

State of Idaho  
Department of Water Resources  
**Permit to Appropriate Water**  
NO. 98-07941

Priority: July 18, 2014

Maximum Diversion Rate: 0.14 CFS

This is to certify, that STEPHEN GALBRAITH And/Or  
DEANNA GALBRAITH  
6528 NORTH RIVER DRIVE  
BONNERS FERRY ID 83805

has applied for a permit to appropriate water from:

**Source:** KOOTENAI RIVER

**Tributary:** COLUMBIA RIVER

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

**BENEFICIAL USE**

IRRIGATION

**PERIOD OF USE**

04/01 to 10/31

**RATE OF DIVERSION**

0.14 CFS

**LOCATION OF POINT(S) OF DIVERSION:**

KOOTENAI RIVER, SW1/4NE1/4, Sec. 27, Twp 62N, Rge 01E, B.M., BOUNDARY 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 |        |
| 62N 01E 27  |    | 4.0 | .5 |    |    |    |    |    |    |    |    |    |    |    |    |    | 4.5    |
|             |    | L 2 |    |    |    |    |    |    |    |    |    |    |    |    |    |    |        |

Total Acres: 4.5

**CONDITIONS OF APPROVAL**

1. Proof of application of water to beneficial use shall be submitted on or before **September 01, 2019**.
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. This right when combined with all other rights shall provide no more than 0.03 cfs per acre nor more than 3.0 afa per acre at the field headgate for irrigation of the place of use.
5. 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.
6. A fish screen of 0.25 inch or smaller mesh shall be installed and maintained at the point of diversion.

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 8 day of September, 2014.

  
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](http://www.idwr.idaho.gov)

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C.L. "BUTCH" OTTER  
Governor

GARY SPACKMAN  
Director

September 10, 2014

STEPHEN GALBRAITH  
DEANNA GALBRAITH  
6528 NORTH RIVER DRIVE  
BONNERS FERRY ID 83805

RE: Permit No.98-7941

**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 cursive script that reads "Keith E. Franklin". The signature is written in dark ink and is positioned above the printed name and title.

Keith E. Franklin  
Program Manager

Enclosure(s)

### **CERTIFICATE OF SERVICE**

I hereby certify that on September 10, 2014 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.**

**98-7941**

**DEANNA GALBRAITH  
STEPHEN GALBRAITH  
6528 NORTH RIVER DRIVE  
BONNERS FERRY ID 83805**

A handwritten signature in cursive script, reading "Dianne Ball", is positioned above a horizontal line.

**Dianne 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 Boundary, Jinda Johnson  
being first duly sworn on oath deposes and says that  
he/she is Bookkeeper of the  
Bonners Ferry Herald, a newspaper printed and  
published at Bonners Ferry, Boundary County, Idaho;  
that the said newspaper has been continuously and  
uninterruptedly published in said Boundary County  
during a period of 12 months prior to the first publication  
of the hereto attached notice of publication in the case  
of:

Application for Permit  
No. 98-7941 as it

was published in the regular and entire issue of the said  
paper for a period of 2 consecutive weeks,  
commencing on 7<sup>th</sup> day of August, 2014 and  
ending on the 14<sup>th</sup> day of August, 2014 and  
that said notice was published in said newspaper.

Jinda Johnson

SUBSCRIBED AND SWORN TO before me, this

14<sup>th</sup> day of August, 2014.

Sherif Jones

Notary Public-State of Idaho

Residing at: Sandpoint

My Commission Expires: 2/24/17

RECEIVED  
SEP 03 2014  
IDWR / NORTH

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

98-7941

STEPHEN GALBRAITH

DEANNA GALBRAITH

6528 NORTH RIVER DRIVE

BONNERS FERRY, ID 83805

Point of Diversion SWNE S27 T62N R01E BOUNDARY County

Source KOOTENAI RIVER Tributary COLUMBIA RIVER

Use: IRRIGATION 04/01 to 10/31 0.14 CFS

Total Diversion: 0.14 CFS

Date Filed: 7/18/2014

Place of Use: IRRIGATION T62N R01E S27 L2(NWNE) SWNE

Total Acres: 4.5

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

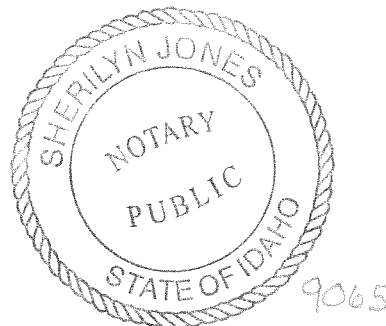
[www.idwr.idaho.gov/apps/ExtSearch/WRFiling.asp](http://www.idwr.idaho.gov/apps/ExtSearch/WRFiling.asp).

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 8/25/2014. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

BFH Legal 9065

August 7, 14, 2014



II TO DEPARTMENT OF WATER RESOURCES  
APPROPRIATION APPLICATION ANALYSIS SHEET

W.R. # 98-7941

APPLICATION ID # 79445

ENT. 7/18 BCA 7/23/14

OK to Publish 7/23/14

APPLICANT: Galbraith

INITIAL REVIEW

BY: K8

DATE: 7/18/2014

ITEM REQUIRED INFORMATION

1. ☒ Name and Address
2. ☒ Source
3. ☒ Point of Diversion & County
4. ☒ Quantity
5. ☒ Nature of Proposed Use
6. ☒ Period of Use
7. ☒ Total Quantity
8. ☒ Description of diverting works
9. ☒ Time required for b/u
10. ☒ Proposed use
11. ☒ Place of use or acres irrigated
12. ☒ Other water Rights
13. ☒ Ownership
14. ☒ Map
15. ☒ Signature
16. ☐ Fee (Amt, receipt, acknowledgement)

\*\*\* Send info sheet Y ( ) N ( )

ADDITIONAL INFORMATION

(Yes)(No)

- ☒ Shape File Created Date 7/18/14 By: K8
- ☐ Field check: by \_\_\_\_\_
- ☐ Field report attached
- ☐ Analysis Supp. Attached (>5cfs/500af)
- ☐ Water delivered by water master? Water District # \_\_\_\_\_

PROCESSING

(Yes)(No)

PRIORITY DATE: 7/18/2014

(Include Moratorium Remark)

Statewide Advertising: (Diversion rate greater than 10 cfs or 1,000 af).

ADVERTISE IN:

Newspaper: Boundary County

Dates scheduled for publication 8/7+14/14

Affidavit of Publication received: 9/3/14

Dates actually published: 8/7+14/14

Application published correctly. Yes ☒ No ☐

If not, action taken: \_\_\_\_\_

Final Date for Protest: 8/25/14

Protests Received: Yes ☐ No ☒

LETTERS SENT REQUESTING:

- ( ) Dam Information ( ) Fish Information
- ( ) Power Information ( ) Other: \_\_\_\_\_

INFORMATION RECEIVED:

- ( ) Dam Information ( ) Fish Information
- ( ) Power Information ( ) Other: \_\_\_\_\_

GROUNDWATER SECTION

| WD Permit No.'s: | Tag # | Type:                 | Fees          | Receipt No. | Upgrade Needed? |
|------------------|-------|-----------------------|---------------|-------------|-----------------|
| _____            | _____ | Dom.____ Non-Dom.____ | Paid \$ _____ | _____       | Y ( ) N ( )     |
| _____            | _____ | Dom.____ Non-Dom.____ | Paid \$ _____ | _____       | Y ( ) N ( )     |
| _____            | _____ | Dom.____ Non-Dom.____ | Paid \$ _____ | _____       | Y ( ) N ( )     |

- ☐ Groundwater management area
- ☐ Critical ground water area
- ☐ Well Drilling Permit required
- ☐ Well Drilling Application and Fees received
- ☐ Well Drilling Application approved?

Remarks: \_\_\_\_\_

FINAL REGIONAL PROCESSING/REVIEW

(Yes)(No)

- ☒ Notice of pending void order issued.
- ☐ Further information required from applicant \_\_\_\_\_
- Final order response date: \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_

- ☒ Measuring device required
- ☒ Measuring port required
- ☒ Special conditions: \_\_\_\_\_
- ☒ Special conditions of approval supplement and/or cover letter attached: \_\_\_\_\_

Approval Recommended by: Kathleen E. [Signature]

Date: 9/8/2014 Sr. Agent initial K8