

State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 87-10073

Priority: April 03, 2012

Maximum Diversion Rate: 0.04 CFS

This is to certify, that MICHELLE SPAIN And/Or FRANCIS SPAIN
2405 KATHY AVE
MOSCOW ID 83843

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>
DOMESTIC	01/01 to 12/31	0.04 CFS
STOCKWATER	01/01 to 12/31	0.02 CFS

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER SW1/4NE1/4 Sec. 6, Twp 40N, Rge 05W, B.M. LATAH 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	
40N	05W	6			X	X													

PLACE OF USE: STOCKWATER

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
40N	05W	6			X	X													

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **December 01, 2017.**
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. Stockwater use is for 19 horses.
6. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
7. 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.
8. This right does not grant any right-of-way or easement across the land of another.

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 7 day of December, 2012.


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

December 11, 2012

MICHELLE SPAIN
2405 KATHY AVE
MOSCOW ID 83843

FRANCIS SPAIN
2405 KATHY AVE
MOSCOW ID 83843

RE: Permit No.87-10073

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.

As a permit owner you must commence the excavation or construction of the diverting works within one year of the date the permit was issued, and you must proceed diligently until the project is completed. The date shown under condition no. 1 is the date when the project must be completed.

The Department will send you a 'Proof Due Notice' approximately 60 days prior to the above referenced date requesting you to file either a Proof of Beneficial Use form or a Request for Extension of Time form.

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 December 11, 2012 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.

87-10073

**FRANCIS SPAIN
2405 KATHY AVE
MOSCOW ID 83843**

**MICHELLE SPAIN
2405 KATHY AVE
MOSCOW ID 83843**

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.

NEWS REVIEW PUBLISHING COMPANY

The Moscow-Pullman Daily News
P.O.Box 374

Lewiston, Idaho 83501
(208) 743-9411

RECEIVED

NOV 13 2012

IDWR / NORTH

**LEGAL ADVERTISING
INVOICE**

Date:

11/08/2012

INVOICE NO.

70142

Account No.

30010311

Description

70142 The follo

Times

2

Lines

30

Tab. lines

\$ 87.75

Sold To: IDAHO DEPT/ WATER RESOURCES
7600 N. MINERAL DR STE 100
COEUR D ALENE ID 83814

PO#

87-10073

NOTICE: This is a invoice of Purchase made by you. Statement will be rendered the first of the month
Please Retain This Invoice as Your Statement Will Refer to Invoice by No. Only.

AFFIDAVIT OF PUBLICATION

Karen J. Lewis, Legal Clerk
being first duly sworn, on oath deposes
and says: I am the printer of
Moscow-Pullman Daily News, a newspaper
of general circulation, published daily
except Sunday at Mosocw, Latah County,
Idaho, in compliance with Sections 60-106,
60-107, and 60-108 of the Idaho Code and the
amendments thereto; and an official newspaper
for Whitman County, Washington as required
by R.C.W. 36.72.071 and other provisions of
the Revised Code of Washington and the
amendments thereto: that the notice of which the
annexed is a full, true and correct printed
copy was published in the regular and entire
issues of said newspaper and not in a
supplement thereto, upon the following dates:

Nov. 1, 8, 2012

the same being the date designated for
the publication of said notice.

Karen J. Lewis

On this 8th day of November
in the year of 2012, before me, a Notary Public,
personally appeared Karen J. Lewis,
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.

Carol Peterson

Notary Public for Idaho,
Residing at Lewiston, Idaho
My Commission Expires 9/1/2017

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

87-10073

MICHELLE SPAIN

FRANCIS SPAIN

2405 KATHY AVE

MOSCOW, ID 83843

Point of Diversion SWNE S6 T40N R05W LATAH CO

Source GROUND WATER

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

Use: STOCKWATER 01/01 to 12/31 0.02 CFS

Total Diversion: 0.04 CFS

Date Filed: 4/3/2012

Place of Use: DOMESTIC T40N R05W S6 SWNE SENE

Place of Use: STOCKWATER same as DOMESTIC

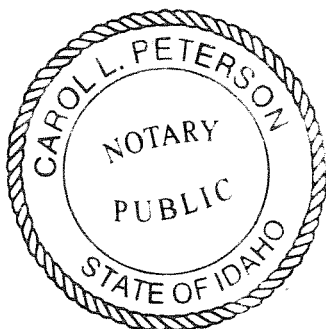
Domestic use is for 1 home.

Stockwater use is for 19 horses.

Permits will be subject to all prior water rights. For additional
information concerning the property location, contact North-
ern Region office at (208) 762-2800. Protests may be submit-
ted 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
11/19/2012. The protestant must also send a copy of the pro-
test to the applicant.

GARY SPACKMAN, Director

Published on 11/1/2012 and 11/8/2012



Ball, Dianne

From: Ball, Dianne
Sent: Friday, October 19, 2012 10:02 AM
To: Legal Notices-MoscowPullmanDailyNews
Subject: Application for Permit No. 87-10073
Attachments: LegalNotice 10-19-12 MP e-mail 87-10073.doc

Hi, Karen,

Please publish the enclosed legal notice in the Moscow Pullman Daily News on the dates indicated, November 1 and 8, 2012 (once a week for two consecutive weekly issues). If you cannot publish the notice on the proposed dates, please contact us immediately. This should be mostly press-ready – 2-column Dutch 811 font, 8pt.

Please send a proof/preview copy for my review before this goes to press.

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before 11/19/2012. Your cooperation is greatly appreciated.

Thanks for all your wonderful help.

Dianne Ball

Administrative Assistant
Idaho Department of Water Resources
7600 N Mineral Dr., Ste. 100
Coeur d'Alene, ID 83815
208-762-2800 Fax 208-762-2819

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

87-10073

MICHELLE SPAIN

FRANCIS SPAIN

2405 KATHY AVE

MOSCOW, ID 83843

Point of Diversion SWNE S6 T40N R05W LATAH CO

Source GROUND WATER

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

Use: STOCKWATER 01/01 to 12/31 0.02 CFS

Total Diversion: 0.04 CFS

Date Filed: 4/3/2012

Place of Use: DOMESTIC T40N R05W S6 SWNE SENE

Place of Use: STOCKWATER same as DOMESTIC

Domestic use is for 1 home.

Stockwater use is for 19 horses.

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 11/19/2012. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Published on 11/1/2012 and 11/8/2012



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

October 19, 2012

MICHELLE SPAIN
FRANCIS SPAIN
2405 KATHY AVE
MOSCOW, ID 83843

Application For Permit No. 87-10073

Dear Applicant(s):

The Department of Water Resources has received your water right application. Please refer to the number referenced above in all future correspondence regarding this application.

A legal notice of the application has been prepared and is scheduled for publication in the MOSCOW-PULLMAN DAILY NEWS on 11/1/2012 and 11/8/2012. Protests to this application may be submitted for a period ending ten (10) days after the second publication.

If the application is protested, you will be sent a copy of each protest. All protests must be resolved before the application can be considered for approval. If the protest(s) cannot be resolved voluntarily, the Department will conduct a conference and/or hearing on the matter.

If the application is not protested, the Department will process your application and notify you of any action taken on the application. If your application is approved, the Department will send you a copy of the permit.

Please contact this office if you have any questions regarding the application.

Sincerely,

Eric J. Davis
Sr. Water Resource Agent

SUSAN R. WILSON

ATTORNEY AT LAW, PLLC

208 S. Main Street, Ste 2, Moscow, ID 83843
Ph: 208-882-8060 ~ Fx: (866) 221-9397 ~ sw2@moscow.com

March 30, 2012

RECEIVED
APR - 3 2012
IDWR/NORTHERN

Idaho Department of Water Resources
7600 N. Mineral Dr., Suite 100
Coeur d'Alene, ID 83815

RE: APPLICATION FOR WATER PERMIT

To Whom It May Concern:

I represent Francis and Michelle Spain and have assisted them in preparing the enclosed Application for Permit for a water right for domestic purposes for their property in Latah County. Please review the enclosed application and let me know if you have any questions, concerns, or if you require additional information.

Enclosed you will also find the \$100.00 filing fee.

Please do not hesitate to contact me at 208-882-8060 or via email at sw2@moscow.com to discuss your review of the application.

Sincerely,



Susan R. Wilson
Attorney at Law

cc: Francis and Michelle Spain