

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 95-10947

Priority: August 05, 2009

Maximum Diversion Rate: 0.04 CFS

This is to certify, that STEPHEN L WHEELER And/Or
CANDACE WHEELER
5428 E WEAVERLY LOOP
HAYDEN ID 83835
(208) 660-7021

has applied for a permit to appropriate water from:

Source: HAYDEN LAKE

Tributary: SINKS

and a permit is APPROVED for development of water as follows:

BENEFICIAL USE

DOMESTIC

PERIOD OF USE

01/01 to 12/31

RATE OF DIVERSION

0.04 CFS

LOCATION OF POINT(S) OF DIVERSION:

HAYDEN LAKE, L3 (SE1/4NW1/4), Sec. 16, Twp 51N, Rge 03W, B.M., KOOTENAI County

PLACE OF USE: DOMESTIC

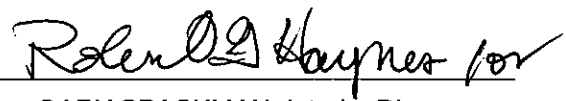
Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
51N	03W	16																	

X
L 3

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **December 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. 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. Domestic use is for 1 home.
6. The irrigation occurring under this domestic use shall not exceed 1/2 acre.
7. A fish screen of 0.25 inch or smaller mesh shall be installed and maintained at the point of diversion.
8. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 95 A.

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 16th 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

December 16, 2009

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

STEPHEN L WHEELER
CANDACE WHEELER
5428 E WEAVERLY LOOP
HAYDEN ID 83835

RE: Permit No.95-10947

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.

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 stylized with a large, looped "K" and a cursive "Franklin".

Keith E. Franklin

Sr. Water Resources Agent

Enclosure(s)

CERTIFICATE OF SERVICE

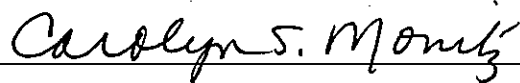
I hereby certify that on December 16, 2009 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved Permit) to the person(s) listed below:

RE: WATER RIGHT NO.

95-10947

**CANDACE WHEELER
5428 E WEAVERLY LOOP
HAYDEN ID 83835**

**STEPHEN L WHEELER
5428 E WEAVERLY LOOP
HAYDEN ID 83835**



**Carolyn S. Monitz
Technical Records Clerk**

**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.

Ball, Dianne

From: Carl Washburn [cwashburn@idl.idaho.gov]
Sent: Wednesday, September 23, 2009 7:34 AM
To: Ball, Dianne
Subject: RE: Application for Permit No. 95-10947 Wheeler

Go on computer

Dianne,

IDL has not comment, it appears Mr. Wheeler has an existing encroachment permit for a water line into Hayden Lake.

Thank you for the opportunity to provide comments.

Carl

From: Ball, Dianne [mailto:Dianne.Ball@idwr.idaho.gov]
Sent: Friday, September 11, 2009 4:18 PM
To: mary.terra-berns@idfg.idaho.gov; Carl Washburn
Subject: RE: Application for Permit No. 95-10947 Wheeler

Dear Interested Party:

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.

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.

Being scheduled for publication 9/17 and 24/2009 - final date for protest 10/5

<<95-10947 Wheeler, Stephen.pdf>>

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

**IDAHO DEPARTMENT OF WATER RESOURCES
APPROPRIATION APPLICATION ANALYSIS SHEET**

W.R. # 95-10947

APPLICATION ID # 75830

ENT. 8/5 BCA 9/14/09 OK to Publish 9/1/09

APPLICANT: Stephen & Candace Wheeler INITIAL REVIEW

BY: KJ DATE: 8/5/2009

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 8/5 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: 8/5/2009

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

ADVERTISE IN: Kootenai County
 Newspaper: Cda Press
 Dates scheduled for publication: 9/17-24/09
 Affidavit of Publication received: 9/25/09
 Dates actually published: 9/17-24/09
 Application published correctly. Yes ☒ No ___
 If not, action taken: ___

Final Date for Protest: 10/5/09
 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?
___	___	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: Water District 95A
 ___ Special conditions of approval supplement and/or cover letter attached: ___

Approval Recommended by: Beth Sankin Date: 11/25/2009 Sr. Agent initial KJ

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO,
County of Kootenai,

} ss.

SEP 25 2009

IDWR / NORTH

Kelli Buley

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 "Coeur d'Alene Press," a newspaper printed and published daily except Sunday in Coeur d'Alene, Kootenai County, Idaho, and having a general circulation in said county.

3. The

Legal Notice

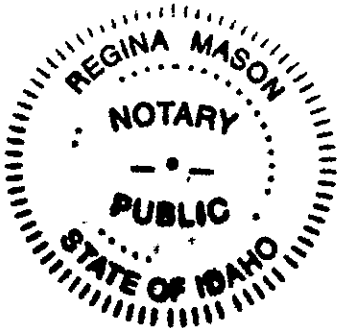
of which the annexed is a printed copy, was published in the regular Thursday issue of said newspaper for 2 consecutive weeks commencing on the 17 day of September 2009, and ending on the 24 day of September 2009, and such publication was made as often during said period as said Daily newspaper was regularly issued.

4. That said newspaper has been continuously and uninterruptedly published in said Kootenai County, during a period of more than seventy-eight consecutive weeks immediately prior to the first publication of said notice. Kelli Buley
On this 24 day of September in the year of 2009, before me, a Notary Public, personally appeared Kelli Buley, 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 at Coeur d'Alene, Idaho.

MY COMMISSION EXPIRES 6/18/15



RECEIVED

SEP 25 2009

IDWR / NORTH

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

95-10944

MIKE SULLIVAN

PO BOX 10

COLBERT, WA 99005

Point of Diversion NESE S6 T52N R04W KOOTENAI County

Source LOWER TWIN LAKE tributary to RATHDRUM CREEK

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

Total Diversion: 0.04 CFS

Date Filed: 8/4/2009

Place Of Use: DOMESTIC T52N R04W S6 NESE

Domestic use is for 1 home.

95-10945

KENNETH HAYES

PO BOX 44

RATHDRUM, ID 83858

Point of Diversion NESE S25 T52N R05W KOOTENAI County

Source GROUND WATER

Use: IRRIGATION 03/15 to 11/15 0.12 CFS

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

Total Diversion: 0.12 CFS

Date Filed: 8/3/2009

Place Of Use: DOMESTIC T52N R05W S25 NESE SENE

Place Of Use: IRRIGATION same as DOMESTIC

Total Acres: 4

Domestic use is for 1 home.

95-10946

RICHARD L HARTMAN

MARY M HARTMAN

5205 N MULVANEY CT

SPOKANE, WA 99212

Point of Diversion L7 (SESW) S5 T52N R04W KOOTENAI County

Source TWIN LAKES tributary to RATHDRUM CREEK

Point of Diversion NESW S5 T52N R04W KOOTENAI County

Source TWIN LAKES tributary to RATHDRUM CREEK

Use: IRRIGATION 03/15 to 11/15 0.02 CFS

Total Diversion: 0.02 CFS

Date Filed: 8/3/2009

Place Of Use: IRRIGATION T52N R04W S5 NESW SESW Lot 7

Total Acres: 0.5

95-10947

STEPHEN L WHEELER

WHEELER CANDACE

5428 E WEAVERLY LOOP

HAYDEN, ID 83835

Point of Diversion L3 (SESW) S16 T51N R03W KOOTENAI County

Source HAYDEN LAKE tributary to SINKS

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

Total Diversion: 0.04 CFS

Date Filed: 8/5/2009

Place Of Use: DOMESTIC T51N R03W S16 SENW Lot 3

Domestic use is for 1 home.

95-10950

JON C BLOXHAM

THINE L BLOXHAM

24350 N RIMROCK RD

HAYDEN, ID 83835

Point of Diversion SESE S4 T52N R03W KOOTENAI County

Source UNNAMED STREAM tributary to SINKS

Point of Diversion SESE S4 T52N R03W KOOTENAI County

Source GROUND WATER

Points of Diversion (3) SESE S4 T52N R03W KOOTENAI CO

Source GROUND WATER

Use: IRRIGATION 03/15 to 11/15 0.03 CFS

Use: IRRIGATION STORAGE 01/01 to 12/31 4.6 AF

Use: IRRIGATION FROM STORAGE 03/15 to 11/15 3 AF

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

Use: STOCKWATER STORAGE 01/01 to 12/31 1.7 AF

Use: STOCKWATER FROM STORAGE 01/01 to 12/31 0.1 AF

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

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

Use: RECREATION STORAGE 01/01 to 12/31 1.6 AF

Use: FIRE PROTECTION 01/01 to 12/31 0.2 CFS

Use: FIRE PROTECTION STORAGE 01/01 to 12/31 1.6 AF

Use: DIVERSION TO STORAGE 01/01 to 12/31 0.2 CFS

Total Diversion: 0.2 CFS 4.7 AF

Date Filed: 8/5/2009

Place Of Use: DOMESTIC T52N R03W S4 SESE

Place Of Use: All other uses same as DOMESTIC

Total Acres: 1

95-10953

PAUL LAWSON

PO BOX 1048

HAYDEN, ID 83835

Point of Diversion NESW S32 T52N R03W KOOTENAI CO

Source GROUND WATER

Use: IRRIGATION 03/15 to 11/15 0.18 CFS

Use: COMMERCIAL 03/01 to 11/01 0.1 CFS

Total Diversion 0.18 CFS

Date Filed: 8/4/2009

Place of Use: IRRIGATION T52N R03W S32 NESW

Place of Use: COMMERCIAL use same as IRRIGATION

Total Acres: 9

Commercial use is for tree farm and accoutrements.

95-10958

TIMBER RIDGE LLC

4547 W SELTICE WAY

COEUR D'ALENE, ID 83814

Point of Diversion L3 (SESW) S17 T51N R03W KOOTENAI CO

Source HAYDEN LAKE tributary to SINKS

Use: IRRIGATION 03/15 to 11/15 0.03 CFS

Use: FIRE PROTECTION 01/01 to 12/31 0.2 CFS

Use: AESTHETIC 01/01 to 12/31 0.06 CF

Total Diversion: 0.2 CFS

Date Filed: 8/5/2009

Place Of Use: AESTHETIC T51N R03W S17 SENW Lot 3

Place Of Use: All other uses same as AESTHETIC

Total Acres: 1

95-10964

ROBERT E LEE

10510 LAKE VIEW DR

HAYDEN LAKE, ID 83835

Point of Diversion L7 (SWNE) S18 T51N R03W KOOTENAI CO

Source HAYDEN LAKE tributary to SINKS

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

Total Diversion: 0.04 CFS

Date Filed: 8/5/2009

Place Of Use: IRRIGATION T51N R03W S18 SWNE Lot 7

Total Acres: 1

95-10969

ROBERT BALSER

VIRGINIA BALSER

PO BOX 1624

HAYDEN, ID 83835

Point of Diversion SESE S17 T51N R04W KOOTENAI County

Source GROUND WATER

Use: IRRIGATION 03/15 to 11/15 0.16 CFS

Total Diversion: 0.16 CFS

Date Filed: 8/7/2009

Place Of Use: IRRIGATION T51N R04W S17 SESE

Total Acres: 8

Permits will be subject to all prior water rights. Protests may be submitted based on the criteria of Sec 42-203A, Idaho Code.

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 10/5/2009.

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

GARY SPACKMAN, Interim Director

Legal 7697

September 17, 24, 2009