

State of Idaho
Department of Water Resources

Permit to Appropriate Water

NO. 91-07210

Priority: July 30, 2010

Maximum Diversion Rate: 0.06 CFS

This is to certify, that CYNTHIA S HOLTE
PO BOX 2542
HAYDEN ID 83835
(208) 659-4304

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	03/15 to 10/31	0.06 CFS

LOCATION OF POINT(S) OF DIVERSION:

ST JOE RIVER, L10 (SE1/4SE1/4), Sec. 20, Twp 46N, Rge 01E, B.M., BENEWAH County

PLACE OF USE: IRRIGATION, 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	
46N 01E 20																2.0	2.0
																L 10	

Total Acres: 2

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **October 01, 2011**.
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. Irrigation of lawn, garden and landscaping associated with the home is authorized under the irrigation component of this right.
5. 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.
6. A fish screen of 0.25 inch or smaller mesh shall be installed and maintained at the point of diversion.
7. The approach velocity at the point of diversion shall not exceed 0.50 feet per second.
8. 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.

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 27th day of September, 2010.

Rolun O. Haynes for
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

September 28, 2010

CYNTHIA S HOLTE
PO BOX 2542
HAYDEN ID 83835

RE: Permit No.91-7210

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 Resources Agent

Enclosure(s)

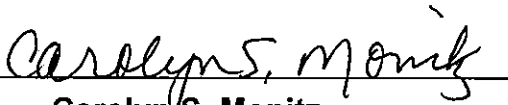
CERTIFICATE OF SERVICE

I hereby certify that on September 28, 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.

91-7210

**CYNTHIA S HOLTE
PO BOX 2542
HAYDEN ID 83835**



**Carolyn S. Monitz
Technical Records Clerk**

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. # 91-7210

APPLICATION ID # 76714

ENT. 8/2

BCA 8/10

OK to Publish 8/10/10

APPLICANT: Cynthia Holte

INITIAL REVIEW

BY: KD

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

PROCESSING

(Yes)(No)

PRIORITY DATE: 7/30/2010

(Include Moratorium Remark)

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

ADVERTISE IN:

Newspaper: Benewah County

Dates scheduled for publication 8/18/25

Affidavit of Publication received: 8/27/10

Dates actually published: 8/18 & 25/10

Application published correctly. Yes ☒ No ☐

If not, action taken: _____

Final Date for Protest: 9/7

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: _____

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 St. Joe River
- ☒ Special conditions of approval supplement and/or cover letter attached:

Approval Recommended by: Beth K. Sandlin Date: 9/22/2010 Sr. Agent initial KD

RECEIVED

AUG 27 2010

Affidavit of Publication

IDWR / NORTH

HO

ewah, ss.

1 Hammes, being first duly sworn on oath, deposes
he is vice president of The Corporation, owner of the
ette Record, a weekly newspaper printed and pub-
aries, Benewah County, State of Idaho; the St. Maries
l is a newspaper having general circulation in Benewah
of Idaho, and has been continuously and uninterrupt-
in Benewah County, State of Idaho, during a period of
enty-eight consecutive weeks prior to the first publica-
of advertisement herein.

tice, of which the one hereto attached is a true copy,
in said newspaper for a period of two issues, the first
ing on the 18 day of August, 2010.
the 25 day of August, 2010.
ewspaper was regularly distributed to its subscribers
e of the same period; that said notice was published in
1 entire issue of said paper.

25 day of August, 2010
Cynthia Ann Hammes

HO

BENEWAH

day of August, in the year of 2010
Notary Public, personally appeared Cynthia Ann
wn or identified to me to be the person whose name
within instrument, and being by me first duly sworn,
the statements therein are true, and acknowledged to
recuted the same.

Donal G. Hamm
Notary Public for Idaho
Residing at St. Maries, Idaho
My commission expires:



07-13-2013

NOTICE OF APPLICATION

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

91-7209

JEFF CARLSON

KATHY CARLSON

5943 N PINEGROVE DR

COEUR D ALENE, ID 83815

Point of Diversion L9(SENE) S20 T46N R01E BENEWAH CO

Source ST JOE RIVER Tributary COEUR D ALENE LAKE

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

Total Diversion: 0.02 CFS

Date Filed: 7/29/2010

Place Of Use: DOMESTIC T46N R01E S20 L9(SENE)

Domestic use is for one home.

91-7210

CYNTHIA S HOLTE

PO BOX 2542

HAYDEN, ID 83835

Point of Diversion L10(SESE) S20 T46N R01E BENEWAH CO

Source ST JOE RIVER Tributary COEUR D ALENE LAKE

Use: IRRIGATION 03/15 to 10/31 0.06 CFS

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

Total Diversion: 0.06 CFS

Date Filed: 7/30/2010

Place Of Use: DOMESTIC T46N R01E S20 L10(SESE)

Place Of Use: IRRIGATION same as DOMESTIC

Total Acres: 2

Domestic use is for one 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 applica-
tion on or before 9/7/2010. The protestant must also send a
copy of the protest to the applicant.

GARY SPACKMAN, Interim Director

7762 Aug. 18-Aug 25

SCANNED

AUG 25 2010

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

91-7209

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KATHY CARLSON

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COEUR D'ALENE, ID 83815

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The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Interim Director

Legal #

Published on 8/18/2010 and 8/25/2010

Ball, Dianne

From: Ball, Dianne
Sent: Tuesday, August 10, 2010 11:31 AM
To: Legal Notices-SMGazette (kaisie@smgazette.com)
Subject: Application for Permit No. 91-7209, 91-7210

Good morning, Kaisie,

Please publish the enclosed legal notice on the dates indicated, August 18 and 25, 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.

Occasionally there is a blind or hidden tab that moves Gary Spackman's name to the right margin. If this happens, please move it back over to the left margin.

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 9/7/2010.



LegalNotice
8-10-10 SM e-mail..

If you have any questions, please either call me or reply to this e-mail. Your cooperation is always GREATLY appreciated. Thanks.

Have a great 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



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 10, 2010

CYNTHIA S HOLTE
PO BOX 2542
HAYDEN, ID 83835

Application For Permit No. 91-7210

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 ST MARIES GAZETTE RECORD on 8/18/2010 and 8/25/2010. 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. Corrected receipt No. N025305

Ball, Dianne

From: Ball, Dianne
Sent: Tuesday, August 10, 2010 11:14 AM
To: mary.terra-berns@idfg.idaho.gov; jbennett@idl.idaho.gov
Subject: RE: Application for Permit No. 91-7209 and 91-7210

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 each of the applications is enclosed for your reference.



91-7209
Carlson.pdf



91-7210 Holte.pdf

These are being scheduled for publication in the St Maries Gazette on August 18 and 25, 2010, with final date for protest being September 7, 2010. 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 at 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

91-7210

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

July 28, 2010

Cynthia S Holte
PO Box 2542
Hayden, ID 83835

Re: Application For a Temporary Water Appropriation

Dear Ms. Holte:

The Idaho Department of Water Resources is returning your recently submitted application for the following reason;

Idaho Code 42-202A(5) prohibits the issuance of a temporary water appropriation as follows; "A temporary approval shall only be granted for a use not intended to become and established water right " and "Temporary approvals shall not be issued as an interim water supply for a use which requires a continuing water supply."

For your convenience I've enclosed an application for a continuous water right. From the application submitted it appears you would need to apply for a domestic water right, which would allow you to irrigate up to ½ acre of lawn and garden. If the acreage irrigated would be over ½ acre you would need to apply for an irrigation right. The filing fee for a domestic right is \$100.00 and the \$50.00 already submitted can go towards the new application if you so desire. If you elect not to file for a continuous water right, you may request a refund of the fee already paid.

Also, the St. Joe River is considered to be a navigable water and requires a permit from the Idaho Department of Lands to place a suction pipe onto the stream bed of the river. You may want to discuss the permitting requirement with the Department of Lands before you submit an application for a water right.

Please let me know of your decision within the next 30 days and if you decide to pursue an application for a new water right, our department will be glad to help in completing the form. If you have any questions, feel free to contact me at this office.

Sincerely,

Keith E. Franklin
Senior Water Resources Agent
Enclosure(s)

COPY