

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 94-07544

Priority: December 22, 2009

Maximum Diversion Rate: 0.02 CFS

This is to certify, that ROGER ATKINS And/Or
KAREN ATKINS
5476 N HIGH PRAIRIE RD
HAUSER ID 83854
(208) 660-8687

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	01/01 to 12/31	0.02 CFS

LOCATION OF POINT(S) OF DIVERSION:

NORTH FORK COEUR D ALENE RIVER, L3 (SW¼NW¼), Sec. 30, Twp 50N, Rge 03E, B.M.
SHOSHONE County

PLACE OF USE: IRRIGATION

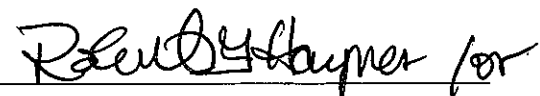
Twp	Rge	Sec	NE				NW				SW				SE				
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
50N	03E	30							.5										.5
									L3										

Total Acres: 0.5

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **March 01, 2012**.
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 0.02 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 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 U.S. Geological Survey Cataldo gauging station, No. 12413500, may be used for purposes of determining the daily 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 3rd day of March, 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

March 3, 2011

ROGER ATKINS
5476 N HIGH PRAIRIE RD
HAUSER ID 83854

KAREN ATKINS
5476 N HIGH PRAIRIE RD
HAUSER ID 83854

RE: Permit No.94-7544

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.

Enclosed is a form entitled 'Instructions for Proof of Beneficial Use.' Please read the instructions carefully since you must take further action to develop this permit into a licensed water right. Also enclosed is a form entitled 'Proof of Beneficial Use.' If your project is already completed, you should complete and submit this form immediately.

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

Also, please note that water right owners are required to report any change of water right ownership and/or mailing address to the Department within 120 days of the change. Failure to report these changes could result in a \$100 late filing fee. Contact any office of the Department or visit the Department's homepage on the Internet to obtain the proper forms and instructions.

If you have any questions, please contact me at 208-762-2800.

Sincerely,


Keith E. Franklin
Sr. Water Resource Agent

Enclosure(s)

CERTIFICATE OF SERVICE

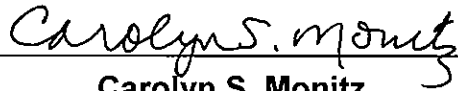
I hereby certify that on March 4, 2011 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (Approved Permit) to the person(s) listed below:

RE: WATER RIGHT NO.

94-7544

**KAREN ATKINS
5476 N HIGH PRAIRIE RD
HAUSER ID 83854**

**ROGER ATKINS
5476 N HIGH PRAIRIE RD
HAUSER ID 83854**

A handwritten signature in cursive script, reading "Carolyn S. Monitz", is written over a horizontal line.

**Carolyn S. Monitz
Technical Records Specialist**

Statement of Available Procedures and Applicable Time Limits

RESPONDING TO PRELIMINARY ORDERS ISSUED BY THE IDAHO DEPARTMENT OF WATER RESOURCES (To be used in connection with actions when a hearing was not held)

(Required by Rule of Procedure 730.02)

The accompanying order or approved document is a "Preliminary Order" issued by the department pursuant to section 67-5243, Idaho Code. **It can and will become a final order without further action of the Department of Water Resources ("department") unless a party petitions for reconsideration, files an exception and brief, or requests a hearing as further described below:**

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the department within fourteen (14) days of the service date of this order. **Note: the petition must be received by the department within this fourteen (14) day period.** The department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3) Idaho Code.

EXCEPTIONS AND BRIEFS

Within fourteen (14) days after (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding with the Director. Otherwise, this preliminary order will become a final order of the agency.

REQUEST FOR HEARING

Unless a right to a hearing before the Department or the Water Resource Board is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Director and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

ORAL ARGUMENT

If the Director grants a petition to review the preliminary order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with IDAPA Rules 37.01.01302 and 37.01.01303 (Rules of Procedure 302 and 303).

FINAL ORDER

The Director will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Director may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its issuance if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

- (a) the petition for reconsideration is disposed of; or
- (b) the petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.



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

ROGER ATKINS
KAREN ATKINS
5476 N HIGH PRAIRIE RD
HAUSER ID 83854

RE: Withdrawal of Protest against 94-7544 – ATKINS

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,

A handwritten signature in black ink that reads "Robert G. Haynes". The signature is written in a cursive, flowing style.

Robert G. Haynes, PE
Regional Manager



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 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 94-7544 - ATKINS

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: Roger &/or Karen Atkins

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

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. 94-7544, Atkins

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

State of Idaho
Department of Water Resources

DRAFT

Permit to Appropriate Water

DRAFT

NO. 94-07544

Priority: December 22, 2009

Maximum Diversion Rate: 0.02 CFS

This is to certify, that ROGER ATKINS And/Or
KAREN ATKINS
5476 N HIGH PRAIRIE RD
HAUSER ID 83854
(208) 660-8687

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	01/01 to 12/31	0.02 CFS

LOCATION OF POINT(S) OF DIVERSION:

NORTH FORK COEUR D ALENE RIVER, L3 (SW1/4NW1/4), Sec. 30, Twp 50N, Rge 03E, 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 03E 30							.5										.5
							L3										

Total Acres: 0.5

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 0.02 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



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

Roger Atkins
Karen Atkins
5476 N High Prairie Rd.
Hauser, ID 83854

Re: Protested Application For Permit No. 94-7544.

Dear Mr. and Mrs. Atkins:

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

State of Idaho
Department of Water Resources

DRAFT

Permit to Appropriate Water

DRAFT

NO. 94-07544

Priority: December 22, 2009

Maximum Diversion Rate: 0.02 CFS

This is to certify, that ROGER ATKINS And/Or
KAREN ATKINS
5476 N HIGH PRAIRIE RD
HAUSER ID 83854
(208) 660-8687

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	01/01 to 12/31	0.02 CFS

LOCATION OF POINT(S) OF DIVERSION:

NORTH FORK COEUR D ALENE RIVER, L3 (SW1/4NW1/4), Sec. 30, Twp 50N, Rge 03E, 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 03E 30							.5										.5
							L 3										

Total Acres: 0.5

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 0.02 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

APPROPRIATION APPLICATION ANALYSIS SHEET

W.R. # 94-7544

APPLICATION ID # 76194

ENT. ED BCA 12/23/09 OK to Publish 12/23/09

APPLICANT: ATKINS

INITIAL REVIEW

BY: ED DATE: 12/22/2009

ITEM REQUIRED INFORMATION

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

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

ADDITIONAL INFORMATION

(Yes)(No)

☒ Shape File Created Date 12-27-09 By: ED

☐ Field check: by _____

☐ Field report attached

☐ Analysis Supp. Attached (>5cfs/500af)

☐ Water delivered by water master? Water District # _____

PROCESSING

(Yes)(No)

PRIORITY DATE: 12/22/2009

☒ (Include Moratorium Remark)

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

ADVERTISE IN:

Newspaper: NP Shoshone County

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 Gda River

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

Approval Recommended by: Beth A. Dalmi

Date: 1/14/2011 Sr. Agent initial ED

MEMORANDUM

Date: February 14, 2011
To: Water Right File 94-7544
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.

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. 94-7544**, filed in the name of Roger D and Keren S Atkins.



Charles E. "Chip" Corsi

Dated this 20 day of January 2011.

PROTEST INFORMATION SHEET

Application No. 94-7544

SPECIAL NOTE: _____

Protestant(s) NAME(S)	ADDRESS	PHONE
1 <u>IDFG</u>	<u>2885 W Kathleen Ave CD A 83815</u>	<u>769-1414</u>
2 _____	_____	_____
3 _____	_____	_____
4 _____	_____	_____
5 _____	_____	_____
6 _____	_____	_____
7 _____	_____	_____
8 _____	_____	_____
9 _____	_____	_____
10 _____	_____	_____

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

DATE FILED: 12/22/07

PROTEST DUE DATE: 1/25/10

ISSUES: _____

Applicant(s)

ATTORNEY	ADDRESS	PHONE
_____	_____	_____

Protest Date Entered on Computer 1/13/10

Acknowledgment Letters Sent date 1/13/10 mailed 1/14/10

Conference/Hearing Date _____

_____ (Other Dates)

Other Information _____

Protest information submitted to computer following hearing: _____



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 13, 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. 94-7544 - Atkins

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: Roger D &/or Karen S Atkins



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 13, 2010

ROGER ATKINS
KAREN ATKINS
5476 N HIGH PRAIRIE RD
HAUSER ID 83854

Application to Permit No. 94-7544

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 Department of Fish and Game

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: 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 applications

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.pdf...



94-7545 Kirsch
IDFG protest.pdf...

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: ATKINS: 94-7544

We have reviewed the above-named application by Roger and Karen Atkins to divert 0.02 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>

Although the amount requested in this particular application is small (0.02 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.

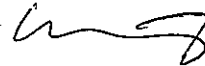
The Department believes that this request is in conflict with the local public interest and protests issuing this permit.

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

AFFIDAVIT OF PUBLICATION

RECEIVED
JAN 15 2010
IDWR / NORTH

STATE OF IDAHO, } ss.
County of Shoshone

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

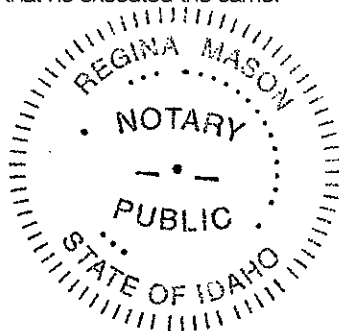
1. I am now and at all times hereinafter mentioned was a citizen of the United States, resident of the State of Idaho, over the age of twenty-one years and not a party of the above entitled action.

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

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 TEEPEE 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

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

ROGER ATKINS
KAREN ATKINS
5476 N HIGH PRAIRIE RD
HAUSER, ID 83854

Application For Permit No. 94-7544

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,

Eric J. Davis
Sr. Water Resource Agent

Ball, Dianne

From: Ball, Dianne
Sent: Wednesday, December 23, 2009 4:22 PM
To: cwashburn@idl.idaho.gov; mary.terra-berns@idfg.idaho.gov
Subject: RE: Application for Permit No. 94-7544 Atkins

Attachments: 94-7544 Atkins.pdf

Dear Carl and Mary:

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



94-7544 Atkins.pdf
(301 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.

Scheduled to publish in Shoshone News Press January 7 and 14, 2010 with final date for protest being 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