

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 2-10496

Priority: May 01, 2013

Maximum Diversion Rate: 0.06 CFS

This is to certify, that DALE HURLEY and/or GAIL HURLEY
9048 HWY 78
MELBA ID 83641

has applied for a permit to appropriate water from:

Source: SNAKE RIVER

Tributary: COLUMBIA RIVER

and a permit is APPROVED for development of water as follows:

BENEFICIAL USE

IRRIGATION

PERIOD OF USE

03/01 to 11/01

RATE OF DIVERSION

0.06 CFS

LOCATION OF POINT(S) OF DIVERSION:

SNAKE RIVER NW1/4SE1/4 Sec. 36, Twp 02N, Rge 04W, B.M., OWYHEE County

SNAKE RIVER L3 (SW1/4SE1/4) Sec. 36, Twp 02N, Rge 04W, B.M., OWYHEE County

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
02N 04W 36												1.0			1.0		2.0
															L 3		

Total Acres: 2

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **September 01, 2014**.
2. Subject to all prior water rights.
3. The Director retains jurisdiction to require the right holder to provide purchased or leased natural flow or stored water to offset depletion of Lower Snake River flows if needed for salmon migration purposes. The amount of water required to be released into the Snake River or a tributary, if needed for this purpose, will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this permit.
4. This right does not grant any right-of-way or easement across the land of another.
5. Water shall not be diverted under this right when flows in the Snake River are below 4750 cfs at the Weiser River gauge are below established minimum flow amounts.

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6. This right when combined with all other rights shall provide no more than 0.03 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the place of use.
7. Upon specific notification by the Department, the right holder shall install a lockable device of a type acceptable to the Department in a manner that will provide the watermaster suitable control of the diversion.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 20th day of August, 2013.



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

August 20, 2013

DALE HURLEY
GAIL HURLEY
9048 HWY 78
MELBA ID 83641

RE: Permit No. 2-10496

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)334-2190.

Sincerely,


Rn:

John Westra
Western Regional Manager

Enclosures

CERTIFICATE OF SERVICE

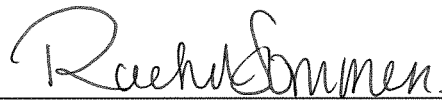
I hereby certify that on August 20, 2013 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved Permit) to the persons listed below:

RE: WATER RIGHT NO.

2-10496

**DALE HURLEY
9048 HWY 78
MELBA ID 83641**

**GAIL HURLEY
9048 HWY 78
MELBA ID 83641**

A handwritten signature in cursive script, reading "Rachel Sommer", is positioned above 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.

The Owyhee Avalanche

P.O. Box 97 • HOMEDALE, ID 83628 • 208/337-4681

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO)
) ss
COUNTY OF OWYHEE)

I, Robert E. Aman, being first duly sworn, depose and say:

1. That I am a citizen of the United States of America, and at all times hereinafter mentioned was and now over the age of twenty-one years, not a party to nor interested in the proceedings hereinafter mentioned.

2. That during the time of publication of the notice hereinafter mentioned, I was and now am the president of The Owyhee Avalanche, a newspaper of general circulation printed and published weekly, on Wednesday of each and every week, in the City of Homedale, County of Owyhee and State of Idaho.

3. That the said The Owyhee Avalanche has been printed and published continuously and uninterruptedly in said County during a period of more than seventy-eight weeks prior to the first publication of the attached notice.

4. That said notice of which a printed copy, taken from said newspaper, is hereto affixed, was published in the regular issue thereof, and not a supplement thereto, in said newspaper, in TWO (2)
(consecutive) calendar weekly issue(s) of said newspaper, in the following date(s):

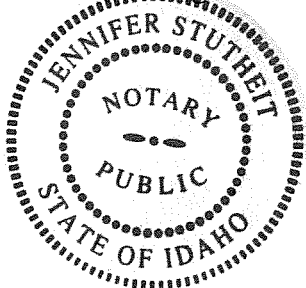
JULY 17, 24, 2013

SIGNED: _____

STATE OF IDAHO }
COUNTY OF OWYHEE }

On this 31 day of July in the year of 2013 before me, a

Notary Public, personally appeared ROBERT E. AMAN
known or identified to me to be the person whose name subscribed to the within instrument, and being by me duly sworn, declared that the statements therein are true, and acknowledged to me that he executed the same.



Jennifer Stutheit
Notary Public of Idaho
Residing at HOMEDALE, IDAHO
My commission expires: JANUARY 3, 2015

THE FOLLOWING
APPLICATION HAS BEEN
FILED TO APPROPRIATE
THE PUBLIC WATERS OF
THE STATE OF IDAHO:

2-10496

DALE HURLEY, GAIL
HURLEY, 9048 HWY 78,
MELBA, ID 83641

Points of Diversion NWSE
L3(SWSE) S36 T02N R04W
OWYHEE County Source
SNAKE RIVER Tributary
COLUMBIA RIVER

Use: IRRIGATION 03/01 to
11/01 0.06 CFS

Total Diversion: 0.06 CFS

Date Filed: 5/1/2013

Place of Use: IRRIGATION
T02N R04W S36 SESW
L3(SWSE)

Total Acres: 2

Permits will be subject to all prior water rights. For additional information concerning the property location, contact Western Region office at (208) 334-2190; 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, Western Region, 2735 Airport Way, Boise ID 83705 together with a protest fee of \$25.00 for each application on or before 8/5/2013. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN,
Director

7/17,24/13

OK
8-6-13
RS.

RECEIVED

AUG 01 2013

WATER RESOURCES
WESTERN REGION