

State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 85-15758

Priority: March 05, 2014

Maximum Diversion Rate: 0.04 CFS

This is to certify, that JAMES G EVANS And/Or CAREY L EVANS
32299 AMOS BENCH RD
LENORE ID 83541

has applied for a permit to appropriate water from:

Source: SPRING

Tributary: SINKS

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 NW1/4NE1/4SE1/4 Sec. 32, Twp 37N, Rge 02W, B.M. NEZ PERCE County

PLACE OF USE: IRRIGATION And DOMESTIC And STOCKWATER

Twp Rge Sec	NE			NW			SW			SE			Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
37N 02W 32				1.0									1.0
				X									

Total Acres: 1

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. Stockwater use is for 5 mixed stock.
4. Domestic use is for 1 home.
5. 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.
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 29 day of May, 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

May 30, 2014

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

JAMES G EVANS
32299 AMOS BENCH RD
LENORE ID 83541

CAREY L EVANS
32299 AMOS BENCH RD
LENORE ID 83541

RE: Permit No.85-15758

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.

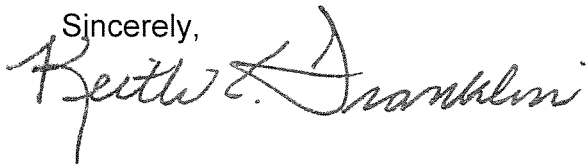
Enclosed is a form entitled 'Instructions for Proof of Beneficial Use.' Please read the instructions carefully since you must take further action to develop this permit into a licensed water right. Also enclosed is a form entitled 'Proof of Beneficial Use.' If your project is already completed, you should 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 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 May 30, 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. 85-15758

**CAREY L EVANS
32299 AMOS BENCH RD
LENORE ID 83541**

**JAMES G EVANS
32299 AMOS BENCH RD
LENORE ID 83541**

A handwritten signature in cursive script, reading "Dianne Ball", positioned above a horizontal line.

**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 Application # 85-15758

From: Eric Davis

Date: May 29, 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 #85-15758. This application is for withdrawing a diversion rate of 0.04 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 these agencies indicate they are not opposed to the applicant's proposal and see no adverse impact to fish, wildlife, habitat or water quality.

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.



STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY

1118 F Street • Lewiston, Idaho 83501 • (208) 799-4370

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

May 28, 2014

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

RECEIVED

MAY 29 2014

IDWR/NORTHERN

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 0.04 cubic feet per second from a spring located on property in Lenore, Idaho. The water will be diverted from the source by gravity flow and 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). 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, appearing to read "Cindy Barrett".

Cindy Barrett
Regional Water Quality Program Manager

cc: James and Carey Evans, Lenore
Ray Hennekey, IDFG
John Cardwell, DEQ
TRIM

Davis, Eric

From: Hennekey, Ray [ray.hennekey@idfg.idaho.gov]
Sent: Monday, May 05, 2014 9:26 AM
To: Davis, Eric
Cc: Cadwallader, Dave; Kiefer, Sharon
Subject: Water Right Application #85-15758 Evans, Spring

Eric –

I have reviewed James Evans and Carry Evans' 0.04 cfs from a spring for domestic, irrigation and stockwater. IDFG does not anticipate that the requested withdrawal will have adverse impacts on fish, wildlife or habitat.

ray

Ray Hennekey
Environmental Staff Biologist
Idaho Department of Fish and Game
Clearwater Region
3316 16th Street
Lewiston, Idaho 83501

(208) 799-

Ball, Dianne

From: Ball, Dianne
Sent: Monday, May 05, 2014 8:42 AM
To: rhennekey@idfg.idaho.gov
Cc: Davis, Eric; Franklin, Keith
Subject: FW: RE: Application for Permit No. 85-15758
Attachments: 85-15758_App_map_and_deed_to_spring.pdf

Good morning, Ray,
Please see attached.

Back on March 19, 2014 I sent an e-mail to you for comments on a water right in a sensitive basin area.

To date, we have not yet received any comment from you, and need that in order to complete the processing.

Please respond direct to Eric Davis on this – eric.davis@idwr.idaho.gov – as soon as possible.

The Permit is ready to be issued but we can't do so until we have received your comment letter.

Thanks very much for your prompt attention to this.

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

From: Ball, Dianne
Sent: Wednesday, **March 19, 2014** 1:35 PM
To: rhennekey@idfg.idaho.gov
Subject: RE: Application for Permit No. 85-15758

Dear 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.

This is being prepared for publication in the Lewiston Tribune on April 3 and 10, 2014, with April 21 being final date for protests to be received in our office.

Your prompt response to this request is appreciated. If your agency desires to formally protest the approval of this application, you may do so after the notice is published by filing a written protest along with a \$25.00 filing fee within 10 days after final publication.

Please contact this office if you have any questions regarding the application.

MEMORANDUM

Date: May 01, 2014
To: Water Right File 85-15758
From: edavis
Re: legal

The QQ in the data base was inverted and the publication was incorrect. The permit was corrected to match the application.

TRIBUNE PUBLISHING COMPANY, INC.

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

Date: 04/10/2014 INVOICE NO. 93211
Account No. 964750
Description 93211 The follo
Times 2 Lines 33
Tab. lines
\$ 96.53

**LEGAL ADVERTISING
INVOICE**

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

PO#

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.

RECEIVED
APR 14 2014
IDWR/NORTH

AFFIDAVIT OF PUBLICATION

93211

The following application(s) have been filed to appropriate the public waters of the State of Idaho:
85-15758

JAMES G EVANS
CAREY L EVANS
32299 AMOS BENCH RD
LENORE, ID 83541

Point of Diversion NESE S32 T37N R02W NEZ PERCE CO

Source SPRING Tributary SINKS

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:		0.04 CFS

Date Filed: 3/5/2014

Place of Use: DOMESTIC T37N R02W S32 NESE

Place of Use: IRRIGATION and STOCKWATER

Same as Domestic use.

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 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 4/14/2014. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Published on 4/3/2014 and 4/10/2014

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 newspaper 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 93211 The follo attached hereto and which is made a part of this affidavit was published in the said Lewiston Tribune, 2 time(s). Publication being on 04/03, or once a Week for 2 consecutive Week, the first publication thereof being on the 04/03/2014, and the last publication thereof being on the 04/10/2014, and said 93211 The follo 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 11th day of April 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 9-1-2017

