

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 96-09506

Priority: August 28, 2012

Maximum Diversion Rate: 0.15 CFS

This is to certify, that TOM DAVIES And LISA DAVIES
3688 WRENCO LOOP RD
SANDPOINT ID 83864

has applied for a permit to appropriate water from:

Source: JOHNSON CREEK

Tributary: PEND OREILLE 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>
STOCKWATER	01/01 to 12/31	0.03 CFS
IRRIGATION	04/01 to 10/31	0.15 CFS

LOCATION OF POINT(S) OF DIVERSION:

JOHNSON CREEK L4 (NW1/4NW1/4) Sec. 4, Twp 56N, Rge 03W, B.M. BONNER County

PLACE OF USE: STOCKWATER

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
56N	03W	4						X											
								L 4											

PLACE OF USE: IRRIGATION

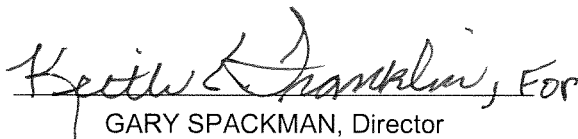
Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
56N	03W	4						5.0											5.0
								L 4											

Total Acres: 5

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **November 01, 2013**.
2. Subject to all prior water rights.
3. A fish screen of 1/4 inch or smaller mesh shall be installed and maintained at the point of diversion.
4. Water shall not be diverted under this right when flows in the Pend Oreille River are below minimum flow amounts as defined by Right 96-8730.
5. Stockwater use is for 100 head of alpaca.
6. 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.
7. 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 6 day of November, 2012.


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

November 6, 2012

TOM DAVIES
LISA DAVIES
3688 WRENCO LOOP RD
SANDPOINT ID 83864

RE: Permit No. 96-9506

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.

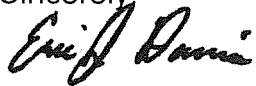
Enclosed is a form entitled 'Instructions for Proof of Beneficial Use.' Please read the instructions carefully since you must take further action to develop this permit into a licensed water right. Also enclosed is a form entitled 'Proof of Beneficial Use.' If your project is already completed, you should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

Eric Davis

Sr. Water Resource Agent

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on November 7, 2012 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.

96-9506

**LISA DAVIES
TOM DAVIES
3688 WRENCO LOOP RD
SANDPOINT ID 83864**

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.

AFFIDAVIT OF PUBLICATION

RECEIVED

OCT 03 2012

IDWR / NORTH

STATE OF IDAHO)
) ss.
County of Bonner)

Ambre Chapman, being first duly sworn on oath, deposes and states:

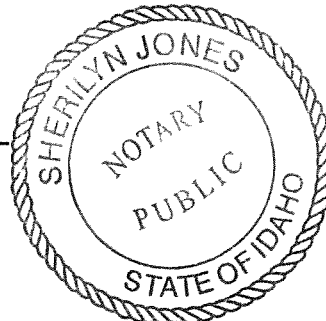
1. I am a citizen of the United States of America, over the age of 18 years, a resident of Bonner County, Idaho, and am not a party to the proceedings referred to in the attached Application.
My business address is P.O. Box 159, Sandpoint, Idaho.
2. I am the Bookkeeper of the Bonner County Daily Bee, 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 20 day of September 2012, and ending on the 27 day of September 2012.

Ambre Chapman

State of Idaho, county of Bonner ss.

On this 27 day of Sept., in the year of 2012, before me, Sherilyn Jones, Notary Public, personally appeared Ambre Chapman, 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.

Sherilyn Jones
Notary Public
Residing at: Sandpoint
Comm. Exp.: 2/24/17



RECEIVED
OCT 03 2012
IDWR / NORTH

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

96-9505

GREGORY K MERCIER
LAURIE J MERCIER
13553 NE 54TH PLACE
BELLEVUE, WA 98005

Point of Diversion L3(NENW) S2 T56N R02W BONNER CO

Source SAGLE SLOUGH tributary PEND OREILLE LAKE

Use: IRRIGATION 04/01 to 10/31 0.02 CFS

Total Diversion: 0.02 CFS

Date Filed: 8/8/2012

Place of Use: IRRIGATION T56N R02W S2 L3(NENW)

Total Acres: 1

96-9506

TOM DAVIES
LISA DAVIES
3688 WRENCO LOOP RD
SANDPOINT, ID 83864

Point of Diversion L4(NWNW) S4 T56N R03W BONNER CO

Source JOHNSON CREEK tributary PEND OREILLE RIVER

Use: IRRIGATION 04/01 to 10/31 0.15 CFS

Use: STOCKWATER 01/01 to 12/31 0.03 CFS

Total Diversion: 0.15 CFS

Date Filed: 8/28/2012

Place of Use: STOCKWATER T56N R03W S4 L4(NWNW)

Place of Use: IRRIGATION same as STOCKWATER

Total Acres: 5

Stockwater use is for 100 head of alpaca.

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 10/9/2012. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director
SNP Legal 1703

September 20, 27, 2012

Ball, Dianne

From: Ball, Dianne
Sent: Tuesday, September 11, 2012 12:53 PM
To: Legal Notices - Bonner Co Daily Bee-Amber Bangeman
Subject: Application for Permit No. 96-9505, 96-9506
Attachments: LegalNotice 09-11-12 BCDB e-mail 95-9505,9506.doc

Good afternoon, Amber

Please publish the enclosed legal notice in the Bonner County Daily Bee on the dates indicated, September 20 and 27, 2012, (once a week for two consecutive weekly issues). If you cannot publish the notice on the proposed dates, please contact us immediately.

Please send a proof/preview copy for my review before this goes to press.

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before 10/9/2012. Your cooperation is always appreciated.

Thanks so much for you wonderful help with our legals.

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

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96-9505

GREGORY K MERCIER

LAURIE J MERCIER

13553 NE 54TH PLACE

BELLEVUE, WA 98005

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Source SAGLE SLOUGH tributary PEND OREILLE LAKE

Use: IRRIGATION 04/01 to 10/31 0.02 CFS

Total Diversion: 0.02 CFS

Date Filed: 8/8/2012

Place of Use: IRRIGATION T56N R02W S2 L3(NENW)

Total Acres: 1

96-9506

TOM DAVIES

LISA DAVIES

3688 WRENCO LOOP RD

SANDPOINT, ID 83864

Point of Diversion L4(NWNW) S4 T56N R03W BONNER CO

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Total Diversion: 0.15 CFS

Date Filed: 8/28/2012

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GARY SPACKMAN, Director

Published on 9/20/2012 and 9/27/2012



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 11, 2012

TOM DAVIES
LISA DAVIES
3688 WRENCO LOOP RD
SANDPOINT, ID 83864

Application For Permit No. 96-9506

Dear Applicant(s):

The Department of Water Resources has received your water right application. Please refer to the number referenced above in all future correspondence regarding this application.

A legal notice of the application has been prepared and is scheduled for publication in the BONNER COUNTY DAILY BEE, on 9/20/2012 and 9/27/2012. Protests to this application may be submitted for a period ending ten (10) days after the second publication.

If the application is protested, you will be sent a copy of each protest. All protests must be resolved before the application can be considered for approval. If the protest(s) cannot be resolved voluntarily, the Department will conduct a conference and/or hearing on the matter.

If the application is not protested, the Department will process your application and notify you of any action taken on the application. If your application is approved, the Department will send you a copy of the permit.

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

Sincerely,

Eric J. Davis
Sr. Water Resource Agent

Enc. Receipt No. N029469

Ball, Dianne

From: Ball, Dianne
Sent: Friday, September 07, 2012 2:41 PM
To: mary.terra-berns@idfg.idaho.gov
Subject: RE: Application for Permit No. 96-9505 SAGLE SLOUGH; AND 96-9506 JOHNSON CREEK
Attachments: 96-9505_Mercier_map.pdf; 96-9506_Davies.pdf

Dear Mary:

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

These are being prepared for publication in the Bonner County Daily Bee on September 20 and 27, 2012 with October 9, 2012 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 application.

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