

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 96-09462

Priority: April 06, 2010

Maximum Diversion Rate: 0.07 CFS

This is to certify, that GAIL SWAN
2385 SUNNYSIDE RD
SANDPOINT ID 83864

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>
IRRIGATION	04/01 to 10/31	0.07 CFS

LOCATION OF POINT(S) OF DIVERSION:

PEND OREILLE LAKE, NE1/4SE1/4, Sec. 10, Twp 57N, Rge 01W, B.M., BONNER County

PLACE OF USE: IRRIGATION

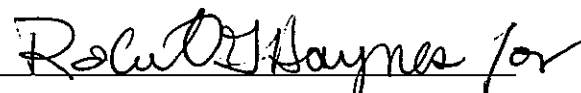
Twp Rge Sec	NE				NW				SW				SE				
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
57N 01W 10													2.25				2.25

Total Acres: 2.25

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **July 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. A fish screen of 0.25 inch or smaller mesh shall be installed and maintained at the point of diversion.
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.

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 28th day of June, 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

June 29, 2010

GAIL SWAN
2385 SUNNYSIDE RD
SANDPOINT ID 83864

RE: Permit No.96-9462

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.

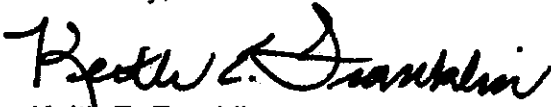
Enclosed is a form entitled 'Instructions for Proof of Beneficial Use.' Please read the instructions carefully since you must take further action to develop this permit into a licensed water right. Also enclosed is a form entitled 'Proof of Beneficial Use.' If your project is already completed, you should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

Enclosure(s)

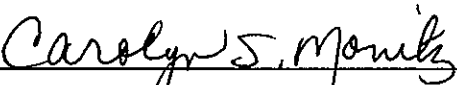
CERTIFICATE OF SERVICE

I hereby certify that on June 29, 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.

96-9462

**GAIL SWAN
2385 SUNNYSIDE RD
SANDPOINT ID 83864**



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. # 96-9462

APPLICATION ID # 76459

ENT. 4/13 BCA 4/30 OK to Publish 4/29/10

APPLICANT: Gail Swan

INITIAL REVIEW

BY: KJ DATE: 4/13/2010

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 4/13 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: 4/13/2010
 _____ (Include Moratorium Remark)
 _____ Statewide Advertising: (Diversion rate greater than 10 cfs or 1,000 af).
 ADVERTISE IN: Bonner County
 Newspaper: BCAB
 Dates scheduled for publication 5/6 & 13/10
 Affidavit of Publication received: 6/3/10
 Dates actually published: 5/6 & 13/10
 Application published correctly. Yes ☒ No _____
 If not, action taken: _____

Final Date for Protest: 5/24
 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: _____
 _____ Special conditions of approval supplement and/or cover letter attached: _____

Approval Recommended by: _____ Date: ____/____/____ Sr. Agent initial _____

RECEIVED
JUN 03 2010
IDWR/NORTH

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

96-9461

DUANE CASTLES
22635 NE MARKETPLACE DR STE 160
REDMOND, WA 98053
Point of Diversion L1(SESE) S29 T57N R02W BONNER CO
Source PEND OREILLE RIVER tributary COLUMBIA RIVER
Use: IRRIGATION 04/01 to 10/31 0.09 CFS
Total Diversion: 0.09 CFS

Date Filed: 4/9/2010

Place Of Use: IRRIGATION T57N R02W S29 L1(SESE)

Total Acres: 3

96-9462

GAIL SWAN
2385 SUNNYSIDE RD
SANDPOINT, ID 83864
Point of Diversion NESE S10 T57N R01W BONNER CO
Source PEND OREILLE LAKE
tributary PEND OREILLE RIVER
Use: IRRIGATION 04/01 to 10/31 0.07 CFS
Total Diversion: 0.07 CFS

Date Filed: 4/6/2010

Place Of Use: IRRIGATION T57N R01W S10 NESE

Total Acres: 2.25

96-9463

ROB S BEHRENS
883 GRAND VISTA WAY
GRAND JUNCTION, CO 81506
Point of Diversion L2(SWNE) S33 T57N R01W BONNER CO
Source LAKE PEND OREILLE
tributary PEND OREILLE RIVER
Use: IRRIGATION 04/01 to 10/31 0.03 CFS
Total Diversion: 0.03 CFS

Date Filed: 4/20/2010

Place Of Use: IRRIGATION T57N R01W S33 L1(SWNE)

Total Acres: 1

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 5/24/2010. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Interim Director

SNP Legal 11840
May 6, 13, 2010

RECEIVED
JUN 03 2010
IDWR / NORTH

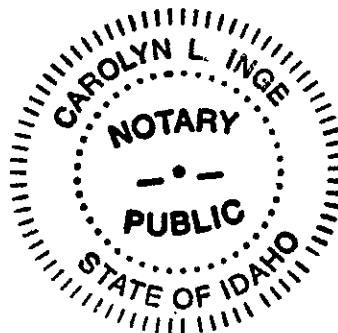
states: Jennifer Albert, being first duly sworn on oath, deposes and

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 legal notice.
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 6th day of may, 2010, and ending on the 13th day of may, 2010.

Jennifer Albert

On this 13 day of May, 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:

96-9461

DUANE CASTLES

22635 NE MARKETPLACE DR STE 160

REDMOND, WA 98053

Point of Diversion L1(SESE) S29 T57N R02W BONNER CO

Source PEND OREILLE RIVER tributary COLUMBIA RIVER

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

Total Diversion: 0.09 CFS

Date Filed: 4/9/2010

Place Of Use: IRRIGATION T57N R02W S29 L1(SESE)

Total Acres: 3

96-9462

GAIL SWAN

2385 SUNNYSIDE RD

SANDPOINT, ID 83864

Point of Diversion NESE S10 T57N R01W BONNER CO

Source PEND OREILLE LAKE tributary PEND OREILLE RIVER

Use: IRRIGATION 04/01 to 10/31 0.07 CFS

Total Diversion: 0.07 CFS

Date Filed: 4/6/2010

Place Of Use: IRRIGATION T57N R01W S10 NESE

Total Acres: 2.25

96-9463

ROB S BEHRENS

883 GRAND VISTA WAY

GRAND JUNCTION, CO 81506

Point of Diversion L2(SWNE) S33 T57N R01W BONNER CO

Source LAKE PEND OREILLE tributary PEND OREILLE RIVER

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

Total Diversion: 0.03 CFS

Date Filed: 4/20/2010

Place Of Use: IRRIGATION T57N R01W S33 L1(SWNE)

Total Acres: 1

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 5/24/2010. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Interim Director

Legal #

Published on 5/6/2010 and 5/13/2010

Ball, Dianne

From: Ball, Dianne
Sent: Friday, April 30, 2010 12:03 PM
To: Legal Notices-Bonner Co Daily Bee-Sheri Jones
Subject: Application for Permit No. 96-9461, 96-9462, 96-9463

Good day to you, Sheri,

Please publish the enclosed legal notice on the dates indicated, May 6 and 13, 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 allows me to review layout and make sure I didn't miss something.

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 5/24/2010. Your cooperation is truly appreciated.

Thanks for all your great help, always, and have a great weekend!



LegalNotice
4-30-10 BCDB e-ma.

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

April 30, 2010

GAIL SWAN
2385 SUNNYSIDE RD
SANDPOINT, ID 83864

Application For Permit No. 96-9462

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 5/6/2010 and 5/13/2010. 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

Ball, Dianne

From: Ball, Dianne
Sent: Friday, April 30, 2010 12:21 PM
To: mary.terra-berns@idfg.idaho.gov; jbrady@idl.idaho.gov
Subject: Application for Permit No. 96-9461 , 96-9462 and 96-9463

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.



96-9461
Castles.pdf



96-9462 Swan.pdf



96-9463
Behrens.pdf

Being scheduled for publication May 6 and 13 in Bonner County Daily Bee, with final date for protest being May 24, 2010.

This office can publish notice of the application as soon as the initial review is completed; therefore, 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: Jim Brady [jbrady@idl.idaho.gov]
Sent: Friday, April 30, 2010 2:26 PM
To: Ball, Dianne
Subject: RE: Application for Permit No. 96-9461 , 96-9462 and 96-9463

Dianne, Mr. Castles has received a permit for the waterline from us, Mr. Behrens just made application for the waterline and I will contact Ms. Swan she needs to make application to us for the waterline. Thanks and have a good weekend.

Jim Brady

From: Ball, Dianne [mailto:Dianne.Ball@idwr.idaho.gov]
Sent: Friday, April 30, 2010 12:21 PM
To: mary.terra-berns@idfg.idaho.gov; Jim Brady
Subject: Application for Permit No. 96-9461 , 96-9462 and 96-9463

Dear Mary and Jim:

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<<96-9461 Castles.pdf>> <<96-9462 Swan.pdf>> <<96-9463 Behrens.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

April 8, 2010

96-9462

C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

Gail Swan
2385 Sunnyside Rd
Sandpoint, ID 83864

Re: Application For Permit to Appropriate the Public Waters of the State of Idaho

Dear Mr. Swan:

The Idaho Department of Water Resources is returning your recently submitted application for additional information and/or clarification. The application was incomplete in some sections and only the applicant can add to or alter an application.

Item #2 Source of Water

Lake Pend Oreille is tributary to the Pend Oreille River. Please so indicate on the application.

Item #3 Point of Diversion Location

The point of diversion would be located in the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 10. Please add these quarter quarters on the application as shown.

Item #4 Purpose of Use

The diversion allotment for the irrigation of 2.25 acres of land is 0.07 cfs (31.4 gallons per minute). Please change the 20 AF as shown on the application to 0.07 cfs. Also, the time of use or irrigation season in your area is between 4/1 and 10/31, so please make that correction as well.

Item #5 (a) Total Quantity

This should read 0.07 cfs.

I've included an aerial photograph for you to review as to the location of your lot and proposed point of diversion. If there are changes, so indicate on the photograph.

Once the changes have been made, please return the application and photograph to me within the next 30 days so as not to delay processing. If you have any questions, feel free to contact me at this office.

Sincerely,

Keith E. Franklin
Senior Water Resources Agent
Enclosure

COPY