

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 97-07531

Priority: March 04, 2016

Maximum Diversion Rate: 0.12 CFS

This is to certify, that DAN TERRY
4827 GLEASON MC ABEE FALLS RD
PRIEST RIVER ID 83856

has 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>
POWER	01/01 to 12/31	0.12 CFS

LOCATION OF POINT(S) OF DIVERSION:

SPRING SW1/4, SW1/4, NE1/4, Sec. 8, Twp 58N, Rge 04W, B.M., BONNER County

PLACE OF USE: POWER

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
58N	04W	8			X														

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **April 01, 2020**.
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. Use of water under this right shall be non-consumptive.
6. The term of this Permit shall extend to December 31, 2042. Prior to the expiration of the term, the Director may issue an order canceling all or any part of the use authorized herein, may establish a new term, or may revise, delete, or add conditions under which the water right permit may be exercised. The order shall take effect on the date the current term expires. If the Director does not issue such an order, the term shall automatically extend to a length equal to the project's prior term and any prior conditions on the water right permit shall remain in effect.
7. The right holder shall install a measuring device that can be used to determine the instantaneous rate of flow of water through the system, or the right holder shall provide to the department a flow rate measurement or computation made by a certified water right examiner in accordance with actual system design and operation.
8. This right does not constitute Idaho Public Utilities Commission or Federal Energy Regulatory Commission approval that may be required.
9. The rights for the use of water acquired under this right shall be junior and subordinate to all other rights for the use of water, other than hydropower, within the State of Idaho that are initiated later in time than the priority of this right and shall not give rise to any claim against any future rights for the

State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 97-07531

use of water, other than hydropower, within the State of Idaho initiated later in time than the priority of this permit.

10. This right is subject to the provisions of Sections 42-205 through 42-210, Idaho Code, restricting the sale, transfer, assignment, or mortgage of this right. Failure to comply with these provisions is cause for immediate cancellation of this right.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Signed, this 20th day of March, 20 17.

Morgan Case
MORGAN CASE, Northern Regional Manager



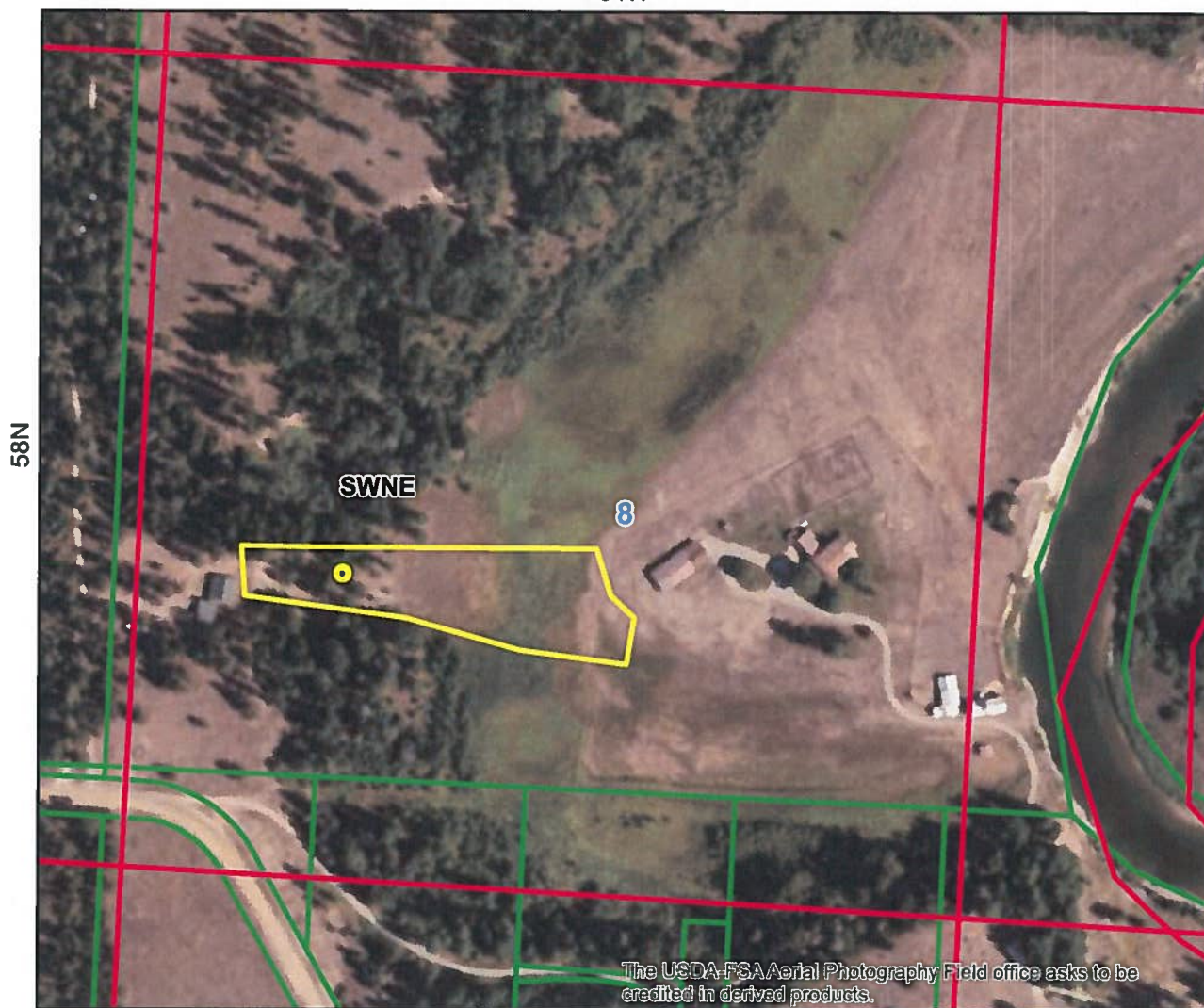
State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

97-7531

This map depicts the POWER 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.

04W



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

0 0.035 0.07 0.14 Miles



Tax Parcel information provided by Bonner County.



State of Idaho

DEPARTMENT OF WATER RESOURCES

Northern Region, 7600 Mineral Drive, Suite 100, Coeur d'Alene, Idaho 83815

Phone: (208) 762-2800 FAX: (208) 762-2819 www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

March 23, 2017

DAN TERRY
4827 GLEASON MC ABEE FALLS RD
PRIEST RIVER ID 83856

RE: Permit No. 97-7531

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) 762-2800.

Sincerely,



Morgan Case
Northern Regional Manager

Enclosure(s)

cc: JASON S WING

CERTIFICATE OF SERVICE

I hereby certify that on March 23, 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. 97-7531

**DAN TERRY
4827 GLEASON MC ABEE FALLS RD
PRIEST RIVER ID 83856**

**JASON S WING
LAKE CITY LAW GROUP PLLC
435 W HANLEY AVE STE 101
COEUR D ALENE ID 83815**



**Dianne L. Ball
Administrative Assistant**

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.



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

March 20, 2017

DAN TERRY
4827 GLEASON MC ABEE FALLS RD
PRIEST RIVER, ID 83856

COPY

RE: Withdrawal of Protest against Application for Permit No. 97-7531

Dear Applicant:

The Department of Water Resources has received a withdrawal of protest against the above referenced application. Withdrawals have been received from the following protestants:

1) KOOTENAI ENVIRONMENTAL ALLIANCE

The application does not have any remaining protests; therefore, the department will take the steps necessary to bring the application to a final resolution.

Please contact this office if you have any questions regarding this procedure. Information about water rights and other matters administered by this agency is also available on the Internet at www.idwr.idaho.gov.

Sincerely,

Morgan Case
Northern Regional Program Manager

CC:

JASON S WING
LAKE CITY LAW GROUP PLLC
435 W HANLEY AVE STE 101
COEUR D ALENE, ID 83815



State of Idaho

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C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

March 20, 2017

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

COPY

RE: Withdrawal of Protest against Application for Permit No. 97-7531

Dear Protestant:

The Department of Water Resources acknowledges receipt of your withdrawal of protest against the above referenced application.

The application does not have any remaining protests; therefore, the department will take the steps necessary to bring the application to a final resolution.

Please contact this office if you have any questions regarding this procedure. Information about water rights and other matters administered by this agency is also available on the Internet at www.idwr.idaho.gov.

Sincerely,

Morgan Case
Northern Regional Program Manager

M E M O R A N D U M

Date: March 15, 2017
To: Water Right File 97-7531
From: smaxey
Re: PROTEST WITHDRAWN

PROTEST WITHDRAWN PER LETTER FROM KOOTENAI ENVIRONMENTAL ALLIANCE DATED MARCH 10, 2017 AND E-MAIL CORRECTING WATER RIGHT NUMBER OF WITHDRAWN PROTEST DATED MARCH 15, 2017.

PROTEST WITHDRAWN BECAUSE PROTESTOR AND APPLICANT AGREE THAT POWER USE IS NON- CONSUMPTIVE AND DISCHARGE FROM WATER SYSTEM WILL SINK INTO GROUND INSTEAD OF ENTERING A POND. APPLICATION 97-7532 FOR POND HAS BEEN WITHDRAWN.

Case, Morgan

From: Adrienne Cronebaugh <adrienne@kealliance.org>
Sent: Wednesday, March 15, 2017 10:15 AM
To: Case, Morgan
Subject: Re: Withdrawal of Protest for 97-7531

Yes! Thank you.

Looking Forward~

Adrienne Cronebaugh
Kootenai Environmental Alliance
www.kealliance.org
(208) 667-9093

On Mon, Mar 13, 2017 at 11:42 AM, Case, Morgan <Morgan.Case@idwr.idaho.gov> wrote:

Adrienne,

The Department received your letter withdrawing the KEA protest of Dan Terry's Application for Permit. In the letter you referred to Application No. 95-7531, when I believe that you meant 97-7531. If you can confirm this, we will proceed with processing the withdrawal.

Thank you,

Morgan

Morgan Case

Northern Regional Manager

Idaho Department of Water Resources

7600 N Mineral Dr. Suite 100

Coeur d'Alene, ID 83815

[208.762.2800](tel:208.762.2800)

RECEIVED
MAR 13 2017
IDWR/NORTHERN



March 10, 2017

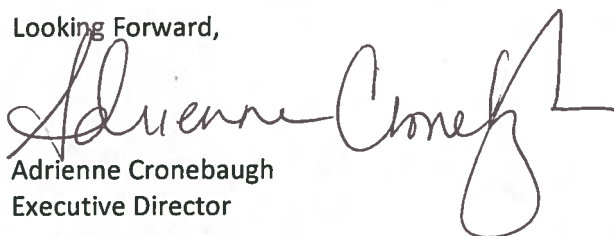
Morgan Case
Regional Manager
Idaho Department of Water Resources
7600 Mineral Drive, Suite 100
Coeur d'Alene, ID 83815

Dear Mrs. Case,

This is to inform you that Kootenai Environmental Alliance (KEA) is withdrawing its protest of Dan Terry's Application for Permit No. 95-7531 based on the fact that the .12 CFS total diversion will be for non- consumptive power generation.

Please contact me if you have any questions, or need any additional information.

Looking Forward,



Adrienne Cronebaugh
Executive Director

cc: Dan Terry

IDAHO DEPARTMENT OF WATER RESOURCES

ROSTER OF ATTENDANCE

Prehearing Conference

Dan Terry

Application for Permit No. 97-7531

Location: Panhandle Health District Conference Room, 2101 W. Pine St., Sandpoint, ID

Or by Telephone

Date: Tuesday, March 7, 2017

Time: 2:00 PM or immediately following the pre-hearing conference for 97-7532

Name	Organization
1. <i>Jason Wing</i>	<i>Lake Creek Law Group, PLLC</i>
2. <i>Dan Terry</i>	<i>Applicant</i>
3. <i>Adrienne Cionebaugh</i>	<i>KEA</i>
4. <i>Mike Mihalic</i>	<i>KEA</i>
5. <i>BRIAN DOMKE</i>	<i>BRIAN DOMKE LAND ARCH.</i>
6.	
7.	
8.	
9.	
10.	
11.	
12.	
13.	
14.	
15.	

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO)
) ss.
County of Bonner)

RECEIVED
JUN 24 2016
IDWR / NORTH

Holly Fredericks being first duly sworn on oath, deposes and states:

1. I am a citizen of the United States of America, over the age of 18 years, a resident of Bonner County, Idaho, and am not a party to the proceedings referred to in the attached legal notice.
My business address is P.O. Box 159, Sandpoint, Idaho.
2. I am the legals clerk of the Bonner County Daily Bee, a newspaper of general publication in Bonner County, Idaho;
3. Said newspaper has been continuously and uninterruptedly published in Bonner County, Idaho during a period of 12 months prior to the first publication of said Notice, and thereafter.
4. The attached Notice was published in the regular and entire issue of the Bonner County Daily Bee for a period of 2 consecutive weeks, commencing on the 2 day of June, 2016, and ending on the 9 day of June, 2016.

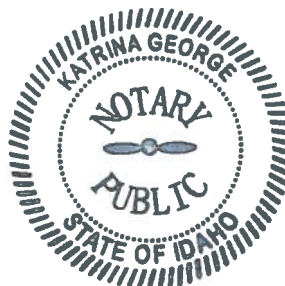
H Fredericks

State of Idaho, county of Bonner ss.
On this 9 day of June, in the year of 2016, before me, Katrina George, Notary Public, personally appeared Holly Fredericks, known or identified to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he (or they) executed the same.

Katrina George
Notary Public

Residing at: Kootenai County

Comm. Exp.: MY COMMISSION EXPIRES 8/29/17



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

96-9609

STACY BELL-POWELL
10932 81ST

EDMONTON, AB T5H 1L5 CA

Point of Diversion SESE S22 T57N R02W BONNER County

Source PEND OREILLE RIVER tributary COLUMBIA RIVER

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

Total Diversion: 0.04 CFS

Date Filed: 3/17/2016

Place of Use: DOMESTIC T57N R02W S22 SESE

Domestic use is for 1 home with up to 1/2 acre irrigation.

96-9610

RESORT WATER CO INC

165 VILLAGE LN STE A

SANDPOINT, ID 83864

Point of Diversion NWSW S20 T58N R02W BONNER County

Point of Diversion SWNW S20 T58N R02W BONNER County

Point of Diversion SWNW S20 T58N R02W BONNER County

Point of Diversion NWSW S20 T58N R02W BONNER County

Source for all: GROUND WATER

Use: MUNICIPAL 01/01 to 12/31 0.45 CFS

Total Diversion: 0.45 CFS

Date Filed: 2/10/2016

Place of Use: MUNICIPAL

Municipal use is within service area of applicant.

97-7531

DAN TERRY

4827 GLEASON MC ABEE FALLS RD

PRIEST RIVER, ID 83856

Point of Diversion SWSWNE S8 T58N R04W BONNER County

Source SPRING tributary SINKS

Use: POWER 01/01 to 12/31 0.12 CFS

Total Diversion: 0.12 CFS

Date Filed: 3/4/2016

Place of Use: POWER T58N R04W S8 SWNE

97-7532

DAN TERRY

4827 GLEASON MC ABEE FALLS RD

PRIEST RIVER, ID 83856

Point of Diversion L2 (SENE) S8 T58N R04W BONNER County

Source PRIEST RIVER tributary PEND OREILLE RIVER

Point of Diversion SWSWNE S8 T58N R04W BONNER County

Source SPRING tributary SINKS

Use: DIVERSION to STORAGE 01/01 to 12/31 0.75 CFS

Use: FIRE PROTECTION Storage 01/01 to 12/31 134.4 AF

Use: IRRIGATION from Storage 01/01 to 12/31 90 AF

Use: IRRIGATION Storage 01/01 to 12/31 224.4 AF

Use: RECREATION Storage 01/01 to 12/31 134.4 AF

Use: STOCKWATER from Storage 01/01 to 12/31 10.4 AF

Use: STOCKWATER Storage 01/01 to 12/31 134.8 AF

Total Diversion: 0.75 CFS

Date Filed: 3/21/2016

Place of Use: DIVERSION to Storage T58N R04W S8 SWNE

L2 (SENE)

Place of Use: FIRE PROTECTION Storage T58N R04W S8 SWNE

Place of Use: RECREATION Storage T58N R04W S8 SWNE

Place of Use: STOCKWATER Storage T58N R04W S8 SWNE

Place of Use: IRRIGATION Storage T58N R04W S8 SWNE NESW

Place of Use: IRRIGATION from Storage T58N R04W S8 (NENE)

SWNE L2 (SENE)

Place of Use: STOCKWATER from Storage T58N R04W S8 SWNE

Total Acres: 30

Stockwater use is for 30 head of cattle.

Recreation use is for fishing, swimming, & similar activities.

97-7534

STATE OF IDAHO

DEPT OF LANDS

300 N 6TH ST STE 103

PO BOX 83720

BOISE, ID 83720-0050

DANIEL STOWE

8113 N MEGHAN

SPOKANE, WA 99208

Point of Diversion NENWNW S8 T59N R04W BONNER County

Source SPRING tributary SINKS

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

Total Diversion: 0.04 CFS

Date Filed: 3/15/2016

Place of Use: DOMESTIC T59N R04W S5 L3 (NWSW)

Domestic use is for 1 home & up to 1/2 acre irrigation. Permits will

be subject to all prior water rights. For additional information

concerning the property location, contact Northern Region office at

(208) 762-2800; or for a full description of the right(s), please see:

<http://www.idwr.idaho.gov/apps/ExtSearch/WRAApplicationResults>

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, Northern Region,

7600 Mineral Drive, Suite 100, Coeur D'Alene ID 83815 together

with a protest fee of \$25.00 for each application on or before

6/20/2016. The protestant must also send a copy of the protest to

the applicant.

GARY SPACKMAN, Director

SNP LEGAL 3861

JUNE 2. 9. 2016