

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 96-09439

Priority: August 10, 2009

Maximum Diversion Rate: 0.01 CFS

This is to certify, that ATKINSON TRUST
PO BOX 1282
SANDPOINT ID 83864

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	0.01 CFS

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER NE1/4SE1/4 Sec. 17, Twp 57N, Rge 02W, B.M. BONNER County

PLACE OF USE: 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	
57N 02W 17														X			

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **December 01, 2010**.
2. Subject to all prior water rights.
3. Domestic use is for one 4 plex.
4. 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 15th day of December, 2009.


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 2, 2009

ATKINSON TRUST
PO BOX 1282
SANDPOINT ID 83864

RE: Permit No.96-9439

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)

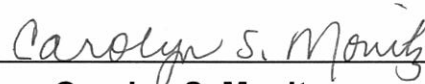
CERTIFICATE OF SERVICE

I hereby certify that on December 2, 2009 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.

96-9439

**ATKINSON TRUST
PO BOX 1282
SANDPOINT ID 83864**

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.

IDAHO DEPARTMENT OF WATER RESOURCES
API APPROPRIATION APPLICATION ANALYSIS SHEET

W.R. # 96 - 9439

APPLICATION ID # 75832

ENT. BH

BCA 10/19/09

OK to Publish 10/19/09

APPLICANT: ATKINSON TRUST

INITIAL REVIEW

BY: ED

DATE: 8/14/2009

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 8-13-09 By: BH

☐ Field check: by _____

☐ Field report attached

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

☐ Water delivered by water master? Water District # _____

PROCESSING

(Yes)(No)

PRIORITY DATE: 8/13/2009

☒

(Include Moratorium Remark)

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

ADVERTISE IN:

Newspaper: BONNER County

Dates scheduled for publication 10/15+22

Affidavit of Publication received: 11/5/09

Dates actually published: 10/15+22/09

Application published correctly. Yes ☒ No ☐

If not, action taken: _____

Final Date for Protest: 11/2/09

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?
<u>9/27/1974</u>	_____	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: Eric [Signature]

Date: 11/24/2009 Sr. Agent initial ED

RECEIVED
NOV 05 2009
IDWR / NORTH

AFFIDAVIT OF PUBLICATION

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.

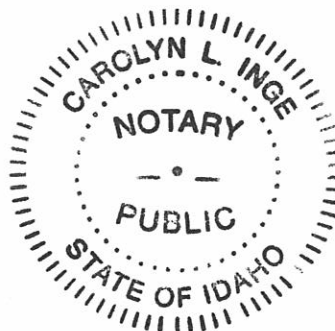
4. The attached Notice was published in the regular and entire issue of the Bonner County Daily Bee for a period of 2 consecutive weeks, commencing on the 15th day of Oct., 2009, and ending on the 22nd day of Oct., 2009.

Jennifer Albert

State of Idaho, county of Bonner ss.

On this 22 day of Oct, in the year of 2009, 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



RECEIVED
NOV 05 2009
IDWR / NORTH

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

96-9439

ATKINSON TRUST
PO BOX 1282
SANDPOINT, ID 83864
Point of Diversion NESE S17 T57N R02W BONNER County
Source GROUND WATER
Use: DOMESTIC 01/01 to 12/31 0.01 CFS
Total Diversion: 0.01 CFS

Date Filed: 8/10/2009

Place Of Use: DOMESTIC T57N R02W S17 NESE

Remarks: Domestic use is for a 4-plex.

96-9440

BRAD GOLPHENEE
389 UPLAND DR
SANDPOINT, ID 83864
Point of Diversion NENW S20 T57N R02W BONNER County
Source UNNAMED STREAM tributary to CHUCK SLOUGH
Use: IRRIGATION 03/15 to 11/15 0.12 CFS
Use: IRRIGATION STORAGE 03/15 to 11/15 19 AF
Use: IRRIGATION FROM
STORAGE 03/15 to 11/15 18 AF
Use: FIRE PROTECTION 01/01 to 12/31 0.2 CFS
Use: FIRE PROTECTION
STORAGE 01/01 to 12/31 2 AF
Use: AESTHETIC 01/01 to 12/31 0.12 CFS
Use: AESTHETIC STORAGE 01/01 to 12/31 2 AF
Use: DIVERSION TO
STORAGE 01/01 to 12/31 0.2 CFS
Total Diversion: 0.2 CFS 19 AF

Date Filed: 8/13/2009

Place Of Use: DIVERSION TO STORAGE

T57N R02W S20 NENW

Place Of Use: IRRIGATION

T57N R02W S20 NWNE NENW

Place Of Use: All other uses same as IRRIGATION

Total Acres: 6

96-9441

FRED OMODT
OMODT PATTY
488 SHINGLE MILL RD
SANDPOINT, ID 83864
Point of Diversion L7(NWNE) S6 T57N R01W BONNER
County
Source BOYER SLOUGH tributary to PEND OREILLE LAKE
Use: IRRIGATION 04/01 to 10/31 0.2 CFS
Total Diversion: 0.2 CFS

Date Filed: 8/13/2009

Place Of Use: IRRIGATION T57N R01W S6 L7(NWNE)

Total Acres: 10

96-9442

TERRIE GUTHRIE
2 EAST SUMMER #1
SPOKANE, WA 99202
Points of Diversion(2) SWNE S7 T57N R01W BONNER
County
Source PEND OREILLE LAKE tributary to COLUMBIA
RIVER
Use: DOMESTIC 01/01 to 12/31 0.04 CFS
Total Diversion: 0.04 CFS

Date Filed: 8/28/2009

Place Of Use: DOMESTIC T57N R01W S7 SWNE

Remarks: 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 § 42-211. 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 11/2/2009. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Interim Director

SNP Legal 11139

October 15, 22, 2009