

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 91-07750

Priority: January 30, 2013

Maximum Diversion Rate: 0.04 CFS

This is to certify, that ROBERT MAXWELL
28700A ST JOE RIVER RD
CALDER ID 83808
(208) 245-6878

has applied for a permit to appropriate water from:

Source: SPRING

Tributary: ST JOE RIVER

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

BENEFICIAL USE

DOMESTIC

PERIOD OF USE

01/01 to 12/31

RATE OF DIVERSION

0.04 CFS

LOCATION OF POINT(S) OF DIVERSION:

SPRING, SE1/4SW1/4NE1/4, Sec. 8, Twp 45N, Rge 03E, B.M., SHOSHONE County

PLACE OF USE: DOMESTIC

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
45N	03E	8	X																

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **May 01, 2014**.
2. Subject to all prior water rights.
3. Domestic use is for 1 home.
4. The irrigation occurring under this domestic use shall not exceed 1/2 acre.
5. This right does not grant any right-of-way or easement across the land of another.
6. Water shall not be diverted under this right when flows in the St. Joe River are below minimum flow amounts as defined by Right 91-7122.

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 23 day of April, 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

April 23, 2013

ROBERT MAXWELL
28700A ST JOE RIVER RD
CALDER ID 83808

RE: Permit No.91-7750

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 208-762-2800.

Sincerely,

A handwritten signature in black ink, appearing to read "Eric J. Davis". The signature is written in a cursive, flowing style.

Eric Davis

Sr. Water Resource Agent

Enclosure(s)

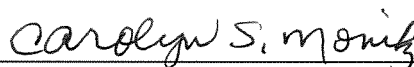
CERTIFICATE OF SERVICE

I hereby certify that on April 24, 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.

91-7750

**ROBERT MAXWELL
28700A ST JOE RIVER RD
CALDER ID 83808**

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.

IDAHO DEPARTMENT OF WATER RESOURCES
APPROPRIATION APPLICATION ANALYSIS SHEET

P.H. 1/11/13

91-7750

APPLICATION ID # 78406

ENT. EP

BCA 2/28

OK to Publish 2/27/13

INITIAL REVIEW

APPLICANT: Robert Maxwell

BY: ED

DATE: 1/31/2013

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)

PROCESSING

(Yes)(No)

PRIORITY DATE: 1/30/2013

(Include Moratorium Remark)

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

ADVERTISE IN:

Shoshone

County

Newspaper:

NP

Dates scheduled for publication

3/7 & 4/1/13

Affidavit of Publication received:

3/15/13

Dates actually published:

3/7 + 4/1/13

Application published correctly. Yes

✓

No

If not, action taken:

Final Date for Protest:

3/25/13

Protests Received: Yes

No

LETTERS SENT REQUESTING:

() Dam Information () Fish Information

() Power Information () Other:

INFORMATION RECEIVED:

() Dam Information () Fish Information

() Power Information () Other:

ADDITIONAL INFORMATION

(Yes)(No)

Shape File Created Date 1-31-13 By: E.D.

Field check: by

Field report attached

Analysis Supp. Attached (>5cfs/500af)

Water delivered by water master? Water District #

GROUNDWATER SECTION

WD Permit No.'s:

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?

Spring - St. Joe River

Remarks:

FINAL REGIONAL PROCESSING/REVIEW

(Yes)(No)

Notice of pending void order issued.

Final order response date: / /

Further information required from applicant

Measuring device required

Measuring port required

Special conditions: St. Joe River Min. Stream Flow

Special conditions of approval supplement and/or cover letter attached:

Approval Recommended by:

Keith J. [Signature]

Date:

4/23/2013

Sr. Agent initial

KJ

RECEIVED
MAR 15 2013
IDWR / NORTH

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO, }
County of Shoshone } ss.

Jen Jeffers

being first duly sworn

upon oath deposes and says:

1. I am now and at all times hereinafter mentioned was a citizen of the United States, resident of the State of Idaho, over the age of twenty-one years and not a party of the above entitled action.

2. I am now and at all times hereinafter mentioned was the printer (principal clerk) of the "Shoshone News Press", a newspaper printed and published daily except Sunday and Monday in Kellogg, Shoshone County, Idaho, and having a general circulation in said county.

3. The

Legal Notice

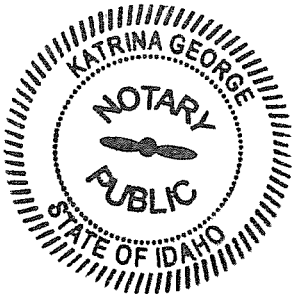
of which the annexed is a printed copy, was published in the regular Thursday issue of said newspaper for Two consecutive weeks commencing on the 7 day of March, 2013, and such publication was made as often during said period as said Daily newspaper was regularly issued.

4. That said newspaper has been continuously and uninterruptedly published in said Shoshone County, during a period of more than seventy-eight consecutive weeks immediately prior to the first publication of said notice Jen Jeffers.

On this 14 day of March in the year of 2013, before me, a Notary Public, personally appeared Jen Jeffers, known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that he executed the same.

Katrina George

Notary Public for the State of Idaho
residing in Coeur d'Alene, Idaho



MY COMMISSION EXPIRES 8/29/17

RECEIVED
MAR 15 2013
IDWR / NORTH

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

91-7750

ROBERT MAXWELL

28700A ST JOE RIVER RD

CALDER, ID 83808

Point of Diversion SWNE S8 T45N R03E SHOSHONE CO

Source SPRING tributary ST JOE RIVER

Use: DOMESTIC	01/01 to 12/31	0.04 CFS
Total Diversion:		0.04 CFS

Date Filed: 1/30/2013

Place of Use: DOMESTIC T45N R03E S8 NENE

Domestic use is for 1 home.

94-9195

DANIEL HASH

JULIE HASH

2520 GRIZZLY GULCH DR

HELENA, MT 59601

Points of Diversion(2) L2(NWNE) S4 T48N R03E

SHOSHONE CO

Source MONTGOMERY CREEK

Tributary SOUTH FORK COEUR D'ALENE RIVER

Use: DOMESTIC	01/01 to 12/31	0.04 CFS
Use: IRRIGATION	04/01 to 10/31	0.03 CFS
Total Diversion:		0.07 CFS

Date Filed: 2/14/2013

Place of Use: DOMESTIC T48N R03E S4 L2(NWNE)

Place of Use: IRRIGATION same as DOMESTIC

Total Acres: 1

Domestic use is for 3 cabins.

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 3/25/2013. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Legal 184

March 7, 14, 2013