

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 85-15761

Priority: December 23, 2013

Maximum Diversion Rate: 0.20 CFS
Maximum Diversion Volume: 42.9 AF

This is to certify, that GEORGE SCHWARTS
28928 CULDESAC RD
CULDESAC ID 83524

And

SANDRA BOYD
29875 CULDESAC RD
CULDESAC ID 83524

And

PAUL BOYD
29875 CULDESAC RD
CULDESAC ID 83524

has applied for a permit to appropriate water from:

Source: UNNAMED STREAM**Tributary:** LAPWAI CREEK

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>	<u>ANNUAL VOLUME</u>
DIVERSION TO STORAGE	01/01 to 12/31	0.20 CFS	
STOCKWATER STORAGE	01/01 to 12/31		2.9 AF
IRRIGATION FROM STORAGE	02/15 to 11/30		40.0 AF
IRRIGATION STORAGE	01/01 to 12/31		42.6 AF
STOCKWATER	01/01 to 12/31	0.02 CFS	

LOCATION OF POINT(S) OF DIVERSION:

UNNAMED STREAM, L20 (NW1/4SE1/4), Sec. 12, Twp 35N, Rge 03W, B.M., NEZ PERCE County

UNNAMED STREAM, L20 (NW1/4SE1/4), Sec. 12, Twp 35N, Rge 03W, B.M., NEZ PERCE County

PLACE OF USE: STOCKWATER STORAGE, IRRIGATION STORAGE

Twp	Rge	Sec	NE				NW				SW				SE				
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
35N	03W	12														X			
																L 20			

State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 85-15761

PLACE OF USE: IRRIGATION FROM STORAGE

Twp Rge Sec	NE				NW				SW				SE				Totals
35N 03W 12	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
									.5			3.0		3.5	3.0		10.0
									L 21			L 28		L 20	L 29		

Total Acres: 10

PLACE OF USE: STOCKWATER

Twp Rge Sec	NE				NW				SW				SE				Totals
35N 03W 12	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
									X			X		X	X		
									L 21			L 28		L 20	L 29		

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **January 01, 2018**.
2. Subject to all prior water rights.
3. This right does not grant any right-of-way or easement across the land of another.
4. Stockwater use is for 20 head of mixed stock.
5. This right when combined with all other rights shall provide no more than 4.0 afa per acre at the field headgate for irrigation of the place of use.
6. The two (2) ponds established by the storage of water under this right shall not exceed a total capacity of 1.4 acre-feet or a total surface area of 0.34 acres.
7. This right authorize the diversion of an annual total of 42.9 acre-feet to be used for the initial filling of the ponds, for the replacement of losses caused by seepage and evaporation.
from the ponds and for the storage of water for irrigation and stockwater puposes.
8. Prior to the diversion and use of water under this approval, the right holder shall comply with applicable county zoning and use ordinances.

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 2 day of January, 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

January 5, 2015

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

GEORGE SCHWARTS
28928 CULDESAC RD
CULDESAC ID 83524

PAUL BOYD
SANDRA BOYD
29875 CULDESAC RD
CULDESAC ID 83524

RE: Permit No.85-15761

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.

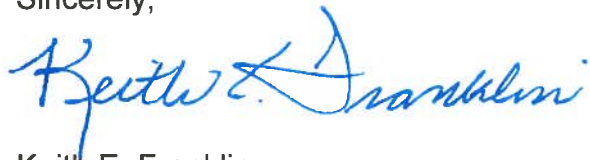
The Department will send you a 'Proof Due Notice' approximately 60 days prior to the above referenced date requesting you to file either a Proof of Beneficial Use form or a Request for Extension of Time form.

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 January 5, 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. 85-15761

**GEORGE SCHWARTS
28928 CULDESAC RD
CULDESAC ID 83524**

**PAUL BOYD
SANDRA BOYD
29875 CULDESAC RD
CULDESAC ID 83524**



**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 Applications #85-15761

From: Keith E. Franklin

Date: January 2, 2015

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 water supply is at the headwaters of an unnamed stream located in dry land wheat country. The unnamed stream is intermittent. The ponds for this water right were constructed some years back and after 1971. The Idaho Water Board protested the application since it's tributary to Lapwai Creek. The Idaho Water Board, after discussions with the applicant determined there would be minimal impact to Lapwai Creek since the stream ceases to flow in the dry part of the year and withdrew their protest. The total amount of water this right would be able to use will be determined during the field exam at licensing.

Good Faith, Delay, or Speculative Information.

The applicant plans to divert water for the applicants own use on property that the applicant owns and there are no known issues with any other party.

Financial Resources Information.

The ponds have already been constructed and the financial outlay for irrigation will be handled out of pocket by the applicant.

Local Public Interest.

The Idaho Department of Fish & Game and the Department of Environmental Quality have been asked to comment, by the applicant. The agencies are not apposed to the applicant's proposal. The Department of Environmental Quality was concerned that there may not be sufficient flow outside the seasonal high flow period to support the beneficial use. The suggested the appropriated withdrawal be made during periods of high flow or at a minimum, flows greater than 1 cfs. The Idaho Department of Fish & Game did not submit comments.

Injury to Other Water Rights.

There isn't any foreseen potential to impact area water right holders.

Recommendation.

Northern Region recommends proceeding with the processing of these water right applications.



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
Curt Fransen, Director

October 24, 2014

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

RECEIVED
OCT 27 2014
IDWR/NORTHERN

RE: Water Appropriation, Permits # 85-15761

Dear Mr. Franklin:

We received a request for comment along with a copy of an application for a water appropriation permit 85-15761 to appropriate 0.2 cfs total diversion, for a total of 42.9 acre feet of storage volume from an unnamed tributary to Lapwai Creek in Nez Perce County. The water will be diverted from January 1 to December 31 into two different ponds and the appropriated water will be used for stock water storage and irrigation. Lapwai Creek is in waterbody ID17060306CL008_03 and is currently listed in Category 2 of the Idaho 2012 Integrated Report as fully supporting the Cold Water Aquatic Life beneficial use.

Assuming all federal, state and local permits have been obtained, regulations met, and reviews completed, we offer the following comments.

We are concerned that there may not be sufficient flow outside the seasonal high flow period to support the designated beneficial use. We recommend that the legally appropriated withdrawal be made during periods of seasonal high flow or at a minimum, flows greater than 1 cfs.

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

Cindy Barrett
Water Quality Manager

c: Paul Boyd and Sandra Boyd, George Schwarts, Culdesac, ID
John Cardwell, DEQ
Ray Hennekey, IDFG

TRIBUNE PUBLISHING COMPANY INC
The Lewiston Tribune
505 C St., P.O.Box 957
Lewiston, Idaho 83501
(208) 743-9411

Date: 10/23/2014
Account No. 964750
Description 102178 The foll

INVOICE NO. 102178

LEGAL ADVERTISING
INVOICE

Times 2 Lines 45
Tab. lines

\$ 131.62

Sold To: ID DEPT. OF WATER RESOURCES Dianne Ball
7600 MINERAL DR #100
COEUR D'ALENE ID 83814

RECEIVED
OCT 27 2014 PO#
IDWR / NORTH

85-15761

NOTICE: This is a invoice of Purchase made by you. Statement will be rendered the first of the month
Please Retain This Invoice as Your Statement Will Refer to Invoice by No. Only.

AFFIDAVIT OF PUBLICATION

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

85-15761
PAUL BOYD
SANDRA BOYD
29875 CULDESAC RD
CULDESAC, ID 83524
GEORGE SCHWARTS
28928 CULDESAC RD
CULDESAC, ID 83524
Points of Diversion(2) L20(NWSE) S12 T35N R03W
NEZ PERCE County
Source UNNAMED STREAM tributary LAPWAI CREEK
Use: DIVERSION to Storage 01/01 to 12/31 0.2 CFS
Use: IRRIGATION from Storage 02/15 to 11/30 40 AF
Use: IRRIGATION Storage 01/01 to 12/31 42.6 AF
Use: STOCKWATER 01/01 to 12/31 0.02 CFS
Use: STOCKWATER Storage 01/01 to 12/31 2.9 AF
Total Diversion: 0.2 CFS 42.9 AF

Date Filed: 9/9/2014

Place of Use: STOCKWATER Storage T35N R03W S12
L20(NWSE)

Place of Use: IRRIGATION STORAGE

same as STOCKWATER Storage
Place of Use: STOCKWATER T35N R03W S12

L21(NESW) L28(SES) L20(NWSE) L29(SWSE)
Place of Use: IRRIGATION from STORAGE T35N R03W
S12 L21(NESW) L28(SES) L20(NWSE) L29(SWSE)

Total Acres: 10

Stockwater use is for 20 head of mixed stock.
Permits will be subject to all prior water rights. For additional
information concerning the property location, contact North-
ern 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 applica-
tion must be filed with the Director, Dept. of Water Resourc-
es, 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 11/3/2014. The protestant must also
send a copy of the protest to the applicant.

GARY SPACKMAN, Director
Published on 10/16/2014 and 10/23/2014

Karen J. Lewis, being duly sworn, deposes and
says, I am the Legal Clerk of the Tribune
Publishing Company, a corporation organized and existing
under and by virtue of the laws of the State of Idaho
and under and by virtue of the laws of the State of Washington,
publishers of the Lewiston Tribune, a news-
paper of general circulation published at Lewiston, Nez Perce
County, Idaho; That the said Lewiston Tribune is
an established newspaper and has been published regularly
and issued regularly at least once a day for more than 105
consecutive years next immediately preceding the first
publication of this notice, and has been so published
uninterrupted for said period; that the 102178 The foll
attached hereto and which is made a part of this affidavit
was published in the said Lewiston Tribune,

2 time(s). Publication being on
10/16, or once a Week
for 2 consecutive Week,
the first publication thereof being on the 10/16/2014,
and the last publication thereof being on the 10/23/2014,
and said 102178 The foll was so published in the
regular and entire issue of said newspaper and was not in a
supplement thereof and was so published in every issue and
number of the said paper, during the period and times of
publication as set forth above.

Karen J. Lewis

State of Idaho

S.S.

County of Nez Perce

On this 24th day of October in the year
of 2014, before me, a Notary Public, personally
appeared Karen J. Lewis, 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.

Carol Peterson
Notary Public in and for the State of Idaho,
residing at Lewiston, therein
Commission Expires 9-1-2012

