

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 96-09481

Priority: June 03, 2011

Maximum Diversion Rate: 0.06 CFS

This is to certify, that **MARK PERRY**
2037 W SLATON DR
MERIDIAN ID 83642
(208) 761-3759

has applied for a permit to appropriate water from:

Source: UNNAMED STREAM **Tributary:** MANLEY CREEK

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>
POWER	10/01 to 03/31	0.03 CFS
POWER	04/01 to 09/30	0.06 CFS

LOCATION OF POINT(S) OF DIVERSION:

UNNAMED STREAM, NW1/4SW1/4, Sec. 14., Twp 56N, Rge 04W, B.M., BONNER County

PLACE OF USE: POWER

Twp Rge Sec	NE				NW				SW				SE				
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
56N 04W 14										X							

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **October 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. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which the permit holder had no control.
5. The Director retains jurisdiction of this right in order to limit the use of water for hydropower generation purposes to a specific term of years as required by Section 42-203B(7), Idaho Code.
6. The rights for the use of water acquired under this right shall be junior and subordinate to all other rights for the use of water, other than hydropower, within the State of Idaho that are initiated later in time than the priority of this right and shall not give rise to any claim against any future rights for the use of water, other than hydropower, within the State of Idaho initiated later in time than the priority of this permit.
7. This right does not constitute Idaho Public Utilities Commission or Federal Energy Regulatory Commission approval that may be required.
8. This right is subject to the provisions of Sections 42-205 through 42-210, Idaho Code, restricting the sale, transfer, assignment, or mortgage of this right. Failure to comply with these provisions is cause for immediate cancellation of this right.
9. The right holder shall install a measuring device that can be used to determine the instantaneous rate of flow of water through the system, or the right holder shall provide to the department a flow rate measurement or computation made by a certified water right examiner in accordance with actual system design and operation.
10. Use of water under this right shall be non-consumptive.

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 September, 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

September 20, 2011

MARK PERRY
2037 W SLATON DR
MERIDIAN ID 83642

RE: Permit No.96-9481

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.

As a permit owner you must commence the excavation or construction of the diverting works within one year of the date the permit was issued, and you must proceed diligently until the project is completed. The date shown under condition no. 1 is the date when the project must be completed.

The Department will send you a 'Proof Due Notice' approximately 60 days prior to the above referenced date requesting you to file either a Proof of Beneficial Use form or a Request for Extension of Time form.

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,


Keith E. Franklin

Sr. Water Resource Agent

Enclosure(s)

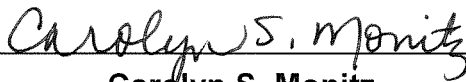
CERTIFICATE OF SERVICE

I hereby certify that on September 21, 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.

96-9481

**MARK PERRY
2037 W SLATON DR
MERIDIAN ID 83642**

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**

7/22/11 P

W.R. # 96-9481

APPLICATION ID # 77357

ENT. 6/23 BCA 6/28/11 OK to Publish 6/28

APPLICANT: Mark Perry

INITIAL REVIEW

BY: KD DATE: 6/23/2011

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 6/23/11 By: KD
☐ Field check: by _____
☐ Field report attached
☐ Analysis Supp. Attached (>5cfs/500af)

☐ Water delivered by water master? Water District # _____

PROCESSING

(Yes)(No)

PRIORITY DATE: 6/3/2011

☐ ☒

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

ADVERTISE IN:

Bonner County
 Newspaper: PR Times
 Dates scheduled for publication 8/2+10/11
 Affidavit of Publication received: _____
 Dates actually published: _____
 Application published correctly. Yes ☒ No ☐
 If not, action taken: _____

Final Date for Protest: 8/22/11
 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
☐ Critical ground water area
☐ Well Drilling Permit required
☐ Well Drilling Application and Fees received
☐ Well Drilling Application approved?

unnamed stream

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: Power conditions
☒ Special conditions of approval supplement and/or cover letter attached: _____

Approval Recommended by: [Signature] Date: 9/16/2011 Sr. Agent initial KD

AFFIDAVIT OF PUBLICATION

State of Idaho

ss.

County of Bonner, Terni Ivie

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 - 96-9481 Perry
97-7504 Dodge

as it was published in the regular and entire issue of the said newspaper for a period of 2 consecutive weeks, commencing on the 3rd day of August, 20 11 and ending on the 10th day of August, 20 11 and that said notice was published in said newspaper.

On this 10th day of August in the year of 2011, before me, a Notary Public, personally appeared Terni Ivie, 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.



Shannon M. Foote
Notary Public for Idaho
Residing at Priest River
My commission expires: 10.9.13

RECEIVED
SEP 06 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:

96-9481

MARK PERRY

2037 W SLATON DR

MERIDIAN, ID 83642

Points of Diversion NWSW S14 T56N R04W BONNER CO.

Source UNNAMED STREAM tributary to MANLEY CREEK

Use: POWER 10/01 to 3/31 0.030 CFS

Use: POWER 04/01 to 9/30 0.060 CFS

Total Diversion: 0.060 CFS

Date Filed: 6/3/2011

Place of Use: POWER T56N R04W S14 NWSW

97-7504

SALLY DODGE

MIKE DODGE

770 GOVERNMENT WAY

COEUR D'ALENE, ID 83814

Point of Diversion SENW S29 T57N R04W BONNER CO

Source PRIEST RIVER Tributary LAKE PEND OREILLE

Use: DOMESTIC 01/01 to 12/31 0.040 CFS

Total Diversion: 0.040 CFS

Date Filed: 06/15/2011

Place of Use: DOMESTIC

T57N R04W S29 SWNW

T57N R04W S29 SENW

Domestic use is for 1 home

Permits will be subject to all prior water rights. 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 8/22/2011. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Interim Director

PRT legal #2323

August 3, 10, 2011

Ball, Dianne

From: Ball, Dianne
Sent: Tuesday, July 19, 2011 1:27 PM
To: Legal Notices-Priest River Times (prtimes@priestrivertimes.com); Legal Notices-PRT
Shannon Foote (sfoote@priestrivertimes.com)
Subject: Application for Permit No. 97-7504, 96-9481

Good afternoon, Shannon,

We are requesting that you please publish the enclosed legal notice on the dates indicated, August 3 and 10, 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 8/22/2011. Your cooperation is always greatly appreciated.

Thank you.



LegalNotice
7-19-11 PRT e-mai..

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:

96-9481

MARK PERRY

2037 W SLATON DR

MERIDIAN, ID 83642

Points of Diversion NWSW S14 T56N R04W BONNER CO.

Source UNNAMED STREAM tributary to MANLEY CREEK

Use: POWER 10/01 to 3/31 0.030 CFS

Use: POWER 04/01 to 9/30 0.060 CFS

Total Diversion: 0.060 CFS

Date Filed: 6/3/2011

Place of Use: POWER T56N R04W S14 NWSW

97-7504

SALLY DODGE

MIKE DODGE

770 GOVERNMENT WAY

COEUR D'ALENE, ID 83814

Point of Diversion SENW S29 T57N R04W BONNER CO

Source PRIEST RIVER Tributary LAKE PEND OREILLE

Use: DOMESTIC 01/01 to 12/31 0.040 CFS

Total Diversion: 0.040 CFS

Date Filed: 06/15/2011

Place of Use: DOMESTIC

T57N R04W S29 SWNW

T57N R04W S29 SENW

Domestic use is for 1 home

Permits will be subject to all prior water rights. 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 8/22/2011. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Interim Director

Legal #

Published on 8/3/2011 and 8/10/2011



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

July 19, 2011

MARK PERRY
2037 W SLATON DR
MERIDIAN, ID 83642

Water Right No.96-9481

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 8/3/2011 and 8/10/2011. 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,

Keith Franklin
Interim Regional Manager

Ball, Dianne

From: Ball, Dianne
Sent: Tuesday, July 19, 2011 3:00 PM
To: mary.terra-berns@idfg.idaho.gov
Subject: RE: Application for Permit No. 96-9481

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.

Being scheduled for publication in Priest River Times on August 3 and 10, 2011, with August 22, 2011 as final date for protest to be received in our office.



96-9481_Perry.pdf

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



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

June 17, 2011

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

Mark Perry
2037 W Slaton Dr
Meridian, ID 83642

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

Dear Mr. Perry:

The Idaho Department of Water Resources is returning your recently submitted application for corrections and/or additional information.

Line item #5 was left blank on the application. You should enter the maximum diversion rate of 0.06 cfs in part (a) even though you are only requesting 0.03 cfs between October and March. Please make the necessary addition to the application and omit your entry of 31.455 acre feet on part (b). The volume amount will be determined during the field exam prior to the issuance of a license.

In the meantime, the department suggests you contact the Idaho Department of Fish & Game, Mary Terra Berns, 208-769-1414, at the Coeur d'Alene office and present your proposal to her for comment.

Once the application has been corrected return it to me within the next 30 days so as not to delay processing and if you have any questions, feel free to contact me at this office.

Thank you.

Sincerely,

Keith E Franklin
Interim Regional Manager

COPY