

State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 91-07296

Priority: April 01, 2011

Maximum Diversion Rate: 0.07 CFS

This is to certify, that DOUGLAS L BREDE And
REBECCA L BREDE
PO BOX 152
ST MARIES ID 83861

has applied for a permit to appropriate water from:

Source: ST JOE 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>
DOMESTIC	01/01 to 12/31	0.04 CFS
IRRIGATION	04/01 to 10/31	0.03 CFS

LOCATION OF POINT(S) OF DIVERSION:

ST JOE RIVER L12 (SE1/4SW1/4) Sec. 5, Twp 45N, Rge 03E, B.M. SHOSHONE County

PLACE OF USE: DOMESTIC

Twp	Rge	Sec	NE	NW	SW	SE	Totals
45N	03E	5	NE	NW	SW	SE	
						X	
						L 12	

PLACE OF USE: IRRIGATION

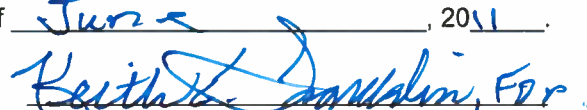
Twp	Rge	Sec	NE	NW	SW	SE	Totals
45N	03E	5	NE	NW	SW	SE	
						1.0	
						L 12	1.0

Total Acres: 1

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **June 01, 2012**.
2. Subject to all prior water rights.
3. Domestic use is for 1 home. Irrigation of lawn, garden and landscaping associated with the home is authorized under the irrigation component of this right.
4. This right when combined with all other rights shall provide no more than 0.03 cfs per acre nor more than 3.0 afa per acre at the field headgate for irrigation of the place of use.
5. A fish screen of 1/4 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 St. Joe River are below minimum flow amounts as defined by Right 91-7122.
8. This right does not grant any right-of-way or easement across the land of another.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Coeur d'Alene, this 14 day of June, 2011.


GARY SPACKMAN, Interim Director



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

June 14, 2011

DOUGLAS L BREDE
PO BOX 152
ST MARIES ID 83861

REBECCA L BREDE
PO BOX 152
ST MARIES ID 83861

RE: Permit No.91-7296

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

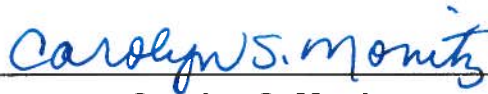
I hereby certify that on June 16, 2011 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (Approved Permit) to the person(s) listed below:

RE: WATER RIGHT NO.

91-7296

**DOUGLAS L BREDE
PO BOX 152
ST MARIES ID 83861**

**REBECCA L BREDE
PO BOX 152
ST MARIES ID 83861**



**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.

Ball, Dianne

From: Jim Bennett [JBennett@idl.idaho.gov]
Sent: Friday, April 22, 2011 1:19 PM
To: Ball, Dianne
Subject: RE: Application for Permit No. 91-7296

Dear Dianne,

Thank your sending subject giving the IDL an opportunity to comment. The St. Joe Area does not have any opposition to this application. Thank you.

Jim

From: Ball, Dianne [<mailto:Dianne.Ball@idwr.idaho.gov>]
Sent: Wednesday, April 13, 2011 2:47 PM
To: Jim Bennett
Subject: RE: Application for Permit No. 91-7296

Dear Jim,

The Department of Water Resources is seeking written comment and/or recommendations from your agency regarding the above referenced water right application. A copy of the application is enclosed for your reference. This is being scheduled for publication in the Shoshone News Press on April 21 and 28, 2011 with May 9, 2011 as final date for protests to be received in our office.

<<91-7296_Brede.pdf>>

Your prompt response to this request is appreciated. If your agency desires to formally protest the approval of this application, you may do so after the notice is published by filing a written protest along with a \$25.00 filing fee within 10 days after final publication.

Please contact this office if you have any questions regarding the application.

Sincerely,

Dianne Ball

Administrative Assistant

Idaho Department of Water Resources

7600 N Mineral Dr., Ste. 100

Coeur d'Alene, ID 83815

208-762-2800 Fax 208-762-2819

RECEIVED
APR 28 2011
IDWR / NORTH

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

91-7296

DOUGLAS L BREDE

REBECCA L BREDE

PO BOX 152

ST MARIES, ID 83861

Point of Diversion L12(SESW) S5 T45N R03E SHOSHONE CO

Source ST JOE RIVER tributary COEUR D'ALENE LAKE

Use: IRRIGATION 04/01 to 10/31 0.03 CFS

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

Total Diversion: 0.07 CFS

Date Filed: 4/1/2011

Place Of Use: DOMESTIC and IRRIGATION

T45N R03E S5 L12(SESW)

Total Acres: 1

Domestic use is for 1 home.

94-7858

ROD STUTZKE

PO BOX 433

MURRAY, ID 83874

Point of Diversion SWSW S12 T50N R05E SHOSHONE CO

Source EAST FORK EAGLE CREEK tributary PRICHARD CREEK

Use: MINING 01/01 to 12/31 1.34 CFS

Total Diversion: 1.34 CFS

Date Filed: 3/18/2011

Place Of Use: MINING T50N R05E S12SWSW

94-7881

ARLETTA ROBSON

PO BOX 237

OSBURN, ID 83849

Point of Diversion L1(NENW) S11 T49N R04E SHOSHONE CO

Source TRAIL CREEK tributary BEAVER CREEK

Use: MINING 01/01 to 12/31 0.2 CFS

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

Total Diversion: 0.2 CFS

Date Filed: 4/7/2011

Place Of Use: DOMESTIC and MINING

T49N R04E S11 NW

Domestic use is for 1 camp site.

Permits will be subject to all prior water rights. Protests may be submitted based on the criteria of Idaho Code § 42-203A. Any protest against the approval of this application must be filed with the Director, Dept. of Water Resources, Northern Region, 7600 Mineral Drive, Suite 100, Coeur D'Alene ID 83815 together with a protest fee of \$25.00 for each application on or before 5/9/2011. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Interim Director

SHO Legal 349

April 21, 28, 2011

RECEIVED

APR 29 2011

AFFIDAVIT OF PUBLICATION

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 21st day of April, 20 11, and such publication was made as often during said period as said Daily newspaper was regularly issued.

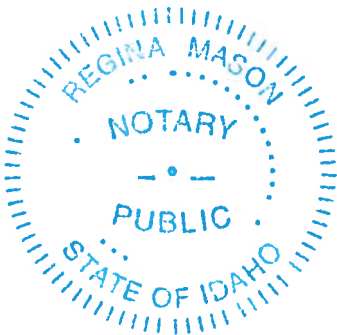
4. That said newspaper has been continuously and uninterruptedly published in said Shoshone County, during a period of more then seventy-eight consecutive weeks immediately prior to the first publication of said notice Angela Abbott.

On this 28th day of April in the year of 2011, 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:

91-7296

DOUGLAS L BREDE

REBECCA L BREDE

PO BOX 152

ST MARIES, ID 83861

Point of Diversion L12(SESW) S5 T45N R03E SHOSHONE CO

Source ST JOE RIVER tributary COEUR D ALENE LAKE

Use: IRRIGATION 04/01 to 10/31 0.03 CFS

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

Total Diversion: 0.07 CFS

Date Filed: 4/1/2011

Place Of Use: DOMESTIC and IRRIGATION

T45N R03E S5 L12(SESW)

Total Acres: 1

Domestic use is for 1 home.

94-7858

ROD STUTZKE

PO BOX 433

MURRAY, ID 83874

Point of Diversion SWSW S12 T50N R05E SHOSHONE CO

Source EAST FORK EAGLE CREEK tributary PRICHARD CREEK

Use: MINING 01/01 to 12/31 1.34 CFS

Total Diversion: 1.34 CFS

Date Filed: 3/18/2011

Place Of Use: MINING T50N R05E S12 SWSW

94-7881

ARLETTA ROBSON

PO BOX 237

OSBURN, ID 83849

Point of Diversion L1(NENW) S11 T49N R04E SHOSHONE CO

Source TRAIL CREEK tributary BEAVER CREEK

Use: MINING 01/01 to 12/31 0.2 CFS

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

Total Diversion: 0.2 CFS

Date Filed: 4/7/2011

Place Of Use: DOMESTIC and MINING

T49N R04E S11 NW

Domestic use is for 1 camp site.

Permits will be subject to all prior water rights. Protests may be submitted based on the criteria of Idaho Code § 42-203A. Any protest against the approval of this application must be filed with the Director, Dept. of Water Resources, Northern Region, 7600 Mineral Drive, Suite 100, Coeur D' Alene ID 83815 together with a protest fee of \$25.00 for each application on or before 5/9/2011. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Interim Director

Legal #

Published on 4/21/2011 and 4/28/2011

Ball, Dianne

From: Ball, Dianne
Sent: Friday, April 15, 2011 9:19 AM
To: Legal Notices-Shoshone NP Angie Abbott@cdapress.com;
ccampbell@shoshonenewspress.com
Subject: Application for Permit No. 94-7858, 91-7296, 94-7881

Hi, Angie,

I hope your day is going well.

Please publish the enclosed legal notice on the dates indicated, April 21 and 28, 2011, (once a week for two consecutive weekly issues). If you cannot publish the notice on the proposed dates, please contact us immediately.

Please send a proof/preview copy for my review before this goes to press.

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 5/9/2011. Your cooperation is very much appreciated.



LegalNotice
14-14-11 NP e-mail..

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

April 14, 2011

DOUGLAS L BREDE
REBECCA L BREDE
PO BOX 152
ST MARIES, ID 83861

Application For Permit No. 91-7296

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 4/21/2011 and 4/28/2011. Protests to this application may be submitted for a period ending ten (10) days after the second publication.

If the application is protested, you will be sent a copy of each protest. All protests must be resolved before the application can be considered for approval. If the protest(s) cannot be resolved voluntarily, the Department will conduct a conference and/or hearing on the matter.

If the application is not protested, the Department will process your application and notify you of any action taken on the application. If your application is approved, the Department will send you a copy of the permit.

Please contact this office if you have any questions regarding the application.

Sincerely,

Keith Franklin
Sr. Water Resource Agent



IDAHO DEPARTMENT OF FISH AND GAME
PANHANDLE REGION

2885 West Kathleen Avenue
Coeur d'Alene, Idaho 83815

May 9, 2011

C.L. "Butch" Otter/Governor
Virgil Moore/Director

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

Dear Keith:

REFERENCE: BREDE: 91-7296

We have reviewed the above-named application by Douglas and Rebecca Brede to divert 0.07 cfs from the St. Joe River for domestic use (0.04 cfs) and irrigation (0.03 cfs).

The St. Joe River contains populations of resident, river run (fluvial) and lake run (adfluvial) cutthroat trout. Historically the St. Joe River has been regarded as among the finest cutthroat trout streams in America. The river has regained that status and trends have shown marked improvements in recent years. Additionally, the St. Joe River also harbors bull trout (ESA listed as Threatened) that migrate through the lower reaches to spawn in the headwaters of the St. Joe River. Annual counts of 15 to 91 redds were made in three index streams of the St. Joe River between 1992 and 2005 with an increasing trend over those years. IDFG manages the St. Joe River for quality cutthroat trout fishing. Bull trout are managed under "conservation" status, to conserve and restore bull trout numbers.

Although the amount requested in this application is small (0.05 cfs), we are concerned that the cumulative effects of property owners applying for diversions may be harmful to this economically and ecologically important fishery. There is a minimum stream flow on the St. Joe River (WR 91-7122) of 470.0 cfs from August 1 to October 31, and 941.0 cfs from November 1 through July 31. The applicants should be made aware that their diversion cannot negatively impact the established minimum flow in the St. Joe River. Because water right diversions allow water users to manipulate streams, we recommend this permit be conditioned to require no disturbance to the stream channel. If pumps are used, they should be adequately screened to prevent entrainment and /or impingement of juvenile trout (we recommend ≤ 0.25 " mesh, with approach velocity of ≤ 0.5 feet per second).

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Charles E. Corsi".

Charles E. "Chip" Corsi
Regional Supervisor

CEC:MTB

C: Sharon Kiefer, IDFG Boise; USFWS, Spokane
File: IDWR Brede 91-7296

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>

Ball, Dianne

From: Jim Bennett [JBennett@idl.idaho.gov]
Sent: Friday, April 22, 2011 1:19 PM
To: Ball, Dianne
Subject: RE: Application for Permit No. 91-7296

Dear Dianne,

Thank your sending subject giving the IDL an opportunity to comment. The St. Joe Area does not have any opposition to this application. Thank you.

Jim

From: Ball, Dianne [<mailto:Dianne.Ball@idwr.idaho.gov>]
Sent: Wednesday, April 13, 2011 2:47 PM
To: Jim Bennett
Subject: RE: Application for Permit No. 91-7296

Dear Jim,

The Department of Water Resources is seeking written comment and/or recommendations from your agency regarding the above referenced water right application. A copy of the application is enclosed for your reference. This is being scheduled for publication in the Shoshone News Press on April 21 and 28, 2011 with May 9, 2011 as final date for protests to be received in our office.

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Your prompt response to this request is appreciated. If your agency desires to formally protest the approval of this application, you may do so after the notice is published by filing a written protest along with a \$25.00 filing fee within 10 days after final publication.

Please contact this office if you have any questions regarding the application.

Sincerely,

Dianne Ball

Administrative Assistant

Idaho Department of Water Resources

7600 N Mineral Dr., Ste. 100

Coeur d'Alene, ID 83815

208-762-2800 Fax 208-762-2819

Ball, Dianne

From: Ball, Dianne
Sent: Wednesday, April 13, 2011 2:47 PM
To: jbennett@idl.idaho.gov
Subject: RE: Application for Permit No. 91-7296

Dear Jim,

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Sincerely,

Dianne Ball

Administrative Assistant
Idaho Department of Water Resources
7600 N Mineral Dr., Ste. 100
Coeur d'Alene, ID 83815
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State of Idaho

DEPARTMENT OF WATER RESOURCES

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C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

April 1, 2011

Douglas L Brede
Rebecca L Brede
PO Box 152
St Maries, ID 83861

Re: Application For Permit to Appropriate the Public Waters of the State of Idaho
#91-7296

Dear Mr. and Mrs. Brede:

The Idaho Department of Water Resources is returning your recently submitted application for a new water right for the following reasons;

On line item #4, of the application, you are applying for a domestic use, which includes in-house water as well as the irrigation of a lawn and garden up to $\frac{1}{2}$ acre in size. On line items #8 and #11 you've indicated the irrigation of 1.0 acre, which requires the application to be amended to include irrigation as a line item. Also, the place of use on line item #8 needs to be changed to the box for the SE $\frac{1}{4}$ SW $\frac{1}{4}$ rather than the SW $\frac{1}{4}$ SE $\frac{1}{4}$. Please make the appropriate changes to the application where indicated and resubmit within the next 30 days so as not to delay processing.

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

Thank you.

Sincerely,

Keith E Franklin
Senior Water Resources Agent

Enclosure

COPY