

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 94-09289

Priority: April 10, 2014

Maximum Diversion Rate: 0.20 CFS

This is to certify, that DAVID ROHWER
1077 UPPER PAGE ROAD
SMELTERVILLE ID 83868

has applied for a permit to appropriate water from:

Source: UNNAMED STREAM**Tributary:** SOUTH FORK COEUR D ALENE
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>
STOCKWATER	01/01 to 12/31	0.02 CFS
IRRIGATION	03/15 to 10/31	0.20 CFS

LOCATION OF POINT(S) OF DIVERSION:

UNNAMED STREAM SE1/4NE1/4 Sec. 4, Twp 48N, Rge 02E, B.M. SHOSHONE County

UNNAMED STREAM SE1/4NE1/4 Sec. 4, Twp 48N, Rge 02E, B.M. SHOSHONE County

UNNAMED STREAM SE1/4NE1/4 Sec. 4, Twp 48N, Rge 02E, B.M. SHOSHONE County
(Beginning of Reach Stock Water)UNNAMED STREAM SE1/4NE1/4 Sec. 4, Twp 48N, Rge 02E, B.M. SHOSHONE County
(Ending of Reach Stock Water)**PLACE OF USE:** STOCKWATER

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
48N	02E	4				X													

PLACE OF USE: IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
48N	02E	4				10.0													10.0

Total Acres: 10

State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 94-09289

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **June 01, 2019**.
2. Subject to all prior water rights.
3. This right authorizes the watering of livestock directly from the stream without a diversion.
4. Stockwater use is for 20 mixed head.
5. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.0 afa per acre at the field headgate for irrigation of the place of use.
6. Water shall not be diverted under this right when flows in the Coeur d'Alene River are below minimum flow amounts as defined by Right 94-7341. The right holder shall be responsible for monitoring the daily flow of the Coeur d'Alene River using real-time data and shall cease diverting water when flows in the Coeur d'Alene River are below established minimum flow amounts. Unless otherwise specified by the Director of the Department of Water Resources, data from the U.S. Geological Survey Cataldo gauging station, No. 12413500, may be used for purposes of determining the daily flow amounts.
7. This right does not grant any right-of-way or easement across the land of another.
8. 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 5 day of June, 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

June 10, 2014

GARY SPACKMAN
Director

DAVID ROHWER
1077 UPPER PAGE ROAD
SMELTERVILLE ID 83868

RE: Permit No.94-9289

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 black ink, appearing to read "Eric J. Davis". The signature is written in a cursive, flowing style.

Eric J. Davis
Sr. Water Resource Agent

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on June 11, 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.

94-9289

**DAVID ROHWER
1077 UPPER PAGE ROAD
SMELTERVILLE ID 83868**



**Carolyn S. Monitz
Technical Records Clerk**

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

RECEIVED
MAY 12 2014
IDWR / NORTH

Jen Jeffers 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.

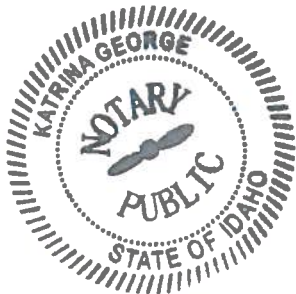
3. The Legal Notice

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 1 day of May, 20 14, 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 Jen Jeffers.
On this 8 day of May in the year of 2014, before me, a Notary Public, personally appeared Jen Jeffers, 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
MAY 12 2014
IDWR/NORTH

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

94-9289

DAVID ROHWER
1077 UPPER PAGE ROAD
SMELTERVILLE, ID 83868
Point of Diversion SENE S4 T48N R02E SHOSHONE CO
Source UNNAMED STREAM
Tributary SOUTH FORK COEUR D ALENE RIVER
Use: IRRIGATION 03/15 to 10/31 0.2 CFS
Use: STOCKWATER 01/01 to 12/31 0.02 CFS
Total Diversion: 0.2 CFS

Date Filed: 4/10/2014
Place of Use: INSTREAM STOCKWATER
T48N R02E S4 SENE
Place of Use: IRRIGATION T48N R02E S4 SENE
Total Acres: 10
Stockwater use is for 20 head of mixed stock.

94-9290

DAVID ROHWER
1077 UPPER PAGE ROAD
SMELTERVILLE, ID 83868
Point of Diversion NESE S4 T48N R02E SHOSHONE CO
Source SILVER CREEK
Tributary SOUTH FORK COEUR D ALENE RIVER
Point of Diversion NWSE S4 T48N R02E SHOSHONE CO
Source SILVER CREEK
Tributary SOUTH FORK COEUR D ALENE RIVER
Point of Diversion SWNE S4 T48N R02E SHOSHONE CO
Source SILVER CREEK
Tributary SOUTH FORK COEUR D ALENE RIVER
Use: IRRIGATION 03/15 to 10/31 0.2 CFS
Use: STOCKWATER 01/01 to 12/31 0.02 CFS
Total Diversion: 0.2 CFS

Date Filed: 4/10/2014
Place of Use: IRRIGATION T48N R02E S4
SWNE SENE NESE NWSE
Place of Use: INSTREAM STOCKWATER T48N R02E S4
SWNE SENE NESE NWSE
Total Acres: 10
Stockwater use is for 20 head of mixed stock.

94-9291

DAVID ROHWER
1077 UPPER PAGE ROAD
SMELTERVILLE, ID 83868
Point of Diversion SWNE S4 T48N R02E SHOSHONE CO
Source HUMBOLDT CREEK tributary SILVER CREEK
Point of Diversion SENE S4 T48N R02E SHOSHONE CO
Source HUMBOLDT CREEK tributary SILVER CREEK
Use: IRRIGATION 03/15 to 10/31 0.2 CFS
Use: STOCKWATER 01/01 to 12/31 0.02 CFS
Total Diversion: 0.2 CFS

Date Filed: 4/10/2014
Place of Use: INSTREAM STOCKWATER T48N R02E S4
SWNE SENE NWSE
Place of Use: IRRIGATION T48N R02E S4
SWNE SENE NWSE
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 Northern Region office at (208) 762-2800. 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 5/19/2014. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director
Published on 5/1/2014 and 5/8/2014
Legal 606
May 1, 8, 2014