

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 96-09433

Priority: June 01, 2009

Maximum Diversion Volume: 17.2 AF

This is to certify, that **BYRON GARRICK**
1593 E SHINGLE MILL RD
SANDPOINT, ID 83864

has applied for a permit to appropriate water from:

Source: UNNAMED STREAM **Tributary:** BOYER SLOUGH

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

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>ANNUAL VOLUME</u>
WILDLIFE STORAGE	01/01 to 12/31	17.2 AF

LOCATION OF POINT(S) OF DIVERSION:

UNNAMED STREAM, NW1/4SW1/4, Sec. 28, Twp 58N, Rge 01W, B.M., BONNER County

PLACE OF USE: WILDLIFE STORAGE

Twp Rge Sec	NE				NW				SW				SE				
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
58N 01W 28										X							

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 does not grant any right-of-way or easement across the land of another.
4. The pond established by the storage of water under this right shall not exceed a total capacity of 13.5 acre-feet or a total surface area of 3.4 acres.
5. This right authorizes a total annual storage volume of 17.2 acre-feet to be used for the initial filling or carryover storage of the pond, the replacement of losses caused by seepage and evaporation from the pond and for the storage of water for wildlife purposes.
6. Prior to the diversion and use of water under this approval, the right holder shall comply with applicable county zoning and use ordinances.

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 22 day of September, 2015.


GARY SPACKMAN, Director



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

Phone: (208) 762-2800 • Fax: (208) 762-2819 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

September 24, 2015

BYRON GARRICK
1593 E SHINGLE MILL RD
SANDPOINT ID 83864

RE: Permit No.96-9433

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.

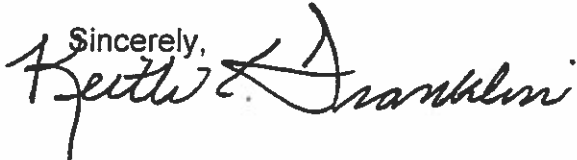
Enclosed is a form entitled 'Instructions for Proof of Beneficial Use.' Please read the instructions carefully since you must take further action to develop this permit into a licensed water right. Also enclosed is a form entitled 'Proof of Beneficial Use.' If your project is already completed, you should 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 black ink that reads "Keith E. Franklin". The signature is written in a cursive, flowing style with a large initial "K".

Keith E. Franklin
Program Manager

Enclosure(s)

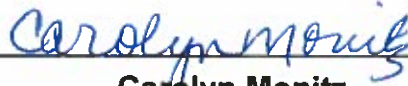
CERTIFICATE OF SERVICE

I hereby certify that on September 24, 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.

96-9433

**BRYON GARRICK
1593 E SHINGLE MILL RD
SANDPOINT ID 83864**



**Carolyn Monitz
Technical Records Clerk**

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.

Davis, Eric

From: Terra Berns, Mary [mary.terra-berns@idfg.idaho.gov]
Sent: Thursday, July 23, 2009 10:57 AM
To: Davis, Eric
Subject: 96-9433/Clark

Hi Eric,

I took a look at the Clark's dam yesterday. I didn't realize that this is an after-the-fact application – it appears that the dam, which has a suitable spillway, has been in place for some time; therefore, we have no objection to you issuing this permit.

Thanks, Mary



Please note new email address **mary.terra-berns@idfg.idaho.gov**

Mary Terra-Berns
Environmental Staff Biologist
Idaho Department of Fish & Game
2885 W. Kathleen Ave.
Coeur d'Alene, ID 83814
208-769-1414 208-769-1418 fax
mary.terra-berns@idfg.idaho.gov

7/23/2009



RECEIVED

JUL - 8 2009

IDWR/North

IDAHO DEPARTMENT OF FISH AND GAME

PANHANDLE REGION

2885 West Kathleen Avenue

Coeur d'Alene, Idaho 83815

C.L. "Butch" Otter/Governor

Cal Groen/Director

July 2, 2009

Mr. Eric Davis
Idaho Department of Water Resources
Northern Region
7600 Mineral Drive, Ste 100
Coeur d'Alene, ID 83815

*Entered
in computer
database
7/8/09*

Dear Eric:

REFERENCE: 96-9433; THOMAS AND MICHELE CLARK

We have reviewed the above-named application by Thomas and Michele Clark to impound approximately 17.21 acre-feet for wildlife storage. The method described in the application for impounding the water is "repair original beaver dam." Westslope cutthroat trout, which is an Idaho State Species of Special Concern, inhabit Boyer Slough and may be found in the unnamed stream.

No detailed plans were included in the application describing how the applicant intends to restore the original beaver dam. The plan design must include elements that provide for fish passage; natural beaver dams typically allow fish passage at least seasonally during high water flows. Established techniques for fish passage, such as properly placed culverts or fish ladders, are readily available and can be easily incorporated into the design plans.

We strongly recommend that the applicant provide detailed plans for this project prior to permitting.

The application does not describe any measures that will be used to protect water quality and prevent turbid water from entering the stream. We strongly recommend that the applicant describe BMPs for this project prior to considering this permit application.

Thank you for your attention to this matter.

Sincerely,

Charles E. Corsi
Regional Supervisor

CEC:MTB

C: Sharon Kiefer, IDFG Boise

File: IDWR Clark wr-beaverdam

Keeping Idaho's Wildlife Heritage

AFFIDAVIT OF PUBLICATION

RECEIVED

JUL 02 2009

STATE OF IDAHO)

) ss.

County of Bonner)

IDWR / NORTH

Starling Burkley 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 Application. My business address is P.O. Box 159, Sandpoint, Idaho.

2. I am the Bookkeeper 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.

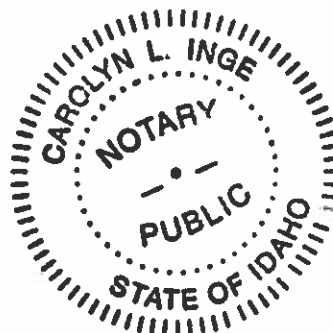
4. The attached Notice was published in the regular and entire issue of the Bonner County Daily Bee for a period of 2 consecutive weeks, commencing on the 18 day of June, 2009 and ending on the 25 day of June, 2009.

Starling Burkley

State of Idaho, county of Bonner ss.

On this 25 day of June, in the year of 2009, before me, Carolyn Inge, Notary Public, personally appeared Starling Burkley, 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.

Carolyn L Inge
Notary Public
Residing at: Sandpoint
Comm. Exp.: 8-7-12



RECEIVED

JUL 02 2009

IDWR / NORTH

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

98-7895

ED COOK

491890 HWY 95

SANDPOINT ID 83864

Point of Diversion SWSW S3 T59N R01W Bonner County

Source GROUNDWATER

Use: DOMESTIC

01/01 To 12/31

0.04 CFS

Total Diversion:

0.04 CFS

Date Filed: 05/15/2009

Place Of Use: DOMESTIC

T59N R01W S3 SWSW

Remark: Domestic use for general store and restaurant.

96-9432

GEORGE W ALLEN

146 OSPREY LN

SANDPOINT ID 83864

Point(s) of Diversion SENW S7 T57N R01W BONNER County

Source LAKE PEND OREILLE tributary to PEND OREILLE RIVER

Use: DOMESTIC

01/01 To 12/31

0.04 CFS

Total Diversion:

0.04 CFS

Date Filed: 05/27/2009

Place Of Use: DOMESTIC

T57N R01W S7 SENW

Remark: Domestic use is for 1 home.

96-9433

THOMAS CLARK

MICHELE CLARK

P O BOX 1721

SANDPOINT ID 83864

Point of Diversion NWSW S28 T58N R01W BONNER County

Source UNNAMED STREAM tributary to BOYER SLOUGH

Use: WILDLIFE STORAGE

01/01 To 12/31

17.2 AFA

Total Diversion:

17.2 AFA

Date Filed: 06/01/2009

Place Of Use: WILDLIFE STORAGE

T58N R01W S28 NWSW

Permits will be subject to all prior water rights. Protests may be submitted based on the criteria of Sec 42-203A, Idaho Code.

Any protest against the approval of this application must be filed with the Director, Dept. of Water Resource, 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 07/06/2009. The protestant must also send a copy of the protest to the applicant.

DAVID R. TUTHILL, JR., Director

SNP Legal 10721

June 18, 25, 2009