

State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 94-07545

Priority: December 16, 2009

Maximum Diversion Rate: 0.04 CFS

This is to certify, that JOHN D KIRSCH And/Or
TANYA J KIRSCH
14362 N HONU CT
RATHDRUM ID 83858
(208) 687-2505

has applied for a permit to appropriate water from:

Source: NORTH FORK COEUR D ALENE RIVER **Tributary:** COEUR D ALENE RIVER

and a permit is APPROVED for development of water as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>
IRRIGATION	04/01 to 10/31	0.04 CFS

LOCATION OF POINT(S) OF DIVERSION:

NORTH FORK COEUR D ALENE RIVER, L2 (SW¼SE¼), Sec. 27, Twp 50N, Rge 02E, B.M.
SHOSHONE County

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
50N 02E 27	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	1.2
																	L 2
Total Acres 1.2																	1.2

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **March 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. 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 lands above.
5. A fish screen of 0.25 inch or smaller mesh shall be installed and maintained at the point of diversion.
6. The approach velocity at the point of diversion shall not exceed 0.5 feet per second.
7. Water shall not be diverted under this right when flows in the Coeur d'Alene River are below minimum flow amounts as defined by Right 94-7341. The right holder shall be responsible for monitoring the daily flow in the Coeur d'Alene River using real-time data and shall cease diverting water when flows in the Coeur d'Alene River are below established minimum flow amounts. Unless otherwise specified by the Director of the Department of Water Resources, data from the USGS Cataldo gauging station, No. 12413500, may be used for purposes of determining these established minimum flow amounts.
8. 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.

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 3rd day of March, 20 11


GARY SPACKMAN, Interim Director

SCANNED
JUL 20 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

March 3, 2011

JOHN D KIRSCH
14362 N HONU CT
RATHDRUM ID 83858

TANYA J KIRSCH
14362 N HONU CT
RATHDRUM ID 83858

RE: Permit No.94-7545

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.

SCANNED
JUL 20 2011

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 dark 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)

SCANNED
JUL 20 2011

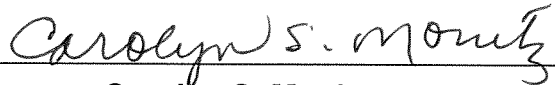
CERTIFICATE OF SERVICE

I hereby certify that on March 4, 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. 94-7545

JOHN D KIRSCH
14362 N HONU CT
RATHDRUM ID 83858

TANYA J KIRSCH
14362 N HONU CT
RATHDRUM ID 83858



Carolyn S. Monitz
Technical Records Specialist

SCANNED
JUL 20 2011

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

W.R. # 94-7545

APPLICATION ID # 76301

ENT. 12/24/09 BCA 12/28

OK to Publish 12/28/09

APPLICANT: John and Tanya Kirsch INITIAL REVIEW

BY: [Signature] DATE: 12/24/2009

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 12/24 By: [Signature]
☐ Field check: by _____
☐ Field report attached
☐ Analysis Supp. attached(>5cfs/500af)
☐ Water delivered by water master? Water District # _____

PROCESSING

(Yes)(No) **PRIORITY DATE:** 12/16/2009
 _____ (Include Moratorium Remark)
 _____ Statewide Advertising: (Diversion rate greater than 10 cfs or 1,000 af).
ADVERTISE IN: Shoshone County
 Newspaper: NP
 Dates scheduled for publication 1/7 + 14/10
 Affidavit of Publication received: 1/15/10
 Dates actually published: 1/7 + 14/10
 Application published correctly. Yes ☒ No _____
 If not, action taken: _____

Final Date for Protest: _____
 Protests Received: Yes ☒ No Withdrawn on 1/20/2011

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: Min. Stream Flow Cda. River
☒ Special conditions of approval supplement and/or cover letter attached: _____

Approval Recommended by: [Signature] Date: 2/14/2011 Sr. Agent initial [Signature]

SCANNED
12/20/2011

MEMORANDUM

Date: February 14, 2011
To: Water Right File 94-7545
From: kfranklin
Re: Protest

This application was protested by the Department of Fish & Game. Fish & Game withdrew their protest on January 20 2011 after a condition of approval was agreed upon between IDWR and Fish & Game regarding the minimum stream flow on the Coeur d Alene River.

SCANNED
JUL 20 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 9, 2011

JOHN D KIRSCH
TANYA J KIRSCH
14362 N HOMU CT
RATHDRUM ID 83858

RE: Withdrawal of Protest against 94-7545 – KIRSCH

Dear Applicant(s):

The Department of Water Resources has received withdrawal(s) of protest against the above referenced application from the Idaho Department of Fish and Game.

The application does not have any remaining protests; therefore, the department will take the steps necessary to bring the application to a final resolution.

Please contact this office if you have any questions regarding this procedure. Information about water rights and other matters administered by this agency is also available on the Internet at www.idwr.idaho.gov.

Sincerely,

Robert G. Haynes, PE
Regional Manager

SCANNED
JUL 20 2011

Ball, Dianne

From: Marston, Sascha
Sent: Wednesday, February 09, 2011 7:49 AM
To: Ball, Dianne
Subject: RE: Two more - see attached 94-7544 and 7545

Dianne,

The billing number is BILL0518 and we did receive the money.

Sascha

From: Ball, Dianne
Sent: Tuesday, February 08, 2011 5:39 PM
To: Marston, Sascha
Subject: Two more - see attached 94-7544 and 7545

Good afternoon, (or probably Wednesday morning when you pick this one up).

Attached is a copy of my e-mail of 1/13/2010 regarding two others – and I don't have information back that you received funds from IDFG for these, either, but at least I have an e-mail copy in file indicating I did request interagency billing. If you need copies of the two F&G letters I can scan and e-mail them also – they were attached to original e-mail.

Please see if you have a billing number on this request for these two files – that is what I need to close out these files as far as the protests are concerned since IDFG withdrew their protests on all of these.

Thanks.

<< File: IDFG billing 94-7544,7545.pdf >>

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

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C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

February 8, 2011

CHARLES E "CHIP" CORSI
IDAHO DEPARTMENT OF FISH AND GAME
2885 W KATHLEEN AVE.
COEUR D'ALENE, ID 83815

RE: Withdrawal of Protest against 94-7545 -Kirsch

Dear Protestant(s):

The Department of Water Resources acknowledges receipt of your withdrawal of protest against the above referenced application.

Please contact this office if you have any questions regarding this procedure. Information about water rights and other matters administered by this agency is also available on the Internet at www.idwr.idaho.gov.

Sincerely,

Robert G. Haynes, PE
Regional Manager

Cc: John D &/or Tanya J Kirsch

SCANNED
JUL 20 2011

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

NOTICE OF WITHDRAWAL OF PROTEST

I, Charles E. "Chip" Corsi, as authorized representative for the Idaho Department of Fish & Game, do hereby withdraw the Idaho Department of Fish & Games' protest in the matter of **Water Right Application No. 94-7545**, filed in the name of John D and Tonya J Kirsch.



Charles E. "Chip" Corsi

Dated this 20 day of January 2011.

SCANNED
JUL 20 2011

Ball, Dianne

From: Marston, Sascha
Sent: Wednesday, February 09, 2011 7:49 AM
To: Ball, Dianne
Subject: RE: Two more - see attached 94-7544 and 7545

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Please see if you have a billing number on this request for these two files – that is what I need to close out these files as far as the protests are concerned since IDFG withdrew their protests on all of these.

Thanks.

<< File: IDFG billing 94-7544,7545.pdf >>

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

Franklin, Keith

From: Franklin, Keith
Sent: Monday, November 29, 2010 9:18 AM
To: Keen, Shelley
Subject: Conditions Regarding Min. Stream Flow in the Coeur d'Alene River
Attachments: img-Y29101008.pdf

Shelley,

If you have time this week, I would like to finalize the conditions for permits on the Coeur d'Alene River system that are junior to the Coeur d'Alene River minimum stream flow. I've reviewed David Stanish's suggestions and believe the attached draft conditions are what will work best for the department and the permittee. After you've had a chance to look the conditions over, give me a call.

Thanks.

Keith.

Dept of Water Resources

7600 N Mineral Dr Sw 100

Coeur d'Alene Id. 83815

Attn Keith Franklin

Re. Permit # 94-07545

Dear Keith,

I have reviewed the draft copy of my Permit to Appropriate Water. The conditions on the permit are the ones that Mary Berns and I agreed to and are totally acceptable to Tanya and myself. I look forward to getting the final permit at your earliest convenience.

Sincerely;


John Kirsch

RECEIVED
Aug 27 2010
IDWR/NORTHERN

SCANNED
JUL 20 2011

State of Idaho
Department of Water Resources

DRAFT

Permit to Appropriate Water

DRAFT

NO. 94-07545

Priority: December 16, 2009

Maximum Diversion Rate: 0.04 CFS

This is to certify, that JOHN D KIRSCH And/Or
TANYA J KIRSCH
14362 N HONU CT
RATHDRUM ID 83858
(208) 687-2505

has applied for a permit to appropriate water from:

Source: NORTH FORK COEUR D ALENE RIVER **Tributary:** COEUR D ALENE RIVER

and a permit is APPROVED for development of water as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>
IRRIGATION	04/01 to 10/31	0.04 CFS

LOCATION OF POINT(S) OF DIVERSION:

NORTH FORK COEUR D ALENE RIVER, L2 (SW1/4SE1/4), Sec. 27, Twp 50N, Rge 02E, B.M.,
SHOSHONE County

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
50N 02E 27															1.2		1.2
															L 2		

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before .
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. 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 lands above.
5. A fish screen of 0.25 inch or smaller mesh shall be installed and maintained at the point of diversion.
6. The approach velocity at the point of diversion shall not exceed 0.5 feet per second.
7. Water shall not be diverted under this right when flows in the Coeur d'Alene River are below minimum flow amounts as defined by Right 94-7341. The right holder shall be responsible for monitoring the daily flow of the Coeur d'Alene River at Cataldo using real-time data published on the internet by the U. S. Geological Survey and shall cease diverting water when flows in the Coeur d'Alene River are below established minimum flow amounts.

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 _____ day of _____, 20____.

GARY SPACKMAN, Interim Director

SCANNED
11/16/2011



State of Idaho

DEPARTMENT OF WATER RESOURCES

Northern Region, 7600 N. Mineral Drive, Suite 100 • Coeur d'Alene, Idaho 83815

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C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

August 12, 2010

John D Kirsch
Tanya J Kirsch
14362 N Honu Ct
Rathdrum, ID 83858

Re: Protested Application For Permit No. 94-7545.

Dear Mr. and Mrs. Kirsch:

Enclosed is a draft permit, for the above said application that contains conditions that may satisfy the protest of your application by the Department of Fish & Game. Condition #7 is the one of most concern and is one that would be part of all permits anyway because of the minimum stream flow on the Coeur d'Alene River.

A copy of the draft permit has been sent to Fish & Game and the Department of Water Resources is waiting for their response. In the mean time, please review the draft permit and if it meets with your satisfaction to satisfy the protest, please send me a letter stating you agree with the draft permit as written.

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

SCANNED
JUL 20 2011

State of Idaho
Department of Water Resources

DRAFT

Permit to Appropriate Water

DRAFT

NO. 94-07545

Priority: December 16, 2009

Maximum Diversion Rate: 0.04 CFS

This is to certify, that JOHN D KIRSCH And/Or
TANYA J KIRSCH
14362 N HONU CT
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has applied for a permit to appropriate water from:

Source: NORTH FORK COEUR D ALENE RIVER **Tributary:** COEUR D ALENE RIVER

and a permit is APPROVED for development of water as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>
IRRIGATION	04/01 to 10/31	0.04 CFS

LOCATION OF POINT(S) OF DIVERSION:

NORTH FORK COEUR D ALENE RIVER, L2 (SW1/4SE1/4), Sec. 27, Twp 50N, Rge 02E, B.M.,
SHOSHONE County

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
50N 02E 27															1.2		1.2
															L 2		

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before .
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. 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 lands above.
5. A fish screen of 0.25 inch or smaller mesh shall be installed and maintained at the point of diversion.
6. The approach velocity at the point of diversion shall not exceed 0.5 feet per second.
7. Water shall not be diverted under this right when flows in the Coeur d'Alene River are below minimum flow amounts as defined by Right 94-7341. The right holder shall be responsible for monitoring the daily flow of the Coeur d'Alene River at Cataldo using real-time data published on the internet by the U. S. Geological Survey and shall cease diverting water when flows in the Coeur d'Alene River are below established minimum flow amounts.

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 _____ day of _____, 20_____.

GARY SPACKMAN, Interim Director

SCANNED
11/20/2011

MEMORANDUM

Date: August 12, 2010
To: Water Right File 94-7545
From: kfranklin
Re: Source Renamed

During the permitting process it was discovered the name of the source Coeur d Alene River has been changed on the USGS data base as the North Fork Coeur d Alene River. The permit will reflect that change.

SCANNED
JUL 20 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

August 12, 2010

Charles E. "Chip" Corsi
Idaho Department of Fish & Game
2885 West Kathleen Ave.
Coeur d'Alene, ID 83815

Re: Protested Application For Permit No. 94-7545, Kirsch

Dear Mr. Corsi:

Enclosed is a draft permit for the above said application for permit from the North Fork of the Coeur d'Alene River which contains conditions that should satisfy Fish & Games protest. If the draft permit meets with your approval, please send me a written request withdrawing the protest at your earliest convenience.

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

Thank you.

Sincerely,

Keith E. Franklin
Senior Water Resources Agent
Enclosure
Cc. David I. Stanish, DAG

COPY

SCANNED
11/11 7 0 2011

Claim Data Entry Procedure Using the Online Claim Filing Process

Note: You will be using a process that was not designed for data entry from paper claims, but this is for an experiment to see if it can be adapted for this use.

Step 1 – Retrieve a claim for data entry

Step 2 – Login to the CSRBA3 account for Online Claims.

<https://www.idwr.idaho.gov/onlineclaimstaking/login.aspx>

The Username is CSRBA3 and the Password is Entry3. (Username is not case sensitive, but the password is.)

Step 3 – After logging in, you will be at the History page. On this page click the Create Claim button. This will take you to a page with a lot of information for online users. Skip over this information and click the button labeled: "Click here to continue filing a new claim"

Step 4 – You should now be at the Getting Started page.

If you are entering a claim with an existing water right number, use the first (default) option. Click the "Continue" button and proceed to the next step.

CSR
If you are entering a new beneficial use right and have the parcel number, use the second option by clicking in the circle. Tab to select the county in which the parcel is located and tab and hit "Enter" or click the "Verify Parcel No." button. If the mailing address or property address matches the address of the claimant, click the "Continue" button and proceed to the next step. If they don't match, you can check the tax lot data in ArcMap to make sure the claimant does own the parcel.

If you are entering a new beneficial use right and not have the parcel number, use the third option by clicking in the circle. You can then the Township, Range and Section for the Point of Diversion. After entering the Township/Range/Section; click the Save Legal Description and Continue" button and proceed to the next step.

Step 5 – You should now be viewing the Add or Modify Claimant Information page. Add the name of the claimant from claim, and proceed to add or modify the address information. If a phone number and/or email address is provided, add that information. After completing the claimant information for the first claimant, click the "Add Claimant to Claim Button" at the bottom of the web page. If more than one claimant's name is entered on the claim, repeat this process for each claimant. When complete with claimant data entry, click the next button. Note: The contact information entered for the claimant should follow IDWR's data entry standards as closely as possible. The data entry standards can be found as a Word document on Wenet under Workflow.

Step 6 – You now be viewing the Source & Point of Diversion (POD) page. In Step 1, enter the source listed on the claim in Item 3. "Standard" IDWR sources will appear below the box as you key in the source from the claim. Use the IDWR "standard" source whenever possible. Click the "Save Source" button. You will now see the source you entered highlighted in blue in the box above the enter source field. Generally there is only one source per claim, so proceed to Step 2, the Point of Diversion. You should see a map of the legal description associated with

the water right number, parcel number or Township, Range and Section entered on the Getting Started page. The WP file (Working Papers) associated with the receipt number frequently has a map show the location of the POD. If there is one, try to place the POD on the map under Step 2 as close as possible to the POD shown in the WP file. However, if GPS coordinates are listed on the last line of Item 4, select option 2 under Step 2 and enter those coordinates in the appropriate boxes. If you are unable to determine a location for the POD, and there are no GPS coordinates listed, then select option 3 under Step 2 and enter the Township, Range, Section and Government Lot or ¼ of the ¼ of the section shown on the claim. You will not be able to enter both a Government Lot and ¼ of the ¼ section on this page. Once you have made your selection using options 1, 2 or 3 you should see a box near the bottom of the page that contains a legal description for the POD that matches what was entered on the claim. If it does not match, select edit and modify the data to make it match. Click the next button to continue.

Step 7 – You should now be viewing the Purpose of Use page. Click in the box “Select water use” and a menu of possible purposes of use should appear. Hopefully one of the purposes of use will match what the claimant has entered on the claim under Item 6. Select the matching Purpose of Use and click the “Add Purpose” button. If the purpose of use is domestic, enter the number of homes claimed under Item 8 in the appropriate box. If the purpose of use is stockwater, enter the number and kind of stock claimed under Item 8 in the appropriate boxes. Any additional information about a purpose of use entered under Item 8 on the claim should be data entered in the description box. (Limited to 500 characters, mostly letters and numbers, only the most common punctuation can be entered; everything else is an invalid character.) Click the “Save Description” button for each water use entered. Click the next button after entering each water use claimed. (Note: If the only use is domestic for 1 home, it is unnecessary to enter a description since the process defaults to 1 home for domestic purposes.)

Step 8 – You should now be viewing the Place of Use (POU) page. Click select for the first Purpose of Use shown in the box. A box should now open that displays five options. Generally you will be using the third or fourth options to enter the information in Item 9. (Use map to select parcel or Enter legal description) You may use the second option (Use map to draw boundaries) if the claimant submitted a map with the claim with the boundaries of the place of use delineated. Once you have entered a legal description using one of the options described above, click the “Mark POU as Complete” button. This takes you back to the Place of Use (POU) page. The purpose of use you selected should now be checked as complete (an X in the box below Complete) and if there was only one purpose of use you are ready to click the next button. If there are more than one purposes of use, select the next one down on the list, and the box with the five options should appear again. In most cases, the fifth option (Copy from completed use) will now be the best choice to select. Repeat this procedure for each purpose of use claimed, and then click the next button.

Step 9 – You should now be viewing the Priority Date page, which is where you enter Item 2. Enter the year claimed in the box, and then click on the calendar icon to the right of the box in which you entered the year to select the month and day. If the claim only has a year listed, enter December 31 of that year. Note: The easiest way to get to December 31 is to enter the year after the year that was claimed and click the left (back) button on the calendar. If an explanation of the priority date claimed appears anywhere on the claim (usually in Item 13, enter that information in the text box that allows up to 5,000 characters. Again, the types of characters you can enter are generally limited to letters, numbers and some of the common punctuation marks. Click the next button to save your data and proceed to the next step.

Step 10 – You should now be viewing the Quantity page. Enter the CFS or AFY claimed in Item 6 for each purpose of use claimed. Scroll down on this page and click the “Calculate Totals” button. If the amount in the Total Claimed box is different than the total entered for Item 7, modify the number(s) in the box and click the “Update Modified Totals” button. Click the next button to save the data and proceed to the next step.

Step 11 – You should now be viewing the Season of Use page. Default values for the season of use should appear for each purpose of use claimed. Change this only if the claim has a different season of use listed for a purpose of use claimed. Click the next button to save the data and proceed to the next step.

Step 12 – You should now be viewing the Finalize and Submit page. Note the assigned claim number, because you will need to use it to rename the scanned file when the data entry is complete. Also, to proofread your data entry, click the line “Click here to preview and/or print your claim for your records.” This will allow you to view an html screen that should have the data you entered appearing under the same item numbers (up to Item 7, the online process does not have a field for Item 8) as on the hand written claim form. However, any data entered text may or may not appear under the same item numbers.

If you are satisfied that the data entry is complete and accurate, scroll down and click on the “Pay in Person” or “Pay by Mail” button to “submit” the claim for importation.



IDAHO DEPARTMENT OF FISH AND GAME

PANHANDLE REGION

2885 West Kathleen Avenue
Coeur d'Alene, Idaho 83815

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

C.L. "Butch" Otter/Governor

July 14, 2010 **RECEIVED**
Cal Groen/Director

JUL 19 2010

IDWR/NORTHERN

Dear Keith:

REFERENCE: NORTH FORK COEUR D'ALENE RIVER PROTESTS

94-7423, 94-7439, 94-7441, 94-7544, 94-7545, 94-7560, 94-7561, 94-7570

IDFG is concerned about the recent proliferation of recreational lots, and the negative impacts to the riparian habitat, along the North Fork Coeur d'Alene River. The North Fork Coeur d'Alene River is managed by IDFG as a quality westslope cutthroat trout fishery and is an important component of westslope cutthroat trout habitat range-wide. It is a very popular fishing destination with local and out-of-state anglers.

Several research and restoration projects have been, and are currently being conducted, on the North Fork and the Little North Fork Coeur d'Alene Rivers. Idaho and neighboring states (MT/WA/OR) have recently fended off a listing of westslope cutthroat under the Endangered Species Act by demonstrating that healthy populations and habitat exist in places like the North Fork Coeur d'Alene River and that the appropriate state regulatory mechanisms are in place to protect them. Maintaining and protecting riparian vegetation is essential to sustaining healthy fish populations.

Riparian vegetation has complex root systems that slow stream bank erosion during high flows with well-rooted, woody vegetation that can withstand increased flows more effectively than stream banks that are sparsely vegetated or grass covered. Trees and shrubs provide shade, which is critically important for maintaining the cooler water temperatures necessary for our native trout. Additionally, trees contribute valuable large woody debris in the stream that provides cover for fish and other aquatic species. Furthermore, intact riparian areas provide habitat for a wide range of terrestrial and avian species, from big game to migratory birds.

The State of Idaho has recognized the importance of this fishery by instituting a Minimum Stream Flow (94-7341) to prevent the degradation of instream habitat. Water shall not be diverted under this right when flows in the Coeur d'Alene River are below 1018.00 cfs from November 1st through June 30th and 413.00 cfs from July 1st through October 31st at the confluence of the Coeur d'Alene River and the South Fork Coeur d'Alene River in the NENW, S31, T49N, R2E, Shoshone County, which is a short distance downstream of the applicants' property.

Keeping Idaho's Wildlife Heritage

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Unless otherwise specified by the Director of IDWR, data from the USGS Cataldo gauging station, #12413500, may be used for purposes of determining the flows in the Coeur d'Alene 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 will agree to withdraw our protests if the conditions listed below are reflected in the permits.

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 will occur between April 15 and October 31 unless the Minimum Stream Flow (WR 94-7341), discussed above, takes precedence.
3. Beneficial uses will include Diversion for Irrigation at 0.03 cfs per acre

In addition to the above listed application, IDFG requests that all future applications for water diversions from the North Fork Coeur d'Alene 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

File: IDWR NF CDA Protests2

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State of Idaho
Department of Water Resources

DRAFT

Permit to Appropriate Water

DRAFT

NO. 94-07545

Priority: December 16, 2009

Maximum Diversion Rate: 0.04 CFS

This is to certify, that JOHN D KIRSCH And/Or
TANYA J KIRSCH
14362 N HONU CT
RATHDRUM ID 83858
(208) 687-2505

has applied for a permit to appropriate water from:

Source: NORTH FORK COEUR D ALENE RIVER
Tributary: COEUR D ALENE RIVER

and a permit is APPROVED for development of water as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>
IRRIGATION	04/01 to 10/31	0.04 CFS

LOCATION OF POINT(S) OF DIVERSION:

NORTH FORK COEUR D ALENE RIVER, L2 (SW1/4SE1/4), Sec. 27, Twp 50N, Rge 02E, B.M.
SHOSHONE County

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
50N 02E 27															1.2		1.2
															L 2		

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **February 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. 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 lands above.
5. A fish screen of 0.25 inch or smaller mesh shall be installed and maintained at the point of diversion.
6. The approach velocity at the point of diversion shall not exceed 0.5 feet per second.
7. Water shall not be diverted under this right when flows in the Coeur d'Alene River are below minimum flow amounts as defined by Right 94-7341. The right holder shall be responsible for monitoring the daily flow in the Coeur d'Alene River using real-time data and shall cease diverting water when flows in the Coeur d'Alene River are below established minimum flow amounts. Unless otherwise specified by the Director of the Department of Water Resources, data from the USGS Cataldo gauging station, No. 12413500, may be used for purposes of determining these established minimum flow amounts.

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 _____ day of _____, 20_____.

GARY SPACKMAN, Interim Director

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Data Category:
Surface WaterGeographic Area:
United States

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News - updated March 17, 2010

USGS Surface-Water Daily Statistics for the Nation

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USGS 12413500 COEUR D ALENE RIVER NR CATALDO ID

Available data for this site Time-series: Daily statistics GO

Kootenai County, Idaho Hydrologic Unit Code 17010303 Latitude 47°33'18", Longitude 116°19'28" NAD83 Drainage area 1,208 square miles Gage datum 2,100.00 feet above sea level NGVD29	Output formats HTML table of all data Tab-separated data Reselect output format
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00060, Discharge, cubic feet per second, Mean of daily mean values for each day for 76 - 78 years of record in, cfs (Calculation Period 1910-10-01 -> 2009-09-30)												
Day of month	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
1	1,800	2,540	2,570	4,950	7,570	4,500	1,400	584	430	433	732	2,060
2	1,700	2,440	2,480	5,320	7,500	4,430	1,350	580	421	443	698	2,160
3	1,770	2,280	2,480	5,410	7,550	4,260	1,290	570	411	450	770	2,150
4	1,800	2,270	2,580	5,590	7,740	4,050	1,250	558	405	476	848	2,000
5	1,700	2,310	2,700	5,640	7,770	3,850	1,200	547	405	485	889	1,930
6	1,670	2,120	2,680	6,060	7,810	3,700	1,160	536	402	475	897	1,780
7	1,800	2,180	2,590	6,450	7,890	3,540	1,120	530	400	455	1,010	1,660
8	2,250	2,290	2,500	6,630	7,880	3,400	1,080	522	399	451	994	1,520
9	2,230	2,810	2,460	6,380	7,790	3,370	1,050	511	398	474	1,020	1,420
10	2,080	2,850	2,610	6,350	7,690	3,220	1,020	501	397	514	1,060	1,550
11	1,950	2,760	2,690	6,440	7,560	3,010	990	492	405	529	1,040	1,890
12	1,850	2,640	2,920	6,620	7,470	2,880	951	482	408	537	1,150	2,320
13	1,920	2,540	3,090	6,950	7,420	2,790	922	479	407	531	1,290	2,360
14	1,900	2,350	3,080	7,710	7,490	2,700	904	473	408	520	1,280	2,270
15	1,980	2,180	3,000	8,170	7,380	2,610	878	469	418	524	1,210	2,240
16	2,000	2,160	3,010	7,970	7,330	2,550	853	466	423	528	1,170	2,040
17	1,900	2,190	3,130	7,850	7,470	2,450	826	458	421	537	1,160	1,840
18	1,780	2,150	3,450	8,410	7,480	2,320	805	450	431	539	1,210	1,800
19	1,790	2,330	3,480	8,450	7,260	2,200	784	448	432	551	1,300	1,840
20	1,920	2,880	3,580	8,180	7,190	2,090	772	454	421	585	1,300	1,870
21	2,000	3,010	3,730	8,140	7,060	2,010	749	446	422	616	1,320	1,900
22	1,880	3,090	3,770	8,090	6,650	1,950	727	441	423	635	1,310	2,430
23	1,860	2,790	4,080	7,980	6,340	1,870	710	445	419	640	1,430	2,670
24	1,910	2,590	4,160	8,040	6,030	1,790	693	448	416	634	1,720	2,360
25	1,950	2,550	4,200	7,960	5,790	1,730	681	447	413	624	2,390	1,930
26	1,930	2,520	4,330	7,840	5,630	1,660	662	453	418	653	2,500	1,700
27	1,890	2,590	4,410	7,870	5,450	1,600	649	443	412	653	2,140	1,570
28	1,800	2,670	4,640	7,930	5,230	1,530	635	437	411	646	1,920	1,540
29	1,830	3,870	4,780	7,940	5,030	1,500	627	424	409	678	1,810	1,620
30	1,850		4,730	7,790	4,840	1,460	612	418	407	706	2,010	1,780
31	2,080		4,690		4,660		597	418		735		1,770

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NOV - June 1,015 cfs
July - Oct 413 cfs

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News - updated March 17, 2010

USGS Surface-Water Daily Statistics for the Nation

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USGS 12413500 COEUR D'ALENE RIVER NR CATALDO ID

Available data for this site: Time-series: Daily statistics

Kootenai County, Idaho
Hydrologic Unit Code 17010303
Latitude 47°33'18", Longitude 116°19'28" NAD83
Drainage area 1,208 square miles
Gage datum 2,100.00 feet above sea level NGVD29

Output formats
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[Excel output format](#)

Day of month	00060, Discharge, cubic feet per second, Minimum of daily mean values for each day for 22 - 23 years of record in, cfs (Calculation Period 1986-10-01 -> 2009-09-30)											
	Period-of-record for statistical calculation restricted by user											
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
1	319	329	357	1,380	2,760	1,020	641	340	260	239	280	317
2	319	339	402	1,320	2,500	981	630	345	260	243	287	351
3	319	334	414	1,270	2,370	949	627	353	250	244	290	343
4	282	346	394	1,270	2,310	920	612	340	250	244	287	339
5	275	349	393	1,320	2,270	907	605	343	250	244	289	336
6	304	366	419	1,310	2,340	878	596	339	250	244	295	325
7	329	390	460	1,380	2,650	859	584	334	250	249	280	324
8	297	287	547	1,450	2,600	829	572	331	256	250	298	303
9	289	269	673	1,480	2,420	799	551	330	252	250	299	330
10	328	306	764	1,440	2,270	777	537	324	248	250	299	331
11	351	337	778	1,440	2,110	763	523	324	242	250	299	322
12	343	334	748	1,370	1,870	840	509	316	236	251	299	278
13	340	326	755	1,340	1,700	859	495	311	234	250	317	249
14	345	312	894	1,270	1,590	836	486	304	229	252	360	269
15	336	319	949	1,210	1,520	838	487	296	220	273	336	275
16	316	310	934	1,200	1,490	940	482	291	220	281	350	270
17	300	308	906	1,320	1,450	901	482	291	220	281	358	325
18	297	322	860	1,730	1,420	837	461	288	244	276	348	306
19	318	324	1,260	2,210	1,420	851	444	291	252	266	340	304
20	327	324	1,370	2,420	1,490	800	437	292	253	261	340	325
21	321	328	1,550	2,440	1,470	783	431	289	249	281	316	310
22	327	352	1,510	2,405	1,360	755	418	285	244	287	320	313
23	325	385	1,470	2,440	1,290	723	414	283	244	287	327	323
24	313	414	1,420	2,440	1,240	701	405	283	240	287	360	335
25	302	416	1,370	2,240	1,210	682	398	283	243	287	320	331
26	324	394	1,340	2,170	1,230	713	392	279	243	287	328	331
27	309	364	1,940	2,410	1,240	660	384	270	239	287	267	298
28	290	343	1,790	2,840	1,210	637	377	270	235	287	324	273
29	283	1,110	1,750	3,090	1,150	647	370	260	234	287	328	327
30	300		1,600	3,080	1,110	663	363	260	234	287	313	320
31	333		1,490		1,070		353	260		287		316

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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 21, 2010

MARY TERRA BERNIS
IDAHO DEPARTMENT OF FISH & GAME
2885 KATHLEEN AVE.
COEUR D' ALENE, ID 83815

Re: Protested Applications From the Coeur d'Alene River Drainage

Dear MARY:

The department currently has 7 applications for permits that have been protested by the Department of Fish & Game from the North Fork and Coeur d'Alene Rivers respectively. Recent correspondence from Chip indicates a willingness of Fish & Game to withdraw the protests if the permits can be conditioned with the minimum stream flow on Coeur d'Alene River taking precedence.

The minimum stream flow, as per Right 94-7341, begins on the Coeur d'Alene River in and around the town of Cataldo and extends downstream to the town of Harrison. There are two U.S. Geological Survey monitoring stations that best fit the beginning and ending regimes of the minimum stream flow requirements. The upper one is at Cataldo and the other is located at the town of Harrison, just before the river enters Lake Coeur d'Alene.

I've put together a draft permit, for your review, that contains conditions that may satisfy Fish & Games concerns. All of the 7 applications are only for irrigation and would be subject to the minimum stream flow requirements. Pay particular attention to condition #5, applications upstream of Cataldo would be subject to the river flow at the Cataldo monitoring station and applications below Cataldo would be subject to the river flow at the Harrison monitoring station.

The U.S.G.S. website for monitoring stations is pretty user friendly and if the permit holders would check it daily they would know immediately if they could irrigate or not.

After you've had a chance to review the proposal, let me know your thoughts.

Thank you.

Sincerely,

Keith E. Franklin
Senior Water Resources Agent
Encl/kf

COPY

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State of Idaho
Department of Water Resources

DRAFT**Permit to Appropriate Water****DRAFT**

NO. 94-07560

Priority: April 26, 2010

Maximum Diversion Rate: 0.03 CFS

This is to certify, that DON MACDONALD
1526 WOODLAND DR
DALTON GARDENS ID 83815

And/Or

RICK JOST
1526 WOODLAND DR
DALTON GARDENS ID 83815

has applied for a permit to appropriate water from:

Source: COEUR D ALENE RIVER **Tributary:** COEUR D ALENE LAKE

and a permit is APPROVED for development of water as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>
IRRIGATION	04/15 to 10/31	0.03 CFS

LOCATION OF POINT(S) OF DIVERSION:

COEUR D ALENE RIVER L2 (SW1/4SE1/4) Sec. 27, Twp 50N, Rge 02E, B.M.
SHOSHONE County

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
50N 02E 27															1.0		1.0
															L 2		

Total Acres: 1

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before .
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. 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 lands above.
5. *Changed* Water shall not be diverted under this right when flows in the Coeur d'Alene River are below established minimum flow amounts as per Right 94-7341. The right holder shall be responsible for monitoring the daily flow of the Coeur d'Alene River at Harrison using real-time data published on the Internet by the U.S. Geological Survey and shall cease diverting water when flows in the Coeur d'Alene River are below established minimum instream flow amounts.
6. A fish screen of 0.25 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.

SCANNED
JUL 28 2011

Page 2

State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 94-07560

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this _____ day of _____, 20_____.

GARY SPACKMAN, Interim Director

SCANNED
JUL 20 2011

State of Idaho
Department of Water Resources

DRAFT

Permit to Appropriate Water

DRAFT

NO. 94-07560

Priority: April 26, 2010

Maximum Diversion Rate: 0.03 CFS

This is to certify, that DON MACDONALD And/Or
RICK JOST
1526 WOODLAND DR
DALTON GARDENS ID 83815
(208) 762-1011

has applied for a permit to appropriate water from:

Source: COEUR D ALENE RIVER **Tributary:** COEUR D ALENE LAKE

and a permit is APPROVED for development of water as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>
IRRIGATION	04/15 to 10/31	0.03 CFS

LOCATION OF POINT(S) OF DIVERSION:

COEUR D ALENE RIVER, L2 (SW1/4SE1/4), Sec. 27, Twp 50N, Rge 02E, B.M., SHOSHONE County

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
50N 02E 27															1.0		1.0
															L 2		

Total Acres: 1

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before .
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. 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 lands above.
5. Water shall not be diverted under this right when flows in the Coeur d'Alene River are below minimum flow amounts as defined by Right 94-7341. The right holder shall be responsible for monitoring the daily flow of the Coeur d'Alene River at Harrison using real-time data published on the Internet by the U.S. Geological Survey and shall cease diverting water when flows in the Coeur d'Alene River are below established minimum instream flow amounts.
6. A fish screen of 0.25 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.

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 _____ day of _____, 20_____.

GARY SPACKMAN, Interim Director

SCANNED
JUL 7 8 2011

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 94-7341

WATER RIGHT NUMBER: 94-7341

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	STATE OF IDAHO IDAHO WATER RESOURCE BOARD 322 E FRONT ST PO BOX 83720 BOISE, ID 83720-0098 (208)287-4800

Priority Date: 06/15/1992

Basis: License

Status: Active

<u>Source</u>	<u>Tributary</u>
COEUR D ALENE RIVER	COEUR D ALENE LAKE

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
MINIMUM STREAM FLOW	11/01 to 6/30	1,018.000 CFS	
MINIMUM STREAM FLOW	7/01 to 10/31	413.000 CFS	

Total Diversion: 1,018.000 CFSLocation of Point(s) of Diversion

COEUR D ALENE RIVER	L4 (SW1/4NW1/4)	Sec. 36, Twp 48N, Rge 04W, B.M.
KOOTENAI County	(Ending of Reach)	
COEUR D ALENE RIVER	NE1/4NW1/4	Sec. 31, Twp 49N, Rge 02E, B.M.
SHOSHONE County	(Beginning of Reach)	
COEUR D ALENE RIVER	L3 (SW1/4NW1/4)	Sec. 36, Twp 48N, Rge 04W, B.M.
KOOTENAI County	(Ending of Reach)	

Place of UseConditions of Approval:

SCANNED
JUL 20 2011

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 94-7341

1. This minimum streamflow shall be subject to future municipal and domestic development from the Coeur d'Alene River and its tributaries for use in the basin within and upstream of the minimum streamflow reach. The minimum streamflow will not be subject to water rights established in the future for irrigation uses or other large consumptive purposes even though covered under a municipal or domestic use definition.

Specifically because of the generalization of the Tennant method, the Director retains jurisdiction, as described below, to review and amend any and all parameters of this right. The Board, upon receiving a request, or upon its own initiative, may petition the Director for an amendment to the right. The petition must set forth any significant change in circumstances and evidence of the public interest supporting the proposed amendment. The Director will notify the general public and specific persons or known interested parties of the proposed change, and conduct a hearing for the purpose of determining whether the right should be amended in the public interest.

The burden of proof at the hearing shall be upon the persons or parties seeking the amendment to establish that the amendment of the right would be in the public interest.

Use of water under this right shall recognize and allow the continued beneficial diversion of water under any prior existing water right established by diversion and application to beneficial use or by an application, permit, or license on file or issued by the Director under Chapter 2, Title 42, Idaho Code, with a priority of water right date earlier than 06/15/1992.

Upon further finding and order of the Director that gauging stations are required to maintain the approved minimum flows on Coeur d'Alene River, such measuring devices shall be permanently installed and maintained as specified by the Director.

This minimum stream flow is for the protection of fish and wildlife habitat, aquatic life and recreational values.

This minimum stream flow begins at the confluence of the Coeur d'Alene River and the South Fork Coeur d'Alene River in the NENW, S31, T49N, R2E, Shoshone County and extends downstream approximately 35 miles to the mouth of the Coeur d'Alene River in Lots 3 and 4 (SWNW), S36, T48N, R4W, Kootenai County.
2. 027 Use of water under this right shall be non-consumptive.

Remarks:Comments:Dates and Other Information:

Licensed Date: 10/24/1995
Decreed Date:
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
State or Federal:
Owner Name Connector:
Water District Number:
Generic Max Rate Per Acre:
Generic Max Volume Per Acre:
Decree Defendant:
Decree Plaintiff:
Civil Case Number:
Judicial District:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Carey Act Number:
Mitigation Plan: False

Combined Use Limits:

SCANNED
JUL 20 2011

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report 94-7341

Water Supply Bank:

SCANNED
JUL 20 2011



IDAHO DEPARTMENT OF FISH AND GAME

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

C.L. "Butch" Otter/Governor
Cal Groen/Director

April 2, 2010

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

RECEIVED

APR 06 2010

IDWR / NORTH

Dear Keith:

REFERENCE: NORTH FORK COEUR D'ALENE RIVER PROTESTS
DOUGALL – 94-7423
ATKINS – 94-7544
KIRSCH – 94-7545

IDFG is concerned about the recent proliferation of recreational lots, and the negative impacts to the riparian habitat, along the North Fork Coeur d'Alene River. The North Fork Coeur d'Alene River is managed by IDFG as a quality westslope cutthroat trout fishery and is an important component of westslope cutthroat trout habitat range-wide. It is a very popular fishing destination with local and out-of-state anglers.

Several research and restoration projects have been, and are currently being conducted, on the North Fork and the Little North Fork Coeur d'Alene Rivers. Idaho and neighboring states (MT/WA/OR) have recently fended off a listing of westslope cutthroat under the Endangered Species Act by demonstrating that healthy populations and habitat exist in places like the North Fork Coeur d'Alene River and that the appropriate state regulatory mechanisms are in place to protect them. Maintaining and protecting riparian vegetation is essential to sustaining healthy fish populations.

Riparian vegetation has complex root systems that slow stream bank erosion during high flows with well-rooted, woody vegetation that can withstand increased flows more effectively than stream banks that are sparsely vegetated or grass covered. Trees and shrubs provide shade, which is critically important for maintaining the cooler water temperatures necessary for our native trout. Additionally, trees contribute valuable large woody debris in the stream that provides cover for fish and other aquatic species. Furthermore, intact riparian areas provide habitat for a wide range of terrestrial and avian species, from big game to migratory birds.

The State of Idaho has recognized the importance of this fishery by instituting a Minimum Stream Flow (94-7341) to prevent the degradation of instream habitat. Water shall not be diverted under this right when flows in the Coeur d'Alene River are below 1018.00 cfs from November 1st through June 30th and 413.00 cfs from July 1st through October 31st at the

Keeping Idaho's Wildlife Heritage

Mr. Keith Franklin
April 2, 2010

North Fork Coeur d'Alene River – Page 2

confluence of the Coeur d'Alene River and the South Fork Coeur d'Alene River in the NENW, S31, T49N, R2E, Shoshone County, which is a short distance downstream of the applicant's property.

Unless otherwise specified by the Director of IDWR, data from the USGS Cataldo gauging station, #12413500, may be used for purposes of determining the flows in the Coeur d'Alene 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 will agree to withdraw our protests if the conditions listed below are reflected in the permits.

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 and storage) will occur between April 15 and October 31 unless the Minimum Stream Flow (WR 94-7341), discussed above, takes precedence.
3. Beneficial uses will include Diversion for Irrigation at 0.04 cfs.

We further recommend that riparian vegetation along the stream bank, including at the diversion site, be protected and augmented (if necessary).

In addition to the above listed application, IDFG requests that all future applications for water diversions from the North Fork Coeur d'Alene River be conditions 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

File: IDWR NF CDA Protests

SCANNED
04 02 2011

February 5, 2010

Mary Terra-Burns
Idaho Department of Fish and Game
2885 W Kathleen Ave
Coeur d'Alene ID 83815

RECEIVED

FEB 08 2010

IDWR / NORTH

Dear Mary,

Reference Kirsch 94-7545

Thank you for taking the time to visit our property and review our situation regarding water permit. As we discussed every part of the Coeur d'Alene River has unique characteristics and problems. We are attempting to stabilize the bank and to provide some shade and privacy to our property and until the trees and shrubs are established it is necessary to provide some form of water to keep them alive. I am sure that most of them will eventually establish a good root base and reach some ground water. We are committed to utilizing as little water as is necessary to allow this to happen. Our water system is set up to water only on the spots that are necessary and only for short periods each day. We understand the situation the Department of Fish and Game is in re-establishing the Cutthroat Trout and are more than willing to discontinue water use from the river in times of low water.

We also understand your concern for future water usage if for some reason the property should change hands. As I stated that is not in our plans at this time but is inevitable due to natural causes. I am sure that there will be increased regulation of the river in the future to control the impact that recreation is having on our precious resource. Hopefully this will help make all property owners more responsible to maintaining the vegetation along the river and to reduce the impact that this recreation has.

We also understand your difficulty in dealing with all the potential users of water from the river and will support you in finding a solution to allowing some usage without over taxing this natural resource. We look forward to working with you in the future to resolve the potential issues with this protest and make a minimal impact on the resource we both respect and enjoy.

Sincerely



Jack Kirsch

Cc Charles E "Chip" Corsi IDFG Cd'A
Keith Franklin IDWR Cd'A

SCANNED
JUN 20 2011

ORIGINAL

LAWRENCE G. WASDEN
Attorney General

CLIVE J. STRONG
Deputy Attorney General
Chief, Natural Resources Division

DAVID I. STANISH (ISB #7310)
Deputy Attorney General
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: (208) 334-2400
Facsimile: (208) 854-8072

RECEIVED

JAN 15 2010

IDWR / NORTH

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO**

IN THE MATTER OF APPLICATION FOR)
PERMIT NO. 94-07545 IN THE NAME OF JOHN) **NOTICE OF APPEARANCE**
D. AND TANYA J. KIRSCH)
_____)

NOTICE is hereby given that David I. Stanish, Deputy Attorney General, hereby enters an appearance as the attorney of record for the Protestant State of Idaho Department of Fish and Game in the above listed administrative proceeding. All documents pertaining to this matter should be served on the State of Idaho Department of Fish and Game as follows:

David I. Stanish
Deputy Attorney General
Natural Resources Division
700 W. State Street, 2nd Floor
P.O. Box 83720
Boise, Idaho 83720-0010

Attn: Walt Poole
Idaho Department of Fish and Game
P.O. Box 25
Boise, Idaho 83707

Idaho Department of Fish and Game
2885 West Kathleen Avenue
Coeur d'Alene, Idaho 83815

DATED this 13th day of January 2010.

LAWRENCE G. WASDEN
Attorney General

CLIVE J. STRONG
Deputy Attorney General
Chief, Natural Resources Division

A handwritten signature in dark ink, appearing to read 'D. Stanish', is written over a horizontal line.

DAVID I. STANISH
Deputy Attorney General
Natural Resources Division

CERTIFICATE OF SERVICE

I certify that on the 13th day of January 2010, I caused to be served the original and/or copy of this NOTICE OF APPEARANCE on each of the following persons by the indicated method.

1. Original to:

Idaho Department of Water Resources
7600 Mineral Drive, Ste 100
Coeur d'Alene, ID 83815

- ☒ U.S. Mail, postage prepaid
☐ Hand Delivery
☐ Federal Express
☐ Facsimile: _____

2. Copies to

Idaho Department of Fish and Game
2885 West Kathleen Avenue
Coeur d'Alene, Idaho 83815

- ☒ U.S. Mail, postage prepaid
☐ Hand Delivery
☐ Federal Express
☐ Facsimile: _____

Walt Poole
Idaho Department of Fish and Game
P.O. Box 25
Boise, Idaho 83707

- ☒ U.S. Mail, postage prepaid
☐ Hand Delivery
☐ Federal Express
☐ Facsimile: _____

John D. and Tanya J. Kirsch
14362 N. Honu Court
Rathdrum, Idaho 83858

- ☒ U.S. Mail, postage prepaid
☐ Hand Delivery
☐ Federal Express
☐ Facsimile: _____



DAVID I. STANISH
Deputy Attorney General

Ball, Dianne

From: Terra Berns,Mary [mary.terra-berns@idfg.idaho.gov]
Sent: Thursday, January 14, 2010 12:39 PM
To: Ball, Dianne
Subject: RE: Atkins and Kirsch

Copies of our letters have been done and will go out in the mail tomorrow morning.

From: Ball, Dianne [mailto:Dianne.Ball@idwr.idaho.gov]
Sent: Thursday, January 14, 2010 9:31 AM
To: Terra Berns,Mary
Subject: Atkins and Kirsch

Good morning, Mary,

I notice that no copy of either of IDFG's letters of protest was sent to the applicants involved.

Our published legal notice requires that the protestant(s) send a copy of their letter or notice of protest to each of the respective applicants, notifying them directly of the protest being filed with IDWR. (Last sentence of legal notice: ,, "The protestant must also send a copy of the protest to the applicant."

I assume, therefore, that you will send a copy of your agency's letters of protest to each of these respective applicants, and notify our office that you have done so.

If you have any questions, please give me a call.

Thanks very much, and have a wonderful 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

Ball, Dianne

From: Ball, Dianne
Sent: Thursday, January 14, 2010 9:00 AM
To: 'Terra Berns,Mary'
Subject: RE: 94-8545 - KIRSCH

OK by me.

At least I won't have to re-advertise it - as long as the T/R/S are correct. Whew!

Don't count the days, let the days count.

Dianne

From: Terra Berns,Mary [mailto:mary.terra-berns@idfg.idaho.gov]
Sent: Thursday, January 14, 2010 7:47 AM
To: Ball, Dianne
Subject: RE: 94-8545 - KIRSCH

Good Morning Dianne,
According the Township/Range/Section, supplied by the applicant, the property is several miles up the NF CdA River.

Thanks, Mary

From: Ball, Dianne [mailto:Dianne.Ball@idwr.idaho.gov]
Sent: Wednesday, January 13, 2010 3:19 PM
To: Terra Berns,Mary
Subject: 94-8545 - KIRSCH

Mary, just FYI - this application is from the CDA River - not the North Fork to the CDA River. Protest filed against this states it is from the North Fork of the Coeur d'Alene River.

Applicants neglected to cross out the N Fork on Line 3 of the application - Location of point(s) of diversion [in the table], ~ although they did so on Line 2 - Source of water supply CDA River which is tributary of Lake CDA.

I don't know whether or not that will make any difference in your protest regarding this application.

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

1/14/2010

SCANNED
JUL 20 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

January 14, 2010

JOHN D KIRSCH
TANYA J KIRSCH
14362 N HONU CT
RATHDRUM ID 83858

Application to Permit No. 94-7545

Dear Applicant(s):

Enclosed is a copy of a protest filed against approval of the above referenced application. The Department suggests that you contact the protestant(s) directly to determine the nature of the protest and, if possible, to resolve the matter without action by the Department. In our experience, informal discussion between the parties prior to initiation of formal proceedings often leads to resolution of the protest.

If the protest cannot be resolved informally, the matter will be scheduled for conference and/or hearing. The following are criteria the Department must consider in either approving or denying the application (Section 42-203A, Idaho Code).

1. Will the proposed use reduce the quantity of water under existing water rights?
2. Is the proposed water supply insufficient for the purpose intended?
3. Is the application made in good faith or for delay or speculative purposes?
4. Has the applicant sufficient financial resources with which to complete the project?
5. Will the proposed use conflict with the local public interest in the public water resource?
6. Will the proposed use be contrary to the conservation of water resources within the State of Idaho?
7. For applications proposing to divert water from one watershed or local area into another, will the proposed use adversely affect the local economy of the watershed or local area where the source of water originates?

You will be notified at a later date of the time and place of the conference and/or hearing. Please contact this office if you have any questions regarding this procedure.

Sincerely,

Robert G. Haynes, P.E.
Regional Manager

cc: Idaho Dept of Fish and Game

SCANNED
JAN 20 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

January 14, 2010

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

STATE OF IDAHO
DEPT OF FISH & GAME
2885 WEST KATHLEEN AVE
COEUR D ALENE, ID 83815

Application to Permit No. 94-7545 - Kirsch

Dear Protestant(s):

The Department of Water Resources acknowledges receipt of your protest against the approval of the above referenced application. A copy of your protest has been sent to the applicant. The Department suggests that you contact the applicant directly for details regarding the application and, if possible, to resolve the matter without action by the Department. In our experience, informal discussion between the parties prior to initiation of formal proceedings often leads to resolution of the protest.

If the protest cannot be resolved informally, the matter will be scheduled for conference and/or hearing. The following are criteria the Department must consider in either approving or denying the application (Section 42-203A, Idaho Code).

1. Will the proposed use reduce the quantity of water under existing water rights?
2. Is the proposed water supply insufficient for the purpose intended?
3. Is the application made in good faith or for delay or speculative purposes?
4. Has the applicant sufficient financial resources with which to complete the project?
5. Will the proposed use conflict with the local public interest in the public water resource?
6. Will the proposed use be contrary to the conservation of water resources within the State of Idaho?
7. For applications proposing to divert water from one watershed or local area into another, will the proposed use adversely affect the local economy of the watershed or local area where the source of water originates?

You will be notified at a later date of the time and place of the conference and/or hearing. Please contact this office if you have any questions regarding this procedure.

Sincerely,

Robert G. Haynes, P.E.
Regional Manager

cc: John D &/or Tanya J Kirsch

SCANNED
JUN 20 2011

Ball, Dianne

From: Ball, Dianne
Sent: Wednesday, January 13, 2010 10:14 AM
To: Marston, Sascha
Subject: Inter-agency billing

Attachments: 94-7544 Atkins IDFG protest.pdf; 94-7545 Kirsch IDFG protest.pdf

Good day to you,

I have a request for interagency billing for a couple of protest fees at \$25.00 each for the following WR applicatons

94-7544 ATKINS and for **94-7545 KIRSCH**

From: Idaho Dept of Fish and Game. See letter of protest with PCA info attached for each application
F&G PCA Code 19110 and ABC code is B7TX.



94-7544 Atkins
IDFG protest.pd...



94-7545 Kirsch
IDFG protest.pd...

Billing documents should be sent to:
IDFG Headquarters Office
Attention: Walt Poole
PO Box 25
Boise, ID 83707

Please notify me when the fee has been paid for these protest filings.

If you need more information, let me know.

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



IDAHO DEPARTMENT OF FISH AND GAME

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

C.L. "Butch" Otter/Governor
Cal Groen/Director

January 8, 2010

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

RECEIVED

JAN 12 2010

IDWR / NORTH

Dear Keith:

REFERENCE: KIRSCH: 94-7545

We have reviewed the above-named application by John and Tanya Kirsch to divert 0.04 cfs from the North Fork Coeur d'Alene River for irrigation (April 1 – October 31).

The North Fork Coeur d'Alene River is managed by IDFG as a quality westslope cutthroat trout fishery and it is very popular with anglers. The North Fork is an important component of westslope cutthroat trout habitat range-wide. The State of Idaho has recognized the importance of this fishery by instituting a Minimum Stream Flow of 1018.00 cfs between Nov. 1st and June 30th and 413.00 cfs between July 1st and October 31st on the Coeur d'Alene River, which is a short distance downstream of the applicant's property, to prevent the degradation of instream habitat.

Several research and restoration projects have been and are currently being conducted on the North Fork and the Little North Fork Coeur d'Alene Rivers. Idaho and neighboring states (MT/WA/OR) have recently fended off a listing of westslope cutthroat under the Endangered Species Act by demonstrating that healthy populations and habitat exist in places like the North Fork Coeur d'Alene River, and that the appropriate state regulatory mechanisms are in place to protect them. Furthermore, intact riparian areas provide habitat for a wide range of terrestrial and avian species, from big game to migratory birds.

The recent proliferation of recreational lots along the Coeur d'Alene and North Fork Coeur d'Alene Rivers has negatively impacted the riparian habitat along the river. Riparian vegetation has complex root systems that slow stream bank erosion during high flows with well-rooted, woody vegetation that can withstand increased flows more effectively than stream banks that are sparsely vegetated or grass covered. Trees and shrubs provide shade, which is critically important for maintaining the cooler water temperatures necessary for our native trout. Additionally, trees contribute valuable large woody debris in the stream that provides cover for fish and other aquatic species. The complex root systems have adapted successfully to streamside habitats; therefore, it is unnecessary to irrigate the riparian area.

Keeping Idaho's Wildlife Heritage

Equal Opportunity Employer • 208-769-1414 • Fax: 208-769-1418 • Idaho Relay (TDD) Service: 1-800-377-3529 • <http://fishandgame.idaho.gov>

SCANNED
JAN 20 2011

Mr. Keith Franklin
January 8, 2010

Kirsch – Page 2

Although the amount requested in this particular application is small (0.04 cfs), 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.

The Department believes that this request is in conflict with the local public interest and protests issuing this permit.

Please initiate the Interagency Billing process for the applicable fee for this protest. The PCA is 19110 and the ABC code is B7TX. Please send the billing documents to IDFG Headquarters Office, Attention: Walt Poole, P.O. Box 25, Boise, ID 83707.

We are willing to meet with the applicant to discuss the project and potential alternatives. If you have questions concerning our comments please contact Mary Terra-Berns at 769-1414.

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

File: IDWR Kirsch PROTEST 94-7545

SCANNED
JAN 20 2011

PROTEST INFORMATION SHEET

Application No. 94-7545

SPECIAL NOTE: _____

Protestant(s) NAME(S)	ADDRESS	PHONE
1 <u>IDE G</u>	<u>2885 W Kathleen Ave CDA 83815</u>	<u>769-1414</u>
2 <u>✓</u>	<u>attn Walt Poole PO Box 25 Baine 83707</u>	
3 <u>✓</u>	<u>David Stanish Deputy Atty Genl</u>	
4	<u>Natural Resources Division</u>	
5	<u>PO Box 83720 Baine 83720-0010</u>	
6		
7		
8		
9		
10		

Protestant(s) ATTORNEY	ADDRESS	PHONE
<u>David Stanish AG</u>	<u>Baine</u>	

DATE FILED: 12/16/09 PROTEST DUE DATE: 1/25/10

ISSUES: _____

Applicant(s)

ATTORNEY	ADDRESS	PHONE

DATE

Protest Date Entered on Computer _____

Acknowledgment Letters Sent _____

Conference/Hearing Date _____

(Other Dates)

Other Information _____

Protest information submitted to computer following hearing: _____

SCANNED
JUN 20 2011

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO, } ss.
County of Shoshone

Angela Abbott being first duly sworn
upon oath deposes and says:

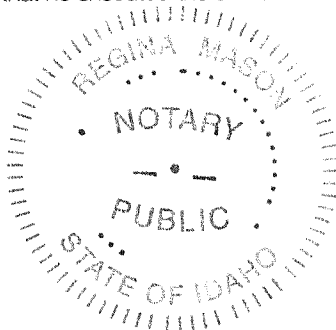
1. I am now and at all times hereinafter mentioned was a citizen of the United States, resident of the State of Idaho, over the age of twenty-one years and not a party of the above entitled action.

2. I am now and at all times hereinafter mentioned was the printer (principal clerk) of the "Shoshone News Press", a newspaper printed and published daily except Sunday and Monday in Kellogg, Shoshone County, Idaho, and having a general circulation in said county.

3. The Legal Notice

of which the annexed is a printed copy, was published in the regular Thursday issue of said newspaper for 2 consecutive weeks commencing on the 7th day of January, 20 10, and such publication was made as often during said period as said Daily newspaper was regularly issued.

4. That said newspaper has been continuously and uninterruptedly published in said Shoshone County, during a period of more than seventy-eight consecutive weeks immediately prior to the first publication of said notice Angela Abbott.
On this 14th day of January in the year of 2010, before me, a Notary Public, personally appeared Angela Abbott, 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.



Regina Mason

Notary Public for the State of Idaho
residing in Coeur d'Alene, Idaho

MY COMMISSION EXPIRES 6/18/15

RECEIVED

JAN 15 2010

IDWR / NORTH

SCANNED
JUN 20 2011

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

94-7538

LARRY JONES

TERESA JONES

465 S LAROLYN RD

POST FALLS, ID 83854

Point of Diversion NESE S12 T51N R01E SHOSHONE CO

Source UNNAMED STREAM Tributary TEPEE CREEK

Use: DOMESTIC 01/01 to 12/31 0.02 CFS

Use: FIRE PROTECTION 01/01 to 12/31 0.02 CFS

Total Diversion: 0.02 CFS

Date Filed: 12/1/2009

Place Of Use: DOMESTIC T51N R01E S12 NESE NWSE

Place Of Use: FIRE PROTECTION same as DOMESTIC

Domestic use is for campsite and cabin.

94-7544

ROGER ATKINS

KAREN ATKINS

5476 N HIGH PRAIRIE RD

HAUSER, ID 83854

Point of Diversion L3(SWNW) S30 T50N R03E SHOSHONE CO

Source NORTH FORK COEUR D ALENE RIVER

Tributary COEUR D ALENE RIVER

Use: IRRIGATION 01/01 to 12/31 0.02 CFS

Total Diversion: 0.02 CFS

Date Filed: 12/22/2009

Place Of Use: IRRIGATION T50N R03E S30 L3(SWNW)

Total Acres: 0.5

94-7545

JOHN D KIRSCH

TANYA J KIRSCH

14362 N HONU CT

RATHDRUM, ID 83858

Point of Diversion L2(SWSE) S27 T50N R02E SHOSHONE CO

Source COEUR D ALENE RIVER

Tributary COEUR D ALENE LK

Use: IRRIGATION 04/01 to 10/31 0.04 CFS

Total Diversion: 0.04 CFS

Date Filed: 12/16/2009

Place Of Use: IRRIGATION T50N R02E S27 L2(SWSE)

Total Acres: 1.2

Permits will be subject to all prior water rights. Protests may be submitted based on the criteria of Idaho Code § 42-211.

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 1/25/2010. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Interim Director

SHO Legal 754

January 7, 14, 2010

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

94-7538

LARRY JONES
TERESA JONES

465 S LAROLYN RD
POST FALLS, ID 83854

Point of Diversion NESE S12 T51N R01E SHOSHONE CO
Source UNNAMED STREAM Tributary TEPEE CREEK

Use: DOMESTIC	01/01 to 12/31	0.02 CFS
Use: FIRE PROTECTION	01/01 to 12/31	0.02 CFS
Total Diversion:		0.02 CFS

Date Filed: 12/1/2009

Place Of Use: DOMESTIC T51N R01E S12 NESE NWSE

Place Of Use: FIRE PROTECTION same as DOMESTIC

Domestic use is for campsite and cabin.

94-7544

ROGER ATKINS
KAREN ATKINS

5476 N HIGH PRAIRIE RD
HAUSER, ID 83854

Point of Diversion L3(SWNW) S30 T50N R03E SHOSHONE CO
Source NORTH FORK COEUR D ALENE RIVER

Tributary COEUR D ALENE RIVER		
Use: IRRIGATION	01/01 to 12/31	0.02 CFS
Total Diversion:		0.02 CFS

Date Filed: 12/22/2009

Place Of Use: IRRIGATION T50N R03E S30 L3(SWNW)

Total Acres: 0.5

94-7545

JOHN D KIRSCH
TANYA J KIRSCH

14362 N HONU CT
RATHDRUM, ID 83858

Point of Diversion L2(SWSE) S27 T50N R02E SHOSHONE CO
Source COEUR D ALENE RIVER Tributary COEUR D ALENE LK

Use: IRRIGATION	04/01 to 10/31	0.04 CFS
Total Diversion:		0.04 CFS

Date Filed: 12/16/2009

Place Of Use: IRRIGATION T50N R02E S27 L2(SWSE)

Total Acres: 1.2

Permits will be subject to all prior water rights. Protests may be submitted based on the criteria of Idaho Code § 42-211. 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 1/25/2010. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Interim Director

Legal #

Published on 1/7/2010 and 1/14/2010

SCANNED
20 2 0 2011

Ball, Dianne

From: Ball, Dianne
Sent: Tuesday, December 29, 2009 12:42 PM
To: Legal Notices-Shoshone NP Angie Abbott@cdapress.com;
ccampbell@shoshonenewspress.com
Subject: Application for Permit No. 94-7538, 94-7544, 94-7545
Attachments: LegalNotice 12-29-09 NP e-mail 94-7538,44,45.doc

Good afternoon, Angie,

Please publish the enclosed legal notice on the dates indicated, January 7 and 14, 2010, (once a week for two consecutive weekly issues in the Shoshone News Press). If you cannot publish the notice on the proposed dates, please contact us immediately.



LegalNotice
12-29-09 NP e-mail..

Also, please send me a proof prior to publication for my review.

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 1/25/2010. Your cooperation is greatly appreciated.

Thanks for all your great help.

Dianne Ball

Administrative Assistant
Idaho Department of Water Resources
7600 N Mineral Dr., Ste. 100
Coeur d'Alene, ID 83815
208-762-2800 Fax 208-762-2819



State of Idaho

DEPARTMENT OF WATER RESOURCES

Northern Region, 7600 N. Mineral Drive, Suite 100 • Coeur d'Alene, Idaho 83815

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

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

December 29, 2009

JOHN D KIRSCH
TANYA J KIRSCH
14362 N HONU CT
RATHDRUM, ID 83858

Application For Permit No. 94-7545

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 SHOSHONE NEWS PRESS on 1/7/2010 and 1/14/2010. 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

Enclosure(s)

SCANNED
... 20 2011

Ball, Dianne

From: Ball, Dianne
Sent: Monday, December 28, 2009 4:50 PM
To: mary.terra-berns@idfg.idaho.gov; cwashburn@idl.idaho.gov
Subject: RE: Application for Permit No. 94-7545 Kirsch
Attachments: 94-7545 Kirsch.pdf

Dear Mary & Carl:

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.



94-7545 Kirsch.pdf
(189 KB)

This office can publish notice of the application as soon as the initial review is completed; therefore, 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.

Is to be scheduled for publication in Shoshone News Press on January 7 and 14, 2010 with final date for protest to be January 25, 2010.

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