

State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 95-14515

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **July 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. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.0 afa per acre at the field headgate for irrigation of the place of use.
6. Water shall not be diverted for fire protection use under this right except to fight or repel an existing fire.
7. Water shall not be diverted from fire protection storage except to fight or repel an existing fire.
8. A fish screen of 0.25 inch or smaller mesh shall be installed and maintained at the point of diversion.
9. The pond established by the storage of water under this right shall not exceed a total capacity of 6.0 acre-feet.
10. This right authorizes the diversion of an annual total of 111.8 acre-feet to be used, for the initial filling of the pond, for the replacement of losses caused by evaporation and for the storage of water for irrigation and fire protection.
11. Prior to the diversion and use of water under this approval, the right holder shall comply with applicable county zoning and use ordinances.

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 July, 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

July 18, 2011

TP POST FALLS LLC
5469 WALKER ESTATES CRL
HOLLADAY UT 84117

RE: Permit No.95-14515

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.

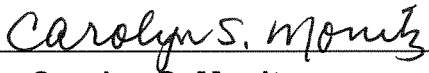
Please note that a separate stream channel alteration permit must be obtained from the Department prior to any activity in the stream channel other than construction or maintenance of the diversion structure for your water right(s). Applications for stream channel alteration permits must be filed at least sixty days prior to the commencement of work in the stream.

CERTIFICATE OF SERVICE

I hereby certify that on July 19, 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. 95-14515

**TP POST FALLS LLC
5469 WALKER ESTATES CRL
HOLLADAY UT 84117**



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 5/3

W.R. # 95 - 14515

APPLICATION ID # 77007

ENT. 4/13

BCA 4/28

OK to Publish 4/27/11

APPLICANT: TP Post Falls LLC

INITIAL REVIEW

BY: KD

DATE: 4/13/2011

ITEM REQUIRED INFORMATION

1. ☒ Name and Address
2. ☒ Source
3. ☒ Point of Diversion & County
4. ☒ Quantity
☒ Nature of Proposed Use
☒ Period of Use
5. ☒ Total Quantity
6. ☒ Description of diverting works
7. ☒ Time required for b/u
8. ☒ Proposed use
9. ☒ Place of use or acres irrigated
10. ☒ Other water Rights
11. ☒ Ownership
12. ☒ Map
☒ Signature
☒ Fee (Amt, receipt, acknowledgement)

*** Send info sheet Y () N ()

ADDITIONAL INFORMATION

(Yes)(No)
☒ Shape File Created Date 4/13/11 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: 11/2/2010

(Include Moratorium Remark)

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

ADVERTISE IN:

Newspaper: Kootenai County

Dates scheduled for publication 5/5 + 12/11

Affidavit of Publication received: 5/13/11

Dates actually published: 5/5 + 12/11

Application published correctly. Yes ☒ No ☐

If not, action taken: _____

Final Date for Protest: 5/23

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: Bethel Jordan Date: 7/1/2011 Sr. Agent initial KD

Ball, Dianne

From: Ball, Dianne
Sent: Wednesday, April 27, 2011 2:51 PM
To: mary.terra-berns@idfg.idaho.gov; bbaeumel@idl.idaho.gov
Cc: jbrady@idl.idaho.gov
Subject: RE: Application for Permit No. 95-14515

Dear Mary and Brittany:

The Department of Water Resources is seeking written comment and/or recommendations from your agency regarding the above referenced water right application. A copy of the application is enclosed for your reference.

This is being prepared for publication in the CDA Press on May 5 and 12, 2011 with May 23, 2011 as final date for protests to be received in our office.



95-14515_TP_Post
_Falls_LLC.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

April 11, 2011

Mr. Keith E Franklin
Senior Water Resources Agent
IDWR Northern Region
Suite 100
7600 North Mineral Drive
Coeur d'Alene, ID 83815

LINDSEY R. SIMON
Attorney
Direct Fax: (208) 666-4115
Direct Dial: (208) 666-4116

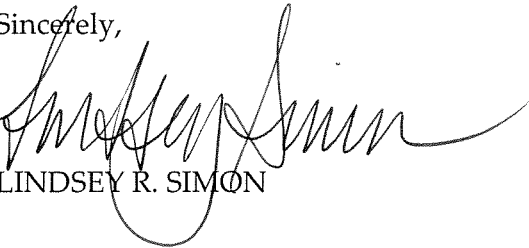
RECEIVED
APR 12 2011
IDWR Northern

Re: TP Post Falls LLC Application for Permit

Dear Mr. Franklin:

Please find enclosed a signed copy of the TP Post Falls LLC application for permit. Please let our office know if there is anything else you need from the applicant.

Sincerely,



LINDSEY R. SIMON

LRS:lrs

Enclosure

cc: Peter J. Smith IV
Client



State of Idaho

DEPARTMENT OF WATER RESOURCES

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C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

March 8, 2011

Peter J Smith, IV
Lukins & Annis
601 E Front Ave.
Coeur d'Alene, ID 83814-5155

Re: Application For Permit to Appropriate the Public Waters of the State of Idaho
TP Post Falls, LLC, #77007

Dear Mr. Smith:

As per our meeting on March 8, 2011, I have enclosed an electronic version of the above mentioned application which contains all of the corrections and/or additions that were discussed. Please review the application and if it meets with your approval have the applicant sign and return the document to me within the next 30 days so as not to delay processing.

Also, the final fee for the application comes to \$250.00 instead of the \$290.00 already paid. The applicant should request a refund of \$40.00 when the application is returned.

If you have any questions, don't hesitate to contact me at this office.

Thank you.

Sincerely,

• Keith E Franklin
Senior Water Resources Agent

Enclosure

COPY



State of Idaho

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C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

March 2, 2011

Peter J Smith IV
Lukins & Annis
601 E Front Ave., Ste. 502
Coeur d'Alene, ID 83814-5155

Re: Application For Permit to appropriate the Public Waters of the State of Idaho
TP Post Falls, LLC.

Dear Mr. Smith:

During your office visit on January 20, 2011, we discussed the need to make corrections and/or adjustments to the application filed by TP Post Falls, LLC. Part of the adjustments you were to investigate with the applicant were a diversion rate to storage, stockwater (if any) and the number of acres to be irrigated in the appropriate quarter quarters of Section 7.

Has anything been determined so processing of the application can continue? Please let me know within the next 30 days.

Thank you.

Sincerely,

Keith E Franklin
Senior Water Resources Agent

COPY



State of Idaho

DEPARTMENT OF WATER RESOURCES

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Phone: (208) 762-2800 • Fax: (208) 762-2819 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

December 28, 2010

Peter J Smith IV
Lukins & Annis
601 E Front Ave., Ste. 502
Coeur d'Alene, ID 83814-5155

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

Dear Mr. Smith:

On November 9, 2010 the department requested a telephone call to discuss the application, since there currently exists a water right, 95-2092, for irrigation purposes, copy of which is enclosed. Please give me a call within the next 30 days to discuss this issue, in order to avoid forfeiture of the application. My number is 208-762-2800.

Thank you.

Keith E Franklin
Senior Water Resources Agent
Cc. TP Post Falls, LLC

Enclosure

COPY



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 9, 2010

Peter J Smith IV
Lukins & Annis
601 E Front Ave., Ste. 502
Coeur d'Alene, ID 83814-5155

Re: Application For Permit To Appropriate the Public Waters of the State of Idaho
TP Post Falls, LLC

Dear Mr. Smith:

The Idaho Department of Water Resources is in receipt of the above said application for a new water right. Initial review revealed a water right license, No. 95-2092, currently exists on the property. Please give me a call at 208-762-2800 at your earliest convenience to discuss this matter further.

Thank you.

Sincerely,

Keith E. Franklin
Senior Water Resources Agent

COPY

RECEIVED
NOV 02 2010
IDWR / NORTH

November 1, 2010

PETER J. SMITH IV
Attorney
Admitted In: Idaho
psmith@lukins.com
Direct Dial: 208-666-4108

Mr. Keith E Franklin
Senior Water Resources Agent
IDWR Northern Region
Suite 100
7600 North Mineral Drive
Coeur d'Alene, ID 83815

Re: TP Post Falls, LLC-Application for Permit

Dear Mr. Franklin:

Enclosed please find an original, executed Application for Permit for TP, LLC. Our firm check in the amount of \$290 is also enclosed.

Thank you for your assistance. Please call if you have any questions or comments.

Very truly yours,



PETER J. SMITH IV

PJS:kms
Enclosures

RECEIVED
NOV 02 2013
IDWR / NORTH

Subject: Re: Storage Pond Water Right

- (1) the length of the pond;
- (2) the width of the pond;

The pond is very roughly half a square, cut diagonally.
150' wide by 230' tall by 1/2 (297' diagonal)
Adjusted up by 10% this is

$$150 * 230 * 0.5 + 10\% = 19,000 \text{ sq feet.}$$

- (3) the average depth of the pond; and

8 ft. Thus, the total pond water capacity is:

$$19,000 * 8 = 152,000 \text{ sq feet, or } 1,137,000 \text{ gallons.}$$

- (4) whether the pond is lined, and if so, with what material.

A thick plastic liner, made for pond storage. I don't have the brand name.

TP Post Falls LLC

34.5

0.69

~~34.5~~ Ac of Irrigation $\times 0.02 \text{ cfs/Ac} = 0.69$

Pond size:

0.74 Ac surface area $\times 8 \text{ deep} = 6.0 \text{ AF}$

Evap. $2209 \text{ gpd} \times 365 \text{ days} / 225,850 = 3.3 \text{ AF}$

Seepage = 0 AF plastic lined.

0.69 cfs Diversion To Storage, Pump Capacity

~~34.5~~ AF Irrigation Storage: a) pond size 6.0 AF

111.8 AF b) Evap 3.3 AF

c) seep. 0 AF

$34.5 \times 3 = 103.5$ d) Irrigation 103.5 AF

Total 111.8 AF

103.5 AF Irrigation from storage

8.3 AF Fire Protection Storage: a) Pond size 6.0 AF

b) Evap. 3.3 AF

c) Seepage 0 AF

0.69 cfs Total 8.3

~~0.69~~ Irrigation, 34.5 Ac.

$34.5 \times 0.02 = 0.69$

License 3

SE NW LOT 7 = 7.0 Ac

SW NW LOT 8 = 25.3 Ac

NW SW LOT 9 = 35.0 Ac

NE SW = 5.0 Ac.

Adj. Claim 3

SE NW LOT 7 = 10 Ac

NE SW LOT 9 = 16 Ac

Original Application 3

SE NW LOT 7 = 10 Ac

NE SW LOT 9 = 16 Ac

Draft Application 3

SE NW LOT 7 = 4.2 Ac

SW NW LOT 8 = 13.6 Ac

NW SW LOT 9 = 5.7 Ac

23.5 Ac.

75-2092

State of Idaho
License and Certificate of Water Right

Water License No. 22365

Amount 1.06 second feet

Water District No.

Priority September 10, 1951

THIS IS TO CERTIFY that MELVIN CARNEGIE

of Post Falls, Idaho, made application for a permit to appropriate the public waters of the State of Idaho, dated September 10, 1951; that Permit No. 22365 was issued under said application; that Certificate of Completion of works, with a carrying capacity of 1.6 second feet, was issued thereunder on July 23, 1954, showing that said works were completed on the 20th day of July, 1954; and that on the 8th day of September, 1954,

MELVIN CARNEGIE

of Post Falls, State of Idaho, made proof to the satisfaction of the State Reclamation Engineer of Idaho, of the right to use the waters of Spokane River ~~Spokane River~~, for the purpose of Sprinkler irrigation, under Use Permit No. 22365 of the Department of Reclamation and that said right to the use of said waters has been perfected in accordance with the laws of Idaho, and is hereby confirmed by the State Reclamation Engineer of Idaho and entered of record in Volume 9 of Licenses at page 5499, on the 3rd day of June, 1955;

The right hereby confirmed dates from September 10, 1951;

The Point of Diversion is located

in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 7, Tp. 50 N., R. 5 W., B. M. Kootenai County

That the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to an amount actually needed and beneficially used for said purposes, and shall not exceed 1.06 cubic feet per second.

Description and location of use:

Twp.	Range	Sec.	Forty-acre Tract	No. Acres Described in Permit	No. Acres Actually Irrigated
50 N.	5 W.	7	Lot 7)	82.9	7.0
			Lot 8)		25.3
			Lot 9)		35.0
			NE $\frac{1}{4}$ SW $\frac{1}{4}$)		5.0
			Number of Acres Actually Irrigated		72.3

The right to the use of the water aforesaid hereby confirmed is restricted to the lands or place of use herein described, as provided by the laws of Idaho.

WITNESS the seal and signature of the State Reclamation Engineer, affixed at Boise, Idaho, this

3rd day of June, 1955.

MARK R. KULP

State Reclamation Engineer.

(SEAL)

75-2092