

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 98-07908

Priority: February 07, 2011

Maximum Diversion Rate: 0.10 CFS

This is to certify, that ROGER JULIEN
PO BOX 463
DRUMRIGHT OK 74030

And/Or

LUCY ANNIE JULIEN
PO BOX 463
DRUMRIGHT OK 74030

has applied for a permit to appropriate water from:

Source: MEADOW CREEK
GROUNDWATER

Tributary: MOYIE 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
IRRIGATION	03/15 to 10/15	0.06 CFS

LOCATION OF POINT(S) OF DIVERSION:

MEADOW CREEK SE1/4SE1/4 Sec. 1, Twp 63N, Rge 01E, B.M. BOUNDARY County
GROUNDWATER SE1/4SE1/4 Sec. 1, Twp 63N, Rge 01E, B.M. BOUNDARY County

PLACE OF USE: DOMESTIC

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
63N	01E	1																X	

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	
63N	01E	1																2.0	2.0

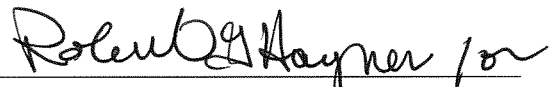
Total Acres: 2

State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 98-07908

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **May 01, 2013**.
2. Subject to all prior water rights.
3. 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.
4. 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.
5. Domestic use is for 1 home and 2 Rv sites. Irrigation of lawn, garden and landscaping associated with the home is authorized under the irrigation component of this right.
6. A fish screen of 1/4 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 Moyie River are below minimum flow amounts as defined by Right 98-7704.
9. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
10. 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 11th day of May, 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

May 12, 2011

ROGER JULIEN
PO BOX 463
DRUMRIGHT OK 74030

LUCY ANNIE JULIEN
PO BOX 463
DRUMRIGHT OK 74030

RE: Permit No.98-7908

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,

A handwritten signature in black ink, appearing to read "Keith E. Franklin". The signature is fluid and cursive, with the first name "Keith" being more prominent.

Keith E. Franklin

Sr. Water Resource Agent

Enclosure(s)

CERTIFICATE OF SERVICE

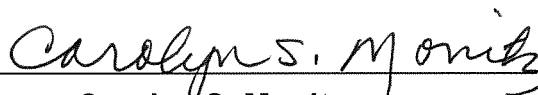
I hereby certify that on May 12, 2011 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (Approved Permit) to the person(s) listed below:

RE: WATER RIGHT NO.

98-7908

**LUCY ANNIE JULIEN
PO BOX 463
DRUMRIGHT OK 74030**

**ROGER JULIEN
PO BOX 463
DRUMRIGHT OK 74030**

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

P 2/24/11

W.R. # 98-7908

APPLICATION ID # 77049

ENT. E.D.

BCA 2/24/11

OK to Publish 2/18/11

APPLICANT: Julien

INITIAL REVIEW

BY: E.D.

DATE: 2/7/2011

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 2-7-11 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: 2/7/2011

☒ (Include Moratorium Remark)

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

ADVERTISE IN:

Boundary County

Newspaper: BEH

Dates scheduled for publication 3/3 & 10/11

Affidavit of Publication received: 4/6/11

Dates actually published: 3/3 & 10/11

Application published correctly. Yes ☒ No ☐

If not, action taken: _____

Final Date for Protest: 3/21/11

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: Hand dug Tag # 0 Type: _____ Fees _____ Receipt No. _____ Upgrade Needed? _____

Dom. _____	Non-Dom. _____	Paid \$ <u>0</u>	Y () N (X)
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: New Address

WAS CALL IN FOR ROGER

ON 2-11-2011

1078N Bedford Ct

Wichita, KS 67206

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: MSF Meadow Creek

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

Approval Recommended by: E.D. Date: 4/13/2011 Sr. Agent initial E.D.

AFFIDAVIT OF PUBLICATION

State of Idaho

SS

County of Boundary, Freida Johnson
being first duly sworn on oath deposes and says that
he/she is Frank Harper of the
Bonners Ferry Herald, a newspaper printed and
published at Bonners Ferry, Boundary County, Idaho;
that the said newspaper has been continuously and
uninterruptedly published in said Boundary County
during a period of 12 months prior to the first publication
of the hereto attached notice of publication in the case
of:

Application to appropriate
public waters as it
was published in the regular and entire issue of the said
paper for a period of 2 consecutive weeks,
commencing on 3rd day of March, 2011 and
ending on the 10th day of March, 2011 and
that said notice was published in said newspaper.

Freida Johnson

SUBSCRIBED AND SWORN TO before me, this

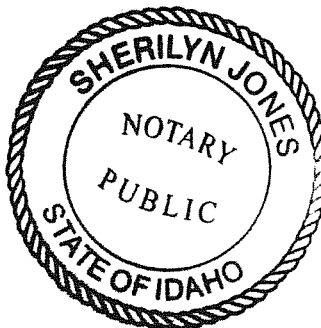
10th day of March, 2011.

Sherilyn Jones

Notary Public-State of Idaho

Residing at: Sandpoint

My Commission Expires: 2/24/17



RECEIVED
APR 06 2011
IDWR / NORTH

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

98-7908
ROGER JULIEN
1078 N BEDFORD CT
WICHITA, KS 67206

LUCY ANNIE JULIEN
PO BOX 463
DRUMRIGHT, OK 74030
Point of Diversion SESE S1 T63N R01E BOUNDARY CO
Source MEADOW CREEK Tributary MOYIE RIVER
Point of Diversion SESE S1 T63N R01E BOUNDARY CO
Source GROUNDWATER
Use: IRRIGATION 03/15 to 10/15 0.06 CFS
Use: DOMESTIC 01/01 to 12/31 0.04 CFS
Total Diversion: 0.1 CFS

Date Filed: 2/7/2011

Place Of Use: DOMESTIC T63N R01E S1 SESE

Place Of Use: IRRIGATION same as DOMESTIC

Total Acres: 2

Domestic use is for 1 home and 1 RV site.

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 3/21/2011. The
protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Interim Director

BFH Legal 8203

March 3, 10, 2011



IDAHO DEPARTMENT OF FISH AND GAME

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

March 15, 2011
C.L. "Butch" Otter/Governor
Cal Groen/Director

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

RECEIVED

MAR 21 2011

IDWR/NORTHERN

Dear Keith:

REFERENCE: 98-7908: JULIEN

We have reviewed the above-named application by Roger and Lucy Annie Julien to divert 0.10 cfs from Meadow Creek, a tributary to the Moyie River. The applicant indicates that the diversion will be used for irrigation for a garden, and domestic use for one household, and two RV sites.

The applicant describes placing a small culvert, three (3) feet deep, off of Meadow Creek. Later in the application the applicant describes a four (4) foot deep concrete culvert, and further in the same sentence, describes a "hand dug well above the house for domestic use and for garden. (8ft deep 3ft wide)" We recommend that the applicant clearly and completely describe how water will be diverted from Meadow Creek.

The Moyie River is managed by IDFG as a wild trout fishery and it is becoming increasingly popular with sport fishing anglers. The Moyie River provides spawning and rearing habitat for wild rainbow trout and mountain whitefish. We are concerned that the cumulative effects of individual recreation property owners applying for diversions for water rights may be harmful to this increasingly popular fishery. In addition Meadow Creek is one of the largest and highest quality spawning tributaries for rainbow trout migrating from the Moyie River. The diversion has the potential to cause fish losses through entrainment, and should be screened as per Idaho Code 36-906 and the recommendations in this letter.

The State of Idaho has recognized the importance of this fishery by instituting a Minimum Stream Flow (98-7704) to prevent the degradation of instream habitat. Water shall not be diverted under this right when flows in the Moyie River are below 354.00 cfs from April 1st through July 31st and 149.00 cfs from August 1st through March 31st (Reach beginning at Sec. 12, Twp 63N, Rge 02E, B.M. and ending at Sec. 11, Twp 62N, Rge 02E, B.M.), which is a short distance downstream of the applicants' property. The applicant should be made aware that their diversion cannot negatively impact the established minimum flow in the Moyie River.

Unless otherwise specified by the Director of IDWR, flow data from the City of Moyie Power Plant at Moyie Falls, may be used for purposes of determining the flows in the Moyie River pursuant to this provision.

We are concerned that the cumulative effects of recreational lot owners applying for diversions will decrease stream flows, particularly during the low flow summer months, which can be harmful to this popular fishery and have negative impacts on riparian vegetation. IDFG recommends the following conditions listed below be reflected in the permit.

1. The water intake will be screened to prevent entrainment or impingement of fish. The maximum screen mesh size should be 0.25 inches; intake approach velocities should not exceed 0.5 ft/second to prevent losses of juvenile fish.
2. Water use (irrigation) will occur between March 15 and October 15 unless the Minimum Stream Flow (WR 98-7704), discussed above, takes precedence.
3. Beneficial uses will include Diversion for Irrigation at 0.03 cfs per acre

Because water right diversions allow water users to manipulate streams, we recommend this permit be conditioned to require no disturbance to the stream channel.

In addition to the above listed application, IDFG requests that all future applications for water diversions from the Moyie River be conditioned with the above listed conditions.

Thank you for your attention to this matter.

Sincerely,



Charles E. "Chip" Corsi
Regional Supervisor

CEC:MTB

C: Sharon Kiefer, IDFG, Boise
Walt Poole, IDFG, Boise
David Stanish, AG, Boise

Ball, Dianne

From: Ball, Dianne
Sent: Wednesday, February 23, 2011 2:41 PM
To: Legal Notices-BFHerald (screenshaw@bonnersferryherald.com)
Subject: Application for Permit No. 98-7908

Good afternoon, Shirley,

This is the second legal notice for which we request publication on the dates indicated, March 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.

A separate affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before 3/21/2011. We would appreciate separate billing on these two legal notices, if possible.

I will again appreciate a proof/preview copy prior to publication for my review. We prefer layout as submitted.

If you have any questions or problems, please call me immediately or reply to this e-mail.

Thanks for all your wonderful help, and have a great rest of the day!

Your cooperation is always greatly appreciated.



LegalNotice
2-23-11 BFH 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:

98-7908

ROGER JULIEN
1078 N BEDFORD CT
WICHITA, KS 67206

LUCY ANNIE JULIEN

PO BOX 463

DRUMRIGHT, OK 74030

Point of Diversion SESE S1 T63N R01E BOUNDARY CO

Source MEADOW CREEK Tributary MOYIE RIVER

Point of Diversion SESE S1 T63N R01E BOUNDARY CO

Source GROUNDWATER

Use: IRRIGATION 03/15 to 10/15 0.06 CFS

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

Total Diversion: 0.1 CFS

Date Filed: 2/7/2011

Place Of Use: DOMESTIC T63N R01E S1 SESE

Place Of Use: IRRIGATION same as DOMESTIC

Total Acres: 2

Domestic use is for 1 home and 1 RV site.

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 3/21/2011.

The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Interim Director

Legal #

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



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

February 23, 2011

ROGER JULIEN
1078 N BEDFORD CT
WICHITA, KS 67206

LUCY ANNIE JULIEN
PO BOX 463
DRUMRIGHT, OK 74030

Application For Permit No. 98-7908

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 BONNERS FERRY HERALD on 3/3/2011 and 3/10/2011. 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,

Eric Davis
Sr. Water Resource Agent

Enc. Receipt No. N026543

Ball, Dianne

From: Ball, Dianne
Sent: Thursday, February 17, 2011 4:44 PM
To: mary.terra-berns@idfg.idaho.gov
Subject: RE: Application for Permit No. 98-7908

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.



98-7908 Julien.pdf

This is being prepared for publication in the Bonners Ferry Herald on March 3 and 10, 2011, with final date for protest being March 21, 2011.

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 Eric Davis at this office if you have any questions regarding this 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