

State of Idaho  
Department of Water Resources  
**Permit to Appropriate Water**

NO. 65-23471

Priority: September 23, 2011

Maximum Diversion Rate: 0.02 CFS

This is to certify, that RUDOLPH J PRACHYL and  
JUDY K PRACHYL  
53 CIRCLE DR  
GARDEN VALLEY ID 83622

has applied for a permit to appropriate water from:

**Source:** SOUTH FORK PAYETTE RIVER      **Tributary:** PAYETTE 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            | 03/15 to 10/31       | 0.02 CFS                 |

**LOCATION OF POINT(S) OF DIVERSION:**

SOUTH FORK PAYETTE RIVER L4 (NW1/4NW1/4) Sec. 21, Twp 09N, Rge 04E, B.M., BOISE County

**PLACE OF USE:** IRRIGATION

| Twp Rge Sec | NE |    |    |    | NW |    |     |    | SW |    |    |    | SE |    |    |    | Totals |
|-------------|----|----|----|----|----|----|-----|----|----|----|----|----|----|----|----|----|--------|
|             | NE | NW | SW | SE | NE | NW | SW  | SE | NE | NW | SW | SE | NE | NW | SW | SE |        |
| 09N 04E 21  |    |    |    |    |    |    | .5  |    |    |    |    |    |    |    |    |    | .5     |
|             |    |    |    |    |    |    | L 4 |    |    |    |    |    |    |    |    |    |        |

Total Acres: 0.5

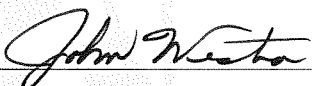
**CONDITIONS OF APPROVAL**

1. Proof of application of water to beneficial use shall be submitted on or before **February 01, 2017**.
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.
5. 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.

State of Idaho  
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**Permit to Appropriate Water**  
NO. 65-23471

6. The right holder shall contact the watermaster by June 15 each year for authorization to continue diverting and using water. The right holder shall not divert water after June 15 each year unless the watermaster authorizes continued diversion and use of water under this water right. When the watermaster informs the right holder that water is not available to fill this right, the right holder shall cease diversion, shall rent water from the Payette River Rental Pool, or shall otherwise mitigate for the depletion of water caused by this water use. The department may amend the contact date listed in this administrative provision to more closely coincide with the date when water is not available to fill this water right.
7. Water shall not be diverted under this right when flows in the South Fork Payette River are below established minimum flow amounts.
8. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 65.
9. This right when combined with all other rights shall provide no more than 0.03 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the place of use.
10. The placement of the pump in the river shall not cause any obstruction of the flow of water.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 20<sup>th</sup> day of January, 2012.

  
\_\_\_\_\_  
JOHN WESTRA, Western Regional Manager



## 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](http://www.idwr.idaho.gov)

C. L. "BUTCH" OTTER  
Governor

GARY SPACKMAN  
Interim Director

January 20, 2012

RUDOLPH J PRACHYL AND  
JUDY K PRACHYL  
53 CIRCLE DR  
GARDEN VALLEY ID 83622

RE: Permit No. 65-23471

### 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.

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 208-334-2190.

Sincerely,

John Westra

Western Regional Manager

Enclosure(s)

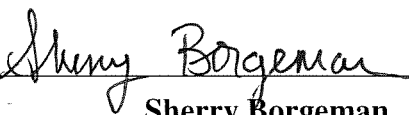
## **CERTIFICATE OF SERVICE**

I hereby certify that on January 20, 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.**

**65-23471**

**JUDY K PRACHYL  
RUDOLPH J PRACHYL  
53 CIRCLE DR  
GARDEN VALLEY ID 83622**

  
\_\_\_\_\_  
**Sherry Borgeman  
Administrative Assistant**

## **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.

# The Idaho World

P.O. Box 50248  
Boise, ID 83705  
(208) 429-1606

RECEIVED

JAN 06 2012

WATER RESOURCES  
WESTERN REGION

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

65-23471

RUDOLPH J PRACHYL

JUDY K PRACHYL

53 CIRCLE DR

GARDEN VALLEY, ID 83622

Point of Diversion L4(NWNW) S21

T09N R04E BOISE County Source

SOUTH FORK PAYETTE RIVER Tributary

PAYETTE RIVER

Use: IRRIGATION 03/15 to 10/31

0.02 CFS

Total Diversion: 0.02 CFS

Date Filed: 9/23/2011

Place Of Use: IRRIGATION

T09N R04E S21 L4(NWNW)

Total Acres: 0.5

Permits will be subject to all prior

water rights. For additional information

concerning the property location,

contact Western Region office at (208)

334-2190; or see [www.idwr.idaho.gov/apps/ExtSearch/WRFiling.asp](http://www.idwr.idaho.gov/apps/ExtSearch/WRFiling.asp) for a full

description of the right(s). 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, Western Region, 2735

Airport Way, Boise ID 83705 together

with a protest fee of \$25.00 for each

application on or before

December 27, 2011. The protestant

must also send a copy of the protest to

the applicant.

GARY SPACKMAN, Interim Director

Published in the Idaho World December

7 and 14, 2011. IDOW 41

State of Idaho )

)

County of Boise )

Teri Hart, being duly sworn, deposes and says: that she is the Editor of THE IDAHO WORLD, a weekly newspaper published at Idaho City, in the County of Boise and the State of Idaho; the said paper has been and is in general circulation in the county aforesaid, and in the vicinity of Idaho City; that the advertisement, a copy of which is hereto attached, was published in said newspaper once a week for two (2) consecutive weeks in the entire and regular issue of every number of said paper during the period and time of publication and was published in the newspaper and not a supplement; that said paper has been established and regularly and continuously published for more than seventy eight weeks past previous to the first publication of this notice. Such notice was published with the issue beginning with December 7, 2011 and ending with the issue of December 14, 2011.

Teri Hart  
State of Idaho )

)

County of Ada )

On this 5<sup>th</sup> day of January in the year 2012, before me, a notary public, personally appeared Teri Hart 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 she executed the same.

Nancy Lee Rotman  
Notary Public for Idaho

Residing at Boise, Idaho

Commission Expires 8-3-2013

NANCY LEE ROTMAN  
NOTARY PUBLIC  
STATE OF IDAHO

✓ OK  
88 1-10-2011

## MEMORANDUM

**DATE:** December 12, 2011

**TO:** Sherry Borgeman

RECEIVED

**FROM:** Sandy Thiel

DEC 12 2011

**RE:** Application for Permit No. 65-23471

WATER RESOURCES  
WESTERN REGION

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The purpose of this memo is to provide the Planning Section's comments on the Application for Permit No. 65-23471 on the South Fork of the Payette River. The application indicates that the applicants intend to divert 0.02 cfs from the river using an unspecified pump. They plan to use the water for the irrigation of one half acre. The Comprehensive State Water Plan for the Payette River Basin, adopted by the Idaho Legislature in February, 1999, created a State Protected Recreational River for this river reach. The Plan allows new diversions with pump installations if those pumps do not create obstructions in the river. The plan further specifies that a diversion rate may not exceed 0.04 cfs.

The applicant should also be aware that the Idaho Water Resource Board holds a minimum stream flow water right 65-12733 in the same reach as the applicant's point of diversion. As a junior water right holder the applicant's water may be curtailed when the minimum stream flow is not being met. The Idaho Water Resource Board would like assurance that the applicant's water right will be actively administered to protect the Board's minimum stream flow right.