

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 96-09472

Priority: October 12, 2010

Maximum Diversion Rate: 0.04 CFS

This is to certify, that JAMES KLEIN And
CHERYL KLEIN
4371 BOTTLE BAY RD
SAGLE ID 83863
(208) 263-0443

has applied for a permit to appropriate water from:

Source: PEND OREILLE LAKE

Tributary: PEND OREILLE RIVER

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

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>
DOMESTIC	01/01 to 12/31	0.04 CFS

LOCATION OF POINT(S) OF DIVERSION:

PEND OREILLE LAKE, L1 (SW1/4SW1/4), Sec. 19, Twp 57N, Rge 01W, B.M., BONNER County

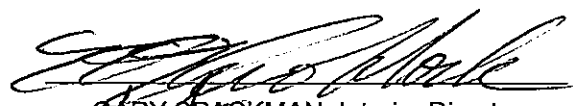
PLACE OF USE: DOMESTIC

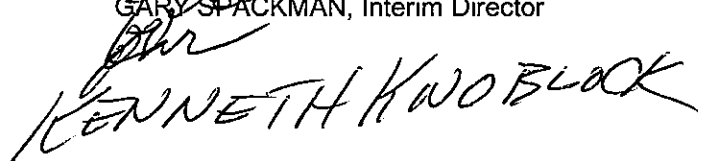
Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
57N 01W 19											X						
							L 1										

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **January 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. Domestic use is for 1 home.
5. The irrigation occurring under this domestic use shall not exceed 1/2 acre.

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 10 day of January, 2011.


GARY SPACKMAN, Interim Director


KENNETH KNOBLOCK



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 11, 2011

JAMES KLEIN
4371 BOTTLE BAY RD
SAGLE ID 83863

CHERYL KLEIN
4371 BOTTLE BAY RD
SAGLE ID 83863

RE: Permit No.96-9472

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.

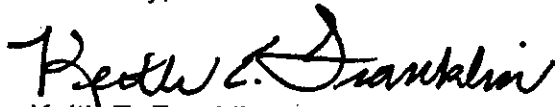
Enclosed is a form entitled 'Instructions for Proof of Beneficial Use.' Please read the instructions carefully since you must take further action to develop this permit into a licensed water right. Also enclosed is a form entitled 'Proof of Beneficial Use.' If your project is already completed, you should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

A handwritten signature in black 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)

CERTIFICATE OF SERVICE

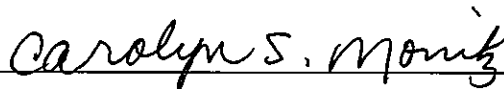
I hereby certify that on January 12, 2011 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (Approved Permit) to the person(s) listed below:

RE: WATER RIGHT NO.

96-9472

**CHERYL KLEIN
4371 BOTTLE BAY RD
SAGLE ID 83863**

**JAMES KLEIN
4371 BOTTLE BAY RD
SAGLE ID 83863**

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.

**IDAHO DEPARTMENT OF WATER RESOURCES
APPROPRIATION APPLICATION ANALYSIS SHEET**

W.R. # 96-9472

APPLICATION ID # 76864

ENT. 10/12 BCA 10/26 OK to Publish 10/28/10

APPLICANT: James & Cheryl Klein INITIAL REVIEW

BY: KJ DATE: 10/13/2010

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 10/12 By: KJ
- ☐ Field check: by _____
- ☐ Field report attached
- ☐ Analysis Supp. attached(>5cfs/500af)
- ☐ Water delivered by water master? Water District # _____

PROCESSING

(Yes)(No) PRIORITY DATE: 10/12/2010

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

ADVERTISE IN: Bonner County

Newspaper: BCDB

Dates scheduled for publication 11/4 + 11/10

Affidavit of Publication received: 12/2/10

Dates actually published: 11/4 + 11/10

Application published correctly. Yes ☒ No ☐

If not, action taken: _____

Final Date for Protest: 11/22

Protests Received: Yes ☐ No ☒

LETTERS SENT REQUESTING:

- ☐ Dam Information ☐ Fish Information
☐ Power Information ☐ Other: _____

INFORMATION RECEIVED:

- ☐ Dam Information ☐ Fish Information
☐ Power Information ☐ Other: _____

GROUNDWATER SECTION

WD Permit No.'s:	Tag #	Type:	Fees	Receipt No.	Upgrade Needed?
_____	_____	Dom. Non-Dom.	Paid \$ _____	_____	Y() N()
_____	_____	Dom. Non-Dom.	Paid \$ _____	_____	Y() N()
_____	_____	Dom. Non-Dom.	Paid \$ _____	_____	Y() N()

Pond Driller Lake

- ☐ Groundwater management area
- ☐ Critical ground water area
- ☐ Well Drilling Permit required
- ☐ Well Drilling Application and Fees received
- ☐ Well Drilling Application approved?

Remarks: _____

FINAL REGIONAL PROCESSING/REVIEW

- (Yes)(No)
- ☒ Notice of pending void order issued. Final order response date: ____/____/____
- ☒ Further information required from applicant _____

- ☒ Measuring device required
- ☒ Measuring port required
- ☒ Special conditions: _____
- ☒ Special conditions of approval supplement and/or cover letter attached: _____

Approval Recommended by: Keith L. Smith Date: 12/9/2010 Sr. Agent initial KJS

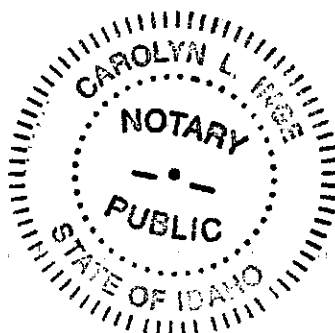
RECEIVED
DEC 02 2010
IDWR/NORTH

Jennifer Albert, being first duly sworn on oath, deposes and states:

- Leinf. Albert

On this 12 day of NOV, in the year of 2010, before me, Carolyn Inge, Notary Public, personally appeared Jennifer Albert, known or identified to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he (or they) executed the same.

Carolyn R. Inge
Notary Public
Residing at: Sandpoint
Comm. Exp.: 8-7-92



RECEIVED
DEC 02 2010
IDWR / NORTH

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

96-9472

JAMES KLEIN

CHERYL KLEIN

4371 BOTTLE BAY RD

SAGLE, ID 83863

Point of Diversion L1(SWSW) S19 T57N R01W BONNER CO

Source PEND OREILLE LAKE tributary PEND OREILLE RIVER

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

Total Diversion: 0.04 CFS

Date Filed: 10/12/2010

Place Of Use: DOMESTIC T57N R01W S19 L1(SWSW)

Domestic use is for 1 home.

Permits will be subject to all prior water rights. Protests may be submitted based on the criteria of Idaho Code § 42-203A. Any protest against the approval of this application must be filed with the Director, Dept. of Water Resources, Northern Region, 7600 Mineral Drive, Suite 100, Coeur D'Alene ID 83815 together with a protest fee of \$25.00 for each application on or before 11/22/2010. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Interim Director

SNP Legal 12449

November 4, 11, 2010

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

96-9472

JAMES KLEIN

CHERYL KLEIN

4371 BOTTLE BAY RD

SAGLE, ID 83863

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GARY SPACKMAN, Interim Director

Legal #

Published on 11/4/2010 and 11/11/2010

Ball, Dianne

From: Ball, Dianne
Sent: Wednesday, October 27, 2010 9:20 AM
To: Legal Notices-Bonner Co Daily Bee-Sheri Jones
Subject: Application for Permit No. 96-9472

Good morning, Sheri,

Well – is winter on the way? It sure feels like it in CDA this morning. The little higher humidity doesn't make it any easier – just feels a little more nippy.

Please publish the enclosed legal notice on the dates indicated, November 4 and 11, 2010 (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 11/22/2010. Your cooperation is appreciated.



LegalNotice
10-27-10 BCDB e-ma.

Thanks for all your great help. You help make my work easier!

Have a happy 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: Jim Brady [jbrady@idl.idaho.gov]
Sent: Wednesday, October 27, 2010 10:43 AM
To: Ball, Dianne
Subject: RE: Application for Permit No. 96-9472

I cannot find any records that IDL has permitted this encroachment to be placed in Lake Pend Oreille. Therefore, I will contact this applicant that an encroachment permit is also required from IDL. Thanks for the opportunity to comment and have a good day.

Jim Brady

From: Ball, Dianne [mailto:Dianne.Ball@idwr.idaho.gov]
Sent: Wednesday, October 27, 2010 9:27 AM
To: mary.terra-berns@idfg.idaho.gov; Jim Brady
Subject: RE: Application for Permit No. 96-9472

Dear Mary and 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 prepared for publication on November 4 and 11, 2010 with final date for protest being November 22, 2010.

<<96-9472 Klein.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

Ball, Dianne

From: Ball, Dianne
Sent: Wednesday, October 27, 2010 9:27 AM
To: mary.terra-berns@idfg.idaho.gov; jbrady@idl.idaho.gov
Subject: RE: Application for Permit No. 96-9472

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96-9472 Klein.pdf

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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



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

October 27, 2010

JAMES KLEIN
CHERYL KLEIN
4371 BOTTLE BAY RD
SAGLE, ID 83863

Application For Permit No. 96-9472

Dear Applicant(s):

The Department of Water Resources has received your water right application. Please refer to the number referenced above in all future correspondence regarding this application.

A legal notice of the application has been prepared and is scheduled for publication in the BONNER COUNTY DAILY BEE on 11/4/2010 and 11/11/2010. 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

Enc. Receipt No. N026134