

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 84-12193

Priority: October 13, 2004

Maximum Diversion Rate: 0.11 CFS

This is to certify, that VICKI L O'LEARY And JAMES P O'LEARY
2387A HARMONY HTS RD
OROFINO ID 83544

have applied for a permit to appropriate water from:

Source: SPRING

Tributary: SINKS

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>
DOMESTIC	01/01 to 12/31	0.11 CFS

LOCATION OF POINT(S) OF DIVERSION:

SPRING NW¼SW¼SE¼ Sec. 2, Twp 36N, Rge 02E, B.M. CLEARWATER County

PLACE OF USE: DOMESTIC

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
36N 02E 2												X					

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **March 1, 2008**.
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. 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.
5. The irrigation occurring under this domestic use shall not exceed 1/2 acre within each platted lot upon which a home has been constructed.
6. The domestic use authorized under this right shall not exceed 13,000 gallons per day per home.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 9th day of March, 2005.


FOR **KARL J DREHER**, Director

71725

Ident. No. 84-12193

RECEIVED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

OCT 13 2004

MAR 03 2005

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

IDWR/North

DEPARTMENT OF
WATER RESOURCES

Applicant James P. and Vicki L. O'Leary Phone (208) 476-9128
Mailing address 2387A Harmony Hgts Rd. Orofino, ID 83544

2. Source of water supply Spring which is a tributary of Sinks
3. Location of point of diversion is Township 36N Range 2E Sec. 2 in the SW 1/4, SE 1/4 Govt. Lot Clearwater B.M., Clearwater County;
additional points of diversion if any: _____

4. Water will be used for the following purposes:

Amount .11 for Domestic 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)
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) .11 and/or (b) _____
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 Spring box w/ 1" pipe
to storage tank - (25,000 gallon)

b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total
reservoir capacity _____ 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 3 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. 3 homes and 1 shop
e. Other; describe fully. _____

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	
36N	2E	2											D						

Total number of acres to be irrigated _____

10. Describe any other water rights used for the same purposes as described above. 84-10354 is a different spring that supplies water to 1 of homes

- Who owns the property at the point of diversion? Zain Wilcox
- 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: Mr. & Mrs. Wilcox have given us permission.

12. Remarks: _____

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.

James P O'Leary Dicki Z. O'Leary
 Signature of Applicant (and title, if applicable)

Received by [Signature] Date 10/13/04 Time 1:10 P Preliminary check by [Signature]
 Fee \$ 100.00 Receipted by [Signature] # N016588 Date 10/13/04 (Computer-10/14/04)
 Publication prepared by [Signature] Date 1/26/05 Published in Charleston Trib 2/3/10/05
 Publication approved [Signature] Date 2/16/05

Computers down - funds received 10/13
 Computerized receipt to be issued later - done 10/14/04



3/2
11

Place of
Use

Spring

4
N

T
36.
N

R26

Sec.
2

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

March 10, 2005

VICKI L O LEARY
JAMES P O LEARY
2387A HARMONY HTS RD
OROFINO ID 83544

RE: Permit No. 84-12193

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.

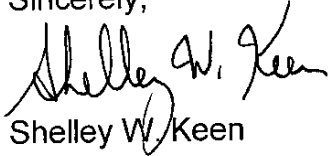
The Department will send you a 'Proof Due Notice' approximately 60 days prior to the above referenced date requesting you to file either a Proof of Beneficial Use form or a Request for Extension of Time form.

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 a 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 the most prominent.

Shelley W. Keen

Water Rights Supervisor

SWK:klt

Enclosure(s)

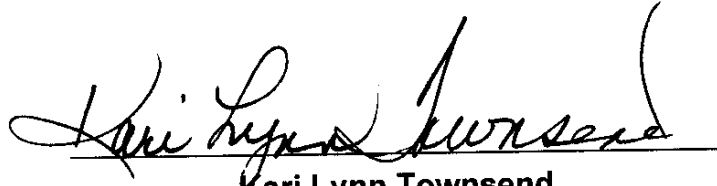
CERTIFICATE OF SERVICE

I hereby certify that on March 10, 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.

84-12193

**JAMES P O LEARY
VICKI L O LEARY
2387A HARMONY HTS RD
OROFINO ID 83544**

A handwritten signature in black ink, reading "Kari Lynn Townsend", is 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.

SECRET

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

Date: March 08, 2005
To: Water Right File 84-12193
From: Shelley Keen 
Re: Permit Review

Permit review and data entry by S. Keen on 3/8/2005

SALMON CLEARWATER MORATORIUM

This application is being processed and approved because water is diverted from a spring that sinks before reaching a tributary of the Clearwater River.

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO)
) ss.
County of Clearwater)

MARCIE STANTON

being first duly sworn, on oath, deposes and says:

That I am and at all times herein mentioned have been a citizen of the United States and of the State of Idaho, over 21 years of age, and that I am not a party to nor interested in the above entitled proceeding; that I am and at all times herein mentioned have been the Editor, Foreman, of the THE CLEARWATER TRIBUNE; that said Clearwater Tribune is a newspaper of general circulation, printed and published weekly at Orofino, in the County of Clearwater and State of Idaho; that the Clearwater Tribune has been continuously and uninterruptedly published in Clearwater County, Idaho, during the period of seventy-eight consecutive weeks prior to the

Dept. of Water Resource

EBY & O LEARY APPLICATIONS

of which the annexed is a full, true and correct printed copy, was published in the regular and entire issue of said newspaper, and not in any supplement thereof, for a full period of two non-consecutive issues, commencing on the 3rd day of February 2005 and ending on the 10th day of February 2005

STATE OF IDAHO)
)
COUNTY OF CLEARWATER)

On this 10th day of February in the year of 2005, before me, a Notary Public, personally appeared

Marcie Stanton

known or identified to me to be the person whose name subscribed to the within instrument, and being by me duly sworn, declared that the statements therein are true, and acknowledged to me that she executed the same.

Pamela A. Jones

Notary Public for Idaho
Resident at Orofino, Idaho

My commission expires: 11-20-07

RECEIVED

FEB 16 2005

IDWR/North

NOTICE

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

84-12192

DAVID O EBY
3243 UPPER FORDS CREEK RD
OROFINO ID 83544
Point(s) of Diversion SWNENE S24 T36N R02E
CLEARWATER County
Source GROUND WATER
Use: DOMESTIC 01/01 To 12/31 0.03 CFS
Total Diversion: 0.03 CFS
Date Filed: 08/25/2004
Place Of Use: DOMESTIC T36N R02E S24 NENE
Remark: Domestic use is for one home.

84-12193

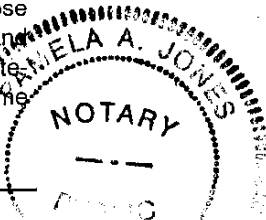
VICKI L O LEARY
JAMES P O LEARY
2387A HARMONY HTS RD
OROFINO ID 83544
Point(s) of Diversion SWSE S2 T36N R02E
CLEARWATER County
Source SPRING Tributary To SINKS
Use: DOMESTIC 01/01 To 12/31 0.11 CFS
Total Diversion: 0.11 CFS
Date Filed: 10/13/2004
Place Of Use: DOMESTIC T36N R02E S2 SWSW
Remark: Domestic use is for 3 homes and a shop.

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 02/21/2005.

The protestant must also send a copy of the protest to the applicant.
KARL J DREHER, Director

02-03,10c



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

84-12192

DAVID O EBY
3243 UPPER FORDS CREEK RD
OROFINO ID 83544

Point(s) of Diversion SWNENE S24 T36N R02E CLEARWATER County

Source GROUND WATER

Use: DOMESTIC 01/01 To 12/31 0.03 CFS
Total Diversion: 0.03 CFS

Date Filed: 08/25/2004

Place Of Use: DOMESTIC T36N R02E S24 NENE

Remark: Domestic use is for one home.

84-12193

VICKI L O LEARY
JAMES P O LEARY
2387A HARMONY HTS RD
OROFINO ID 83544

Point(s) of Diversion SWSE S2 T36N R02E CLEARWATER County

Source SPRING Tributary To SINKS

Use: DOMESTIC 01/01 To 12/31 0.11 CFS
Total Diversion: 0.11 CFS

Date Filed: 10/13/2004

Place Of Use: DOMESTIC T36N R02E S2 SWSW

Remark: Domestic use is for 3 homes and a shop.

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 02/21/2005.

The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director

Published on February 3 and 10, 2005.



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

PLEASE FAX A PROOF COPY PRIOR TO PUBLICATION

January 26, 2005

MARCIE and/or ANDREA
LEGAL NOTICE DEPARTMENT
CLEARWATER TRIBUNE
PO BOX 71
OROFINO ID 83544

RE: Application for Permit No. 84-12192 and 84-12193

Dear Marcie and/or Andrea:

Enclosed you will find a legal notice which we wish to have published in your newspaper on the dates indicated, February 3 and 10, 2004, (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 February 21, 2005. Your cooperation is GREATLY appreciated. It's always a pleasure working with you.

Sincerely

Dianne

Dianne Ball
Administrative Assistant

Ball, Dianne

From: Ball, Dianne
Sent: Wednesday, January 26, 2005 2:09 PM
To: Legal Notices-Clearwater Tribune (E-mail)
Subject: Legal Notice for WR #s 84-12192 and 84-12193 for publication on 2/3 and 2/10/05

Good afternoon Marcie and Andrea,

Attached is our cover letter requesting publication of the attached legal notice on February 3 and 10, 2005.\

If you have ANY questions, please call me at 208-769-1450 or e-mail me.

PLEASE FAX ME A PROOF COPY PRIOR TO PUBLICATION. THANKS BUNCHES!!

It is always good working with you.

 *Dianne*

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

1/26/2005



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

January 26, 2005

VICKI L O LEARY
JAMES P O LEARY
2387A HARMONY HTS RD
OROFINO ID 83544

RE: Application for Permit No 84-12193

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 Clearwater Tribune on February 3 and 10, 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,

A handwritten signature in cursive script that reads "Allen Beardslee".

Allen Beardslee
Senior Water Resource Agent

Enclosure(s) - Receipt No. N016588



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

January 24, 2005

RAY HENNEKEY
STATE OF IDAHO
DEPT OF FISH & GAME
1540 WARNER AVE
LEWISTON, ID 83501

FAXED to RAY 1/24/05
4 pages total

Application to Permit No. 84-12193

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.

You may comment by e-mail to Dianne.Ball@idwr.idaho.gov.

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

Sincerely,

Dianne Ball
Administrative Assistant

Enclosure(s)