

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 96-09484

Priority: July 21, 2011

Maximum Diversion Rate: 0.02 CFS

This is to certify, that JAMES LUTTRELL
PO BOX 157
LA CLEDE ID 83841

has applied for a permit to appropriate water from:

Source: PEND OREILLE 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>
IRRIGATION	04/01 to 10/31	0.02 CFS

LOCATION OF POINT(S) OF DIVERSION:

PEND OREILLE RIVER L1 (NW1/4NE1/4) Sec. 31, Twp 56N, Rge 03W, B.M. BONNER County

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 31		1.0															1.0
		L 1															

Total Acres: 1

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **October 01, 2012**.
2. Subject to all prior water rights.
3. 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.
4. A fish screen of 1/4 inch or smaller mesh shall be installed and maintained at the point of diversion.
5. 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 19 day of October, 2011.


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

October 13, 2011

JAMES LUTTRELL
PO BOX 157
LA CLEDE ID 83841

RE: Permit No.96-9484

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.

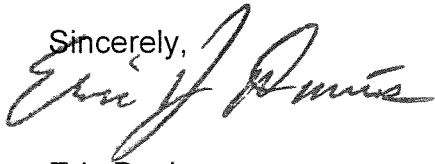
Enclosed is a form entitled 'Instructions for Proof of Beneficial Use.' Please read the instructions carefully since you must take further action to develop this permit into a licensed water right. Also enclosed is a form entitled 'Proof of Beneficial Use.' If your project is already completed, you should 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 fluid and cursive, with the first name "Eric" being more prominent.

Eric Davis

Sr. Water Resource Agent

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on October 18, 2011 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.

96-9484

**JAMES LUTTRELL
PO BOX 157
LA CLEDE ID 83841**

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

**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.

**IDAHO DEPARTMENT OF WATER RESOURCES
APPROPRIATION APPLICATION ANALYSIS SHEET**

8/29/11

W.R. # 96-9484 APPLICATION ID # 77410 ENT. ED BCA 8/29/11 OK to Publish 8/29/11
 APPLICANT: James Luttrell INITIAL REVIEW BY: ED DATE: 7/25/2011

- 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 7-22-11 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: 7/21/2011

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

ADVERTISE IN: BONNER County
 Newspaper: PRT
 Dates scheduled for publication 9/7 & 14/11
 Affidavit of Publication received: 10/5/11
 Dates actually published: 9/7 & 14/11
 Application published correctly. Yes ☒ No ☐
 If not, action taken: _____

Final Date for Protest: 9/26/11
 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 Pend Oreille River Remarks: _____
 Critical ground water area _____
 Well Drilling Permit required _____
 Well Drilling Application and Fees received _____
 Well Drilling Application approved? _____

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: MSF, Hatch screen at point of diversion
☒ Special conditions of approval supplement and/or cover letter attached: _____

Approval Recommended by: [Signature] Date: 10/12/2011 Sr. Agent initial ED

AFFIDAVIT OF PUBLICATION

State of Idaho

ss.

County of Bonner, Terri Lue
being first duly sworn on oath deposes and says that
he/she is Managing Editor of the
Priest River Times, a newspaper printed and published
at Priest River, Bonner County, Idaho; that the said
newspaper has been continuously and uninterruptedly
published in said Bonner County during a period of 12
months prior to the first publication of the hereto
attached notice of publication in the case of:

Applications 95-15577-Reflection
Ridge Estates 96-9484 J.L. Luttrell
97-7506 City Service Valcon

as it was published in the regular and entire issue of
the said newspaper for a period of 2
consecutive weeks, commencing on the 7th
day of September, 20 11 and ending on
the 14th day of September, 20 11
and that said notice was published in said newspaper.

On this 14th day of September in
the year of 2011, before me, a Notary Public,
personally appeared Terri Lue
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



RECEIVED
OCT 05 2011
IDWR / NORTH

NOTICE OF APPLICATION OF WATER RIGHTS

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

95-15577
REFLECTION RIDGE ESTATES WATER ASSOCIATION
235 PEND OREILLE DR
SPIRIT LAKE, ID 83869
Point of Diversion NESE S35 T54N R04W BONNER CO
Source GROUNDWATER
Use: DOMESTIC 01/01 to 12/31 0.18 CFS
Use: IRRIGATION 04/01 to 10/31 0.16 CFS
Total Diversion: 0.18 CFS

Date Filed: 8/8/2011
Place Of Use: DOMESTIC T54N R04W S35 NESE
Place Of Use: IRRIGATION same as DOMESTIC
Total Acres: 8
Domestic use is for 8 homes.

96-9484
JAMES LUTTRELL
PO BOX 157
LA CLEDE, ID 83841
Point of Diversion L1(NWNE) S31 T56N R03W BONNER CO
Source PEND OREILLE RIVER tributary COLUMBIA RIVER
Use: IRRIGATION 04/01 to 10/31 0.02 CFS
Total Diversion: 0.02 CFS

Date Filed: 7/21/2011
Place Of Use: IRRIGATION T56N R03W S31 L1(NWNE)
Total Acres: 1

97-7506
CITYSERVICEVALCON LLC
PO BOX 1
KALISPELL, MT 59903
Point of Diversion SWSE S20 T56N R05W BONNER CO
Source GROUNDWATER
Use: COMMERCIAL 01/01 to 12/31 0.04 CFS
Use: DOMESTIC 01/01 to 12/31 0.04 CFS
Total Diversion: 0.04 CFS

Date Filed: 7/25/2011
Place Of Use: DOMESTIC T56N R05W S20
L6(NWNE) SWSE NENW
Place Of Use: COMMERCIAL same as DOMESTIC
Domestic use is for one home.

Commercial use is for convenience store and warehouse.
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 9/26/2011. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Interim Director
PRT legal 2358
September 7, 14, 2011

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

95-15577

REFLECTION RIDGE ESTATES WATER ASSOCIATION

235 PEND OREILLE DR

SPIRIT LAKE, ID 83869

Point of Diversion NESE S35 T54N R04W BONNER CO

Source GROUNDWATER

Use: DOMESTIC 01/01 to 12/31 0.18 CFS

Use: IRRIGATION 04/01 to 10/31 0.16 CFS

Total Diversion: 0.18 CFS

Date Filed: 8/8/2011

Place Of Use: DOMESTIC T54N R04W S35 NESE

Place Of Use: IRRIGATION same as DOMESTIC

Total Acres: 8

Domestic use is for 8 homes.

96-9484

JAMES LUTTRELL

PO BOX 157

LA CLEDE, ID 83841

Point of Diversion L1(NWNE) S31 T56N R03W BONNER CO

Source PEND OREILLE RIVER tributary COLUMBIA RIVER

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

Total Diversion: 0.02 CFS

Date Filed: 7/21/2011

Place Of Use: IRRIGATION T56N R03W S31 L1(NWNE)

Total Acres: 1

97-7506

CITYSERVICEVALCON LLC

PO BOX 1

KALISPELL, MT 59903

Point of Diversion SWSE S20 T56N R05W BONNER CO

Source GROUNDWATER

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

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

Total Diversion: 0.04 CFS

Date Filed: 7/25/2011

Place Of Use: DOMESTIC T56N R05W S20

L6(NWNE) SWSE NENW

Place Of Use: COMMERCIAL same as DOMESTIC

Domestic use is for one home.

Commercial use is for convenience store and warehouse.

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 9/26/2011. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Interim Director

Legal #

Published 9/7/2011 and 9/14/2011

Ball, Dianne

From: Ball, Dianne
Sent: Wednesday, August 31, 2011 3:13 PM
To: Legal Notices-PRT Shannon Foote (sfoote@priestriveretimes.com)
Subject: Application for Permit No. 96-9484, 97-7506, 95-15577
Attachments: LegalNotice 08-30-11 PRT e-mail 95-15577,96-9484,97-7506.doc

Hi, Shannon,

Please publish the enclosed legal notice on the dates indicated, September 7 and 14, 2011, (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 9/26/2011. Your cooperation is appreciated.

Thank you very much for all your great help.

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



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

August 30, 2011

JAMES LUTTRELL
PO BOX 157
LA CLEDE, ID 83841

Application For Permit No. 96-9484

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 PRIEST RIVER TIMES on 9/7/2011 and 9/14/2011. 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. N027867

Ball, Dianne

From: Jim Brady [jbrady@idl.idaho.gov]
Sent: Tuesday, August 30, 2011 7:30 AM
To: Ball, Dianne; mary.terra-berns@idfg.idaho.gov
Subject: RE: Application for Permit No. 96-9484 Luttrell

The Department has no objection to this encroachment.

Jim Brady

From: Ball, Dianne [mailto:Dianne.Ball@idwr.idaho.gov]
Sent: Monday, August 29, 2011 2:35 PM
To: mary.terra-berns@idfg.idaho.gov; Jim Brady
Subject: RE: Application for Permit No. 96-9484 Luttrell

Dear Mary and Jim:

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 on September 7 and 14, 2011 in the Priest River Times with September 26, 2011 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

Ball, Dianne

From: Ball, Dianne
Sent: Monday, August 29, 2011 2:35 PM
To: mary.terra-berns@idfg.idaho.gov; jbrady@idl.idaho.gov
Subject: RE: Application for Permit No. 96-9484 Luttrell
Attachments: 96-9484_Luttrell.pdf

Dear Mary and Jim:

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 on September 7 and 14, 2011 in the Priest River Times with September 26, 2011 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