

State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 85-15764

PLACE OF USE: STOCKWATER FROM STORAGE

Twp	Rge	Sec	NE				NW				SW				SE				Totals
32N	01W	27	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
																		X	

PLACE OF USE: IRRIGATION FROM STORAGE

Twp	Rge	Sec	NE				NW				SW				SE				Totals
32N	01W	27	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
																		.2	.2

Total Acres: 0.2

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **November 1, 2019**.
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 from storage is for 50 head of mixed stock.
5. Recreation use is for fishing.
6. This right when combined with all other rights shall provide no more than 3.0 afa per acre at the field headgate for irrigation of the place of use.
7. Water shall not be diverted from fire protection storage except to fight or repel an existing fire.
8. The pond established by the storage of water under this right shall not exceed a total capacity of 8.0 acre-feet or a total surface area of 1.0 acre.
9. This right authorizes the diversion of an annual total of 15.9 acre-feet to be used for the initial filling of the pond, for the replacement of losses caused by seepage and evaporation from the pond and for the storage of water for irrigation, stockwater fire protection and recreation purposes.
10. Prior to the diversion and use of water under this approval, the right holder shall comply with applicable county zoning and use ordinances.
11. 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.

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 12 day of November, 2014.


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

November 26, 2014

WILFRED WEMHOFF
905 CYPRESS ST.
LEWISTON ID 83501

THERESA WEMHOFF
905 CYPRESS ST.
LEWISTON ID 83501

RE: Permit No. 85-15764

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 cursive script that reads "Keith E. Franklin". The signature is written in dark ink and is positioned above the printed name.

Keith E. Franklin
Program Manager

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on November 26, 2014 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.

85-15764

**THERESA WEMHOFF
905 CYPRESS ST.
LEWISTON ID 83501**

**WILFRED WEMHOFF
905 CYPRESS ST.
LEWISTON ID 83501**

A handwritten signature in cursive script that reads "Dianne L. Ball".

**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

Date: November 12, 2014
To: Water Right File 85-15764
From: kfranklin 
Re: Spring Location

At permitting it was found the location of the spring was not defined to the 10 acre quarter section. This was corrected in the permit data entry and the Northern Region determined the application did not need to be re-advertised for the correction.

RECEIVED

NOV 10 2014

Affidavit of PublicationSTATE OF IDAHO, }
County of Idaho, } ss.

I, STEVE A. WHERRY, being first duly sworn, depose and say that I am Publisher of the COTTONWOOD CHRONICLE, a weekly newspaper, published and issued weekly at Cottonwood, Idaho 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 2nd day of

October, 2014, and the last publication on the

9th day of October, 2014; 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 9th day of November in the year of 2014,
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 Cottonwood, ID

My commission expires: 9/14/2016

GREGORY A. WHERRY
NOTARY PUBLIC
STATE OF IDAHO

Public Notice

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

85-15764

WILFRED WEMHOFF

THERESA WEMHOFF

905 CYPRESS ST.

LEWISTON, ID 83501

Point of Diversion NWNE S34 T32N R01W IDAHO County

Source UNNAMED STREAM tributary LAWYER CREEK

Point of Diversion NWNE S34 T32N R01W IDAHO County

Source SPRING Tributary SINKS

Use: DIVERSION to Storage 01/01 to 12/31 0.2 CFS

Use: FIRE PROTECTION Storage 01/01 to 12/31 14.6 AF

Use: RECREATION Storage 01/01 to 12/31 14.6 AF

Use: IRRIGATION Storage 01/01 to 12/31 15.2 AF

Use: STOCKWATER Storage 01/01 to 12/31 15.3 AF

Use: IRRIGATION from Storage 04/01 to 10/31 0.6 AF

Use: STOCKWATER from Storage 01/01 to 12/31 0.7 AF

Total Diversion: 0.2 CFS 15.9 AF

Date Filed: 9/8/2014

Place of Use: IRRIGATION STORAGE, STOCKWATER STORAGE,

RECREATION STORAGE and FIRE PROTECTION STORAGE:

T32N R01W S34 NENE NWNE

Place of Use: IRRIGATION from STORAGE and STOCKWATER

from STORAGE T32N R01W S27 SESE

Total Acres: 0.2

Stockwater use is for 50 head of mixed stock.

Recreation use is for fishing.

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 10/20/2014. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Published in the Cottonwood Chronicle on 10/2/2014 and 10/9/2014