

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 91-07900

Priority: May 21, 2015

Maximum Diversion Rate: 0.20 CFS

This is to certify, that JERROD SCHEFFELMAIER And/Or
BRANDI SCHEFFELMAIER
200 W MEADOWHURST RD
ST MARIES, ID 83861

has applied for a permit to appropriate water from:

Source: AVERY CREEK

Tributary: ST JOE RIVER

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
FIRE PROTECTION	01/01 to 12/31	0.20 CFS

LOCATION OF POINT(S) OF DIVERSION:

AVERY CREEK, L2 (NW1/4NE1/4), Sec. 15, Twp 45N, Rge 05E, B.M., SHOSHONE 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	
45N 05E 15		X															
		L 2															

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **December 01, 2016**.
2. Subject to all prior water rights.
3. A fish screen of 1/4 inch or smaller mesh shall be installed and maintained at the point of diversion.
4. Domestic use is for external use only.
5. The irrigation occurring under this domestic use shall not exceed 1/2 acre per home.
6. Water shall not be diverted for fire protection use under this right except to fight or repel an existing fire.
7. Water shall not be diverted under this right when flows in the St. Joe River are below established minimum flow amounts as defined by Right 91-7122.
8. 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. Witness the signature of the Director, affixed at Coeur d'Alene, this 27 day of November, 2015.


For, GARY SPACKMAN, Director



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

December 8, 2015

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

JERROD SCHEFFELMAIER
200 W MEADOWHURST RD
ST MARIES ID 83861

BRANDI SCHEFFELMAIER
200 W MEADOWHURST RD
ST MARIES ID 83861

COPY

RE: Permit No.91-7900

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

COPY

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on December 9, 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.

91-7900

**BRANDI SCHEFFELMAIER
200 W MEADOWHURST RD
ST MARIES ID 83861**

**JERROD SCHEFFELMAIER
200 W MEADOWHURST RD
ST MARIES ID 83861**



**Carolyn Monitz
Technical Specialist 1**

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.

Thu, Sep 03, 2015
11:35:33

1 of 1

Shoshone News Press
PO Box 7000
Coeur d' Alene, Id 83816
Phone (208) 752-1120
Fax (208) 752-1121

RECEIVED
SEP 25 2015
IDWR / NORTH

Ad Name: 4648049D

Ad ID 4648049 Col:2

Depth: 3.5

Colors:

Acct: SH1112326

Phone: (208)762-2800

Fax:

Caller:

E-Mail:

Ad Name: 4648049D

Copyline: LEGAL 1153 91-7900

Ad Status: -

IDAHO DEPT OF WATER
7600 MINERAL DRIVE
STE 100

Split Billed: N

Reply Request:

Category: -

Date Entered: September 3, 2015

COEUR D'ALENE ID 83814

Standby Type:

Rate: IDLGTB

Class: 3010

Lines: 31

Paytype: BL

Rep: SH HOUSE BLOC

Tear Sheets:

Client:

Start: September 17, 2015

Stop: September 24, 2015

Issues:

2

Editions: SH01/

DATE	DAY	EDITION	NET PRICE
09/17/15	THUR	SHOSHONE NEWS PRESS	
09/24/15	THUR	SHOSHONE NEWS PRESS	

No charge

Re advertised

*Originally published
on wrong date*

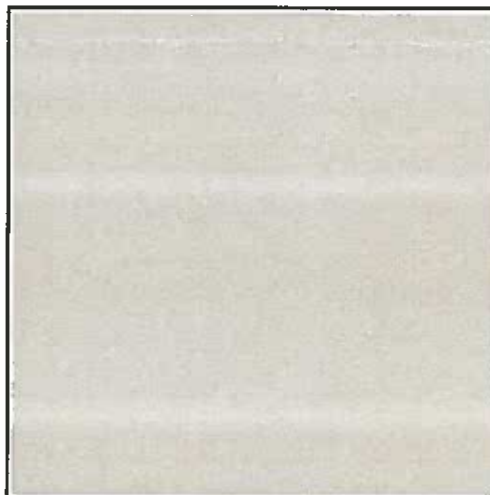
Ok b

Price: 0.00

Other Charges: 0.00

Total: 0.00

Instructions:



Ad shown is not actual print size

This is proof of production. This is not a receipt

AFFIDAVIT OF PUBLICATION

RECEIVED

SEP 25 2015

IDWR / NORTH

STATE OF IDAHO, }
County of Shoshone } ss.

Jamee 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 17th day of September, 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 Jamee Rowley.

On this 24th day of September in the year of 2015, before me, a Notary Public, personally appeared Jamee 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
SEP 25 2015
IDWR / NORTH

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

91-7900

JERROD SCHEFFELMAIER
BRANDI SCHEFFELMAIER
200 W MEADOWHURST RD
ST MARIES, ID 83861

Point of Diversion L2(NWNE) S15 T45N R05E SHOSHONE CO

Source AVERY CREEK tributary ST JOE RIVER

Use: DOMESTIC 01/01 to 12/31 0.04 CFS

Use: FIRE PROTECTION 01/01 to 12/31 0.2 CFS

Total Diversion: 0.2 CFS

Date Filed: 5/21/2015

Place of Use: DOMESTIC T45N R05E S15 L2(NWNE)

Place of Use: FIRE PROTECTION same as DOMESTIC

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 10/5/2015. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

LEGAL 1153

SEPTEMBER 17, 24, 2015



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

September 3, 2015

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

JERROD SCHEFFELMAIER
BRANDI SCHEFFELMAIER
200 W MEADOWHURST RD
ST MARIES, ID 83861

COPY

Application For Permit No. 91-7900

Dear Applicant(s):

The Department of Water Resources has received your water right application. Please refer to the number referenced above in all future correspondence regarding this application.

This was originally published on the wrong dates. It was correct as submitted to the paper, however the set-up and layout teams changed the dates they decided to run the legal notice without notifying us, therefore your application will need to be republished.

A legal notice of the application has now been prepared and is scheduled for publication in the SHOSHONE NEWS PRESS on 9/17/2015 and 9/24/2015. Protests to this application may be submitted for a period ending ten (10) days after the second publication.

If the application is protested, you will be sent a copy of each protest. All protests must be resolved before the application can be considered for approval. If the protest(s) cannot be resolved voluntarily, the Department will conduct a conference and/or hearing on the matter.

If the application is not protested, the Department will process your application and notify you of any action taken on the application. If your application is approved, the Department will send you a copy of the permit.

Please contact this office if you have any questions regarding the application.

Sincerely,

Dianne Ball
Administrative Assistant

Ball, Dianne

From: Ball, Dianne
Sent: Thursday, September 03, 2015 10:14 AM
To: Legal Notices-Shoshone NP, Jamee Rowley,
Cc: Frederick, Adam; Franklin, Keith
Subject: Application for Permit No. 91-7900
Attachments: published-on-wrong-dates--91-7900.pdf; LegalNotice 09-03-15 NP e-mail - 91-7900.doc

Good day to you, Jamee,

I know you don't do the set-up/layout on these, so please don't take this personally. ☺
We've worked together well for some time, and you are greatly appreciated.

This is a special publication request. *This publication should be without charge to us because it was originally published on the wrong dates, not as requested.* (See first attachment above.)

That publication as submitted requested publication on July 2 and 9, 2015 with requested date of July 20 to receive affidavit and bill. (That date would also have been the final date for protests to be received in our office). The submission was correct.

Our Idaho Code requires that we begin our publications on either the first week of the month or the third week of the month, and for daily papers we need our publications to run two consecutive Thursdays.

I was out on medical leave so did not catch this until after the fact, after I returned. This was originally sent to the Shoshone News Press on our behalf from our State Office (Home Office) in Boise, by Jean Hersley.

Please note that the original request was *correct as submitted*, with request to publish July 2 and 9 with July 20 as requested date by which we requested affidavit and bill. However, according to the affidavit and tear sheets, the actual publication dates were June 30 and July 7, 2015, both of which were Tuesdays. (The publication actually started the last week of the month – so the publishing cycle was obviously not as requested, and as a result unacceptable on all counts, according to our Idaho Code.)

Therefore, we are requesting a new publication, this time to begin the third week of September and to publish September **17** and **24**, with October **5** as date we request the affidavit and bill to be received in our office. (That date also represents the final date for protests to be received in our office).

Please publish the enclosed legal notice on the dates indicated, September 17 and 24, 2015, (once a week for two consecutive weekly issues). ***If you cannot publish the notice on the proposed dates, please contact us immediately.***

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before 10/5/2015. Your cooperation is greatly appreciated.

This should be very close to press-ready – for 2-column, 8 point, Century Old Style font – possibly even for a straight copy and paste.

Please send a proof/preview copy for my review before this actually goes too press.

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

91-7900

JERROD SCHEFFELMAIER
BRANDI SCHEFFELMAIER
200 W MEADOWHURST RD
ST MARIES, ID 83861

Point of Diversion L2(NWNE) S15 T45N R05E SHOSHONE CO

Source AVERY CREEK tributary ST JOE RIVER

Use: DOMESTIC	01/01 to 12/31	0.04 CFS
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Use: FIRE PROTECTION	01/01 to 12/31	0.2 CFS
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Total Diversion:	0.2 CFS
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Date Filed: 5/21/2015

Place of Use: DOMESTIC T45N R05E S15 L2(NWNE)

Place of Use: FIRE PROTECTION same as DOMESTIC

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GARY SPACKMAN, Director

Published on 9/17/2015 and 9/24/2015

Ball, Dianne

From: Rowley, Jamee [jrowley@cdapress.com]
Sent: Thursday, September 03, 2015 10:52 AM
To: Ball, Dianne
Subject: Re: Application for Permit No. 91-7900
Attachments: LEGAL 1153.pdf

Hi Diane

My apologies for any issues the error might have caused for you. I have the legal scheduled for sept 17th and sept 24th at no charge. Please review the proof attached. Thank you.

On Thu, Sep 3, 2015 at 10:13 AM, Ball, Dianne <Dianne.Ball@idwr.idaho.gov> wrote:

Good day to you, Jamee,

I know you don't do the set-up/layout on these, so please don't take this personally. ☺
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This should be very close to press-ready – for 2-column, 8 point, Century Old Style font – possibly even for a straight copy and paste.

Please send a proof/preview copy for my review before this actually goes too press.

--

Jamee Rowley
Coeur d'Alene News Press
Shoshone News Press
Ph: 208-664-8176 x. 1005
jrowley@cdapress.com

MEMORANDUM

To: Dianne Ball

From: Sandra Thiel

Subject: Water right application 91-7900

Date: July 10, 2015

The purpose of this memo is to provide the Planning Section's comments on the application for permit 91-7900. The Department received an application to divert water from and Avery Creek, tributary to St. Joe River, on May 18, 2015. The applicant seeks to divert 0.2 cfs for domestic and fire protection beneficial uses. The applicant should be aware that the Idaho Water Resource Board holds minimum stream flow water right 91-7122 on the St. Joe River. This right has a priority date of June 15, 1992 for the protection of fish and wildlife habitat, aquatic life and recreational values.

From August 1 through October 31, the minimum stream flow is 470 cfs; from November 1 through July 31 the minimum stream flow is 941 cfs. As a junior water right holder the applicant's water could be curtailed when the minimum stream flow is not being met. The Idaho Water Resource Board would like assurance that this water right will be actively administered to protect the Board's minimum stream flow right.

Ball, Dianne

From: Thiel, Sandra
Sent: Friday, July 10, 2015 9:42 AM
To: Ball, Dianne
Cc: Palmer, Cherie; Miller, Neeley; Clark, Cynthia (Bridge)
Subject: Idaho Water Resource Board comments
Attachments: Memo92-11027 .docx; Memo98-7525.docx; Memo98-7949.docx; Memo91-7900.docx

Good morning, The attached files have the Idaho Water Resource Board comments about applications for permit 91-7900, 92-11027, 98-7525, and 98-7949.

Sandra Beer Thiel
Idaho Department of Water Resources
322 East Front Street
Boise, Idaho 83720-0098
(208)287-4881
sandra.thiel@idwr.idaho.gov