

State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 85-15769

Priority: March 23, 2015

Maximum Diversion Rate: 0.50 CFS

This is to certify, that CITY OF WINCHESTER
PO BOX 245
WINCHESTER ID 83555-0245

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>
MUNICIPAL	01/01 to 12/31	0.50 CFS

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER L29 (SW1/4SE1/4) Sec. 31, Twp 34N, Rge 02W, B.M. LEWIS County
GROUND WATER L20 (NW1/4SE1/4) Sec. 31, Twp 34N, Rge 02W, B.M. LEWIS County
GROUND WATER L17 (NE1/4SE1/4) Sec. 31, Twp 34N, Rge 02W, B.M. LEWIS County
GROUND WATER L29 (SW1/4SE1/4) Sec. 31, Twp 34N, Rge 02W, B.M. LEWIS County
GROUND WATER L9 (SW1/4NW1/4) Sec. 33, Twp 34N, Rge 02W, B.M. LEWIS County
GROUND WATER L25 (SW1/4SW1/4) Sec. 33, Twp 34N, Rge 02W, B.M. LEWIS County

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **May 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. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
5. A map depicting the place of use boundary for this water right at the time of this approval is attached to this document for illustrative purposes.
6. Place of use is within the service area of the City of Winchester municipal water supply system as provided for under Idaho Law.
7. Rights 85-15769, 85-7363, 85-7306, 85-4405 and 85-4404 when combined shall not exceed a total diversion rate of 0.50 cfs.
8. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.
9. Prior to or in connection with the proof of beneficial use statement to be submitted for municipal water use under this right, the right holder shall provide the department with documentation showing that the water supply system is being regulated by the Idaho Department of Environmental Quality as a public water supply and that it has been issued a public water supply number.
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 15 day of May, 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

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

May 18, 2015

CITY OF WINCHESTER
PO BOX 245
WINCHESTER ID 83555-0245

RE: Permit No. 85-15769

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.

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 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 May 18, 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.

85-15769

CITY OF WINCHESTER

PO BOX 245

WINCHESTER ID 83555-0245



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.

MEMORANDUM

To: Water Right Application 85-15769

From: Adam Frederick

Date: 5/15/15

Re: Application for a Permit to Appropriate Water within the Salmon and Clearwater River Basins.

Re: Regional Analysis and Recommendation in accordance with Water Appropriation Rules (IDAPA 37.03.08.040.05).

Water Supply Information

The Idaho Department of Fish & Game as well as the Department of Environmental Quality were asked for comments regarding this application. The Department of Environmental Quality responded, but had no objections. The Idaho Department of Fish & Game did not respond.

Good Faith, Delay, or Speculative Information

The applicant plans to divert water for municipal supply to the City of Winchester and there are no known issues with any other party.

Financial Resources Information

The applicant will use its own resources to complete the project

Local Public Interest

The Idaho Department of Fish & Game and the Department of Environmental Quality have been asked to comment by the Idaho Department of Water Resources. Department of Environmental Quality responded by letter and had no objection. Idaho Department of Fish & Game did not respond to request for comment.

Injury to Other Water Rights

There does not appear to be any foreseen impacts to the minimum stream flow requirement on the Clearwater River. There have been no objections from the Idaho Department of Fish & Game and the Department of Environmental Quality.

Recommendation

The Northern Region recommends proceeding with the processing of this water right application.

Affidavit of Publication

STATE OF IDAHO, }
County of Idaho, } ss.

I, STEVE A. WHERRY, being first duly sworn, depose and say that I am Editor of the LEWIS COUNTY HERALD, a weekly newspaper, published and issued weekly at Nezperce, Lewis County, State of Idaho, which is of general circulation in said county and state, that the said notice, of which the hereto attached is a true copy, was published in said newspaper for

2 weeks, being published 2 times, the

first publication being on the 24 day of

April, 20 15, and the last publication on the

9th day of April, 20 15; and that

the said notice was published in the newspaper proper and not in a supplement; that said newspaper has been continuously and uninterruptedly published in said county during a period of seventy-eight (78) consecutive weeks prior to the first publication of said notice or advertisement.

Steve A. Wherry

STATE OF IDAHO, }
County of Idaho, }

On this 10th day of May in the year of 2015,

before me, a Notary Public, personally appeared Steve A. Wherry,

know or identified to me to be the person whose name is 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.

Gregory A. Wherry
Notary Public for Idaho
Residing at 6 Foxwood, ID
My commission expires: 7/22/2010

GREGORY A. WHERRY
NOTARY PUBLIC
STATE OF IDAHO

RECEIVED
MAY 13 2015
IDWR / NORTH

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

85-15769

CITY OF WINCHESTER

PO BOX 245

WINCHESTER, ID 83555-0245

Point of Diversion L29(SWSE) S31 T34N R02W LEWIS County

Point of Diversion L20(NWSE) S31 T34N R02W LEWIS County

Point of Diversion L29(SWSE) S31 T34N R02W LEWIS County

Point of Diversion L17(NESE) S31 T34N R02W LEWIS County

Point of Diversion L9(SWNW) S33 T34N R02W LEWIS County

Point of Diversion L25(SWSW) S33 T34N R02W LEWIS County

Source for all Points of Diversion GROUND WATER

Use: MUNICIPAL 01/01 to 12/31 0.5 CFS

Total Diversion: 0.5 CFS

Date Filed: 3/23/2015

Place of Use: MUNICIPAL

Municipal use is within applicant's service area.

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 4/20/2015. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Published in the April 2 & 9, 2015 Lewis County Herald



STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY

1118 F Street • Lewiston, Idaho 83501 • (208) 799-4370
www.deq.idaho.gov

RECEIVED
APR 07 2015

IDWR / NORTH
"Butch" Otter, Governor
Curt Hansen, Director

April 6, 2015

Adam Frederick
Idaho Department of Water Resources
7600 N Mineral Dr., Ste. 100
Coeur d'Alene, ID 83815

Subject: Water Rights Application for Permit # 85-15769

Dear Mr. Frederick:

We received the City of Winchester's request for comment on the application for a permit to appropriate ground water from 6 wells (4 existing wells, 2 to be constructed) for a total of 0.50 cfs (220 gallons per minute) to provide for municipal water from January 1 to December 31.

Based on the information that has been provided, DEQ cannot estimate nor predict impairments to surface or ground water beneficial uses resulting from the requested withdrawal. However, assuming all federal, state, and local permits have been obtained, regulations met, and reviews completed, DEQ has no objections to the proposed allocation of water providing the existing and projected beneficial uses of ground water and interconnected surface water be maintained and protected, and degradation that would impair ground water and interconnected surface water not be allowed.

Thank you for requesting our review and comment of your activity.

Sincerely,

A handwritten signature in black ink that reads "Cindy Barrett". The signature is fluid and cursive.

Cindy Barrett
Regional Surface Water Quality Manager

c: Randolph D. Stewart, Mayor, City of Winchester

ec: Ray Hennekey, IDFG
John Cardwell, DEQ