

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 92-11025

Priority: April 24, 2015

Maximum Diversion Rate: 0.20 CFS

This is to certify, that STATE OF IDAHO
DEPT OF LANDS
PO BOX 83720
BOISE ID 83720-0050

has applied for a permit to appropriate water from:

Source: MERRY CREEK

Tributary: MIDDLE FORK ST MARIES 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>
FIRE PROTECTION	01/01 to 12/31	0.20 CFS
INDUSTRIAL	01/01 to 12/31	0.20 CFS

LOCATION OF POINT(S) OF DIVERSION:

MERRY CREEK NW1/4NE1/4 Sec. 34, Twp 43N, Rge 02E, B.M. SHOSHONE County

PLACE OF USE: FIRE PROTECTION AND INDUSTRIAL

Twp Rge Sec	NE				NW				SW				SE				
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
43N 02E 34		X															

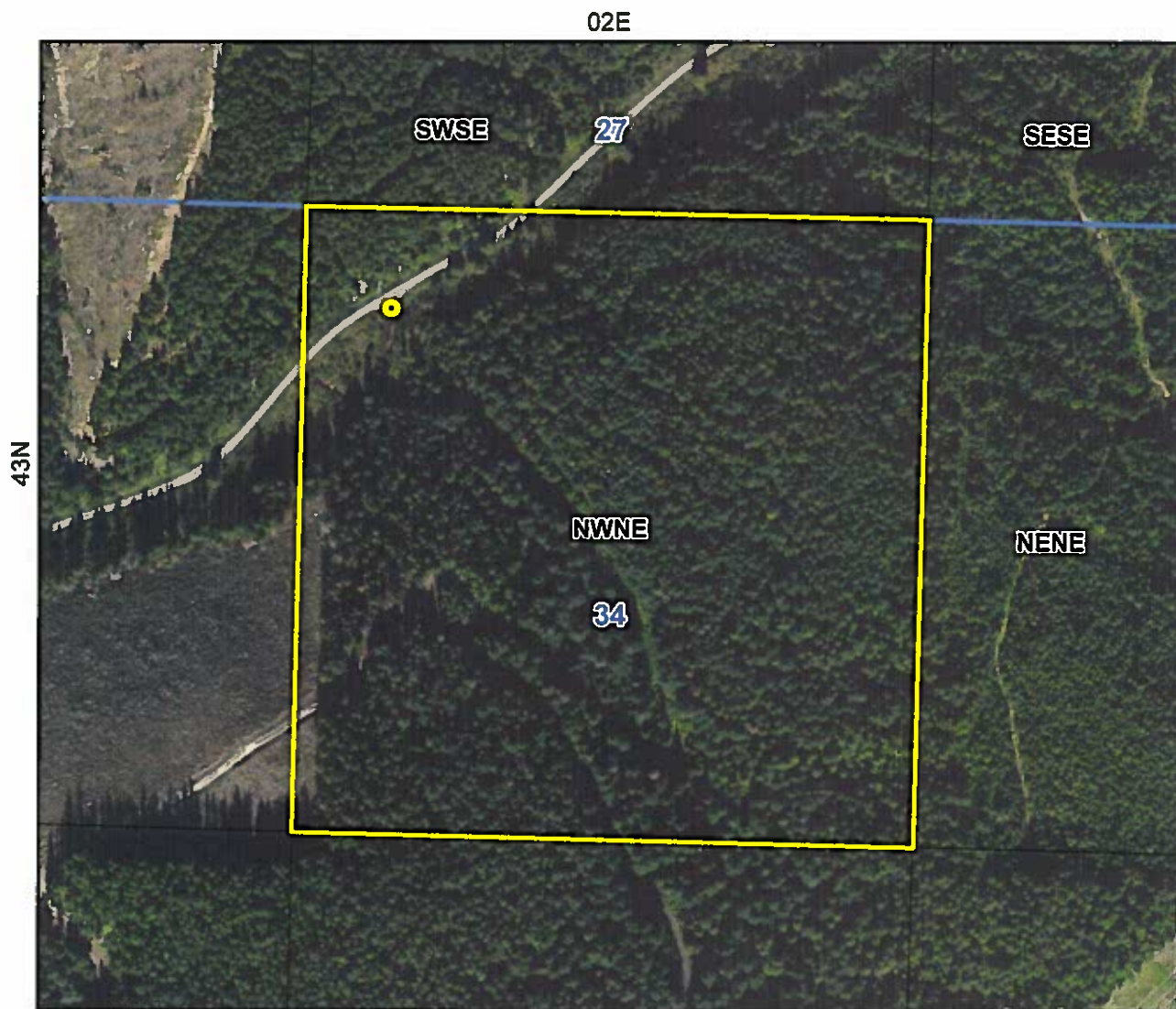
CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **August 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. Prior to the diversion and use of water under this approval, the right holder shall comply with applicable water quality monitoring and/or permitting requirements administered by the Department of Environmental Quality or the Department of Agriculture.
5. A fish screen of 1/4 inch or smaller mesh shall be installed and maintained at the point of diversion.
6. Water shall not be diverted for fire protection use under this right except to fight or repel an existing fire or fire training..
7. Industrial use is for forest practices and forest dust abatement.
8. The right holder at time of submitting proof of beneficial use shall provide the department with annual volume for industrial use.
9. Water shall not be diverted under this right when flows in the St. Maries River are below established minimum flow amounts as defined by Right 92-7200.
10. 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 13 day of August, 2015.


For, GARY SPACKMAN, Director

State of Idaho
Department of Water Resources
Permit to Appropriate Water
92-11025



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

0 0.045 0.09 0.18 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

August 28, 2015

STATE OF IDAHO
DEPT OF LANDS
PO BOX 83720
BOISE ID 83720-0050

RE: Permit No. 92-11025

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 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 August 28, 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.

92-11025

**STATE OF IDAHO
DEPT OF LANDS
PO BOX 83720
BOISE ID 83720-0050**



**Dianne 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

STATE OF IDAHO, } ss.
County of Shoshone

Jamie Rawley 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

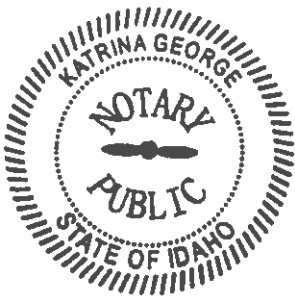
of which the annexed is a printed copy, was published in the regular Thursday issue of said newspaper for two consecutive Weeks commencing on the 4th day of June, 2015, and such publication was made as often during said period as said daily newspaper was regularly issued.

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 Rawley.

On this 11th day of June in the year of 2015 before me, a Notary Public, personally appeared Jamie Rawley, 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
JUN 14 2015
IDWR / NORTH

RECEIVED
JUN 14 2015
IDWR / NORTH

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

92-11020 ✓

STATE OF IDAHO

DEPT OF LANDS

PO BOX 83720

BOISE, ID 83720-0050

Point of Diversion SWSE S35 T43N R02E SHOSHONE County

Source FLEWSIE CREEK tributary MIDDLE FORK ST MARIES RIVER

Use: FIRE PROTECTION	01/01 to 12/31	0.2 CFS
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Use: INDUSTRIAL	01/01 to 12/31	0.2 CFS
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Total Diversion:	0.2 CFS
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Date Filed: 4/8/2015

Place of Use: INDUSTRIAL T43N R02E S35 SWSE

Place of Use: FIRE PROTECTION same as INDUSTRIAL

Industrial Use is for forest practices & forest dust abatement.

Fire protection includes but not limited to suppression, training and prescribed fires.

92-11025

STATE OF IDAHO

DEPT OF LANDS

PO BOX 83720

BOISE, ID 83720-0050

Point of Diversion NWNE S34 T43N R02E SHOSHONE County

Source MERRY CREEK tributary MIDDLE FORK ST MARIES RIVER

Use: FIRE PROTECTION	01/01 to 12/31	0.2 CFS
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Use: INDUSTRIAL	01/01 to 12/31	0.2 CFS
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Total Diversion	0.2 CFS
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Date Filed: 4/8/2015

Place of Use: INDUSTRIAL T43N R02E S34 NWNE

Place of Use: FIRE PROTECTION same as INDUSTRIAL

Industrial Use is for forest practices & forest dust abatement.

Fire protection includes but not limited to suppression, training and prescribed fires.

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 6/22/2015. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Published on 6/4/2015 and 6/11/2015

LEGAL 1037

JUNE 4, 11, 2015