

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 98-07940

Priority: June 30, 2014

Maximum Diversion Rate: 1.00 CFS
Maximum Diversion Volume: 9.0 AF

This is to certify, that MARK J OWENS
5861 PERKINS LAKE RD
MOYIE SPRINGS ID 83845

has applied for a permit to appropriate water from:

Source: CURLEY CREEK
GROUND WATER

Tributary: KOOTENAI RIVER

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>	<u>ANNUAL VOLUME</u>
FIRE PROTECTION STORAGE	01/01 to 12/31		9.0 AF
DIVERSION TO STORAGE	01/01 to 12/31	1.00 CFS	
WILDLIFE STORAGE	01/01 to 12/31		9.0 AF

LOCATION OF POINT(S) OF DIVERSION:

CURLEY CREEK, NE1/4SW1/4, Sec. 15, Twp 62N, Rge 03E, B.M., BOUNDARY County
GROUND WATER, NE1/4SW1/4, Sec. 15, Twp 62N, Rge 03E, B.M., BOUNDARY County

PLACE OF USE: FIRE PROTECTION STORAGE

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	03E	15										X	X						

PLACE OF USE: WILDLIFE STORAGE

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	03E	15									X	X							

State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 98-07940

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **August 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. 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.
5. Water shall not be diverted from fire protection storage except to fight or repel an existing fire.
6. A fish screen of 0.25 inch or smaller mesh shall be installed and maintained at the point of diversion.
7. Prior to the diversion and use of water under this approval, the right holder shall comply with applicable county zoning and use ordinances.
8. The pond established by the storage of water under this right shall not exceed a total capacity of 6.0 acre-feet or a total surface area of 1.0 acre.
9. This right authorizes the diversion of an annual total of 9 acre-feet to be used for the initial filling of the pond, for the replacement of losses caused by evaporation from the pond and for the storage of water for fire protection and wildlife purposes.
10. Water stored under this right is subject to fluctuations of the water table caused by changes in the flow of local streams and by diversions under prior ground water rights. This right does not guarantee the maintenance of any particular ground water level.

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 7 day of August, 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

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

August 8, 2014

MARK J OWENS
5861 PERKINS LAKE RD
MOYIE SPRINGS ID 83845

RE: Permit No.98-7940

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.

The right to drill a well is not a part of this permit to appropriate water. Beginning in July of 1987, a statute was enacted which requires a drilling permit for new well construction and deepening of existing wells. If the well(s) proposed for use under this water right permit were drilled or deepened after July 1, 1987, a separate drilling permit must be obtained from this Department. Please contact the Ground Water Protection Section located here at this office or our regional office nearest you.

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, flowing style.

Keith E. Franklin
Program Manager

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on August 8, 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.

98-7940

**MARK J OWENS
5861 PERKINS LAKE RD
MOYIE SPRINGS ID 83845**



**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.

RECEIVED

AUG 04 2014

IDWR / NORTH

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 book keeper 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.
98-7940 as it
was published in the regular and entire issue of the said
paper for a period of 2 consecutive weeks,
commencing on 17th day of July, 2014 and
ending on the 24th day of July, 2014 and
that said notice was published in said newspaper.

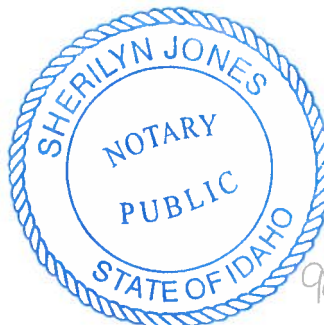
Jinda Johnson
SUBSCRIBED AND SWORN TO before me, this

24th day of July, 2014.

Sherilyn Jones
Notary Public-State of Idaho

Residing at: Sandpoint

My Commission Expires: 2/24/17



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

98-7940

MARK J OWENS

5861 PERKINS LAKE RD

MOYIE SPRINGS, ID 83845

Point of Diversion: NESW S15

T62N R03E BOUNDARY County

Source GROUND WATER

Point of Diversion: NESW S15

T62N R03E BOUNDARY County

Source CURLEY CREEK

Tributary KOOTENAI RIVER

Use: DIVERSION TO STORAGE

01/01 to 12/31 1 CFS

Use: FIRE PROTECTION

STORAGE 01/01 to 12/31 9 AF

Use: WILDLIFE STORAGE

01/01 to 12/31 9 AF

Total Diversion: 1 CFS 9 AF

Date Filed: 6/30/2014

Place Of Use: FIRE

PROTECTION STORAGE

WILDLIFE STORAGE

T62N R03E S15

NESW NWSW

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 8/4/2014. The protestant
must also send a copy of the
protest to the applicant.

GARY SPACKMAN, Director

BFH Legal 9049

July 17, 24, 2014

**ID TO DEPARTMENT OF WATER RESOURCES
APPLICATION ANALYSIS SHEET**

W.R. # 98-7940

APPLICATION ID # 19350

ENT. 6/30 BCA 7/21/14 OK to Publish _____

APPLICANT: Mark Owens

INITIAL REVIEW

BY: K8 DATE: 6/30/2014

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 6/30 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: 6/30/2014

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

ADVERTISE IN:

County: Boundary
Newspaper: Bonners Ferry Herald
Dates scheduled for publication: 7/17 & 24/14
Affidavit of Publication received: 8/4/14
Dates actually published: 7/17 & 24/14
Application published correctly. Yes ☒ No ☐
If not, action taken: _____

Final Date for Protest: 8/4/14

Protests Received: Yes _____ No ☒

LETTERS SENT REQUESTING:

() Dam Information (☒) Fish Information IDFG
() 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. Final order response date: ____/____/____
☐ Further information required from applicant _____

☐ Measuring device required
☐ Measuring port required
☐ Special conditions: _____
☐ Special conditions of approval supplement and/or cover letter attached: _____

Approval Recommended by: _____ Date: ____/____/____ Sr. Agent initial _____