

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 67-15056

Priority: June 17, 2011

Maximum Diversion Rate: 0.05 CFS

This is to certify, that DONNA K NELSON
2301 HWY 95
COUNCIL ID 83612-5233

has applied for a permit to appropriate water from:

Source: MILL CREEK

Tributary: WEISER 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>
STOCKWATER	01/01 to 12/31	0.05 CFS

LOCATION OF POINT(S) OF DIVERSION:

MILL CREEK NE1/4SE1/4 Sec. 36, Twp 17N, Rge 01W, B.M., ADAMS County

PLACE OF USE: STOCKWATER

Twp Rge Sec	NE				NW				SW				SE				
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
17N 01W 27															X		

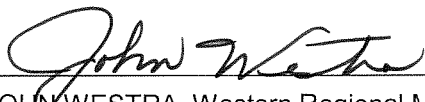
CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **August 01, 2013**.
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. No water shall be diverted under this right after June 15 of each year without prior approval of the watermaster.
5. 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.

State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 67-15056

6. Stockwater use is for 200 head mixed livestock.
7. The following rights are diverted through point(s) of diversion described above: 67-15056, 67-15057 and 67-11415.
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. 67, Weiser River.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 3rd day of August, 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

August 4, 2011

DONNA K NELSON
2301 HWY 95
COUNCIL ID 83612-5233

RE: Permit No.67-15056

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,

A handwritten signature in black ink, appearing to read "John Westra".

John Westra

Western Regional Manager

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on August 5, 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.

67-15056

**DONNA K NELSON
2301 HWY 95
COUNCIL ID 83612-5233**

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.

RECEIVED

JUL 28 2011

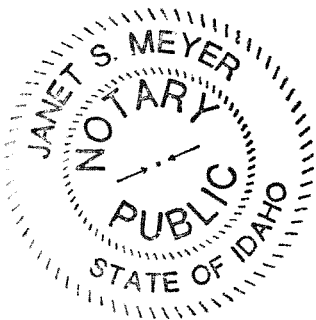
STATE OF IDAHO)
) SS
COUNTY OF ADAMS)

WATER RESOURCES
WESTERN REGION

Gamaliel L. Gardner-Masters being duly sworn, deposes and says that he is the Principle Clerk of the Adams County Record, a weekly newspaper printed and published at Council, Adams County, State of Idaho and having a general circulation therein and which said newspaper has been published continuously and uninterrupted in said County for a period of twelve (12) months prior to the first publication of the advertisement, a copy of which is attached thereto: that advertisement was published in the regular edition of The Adams County Record for two (2) insertions beginning with the Issue of July 07, 2011 and ending with the Issue of July 14, 2011.

Gamaliel L. Gardner-Masters

On this 26 day of July, 2011, before me, a Notary Public, personally appeared Gamaliel L. Gardner-Masters, known or identified to me to be the person whose name subscribed to the written instrument, and being by me first and duly sworn, declared that the statements therein are true and acknowledged to me that he executed the same.



Janet S. Meyer
Notary Public of Idaho

Residing at Indian Valley

My Commission Expires 8/21/12

To: IDAHO DEPARTMENT OF WATER RESOURCES

Subject: APPLICATIONS TO APPROPRIATE JULY 2011

67-15056 + 67-15057



LEGAL NOTICE

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

✓ **67-15056**

DONNA K NELSON

2301 HWY 95

COUNCIL, ID 83612-5233

Point of Diversion NESE S36 T17N R01W ADAMS County Source MILL CREEK

Tributary WEISER RIVER

Use: STOCKWATER 01/01 to 12/31 0.05 CFS

Total Diversion: 0.05 CFS

Date Filed: 6/17/2011

Place Of use: STOCKWATER

T17N R01W S27 SWSE

✓ **67-15057**

CRYSTAL V WHITE

3525 WALDON ST

BOISE, ID 83709

Point of Diversion NESE S36 T17N R01W ADAMS County Source MILL CREEK

Tributary WEISER RIVER

Use: STOCKWATER 01/01 to 12/31 0.05 CFS

Total Diversion: 0.05 CFS

Date Filed: 6/17/2011

Place Of use: STOCKWATER

T17N R01W S34 NWNE

For a full description of the right(s), please see www.idwr.idaho.gov/apps/ExtSearch/WRFiling.asp. Permits will be subject to all prior water rights. 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 for each application on or before July 25, 2011. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Interim Director

Published on 7/7 & 7/14/2011

Published in the Adams County Record on July 07, 2011 • July 14, 2011

✓ OK DB 8-1-2011

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDATION OF WATERMASTER

RECEIVED

JUL 15 2011

WATER RESOURCES
WESTERN REGION

via e-mail

Application No: Application 67-15056, & Application 67-15057Applicant's Name: Donna K. Nelson (15056) & Crystal V. White (15057)

Watermaster's Recommendation:

- a) I do not oppose approval of this application.
- b) X 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: No more than 0.05cfs may be diverted to the P/U(s). This either means that each P/U will be receiving 0.05cfs at the same time, or they will have to alternate usage, depending on the answer to my questions in "Additional Comments."

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

- d) X Additional comments: I am confused by these applications (67-15056 and 15057). Are there two separate but nearly identical rights being applied for, or are two separate people applying for the same right with two different P/U? Will there be only one right for 0.05 cfs being diverted, or two different rights totalling 0.10 cfs being diverted. Needs to be clearer...

Dated this 15 day of July, 2011

Water District No: 67 Brandi S. Horton
Watermaster's signature

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