

State of Idaho
Department of Water Resources
Water Right License

WATER RIGHT NO. 78-12245

Priority: June 01, 2006

Maximum Diversion Rate: 0.02 CFS
Maximum Diversion Volume: 2.0 AF

It is hereby certified that RAYMOND K STOLTEY
535 HIGH MEADOWS LN
NEW MEADOWS ID 83654 has complied with the terms and
conditions of the permit, issued pursuant to Application for Permit dated May 02, 2005; and has
submitted Proof of Beneficial Use on July 15, 2009. An examination indicates that the works have a
diversion capacity of 0 cfs of water from:

SOURCE

LITTLE ELK CREEK

Tributary: ELK CREEK

and a water right has been established as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL DIVERSION VOLUME</u>
DIVERSION TO STORAGE	01/01 to 12/31	0.02 CFS	
DOMESTIC STORAGE	01/01 to 12/31		2.0 AF
DOMESTIC FROM STORAGE	04/01 to 12/31		2.0 AF

LOCATION OF POINT OF DIVERSION:

LITTLE ELK CREEK SW1/4SE1/4 Sec. 23, Twp 22N, Rge 01E, B.M., IDAHO County

PLACE OF USE: DOMESTIC 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
22N	01E	23												X					

PLACE OF USE: DOMESTIC FROM 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
22N	01E	23												X					

CONDITIONS OF APPROVAL

1. Domestic storage use is for an off-stream impoundment.
2. Domestic from storage use is for one home, including irrigation of up to 1/2 acre. When combined with all other domestic water rights for the home, the total use shall not exceed 13,000 gallons per day and irrigation of 1/2 acre.
3. This right does not grant any right-of-way or easement across the land of another.

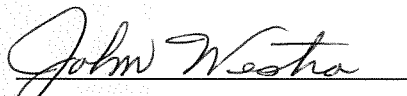
State of Idaho
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WATER RIGHT NO. 78-12245

4. The right holder shall maintain a main control valve and a faucet valve suitable for a bucket and stopwatch measurement on the pipeline conveying water from the point of diversion to the storage facility. The valves shall be close to the point of diversion from the creek to allow convenient access and inspection by parties to the protest settlement agreement and to their successors in interest.
5. The right holder shall not divert water from July 1 through October 31 during any period when a watermaster is not regulating diversions of water from Little Elk Creek. Diversion of water under this right shall be subject to watermaster regulation at any time that a watermaster is actively regulating diversions from Little Elk Creek, regardless of the date.
6. The diversion and use of water described in this right may be subject to additional conditions and limitations agreed to by the protestant(s) and the right holder under separate agreement to which the Department is not a party and which may be enforceable by a court of law.
7. When ordered by the Director, the right holder shall provide mitigation acceptable to the Director to offset depletion of lower Snake River flows needed for migrating anadromous fish. The amount of water required for mitigation, which is to be released into the Snake River or a tributary for this purpose, will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this right. Any order of the Director issued in accordance with this paragraph shall be in conformance with applicable rules allowing the right holder due process as the need for mitigation and the amount of mitigation are determined.

This license is issued pursuant to the provisions of Section 42-219, Idaho Code. The water right confirmed by this license is subject to all prior water rights and shall be used in accordance with Idaho law and applicable rules of the Department of Water Resources.

Signed this 16th day of May, 2014.


JOHN WESTRA
Western Regional Manager

RECEIVED

MAY 07 2014

WATER RESOURCES
WESTERN REGION

State of Idaho
Department of Water Resources
APPLICATION FOR AMENDMENT

(For Licensing Purposes)

WATER RIGHT NO. 78-12245

Date of Priority: June 01, 2006

Maximum Diversion Rate: 0.02 CFS

Maximum Diversion Volume: 2.0 AF

Comes now RAYMOND K STOLTEY
535 HIGH MEADOWS LN
NEW MEADOWS ID 83654

and represents to the Director of the Idaho Department
of Water Resources that he is the owner and holder of Permit to Appropriate the Public Waters of the
State of Idaho No. 78-12245, and requests that the permit be changed as follows:

Source: LITTLE ELK CREEK

Tributary: ELK CREEK

<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	0.02 CFS	
DOMESTIC STORAGE	01/01 to 12/31		2.0 AF
DOMESTIC FROM STORAGE	04/01 to 12/31		2.0 AF

LOCATION OF POINT OF DIVERSION:

LITTLE ELK CREEK SW1/4SE1/4 Sec. 23, Twp 22N, Rge 01E, B.M., IDAHO County

PLACE OF USE: DOMESTIC STORAGE

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
22N	01E	23													X				

PLACE OF USE: DOMESTIC FROM STORAGE

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
22N	01E	23													X				

Permit holder asserts that no one will be injured by such change and that such change will be made at
permit holder's own risk. Signed this _____ day of _____, 2014.

Raymond K. Stoltey
(Signature)

State of Idaho
Department of Water Resources
APPLICATION FOR AMENDMENT
(For Licensing Purposes)
WATER RIGHT NO. 78-12245

FOR DEPARTMENT USE ONLY

Preliminary check by kw Fee = 100.00 Received by CN # W042095 Date 5/7/2014

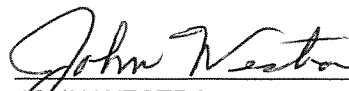
ACTION OF THE DEPARTMENT OF WATER RESOURCES

I, JOHN WESTRA, of the Department of Water Resources hereby approve the
above Application for Amendment for Permit No. 78-12245 with the following:

CONDITIONS OF APPROVAL

1. Domestic storage use is for an off-stream impoundment.
2. Domestic from storage use is for one home, including irrigation of up to 1/2 acre. When combined with all other domestic water rights for the home, the total use shall not exceed 13,000 gallons per day and irrigation of 1/2 acre.
3. This right does not grant any right-of-way or easement across the land of another.
4. The right holder shall maintain a main control valve and a faucet valve suitable for a bucket and stopwatch measurement on the pipeline conveying water from the point of diversion to the storage facility. The valves shall be close to the point of diversion from the creek to allow convenient access and inspection by parties to the protest settlement agreement and to their successors in interest.
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6. The diversion and use of water described in this right may be subject to additional conditions and limitations agreed to by the protestant(s) and the right holder under separate agreement to which the Department is not a party and which may be enforceable by a court of law.
7. When ordered by the Director, the right holder shall provide mitigation acceptable to the Director to offset depletion of lower Snake River flows needed for migrating anadromous fish. The amount of water required for mitigation, which is to be released into the Snake River or a tributary for this purpose, will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this right. Any order of the Director issued in accordance with this paragraph shall be in conformance with applicable rules allowing the right holder due process as the need for mitigation and the amount of mitigation are determined.

Witness my hand this 16th day of May, 2014.


JOHN WESTRA
Western Regional Manager



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way • Boise, Idaho 83705-5082

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

May 23, 2014

RAYMOND K STOLTEY
535 HIGH MEADOWS LN
NEW MEADOWS ID 83654

RE: License No. 78-12245

Issuance of License

Dear Water Right Holder:

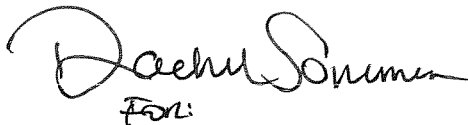
The Department of Water Resources has issued the enclosed Water Right License confirming that a water right has been established in accordance with your permit. Please be sure to thoroughly review the conditions of approval and remarks listed on your license.

The license 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.

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)334-2190.

Sincerely,



For:

John Westra
Western Regional Manager

Enclosures

CERTIFICATE OF SERVICE

I hereby certify that on May 23, 2014 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved License) to the person(s) listed below:

RE: WATER RIGHT NO.

78-12245

**RAYMOND K STOLTEY
535 HIGH MEADOWS LN
NEW MEADOWS ID 83654**

A handwritten signature in black ink, reading "Rachel Sommer", is written over a horizontal line.

**Rachel Sommer
Administrative Assistant I**

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.