

State of Idaho
Department of Water Resources
Water Right License

WATER RIGHT NO. 97-07485

Priority: May 07, 2009

Maximum Diversion Rate: 0.05 CFS
Maximum Diversion Volume: 4.5 AF

It is hereby certified that GLEN FRACHISEUR
 MICHELE FRACHISEUR
 PO BOX 870
 PRIEST RIVER ID 83856 has complied with the terms and conditions of
the permit, issued pursuant to Application for Permit dated May 07, 2009; and has submitted Proof of
Beneficial Use on July 18, 2014. An examination confirms water is diverted from:

SOURCE

WEST BRANCH UPPER PRIEST RIVER **Tributary:** PRIEST RIVER

and a water right has been established as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL DIVERSION VOLUME</u>
IRRIGATION	04/01 to 10/31	0.05 CFS	4.5 AF

LOCATION OF POINT(S) OF DIVERSION:

WEST BRANCH UPPER PRIEST NE1/4NW1/4 Sec. 21, Twp 59N, Rge 05W, B.M., BONNER County
RIVER

PLACE OF USE: IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
59N	05W	21					1.5												1.5

Total Acres: 1.5

CONDITIONS OF APPROVAL

1. Prior to the diversion and use of water under this approval, the right holder shall comply with all fish screening and/or fish passage requirements of the Idaho Department of Fish and Game.
2. 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.
3. This right does not grant any right-of-way or easement across the land of another.

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WATER RIGHT NO. 97-07485

4. 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 lands above.

This license is issued pursuant to the provisions of Section 42-219, Idaho Code. The water right confirmed by this license is subject to all prior water rights and shall be used in accordance with Idaho law and applicable rules of the Department of Water Resources.

Signed this 23rd day of February, 2015.


for Shelley W. Keen
GARY SPACKMAN
Director



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Web Site: www.idwr.idaho.gov

GARY SPACKMAN
Director

C.L. "BUTCH" OTTER
Governor

February 24, 2015

GLEN FRACHISEUR
And
MICHELE FRACHISEUR
PO BOX 870
PRIEST RIVER ID 83856

RE: License No. 97-7485

Issuance of License

Dear Water Right Holder(s):

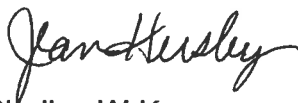
The Department of Water Resources has issued the enclosed Water Right License confirming that a water right has been established in accordance with your permit. Please be sure to thoroughly review the conditions of approval and remarks listed on your license.

The license 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.

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 208-287-4947.

Sincerely,


for Shelley W Keen
Water Rights Section Manager

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on February 24, 2015 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved License) to the person(s) listed below:

RE: WATER RIGHT NO.

97-7485

**GLEN FRACHISEUR
PO BOX 870
PRIEST RIVER ID 83856**

**MICHELE FRACHISEUR
PO BOX 870
PRIEST RIVER ID 83856**

A handwritten signature in cursive script, reading "Jean Hersley", is written over a horizontal line.

Jean Hersley

Technical Records Specialist II

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.

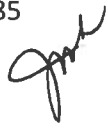
The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

MEMORANDUM

TO: Water Right 97-7485

From: Jean Hersley

Date: February 18, 2015



On July 28, 2014, the Department sent a letter and map requesting the permit holder indicate which lands he was irrigating and to also send pictures of the fish screen and diversion system. The Department received these on August 11, 2014.

The land marked on the calendar included acres in a QQ that wasn't listed on the permit. An amendment was sent on September 15, 2014 reducing the number of acres and adding the QQ. A second amendment letter was sent on October 9, 2014. No response was received from the permit holder.

On January 14, 2015, I sent a Notice of Intent to Void Permit letter. After meeting with Shelley, it was determined that the Notice of Intent to Void Permit letter shouldn't have been sent and we can go ahead and license the water right for less than permitted. We will leave the original place of use with the consideration that the GCDB lines moved on the map.



State of Idaho

DEPARTMENT OF WATER RESOURCES

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GARY SPACKMAN
Director

C.L. "BUTCH" OTTER
Governor

January 14, 2015

GLEN FRACHISEUR
MICHELE FRACHISEUR
PO BOX 870
PRIEST RIVER ID 83856

RE: Water Appropriation Permit 97-7485

Notice of Intent to Void Permit

Dear Permit Holder:

In July, 2009, the Idaho Department of Water Resources (Dept) issued permit 97-7485 authorizing you to develop a right to divert .09 cfs of water from the West Branch of Upper Priest River tributary of Priest River within the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 21, Township 59 North, Range 05 West, B.M., for the irrigation use of 3.0 acres of lawn in Bonner County. Under the terms of the permit, the development was to have been completed by August 1, 2014. On July 18, 2014, the Dept. received your Proof of Beneficial Use statement indicating you had completed your development and put the water to beneficial use. However, during the licensing review process, it was discovered that the place of use also included land in the SESW and that you are only irrigating 1.5 acres under this permit.

The final step in the water appropriation process is the issuance of a Water Right License. By issuing a license, the Department recognizes that you have met the requirements for establishing a water right. Because the place of use was developed differently than permitted, the Department cannot issue a license without an amendment of the permit. An application for amendment was sent on September 15, 2014 and again on October 9, 2014 to show this change so the Department could move forward with the licensing of your permit. As of the date of this letter, we haven't received the amendment from you.

I am enclosing another Application for Amendment in case you misplaced the others. If I do not receive the requested information from you by **February 15, 2015**, I will take action to void your permit under the provision of Section 42-219(8) of the Idaho Code.

If you have any questions, please contact me at 208-287-4944.

Respectfully,


for Cherie Palmer
Water Rights Supervisor

Enclosure

SCANNED
JAN 14 2015



State of Idaho

DEPARTMENT OF WATER RESOURCES

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GARY SPACKMAN
Director

C.L. "BUTCH" OTTER
Governor

October 9, 2014

GLEN FRACHISEUR
MICHELE FRACHISEUR
PO BOX 870
PRIEST RIVER ID 83856

RE: Water Right Permit No. 97-07485

Dear Permit Holder(s):

On September 15, 2014, the Department of Water Resources sent you a letter requesting an Application for Amendment to license your water right permit no 97-7485. By issuing a license, the Department confirms the extent of development that has been established in compliance with the terms of the permit.

The examiner who verified your water use reported that certain elements of the permit have been developed differently than described on your permit. Changes that do not increase the authorized use of water under the permit can be requested and approved in accordance with Section 42-211, Idaho Code. Before a license can be issued, your permit must be amended to depict your water use as it was actually developed.

Based on the examiner's report and the map you returned to the Department, the following elements were developed differently than described on your permit:

☒ **Place(s) of Use**

I am enclosing another copy of the Application for Amendment in case you misplaced the original that was sent to you. The enclosed Application for Amendment form depicts the elements of the water right as they will appear on the license when it is issued. Please review the amendment form carefully. If you concur with the information presented, please sign the form and return it with the \$100.00 filing fee within 30 days. If the Department does not hear from you by November 10, 2014, steps will be taken to void your permit.

If you have any questions, please call me at 208-287-4942.

Sincerely,

Jean Hersley
Technical Records Specialist II

Enclosure(s)

An aerial photograph of a property, likely a golf course or park, with a blue outline indicating a specific area. The property is surrounded by dense green trees. A road or path runs along the top edge of the property. A small cluster of buildings is visible in the upper right corner. A handwritten note is placed on the image, providing instructions on how to use the property.

Frachiser property
outlined in blue.
Please mark place
of use + return to
IDWR.



State of Idaho

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GARY SPACKMAN
Director

C.L. "BUTCH" OTTER
Governor

September 15, 2014

GLEN FRACHISEUR
MICHELE FRACHISEUR
PO BOX 870
PRIEST RIVER ID 83856

RE: Water Right Permit No. 97-07485

Dear Permit Holder(s):

The Department of Water Resources is reviewing the permit referenced above prior to issuing a water right license. By issuing a license, the Department confirms the extent of development that has been established in compliance with the terms of the permit. The examiner who verified your water use reported that certain elements of the permit have been developed differently than described on your permit. Changes that do not increase the authorized use of water under the permit can be requested and approved in accordance with Section 42-211, Idaho Code. Before a license can be issued, your permit must be amended to depict your water use as it was actually developed.

Based on the examiner's report and the map you returned to the Department, the following elements were developed differently than described on your permit:

X **Place(s) of Use**

Your permit was issued for 3 acres of irrigation in Township 59N, Range 05W, Section 21 NENW. On the enclosed map, you marked the place of use that has been developed, which also includes the SESW. The total acres and diversion rate have also been reduced to 1.5 acres and 0.05 cfs.

The enclosed Application for Amendment form depicts the elements of the water right as they will appear on the license when it is issued. Please review the amendment form carefully. If you concur with the information presented, please sign the form and return it with the \$100.00 filing fee within 14 days.

If you have any questions, please call me at 208-287-4942.

Sincerely,

Jean Hersley

Technical Records Specialist II

Enclosure(s)

Hersley, Jean

From: Hersley, Jean
Sent: Friday, August 15, 2014 9:29 AM
To: 'Glen Frachiseur'
Subject: RE: Frachiseur WRP#97-7485

Thank you for the pictures of your diversion system. I still haven't received the map with the irrigated lands marked. Please let me know if it is in the mail.

Jean Hersley

From: Glen Frachiseur [<mailto:glen@alaskanmarinemministries.com>]
Sent: Monday, August 11, 2014 3:22 PM
To: Hersley, Jean
Subject: Frachiseur WRP#97-7485

Hi Jean,

I have attached pictures of our diversion system and fish screen. The water is pumped from the creek to each area of use via 1" pvc pipe. The line that goes to the garden is buried approximately three feet deep and has one outlet. The line that goes to the lawn is above ground and has four outlets.

You should receive the map detailing which lands are irrigated by tomorrow.

If you have any questions or need more clarification please let me know.

Thank you,

Glen Frachiseur

August 11, 2014

Idaho Department of Water Resources
322 East Front Street
Boise, Idaho, 83720
Attn: Jean Hersley

RECEIVED
AUG 15 2014
DEPARTMENT OF
WATER RESOURCES

Re: Water Right Permit No. 97-7485

Dear Jean,

I have marked out two areas that we are irrigating, the lawn by the house and the garden out by the road. I have also emailed pictures to you showing the little pump station and the intake of the pump.

Thank you,

A handwritten signature in blue ink, appearing to read "Glen Frachiseur", written over a horizontal line.

Glen Frachiseur



99-14485

Franchiseur property
outlined in blue.
Please mark place
of use + return to
IDWR

Hersley, Jean

From: Glen Frachiseur [glen@alaskanmarinemministries.com]
Sent: Monday, August 11, 2014 3:22 PM
To: Hersley, Jean
Subject: Frachiseur WRP#97-7485
Attachments: IMG_20140807_182933.jpg; IMG_20140807_182944.jpg; IMG_20140807_183031.jpg; IMG_20140807_183036.jpg; IMG_20140807_183120.jpg; IMG_20140807_183131.jpg

Hi Jean,

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Thank you,

Glen Frachiseur