

NO. 65-23417

Maximum Diversion Rate: 0.10 CFS

has applied for a permit to appropriate water from:

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

UNNAMED STREAM	SE1/4NW1/4	Sec. 8, Twp 17N, Rge 04E, B.M., VALLEY County
UNNAMED STREAM	SE1/4NW1/4	Sec. 8, Twp 17N, Rge 04E, B.M., VALLEY County
SPRING	SE1/4SE1/4NW1/4	Sec. 8, Twp 17N, Rge 04E, B.M., VALLEY County

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
17N	04E	8																	

[illegible]

State of Idaho
Department of Water Resources

Permit to Appropriate Water

NO. 65-23417

PLACE OF USE: FIRE PROTECTION

Twp Rge Sec	NE				NW				SW				SE				Totals
17N 04E 8	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
								X									

PLACE OF USE: POWER

Twp Rge Sec	NE				NW				SW				SE				Totals
17N 04E 8	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
								X									

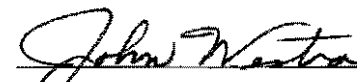
CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **June 01, 2016**.
2. Subject to all prior water rights.
3. Domestic use is for 1 home and does not include lawn, garden, landscape, or other types of irrigation.
4. 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. 65D, Boulder Creek.
5. Prior to diversion of water under this right, the right holder shall install a lockable diversion control, and a measurement device that will provide the watermaster suitable control of the diversion.
6. Use of water for power under this right shall be non-consumptive and shall be fully returned to the source.
7. Stockwater use is for 20 head of mixed stock.
8. Place of use is located within Parcel No. RP17N04E084715.
9. 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.
10. Water shall not be diverted for fire protection use under this right except to fight or repel an existing fire.
11. This right does not grant any right-of-way or easement across the land of another.
12. This right does not constitute Idaho Public Utilities Commission or Federal Energy Regulatory Commission approval that may be required.
13. This right is subject to the provisions of Sections 42-205 through 42-210, Idaho Code, restricting the sale, transfer, assignment, or mortgage of this right. Failure to comply with these provisions is cause for immediate cancellation of this right.

State of Idaho
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14. The Director retains jurisdiction of this right in order to limit the use of water for hydropower generation purposes to a specific term of years as required by Section 42-203B(7), Idaho Code.
15. The rights for the use of water acquired under this right shall be junior and subordinate to all other rights for the use of water, other than hydropower, within the State of Idaho that are initiated later in time than the priority of this right and shall not give rise to any claim against any future rights for the use of water, other than hydropower, within the State of Idaho initiated later in time than the priority of 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 May, 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

May 19, 2011

MATT HURLBUTT
And/Or
JENNIFER HURLBUTT
PO BOX 148
MC CALL ID 83638

RE: Permit No.65-23417

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.

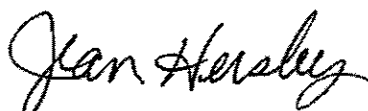
The Department will send you a 'Proof Due Notice' approximately 60 days prior to the above referenced date requesting you to file either a Proof of Beneficial Use form or a Request for Extension of Time form.

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 May 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.

65-23417

**JENNIFER HURLBUTT
PO BOX 148
MC CALL ID 83638**

**MATT HURLBUTT
PO BOX 148
MC CALL ID 83638**

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.

Publisher's Affidavit of Publication

RECEIVED

APR 28 2011

STATE OF IDAHO }
 }.SS

County of Valley

WATER RESOURCES
WESTERN REGION
via e-mail

I, Carol J. Wright, being duly sworn and say, I am the receptionist of The Star-News, a weekly newspaper published at McCall, in the County of Valley, State of Idaho; that said newspaper is in general circulation in the county of afore said and is a legal newspaper; that the PUBLIC NOTICE, a copy of which is enclosed hereto and is a part hereof, was published in said newspaper once a week for a period of two weeks in the regular and entire issue of every number there of during the period of time of publication, and was published in the newspaper proper and not in a supplement; and that publication of such notice began April 21, 2011 and ended April 28, 2011.

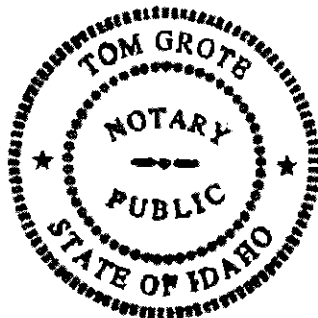
Carol J. Wright

Subscribed and sworn before me this the 28th day of April, 2011.

STATE OF IDAHO

COUNTY OF VALLEY }
 }

On this 28th day of April, in the year of 2011, before me, a Notary Public, personally appeared Carol J. Wright, 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.



Tom Grote

Tom Grote
Notary Public for Idaho
Residing at McCall, Idaho
Commission Expires 2/8/12

THE FOLLOWING APPLICATION(S) HAVE BEEN FILED TO APPROPRIATE THE PUBLIC WATERS OF THE STATE OF IDAHO:

65-23417

MATT HURLBUTT

JENNIFER HURLBUTT

PO BOX 148

MC CALL, ID 83638

Point of Diversion SENW S8 T17N R04E VALLEY
County Source UNNAMED STREAM Tributary BOULDER CREEK

Point of Diversion SENW S8 T17N R04E VALLEY
County Source UNNAMED STREAM Tributary BOULDER CREEK

Point of Diversion SESENW S8 T17N R04E VALLEY
County Source SPRING Tributary BOULDER CREEK

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

Use: POWER 01/01 to 12/31 0.06 CFS

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

Use: FIRE PROTECTION 01/01 to 12/31 0.1 CFS

Total Diversion: 0.1 CFS

- Date Filed: 4/30/2008

Place Of Use: DOMESTIC, STOCKWATER, FIRE PROTECTION, POWER

T17N R04ES8 SENW

For a full description of the right(s), 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 May 9, 2011. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Interim Director. 2tc4/28

- Date Filed should be 2010, not 2008.
No need to re-advertise (type-o)

✓ OK DB 5/11/2011