

State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 95-17069

Priority: September 02, 2015

Maximum Diversion Rate: 0.06 CFS

This is to certify, that ALLEN CARL HYSLOP And/Or
TERESA HYSLOP
PO BOX 2978
POST FALLS ID 83877

has applied for a permit to appropriate water from:

Source: RIGHT FORK HAUSER
CREEK

Tributary: HAUSER CREEK

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	0.04 CFS
STOCKWATER	01/01 to 12/31	0.02 CFS

LOCATION OF POINT(S) OF DIVERSION:

RIGHT FORK HAUSER CREEK NE1/4NE1/4 Sec. 30, Twp 52N, Rge 05W, B.M. KOOTENAI County

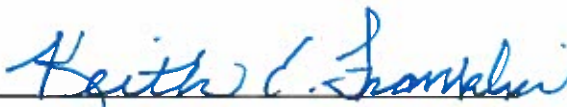
PLACE OF USE: DOMESTIC AND STOCKWATER

Twp Rge Sec	NE				NW				SW				SE				
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
52N 05W 30	X																

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **November 01, 2018**.
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. Domestic use is for 1 home.
6. The irrigation occurring under this domestic use shall not exceed 1/2 acre.
7. Stockwater is for 50 head of mixed stock.
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. Witness the signature of the Director, affixed at Coeur d' Alene, this 4 day of November, 2015.


GARY SPACKMAN, Director

State of Idaho
Department of Water Resources
Permit to Appropriate Water
95-17069



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

0 0.035 0.07 0.14 Miles





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

November 12, 2015

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

ALLEN CARL HYSLOP
PO BOX 2978
POST FALLS ID 83877

TERESA HYSLOP
PO BOX 2978
POST FALLS ID 83877

RE: Permit No.95-17069

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,


Keith E. Franklin
Sr. Water Resource Agent

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on November 13, 2015 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. 95-17069

**ALLEN CARL HYSLOP
PO BOX 2978
POST FALLS ID 83877**

**TERESA HYSLOP
PO BOX 2978
POST FALLS ID 83877**



**Carolyn Monitz
Technical Records Specialist**

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 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

October 22, 2015

Adrienne Cronebaugh
Kootenai Environmental Alliance
PO Box 1598
Coeur d'Alene, ID 83816-1598

Re: Protest for Water Right Application 95-17069

Dear Adrienne,

The Idaho Department of Water Resources is returning your protest for water right application 95-17069 in the name of Allen and Teresa Hyslop, along with your check, #2946 in the amount of \$25.00. The protest was received by the Department on October 21, 2015. The deadline for filing the protest was on October 19, 2015. The Department cannot accept a protest that is filed after the deadline.

If you have any questions, feel free to contact me at this office.

Sincerely,

Keith E Franklin
Program Manager Northern Region

Enclosure(s)



Kootenai Environmental
Alliance

P.O. Box 1598
Coeur d'Alene, ID 83816-1598

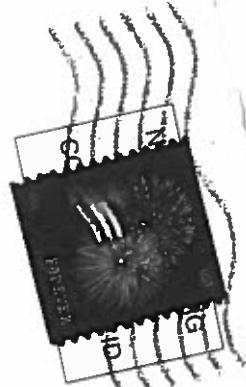
RECEIVED

OCT 21 2015

IDWR / NORTH

SPOKANE WA, 8320

19 OCT 2015 PM 4 L



IDWR-
7600 Mineral
Coeur d'Alene, ID 83815
Dixie St 100

83815776325



Adrienne Cronebaugh, Executive Director
Kootenai Environmental Alliance
P.O. Box 1598
Coeur d'Alene, ID 83816-1598
kea@kealliance.org
(208) 667-9093

RECEIVED
OCT 21 2015
IDWR / NORTH

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR
PERMIT NO. 95-17069,
in the name of Allen Carl Hyslop & Teresa Hyslop

PROTEST

This protest is submitted on behalf of the Kootenai Environmental Alliance.

A. Interests of Protestant

Kootenai Environmental Alliance (KEA) is a non-profit corporation incorporated in the state of Idaho, with a mission to conserve, protect and restore the environment with an emphasis on the Idaho Panhandle and the Coeur d'Alene basin. KEA has members and supporters who live, work and recreate in north Idaho and eastern Washington, including recreating on Hauser Lake and the Spokane River. KEA members rely upon the Rathdrum Prairie-Spokane Valley Aquifer as a source of water for drinking water supply and to serve the businesses where they work and utilize Hauser Lake for recreational purposes.

The Protestant and its members are and will continue to be adversely affected by water allocation and management decisions that diminish, over-allocate, or otherwise harm the Rathdrum Prairie-Spokane Valley Aquifer and hydraulically connected water resources, including the Spokane and Little Spokane Rivers. Hauser Lake is also considered a critical recharge area, contributing 13million gallons per day to the Aquifer.

B. Basis of Protest

The Protestant protests a water permit application filed by Allen & Teresa Hyslop. Application No. 95-17069 seeks a total of 0.06 cfs that would be withdrawn from a tributary of Hauser Creek, which is in excess of 38,700 gallons of water day. 0.04 cfs would be used for domestic use, which amounts to approximately 25,804 gallons of water per day, year-round. The remaining 0.02 cfs would be used for stock water for 50 head of mixed stock. The figure of 0.02cfs amounts to approximately 12,911 gallons of water per day year-round for the 50 animals, or in excess of 250 gallons per day per animal. In contrast to the figure of 250 gallons per day per animal, water use information from Idaho Department of Water Resources (IDWR) shows that cattle, other than dairy, use approximately 12 gallons per day per animal.

The application 95-17068 proposes to withdraw an additional 0.06 cfs of water from a groundwater source. This application is identical to 95-17069 in that 0.04cfs, 25,804 gallons per day, would again be used for domestic use. The remaining 0.02 cfs, 12,911 gallons of water per day would again be used for 50 head of mixed stock. Both applications, if approved would remove over 77,000 gallons of water per day, year round.

Both applications have the identical names and identical PO Box address. Pursuant to IC§42.111.3 multiple water rights for domestic uses or domestic purposes shall not be established or exercised in a manner to satisfy a single combined water use.

For a project of this size, more information will be required pursuant to IDAPA § 37.03.08.040.05. As the applicant provides that information to IDWR, and as more information becomes available through approved discovery processes, Protestants reserve the right to raise additional issues. The application as submitted are inadequate to meet the standards set forth in

controlling regulations and statutes and the applicant will not be able to meet its burden of proof under the law.

(1) The project is contrary to the conservation of resources.

The applications are contrary to the conservation of water resources in Idaho, in contravention of IC §42-203A(5)(f), insofar as it proposes to withdraw 77,558 gallons of water per day from the Rathdrum Prairie-Spokane Valley Aquifer. The Applicants have neither promulgated nor implemented a water conservation plan to limit consumption at reasonable levels.

The .06 cfs (continuous, year-round) requested under application 95-17069 is not justified by a reasonable water balance. These quantities are excessive and wasteful and do not represent an appropriate water duty for the purposes set forth in the permit application. IC§42-1730 requires optimum use of our water resources which is dependent upon conservation. Water conservation alternatives are available to reduce the amount of water use contemplated by the Applicants. These alternatives should be considered by IDWR in its determination of beneficial use.

(2) The project will harm the local public interest.

Because of the hydraulic connections between Hauser Lake the Rathdrum Prairie-Spokane Valley Aquifer and the Spokane River, the applicant's proposed use will deplete water flowing into Hauser Lake and ultimately in the Spokane River, harming fish and wildlife habitat, aquatic life, recreation, aesthetic beauty, transportation and navigation values, and water quality.

Water quality is degraded in Hauser Lake and withdrawal of water from one of its primary tributaries in the quantity requested in the permit application will deplete flow, further exacerbating water quality degradation.

The property to be supplied by the proposed water withdrawal potentially include critical recharge areas for Hauser Lake and the Rathdrum Prairie-Spokane Valley Aquifer. The development

and use of this property may reduce recharge to the Aquifer and contribute to lake and groundwater quality degradation.

The cumulative impacts of the proposed withdrawal, combined with other pending applications and existing water rights will lead to over-allocation of the aquifer, interference with other wells, impacts to Hauser Lake and the Spokane River and a variety of other potential ills, in violation of the local public interest.

Ultimately, unlimited appropriations will lead to a “race to the bottom” of this finite, sole source aquifer, which will adversely affect citizens and businesses in both states. It is inappropriate for IDWR to grant this and other pending water right applications without full consideration of the impacts of such decisions on bi-state management of the Aquifer. Idaho must engage in water resource management planning that addresses these issues before approving new water right applications.

(3) The requested permit would reduce the quantity of water under existing water rights.

Hauser Lake is a critical recharge area for the Rathdrum Prairie-Spokane Valley Aquifer, contributing 13mgd. The Aquifer is hydraulically connected to the Spokane River. Pumping from the Aquifer, and its recharge areas, influences the quantity and quality of water flowing in the Spokane River. The pumping of approximately 77,557 gallons per day (by a single user) may affect Hauser Lake levels and Spokane River flows in Idaho and reduce them below the levels set forth in the minimum flow water right. This would lead to a reduction in water available to prior water right users, in violation of Section 42.203A(5)(a).

IDWR has issued hundreds of water rights authorizing withdrawals from the Aquifer in the Rathdrum Prairie region. In addition, there are significant numbers of domestic wells, many drilled prior to March 1978. Water permits issued to the Applicants in the quantities requested will draw down the Aquifer, potentially causing adverse impacts to other water users.

These issues are of particular concern when the effects of this water permit are analyzed cumulatively with other pending applications and active permits and licenses.

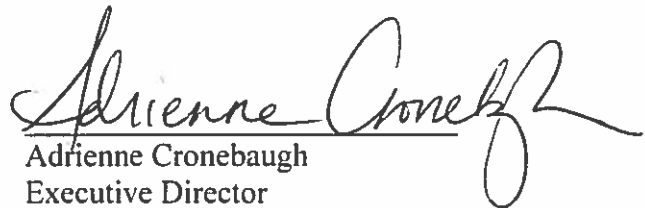
Finally, and as discussed in the “local public interest” section above, down-gradient water right holders in Washington State will be adversely affected by the pumping of water proposed in this application.

The applicant has offered no proposal to mitigate the impacts of its proposed water withdrawals.

C. Relief Sought

For the foregoing reasons, Protestants request that a protest hearing be scheduled and that Allen & Teresa Hyslop for Water Permit Application No. 95-17069 be denied or conditioned to mitigate the harms and impacts identified above.

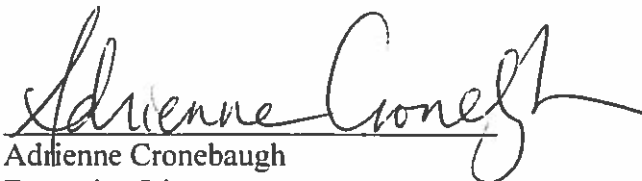
DATED this 16th day of October, 2015.


Adrienne Cronebaugh
Executive Director

CERTIFICATE OF SERVICE

I hereby certify that on the 16th day of October, 2015, I served a true and correct copy of the within and foregoing document upon the party named below by depositing a copy of the same in the United States mail, postage pre-paid, at the post office a Coeur d'Alene, Idaho.

Allen & Teresa Hyslop
PO Box 2978
Post Falls, ID 83877



Adrienne Cronebaugh
Executive Director

RECEIVED

OCT 09 2015

AFFIDAVIT OF PUBLICATION

IDWR / NORTH

STATE OF IDAHO,
County of Kootenai,

} ss

Holly Fredericks

being first duly sworn

upon oath deposes and says:

1 I am now and at all times hereinafter mentioned was a citizen of the United States, resident of the State of Idaho, over the age of twenty-one years and not a party of the above entitled action.

2 I am now and at all times hereinafter mentioned was the printer (principal clerk) of the "Coeur d'Alene Press," a newspaper printed and published daily except Sunday in Coeur d'Alene, Kootenai County, Idaho, and having a general circulation in said county.

3 The legal notice

of which the annexed is a printed copy, was published in the regular Thursday issue of said newspaper for 2 consecutive weeks commencing on the 1 day of October 20 15 and ending on the 8 day of October 20 15, and such publication was made as often during said period as said daily newspaper was regularly issued.

4 That said newspaper has been continuously and uninterruptedly published in said Kootenai County, during a period of more than seventy-eight consecutive weeks immediately prior to the first publication of said notice Holly Fredericks. On this 8 day of October in the year of 2015, before me, a Notary Public, personally appeared Holly Fredericks, known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that he executed the same.

Katrina George

Notary Public for the State of Idaho
residing at Coeur d'Alene, Idaho.



MY COMMISSION EXPIRES 8/29/17

RECEIVED
OCT 09 2015
DWR / NORTH

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

95-17062

LOWELL A NELSON
11313 E HAYDEN LAKE RD
HAYDEN, ID 83835
Point of Diversion L3(SENW) S22 T51N R03W KOOTENAI CO
Source HAYDEN LAKE tributary SINKS
Use: DOMESTIC 01/01 to 12/31/04 CFS
Total Diversion: 0.04 CFS

Date Filed: 8/10/2015

Place of Use: DOMESTIC T51N R03W S22 L4(SWNE) L3(SENW)
L5(NWSE)

Domestic use is for 1 home.

95-17068

ALLEN CARL HYSLOP
TERESA HYSLOP
PO BOX 2978
POST FALLS, ID 83877
Point of Diversion NENE S30 T52N R05W KOOTENAI CO
Source GROUND WATER
Use: DOMESTIC 01/01 to 12/31/04 CFS
Use: STOCKWATER 01/01 to 12/31/02 CFS
Total Diversion: 0.06 CFS

Date Filed: 9/2/2015

Place of Use: DOMESTIC T52N R05W S30 NENE

Place of Use: STOCKWATER same as DOMESTIC

Domestic use is for 1 home.

Stockwater use is for 50 head of mixed stock

95-17069

ALLEN CARL HYSLOP
TERESA HYSLOP
PO BOX 2978
POST FALLS, ID 83877
Point of Diversion NENE S30 T52N R05W KOOTENAI CO
Source RT. FORK HAUSER CREEK tributary HAUSER CREEK
Use: DOMESTIC 01/01 to 12/31/04 CFS
Use: STOCKWATER 01/01 to 12/31/02 CFS
Total Diversion: 0.06 CFS

Date Filed: 9/2/2015

Place of Use: DOMESTIC T52N R05W S30 NENE

Place of Use: STOCKWATER same as DOMESTIC

Domestic use is for 1 home.

Stockwater use is for 50 head of mixed stock.

95-17077

LEWIS ALLERT
CLINTON ALLERT
696 S KELLY RD
COEUR D'ALENE, ID 83814
Point of Diversion L6(NENW) S12 T50N R05W KOOTENAI CO
Source SPOKANE RIVER tributary COLUMBIA RIVER
Use: DOMESTIC 01/01 to 12/31/04 CFS
Total Diversion: 0.04 CFS

Date Filed: 9/14/2015

Place of Use: DOMESTIC T50N R05W S12 L6(NENW) L6(SENW)

Domestic use is for external use only, irrigation up to 1/2 acre.

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:

www.idwr.idaho.gov/apps/ExtSearch/WRFiling.asp.

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 10/19/2015 10:09:49 AM. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

LEGAL 4417

OCTOBER 1, 8, 2015