

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 84-12279

Priority: February 21, 2013

Maximum Diversion Rate: 0.20 CFS
Maximum Diversion Volume: 4.6 AF

This is to certify, that EMPIRE LUMBER COMPANY
PO BOX 206
WEIPPE ID 83553
(208) 435-4113

has applied for a permit to appropriate water from:

Source: GROUND WATER

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>	<u>ANNUAL VOLUME</u>
DIVERSION TO STORAGE	01/01 to 12/31	0.20 CFS	
FIRE PROTECTION FROM STORAGE	01/01 to 12/31		4.6 AF
FIRE PROTECTION STORAGE	01/01 to 12/31		4.6 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER, NE1/4NE1/4, Sec. 15, Twp 35N, Rge 04E, B.M., CLEARWATER County

PLACE OF USE: FIRE PROTECTION 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
35N 04E 14						X	X										
35N 04E 15	X																

PLACE OF USE: FIRE PROTECTION 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
35N 04E 15	X																

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **July 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. Water shall not be diverted from fire protection storage except to fight or repel an existing fire.
5. Prior to the diversion and use of water under this approval, the right holder shall comply with applicable county zoning and use ordinances.
6. This right authorizes the diversion of an annual total of 4.6 acre-feet to be used for the initial filling of the pond, for the replacement of losses caused by seepage and evaporation from the pond and for the storage of water for fire protection.
7. The pond established by the storage of water under this right shall not exceed a total capacity of 1.53 acre-feet.

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 11 day of July, 2013.


For, GARY SPACKMAN, Director



State of Idaho

DEPARTMENT OF WATER RESOURCES

Northern Region, 7600 N. Mineral Drive, Suite 100 • Coeur d'Alene, Idaho 83815

Phone: (208) 762-2800 • Fax: (208) 762-2819 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

July 15, 2013

EMPIRE LUMBER COMPANY
PO BOX 206
WEIPPE ID 83553

RE: Permit No.84-12279

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.

The right to drill a well is not a part of this permit to appropriate water. Beginning in July of 1987, a statute was enacted which requires a drilling permit for new well construction and deepening of existing wells. If the well(s) proposed for use under this water right permit were drilled or deepened after July 1, 1987, a separate drilling permit must be obtained from this Department. Please contact the Ground Water Protection Section located here at this office or our regional office nearest you.

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 Davis". The signature is written in a cursive, flowing style.

Eric Davis

Sr. Water Resource Agent

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on July 15, 2013 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.

84-12279

**EMPIRE LUMBER COMPANY
PO BOX 206
WEIPPE ID 83553**

A handwritten signature in cursive script, reading "Carolyn S. Monitz", is written over a horizontal line.

**Carolyn S. Monitz
Technical Records Specialist**

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.

STATE OF CALIFORNIA
FISH AND GAME DEPARTMENT OF WATER RESOURCES
APPROPRIATION APPLICATION ANALYSIS SHEET

P-6-20-1

W.R. # 84-12279

APPLICATION ID # 78486

ENT. 4/19

BCA 6/11

OK to Publish 6/7/13

APPLICANT: Empire Lumber Co.

INITIAL REVIEW

BY: KJ

DATE: 4/19/2013

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)

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

ADDITIONAL INFORMATION

(Yes)(No)

- ☒ Shape File Created Date 4/19/13 By: KJ
- ☐ Field check: by _____
- ☐ Field report attached
- ☐ Analysis Supp. Attached (>5cfs/500af)
- ☐ Water delivered by water master? Water District # _____

PROCESSING

(Yes)(No)

PRIORITY DATE: 2/21/2013

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

ADVERTISE IN:

County: Clearwater
Newspaper: Clearwater Tribune
Dates scheduled for publication 6/20, 27/13
Affidavit of Publication received: 6/28/13
Dates actually published: 6/20, 27
Application published correctly. Yes ☒ No ☐
If not, action taken: _____

Final Date for Protest: 7/8/13

Protests Received: Yes ☐ No ☒

LETTERS SENT REQUESTING:

() Dam Information () Fish Information
() Power Information () Other: _____

INFORMATION RECEIVED:

() Dam Information () Fish Information
() Power Information () Other: _____

GROUNDWATER SECTION

WD Permit No.'s:

00054612

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: ____/____/____

- ☒ Measuring device required
- ☒ Measuring port required
- ☒ Special conditions: _____
- ☒ Special conditions of approval supplement and/or cover letter attached: _____

Approval Recommended by:

Keith St. James

Date: 7/11/2013

Sr. Agent initial

KJ

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO)
) ss.
County of Clearwater)

CLOANN MCNALL

being first duly sworn in, on oath, deposes and says:

That I am and at all times herein mentioned have been a citizen of the United States and of the State of Idaho, over 21 years of age, and that I am not a party to nor interested in the above entitled proceeding; that I am and at all times herein mentioned have been the Editor, Foreman, of THE CLEARWATER TRIBUNE; that said Clearwater Tribune is a newspaper of general circulation, printed and published weekly at Orofino, in the County of Clearwater and State of Idaho; that the Clearwater Tribune has been continuously and uninterruptedly published in Clearwater County, Idaho, during the period of seventy-eight consecutive weeks prior to the first publication of attached copy of:

Idaho Department of Water Resources
EMPIRE LUMBER COMPANY
PUBLIC WATERS

of which the annexed is a full, true and correct printed copy, was published in the regular and entire issue of said newspaper, and not in any supplement thereof, for a period of two consecutive weeks, commencing on the 20th day of June 2013 and ending on the 27th day of June 2013.

STATE OF IDAHO)
)
COUNTY OF CLEARWATER)

On this 27th day of June in the year of 2013, before me, a Notary Public, personally appeared

CloAnn McNall

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 she executed the same.

Marcie Stanton

Notary Public for Idaho
Resident at Orofino, Idaho
My commission expires: 5-16-14

RECEIVED
JUN 28 2013
IDWR / NORTH

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

84-12279

EMPIRE LUMBER COMPANY
PO BOX 206

WEIPPE, ID 83553

Point of Diversion NENE S15 T35N R04E CLEARWATER CO
Source GROUND WATER

Use: DIVERSION to STORAGE 01/01 to 12/31 0.2 cfs

Use: FIRE PROTECTION from Storage 01/01 to 12/31 4.6 AF

Use: FIRE PROTECTION STORAGE 01/01 to 12/31 4.6 AF

Total Diversion: 0.2 CFS

Date Filed: 2/21/2013

Place of Use: FIRE PROTECTION from STORAGE

T35N R04E S14 NWNW SWNW

T35N R04E S15 NENE SENE

Place of Use: FIRE PROTECTION STORAGE

T35N R04E S15 NENE SENE

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 7/8/2013. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Published on 6/20/2013 and 6/27/2013

6-20, 27-13c

MARCIE STANTON
NOTARY PUBLIC
STATE OF IDAHO