

State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 96-09474

Priority: November 19, 2010

Maximum Diversion Volume: 0.9 AF

This is to certify, that MIKE GABBA
203 HAWTHORNE DR
GOSHEN IN 46526
(208) 610-3407

has applied for a permit to appropriate water from:

Source: UNNAMED STREAM

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>ANNUAL VOLUME</u>
WILDLIFE STORAGE	01/01 to 12/31	0.9 AF

LOCATION OF POINT(S) OF DIVERSION:

UNNAMED STREAM, L7 (NE $\frac{1}{4}$ NW $\frac{1}{4}$), Sec. 26, Twp 56N, Rge 05W, B.M., BONNER County

PLACE OF USE: WILDLIFE STORAGE

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	05W	26					X												
							L 7												

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **June 01, 2016**.
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 pond established by the storage of water under this right shall not exceed a total capacity of 0.6 acre-feet.
6. This right authorizes the annual storage of 0.9 acre-feet to be used for the initial filling of the pond and for the replacement of losses caused by evaporation from the pond.

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 14 day of June, 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

June 14, 2011

MIKE GABBA
203 HAWTHORNE DR
GOSHEN IN 46526

RE: Permit No.96-9474

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)

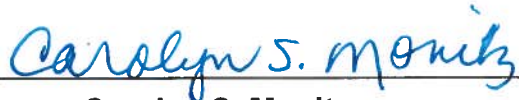
CERTIFICATE OF SERVICE

I hereby certify that on June 16, 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.

96-9474

**MIKE GABBA
203 HAWTHORNE DR
GOSHEN IN 46526**



**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 2/25/11

W.R. # 96-9474

APPLICATION ID # 76987

ENT. 1/13

BCA 2/24/11

OK to Publish 2/17/11

APPLICANT: Mike Gabba

INITIAL REVIEW

BY: KJ

DATE: 1/13/2011

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 1/13 By: KJ
☐ Field check: by _____
☐ Field report attached
☐ Analysis Supp. attached(>5cfs/500af)
☐ Water delivered by water master? Water District # _____

PROCESSING

(Yes)(No)

PRIORITY DATE: 11/19/2010

☐ ☒

(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 3/29/11

Affidavit of Publication received: 4/5/11

Dates actually published: 3/29/11

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:	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?

Remarks: _____

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

Approval Recommended by:

Beth C. [Signature]

Date: 4/13/2011 Sr. Agent initial

KJ

AFFIDAVIT OF PUBLICATION

State of Idaho

ss.

County of Bonner, Terri Jure

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: 96-9474 - Gabba
96-745 & 96-9476 Johnson

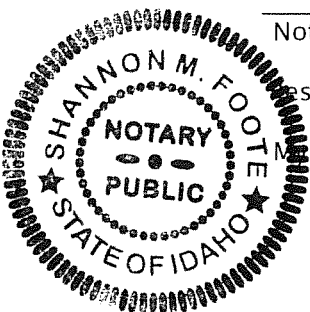
as it was published in the regular and entire issue of the said newspaper for a period of 2 consecutive weeks, commencing on the 2nd day of March, 20 11 and ending on the 9th day of March, 20 11 and that said notice was published in said newspaper.

On this 9th day of March in the year of 2011, before me, a Notary Public, personally appeared Terri Jure, 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

APR 05 2011

IDWR / NORTH

APPLICATIONS OF WATER RIGHTS

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

96-9474

MIKE GABBA

203 HAWTHORNE DR

GOSHEN, IN 46526

Point of Diversion L7(NENW) S26 T56N R05W BONNER CO

Source UNNAMED STREAM tributary PEND OREILLE RIVER

Use: WILDLIFE STORAGE 01/01 to 12/31 0.9 AF

Total Diversion: 0.9 AF

Date Filed: 11/19/2010

Place Of Use: WILDLIFE STORAGE T56N R05W S26 L7(NENW)

96-9475

JAMES R JOHNSON

BARBARA P JOHNSON

210 17TH ST. STE. #3

PACIFIC GROVE, CA 93950

Points of Diversion(2) SESE S32 T55N R02W BONNER CO

Source GROUNDWATER

Use: IRRIGATION 04/01 to 10/31 0.12 CFS

Total Diversion: 0.12 CFS

Date Filed: 1/18/2011

Place Of Use: IRRIGATION T55N R02W S32 SESE

Total Acres: 4

96-9476

JAMES R JOHNSON

BARBARA P JOHNSON

210 17TH ST. STE. #3

PACIFIC GROVE, CA 93950

Point of Diversion NWNW S27 T56N R03W BONNER CO

Source GROUNDWATER

Point of Diversion SWNW S27 T56N R03W BONNER CO

Source GROUNDWATER

Use: IRRIGATION 04/01 to 10/31 0.34 CFS

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

Total Diversion: 0.34 CFS

Date Filed: 1/18/2011

Place Of Use: DOMESTIC T56N R03W S27 NWNW

Place Of Use: IRRIGATION T56N R03W S27 NWNW SWNW

Total Acres: 17

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

GARY SPACKMAN, Interim Director

PRT Legal 2280

March 2, 9, 2011

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

96-9474

MIKE GABBA

203 HAWTHORNE DR

GOSHEN, IN 46526

Point of Diversion L7(NENW) S26 T56N R05W BONNER CO

Source UNNAMED STREAM tributary PEND OREILLE RIVER

Use: WILDLIFE STORAGE 01/01 to 12/31 0.9 AF

Total Diversion: 0.9 AF

Date Filed: 11/19/2010

Place Of Use: WILDLIFE STORAGE T56N R05W S26 L7(NENW)

96-9475

JAMES R JOHNSON

BARBARA P JOHNSON

210 17TH ST. STE. #3

PACIFIC GROVE, CA 93950

Points of Diversion(2) SESE S32 T55N R02W BONNER CO

Source GROUNDWATER

Use: IRRIGATION 04/01 to 10/31 0.12 CFS

Total Diversion: 0.12 CFS

Date Filed: 1/18/2011

Place Of Use: IRRIGATION T55N R02W S32 SESE

Total Acres: 4

96-9476

JAMES R JOHNSON

BARBARA P JOHNSON

210 17TH ST. STE. #3

PACIFIC GROVE, CA 93950

Point of Diversion NWNW S27 T56N R03W BONNER CO

Source GROUNDWATER

Point of Diversion SWNW S27 T56N R03W BONNER CO

Source GROUNDWATER

Use: IRRIGATION 04/01 to 10/31 0.34 CFS

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

Total Diversion: 0.34 CFS

Date Filed: 1/18/2011

Place Of Use: DOMESTIC T56N R03W S27 NWNW

Place Of Use: IRRIGATION T56N R03W S27 NWNW SWNW

Total Acres: 17

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

GARY SPACKMAN, Interim Director

Legal #

Published on 3/2/2011 and 3/9/2011

Ball, Dianne

From: Ball, Dianne
Sent: Wednesday, February 23, 2011 10:44 AM
To: Legal Notices-Priest River Times (prtimes@priestrivertimes.com); Legal Notices-PRT
Shannon Foote (sfoote@priestrivertimes.com)
Subject: Application for Permit No. 96-9474, 96-9475, 96-9476

Good morning, Shannon,

Please publish the attached legal notice on the dates indicated, March 2 and 9, (once a week for two consecutive weekly issues). If you cannot publish the notice on the proposed dates, please contact us immediately.



LegalNotice
2-23-11 PRT e-mai..

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 3/21/2011. Your cooperation is, as always, very greatly appreciated.

I will appreciate a proof/preview copy prior to publication for my review.

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 terrific rest of the day!

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

February 23, 2011

MIKE GABBA
203 HAWTHORNE DR
GOSHEN, IN 46526

Application For Permit No. 96-9474

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, PRIEST RIVER TIMES on 3/2/2011 and 3/9/2011. 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
Sr. Water Resource Agent

Enc. Receipt No. N026284

Ball, Dianne

From: Ball, Dianne
Sent: Thursday, February 17, 2011 4:25 PM
To: mary.terra-berns@idfg.idaho.gov
Subject: RE: Application for Permit No. 96-9474

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.



96-9474 Gabba.pdf

This is being prepared for publication in the Priest River Times on March 2 and 9, 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 Keith Franklin 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



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

January 3, 2011

Mike Gabba
203 Hawthorne Dr.
Goshen, IN 46526

Re: Application For Permit to Appropriate the Public Waters of the State of Idaho
No. 76987

Dear Mr. Gabba:

As per our telephone conversation on January 3, 2011, I have enclosed an electronic version of your application that contains the necessary corrections and/or additions. Please review the document and if it meets with your approval sign and return it to me within the next 30 days so as not to further delay processing.

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

Thank you.

Sincerely,

Keith E. Franklin
Senior Water Resources Agent
Enclosure

COPY



State of Idaho

96-9474

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

December 27, 2010

Mike Gabba
203 Hawthorne Dr.
Goshen, IN 46526

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

Dear Mr. Gabba:

On November 26, 2010 the department returned your application for a new water right because it needed corrections and/or additional information, see attached letter. Because of the complexity of filing an application for a storage right, I also requested you get in touch with me to discuss the elements of the application.

To date the department has not heard from you. Please respond within the next 30 days to avoid forfeiture of your application. I can be reached at 208-762-2800.

Thank you.

Sincerely,

Keith E Franklin
Senior Water Resources Agent
Enclosure

COPY



96-9401
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

November 26, 2010

Mike Gabba
5314 Hwy 2
Priest River, ID 83856

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

Dear Mr. Gabba:

The Idaho Department of Water Resources is retuning your recently submitted application for the following reasons;

Item #2 Source

The application indicates ground water as a source; however, in Item #6a the application talks about dredging out a pond within a creek. Is the source a creek or groundwater?

Item #3 Location of Point of Diversion

The quarter section and/or government lot is incomplete. I have attached an aerial photograph for your convenience.

Item #4 Purpose of Use

If you're proposing to store water for wildlife purposes, a storage component must be part of the water right.

Item #9 Place of Use

This section is incomplete. Please indicate in which quarter quarter of Section 26 your proposal will be located. Please refer to the attached aerial photograph.

It would appear you are proposing to construct a pond within an existing creek or unnamed stream. The source may or may not be ground water or the unnamed stream or both. I suggest you give me a call at 208-762-2800, at your earliest convenience to go over your application.

Thank you.

Sincerely,

COPY

Keith E Franklin
Senior Water Resources Agent
Enclosure(s)