

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 86-12023

Priority: April 23, 2014

Maximum Diversion Rate: 0.06 CFS

This is to certify, that EVELYN HARPER And/Or TYE HARPER
1123 AMERICAN RIDGE RD
KENDRICK ID 83537

has applied for a permit to appropriate water from:

Source: SPRING**Tributary:** MIDDLE POTLATCH 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>
DOMESTIC	01/01 to 12/31	0.04 CFS
IRRIGATION	03/15 to 11/15	0.03 CFS
STOCKWATER	01/01 to 12/31	0.02 CFS

LOCATION OF POINT(S) OF DIVERSION:

SPRING SW1/4NW1/4SE1/4 Sec. 33, Twp 38N, Rge 03W, B.M.
LATAH County

PLACE OF USE: DOMESTIC

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
38N 03W 33													X				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	
38N 03W 33													1.0				1.0

Total Acres: 1

State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 86-12023

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	
38N 03W 33													X	X	X	X	

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **June 01, 2015**.
2. Subject to all prior water rights.
3. Domestic use is for 1 home.
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 place of use.
5. Stockwater use is for 5 head of mixed stock.
6. 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 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

June 10, 2014

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

EVELYN HARPER
1123 AMERICAN RIDGE RD
KENDRICK ID 83537

TYE HARPER
1123 AMERICAN RIDGE RD
KENDRICK ID 83537

RE: Permit No.86-12023

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.

Enclosed is a form entitled 'Instructions for Proof of Beneficial Use.' Please read the instructions carefully since you must take further action to develop this permit into a licensed water right. Also enclosed is a form entitled 'Proof of Beneficial Use.' If your project is already completed, you should complete and submit this form immediately.

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.

86-12023

**EVELYN HARPER
1123 AMERICAN RIDGE RD
KENDRICK ID 83537**

**TYE HARPER
1123 AMERICAN RIDGE RD
KENDRICK ID 83537**


**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.

**IDaho DEPARTMENT OF WATER RESOURCES
APPROPRIATION APPLICATION ANALYSIS SHEET**

P-5-13-14

V.R. # 86-12023

APPLICATION ID # 79288

ENT. ED BCA 5/28/14 OK to Publish 4/30/14

APPLICANT: EUDYN HARPER

INITIAL REVIEW

BY: ED

DATE: 4/28/2014

ITEM REQUIRED INFORMATION

1. ☒ Name and Address
2. ☐ Source
3. ☐ Point of Diversion & County
4. ☐ Quantity
5. ☐ Nature of Proposed Use
6. ☐ Period of Use
7. ☐ Total Quantity
8. ☐ Description of diverting works
9. ☐ Time required for b/u
10. ☐ Proposed use
11. ☐ Place of use or acres irrigated
12. ☐ Other water Rights
13. ☐ Ownership
14. ☐ Map
15. ☐ Signature
16. ☒ Fee (Amt, receipt, acknowledgement)

PROCESSING

(Yes)(No)

PRIORITY DATE: 4/23/2014

☒ (Include Moratorium Remark)
Statewide Advertising: (Diversion rate greater than 10 cfs or 1,000 af).

ADVERTISE IN:

Newspaper: MP Daily News County LATAH

Dates scheduled for publication 5/15+22/14

Affidavit of Publication received: 5/27/14

Dates actually published: 5/15+22/14

Application published correctly. Yes ☒ No ☐

If not, action taken: _____

Final Date for Protest: 4/2/14

Protests Received: Yes ☐ No ☒

Enak

LETTERS SENT REQUESTING:

☐ Dam Information ☐ Fish Information
☐ Power Information ☐ Other: DEQ, IDEG

INFORMATION RECEIVED:

☐ Dam Information ☐ Fish Information
☐ Power Information ☐ Other: _____

*** Send info sheet Y () N ()

ADDITIONAL INFORMATION

(Yes)(No)

Shape File Created Date _____ By: _____

Field check: by _____

Field report attached _____

Analysis Supp. Attached (>5cfs/500af) _____

Water delivered by water master? Water District # _____

GROUNDWATER SECTION

WD Permit No.'s:	Tag #	Type:	Fees	Receipt No.	Upgrade Needed?
_____	_____	Dom. Non-Dom.	Paid \$ _____	_____	Y () N ()
_____	_____	Dom. Non-Dom.	Paid \$ _____	_____	Y () N ()
_____	_____	Dom. Non-Dom.	Paid \$ _____	_____	Y () N ()

- _____ Groundwater management area
- _____ Critical ground water area
- _____ Well Drilling Permit required
- _____ Well Drilling Application and Fees received
- _____ Well Drilling Application approved?

Remarks: _____

FINAL REGIONAL PROCESSING/REVIEW

(Yes)(No)

Notice of pending void order issued. _____

Further information required from applicant _____ Final order response date: _____/_____/_____

5 head mixed stock

Measuring device required _____

Measuring port required _____

Special conditions: Saltwater and Clearwater River Basins

Special conditions of approval supplement and/or cover letter attached: _____

Approval Recommended by: E. D.

Date: 6/4/2014

Sr. Agent initial E.D.



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

Applying for a Permit to Appropriate Water in the Salmon and Clearwater River Basins

Idaho Code § 42-203A(5) requires IDWR to evaluate the following criteria for applications to appropriate water:

- The potential to reduce the quantity of water under existing water rights
- The sufficiency of the water supply for the proposed appropriation
- The good faith nature of the application
- The adequacy of the applicant's financial resources
- The local public interest in the public water resource
- The conservation of water resources in Idaho
- Impacts to the economy of the local area or watershed

To ensure that IDWR has sufficient information to evaluate the criteria, Rule 40.05 of the Water Appropriation Rules (IDAPA 37.03.08.040.05) requires water right applicants to submit additional information to IDWR in connection with their applications. Because the waters of the Salmon River and Clearwater River drainages are habitat for fish species listed as endangered or threatened under the Federal Endangered Species Act, caution is necessary to ensure that new appropriations of water do not undermine efforts to protect and restore the ESA listed fish species and other public values in the basins' rivers and streams. IDWR is, therefore, requiring that applicants submit the additional information required by Water Appropriation Rules 40.05.c through 40.05.g, even when the applications are for less than the usual 5.0 cfs/500 af threshold. To satisfy the additional information requirement, please contact the Department of Fish and Game and the Department of Environmental Quality, obtain their written comments on your proposed project, and submit the comments to IDWR.

Please submit the information required by Water Appropriation Rules 40.05.c-g to IDWR within 30 days from the date you are notified that it is required. IDWR will hold your application until you have submitted the additional information. If you do not respond within 30 days, IDWR may void your application. If you need additional time to submit the required information, please submit a written request. IDWR can grant additional time "upon a showing of good cause."

The following are agency representatives who will help you respond to the local public interest requirement of Rule 40.05.g. Please contact these agency representatives at least 15 days prior to the end of your 30-day response period.

Idaho Department of Fish and Game contact list for water right applications:

Panhandle Region: Mary Terra-Berns at 208-760-1414 Clearwater Region: Ray Hennekey at 208-799-5010
McCall Subregion: Dale Allen at 208-634-8137 Southwest Region: Rick Ward at 208-465-8465
Salmon region: Tom Curet at 208-756-2271

Idaho Department of Environmental Quality contact list for water right applications:

Lewiston John Cardwell at 208-799-4370 (Clearwater or lower Salmon River basins)
Cascade: Leslie Freeman at 208-634-4900 (South Fork Salmon River basin)
Idaho falls: Troy Saffle at 208-528-2650 (Upper salmon, Lemhi, Pahsimeroi basins)-

Ball, Dianne

From: Ball, Dianne
Sent: Wednesday, April 30, 2014 2:23 PM
To: Cynthia.Barrett@deq.idaho.gov; rhennekey@idfg.idaho.gov
Cc: Davis, Eric
Subject: RE: Application for Permit No. 86-12023
Attachments: 86-12023_App_and_map_-_Harper.pdf

Dear Cynthia and Ray:

The Department of Water Resources is seeking written comment and/or recommendations from your agency regarding the above referenced water right application. A copy of the application is attached for your reference.

We are attempting to process this for publication in the Moscow-Pullman Daily News on May 15 and 22, 2014. Your comments are part of the initial review process, and therefore, your prompt response to this request is greatly appreciated.

If your agency desires to *formally* protest the approval of this application, and we receive your response in time to meet those anticipated publication dates, you may formally protest after the notice is published by filing a written protest along with a \$25.00 filing fee within 10 days after final publication.

If we meet the anticipated publication dates, final date for *protests* to be received in our office would be June 2, 2014.

Please contact **Eric Davis** in this office if you have any questions regarding the application. 208-762-2800.

Sincerely,

Dianne Ball

Administrative Assistant
Idaho Department of Water Resources
7600 N Mineral Dr., Ste. 100
Coeur d'Alene, ID 83815
208-762-2800 Fax 208-762-2819

SCANNED
MAY 13 2014



STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY

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

RECEIVED
MAY 02 2014
IDWR / NORTH

C.L. "Butch" Otter, Governor
Curt Fransen, Director

April 30, 2014

Mr. Eric Davis
Idaho Department of Water Resources
7600 N. Mineral Dr., Ste. 100
Coeur d'Alene, ID 83815

Subject: Application for Permit to Appropriate Waters of the State

Dear Mr. Davis:

We received your request for comment along with a copy of the application for a water appropriation permit for a total quantity of 0.06 cubic feet per second from a spring located on property in Latah County. The appropriated water will be stored in two 10,000 gallon tanks and pump fed to a residence. The water will be used for domestic, irrigation and stock water from 01/01 to 12/31. Assuming all federal, state and local permits have been obtained, regulations met, and reviews completed, we offer the following comments.

Waters of the State which occurs beneath the surface of the earth in a saturated geological formation of rock or soil is considered ground water (Idaho Code 58.01.02.010.38). The spring is described in the application as a tributary to Middle Potlatch Creek, and in this situation there may be hydrologic connectivity to surface waters of the State.

It is the policy of the State of Idaho Ground Water Management Plan that existing and projected beneficial uses of ground water and interconnected surface water be maintained and protected. Appropriation of the requested water cannot result in the degradation of surface and ground water beneficial uses.

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".

Cindy Barrett
Regional Water Quality Program Manager

cc: Tye and Evelyn Harper, Kendrick,
Ray Hennekey, IDFG
John Cardwell, DEQ

SCANNED
MAY 13 2014

MEMORANDUM

Date: June 04, 2014
To: Water Right File 86-12023
From: edavis
Re: Comment IDFG

Idaho Department of Water Resources sent a request to Idaho Department of Fish and Game Seeking written comments on this application on April 30, 2014. On May 30th 2014 Idaho Department of Water Resources sent a request to Idaho Department of Fish and Game seeking written comments on this application 86-12023.

Idaho Department of Water Resources is advancing with permitting this application without the Idaho Department of Fish and Game response.

MEMORANDUM

To: Water Right Application # 86-12023

From: Eric Davis

Date: June 4, 2014

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

Re: Regional Analysis and Recommendation in with Water Appropriation Rules (IDAPA 37.03.08.040.050).

Water Supply Information.

The Idaho Department of Fish & Game and the Department of Environmental Quality have no objection to the application of Water Right #86-12023. This application is for withdrawing a diversion rate of 0.06 cfs from five undeveloped spring for the purpose of Irrigation, Domestic and Stock water.

Good Faith, Delay, or Speculative Information.

The applicant plans to divert water for its own use on the property that it owns. There are no known issues with any other party.

Financial Resources Information.

For this irrigation, Domestic and stock water project the applicant has all equipment and supplies needed.

Local Public Interest.

The Northern Region has asked the Idaho Department of Fish & Game and Department of Environmental Quality for comments. Written comments received from Department of Environmental Quality indicate they are not opposed to the applicant's proposal

Injury to Other Water Rights.

The source of water is the Clearwater River that has a minimum stream flow requirement. There does not appear to be any foreseen impacts to minimum stream flows based on the comments from the Idaho Department of Fish & Game and Department of Environmental Quality.

Recommendation.

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

NEWS REVIEW PUBLISHING COMPANY

The Moscow-Pullman Daily News

P.O.Box 374

Lewiston, Idaho 83501

(208) 743-9411

Date:

05/22/2014

INVOICE NO.

95215

Account No.

30010311

Description

95215 The follo

**LEGAL ADVERTISING
INVOICE**

Times

2

Lines

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Tab. lines

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7600 N. MINERAL DR STE 100

COEUR D ALENE ID 83814

IDWR / NORTH

PO#

86-12023

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

Karen J. Lewis, Legal Clerk
being first duly sworn, on oath deposes
and says: I am the printer of
Moscow-Pullman Daily News, a newspaper
of general circulation, published daily
except Sunday at Mosocw, Latah County,
Idaho, in compliance with Sections 60-106,
60-107, and 60-108 of the Idaho Code and the
amendments thereto; and an official newspaper
for Whitman County, Washington as required
by R.C.W. 36.72.071 and other provisions of
the Revised Code of Washington and the
amendments thereto: that the notice of which the
annexed is a full, true and correct printed
copy was published in the regular and entire
issues of said newspaper and not in a
supplement thereto, upon the following dates:

May 15, 22, 2014

the same being the date designated for
the publication of said notice.

Karen J. Lewis

On this 23rd day of May
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.

Carl Peterson
Notary Public for Idaho,

Residing at Lewiston, Idaho

My Commission Expires 9-1-2017

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

86-12023

EVELYN HARPER

TYE HARPER

1123 AMERICAN RIDGE RD

KENDRICK, ID 83537

Point of Diversion SWNWSE S33 T38N R03W LATAH CO

Source SPRING tributary MIDDLE POTTSLATCH CREEK

Use: DOMESTIC 01/01 to 12/31 0.04 CFS

Use: IRRIGATION 03/15 to 11/15 0.03 CFS

Use: STOCKWATER 01/01 to 12/31 0.02 CFS

Total Diversion: 0.06 CFS

Date Filed: 4/23/2014

Place of Use: DOMESTIC T38N R03W S33 NESE SESE

Place of Use: IRRIGATION T38N R03W S33 NESE

Place of Use: STOCKWATER T38N R03W S33

NESE NWSE SWSE SESE

Total Acres: 1

Domestic use is for 1 home.

Stockwater use is for 5 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. Protests may be submit-
ted 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
6/2/2014. The protestant must also send a copy of the protest
to the applicant.

GARY SPACKMAN, Director

Published on 5/15/2014 and 5/22/2014

