

State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 96-09400

Priority: July 25, 2008

Maximum Diversion Rate: 0.02 CFS

This is to certify, that DALE M WIDEL
28414 178 AVE SE
KENT WA 98042

has applied for a permit to appropriate water from:

Source: RISER CREEK

Tributary: LAKE PEND OREILLE

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	0.02 CFS

LOCATION OF POINT(S) OF DIVERSION:

RISER CREEK, L3 (NE1/4NW1/4), Sec. 6, Twp 56N, Rge 02E, B.M., BONNER 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	
56N 02E 6					X												
					L3												

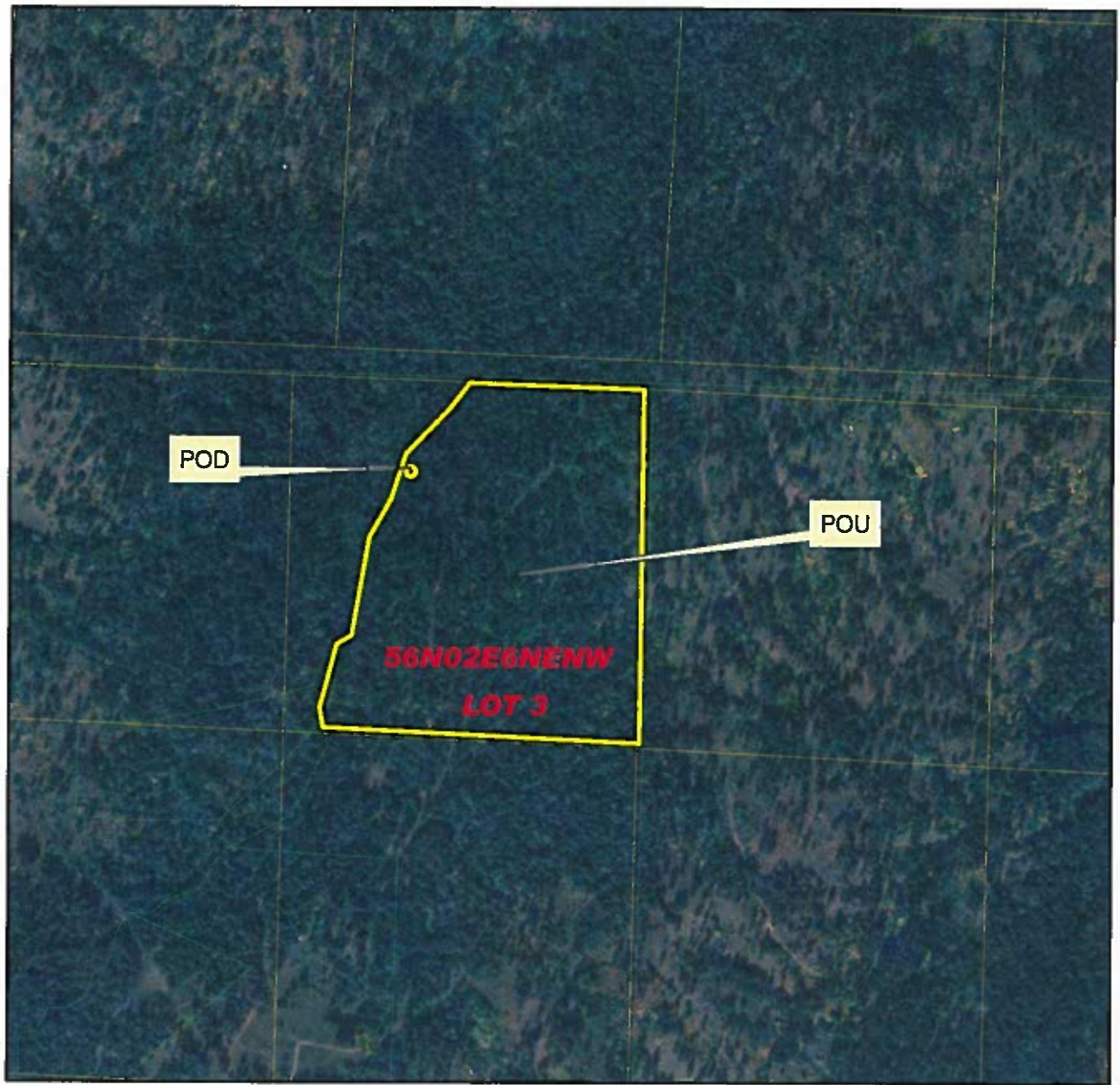
CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **November 1, 2018**.
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. A fish screen of 0.25 inch or smaller mesh shall be installed and maintained at the point of diversion.
5. Domestic use is for 1 home internal use only and does not include lawn, garden, landscape, or other types of irrigation.
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.
7. The diversion piping and use of water described in this water right is subject to additional conditions as agreed to by Dale Van Stone and William Baxter under a separate agreement to which the Department of Water Resources is not a party and which may be independently enforceable by a court of law.
8. This right when combined with water right 96-9399 cannot divert more than 0.02 cfs from Riser Creek.

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 19 day of October, 2015.


For: GARY SPACKMAN, Director

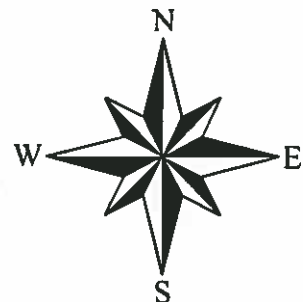
96-9400



0 250 500 1,000 1,500 2,000 Feet

Legend

-  workingpod
-  workingpou
-  Taxlots
-  QQ





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

October 22, 2015

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

DALE M WIDEL
28414 178 AVE SE
KENT WA 98042

RE: Permit No.96-9400

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,

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

Keith E. Franklin

Program Manager

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on October 23, 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.

96-9400

**DALE M WIDEL
28414 178 AVE SE
KENT WA 98042**



**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.

MEMORANDUM

Date: October 19, 2015
To: Water Right File 96-9400
From: kfranklin
Re: Protest of 96-9399

This application was held up due to a protest of application 96-9399 since both applications were to divert water from the same source and the same pipeline. The protest for application 96-9399 was settled at a pre hearing conference held on August 26 2015. A separate agreement was obtained by the parties with a condition attached to both applications that refers to a separate agreement of which IDWR is not a party thereto and may be independently enforceable by a court of law. The agreement is included in the file.

Franklin, Keith

From: DALE WIDEL [idahodale@hotmail.com]
Sent: Friday, October 09, 2015 4:05 PM
To: Franklin, Keith
Cc: Van Stone, Dale (IWRB Member)
Subject: RE Draft permits

Keith,

Sorry for the misunderstanding about the intent of your correspondence with me.

I accept the draft permits as received, and look forward to proceeding on the system next year.

Thanks for the quick response.

Dale Widel
28414 178 Ave SE
Kent, Wa. 98042

Home Phone: 253-631-0543
E-mail : idahodale@hotmail.com



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 5, 2015

William Baxter
PO Box 96
Hope, ID 83836

Andrew Walker
PO Box 441
Hope, ID 83836

Dale Van Stone
19 Denton Rd
Hope, ID 83836

Dale Widel
28414 178 Ave. SE
Kent, WA 98042

Re: Applications For Permits #96-9399 and #96-9400

Gentlemen:

On August 28, 2015 I corresponded to you with a letter and two draft permits, copies of which are attached, that contained proposed conditions to settle the protest of application 96-9399 and pave the way to issue a permit on application 96-9400.

I requested some form of written confirmation that the draft permits were acceptable, either by letter or e-mail. To date I haven't received confirmation from any of the above listed parties. My e-mail is keith.franklin@idwr.idaho.gov.

Please respond within the next two weeks so the permits can be finalized. If you have any questions, don't hesitate to contact me at this office.

Thank you.

Sincerely,

Keith E Franklin
Program Manager Northern Region

Enclosure(s)

COPY



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

August 28, 2015

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

William Baxter
PO Box 96
Hope, Idaho 83836

Andrew Walker
PO Box 441
Hope, Idaho 83836

Dale Van Stone
19 Denton Rd
Hope, Idaho 83836

Dale Widel
28414 178 Ave. SE
Kent, WA 98042

Re: Application For Permits 96-9399 and 96-9400

Gentlemen:

As per our meeting at the pre-hearing conference for protested water right application 96-9399, I have enclosed two draft permits for your review.

The diversion rates for both draft permits have been reduced from 0.04 cfs to 0.02 cfs (9 gallons/minute) and restricts the domestic use to in house use only with no provision for the irrigation of lawn and garden (see condition #5). Condition #8 also restricts the overall diversion from Riser Creek to 0.02 cfs. In other words, if both water rights are simultaneously using water, the total diversion rate cannot exceed 0.02 cfs. Condition #7 is standard language when there is an agreement between parties that further restricts a water right. The agreement, when finalized should be submitted to the Department so it can become part of the water right files.

If the draft permits meet the approval of the protestants, they should let me know in writing within the next 30 days along with a note withdrawing their protests (e-mails/faxes are acceptable).

If the applicants approve of the drafts, they need to also let me know in writing within the next 30 days (e-mails/faxes are acceptable).

COPY

If you should have any questions, don't hesitate to contact me at this office.

Thank you.

Sincerely,

A handwritten signature in blue ink that reads "Keith E. Franklin". The signature is written in a cursive style with a large, stylized "K" and "F".

Keith E Franklin
Program Manager

Enclosure(s)

State of Idaho
Department of Water Resources

DRAFT

Permit to Appropriate Water

DRAFT

NO. 96-09400

Priority: July 25, 2008

Maximum Diversion Rate: 0.02 CFS

This is to certify, that DALE M WIDEL
28414 178 AVE SE
KENT WA 98042

has applied for a permit to appropriate water from:

Source: RISER CREEK

Tributary: LAKE PEND OREILLE

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

BENEFICIAL USE

DOMESTIC

PERIOD OF USE

01/01 to 12/31

RATE OF DIVERSION

0.02 CFS

LOCATION OF POINT(S) OF DIVERSION:

RISER CREEK, L3 (NE1/4NW1/4), Sec. 6, Twp 56N, Rge 02E, B.M., BONNER County

PLACE OF USE: DOMESTIC

Twp	Rge	Sec	NE				NW				SW				SE				
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
56N	02E	6					X												
							L 3												

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before (Date).
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. A fish screen of 0.25 inch or smaller mesh shall be installed and maintained at the point of diversion.
5. Domestic use is for 1 home internal use only and does not include lawn, garden, landscape, or other types of irrigation.
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.
7. The diversion piping and use of water described in this water right is subject to additional conditions as agreed to by Dale Van Stone and William Baxter under a separate agreement to which the Department of Water Resources is not a party and which may be independently enforceable by a court of law.
8. This right when combined with water right 96-9399 cannot divert more than 0.02 cfs from Riser Creek.

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 _____ day of _____, 20_____.

COPY

GARY SPACKMAN, Director

State of Idaho
Department of Water Resources

DRAFT

Permit to Appropriate Water

DRAFT

NO. 96-09399

Priority: July 25, 2008

Maximum Diversion Rate: 0.02 CFS

This is to certify, that ANDREW WALKER
PO BOX 441
HOPE ID 83836

has applied for a permit to appropriate water from:

Source: RISER CREEK

Tributary: LAKE PEND OREILLE

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	0.02 CFS

LOCATION OF POINT(S) OF DIVERSION:

RISER CREEK, L3 (NE1/4NW1/4), Sec. 6, Twp 56N, Rge 02E, B.M., BONNER 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	
56N	02E	6									X								

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before (Date).
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. Domestic use is for 1 home internal use only and does not include lawn, garden, landscape, or other types of irrigation.
5. A fish screen of 0.25 inch or smaller mesh shall be installed and maintained at the point of diversion.
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.
7. The diversion piping and use of water described in this water right is subject to additional conditions as agreed to by Dale Van Stone and William Baxter under a separate agreement to which the Department of Water Resources is not a party and which may be independently enforceable by a court of law.
8. This right when combined with water right 96-9400 cannot divert more than 0.02 cfs from Riser Creek.

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 _____ day of _____, 20_____.

COPY

GARY SPACKMAN, Director

MEMO: TO THE FILE
FROM: KEITH FRANKLIN
SUBJECT: PROTEST CONFERENCE FOR 96-9399
DATE: August 27, 2015

On August 26, 2015 the Department held a protest conference for water right application 96-9399 at the office of the Department of Lands located at 2550 US-2, Sandpoint, Idaho 83864. Present were Keith Franklin, Program Manager and Shaun Maxey, Senior Water Resources Agent, representing the Department, Kimberli and Andrew Walker, the applicant, William Baxter and Dale Van Stone, the protestants and Dale Widel, applicant for pending water right application 96-9400. Program Manager Franklin started the conference at 10:00 am, with all parties being present.

Brief history; Andrew Walker filed the application for domestic purposes from Riser Creek, on 7/25/2008 and the application was protested by Dale Van Stone, William Baxter and Merle Jane Van Stone on August 25, 2008. At the same time water right application 96-9400 was filed by Dale Widel for domestic purposes from the same source as the Walker application. The Widel application was not protested, however, the Department felt it appropriate to put a hold on issuance of a permit until the protest of the Walker application was resolved, since the two applications plan to use a common point of diversion and pipeline.

A good discussion between the protestants, the applicant and Mr. Widel ensued regarding the flow in Riser Creek. The applicants proposed point of diversion is near the headwaters of Riser Creek where as the protestants water rights are located towards the tail end of the creek. The protestants expressed concern, especially this year, that the creek cannot produce enough water for the applicants as well as existing water right holders. The applicant and Mr. Widel explained their plan to create one point of diversion on Riser Creek that would accommodate both applications, construct a common pipeline approximately $\frac{3}{4}$ of a mile to a common storage tank with a capacity of approximately 1,200 gallons that would then supply domestic water to both Mr. Walker and Mr. Widel's applications. It was agreed by both the protestants and applicants that the pipe at the diversion works would not exceed 1 inch in diameter and from the point of diversion to the storage tank. A separate agreement between the applicants and the protestants for this requirement was discussed as something that was needed. Both parties agreed to work on such an agreement. The parties also agreed to limit the diversion rate to 0.02 cfs for both applications with a condition that when the two water rights are combined the diversion rate cannot exceed 0.02 cfs. Also, the applicants both agreed that the domestic use would be for in house use only with no irrigation of lawn and garden.

The Department agreed that it would prepare draft permits, with diversion rates and conditions as here to for agreed to and send to all parties a copy to review and approve. Conformation by the parties of the draft permits will need to be submitted in writing before the Department will formally issue the permits.

With there being no further discussion or business, Program Manager Franklin concluded the conference at 11:20 am.