

NO. 67-15058

Maximum Diversion Rate: 0.33 CFS

has applied for a permit to appropriate water from:

Tributary: SPRING CREEK

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

RATE OF DIVERSION

0.30 CFS

0.03 CFS

SPRING	NE1/4NW1/4NW1/4	Sec. 27, Twp 12N, Rge 06W, B.M., WASHINGTON County
SPRING	SW1/4NE1/4NW1/4	Sec. 27, Twp 12N, Rge 06W, B.M., WASHINGTON County
SPRING	SW1/4NE1/4NW1/4	Sec. 34, Twp 12N, Rge 06W, B.M., WASHINGTON County

[illegible]

Total Acres: 47

[illegible]

State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 67-15058

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **January 01, 2014**.
2. Subject to all prior water rights.
3. 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.
4. This right does not grant any right-of-way or easement across the land of another.
5. No water shall be diverted under this right after June 15 of each year without prior approval of the watermaster.
6. 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. 67.
7. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the place of use.
8. Stockwater use is for 50 cattle.
9. Prior to diversion of water under this right, the right holder shall install a lockable device, subject to the approval of the Department, in a manner that will provide the watermaster suitable control of the diversion.
10. 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.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 19th day of December, 20 11.



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

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

December 19, 2011

DEBRA NYBERG
1305 PRICE RD
WEISER ID 83672

RE: Permit No.67-15058

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.

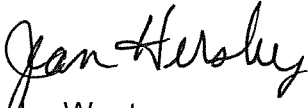
The Department will send you a 'Proof Due Notice' approximately 60 days prior to the above referenced date requesting you to file either a Proof of Beneficial Use form or a Request for Extension of Time form.

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,


for John Westra

Western Regional Manager

Enclosure(s)

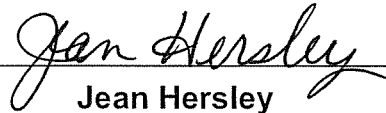
CERTIFICATE OF SERVICE

I hereby certify that on December 20, 2011 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.

67-15058

**DEBRA NYBERG
1305 PRICE RD
WEISER ID 83672**

A handwritten signature in cursive script, reading "Jean Hersley", is written over a horizontal line.

**Jean Hersley
Office Specialist II**

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.

DEC 13 2011

AFFIDAVIT OF PUBLICATION

WATER RESOURCES
WESTERN REGIONSTATE OF IDAHO)
County of Washington) ss.

Sarah Boles

, being duly sworn,
deposes and says:

That he/she is the Clerk of
THE WEISER SIGNAL AMERICAN, a bi-weekly news-
paper published at Weiser, in the County of Washington
and State of Idaho; that said paper has been and is in
general circulation in the county aforesaid, and in the
vicinity of Weiser; that the advertisement, a copy of which
is attached hereto, was published in said newspaper once a

week for two consecutive weeks in the regular and
entire issue of said paper during the period and time of
publication, and was published in the newspaper proper
and not in a supplement; that said paper has been estab-
lished and regularly published for more than seventy-eight
consecutive weeks prior to the date of first publication of
said advertisement.

Such notice was published in the issue beginning with

November 2, 2011, and ending
with the issue of November 9, 2011

Sarah Boles

Fees \$ 142.48Subscribed and sworn to before me this 9day of November, 2011.

Judith A. Ransom
Notary Public, residing at Weiser, Idaho

My commission expires 2, 14

No.

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

67-15058

DEBRA P NYBERG

1305 PRICE RD

WEISER, ID 83672

Point of Diversion NENW S27 T12N R06W WASHING-

TON County Source SPRING Tributary SPRING CREEK

Point of Diversion NWNW S27 T12N R06W WASHING-

TON County Source SPRING Tributary SPRING CREEK

Point of Diversion NENW S34 T12N R06W WASHING-

TON County Source SPRING Tributary SPRING CREEK

Use: IRRIGATION 03/15 to 10/31 0.3 CFS

Use: STOCKWATER 01/01 to 12/31 0.03 CFS

Total Diversion: 0.33 CFS

Date Filed: 6/16/2011

Place Of Use: IRRIGATION

T12N R06W S27 NESW SESW

T12N R06W S34 NENW

Place Of Use: STOCKWATER

T12N R06W S27 NENW SENW

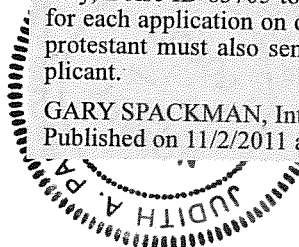
T12N R06W S34 SENW

Total Acres: 47

Permits will be subject to all prior water rights. For addi-
tional information concerning the property location, contact
Western Region office at (208) 334-2190; or see www.idwr.idaho.gov/apps/ExtSearch/WRFiling.asp for a full descrip-
tion 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 November 21, 2011. The
protestant must also send a copy of the protest to the ap-
plicant.

GARY SPACKMAN, Interim Director

Published on 11/2/2011 and 11/9/2011



SB JOK
12.13.2011

RECEIVED

NOV 16 2011

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDATION OF WATERMASTERWATER RESOURCES
WESTERN REGIONApplication No: Application 67-15058Applicant's Name: Debra P. Nyberg

Watermaster's Recommendation:

- a) ☒ I do not oppose approval of this application.
- b) ☐ I do not oppose approval of this application if conditioned as follows:

 No water shall be diverted under this right after June 15* of each year without prior approval of the watermaster. New rights are curtailed each year based on the water supply (seniority system). Use of a new right can continue during water shortages if the new right is mitigated with a lease of storage water from the Watermaster.

Other conditions:

- c) ☐ I oppose approval of this application for the following reasons:

- d) ☐ Additional comments:

Dated this 15 day of November, 2011

Water District No: 67 Brandi S. Horton

Watermaster's signature

* Watermaster provided copy of this recommendation to the applicant regarding 6/15 curtailments.