N R04E SHOSHONE CO
Source GROUND WATER
Use: DOMESTIC 01/01 to 12/31 0.04 CFS
Total Diversion: 0.04 CFS

Date Filed: 8/19/2015
Place of Use: DOMESTIC T50N R04E S24 NWSE
Domestic use is for 1 home.

94-9429

LAZY TEACUP RANCH LLC
5259 OLD RIVER RD
KINGSTON, ID 83839
Points of Diversion(2) L12(SESW) S4 T49N R02E SHOSHONE CO
Source COEUR D ALENE River tributary COEUR D ALENE Lake
Use: IRRIGATION 04/01 to 10/31 0.09 CFS
Use: STOCKWATER 01/01 to 12/31 0.02 CFS
Total Diversion: 0.11 CFS

Date Filed: 8/31/2015
Place of Use: IRRIGATION T49N R02E S4 L12(SWSW) 12(SESW)
Place of Use: STOCKWATER same as IRRIGATION
Total Acres: 3
Stockwater use is for 20 head of mixed stock.
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 11/23/2015. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director
LEGAL 2009
NOVEMBER 5, 12, 2015

Frederick, Adam

From: Spencer, Steven M -FS [sspencer@fs.fed.us]
Sent: Monday, November 02, 2015 2:28 PM
To: Frederick, Adam
Cc: Scaife, Dan -FS
Subject: Application 94-09417
Attachments: BLM MTP T50N R4E Sec 24 HES 188.jpg

Adam,

I'm reviewing new listings and Application for Permit 94-09417 came to my attention. From the information available to me on-line it is apparent that this water right is intended to be on private land in the NWSE Sec 24 T50N R4E. This private land is one of several in this area that don't fit square with the traditional Public Land Survey aliquot parts of quarter-quarters, sections, townships and ranges. There is an attachment associated with this application showing subdivided lots on H.E.S. No. 188. I have attached that portion of the BLM Master Title Plat showing HES 188 for your convenience and for Department files. I understand the necessity and purpose of describing this as being on the NWSE Sec 24. However I would request that the Department also include on the Permit and License some information that this water right is entirely on private land known as HES 188. By doing this HES 188, which is the actual legal description, will be more prominent instead of being buried in the application. And there won't be any confusion that the water right might possibly be on the National Forest System Land that is in the NWSE outside of HES 188.

Thank you for your consideration. If you have any questions about this please contact me.

Steve



Steven M. Spencer
Water Use Specialist
Forest Service
Intermountain Region
p: 208-365-7055
sspencer@fs.fed.us

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Emmett, ID 83617
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Caring for the land and serving people

