

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 81-11978

Priority: April 15, 2005

Maximum Diversion Rate: 0.20 CFS

This is to certify, that KENNETH DUHON And MONA DUHON
HC75 BOX 102
KOOSKIA ID 83539

have applied for a permit to appropriate water from:

Source: BIG SMITH CREEK

Tributary: MIDDLE FORK CLEARWATER RIVER

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

BENEFICIAL USE

AESTHETIC

PERIOD OF USE

01/01 to 12/31

RATE OF DIVERSION

0.20 CFS

LOCATION OF POINT OF DIVERSION:

BIG SMITH CREEK NE¼SE¼ Sec. 32, Twp 33N, Rge 06E, B.M., IDAHO County

PLACE OF USE: AESTHETIC

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
33N 06E 32													X			X	L 1

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **August 01, 2007**.
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. 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.
5. Prior to the diversion and use of water under this right, the right holder shall install and maintain a measuring device, including data logger, at the authorized point of diversion, in accordance with Department specifications.
6. Prior to the diversion and use of water under this approval, the right holder shall comply with all fish screening requirements of the Idaho Department of Fish and Game.

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 August, 2005.


FOR KARL J DREHER, Director

72103

Ident. No. 81-11978 12/99RECEIVED
APR 25 2005
IDWR/NorthRECEIVED
APR 18 2005
Department of Water ResourcesSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMITRECEIVED
APR 15 2005
DEPARTMENT OF
WATER RESOURCES

1. Name of Applicant Kenneth & Mona Duhon Phone 208-926-4367
Mailing address HC 75 Box 102 Kooskia, IDAHO 83539
2. Source of water supply Big Smith Creek which is a tributary of Middle Fork Clearwater River
3. Location of point of diversion is Township 33 N Range 6 E Sec. 32 in the NE $\frac{1}{4}$,
SE $\frac{1}{4}$, Govt. Lot , B.M., IDAHO County County;
additional points of diversion if any:

4. Water will be used for the following purposes:

- Amount 0.20 for aesthetics purposes from 1-01 to 12-31 (both dates inclusive)
(cfs or acre-feet per annum)
- Amount for purposes from to (both dates inclusive)
(cfs or acre-feet per annum)
- Amount for purposes from to (both dates inclusive)
(cfs or acre-feet per annum)
- Amount for purposes from to (both dates inclusive)
(cfs or acre-feet per annum)
- Amount for purposes from to (both dates inclusive)
(cfs or acre-feet per annum)
- Amount for purposes from to (both dates inclusive)
(cfs or acre-feet per annum)

5. Total quantity to be appropriated is (a) .20 and/or (b) acre feet per annum
cubic feet per second

6. Proposed diverting works:

- a. Describe type and size of devices used to divert water from the source 4" pipe in creek to ponds and outlet back to creek
- b. Height of storage dam 6 ft. feet; active reservoir capacity 1.0 acre-feet;
total reservoir capacity 1.0 acre-feet
- c. Proposed well diameter is inches; proposed depth of well is feet
- d. Is ground water with a temperature of greater than 85°F being sought?
- e. If well is already drilled, when? ; Drilling firm ;
Well was drilled for (well owner) ; Drilling Permit No.

7. Time required for completion of works and application of water to proposed beneficial use is 2 years (minimum 1 year)

8. Description of proposed uses (if irrigation only, go to item 9):

- a. Hydropower; show total feet of head and proposed capacity in kW.
- b. Stockwatering; list number and kind of livestock.
- c. Municipal; show name of municipality.
- d. Domestic; show number of households.
- e. Other; describe fully. Ditch for aesthetics purpose then ponds (covered by permit # 81-11925) and back to creek.

RECEIVED

APR 19 2005

WATER RESOURCES
WESTERN REGION

9. Description of place of use:

- a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- b. If water is used for other purposes, place a symbol of the use (example: *D* for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
33N	6E	22													J			J	

Total number of acres to be irrigated

10. Describe any other water rights used for the same purposes as described above. *NONE*

11. a. Who owns the property at the point of diversion? *Applicant*
- b. Who owns the land to be irrigated or place of use? *Applicant*

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing:

12. Remarks:

*The ponds are covered by permit # 81-11925.
This application is for additional flow thru the ponds.*

13. **MAP OF PROPOSED PROJECT REQUIRED** - Attach an 8½"x11" map clearly identifying the proposed point of diversion, place of use, section #, township & range. (A photocopy of a USGS 7.5 minute topographic quadrangle map is preferred.)

BE IT KNOWN that the undersigned hereby makes this application for permit to appropriate the public waters of the State of Idaho as herein set forth.

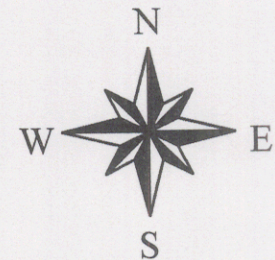
[Signature]
Signature of Applicant (and title, if applicable)

Received by *MM* Date *4-15-05* Time _____ Preliminary check by _____
 Fee \$ *100.00/xx* Received by *MM* # *CO77503* Date _____
 Publication prepared by *MM* Date *7/13/05* Published in *Idaho Free Press* 7/20+27/05
 Publication approved *MM* Date *7/28/05*

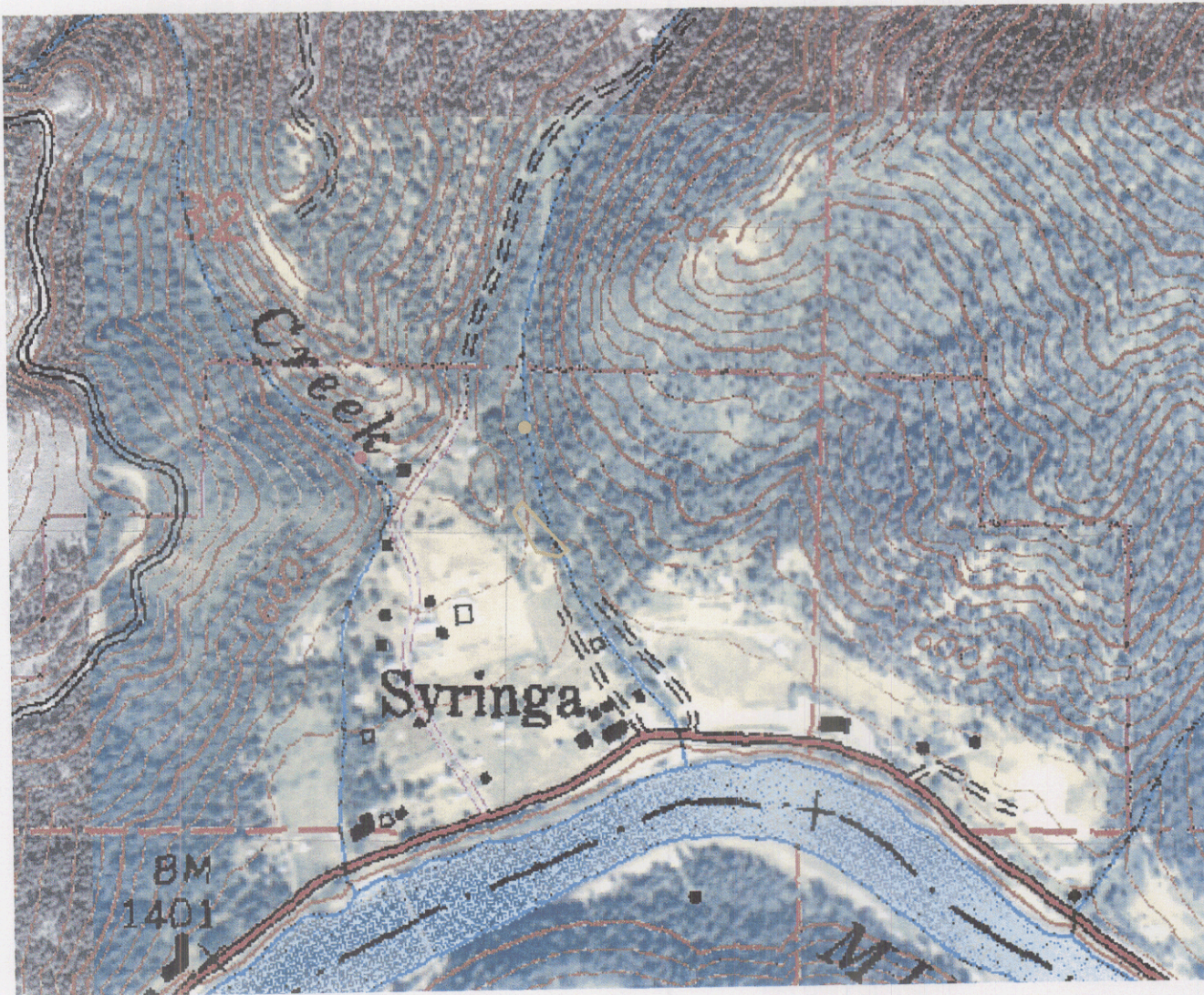
Duhon

T33N R06E
Section(s) 32

● Point of Diversion
□ Place of Use



RECEIVED
APR 25 2005
IDWR/North



0 1000 2000 3000 Feet

A horizontal scale bar with alternating black and white segments. It is marked with the numbers 0, 1000, 2000, and 3000, followed by the word 'Feet'.

**NOW
STARTING
RIGHT
SIDE OF
FILE**



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street, P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 287-4800 Fax: (208) 287-6700 Web Site: www.idwr.idaho.gov.

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

August 24, 2005

KENNETH DUHON
MONA DUHON
HC75 BOX 102
KOOSKIA ID 83539

RE: Permit No. 81-11978

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.

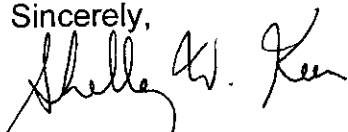
The Department will send you a 'Proof Due Notice' approximately 60 days prior to the above referenced date requesting you to file either a Proof of Beneficial Use form or a Request for Extension of Time form.

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 208-287-4947.

Sincerely,

A handwritten signature in black ink, appearing to read "Shelley W. Keen". The signature is fluid and cursive, with the first name "Shelley" being more prominent.

Shelley W. Keen

Water Rights Supervisor

SWK:klt

Enclosure(s)

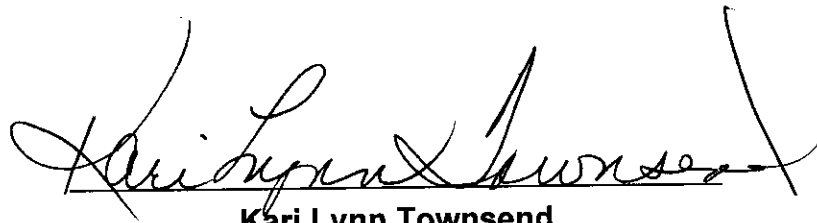
CERTIFICATE OF SERVICE

I hereby certify that on August 24, 2005 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.

81-11978

**KENNETH DUHON
MONA DUHON
HC75 BOX 102
KOOSKIA ID 83539**

A handwritten signature in black ink, appearing to read "Kari Lynn Townsend", written over a horizontal line.

**Kari Lynn Townsend
Secretary**

**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. 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.

Comment Report

81-11978

1. kwalker 8/22/2005 POD

Comment: Updated shape

2. kwalker 8/22/2005 POU

Comment: Updated Shape

3. dball 7/11/2005 Legal Notice Remarks

Comment: This application proposes the diversion and use of water tributary to the federally designated Middle Fork Clearwater 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 a non-consumptive use.

4. kwalker 8/22/2005 Permit Review

Comment: Application falls within the Salmon Clearwater and Wild & Scenic areas. Since use is for flow through of a pond recently issued under Permit 81-11925 use is considered non-diminimus and I recommend approval as conditioned.

RECEIVED

JUL 28 2005

IDWR/North

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

81-11978

KENNETH DUHON
MONA DUHON
HC75 BOX 102
KOOSKIA ID 83539
Point(s) of Diversion NESE S32 T33N
R06E IDAHO County
Source BIG SMITH CREEK
Tributary To MIDDLE FORK CLEAR-
WATER RIVER
Use: AESTHETIC 01/01 To 12/31 0.2
CFS

Total Diversion: 0.2 CFS

Date Filed: 04/15/2005

Place Of Use: AESTHETIC - T33N

R06E S32 NESE SESE

Remark: - This application proposes the
diversion and use of water tributary to
the federally designated Middle Fork
Clearwater 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
a non-consumptive use.

81-11979

USDA FOREST SERVICE
NEZ PERCE NATIONAL FOREST
SUPERVISORS OFFICE
1005 HIGHWAY 13
GRANGEVILLE ID 83530
Point(s) of Diversion SWNW S30
T32N R08E IDAHO County
Source GROUND WATER
Use: DOMESTIC 01/01 To 12/31
0.04 CF

Total Diversion: 0.04 CFS

Date Filed: 06/29/2005

Place Of Use: DOMESTIC

T32N R07E S25 SENE

T32N R08E S30 SWNW

Remark - Domestic use is for USDA
Forest Service Public Campground
known as O Hara Campground.

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,
Northern Region, 1910 Northwest Blvd,
Suite 210, Coeur D' Alene ID 83814 to-
gether with a protest fee of \$25.00 for
each application on or before
08/08/2005. The protestant must also
send a copy of the protest to the appli-
cant.

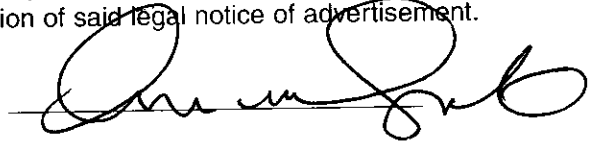
KARL J DREHER, Director - Published
on July 20 & 27, 2005

Jy20-27

AFFIDAVIT OF PUBLICATION

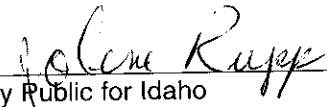
STATE OF IDAHO
County of Idaho - ss.

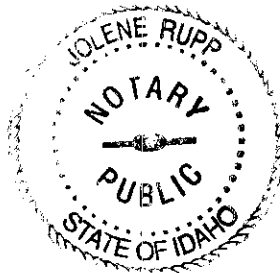
Andrew J. McNab, being first duly sworn, says he is the
Publisher of the IDAHO COUNTY FREE PRESS, a weekly news-
paper published and issued weekly at Grangeville, Idaho County,
State of Idaho, and is of general circulation in said county and
state, that the said legal notice, of which the one hereto attached
is a true copy, was published in said paper for two weeks, being
published two times, the first publication being on the 20th
day of July, 2005; and the last publication on the 27th day of
July, 2005; 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 27th day of July in the year of 2005, before me a Notary
Public personally appeared Andrew J. McNab, known or identi-
fied to me to be the person whose name subscribed to the with-
in 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: 12-29-07





State of Idaho
DEPARTMENT OF WATER RESOURCES

NORTHERN REGION, Suite No. 210 • 1910 Northwest Blvd. • Coeur d'Alene, Idaho 83814-2615
(208) 769-1450

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

July 13, 2005

KENNETH DUHON
MONA DUHON
HC75 BOX 102
KOOSKIA ID 83539

RE: Application for Permit No 81-11978

Dear Applicant(s):

The Department of Water Resources acknowledges receipt of your water right application. Please refer to the above referenced number in all future correspondence regarding this application.

A legal notice of the application has been prepared and is scheduled for publication in the Idaho County Free Press on July 20 and 27, 2005. Submittal of protests to this application will be allowed for a period ending ten days after the second publication.

If the application is protested you will be sent a copy of the protest(s). All protests must be resolved before the application can be considered for approval. If the protest(s) cannot be resolved voluntarily, the Department will conduct a conference and/or hearing on the matter.

If the application is not protested, it will be forwarded to our State Office in Boise for final processing. The State Office will notify you of any action taken on the application and will send you a copy of the permit if approved. A typical processing time for an unprotested application is about eight to twelve weeks.

Please feel free to contact this office if you have any questions.

Sincerely,

Gregory J. Taylor
Senior Water Resource Agent

Enclosure(s) – Receipt No. C077503 – for your records



State of Idaho

DEPARTMENT OF WATER RESOURCES

NORTHERN REGION, Suite No. 210 • 1910 Northwest Blvd. • Coeur d'Alene, Idaho 83814-2615
(208) 769-1450

Fax (208) 769-1454

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

July 13, 2005

NONA DONALDSON
LEGAL NOTICE DEPARTMENT
IDAHO COUNTY FREE PRESS
PO BOX 690
GRANGEVILLE ID 83530

e-mailed to ndonaldson@eaglenewspapers.com

RE: Application for Permit No. 81-11978 and 81-11979

Dear Nona:

Enclosed you will find a legal notice which we wish to have published in your newspaper on the dates Indicated, July 20 and 27, 2005, (once a week for two consecutive weekly issues). If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before 08/08/2005. Your cooperation is GREATLY appreciated, as always.

Sincerely

Dianne Ball
Administrative Assistant

Ball, Dianne

From: Ball, Dianne
Sent: Wednesday, July 13, 2005 3:51 PM
To: Legal Notices-ID CO Free Press (E-mail)
Subject: Legal notice for publication on July 20 and 27, 2005

Good afternoon, Nona,

Attached is a cover letter requesting publication on July 20 and 27, 2005 of the attached legal notice.

If you have any questions, please call me at 208-769-1450.

PLEASE FAX A PROOF COPY PRIOR TO PUBLICATION DATE - TO 208-769-1454

Thanks very much - it's always a pleasure to work with you!!

Dianne

*Dianne Ball
Administrative Assistant
Idaho Dept of Water Resources
1910 Northwest Blvd., Suite 210
Coeur d'Alene, ID 83814
Phone (208)769-1450 FAX (208)769-1454*



CoverLetter



LegalNotice

07-13-05 IC e-mail..07-13-05 IC e-mail..

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

81-11978

KENNETH DUHON

MONA DUHON

HC75 BOX 102

KOOSKIA ID 83539

Point(s) of Diversion NESE S32 T33N R06E IDAHO County

Source BIG SMITH CREEK

Tributary To MIDDLE FORK CLEARWATER RIVER

Use: AESTHETIC 01/01 To 12/31 0.2 CFS

Total Diversion: 0.2 CFS

Date Filed: 04/15/2005

Place Of Use: AESTHETIC - T33N R06E S32 NESE SESE

Remark: - This application proposes the diversion and use of water tributary to the federally designated Middle Fork Clearwater 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 a non-consumptive use.

81-11979

USDA FOREST SERVICE

NEZ PERCE NATIONAL FOREST

SUPERVISORS OFFICE

1005 HIGHWAY 13

GRANGEVILLE ID 83530

Point(s) of Diversion SWNW S30 T32N R08E IDAHO County

Source GROUND WATER

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

Total Diversion: 0.04 CFS

Date Filed: 06/29/2005

Place Of Use: DOMESTIC

T32N R07E S25 SENE

T32N R08E S30 SWNW

Remark - Domestic use is for USDA Forest Service Public Campground known as O Hara Campground.

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, Northern Region, 1910 Northwest Blvd, Suite 210, Coeur D' Alene ID 83814 together with a protest fee of \$25.00 for each application on or before 08/08/2005. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director - Published on July 20 & 27, 2005

MEMORANDUM

Date: July 11, 2005
To: Water Right File 81-11978
From: dball
Re: Legal Notice Remarks

This application proposes the diversion and use of water tributary to the federally designated Middle Fork Clearwater 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 a non-consumptive use.



State of Idaho
DEPARTMENT OF WATER RESOURCES

NORTHERN REGION, Suite No. 210 • 1910 Northwest Blvd. • Coeur d'Alene, Idaho 83814-2615
(208) 769-1450

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

July 11, 2005

RAY HENNEKEY
IDAHO DEPARTMENT OF FISH & GAME
1540 WARNER
LEWISTON, ID 83501

FAXED TO RAY 7/11/05

54 paged total

Re: Water Permit Application No. 81-11978

Dear Ray:

The Department of Water Resources is seeking written comment and/or recommendations from your agency regarding the above referenced water right application. A copy of the application follows for your reference.

This office can publish notice of the application as soon as the initial review is completed; therefore, your prompt response to this request is appreciated. If your agency desires to formally protest the approval of this application, you may do so after the notice is published by filing a written protest along with a \$25.00 filing fee within 10 days after final publication.

 We are sending this to you for your comments, and would appreciate receiving your comments by no later than **July 29, 2005**. If we do not hear from you by that date, we will assume that no comment from you means you have no objection to, concerns about, or conditions pertaining to the issuance of this permit.

You may send comments by regular mail to the address above, by FAX to 769-1454, or by e-mail to Dianne.Ball@idwr.idaho.gov.

Please contact this office if you have any questions regarding the application.

Sincerely,



Robert G. Haynes, P.E.
Regional Manager

By: Dianne Ball
Administrative Assistant



id to advertisement

This application proposes the diversion and use of water tributary to the federally designated Middle Fork Clearwater 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 a non-consumptive use.

D,

Done!

Let me know when you give it a number
so I can go into spreadsheet and add to
Wild & Scenic subordination stuff.

LF

James H. Baker
P.O. Box 102
Loomis, Id 83539

RECEIVED
APR 15 2005
DEPARTMENT OF WATER RESOURCES

April 14, 2005

Mr. Shelby W. Kim
Water Rights Supervisor
Idaho Department of Water Resources
P.O. Box 83720
 Boise, Idaho 83720-0098

Re: Permit No. 81-11925

Dear Mr. Kim:

I am concerned most of my questions in
our March 23 conversation. But, I need
further clarification, drawings and
specification on the diversion and on items
numbers 7 and 8 cited as conditions of
approval for permit.

Although the permit application may not
have reflected continuous diversion, that
was my intent. I hope to rectify this
situation in the future with you and
your Department's help.

Sincerely,
James H. Baker

MEMORANDUM

DATE: March 23, 2005

TO: Water Right File 81-11925

FROM: Shelley W. Keen *SWK*

RE: Phone call from the permit holder

This afternoon I returned a call from Ken Duhon, holder of Permit 81-11925. He had two questions. First, he wanted to be sure that he understood condition no. 4, which prevents him from diverting water on a continuous basis into and through the proposed reservoir. He said he wants to be able to keep water flowing through the pond to keep it fresh. I explained that his application did not request a continuous flow and, therefore, IDWR cannot alter Permit 81-11925 to allow it. I recommended that he contact Greg Taylor, IDWR's Water Resource Agent in Lewiston, to discuss filing another application.

Second, he wanted a set of specifications for the lockable controlling works, measuring device, and data logger required by the permit in accordance with the Wild and Scenic Rivers Agreement. I explained that the lockable controlling works could be any simple valve that could be locked closed. I also explained that the Wild and Scenic Rivers Agreement is so new that IDWR has not yet developed specifications for measuring devices and data loggers on systems as small as his. I recommended that he write IDWR asking for specifications so that IDWR could consider what he could do to comply.

MEMORANDUM

Date: March 10, 2005
To: Water Right File 81-11925
From: Shelley Keen *SK*
Re: Permit Review

SALMON CLEARWATER MORATORIUM

The Salmon/Clearwater moratorium prevents the issuance of most new permits for consumptive uses of surface water within the Salmon and Clearwater River drainages. However, Item 7.b.iii. allows the approval of applications if the use will have no significant impact on anadromous fish due to "insignificant consumption of water." In this case, the maximum annual amount of water removed from the stream will be one acre-foot of water, probably taken during the spring when flows are high. In most years, carry-over water will probably result in even less than one acre-foot being diverted. One acre-foot is less than the amount required to run one single family household for a year. This permit will be issued because the proposed consumption of water is insignificant.

WILD & SCENIC RIVERS AGREEMENT

This application proposes a use of water from a tributary of the Middle Fork of the Clearwater River upstream from the ending point of the Wild & Scenic Rivers segment established by Water Right 81-10625. Under Item 2.c. of the Wild & Scenic Rivers Agreement, IDWR must require measuring devices and data loggers for new non-de minimis diversions in this area. The term "de minimis" does not appear to be defined in the Wild & Scenic Rivers Agreement or in the partial decree for Right 81-10625. Because "de minimis" is normally used in connection with domestic and stockwater uses meeting the exemption criteria set forth in Idaho Code Section 42-111, I have applied that definition to this application. Therefore, although I concluded above that this use will result in insignificant consumption for purposes of the Salmon/Clearwater moratorium, this appropriation cannot be considered "de minimis" because more than 13,000 gallons could be diverted in a single day and because the proposed diversion rate is greater than 0.04 cfs. Because it is not "de minimis", measuring device and data logger requirements will be placed on the permit. Moreover, because this appropriation does not fit any of the other subordination categories set forth in the partial decree for Right 81-10625, the authorized diversion rate must be counted against the 40 cfs of development to which Right 81-10625 will be subordinate.

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 81-11925

Priority: September 29, 2004

Maximum Diversion Rate: 0.20 CFS

This is to certify, that KENNETH DUHON Or MONA DUHON
HC75 BOX 102
KOOSKIA ID 83539

has applied for a permit to appropriate water from:

Source: BIG SMITH CREEK **Tributary:** MIDDLE FORK CLEARWATER 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>	<u>ANNUAL VOLUME</u>
FIRE PROTECTION STORAGE	01/01 to 12/31		1.0 AF
FIRE PROTECTION FROM STORAGE	01/01 to 12/31		1.0 AF
DIVERSION TO STORAGE	01/01 to 12/31	0.20 CFS	

LOCATION OF POINT(S) OF DIVERSION:

BIG SMITH CREEK NE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 32, Twp 33N, Rge 06E, B.M. IDAHO County

PLACE OF USE: FIRE PROTECTION STORAGE AND FIRE PROTECTION FROM STORAGE

Twp Rge Sec	NE				NW				SW				SE				Totals	
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
33N 06E 32													X				X	

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **March 1, 2007**.
2. Subject to all prior water rights.
3. The reservoir created in connection with this right shall not exceed 1/4-acre in surface area.
4. This right does not authorize the continuous diversion of water into and through the reservoir after it has been filled.
5. Water shall not be diverted from storage for fire protection use under this right except to fight or repel an existing fire.
6. 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. 81-11925

CONDITIONS OF APPROVAL CONTINUED

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. Prior to the diversion and use of water under this right, the right holder shall install and maintain a measuring device, including a data logger, at the authorized point of diversion, in accordance with Department specifications.
9. Prior to the diversion and use of water under this approval, the right holder shall comply with all fish screening requirements of the Idaho Department of Fish and Game.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 17th day of March, 2005.


For KARL J DREHER, Director

RECEIVED

MAR 03 2005

DEPARTMENT OF
WATER RESOURCES

71719

Ident. No. 81-11925

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

RECEIVED

SEP 29 2004

IDWR/North

1. Name of Applicant Kenneth OR Mona Duhon Phone 208-926-4367
Mailing address HC 75 Box 102 Kaoskia, IDAHO 83539
2. Source of water supply Big Smith Creek which is a tributary of Middle Fork Clearwater River
3. Location of point of diversion is Township 33N Range 6E Sec. 32 in the NE 1/4, SE 1/4 Govt. Lot Idaho County, Idaho

additional points of diversion if any: _____

4. Water will be used for the following purposes:

Amount .20 for Div. to Storage purposes from 1/1 to 12/31 (both dates inclusive)
(cfs or acre-feet per annum)
Amount 1.0 for FIRE PROT. Storage purposes from 1/1 to 12/31 (both dates inclusive)
(cfs or acre-feet per annum)
Amount 1.0 for FIRE PROT. FROM STORAGE purposes from 1/1 to 12/31 (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)

5. Total quantity to be appropriated is (a) .20 and/or (b) 1.0
cubic feet per second acre feet per annum

6. Proposed diverting works:

- a. Describe type and size of devices used to divert water from the source 4" pipe in creek to ponds and outlet back to creek
- b. Height of storage dam 6' feet; active reservoir capacity 1.0 acre-feet; total reservoir capacity 1.0 acre-feet
- c. Proposed well diameter is _____ inches; proposed depth of well is _____ feet
- d. Is ground water with a temperature of greater than 85°F being sought? _____
- e. If well is already drilled, when? _____; Drilling firm _____
Well was drilled for (well owner) _____; Drilling Permit No. _____

7. Time required for completion of works and application of water to proposed beneficial use is 2 years (minimum 1 year)

8. Description of proposed uses (if irrigation only, go to item 9):

- a. Hydropower; show total feet of head and proposed capacity in KW. _____
- b. Stockwatering; list number and kind of livestock. _____
- c. Municipal; show name of municipality. _____
- d. Domestic; show number of households. _____
- e. Other; describe fully. Fire protection

3. Description of place of use:

- If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- If water is used for other purposes, place a symbol of the use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
33N	6E	32													*			*	

Total number of acres to be irrigated _____

10. Describe any other water rights used for the same purposes as described above. _____

- Who owns the property at the point of diversion? Applicant
- Who owns the land to be irrigated or place of use? Applicant
- If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: _____

12. Remarks: * FIRE PROTECTION STORAGE
* FIRE PROTECTION FROM STORAGE
* FIRE PROTECTION

13. MAP OF PROPOSED PROJECT REQUIRED - Attach an 8 1/2"x11" map clearly identifying the proposed point of diversion, place of use, section #, township & range. (A photocopy of a USGS 7.5 minute topographic quadrangle map is preferred.)

BE IT KNOWN that the undersigned hereby makes this application for permit to appropriate the public waters of the State of Idaho as herein set forth.

[Signature]
 Signature of Applicant (and title, if applicable)

Received by [Signature] Date 9/29/04 Time 1:00 P Preliminary check by [Signature] Date 9/29/05
 Fee \$ 100.00 Receipted by [Signature] # NO 16575
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