

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 96-09583

Priority: July 21, 2015

Maximum Diversion Rate: 1.50 CFS

This is to certify, that **KARL BERKENKAMP**
773 WHITTUM RD
PRIEST RIVER ID 83856-7772

has applied for a permit to appropriate water from:

Source: SPRING

Tributary: HOODO 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>
IRRIGATION	04/01 to 10/31	1.50 CFS

LOCATION OF POINT(S) OF DIVERSION:

SPRINGL1 (SE1/4, SE1/4, NE1/4), Sec. 33, Twp 55N, Rge 04W, B.M., BONNER 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	
55N 04W 28	35.0			40.0													75.0

Total Acres: 75

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **October 01, 2016**.
2. Subject to all prior water rights.
3. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.0 afa per acre at the field headgate for irrigation of the place of use.
4. 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 29 day of September, 2015.


For, GARY SPACKMAN, Director



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

October 15, 2015

GARY SPACKMAN
Director

KARL BERKENKAMP
773 WHITTUM RD
PRIEST RIVER ID 83856-7772

RE: Permit No.96-9583

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.

Enclosed is a form entitled 'Instructions for Proof of Beneficial Use.' Please read the instructions carefully since you must take further action to develop this permit into a licensed water right. Also enclosed is a form entitled 'Proof of Beneficial Use.' If your project is already completed, you should complete and submit this form immediately.

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 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)

CERTIFICATE OF SERVICE

I hereby certify that on October 15, 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.

96-9583

**KARL BERKENKAMP
773 WHITTUM RD
PRIEST RIVER ID 83856-7772**



**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.

AFFIDAVIT OF PUBLICATION

State of Idaho

ss.

County of Bonner, Robin Haley

being first duly sworn on oath deposes and says that he/she is Advertising Manager of the Priest River Times, a newspaper printed and published at Priest River, Bonner County, Idaho; that the said newspaper has been continuously and uninterruptedly published in said Bonner County during a period of 12 months prior to the first publication of the hereto attached notice of publication in the case of:

Application 96-9583 Berkenkamp
Application 97-7526 Durbin

as it was published in the regular and entire issue of the said newspaper for a period of 2 consecutive weeks, commencing on the 5th day of August, 20 15 and ending on the 12th day of August, 20 15

and that said notice was published in said newspaper.

On this 12th day of August in the year of 2015, before me, a Notary Public, personally appeared Robin Haley 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.

RECEIVED
SEP 04 2015
IDWR / NORTH

NOTICE OF APPLICATION OF WATER RIGHTS
The following application(s) have been filed to appropriate the public waters of the State of Idaho:

96-9583

KARL BERKENKAMP
773 WHITTUM RD
PRIEST RIVER, ID 83856
Point of Diversion L1 (SESENE) S33 T55N R04W BONNER CO
Source SPRING Tributary SINKS
Use: IRRIGATION 04/01 to 10/31 1.5 CFS
Total Diversion: 1.5 CFS
Date Filed: 7/21/2015
Place of Use: IRRIGATION T55N R04W S28 NENE SENE
Total Acres: 75

97-7526

STEVEN DURBIN
PO BOX 551
PRIEST RIVER, ID 83856
Point of Diversion L1 (NWSESE) S21 T56N R05W BONNER CO
Source SPRING Tributary SINKS
Use: DIVERSION TO STORAGE 01/01 to 12/31 0.2 CFS
Use: DOMESTIC 01/01 to 12/31 .04 CFS
Use: FIRE PROTECTION Storage 01/01 to 12/31 1.9 AF
Use: IRRIGATION from Storage 04/01 to 10/31 15 AF
Use: IRRIGATION STORAGE 01/01 to 12/31 16.9 AF
Use: RECREATION STORAGE 01/01 to 12/31 1.9 AF
Use: WILDLIFE STORAGE 01/01 to 12/31 1.9 AF
Total Diversion: 0.2 CFS 16.9 AF
Date Filed: 7/10/2015
Place of Use: ALL USES -T56N R05W S21 L1 (SESE)
Total Acres: 5
Domestic use is for 1 home.
Recreation use is for fishing, swimming and boating.
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 8/24/2015. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director
PRT legal 2889
August 5, 12, 2015

