

NO. 96-09577

Maximum Diversion Rate: 0.04 CFS

Heath Spackman
For, GARY SPACKMAN, Director

State of Idaho
Department of Water Resources
Permit to Appropriate Water
96-9577



-  Point of Diversion
-  Place Of Use Boundary
-  Townships
-  PLS Sections
-  Quarter Quarters

0 0.035 0.07 0.14 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

October 22, 2015

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

MARK S KUBIAK
PO BOX 142
DOVER ID 83825

SUSAN F KUBIAK
PO BOX 142
DOVER ID 83825

RE: Permit No.96-9577

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,



Keith E. Franklin
Program Manager

Enclosure(s)

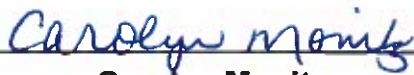
CERTIFICATE OF SERVICE

I hereby certify that on October 22, 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. 96-9577

**MARK S KUBIAK
PO BOX 142
DOVER ID 83825**

**SUSAN F KUBIAK
PO BOX 142
DOVER ID 83825**



**Carolyn Monitz
Technical Records Specialist**

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

STATE OF IDAHO)
) ss.
County of Bonner)

Danielle Rucker, being first duly sworn on oath, deposes and states:

1. I am a citizen of the United States of America, over the age of 18 years, a resident of Bonner County, Idaho, and am not a party to the proceedings referred to in the attached Notice of Application 96-9571. My business address is P.O. Box 159, Sandpoint, Idaho.

2. I am the bookkeeper of the Bonner County Daily Bee, a newspaper of general publication in Bonner County, Idaho;

3. Said newspaper has been continuously and uninterruptedly published in Bonner County, Idaho during a period of 12 months prior to the first publication of said Notice, and thereafter.

4. The attached Notice was published in the regular and entire issue of the Bonner County Daily Bee for a period of 2 consecutive weeks, commencing on the 6 day of August, 2015, and ending on the 13 day of August, 2015.

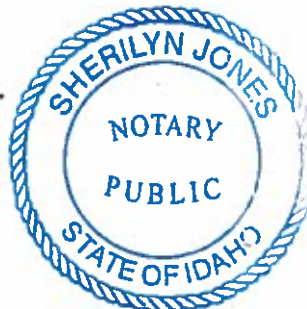
Danielle Rucker

State of Idaho, county of Bonner ss.

On this 13 day of Aug, in the year of 2015, before me, Sherilyn Jones, Notary Public, personally appeared

Danielle Rucker, known or identified to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he
(or they) executed the same.

Sherilyn Jones
Notary Public
Residing at: Sandpoint
Comm. Exp.: 2/24/17



NOTICE OF APPLICATION

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

96-9571

BUCK LUKEZECH

JANAE LUKEZECH

33071 HWY 200

SANDPOINT ID 83864

Point of Diversion NWSE S7 T59N R02E BONNER County

Source UNNAMED STREAM Tributary GROUSE CREEK

Use: DOMESTIC

01/01 to 12/31

0.04 CFS

Use: IRRIGATION

04/15 to 10/31

0.4 CFS

Use: STOCKWATER

01/01 to 12/31

0.02 CFS

Total Diversion:

0.46 CFS

Date Filed: 6/19/2015

Place Of Use: IRRIGATION STOCKWATER DOMESTIC

T59N R02E S7 NWSE

96-9573

ANDREAS NICOLADES

REBECCA NICOLADES

71 VEDELWOOD LN

SANDPOINT ID 83864

Point of Diversion NESE S3 T57N R02W BONNER County

Source SAND CREEK Tributary PEND OREILLE RIVER

Use: IRRIGATION

01/01 to 12/31

0.12 CFS

Total Diversion:

0.12 CFS

Date Filed: 6/22/2015

Place Of Use: IRRIGATION

T57N R02W S3 NESE

Total Acres: 4

96-9574

JASON LEWIS

HEATHER LEWIS

219 CHURCH ST STE A

SANDPOINT ID 83864

Point of Diversion NESE S17 T57N R02W BONNER County

Source GROUND WATER

Use: DOMESTIC

01/01 to 12/31

0.04 CFS

Use: IRRIGATION

04/01 to 10/31

0.08 CFS

Total Diversion:

0.12 CFS

Date Filed: 6/26/2015

Place Of Use: DOMESTIC IRRIGATION

T57N R02W S17 NESE

96-9575

JASON LEWIS

HEATHER LEWIS

219 CHURCH ST STE A

SANDPOINT ID 83864

Point of Diversion NESE S17 T57N R02W BONNER County

Source UNNAMED STREAM Tributary SYRINGA CREEK

Use: FIRE PROTECTION STORAGE

01/01 to 12/31

1.4 AF

Use: RECREATION 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: 6/26/2015

Place Of Use: FIRE PROTECTION STORAGE, RECREATION

STORAGE, WILDLIFE STORAGE

T57N R02W S17 NESE

96-9576

JAMES J ANDERSON

TONI L ANDERSON

PO BOX 703

CLARK FORK ID 83811

Point of Diversion SENWSE S18 T55N R03E BONNER County

Source SPRING Tributary SINKS

Use: DOMESTIC

01/01 to 12/31

0.04 CFS

Use: IRRIGATION

04/01 to 10/31

0.03 CFS

Total Diversion:

0.07 CFS

Date Filed: 6/30/2015

Place Of Use: DOMESTIC, IRRIGATION

T55N R03E S18 SWSE

Total Acres: 1

96-9577

MARK S KUBIAK

SUSAN F KUBIAK

PO BOX 142

DOVER ID 83825

Point of Diversion L1(NENW) S32 T57N R02W BONNER County

Source PEND OREILLE RIVER Tributary COLUMBIA RIVER

Use: DOMESTIC

01/01 to 12/31

0.04 CFS

Total Diversion:

0.04 CFS

Date Filed: 7/1/2015

Place Of Use: DOMESTIC

T57N R02W S32 L1(NENW)

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 8/24/2015. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director
SNP Legal 3772
August 6, 13, 2015