

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 97-07493

Priority: March 30, 2010

Maximum Diversion Rate: 0.14 CFS

This is to certify, that WAGNER TRUST
14021 E RIVER RD
PRIEST RIVER ID 83856

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>
DOMESTIC	01/01 to 12/31	0.04 CFS
STOCKWATER	01/01 to 12/31	0.02 CFS
IRRIGATION	04/01 to 10/31	0.14 CFS
FIRE PROTECTION	01/01 to 12/31	0.10 CFS

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER SE1/4SW1/4 Sec. 10, Twp 59N, Rge 04W, B.M. BONNER County

PLACE OF USE: DOMESTIC

Twp Rge Sec	NE				NW				SW				SE				Totals
59N 04W 10	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
												X					

PLACE OF USE: STOCKWATER

Twp Rge Sec	NE				NW				SW				SE				Totals
59N 04W 10	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
											X	X			X		

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
59N 04W 10	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
											1.0	3.0			3.0		7.0

Total Acres: 7

State of Idaho
Department of Water Resources

Permit to Appropriate Water

NO. 97-07493

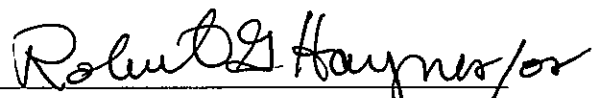
PLACE OF USE: FIRE PROTECTION

Twp Rge Sec	NE				NW				SW				SE				Totals
59N 04W 10	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	
											X	X			X		

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **June 01, 2011**.
2. Subject to all prior water rights.
3. Stockwater use is for 12 mixed head.
4. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.0 afa per acre at the field headgate for irrigation of the lands above.
5. 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.
6. Water shall not be diverted for fire protection use under this right except to fight or repel an existing fire. Any amount of water used to fight a fire will not count against the annual volume limit for this right.
7. 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 14th day of June, 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

June 16, 2010

WAGNER TRUST
14021 E RIVER RD
PRIEST RIVER ID 83856

RE: Permit No. 97-7493

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.

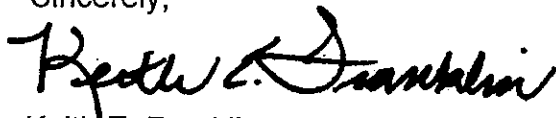
Enclosed is a form entitled 'Instructions for Proof of Beneficial Use.' Please read the instructions carefully since you must take further action to develop this permit into a licensed water right. Also enclosed is a form entitled 'Proof of Beneficial Use.' If your project is already completed, you should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

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,

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 Resources Agent

Enclosure(s)

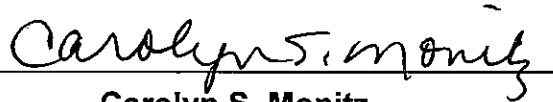
CERTIFICATE OF SERVICE

I hereby certify that on June 16, 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.

97-7493

**WAGNER TRUST
14021 E RIVER RD
PRIEST RIVER ID 83856**

A handwritten signature in cursive script, reading "Carolyn S. Monitz", is written over a horizontal line.

**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.

APPROPRIATION APPLICATION ANALYSIS SHEET

W.R. # 97-7493

APPLICATION ID # 76400

ENT. ED

BCA 4/27/10

OK to Publish 4/9/10

APPLICANT: WAGNER TRUST

INITIAL REVIEW

BY: ED

DATE: 3/31/2010

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 3-31-10 By: ED

☐ Field check: by _____

☐ Field report attached

☐ Analysis Supp. Attached (>5cfs/500af)

☐ Water delivered by water master? Water District # _____

PROCESSING

(Yes)(No)

PRIORITY DATE: 3/31/2010

☒

(Include Moratorium Remark)

☒

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

ADVERTISE IN:

Newspaper: PRT Bonner County

Dates scheduled for publication 4/21 & 28/10

Affidavit of Publication received: 5/11/10

Dates actually published: 4/21 & 28/10

Application published correctly. Yes ☒ No ☐

If not, action taken: _____

Final Date for Protest: 5/10/10

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?

Hand Dig 1962

Dom. ☐ Non-Dom. ☐

Paid \$ _____

Dom. ☐ Non-Dom. ☐

Paid \$ _____

Dom. ☐ Non-Dom. ☐

Paid \$ _____

Y () N (☒)

Y () N ()

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.

☐ Further information required from applicant

Final order response date: ____/____/____

☐ Measuring device required

☐ Measuring port required

☐ Special conditions: _____

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

Approval Recommended by: [Signature]

Date: 5/20/2010 Sr. Agent initial ED

AFFIDAVIT OF PUBLICATION

State of Idaho

ss.

County of Bonner, Terri Jue

being first duly sworn on oath deposes and says that he/she is Managing Editor of the Priest River Times, a newspaper printed and published at Priest River, Bonner County, Idaho; that the said newspaper has been continuously and uninterruptedly published in said Bonner County during a period of 12 months prior to the first publication of the hereto attached notice of publication in the case of:

Application 97-7493
Wagner Trust

as it was published in the regular and entire issue of the said newspaper for a period of 2 consecutive weeks, commencing on 21st day of April, 20 10 and ending on the 28th day of April, 20 10 and that said notice was published in said newspaper.

On this 28th day of April in the year of 2010, before me, a Notary Public, personally appeared Terri Jue, 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.

RECEIVED
MAY 11 2010
IDWR / NORTH

NOTICE OF APPLICATION OF WATER RIGHTS

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

97-7493

WAGNER TRUST

14021 E RIVER RD

PRIEST RIVER, ID 83856

Point of Diversion SESW S10 T59N R04W BONNER County

Source GROUND WATER

Use: IRRIGATION 04/01 to 10/31 0.14 CFS

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

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

Use: FIRE PROTECTION 01/01 to 12/31 0.1 CFS

Total Diversion: 0.14 CFS

Date Filed: 3/30/2010

Place Of Use: DOMESTIC T59N R04W S10 SESW

Place Of Use: STOCKWATER, IRRIGATION & FIRE

PROTECTION T59N R04W. S10 SWSW SESW SWSE

Total Acres: 7

Domestic use is for 1 home.

Stockwater use is for 12 head of mixed stock

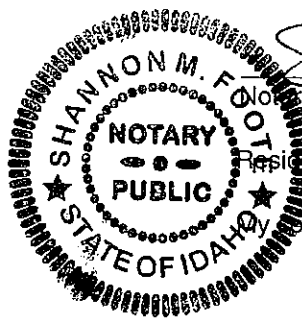
Permits will be subject to all prior water rights. Protests may be submitted based on the criteria of Idaho Code § 42-203A. Any protest against the approval of this application must be filed with the Director, Dept. of Water Resources, Northern Region, 7600 Mineral Drive, Suite 100, Coeur D' Alene ID 83815 together with a protest fee of \$25.00 for each application on or before 5/10/2010. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Interim Director

PRT Legal #2142

April 21, 28, 2010

Shannon M. Foltz
Notary Public for Idaho
Residing at Priest River
Commission expires: 10.9.13



NOTICE OF APPLICATION OF WATER RIGHTS

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

Use: FIRE PROTECTION 01/01 to 12/31 0.1 CFS

Total Diversion: 0.14 CFS

Date Filed: 3/30/2010

Place Of Use: DOMESTIC T59N R04W S10 SESW

Place Of Use: STOCKWATER, IRRIGATION & FIRE PROTECTION

T59N R04W S10 SWSW SESW SWSE

Total Acres: 7

Domestic use is for 1 home.

Stockwater use is for 12 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 5/10/2010. The protestant must also send a copy of the protest to the applicant.

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Total Diversion: 0.14 CFS

Date Filed: 3/30/2010

Place Of Use: DOMESTIC T59N R04W S10 SESW

Place Of Use: STOCKWATER, IRRIGATION & FIRE PROTECTION
T59N R04W S10 SWSW SESW SWSE

Total Acres: 7

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GARY SPACKMAN, Interim Director

Legal #

Published on 4/21/2010 and 4/28/2010

Ball, Dianne

From: Ball, Dianne
Sent: Monday, April 12, 2010 11:28 AM
To: Legal Notices-Priest River Times (prtimes@priestrivertimes.com); Legal Notices-PRT Shannon Foote (sfoote@priestrivertimes.com)
Subject: Application for Permit No. 97-7493 to publish 4/21 and 28, 2010

Good morning Shannon,

Please publish the enclosed legal notice on the dates indicated, April 21 and 28, 2010 (once a week for two consecutive weekly issues). If you cannot publish the notice on the proposed dates, please contact us immediately.

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 5/10/2010. Your cooperation is appreciated. I will need a proof/preview copy before this goes to press.

I'll be out of the office after about 1:00 pm today ~ through Friday 4/16, recovering from foot surgery. I'm scheduled to be back in the office Monday the 19th, so if you don't get the proof done right away, even that Monday should be OK. However, I will be able to pick up e-mails from home so whenever you get it to me it will be appreciated. I might be a day delayed in getting back to you because I won't probably sit down at the computer at home for a couple days after my surgery. I might be on pain meds and that won't help my proofreading skills.

;-)



LegalNotice
4-12-10 PRT e-ma.

Thanks for all your great help. You're truly appreciated!

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

April 12, 2010

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

WAGNER TRUST
14021 E RIVER RD
PRIEST RIVER, ID 83856

Application For Permit No. 97-7493

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 PRIEST RIVER TIMES on 4/21/2010 and 4/28/2010. 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,

Eric Davis
Sr. Water Resource Agent