

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 57-11838

Priority: January 14, 2013

Maximum Diversion Rate: 2.60 CFS

This is to certify, that CHRIS UNRUH
25289 HIPWELL LN
GRAND VIEW ID 83624

has applied for a permit to appropriate water from:

Source: SHOOFLY CREEK

Tributary: SNAKE RIVER

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

BENEFICIAL USE

IRRIGATION

PERIOD OF USE

03/15 to 10/31

RATE OF DIVERSION

2.60 CFS

LOCATION OF POINT(S) OF DIVERSION:

SHOOFLY CREEK SW1/4SW1/4 Sec. 25, Twp 05S, Rge 03E, B.M., OWYHEE County

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	
05S 03E 25											3.0	9.0					12.0
05S 03E 36	6.0	28.0	40.0	40.0	40.0	20.0	24.0	40.0	31.0	10.0			40.0	40.0	8.0	27.0	394.0
05S 04E 31							27.0	1.0	34.0	48.0	46.0	40.0					196.0
							L 3				L 4	L 5					
06S 04E 6					11.0	2.0											13.0
					L 3	L 4											

Total Acres: 615

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **August 01, 2014**.
2. Subject to all prior water rights.
3. This right does not grant any right-of-way or easement across the land of another.
4. 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.
5. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the place of use.
6. Prior to diversion of water under this right, the right holder shall install and maintain a measuring device and lockable controlling works of a type acceptable to the Department as part of the diverting works.

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 57-11838

7. Any license issued by IDWR pursuant to the right or portion thereof for the use of trust water is subject to a term review of 5 years after the date of this approval to determine availability of water for the use and to re-evaluate the public interest at the end of the term.
8. This right is limited to the irrigation of 130 acres within the place of use described above in a single irrigation season.
9. The right holder shall cease diversion to storage when the flow at the Snake River Murphy Gauge falls below 3900 cfs from April 1 to October 31 or 5600 cfs from November 1 to March 31.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 30th day of July, 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

July 31, 2013

CHRIS UNRUH
25289 HIPWELL LN
GRAND VIEW ID 83624

RE: Permit No.57-11838

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.

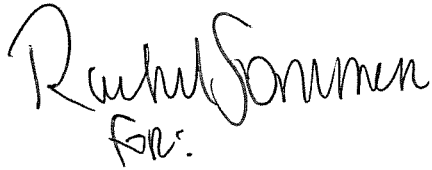
Enclosed is a form entitled 'Instructions for Proof of Beneficial Use.' Please read the instructions carefully since you must take further action to develop this permit into a licensed water right. Also enclosed is a form entitled 'Proof of Beneficial Use.' If your project is already completed, you should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

A handwritten signature in black ink that reads "Rachel Sommer" with "For." written below it.

John Westra
Western Regional Manager

Enclosures

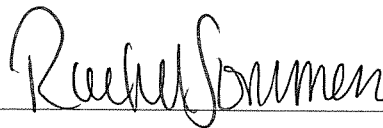
CERTIFICATE OF SERVICE

I hereby certify that on July 31, 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.

57-11838

**CHRIS UNRUH
25289 HIPWELL LN
GRAND VIEW ID 83624**

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.

Sommer, Rachel

From: Knowles, Corbin
Sent: Tuesday, June 04, 2013 2:46 PM
To: Sommer, Rachel
Subject: RE: Application for permit
Attachments: DOC.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Rachel
Here are my comments related to this application.

Thanks

Corbin

From: Sommer, Rachel
Sent: Tuesday, June 04, 2013 12:16 PM
To: Knowles, Corbin
Subject: Application for permit

June 4, 2013

IDWR
ATTN: CORBIN KNOWLES, WATER DISTRICT #2
322 E FRONT ST
PO BOX 83720
BOISE ID 83720-0098

RE: Application for Permit No: 57-11838

Dear Watermaster:

The Idaho Department of Water Resources (IDWR) is seeking written comment and/or recommendations from you regarding the above referenced water right applications. Copies of the applications are enclosed with this email for your reference. Please review the applications, complete a recommendation form, and submit your reply, if any, to this office within 21 days.

The protest deadline for any interested party is June 24, 2013. A written protest and the \$25 filing fee must be received by 5:00 p.m. that day in order to be recognized by IDWR.

IDWR will assume you do not object to this application if a timely response is not received. Please contact me if you have any questions in this matter. Thank you for your help.

Sincerely,

Rachel Sommer

Administrative Assistant
IDWR, Western Region
Office: 208-334-2190
Fax: 208-334-2348



State of Idaho
Department of Water Resources
RECOMMENDATION FORM
(Use separate form for each application(s))

Application # 57-11838

Applicant Name Chris Unruh

Recommendation:

- a) ☐ I do not oppose approval of this application.
b) ☐ I do not oppose approval of this application if it is conditioned as follows:

- c) ☒ I oppose approval of this application for the following reasons:

This permit is proposing to use water from Shoofly creek that historically is dry most years. The creek in many cases has been farmed over and no longer exists. The water for this use is waste water from the Bybee Lateral with no new water available in Shoofly for new appropriations. Place of use under this application is also covered by water under the Bybee lateral and the Grandview Mutual or Irrigation District.

- d) ☐ Additional comments:

Consider having Mr. Unruh amend the application to waste water for water source instead of primary water from Shoofly Creek. Applicant should provide additional data/documentation supporting the water source and use.

Dated this 4 day of June, 2013

Idaho Dept of Fish & Game

Signature

Corbin Knowles- Water Master WD 02

Printed Name

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):

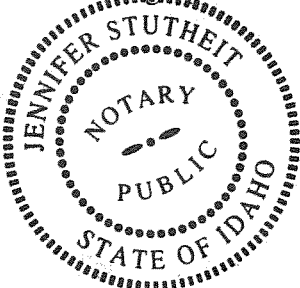
JUNE 5, 12, 2013

SIGNED: _____

STATE OF IDAHO)
COUNTY OF OWYHEE)

On this 27 day of June 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: 57-
11838

CHRIS UNRUH, 25289
HIPWELL LN, GRAND VIEW,
ID 83624

Point of Diversion SWSW S25
T05S R03E OWYHEE County
Source SHOOFLY CREEK
Tributary SNAKE RIVER

Use: IRRIGATION 03/15 to
10/31 2.6 CFS

Total Diversion: 2.6 CFS

Date Filed: 1/14/2013

Place Of Use: IRRIGATION
T05S R03E S25 SWSW
SESW

T05S R03E S36 ALL NE, ALL
NW, NESW NWSW, ALL SE

T05S R04E S31 L3(SWNW)
SENW NESW L4(NWSW)
L5(SWSW) SESW

T06S R04E S6 L3(NENW)
L4(NWNW)

Total Acres: 615

Application proposes irrigation
of 130 acres in a 615 acres
permissible place of use.

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 6/24/2013. The protestant
must also send a copy of the
protest to the applicant.

GARY SPACKMAN, Director
6/5, 12/13

RECEIVED

JUL 01 2013

WATER RESOURCES
WESTERN REGION

OK
7-2-13
Rj

MEMORANDUM

TO: APPLICATION FOR PERMIT FILE NO. 57-11838
FROM: VICKY MUSIC
SUBJECT: ADDITIONAL INFORMATION
DATE: 4/30/2013
CC:

I requested additional information about possible injury to the senior right holder downstream and sufficiency of water for this proposed diversion from Shoofly Creek. Applicant Chris Unruh responded by letter and called me this week.

Though the quantity proposed is the full 1 inch/acres for 130 acres, he has enough water from the Bybee canal most of the season and only needs water for about 2-3 weeks in the early and late irrigation season. During our phone call this week, he stated that there is "plenty of water", and the water in the creek is 2 feet deep by 8 feet wide. In the late irrigation season, he states that there is abundant water from in the creek from summer irrigation. He has discussed his application with his neighbor, Cantrell, with whom he shares the POD on Shoofly, and Mr. Cantrell has no problem with it.

I asked the applicant for pictures of the creek, but he is a Mennonite, and they don't believe in taking pictures, so he does not have a camera. He said he took measurements and would get though to me.

The application appears to be approvable. There is only 1 senior right on the creek between the applicant and the Snake River.