

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 95-17320

Priority: May 31, 2017

Maximum Diversion Rate: 0.14 CFS

This is to certify, that JEFFEREY FAUTT
55 KEMLINE CT
ALAMO CA 94507

has applied for a permit to appropriate water from:

Source: COEUR D ALENE LAKE **Tributary:** SPOKANE 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>
IRRIGATION	03/15 to 11/15	0.14 CFS

LOCATION OF POINT(S) OF DIVERSION:

COEUR D ALENE LAKE SE1/4SE1/4 Sec. 10, Twp 48N, Rge 04W, B.M. KOOTENAI 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	
48N 04W 10																.5	.5
48N 04W 11											.4						.4
48N 04W 14							1.6										1.6
							L 2										

Total Acres: 2.5

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **September 01, 2022**.
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. A fish screen of 1/4 inch or smaller mesh shall be installed and maintained at the point of diversion.
5. The right holder shall install a measuring device that can be used to determine the instantaneous rate of flow of water through the system.
6. This right when combined with all other rights shall provide no more than 32,316 gallons per day nor more than 3.0 cfs per acre at the field headgate for irrigation of the place of use.

SCANNED
SEP 14 2017

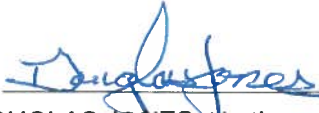
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7. The diversion and use of water described in this right may be subject to additional conditions and limitations agreed to by the protestant and the right holder under a separate agreement to which the Department is not a party. Because the Department is not a party, the Department is not responsible for enforcement of any aspect of the agreement not specifically addressed in other conditions herein. Enforcement of those portions of the agreement not specifically addressed in other conditions shall be the responsibility of the protestant and the water right holder.
8. This right does not grant any right-of-way or easement across the land of another.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code.

Signed this 12th day of September, 20 17.


DOUGLAS JONES, Northern Regional Manager

State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

95-17320

This map depicts the IRRIGATION place of use boundary for this water right at the time of this approval and is attached to the approval document solely for illustrative purposes.



-  Point of Diversion
-  Place Of Use Boundary
-  Townships
-  PLS Sections

0 0.035 0.07 0.14 Miles


N
SCANNED
SEP 14 2017



State of Idaho

DEPARTMENT OF WATER RESOURCES

Northern Region • 7600 N. Mineral Drive, Suite 100 • Coeur d'Alene, Idaho 83815-7763
Phone: (208) 762-2800 • Fax: (208) 762-2819 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

September 14, 2017

JEFFEREY FAUTT
55 KEMLINE CT
ALAMO CA 94507

RE: Permit No. 95-17320

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.

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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 the Northern Regional Office at 208-762-2800.

Sincerely,

A handwritten signature in blue ink, appearing to read "Douglas Jones", written over a horizontal line.

Douglas Jones, P.E.

Northern Regional Manager

Enclosure(s)

cc: UNITED CROWN PUMP AND DRILLING
KOOTENAI ENVIRONMENTAL ALLIANCE

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MEMORANDUM

To: Permit 95-17320 (Jefferey Fautt)

From: Adam Frederick AF

Date: 9/13/2017

Re: Application for a Permit to Appropriate Water within the State of Idaho.

Application for Permit 95-17320 was protested on June 27, 2017 by Kootenai Environmental Alliance (KEA). On August 15, 2017 a withdrawal of protest was submitted and signed by both KEA and Bob Haynes (Applicant's representative). As part of that withdrawal there were five conditions agreed upon by both parties. A phone call was placed to Mr. Haynes on 9/11/2017 to discuss no. 4 (The daily volume pumped will not exceed the lesser of 2.5 acres or the number of acres eventually licensed by IDWR time 0.02 cfs). Mr. Haynes explained that with the higher diversion rate that was applied for, the agreement would put a limitation on how much could be pumped on a daily basis. What the condition boiled down to was that this permit could be issued for 0.14 cfs but could not pump that for 24 hours. The volume amount that could be pumped at that higher rate would be equal to number of acres times 0.02 cfs (2.5 acres x 0.02 cfs = 0.05 cfs). The 24 hour amount of water for 0.05 cfs is equal to 32,316 gallons. Condition R62 was tweaked to accommodate this condition by stating; This right when combined with all other rights shall provide no more than 32,316 gallons per day nor more than 3.0 afa per acre at the field headgate for irrigation of the place of use.

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CERTIFICATE OF SERVICE

I hereby certify that on September 14, 2017 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. 95-17320

**JEFFEREY FAUTT
55 KEMLINE CT
ALAMO CA 94507**

**UNITED CROWN PUMP AND DRILLING
C/O RICH AGUEROS
3125 W HAYDEN AVE
HAYDEN ID 83835**

**KOOTENAI ENVIRONMENTAL ALLIANCE
PO BOX 1598
COEUR D ALENE ID 83816-1598**



**Tammy Alleman
Administrative Assistant**

SCANNED
SEP 14 2017

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.