

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 77-14323

Priority: July 30, 2009

Maximum Diversion Rate: 0.06 CFS

This is to certify, that ROBERT S DODGE
And/Or
DUANE B SMITH
PO BOX 754
MC CALL ID 83638-0754

has applied for a permit to appropriate water from:

Source: SOUTH FORK SALMON RIVER **Tributary:** SALMON RIVER

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

BENEFICIAL USE

IRRIGATION

PERIOD OF USE

03/15 to 10/31

RATE OF DIVERSION

0.06 CFS

LOCATION OF POINT(S) OF DIVERSION:

SOUTH FORK SALMON RIVER NE 1/4 NE 1/4 Sec. 6, Twp 23N, Rge 08E, B.M., IDAHO 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	
23N	08E	6	1.7			1.3												3.0	

Total Acres: 3

CONDITIONS OF APPROVAL

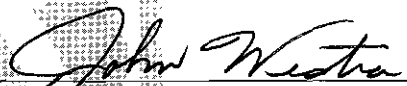
1. Proof of application of water to beneficial use shall be submitted on or before **June 01, 2011**.
2. Subject to all prior water rights.
3. Some or all of the water use authorized by this right is duplicated with a senior priority date under right 77-7362. To the extent the senior right is not relinquished or abandoned, use under right 77-14323 shall be diminished by the amount necessary to avoid any redundancy of water rights.
4. This right when combined with all other rights shall provide no more than 0.03 cfs per acre nor more than 3.0 afa per acre at the field headgate for irrigation of the lands above.
5. Place of use is located within Lots 11-14 and portion of Lower Landing Strip within HES 701, Copenhagen Subdivision.

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6. Prior to the diversion and use of water under this approval, the right holder shall comply with all fish screening and/or fish passage requirements of the Idaho Department of Fish and Game.
7. 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 suitable control of the diversion.
8. The right holder shall install or construct a straight length of conduit or ditch suitable for installation of a device for measuring the entire flow of water being diverted in connection with this right. If the right holder uses conduit, the straight length of conduit shall be at least ten times the diameter of the conduit and shall be above ground or otherwise easily accessible.
9. Upon specific notification by the Department, the right holder shall install and maintain acceptable measuring device(s), including data logger(s), at the authorized point(s) of diversion, in accordance with Department specifications.
10. When notified by the Department or by a watermaster with regulatory authority over this right, the right holder shall report the amount of water diverted in connection with this right. The report shall be submitted in the manner and frequency specified by the Department or the watermaster.
11. This right does not grant any right-of-way or easement across the land of another.
12. 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 20th day of May, 2010.


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

May 21, 2010

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

ROBERT S DODGE
And/Or
DUANE B SMITH
PO BOX 754
MC CALL ID 83638-0754

RE: Permit No.77-14323

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.

Enclosed is a form entitled 'Instructions for Proof of Beneficial Use.' Please read the instructions carefully since you must take further action to develop this permit into a licensed water right. Also enclosed is a form entitled 'Proof of Beneficial Use.' If your project is already completed, you should complete and submit this form immediately.

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 May 24, 2010 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.

77-14323

**DUANE B SMITH
PO BOX 754
MC CALL ID 83638-0754**

**ROBERT S DODGE
PO BOX 754
MC CALL ID 83638-0754**

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

**Jean Hersley
Office Specialist II**

Statement of Available Procedures and Applicable Time Limits

RESPONDING TO PRELIMINARY ORDERS ISSUED BY THE IDAHO DEPARTMENT OF WATER RESOURCES (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 issuance 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

APR 30 2010

WATER RESOURCES
WESTERN REGION

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

77-14323

ROBERT S DODGE
DUANE B SMITH
PO BOX 754
MC CALL, ID 83638-0754
Point of Diversion NENE S6 T23N
R08E IDAHO County Source
SALMON RIVER Tributary
SALMON RIVER
Use: IRRIGATION 03/15 to
10/31 0.06 CFS
Total Diversion: 0.06 CFS
Date Filed: 7/30/2009
Place Of Use: IRRIGATION
T23N R08E S6 NENE SENE
Total Acres: 3

This application proposes the diversion and use of water tributary to a federally designated Wild & Scenic River. The decreed minimum stream flow rights for the federal Wild & Scenic Rivers are subordinate to certain categories of water use and to specific amounts of water use established after the minimum stream flow. The water use proposed in this application will benefit from the subordination provision because it is for irrigation purposes. The diversion rate and acres will be applied to the subordination amounts specified in the decree for the applicable Wild & Scenic River. Use is to irrigate yards and part of a landing strip within HES 701, middle portion of Copenhagen Subdivision.

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 Wy, Boise ID 83705 together with a protest fee of \$25.00 for each application on or before 5/10/2010. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Interim Director

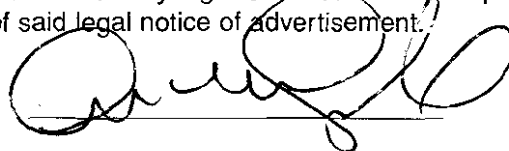
Published on 4/21 & 4/28/2010

A21-28

AFFIDAVIT OF PUBLICATION

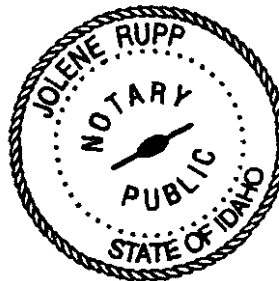
STATE OF IDAHO
County of Idaho - ss.

Andrew J. McNab, being first duly sworn, says he is the Publisher of the IDAHO COUNTY FREE PRESS, a weekly newspaper published and issued weekly at Grangeville, Idaho County, State of Idaho, and is of general circulation in said county and state, that the said legal notice, of which the one hereto attached is a true copy, was published in said paper for two weeks, being published two times, the first publication being on the 21st day of April, 2010; and the last publication on the 28th day of April, 2010; and that the said legal notice was published in the newspaper proper and not a supplement; that said newspaper has been continuously and uninterruptedly published in said county during a period of seventy-eight consecutive weeks prior to the publication of said legal notice of advertisement.



STATE OF IDAHO)
COUNTY OF IDAHO)

On this 28th day of April in the year of 2010, before me a Notary Public personally appeared Andrew J. McNab, 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.




Notary Public for Idaho
Residing at Grangeville, ID
My commission expires: 9-29-13

✓ OK DB 5/13/2010