

State of Idaho
Department of Water Resources
Water Right License

WATER RIGHT NO. 92-10017

Priority: April 25, 2005

Maximum Diversion Rate: 0.50 CFS
Maximum Diversion Volume: 0.3 AF

It is hereby certified that US DEPT OF AGRICULTURE
FOREST SERVICE
ID PANHANDLE NATIONAL FOREST
3815 SCHREIBER WAY
COEUR D ALENE ID 83814 has complied with the terms and
conditions of the permit, issued pursuant to Application for Permit dated April 25, 2005; and has
submitted Proof of Beneficial Use on May 27, 2010. An examination indicates that the works have a
diversion capacity of 1.08 cfs of water from:

SOURCE

TWO EIGHTYONE GULCH

Tributary: EAST FORK EMERALD 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>
MINING	05/25 to 09/15	0.50 CFS	0.3 AF

LOCATION OF POINT(S) OF DIVERSION:

TWO EIGHTYONE GULCH NW¼SW¼ Sec. 8, Twp 42N, Rge 01E, B.M. LATAH County

PLACE OF USE: MINING

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE					
42N	01E	8							X	X	X	X							

CONDITIONS OF APPROVAL

1. Mining use is for washing gravel for garnet gemstone extraction.
2. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to determine the amount of water diverted from power records and shall annually report the information to the Department.
3. The right holder shall comply with any bonding requirements for matters administered by the Department of Water Resources that are applicable to the use of water under this right.

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 on this 11 day of March, 2013.


For, GARY SPACKMAN
Director

State of Idaho
Department of Water Resources
APPLICATION FOR AMENDMENT
(For Licensing Purposes)
WATER RIGHT NO. 92-10017

RECEIVED**NOV - 5 2012****IDWR/NORTHERN***NO 29558***Date of Priority:** April 25, 2005

Maximum Diversion Rate: 0.50 CFS
Maximum Diversion Volume: 0.3 AF

Comes now US DEPT OF AGRICULTURE
FOREST SERVICE
ID PANHANDLE NATIONAL FOREST
3815 SCHREIBER WAY
COEUR D ALENE ID 83814

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. 92-10017, and requests that the permit be changed as follows:

Source: TWO EIGHTYONE GULCH **Tributary:** EAST FORK EMERALD CREEK

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
MINING	05/25 to 09/15	0.50 CFS	0.3 AF

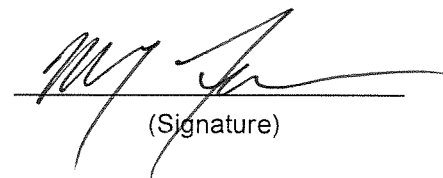
LOCATION OF POINT(S) OF DIVERSION:

TWO EIGHTYONE GULCH NW¼SW¼ Sec. 8, Twp 42N, Rge 01E, B.M. LATAH County

PLACE OF USE: MINING

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
42N 01E 8							X	X	X	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 1st day of NOVEMBER, 2012.


(Signature)

State of Idaho
Department of Water Resources
APPLICATION FOR AMENDMENT

(For Licensing Purposes)
WATER RIGHT NO. 92-10017

FOR DEPARTMENT USE ONLY

Preliminary check by _____ Fee = \$100⁰⁰ Received by _____ # N02955B Date 11/5/12

ACTION OF THE DEPARTMENT OF WATER RESOURCES

I, GARY SPACKMAN, of the Department of Water Resources hereby approve the
above Application for Amendment for Permit No. 92-10017 with the following:

CONDITIONS OF APPROVAL

1. Mining use is for washing gravel for garnet gemstone extraction.
2. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to determine the amount of water diverted from power records and shall annually report the information to the Department.
3. The right holder shall comply with any bonding requirements for matters administered by the Department of Water Resources that are applicable to the use of water under this right.

Witness my hand this 1 day of March, 2012¹³

Keith T. Spackman
For, GARY SPACKMAN
Interim Director



United States
Department of
Agriculture

Forest
Service

Idaho Panhandle
National Forests

3815 Schreiber Way
Coeur d'Alene, ID 83815

File Code: 2540

Date: November 1, 2012

Chad Goodwin
Senior Water Resources Agent
State of Idaho Department of Water Resources -
Northern Region
7600 North Mineral Drive
Suite 100
Coeur d'Alene, ID 83815

RECEIVED

NOV - 5 2012

IDWR/NORTHERN

Dear Mr. Goodwin:

Thank you for your June 26, 2012 letter explaining the enclosed *Application for Amendment*. We concur with your finding that the POD (Point of Diversion) and POU (Point of Use) have been developed differently than described in the current permit. Enclosed is the signed *Application for Amendment* and a check for the \$100.00 filing fee. Please accept my apology for not having responded to your letter sooner.

If you have any questions please contact Kent Wellner, Water Rights Coordinator, through December 20, 2012 or Shanda Dekome, Ecosystem Staff Officer, after December 20, if you have any questions regarding our response to your June 26, 2012, letter.

Sincerely,

MARY FARNSWORTH
Forest Supervisor

Enclosure





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

March 11, 2013

US DEPT OF AGRICULTURE
FOREST SERVICE
ID PANHANDLE NATIONAL FOREST
3815 SCHREIBER WAY
COEUR D ALENE ID 83814

RE: License No. 92-10017
Issuance of License

Dear Water Right Holder(s):

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 208-762-2800.

Sincerely,

Eric Davis
Sr. Water Resource Agent

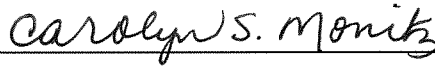
Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on March 11, 2013 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. 92-10017

**US DEPT OF AGRICULTURE
FOREST SERVICE
ID PANHANDLE NATIONAL FOREST
3815 SCHREIBER WAY
COEUR D ALENE ID 83814**



**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.