

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 98-07936

Priority: December 06, 2013

Maximum Diversion Rate: 0.04 CFS

This is to certify, that DONALD GAY
PO BOX 19
NAPLES ID 83847

has applied for a permit to appropriate water from:

Source: DEEP CREEK

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>
DOMESTIC	01/01 to 12/31	0.04 CFS

LOCATION OF POINT(S) OF DIVERSION:

DEEP CREEK SE1/4SE1/4 Sec. 1, Twp 60N, Rge 01W, B.M. BOUNDARY County

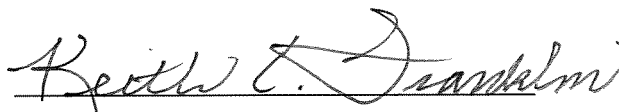
PLACE OF USE: DOMESTIC

Twp Rge Sec	NE				NW				SW				SE				Totals	
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
60N 01W 1																	X	

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **March 01, 2015**.
2. Subject to all prior water rights.
3. Domestic use is for external use only.
4. The irrigation occurring under this domestic use shall not exceed 1/2 acre.
5. A fish screen of 1/4 inch or smaller mesh shall be installed and maintained at the point of diversion.
6. 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 12 day of March, 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

March 13, 2014

DONALD GAY
PO BOX 19
NAPLES ID 83847

RE: Permit No.98-7936

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.

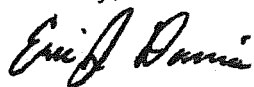
Enclosed is a form entitled 'Instructions for Proof of Beneficial Use.' Please read the instructions carefully since you must take further action to develop this permit into a licensed water right. Also enclosed is a form entitled 'Proof of Beneficial Use.' If your project is already completed, you should 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, appearing to read "Eric J. Davis". The signature is written in a cursive, flowing style.

Eric J. Davis

Sr. Water Resource Agent

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on March 13, 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.

98-7936

**DONALD GAY
PO BOX 19
NAPLES ID 83847**



Carolyn S. 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.

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 - Donald Gay
_____ as it

was published in the regular and entire issue of the said
paper for a period of 2 consecutive weeks,
commencing on 6th day of Feb, 2014 and
ending on the 13th day of Feb, 2014 and
that said notice was published in said newspaper.

Jinda Johnson

SUBSCRIBED AND SWORN TO before me, this
13th day of February 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:

98-7936

DONALD GAY

PO BOX 19

NAPLES, ID 83847

Point of Diversion SESE S1 T60N R01W BOUNDARY CO

Source DEEP CREEK tributary KOOTENAI RIVER

Use: DOMESTIC

01/01 to 12/31 0.04 CFS

Total Diversion: 0.04 CFS

Date Filed: 12/6/2013

Place of Use: DOMESTIC T60N R01W S1 SESE

Domestic use is for irrigation of garden and lawn.

Permits will be subject to all prior water rights. For additional
information concerning the property location, contact Northern
Region office at (208) 762-2800. 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 2/24/2014. The protestant must also
send a copy of the protest to the applicant.

GARY SPACKMAN, Director

BFH Legal 8927

February 6, 13, 2014

RECEIVED

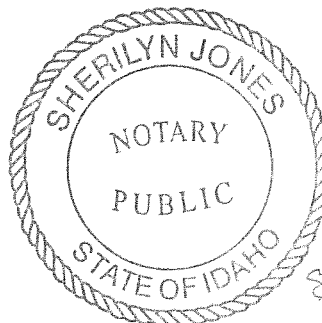
MAR 04 2014

IDWR / NORTH

RECEIVED

MAR 04 2014

IDWR / NORTH



IDAHO DEPARTMENT OF WATER RESOURCES
APPLICATION ANALYSIS SHEET

P-1-16-14

W.R. # 98-7936

APPLICATION ID # 78971

ENT. ED

BCA 1/15/14

OK to Publish 1/15/14

INITIAL REVIEW

APPLICANT: Donald Gay

BY: ED

DATE: 12/10/2013

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 _____ By: ED
- ☐ Field check: by _____
- ☐ Field report attached
- ☐ Analysis Supp. Attached (>5cfs/500af)

☐ Water delivered by water master? Water District # _____

PROCESSING

(Yes)(No)

PRIORITY DATE: 12/06/2013

☒ ☒

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

ADVERTISE IN:

Newspaper: Boundary County
BF Herald
Dates scheduled for publication 2/6 & 13/14
Affidavit of Publication received: 3/4/14
Dates actually published: 2/6 & 13/14
Application published correctly. Yes ☒ No ☐
If not, action taken: _____

Final Date for Protest: 2/24/14

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?

DEEP CREEK

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: Eric [Signature] Date: 3/5/2014 Sr. Agent initial ED