

State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 94-07690

Priority: August 26, 2010

Maximum Diversion Rate: 0.04 CFS

This is to certify, that CHARLES SCHWARTZ And/Or
FRANCENE KING
20368 COEUR D ALENE RIVER RD
WALLACE ID 83873
(208) 682-9568

has applied for a permit to appropriate water from:

Source: GROUND WATER

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	0.04 CFS

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER, NW1/4NE1/4, Sec. 31,, Twp 50N,, Rge 04E, B.M., SHOSHONE County

PLACE OF USE: IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
50N	04E	31			1.0														1.0

Total Acres: 1

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **December 01, 2013**.
2. Subject to all prior water rights.
3. This right does not grant any right-of-way or easement across the land of another.
4. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which the permit holder had no control.
5. This right when combined with all other rights shall provide no more than 3.0 afa per acre at the field headgate for irrigation of the lands above.
6. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.

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, 20 10.


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 SCHWARTZ
20368 COEUR D ALENE RIVER RD
WALLACE ID 83873

FRANCENE KING
20368 COEUR D ALENE RIVER RD
WALLACE ID 83873

RE: Permit No.94-7690

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.

The right to drill a well is not a part of this permit to appropriate water. Beginning in July of 1987, a statute was enacted which requires a drilling permit for new well construction and deepening of existing wells. If the well(s) proposed for use under this water right permit were drilled or deepened after July 1, 1987, a separate drilling permit must be obtained from this Department. Please contact the Ground Water Protection Section located here at this office or our regional office nearest you.

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)

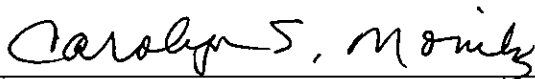
CERTIFICATE OF SERVICE

I hereby certify that on 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. 94-7690

**CHARLES SCHWARTZ
20368 COEUR D ALENE RIVER RD
WALLACE ID 83873**

**FRANCENE KING
20368 COEUR D ALENE RIVER RD
WALLACE ID 83873**

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. # 94-7690

APPLICATION ID # 76766

ENT. 8/26 BCA 9/21 OK to Publish 9/17/10

APPLICANT: Schwartz & King INITIAL REVIEW

BY: KJ DATE: 8/27/2010

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 8/26 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: 8/26/2010

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

ADVERTISE IN: Shoshone County

Newspaper: Sho. N Press

Dates scheduled for publication 10/7 & 14/10

Affidavit of Publication received: 10/15/10

Dates actually published: 10/7 & 14/10

Application published correctly. Yes ☒ No _____

If not, action taken: _____

Final Date for Protest: 10/25/10

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?

Remarks: Hand constructed well 16' deep

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: Beth Franklin Date: 11/23/2010 Sr. Agent initial KJ

RECEIVED
OCT 15 2010
IDWR / NORTH

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO, }
County of Shoshone } ss.

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.

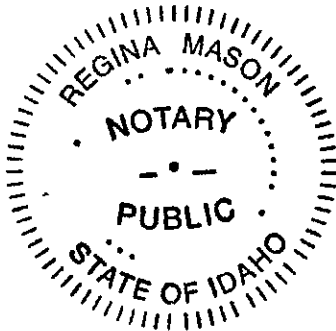
3. The Legal Notice

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 October, 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 October in the year of 2010, before me, a Notary Public, personally appeared Angela Abbott, known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that he executed the same.

Regina Mason

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



MY COMMISSION EXPIRES 6/18/15

RECEIVED
OCT 15 2010
IDWR/North

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

94-7690

CHARLES SCHWARTZ

FRANCENE KING

20368 COEUR D'ALENE RIVER RD.

WALLACE, ID 83873

Point of Diversion NWNE S31 T50N R04E SHOSHONE County

Source GROUND WATER

Use: IRRIGATION 10/3/15 to 11/15 0.04 CFS

Total Diversion: 0.04 CFS

Date Filed: 8/26/2010

Place Of Use: IRRIGATION T50N R04E S31 NWNE

Total Acres: 1

94-7716

WARREN GIBBONS

23811 CDA RIVER RD

WALLACE, ID 83873

Point of Diversion L7(SWNW) S21 T50N R04E SHOSHONE CO

Source NORTH FORK COEUR D'ALENE RIVER

Tributary COEUR D'ALENE RIVER

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

Use: DOMESTIC 01/01 to 12/31 0.03 CFS

Total Diversion: 0.06 CFS

Date Filed: 9/13/2010

Place Of Use: DOMESTIC T50N R04E S21 L7(SWNW)

Place Of Use: IRRIGATION same as DOMESTIC

Total Acres: 1

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 10/25/2010. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Interim Director

SHO Legal 137

October 7, 14, 2010

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

94-7690

CHARLES SCHWARTZ

FRANCENE KING

20368 COEUR D ALENE RIVER RD

WALLACE, ID 83873

Point of Diversion NWNE S31 T50N R04E SHOSHONE County

Source GROUND WATER Tributary

Use: IRRIGATION 03/15 to 11/15 0.04 CFS

Total Diversion: 0.04 CFS

Date Filed: 8/26/2010

Place Of Use: IRRIGATION T50N R04E S31 NWNE

Total Acres: 1

94-7716

WARREN GIBBONS

23811 CDA RIVER RD

WALLACE, ID 83873

Point of Diversion L7(SWNW) S21 T50N R04E SHOSHONE CO

Source NORTH FORK COEUR D ALENE RIVER

Tributary COEUR D ALENE RIVER

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

Use: DOMESTIC 01/01 to 12/31 0.03 CFS

Total Diversion: 0.06 CFS

Date Filed: 9/13/2010

Place Of Use: DOMESTIC T50N R04E S21 L7(SWNW)

Place Of Use: IRRIGATION same as DOMESTIC

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GARY SPACKMAN, Interim Director

Legal #

Published on 10/7/2010 and 10/14/2010

Ball, Dianne

From: Ball, Dianne
Sent: Tuesday, September 21, 2010 1:51 PM
To: Legal Notices-Shoshone NP Angie Abbott@cdapress.com;
ccampbell@shoshonenewspress.com
Subject: Legal notice for publication regarding Application for Permit No. 94-7690, 94-7716

Good afternoon, Angie,

Please publish the enclosed legal notice on the dates indicated, October 7 and 14, 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 10/25/2010. Your cooperation is greatly appreciated.



LegalNotice
19-21-10 NP e-mail..

Thanks for all your wonderful 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

September 21, 2010

CHARLES SCHWARTZ
FRANCENE KING
20368 COEUR D ALENE RIVER RD
WALLACE, ID 83873

Application For Permit No. 94-7690

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 10/7/2010 and 10/14/2010. Protests to this application may be submitted for a period ending ten (10) days after the second publication.

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

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

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

Sincerely,

Keith Franklin
Sr. Water Resource Agent