

NO. 67-14886

Maximum Diversion Volume: 25.0 AF

[illegible]

State of Idaho
Department of Water Resources

Permit to Appropriate Water

NO. 67-14886

PLACE OF USE: FIRE PROTECTION STORAGE

Twp Rge Sec	NE				NW				SW				SE				Totals
14N 03W 33	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 **April 01, 2014**.
2. Subject to all prior water rights.
3. No water shall be diverted under this right after June 15 of each year without prior approval of the watermaster.
4. 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.
5. Prior to diversion of water under this right, the right holder shall provide a means acceptable to the department to measure the amount of water entering the reservoir and the amount of water released from the reservoir.
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 & Weiser River District.
7. Stockwater use is for 60 head of stock.
8. The impoundment of water under this right is contingent upon the issuance of a certificate of approval per the dam safety provisions of Idaho Code and subsequent written authorization by the dam safety program administered by the Department.
9. Water shall not be diverted for fire protection storage except to fight or repel an existing fire.
10. The pond established by the storage of water under this right shall not exceed a total capacity of 25 af or a total surface area of 3.8 acres.
11. Prior to construction of the dam and reservoir, an "Application for Construction of a Small Dam" must be submitted to the Idaho Dept. of Water Resources for review and authorization.
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 23rd day of March, 2009.


 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

DAVID R. TUTHILL, JR.
Director

March 23, 2009

ROBERT V SHOEMAKER

Or

ALANA M SHOEMAKER

PO BOX 1306

MC CALL ID 83638

RE: Permit No. 67-14886

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 March 24, 2009 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.

67-14886

**ALANA M SHOEMAKER
PO BOX 1306
MC CALL ID 83638**

**ROBERT V SHOEMAKER
PO BOX 1306
MC CALL ID 83638**



**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.

MEMORANDUM

TO: File 67-14886

FROM: Kay Walker *KW*

RE: Dam Safety Concerns

Date: March 16, 2009

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This application was filed to replace lapsed Permit 67-7707. The "dam" was constructed under that permit and failed sometime prior to May 9, 1989. Although this project is not large enough to be under dam safety guidelines, the permit holder should be advised that the dam needs to be reconstructed with safety in mind.

Pursuant to review of dam safety records of the pre-existing project it is recommended that the dam be reconstructed with the following:

1. a low level outlet pipe.
2. a cutoff trench
3. appropriate side slopes and crest width
4. adequate freeboard
5. sufficient capacity to pass a 100-year flood, or a minimum base width of 10 feet

Since this project is too small for dam safety jurisdiction we might want to include the above guidelines in the approval letter and not condition the permit to these extremes.

Affidavit of Publication

STATE OF IDAHO }
County of Washington } ss

Norman Dopf, being duly sworn deposes and says he is the publisher of the Upper Country News-Reporter, a weekly newspaper published at Cambridge, in the County of Washington, State of Idaho; that said newspaper is in general circulation in the county of aforesaid and is a legal newspaper; that the annexed, a printed copy of which is attached hereto and made a part hereof, was published in said newspaper once a week for two consecutive weeks in the regular and entire issue of every number thereof 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 February 19, 2009 and ended February 26, 2009.

Norman Dopf

Subscribed and sworn to before me this

3rd day of March, 2009.

Ann Gladhart

Notary Public in and for the State of Idaho, residing at

Cambridge
3-31-16

ANN GLADHART
Notary Public
State of Idaho

LEGAL NOTICE

The following application(s) have been filed to appropriate the public waters of the State of Idaho:
67-14886

ROBERT V SHOEMAKER
ALANA M SHOEMAKER
PO BOX 1306
MC CALL ID 83638

Point(s) of Diversion SWNES33 T14N R03W WASHINGTON
County Source UNNAMED STREAM
Tributary To WEISER RIVER

Use: STOCKWATER STORAGE 03/01 To 12/31 1.4 AFA

Use: FISH PROPAGATION 01/01 To 12/31 25 AFA
STORAGE

Use: FIRE PROTECTION 04/01 To 11/01 10 AFA
STORAGE

Total Diversion: 25 AFA

Date Filed: 06/25/2007

Place Of Use: STOCKWATER STORAGE
T14N R03W S33 SWNE

Place Of Use: FISH PROPAGATION STORAGE SAME AS
STOCKWATER STORAGE

Place Of Use: FIRE PROTECTION STORAGE SAME AS
STOCKWATER STORAGE

Permits will be subject to all prior water rights. Protests may be submitted based on the criteria of Sec 42-203A, Idaho Code. Any protest against the approval of this application must be filed with the Director, Dept. of Water Resource, Western Region, 2735 Airport Wy, Boise ID 83705 together with a protest fee of \$25.00 for each application on or before 03/09/2009. The protestant must also send a copy of the protest to the applicant.

DAVID R. TUTHILL, JR., Director

Published on February 19th & 26th, 2009

RECEIVED

MAR 04 2009

WATER RESOURCES
WESTERN REGION

✓ ek DB 3/13/09

State of Idaho
Department of Water Resources

RECOMMENDATION OF WATERMASTER

Application Number: 67-14886

Applicant's Name: Robert or Alana Shoemaker

Watermaster's Recommendation:

- a) ☒ I do not oppose approval of this application.
- b) ☐ I do not oppose approval of this application if it is conditioned as follows:
- c) ☐ I oppose approval of this application for the following reasons:

Additional Comments:

Dated this 19 day of February, 2009

Water District Number 67 Watermaster's Signature Brandi Horton

RECEIVED

FEB 19 2009

WATER RESOURCES
WESTERN REGION

Via E-mail