

AMENDED

State of Idaho
Department of Water Resources

AMENDED

Permit to Appropriate Water

NO. 78-12404

Priority: September 17, 2012

Maximum Diversion Rate: 0.20 CFS

This is to certify, that DENNIS DE BILL
KAYLA ADAMS
5198 HWY 95
NEW MEADOWS ID 83654

has applied for a permit to appropriate water from:

Source: LITTLE SALMON RIVER **Tributary:** SALMON RIVER

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>
IRRIGATION	04/01 to 10/31	0.20 CFS
FIRE PROTECTION	01/01 to 12/31	0.20 CFS

LOCATION OF POINT(S) OF DIVERSION:

LITTLE SALMON RIVER SE1/4NW1/4 Sec. 2, Twp 21N, Rge 01E, B.M., IDAHO County

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
21N 01E 2	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	10.0
								5.0									

Total Acres: 10

PLACE OF USE: FIRE PROTECTION

Twp Rge Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
21N 01E 2	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
								X									

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **May 01, 2018**.
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. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which the permit holder had no control.

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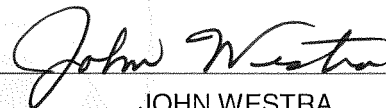
AMENDED

Permit to Appropriate Water

NO. 78-12404

5. 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.
6. 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.
7. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.0 afa per acre at the field headgate for irrigation of the place of use.
8. Water shall not be diverted for fire protection use under this right except to fight or repel an existing fire.
9. Prior to the diversion and use of water under this approval, the right holder shall comply with all fish screening and/or fish passage requirements of the Idaho Department of Fish and Game.
10. A fish screen of 3/32 inch or smaller mesh shall be installed and maintained at the point of 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 17th day of July, 20 13.



JOHN WESTRA

Western Regional Manager

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

**IN THE MATTER OF PERMIT TO)
APPROPRIATE WATER NO. 78-12404) AMENDED PERMIT ORDER
IN THE NAME OF DENNIS DEBILL &)
KAYLA ADAMS)
_____)**

FINDINGS OF FACT

1. On May 31, 2013, the Idaho Department of Water Resources (Department) issued a preliminary order approving permit to appropriate water no.78-12404 in the name of Dennis DeBill and Kayla Adams.

2. On February 21, 2013, the Department received a comment letter from the Idaho Department of Fish & Game recommending the following standard conditions of approval be included in the permit approval:

Prior to the diversion and use of water under this approval, the right holder shall comply with all fish screening and or fish passage requirements of the Idaho Department of Fish and Game.

A fish screen with a 3/32 mesh shall be installed and maintained at the point of diversion.

3. On June 28, 2013, Regional Department staff noted that permit conditions of approval recommended by Idaho Department of Fish & Game had been unintentionally omitted in the approval.

CONCLUSIONS

1. Idaho Code § 42-204 and Water Appropriation Rules IDAPA 37.03.08.40 set standards for approval of permits to appropriate water. Under public interest, comments from other regulatory agencies are part of processing new water appropriations.

2. The Little Salmon River is an important anadromous resource to the citizens of Idaho. The permit should be amended to include the Fish & Game omitted conditions.

ORDER

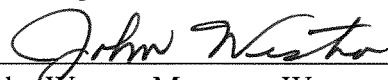
IT IS HEREBY ORDERED that Permit to Appropriate Water Approval No. 78-12404 in the name of Dennis DeBill and Kayla Adams be **AMENDED** to include the following

Conditions of Approval:

Prior to the diversion and use of water under this approval, the right holder shall comply with all fish screening and or fish passage requirements of the Idaho Department of Fish and Game.

A fish screen with a 3/32 mesh shall be installed and maintained at the point of diversion.

Dated this 17th day of July, 2013



John Westra, Manager, Western Regional Office



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

July 17, 2013

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
 Director

DENNIS DE BILL
KAYLA ADAMS
5198 HWY 95
NEW MEADOWS ID 83654

RE: Permit No.78-12404

Amended Permit Approval Notice

Dear Water Right Holders:

The Department has enclosed the Amended approved Permit. Please notice the conditions that have been added to the amended permit as described in the enclosed Amended Permit Order.

If you have any questions, please contact this office at 208-334-2190.

Sincerely,

A handwritten signature in cursive script that reads "Rachel Sommer". The signature is written in dark ink and is positioned below the word "Sincerely,".

Rachel Sommer
Administrative Assistant
Western Regional Office

Enclosures

CERTIFICATE OF SERVICE

I hereby certify that on JULY 17, 2013, true and correct copies of the documents described below were served by placing a copy of the same with the United States Postal Service, postage prepaid mail with return receipt requested, and properly addressed to persons listed below:

Documents Served:

AMENDMENT PERMIT ORDER: 78-12404

PRELIMINARY ORDER (Amended Approved Permit) RE: 78-12404

DENNIS DE BILL
5198 HWY 95
NEW MEADOWS ID 83654

KAYLA ADAMS
5198 HWY 95
NEW MEADOWS ID 83654

A handwritten signature in cursive script that reads "Rachel Sommer". The signature is written in dark ink and 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 42-1701 A(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.