

State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 95-16549

Priority: February 12, 2013

Maximum Diversion Rate: 0.30 CFS
Maximum Diversion Volume: 7.1 AF

This is to certify, that AVISTA CORPORATION
PO BOX 3727
SPOKANE WA 99220-3727

has applied for a permit to appropriate water from:

Source: SPOKANE RIVER

Tributary: COLUMBIA 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>
DIVERSION TO STORAGE	01/01 to 12/31	0.30 CFS	
RECREATION	01/01 to 12/31	0.09 CFS	
RECREATION STORAGE	01/01 to 12/31		7.1 AF
AESTHETIC	01/01 to 12/31	0.09 CFS	
AESTHETIC STORAGE	01/01 to 12/31		7.1 AF

LOCATION OF POINT(S) OF DIVERSION:

SPOKANE RIVER, L5 (SE1/4NW1/4), Sec. 3, Twp 50N, Rge 05W, B.M., KOOTENAI County
SPOKANE RIVER, L5 (SE1/4NW1/4), Sec. 3, Twp 50N, Rge 05W, B.M., KOOTENAI County

PLACE OF USE: RECREATION, RECREATION STORAGE, AESHETIC, AESTHETIC 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	
50N 05W 3							X	X									
							L 5	L 5									

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **June 01, 2014**.
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. Recreation use is for fishing.
5. A fish screen of 0.25 inch or smaller mesh shall be installed and maintained at the point of diversion.
6. This right authorizes the diversion of an annual total of 7.1 acre-feet to be used for the initial filling of the pond, for the replacement of losses caused by seepage and evaporation and for the storage of water for recreation and aesthetic puposes.
7. The pond established by the storage of water under this right shall not exceed a total capacity of 3.6 acre-feet.

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 17 day of May, 2013.


For, 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
Director

May 21, 2013

AVISTA CORPORATION
PO BOX 3727
SPOKANE WA 99220-3727

RE: Permit No.95-16549

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.

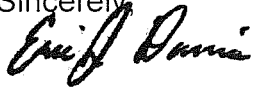
Enclosed is a form entitled 'Instructions for Proof of Beneficial Use.' Please read the instructions carefully since you must take further action to develop this permit into a licensed water right. Also enclosed is a form entitled 'Proof of Beneficial Use.' If your project is already completed, you should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

Eric Davis

Sr. Water Resource Agent

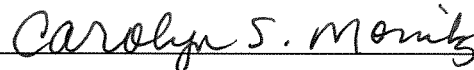
Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on May 21, 2013 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. 95-16549

**AVISTA CORPORATION
PO BOX 3727
SPOKANE WA 99220-3727**

A handwritten signature in cursive script, reading "Carolyn S. Monitz", is written over a horizontal line.

**Carolyn S. Monitz
Technical Records Specialist**

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.

IHO DEPARTMENT OF WATER RESOURCES APPROPRIATION APPLICATION ANALYSIS SHEET

W.R. # 95-16549

APPLICATION ID # 78437

ENT. 2/19

BCA 4/1

OK to Publish 4/9/13

APPLICANT: Avista Corporation

INITIAL REVIEW

BY: KJ

DATE: 2/19/2013

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 2/15/13 By: KJ
- ☐ Field check: by _____
- ☐ Field report attached
- ☐ Analysis Supp. Attached (>5cfs/500af)

☐ Water delivered by water master? Water District # _____

PROCESSING

(Yes)(No)

PRIORITY DATE: 2/12/2013

☐ ☒

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

ADVERTISE IN:

Kootenai County

Newspaper: Idaho Statesman

Dates scheduled for publication 4/18-25/13

Affidavit of Publication received: _____

Dates actually published: _____

Application published correctly. Yes ☒ No ☐

If not, action taken: _____

Final Date for Protest: 5/6/13

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: Kevin J. Smith Date: 5/16/2013 Sr. Agent initial KJ

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO,
County of Kootenai,

} ss.

Amber Fico being first duly sworn
upon oath deposes and says:

1. I am now and at all times hereinafter mentioned was a citizen of the United States, resident of the State of Idaho, over the age of twenty-one years and not a party of the above entitled action.

2. I am now and at all times hereinafter mentioned was the printer (principal clerk) of the "Coeur d'Alene Press," a newspaper printed and published daily except Sunday in Coeur d'Alene, Kootenai County, Idaho, and having a general circulation in said county.

3. The

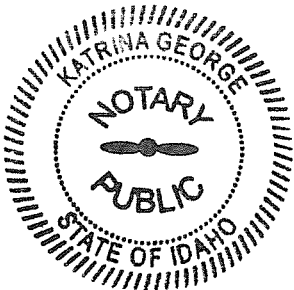
Legal Notice

of which the annexed is a printed copy, was published in the regular Thurs. issue of said newspaper for 2 consecutive weeks commencing on the 18th day of April, 2013, and ending on the 25th day of April, 2013, and such publication was made as often during said period as said daily newspaper was regularly issued.

4. That said newspaper has been continuously and uninterruptedly published in said Kootenai County, during a period of more than seventy-eight consecutive weeks immediately prior to the first publication of said notice. On this 18th day of April in the year of 2013, before me, a Notary Public, personally appeared Amber Fico, 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.

Katrina George

Notary Public for the State of Idaho,
residing at Coeur d'Alene, Idaho.



MY COMMISSION EXPIRES 8/29/17

RECEIVED
APR 30 2013
IDWR / NORTH

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

95-16547

EUGENE FLAMAND

NANCY FLAMAND

4970 N MANUFACTURING WAY STE. 2

COEUR D'ALENE, ID 83815-6082

Point of Diversion L3(NWSE) S17 T50N R03W KOOTENAI CO

Source FERNAN LAKE tributary COEUR D'ALENE LAKE

Use: FIRE PROTECTION 01/01 to 12/31 0.2 CFS

Use: IRRIGATION 03/15 to 11/15 0.16 CFS

Total Diversion: 0.2 CFS

Date Filed: 2/13/2013

Place of Use: IRRIGATION and FIRE PROTECTION

T50N R03W S17 SWNE L3(NWSE)

Total Acres: 8

95-16548

SCOTT BLEW

JEAN MARIE BLEW

4810 S MORROW PARK RD

SPOKANE, WA 99206

Point of Diversion L1(SWSE) S35 T53N R05W KOOTENAI CO

Source TWIN LAKES tributary RATHDRUM CREEK

Use: DOMESTIC 03/15 to 11/15 0.04 CFS

Total Diversion: 0.04 CFS

Date Filed: 2/12/2013

Place of Use: DOMESTIC T53N R05W S35 L1(SWSE)

Domestic use is for 1 home with less than 1/2 acre irrigation.

95-16549

AVISTA CORPORATION

PO BOX 3727

SPOKANE, WA 99220-3727

Points of Diversion(2) L5(SENW) S3 T50N R05W KOOTENAI CO

Source SPOKANE RIVER tributary COLUMBIA RIVER

Use: AESTHETIC 01/01 to 12/31 0.09 CFS

Use: AESTHETIC STORAGE 01/01 to 12/31 7.1 AF

Use: DIVERSION TO STORAGE 01/01 to 12/31 0.3 CFS

Use: RECREATION 01/01 to 12/31 0.09 CFS

Use: RECREATION STORAGE 01/01 to 12/31 7.1 AF

Total Diversion: 0.3 CFS

Date Filed: 2/12/2013

Place of Use: RECREATION and RECREATION STORAGE

T50N R05W S3 L5(SWNW) L5(SENW)

Place of Use: AESTHETIC and AESTHETIC STORAGE

T50N R05W S3 L5(SWNW) L5(SENW)

Recreation use is for fishing

95-16550

STAN STRANG

12206 E 27TH AVE

SPOKANE VALLEY, WA 99206

Point of Diversion L4(SWSWSE) S13 T49N R04W KOOTENAI CO

Source SPRING tributary SINKS

Use: DOMESTIC 01/01 to 12/31 0.04 CFS

Total Diversion: 0.04 CFS

Date Filed: 2/22/2013

Place of Use: DOMESTIC T49N R04W S13 L4(SWSE)

Domestic use is for 1 home.

95-16565

ROSEMARY DICKSON

763 S MANOR HEIGHTS DR

POST FALLS, ID 83877

Point of Diversion SESE S8 T50N R05W KOOTENAI CO

Source GROUND WATER

Use: IRRIGATION 03/15 to 11/15 0.18 CFS

Total Diversion: 0.18 CFS

Date Filed: 3/27/2013

Place of Use: IRRIGATION T50N R05W S8 SESE

Total Acres: 9

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 5/6/2013. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Published on 4/18/2013 and 4/25/2013

Legal 8268

April 18, 25, 2013

RECEIVED
APR 30 2013
IDWR / NORTH

Ball, Dianne

From: Roger Johnson [rjohnson@idl.idaho.gov]
Sent: Monday, April 15, 2013 8:45 AM
To: Ball, Dianne
Subject: FW: Application for Permit No. 95-16547; 95-16548; 95-16549;
Attachments: 95-16547_app_and_map.pdf; 95-16548_app_and_map.pdf; 95-16549_app_and_maps.pdf

Good morning Dianne,

95-16549: No objection.

95-16547: **OBJECTION**.

Application has an incorrect parcel #. 0-8266-001-001-A is listed to neighbor Torgerson, who does not have an encroachment permit. POD indicated on the application is adjacent to applicant property (Flamand). Parcel #: 0-5950-000-004-0. This is who should have been issued an encroachment permit for the existing waterline. This is a non-compliance issue for IDL and would have to be resolved before a new encroachment permit for a waterline would be issued.

95-16548: **OBJECTION**.

Jean & Scott Blew. Formerly Jean Marie Anderson. 4810 S. Morrow Park Rd., Parcel #: 0-4500-00A-016-0. Lake Forest Homes Sites, Lot 16, Block A.

This property has a dock on it. This dock is not permitted, is wider than would be permitted and is beyond the line of navigation. These three (3) non-compliance issues would have to be resolved before an additional waterline encroachment permit would be issued by IDL.

Under IDL's permit for a waterline encroachment (stated in our permit) no issued permit is valid unless it also complies with all other applicable agencies rules, regulations and standards. Therefore any encroachment for a waterline would not be valid until the applicant also had the approved permit required by IDWR.

If you have any questions, please call or email to discuss the these applications.

Sincerely,
Roger Johnson

From: Brittany Baeumel
Sent: Friday, April 12, 2013 10:40 AM
To: Roger Johnson
Subject: FW: Application for Permit No. 95-16547; 95-16548; 95-16549;

Thanks, Roger!

From: Ball, Dianne [mailto:Dianne.Ball@idwr.idaho.gov]
Sent: Friday, April 12, 2013 10:30 AM
To: mary.terra-berns@idfg.idaho.gov; Brittany Baeumel
Subject: RE: Application for Permit No. 95-16547; 95-16548; 95-16549;

Dear Mary and Brittany:

The Department of Water Resources is seeking written comment and/or recommendations from your agency regarding the above referenced water right applications. A copy of each of the applications is enclosed for your reference.

Being prepared for publication in the CDA press on April 18 and 25, 2013 with May 6, 2013 as final date for protests to be received in our office.

Your prompt response to this request is appreciated. If your agency desires to formally protest the approval of this application, you may do so after the notice is published by filing a written protest along with a \$25.00 filing fee within 10 days after final publication.

Please contact this office if you have any questions regarding the applications.

Sincerely,

Dianne Ball

Administrative Assistant
Idaho Department of Water Resources
7600 N Mineral Dr., Ste. 100
Coeur d'Alene, ID 83815
208-762-2800 Fax 208-762-2819