

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 95-13148

Priority: August 02, 2010

Maximum Diversion Rate: 0.12 CFS

This is to certify, that CHARLES S HUSBAND
PO BOX 489
ATHOL ID 83801

has applied for a permit to appropriate water from:

Source: UNNAMED STREAM

Tributary: KELSO 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	03/15 to 11/15	0.10 CFS
STOCKWATER	01/01 to 12/31	0.02 CFS

LOCATION OF POINT(S) OF DIVERSION:

UNNAMED STREAM SW1/4NE1/4 Sec. 21, Twp 54N, Rge 03W, B.M. BONNER County

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE	NW	SW	SE	Totals
54N 03W 21	NE NW SW SE	NE NW SW SE	NE NW SW SE	NE NW SW SE	5.0 L 2

Total Acres: 5

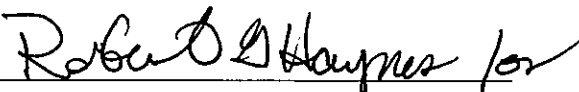
PLACE OF USE: STOCKWATER

Twp Rge Sec	NE	NW	SW	SE	Totals
54N 03W 21	NE NW SW SE	NE NW SW SE	NE NW SW SE	NE NW SW SE	X L 2

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **December 01, 2015**.
2. Subject to all prior water rights.
3. Stockwater use is for 5 mixed stock.
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. This right does not grant any right-of-way or easement across the land of another.
6. A fish screen of 1/4 inch or smaller mesh shall be installed and maintained at the point of diversion.

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 15th day of December, 2010.


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

December 17, 2010

CHARLES S HUSBAND
PO BOX 489
ATHOL ID 83801

RE: Permit No.95-13148

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.

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, reading "Keith E. Franklin". The signature is written in a cursive style with a large, stylized "K" and "F".

Keith E. Franklin

Sr. Water Resource Agent

Enclosure(s)

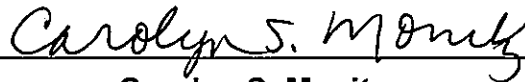
CERTIFICATE OF SERVICE

I hereby certify that on December 17, 2010 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved Permit) to the person(s) listed below:

RE: WATER RIGHT NO.

95-13148

**CHARLES S HUSBAND
PO BOX 489
ATHOL ID 83801**

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. # 95-13148

APPLICATION ID # 76713

ENT. E.D

BCA 9/9/10

OK to Publish 9/11/10

APPLICANT: Charles Husband

INITIAL REVIEW

BY: E.D

DATE: 8/3/2010

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 8-3-10 By: E.D
- ☐ Field check by _____
- ☐ Field report attached
- ☐ Analysis Supp. Attached (>5cfs/500af)

☐ Water delivered by water master? Water District # _____

PROCESSING

(Yes)(No)

PRIORITY DATE: 8/2/2010

☒ (Include Moratorium Remark)

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

ADVERTISE IN:

Newspaper: BONNER County

Dates scheduled for publication 9/16 & 23/10

Affidavit of Publication received: 10/4/10

Dates actually published: 9/16 & 23/10

Application published correctly. Yes ☐ No ☐

If not, action taken: _____

Final Date for Protest: 10/4/10

Protests Received: Yes ☐ No ☒

LETTERS SENT REQUESTING:

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

INFORMATION RECEIVED:

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

GROUNDWATER SECTION

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

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

UNAMED STREAM

Remarks: _____

FINAL REGIONAL PROCESSING/REVIEW

(Yes)(No)

- ☒ Notice of pending void order issued.
- ☒ Further information required from applicant _____

Final order response date: ____/____/____

- ☒ Measuring device required
- ☒ Measuring port required

☒ Special conditions: fish screens at 4 inch or smaller at point of diversion.

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

Approval Recommended by: E.D

Date: 11/17/2010 Sr. Agent initial E.D

RECEIVED
OCT 04 2010
IDWR / NORTH

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

95-13148

CHARLES S HUSBAND

PO BOX 489

ATHOL, ID 83801

Point of Diversion SWNE S21 T54N R03W BONNER CO

Source UNNAMED STREAM Tributary KELSO LAKE

Use: IRRIGATION 03/15 to 11/15 0.1 CFS

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

Total Diversion: 0.12 CFS

Date Filed: 8/2/2010

Place Of Use: IRRIGATION and STOCKWATER

T54N R03W S21 L2(NWSE)

Total Acres: 5

Stockwater use is for 5 head of mixed stock.

96-9470

KIMBERLY MOORE

9425 RIVERSIDE DR #226

SANDY, UT 84070

Point of Diversion NESW S13 T58N R01E BONNER CO

Source GROUND WATER

Use: IRRIGATION 04/01 to 10/31 0.09 CFS

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

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

Total Diversion: 0.15 CFS

Date Filed: 8/4/2010

Place Of Use: STOCKWATER T58N R01E S13 NESW

Place Of Use: DOMESTIC and IRRIGATION

Total Acres: 3

Domestic use is for 1 home.

Stockwater use is for 10 head of mixed stock.

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 10/4/2010. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Interim Director

SNP Legal 12299

September 16, 23, 2010

AFFIDAVIT OF PUBLICATION

RECEIVED
OCT 04 2010
IDWR / NORTH

STATE OF IDAHO)
) ss.
County of Bonner)

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

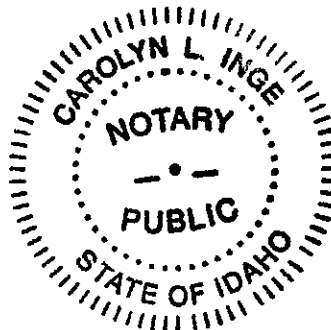
1. I am a citizen of the United States of America, over the age of 18 years, a resident of Bonner County, Idaho, and am not a party to the proceedings referred to in the attached application.
My business address is P.O. Box 159, Sandpoint, Idaho.
2. I am the bookkeeper of the Bonner County Daily Bee, a newspaper of general publication in Bonner County, Idaho;
3. Said newspaper has been continuously and uninterruptedly published in Bonner County, Idaho during a period of 12 months prior to the first publication of said Notice, and thereafter.
4. The attached Notice was published in the regular and entire issue of the Bonner County Daily Bee for a period of 2 consecutive weeks, commencing on the 16th day of September, 2010, and ending on the 23rd day of September, 2010.

Jennifer Albert

State of Idaho, county of Bonner ss.

On this 28 day of Sept, 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 L Inge
Notary Public
Residing at: Sandpoint
Comm. Exp.: 8-7-12



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

95-13148

CHARLES S HUSBAND

PO BOX 489

ATHOL, ID 83801

Point of Diversion SWNE S21 T54N R03W BONNER CO

Source UNNAMED STREAM Tributary KELSO LAKE

Use: IRRIGATION 03/15 to 11/15 0.1 CFS

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

Total Diversion: 0.12 CFS

Date Filed: 8/2/2010

Place Of Use: IRRIGATION and STOCKWATER

T54N R03W S21 L2(NWSE)

Total Acres: 5

Stockwater use is for 5 head of mixed stock.

96-9470

KIMBERLY MOORE

9425 RIVERSIDE DR #226

SANDY, UT 84070

Point of Diversion NESW S13 T58N R01E BONNER CO

Source GROUND WATER

Use: IRRIGATION 04/01 to 10/31 0.09 CFS

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

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

Total Diversion: 0.15 CFS

Date Filed: 8/4/2010

Place Of Use: STOCKWATER T58N R01E S13 NESW

Place Of Use: DOMESTIC and IRRIGATION

Total Acres: 3

Domestic use is for 1 home.

Stockwater use is for 10 head of mixed stock.

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 10/4/2010. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Interim Director

Legal #

Published on 9/16/2010 and 9/23/2010

Ball, Dianne

From: Ball, Dianne
Sent: Friday, September 10, 2010 9:37 AM
To: Legal Notices-Bonner Co Daily Bee-Sheri Jones
Subject: FW: Application for Permit No. 95-13148, 96-9470

This is my original e-mail – being re-sent. Notice the attachment at the bottom. I don't know what happened.

I will also attach it again here.



LegalNotice
9-09-10 BCDB e-ma.

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

Dianne

From: Ball, Dianne
Sent: Thursday, September 09, 2010 4:56 PM
To: Legal Notices-Bonner Co Daily Bee-Sheri Jones
Subject: Application for Permit No. 95-13148, 96-9470

A happy day to you, Sheri,

Please publish the enclosed legal notice on the dates indicated, September 16 and 23, 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. (This is for the Daily Bee only.)

Also – as a reminder, sometimes there is a blind/hidden tab before Gary Spackman's name, causing that to move to the right hand margin. If that happens, please re-position that back to the left hand margin.

If you have ANY questions, please call me or reply to this e-mail.

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 10/4/2010. Your cooperation is as always, greatly appreciated.



LegalNotice
9-09-10 BCDB e-ma.

Thanks for all your wonderful help. It's always a joy to work with you.

Ball, Dianne

From: Ball, Dianne
Sent: Thursday, September 09, 2010 4:56 PM
To: Legal Notices-Bonner Co Daily Bee-Sheri Jones
Subject: Application for Permit No. 95-13148, 96-9470

A happy day to you, Sheri,

Please publish the enclosed legal notice on the dates indicated, September 16 and 23, 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. (This is for the Daily Bee only.)

Also – as a reminder, sometimes there is a blind/hidden tab before Gary Spackman's name, causing that to move to the right hand margin. If that happens, please re-position that back to the left hand margin.

If you have ANY questions, please call me or reply to this e-mail.

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 10/4/2010. Your cooperation is as always, greatly appreciated.



LegalNotice
9-09-10 BCDB e-ma.

Thanks for all your wonderful help. It's always a joy to work with you.



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

September 9, 2010

CHARLES S HUSBAND
PO BOX 489
ATHOL, ID 83801

Application For Permit No. 95-13148

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 9/16/2010 and 9/23/2010. 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,

A handwritten signature in black ink, appearing to read 'Eric J. Davis', is written over a horizontal line.

Eric J. Davis
Sr. Water Resource Agent

Ball, Dianne

From: Ball, Dianne
Sent: Wednesday, September 01, 2010 1:41 PM
To: mary.terra-berns@idfg.idaho.gov
Subject: RE: Applications for Permit Nos. 94-7686 Presnell - Spring, 94-7687 Anderson Trust - Robinson Creek, and 95-13148 Husband - unnamed stream

Dear Mary,

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

These are being scheduled for publication in the CDA Press on September 16 and 23, 2010 with final date for protest being September 27, 2010.



94-7686
Presnell.pdf



94-7687 Anderson
Trust.pdf



95-13148
Husband.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 Keith Franklin of this office if you have any questions regarding the Pesnell or the Anderson Trust files application.

Please contact Eric Davis of this office if you have any questions regarding the Husband file.

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