

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 94-09091

Priority: April 27, 2012

Maximum Diversion Rate: 0.04 CFS

This is to certify, that SHOSHONE COUNTY
700 BANK ST. STE. 120
WALLACE ID 83873
(298) 752-3331

has applied for a permit to appropriate water from:

Source: NORTH FORK COEUR D ALENE RIVER **Tributary:** COEUR D ALENE 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:

NORTH FORK COEUR D ALENE RIVER, L3 (NW1/4NE1/4), Sec. 8, Twp 49N, Rge 02E, B.M.,
SHOSHONE County

PLACE OF USE: DOMESTIC

Twp	Rge	Sec	NE				NW				SW				SE				
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
49N	02E	8		X															
				L3															

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **June 01, 2013**.
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. Domestic use is for 1 RV site.
5. The irrigation occurring under this domestic use shall not exceed 1/2 acre.
6. A fish screen of 0.25 inch or smaller mesh shall be installed and maintained at the point of diversion.
7. The approach velocity at the point of diversion shall not exceed 0.5 feet per second.
8. Water shall not be diverted under this right when flows in the Coeur d'Alene River are below minimum flow amounts as defined by Right 94-7341. The right holder shall be responsible for monitoring the daily flow of the Coeur d'Alene River using real-time data and shall cease diverting water when flows in the Coeur d'Alene River are below established minimum flow amounts. Unless otherwise specified by the Director of the Department of Water Resources, data from the U.S. Geological Survey Cataldo gauging station, No. 12413500, may be used for purposes of determining the daily flow amounts.

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 June, 2012.


GARY SPACKMAN, Interim 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
Interim Director

June 13, 2012

SHOSHONE COUNTY
700 BANK ST STE 120
WALLACE ID 83873

RE: Permit No.94-9091

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 Davis

Sr. Water Resource Agent

Enclosure(s)

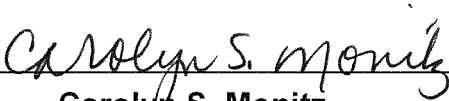
CERTIFICATE OF SERVICE

I hereby certify that on June 13, 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.

94-9091

**SHOSHONE COUNTY
700 BANK ST STE120
WALLACE ID 83873**



Carolyn S. Monitz
Technical Records Specialist

Statement of Available Procedures and Applicable Time Limits

RESPONDING TO PRELIMINARY ORDERS ISSUED BY THE IDAHO DEPARTMENT OF WATER RESOURCES (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 issuance 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.

Ball, Dianne

From: Ball, Dianne
Sent: Monday, July 09, 2012 12:21 PM
To: Block, Darla
Cc: Davis, Eric
Subject: BU Stmt 94-9091
Attachments: BU_STMT_94-9091.pdf

Received this today.

File still in Regional office in file for scanning. I will add this to the file to come to you when we get permit scanned, etc.

If any questions, contact Eric.

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



IDAHO DEPARTMENT OF FISH AND GAME

PANHANDLE REGION
2885 West Kathleen Avenue
Coeur d'Alene, Idaho 83815

C.L. "Butch" Otter/Governor
May 31, 2012 Virgil Moore/Director

Mr. Keith Franklin
Idaho Department of Water Resources
Northern Region
7600 Mineral Drive, Ste 100
Coeur d'Alene, ID 83815

RECEIVED
JUN - 4 2012
IDWR/NORTHERN

Dear Keith:

REFERENCE: SHOSHONE COUNTY 94-9091(domestic 0.04 cfs)

We have reviewed the above-named application to divert water from the North Fork Coeur d'Alene River for domestic use.

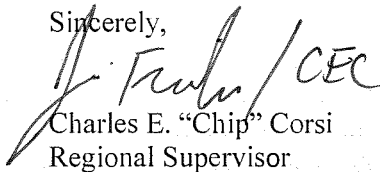
The North Fork Coeur d'Alene River is managed by IDFG as a quality westslope cutthroat trout fishery and it is very popular with anglers. The North Fork is an important component of westslope cutthroat trout habitat range-wide. Several research and restoration projects have been and are currently being conducted on the North Fork and the Little North Fork Coeur d'Alene Rivers. Idaho and neighboring states (MT/WA/OR) have recently fended off a listing of westslope cutthroat under the Endangered Species Act by demonstrating that healthy populations and habitat exist in places like the North Fork Coeur d'Alene River, and that the appropriate state regulatory mechanisms are in place to protect them.

We are concerned that the cumulative effects of property owners applying for diversions may be harmful to this economically and ecologically important fishery. There is a minimum stream flow on the Coeur d'Alene River (WR 94-7341) of 413.0 cfs from July 1 to October 31, and 1018.0 cfs from November 1 through June 30. The applicant should be made aware that their diversion cannot negatively impact the established minimum flow in the Coeur d'Alene River.

Because water right diversions allow water users to manipulate streams, we recommend this permit be conditioned to require no disturbance to the stream channel. If pumps are used, they should be adequately screened to prevent entrainment and /or impingement of juvenile trout (we recommend ≤ 0.25 " mesh, with approach velocity of ≤ 0.5 feet per second).

Thank you for your attention to this matter.

Sincerely,


Charles E. "Chip" Corsi
Regional Supervisor

CEC:MTB

C: Sharon Kiefer, IDFG Boise
USFWS, Spokane

File: IDWR Shoshone County 94-9091

Keeping Idaho's Wildlife Heritage

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO, } ss.
County of Shoshone }

Ken Jeffers 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.

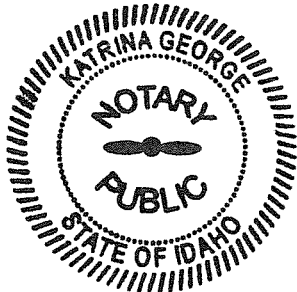
2. I am now and at all times hereinafter mentioned was the printer (principal clerk) of the "Shoshone News Press", a newspaper printed and published daily except Sunday and Monday in Kellogg, Shoshone County, Idaho, and having a general circulation in said county.

3. The Legal Notice

of which the annexed is a printed copy, was published in the regular Thursday issue of said newspaper for Two consecutive weeks commencing on the 17 day of May, 2012, 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 Shoshone County, during a period of more than seventy-eight consecutive weeks immediately prior to the first publication of said notice Ken Jeffers.

On this 24 day of May in the year of 2012, before me, a Notary Public, personally appeared Ken Jeffers, 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 in Coeur d'Alene, Idaho

MY COMMISSION EXPIRES 8/29/17

RECEIVED
MAY 25 2012
IDWR / NORTH

RECEIVED
MAY 25 2012
IDWR / NORTH

The following application(s) have been filed to appropriate the public waters of the State of Idaho:
94-9091

SHOSHONE COUNTY

700 BANK ST. STE. 120

WALLACE, ID 83873

Point of Diversion L3(NWNE) S8 T49N R02E SHOSHONE CO

Source NORTH FORK COEUR D ALENE RIVER

Tributary COEUR D ALENE RIVER

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

Total Diversion: 0.04 CFS

Date Filed: 4/27/2012

Place of Use: DOMESTIC T49N R02E S8 L3(NWNE)

Domestic use is for 1 RV site with grass and plants at site.

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 6/4/2012. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Interim Director

SHO Legal 820

May 17, 24, 2012

Ball, Dianne

From: Ball, Dianne
Sent: Thursday, May 10, 2012 10:52 AM
To: Legal Notices-Shoshone NP Angie Abbott@cdapress.com; Legal Notices Shoshone NP-CdA Charlene Harwood billing-collections
Subject: Application for Permit No. 94-9091
Attachments: LegalNotice 05-10-12 NP e-mail 94-9091.doc

Good morning, Angela,

Please publish the enclosed legal notice on the dates indicated, May 17 and 24, 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 6/4/2012. Your cooperation is appreciated.

Thanks for all your great help. It's a joy to work with you.

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

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

94-9091

SHOSHONE COUNTY

700 BANK ST. STE. 120

WALLACE, ID 83873

Point of Diversion L3(NWNE) S8 T49N R02E SHOSHONE CO

Source NORTH FORK COEUR D ALENE RIVER

Tributary COEUR D ALENE RIVER

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

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GARY SPACKMAN, Interim Director

Published on 5/17/2012 and 5/24/2012



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

May 10, 2012

SHOSHONE COUNTY
700 BANK ST. STE. 120
WALLACE, ID 83873

Application For Permit No. 94-9091

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 SHOSHONE NEWS PRESS on 5/17/2012 and 5/24/2012. 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,

Keith Franklin
Program Manager

Ball, Dianne

From: Ball, Dianne
Sent: Wednesday, May 09, 2012 3:28 PM
To: mary.terra-berns@idfg.idaho.gov; bburke@idl.idaho.gov
Subject: RE: Application for Permit No. 94-9091
Attachments: 94-9091_Sho_County.pdf

Dear Mary and Bob:

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.

This is being prepared for publication in Shoshone News Press on May 17 and 24, 2012 with June 4, 2012 being last day 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 Keith Franklin in this office if you have any questions regarding the application.

Thank you,

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

94-9091

RECEIVED
APR 27 2012
IDWR / NORTH

042012

Keith Franklin
State Of Idaho Department of Water Resources
North Region
7600 N. Mineral Drive, Suite 100
Coeur d'Alene, Idaho 83815

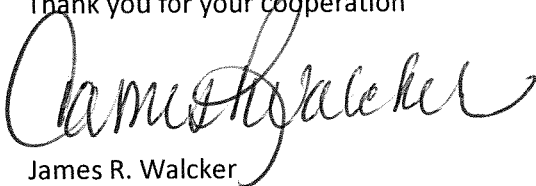
Re: 130 Palo Road
CDA River, Kingston, Idaho

Mr. Franklin;

Enclosed you find the required corrections to the application for permit for 130 Palo Road on the CDA River. When I originally conversed with you over the phone as I was filling out the application, I did advise you that I was leasing the property and you stated at that time that I needed to include a copy of the agreement. I was taken aback at why I was not told at that time that the county would need to fill out the application. I was able to attain a signature from the Chairman of the Shoshone County Commissioners Office so that this could be resolved as quickly as possible.

If you have further questions please feel free to call my cell 208-512-1583.

Thank you for your cooperation



James R. Walcker
P.O. Box 336
Osburn, Idaho 83849



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

April 17, 2012

James R Walcker
Michelle R Walcker
PO Box 336
Osburn, ID 83849

Re: Application For Permit to appropriate the Public Waters of the State of Idaho

Dear Mr. and Mrs. Walcker:

The Idaho Department of Water Resources is returning your application for permit for the following reason;

The application should be made by Shoshone County, since they own the lot you intend to lease. Please have Shoshone County submit a new application within the next 30 days. The filing fee you have already paid will be credited to the new application.

Also, the use for the new application should be for "Domestic". A domestic water right does allow for the irrigation of up to ½ acre and water can also be used for in house uses such as showers, etc.

If you have any questions, feel free to contact me at this office.

Thank you.

Sincerely,

Keith E Franklin
Program Manager

COPY