

State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 81-12010

Priority: September 23, 2015

Maximum Diversion Rate: 0.07 CFS

This is to certify, that LEE DAUGHERTY And/Or JUDY FREILINGER
656 RED FIR RD
KOOSKIA ID 83539

has applied for a permit to appropriate water from:

Source: SPRING

Tributary: SINKS

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>
STOCKWATER	01/01 to 12/31	0.02 CFS
IRRIGATION	03/15 to 11/15	0.05 CFS

LOCATION OF POINT(S) OF DIVERSION:

SPRING SW1/4NE1/4SE1/4, Sec. 22, Twp 32N, Rge 05E, B.M., IDAHO County

PLACE OF USE: STOCKWATER

Twp	Rge	Sec	NE				NW				SW				SE				Totals	
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
32N	05E	22													X				X	

PLACE OF USE: IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals	
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
32N	05E	22																	1.5	1.5
32N	05E	27				.3														.3

Total Acres: 1.8

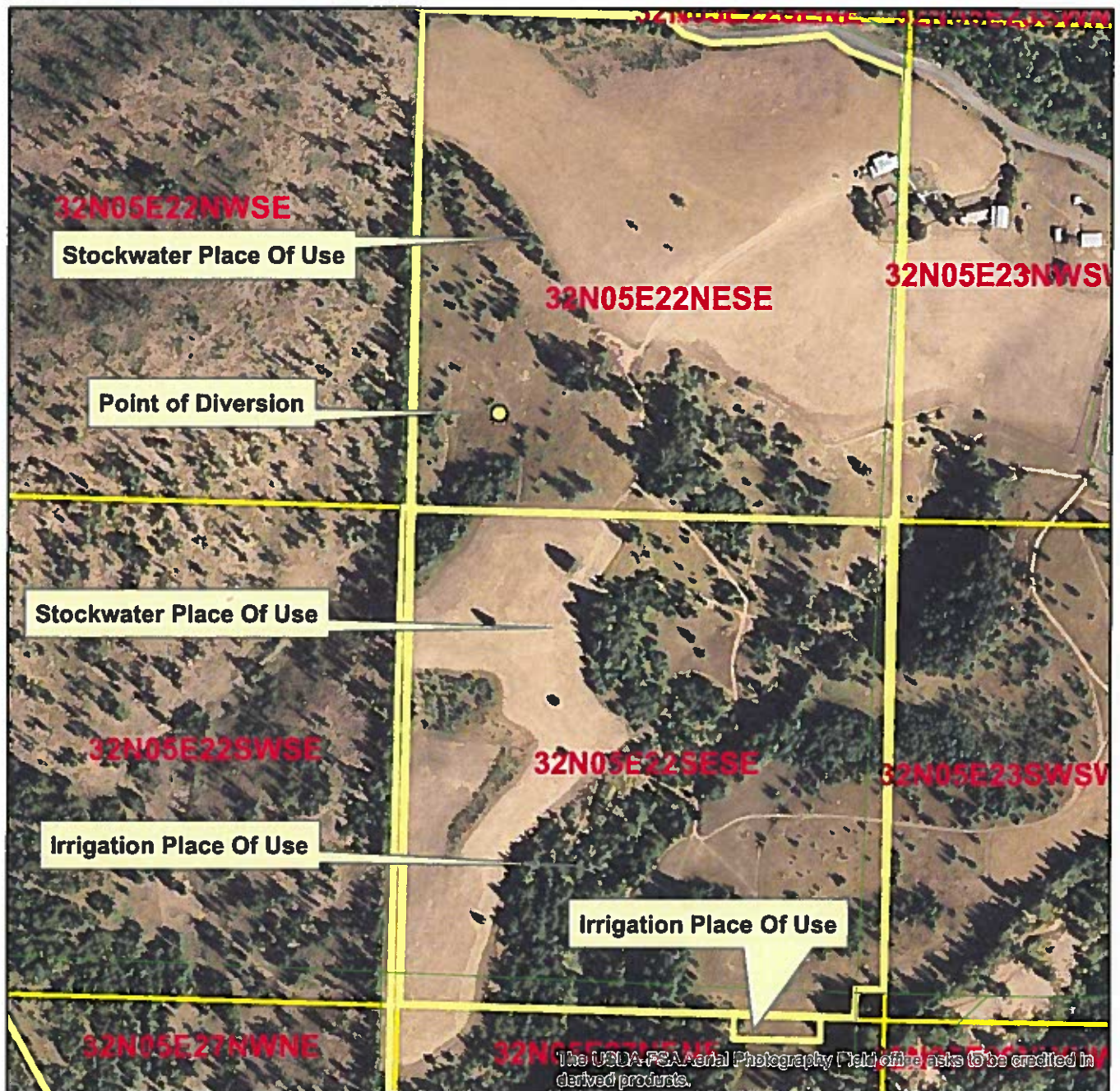
CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **December 01, 2020**.
2. Subject to all prior water rights.
3. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which the permit holder had no control.
4. Stockwater use is for 70 Range Cattle.
5. This right does not grant any right-of-way or easement across the land of another.
6. This right when combined with all other rights shall provide no more than 0.03 cfs per acre nor more than 3.0 afa per acre at the field headgate for irrigation of the place of use.

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 8 day of December, 2015.


For, GARY SPACKMAN, Director

State of Idaho
Department of Water Resources
Application For Permit
81-12010



Legend

-  Application POD
-  Water Permit POU
-  Taxlots
-  Application POU
-  QQ

0 0.0375 0.075 0.15 Miles
+ + + + +





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

December 10, 2015

LEE DAUGHERTY
JUDY FREILINGER
656 RED FIR RD
KOOSKIA ID 83539

RE: Permit No.81-12010

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.

As a permit owner you must commence the excavation or construction of the diverting works within one year of the date the permit was issued, and you must proceed diligently until the project is completed. The date shown under condition no. 1 is the date when the project must be completed.

The Department will send you a 'Proof Due Notice' approximately 60 days prior to the above referenced date requesting you to file either a Proof of Beneficial Use form or a Request for Extension of Time form.

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 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 10, 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.

81-12010

**JUDY FREILINGER
656 RED FIR RD
KOOSKIA ID 83539**

**LEE DAUGHERTY
656 RED FIR RD
KOOSKIA ID 83539**



**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.

To: Water Right Application for Permit 81-12010-

From: Shaun M. Maxey

Date: December 3, 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 (Daugherty & Freilinger) proposal to withdraw up to 0.08 Cubic Feet Per Second (CFS) from an unnamed spring which sinks. Water is to be used for irrigation of a small orchard and stock water.

The unnamed spring source sinks into the ground. It is not a surface water tributary to the Clearwater River or any named tributary to the Clearwater River. There is no information to indicate that use of water from the unnamed spring will negatively affect groundwater or surface water, minimum stream flows, or beneficial uses of ground or surface water.

Diversion of water from this source is not expected to adversely affect water supply in the vicinity or any other water rights.

Good Faith, Delay, or Speculative Information.

The Applicants plan to divert from a spring located that is on their property per Idaho County property tax records. The Place of Use is also on property owned by the Applicants. 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 and five year development period, proposed by the Applicants, appears to be achievable. IDWR has no information that indicates the Applicants are financially incapable of completing the project.

Local Public Interest

IDFG and IDEQ were contacted 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 spring that sinks into the ground. 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 81-12010-be allowed to continue.


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

young trees

$$3.13 \text{ gal/day} \times 80 \text{ trees} = 250.4 \text{ gal/day}$$

$$\text{Application rate} = 1.56 \text{ hrs/day}$$

$$250.4 \text{ gal/day} / 1.56 \text{ hrs/day} = 160.5 \text{ gal/hr}$$

$$160.5 \text{ gal/hr} / 60 \text{ min/hr} = 2.7 \text{ gpm}$$

$$2.7 \text{ gpm} = 0.006 \text{ cfs}$$

mature large trees

$$46.8 \text{ gal/day} \times 80 \text{ trees} = 3,744 \text{ gal/day}$$

$$3,744 \text{ gal/day} / 11.7 \text{ hrs} = 320 \text{ gal/hr}$$

$$320 \text{ gal/hr} / 60 \text{ min/hr} = 5.33 \text{ gpm}$$

$$5.33 \text{ gpm} = 0.012 \text{ cfs}$$

$$1.8 \text{ Ac} \times 0.03 \text{ cfs/Ac} = 0.05 \text{ cfs}$$

$$= 24.2 \text{ gpm}$$



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. Tippetts, Director

October 30, 2015

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

Subject: Water Appropriation, Permit # 81-12010

Dear Shaun:

We received a request for comment along with a copy of an application for a water appropriation permit to appropriate a total quantity of 0.08 cubic feet per second from a spring located on property in Kooskia, Idaho. The spring will be developed to capture water and store it in a tank near the source. The appropriated water will be used for stockwater and irrigation from January 1 to December 31. Assuming all federal, state and local permits have been obtained, regulations met, and reviews completed, we offer the following comments.

The spring is described in the application as a sink. Because we assume any water of the State which occurs beneath the surface of the earth in a saturated geological formation of rock or soil to be ground water (Idaho Code 58.01.02.010.45), we assume there to be hydrologic gradient connectivity to surface waters of the State. It is the policy of the State of Idaho Ground Water Management Plan that existing and projected beneficial uses of ground water and interconnected surface water be maintained and protected and degradation that would impair beneficial uses of ground water and interconnected surface water not be allowed.

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 blue ink that reads "Cindy Barrett". The signature is fluid and cursive.

Cindy Barrett
Surface Water Quality Program Manager

cc: Lee Daugherty and Judy Freilinger, Kooskia
John Cardwell, DEQ
TRIM

RECEIVED

NOV 16 2015

IDWR / NORTH

AFFIDAVIT OF PUBLICATION

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

81-12009

DOUG HICKS

MARLOUS HICKS

545 RED FIR ROAD

KOOSKIA, ID 83539

Point of Diversion NENESW S22 T32N R05E IDAHO County

Source SPRING tributary SINKS

Point of Diversion NENWNE S27 T32N R05E IDAHO County

Source SPRING tributary SINKS

Use: STOCKWATER 01/01 to 12/31 0.03 CFS

Total Diversion: 0.03 CFS

Date Filed: 8/3/2015

Place of Use: STOCKWATER T32N R05E S22

SWNE SENW NESW SESW NWSE SWSE

T32N R05E S27 NWNE

Stockwater use is for 100 head of mixed stock.

81-12010

LEE DAUGHERTY

JUDY FREILINGER

656 RED FIR RD

KOOSKIA, ID 83539

Point of Diversion SWNESE S22 T32N R05E IDAHO County

Source SPRING tributary SINKS

Use: IRRIGATION 03/15 to 11/15 0.06 CFS

Use: STOCKWATER 01/01 to 12/31 0.02 CFS

Total Diversion: 0.08 CFS

Date Filed: 9/23/2015

Place of Use: STOCKWATER T32N R05E S22 NESE SESE

Place of Use: IRRIGATION T32N R05E S22 SESE

T32N R05E S27 NENE

Total Acres: 1.8

Stockwater use is for 70 head of range cattle.

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

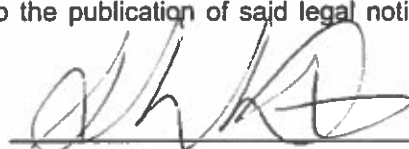
Published on 11/4/2015 and 11/11/2015

N4-11

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 4th day of November, 2015; and the last publication on the 11th day of November, 2015; 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.



STATE OF IDAHO)

COUNTY OF IDAHO)

On this 11th day of November in the year of 2015, 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.




Notary Public for Idaho
Residing at Grangeville, ID
My commission expires: 7-29-19