

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 95-10671

Priority: June 16, 2009

Maximum Diversion Rate: 0.12 CFS

This is to certify, that JAMES A GARR And/Or
MARIE P GARR
16804 N TRAILS END RD
RATHDRUM ID 83858
(208) 687-2721

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>
IRRIGATION	03/15 to 11/15	0.12 CFS

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER, NW1/4SE1/4, Sec. 29, Twp 52N, Rge 04W, B.M., KOOTENAI County

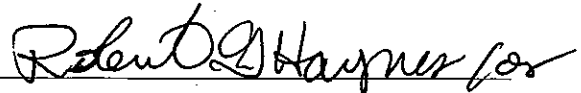
PLACE OF USE: IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
52N 04W 29															4.0		4.0

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **December 01, 2014**.
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. 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. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
7. This right authorizes the diversion of ground water within the Rathdrum Prairie Ground Water Management Area (RPGWMA). Use of water under this right shall be subject to the provisions of the management plan approved by the director for the RPGWMA.
8. When notified by the Department, the right holder shall install and maintain a measuring device of a type acceptable to the Department as part of the diverting works.

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

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

December 16, 2009

JAMES A GARR
MARIE P GARR
16804 N TRAILS END RD
RATHDRUM ID 83858

RE: Permit No.95-10671

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.

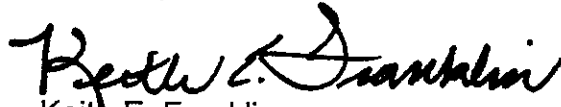
The Department will send you a 'Proof Due Notice' approximately 60 days prior to the above referenced date requesting you to file either a Proof of Beneficial Use form or a Request for Extension of Time form.

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

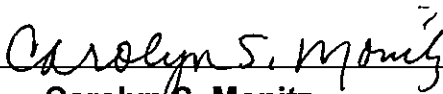
I hereby certify that on December 16, 2009 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved Permit) to the person(s) listed below:

RE: WATER RIGHT NO.

95-10671

**JAMES A GARR
16804 N TRAILS END RD
RATHDRUM ID 83858**

**MARIE P GARR
16804 N TRAILS END RD
RATHDRUM ID 83858**



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.

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

W.R. # 95-10671

APPLICATION ID # 75681

ENT. 6/17 BCA

OK to Publish

INITIAL REVIEW

APPLICANT: James & Marie Garr

BY: KJ

DATE: 6/17/09

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 6/17 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: 6/16/2009

(Include Moratorium Remark)

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

ADVERTISE IN:

Newspaper: Ada Press Kootenai County

Dates scheduled for publication 8/18/09

Affidavit of Publication received: 8/14/09 9/25/09

Dates actually published: 8/18/09

Application published correctly. (Yes ☒ No ☐)

If not, action taken: Reader to correct POU

Final Date for Protest: 8/24/09 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() <u>1972</u>
_____	_____	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.
- ☒ Further information required from applicant _____

Final order response date: ____/____/____

- ☒ Measuring device required
- ☒ Measuring port required
- ☒ Special conditions: Bathymetry Prairie GUMA
- ☒ Special conditions of approval supplement and/or cover letter attached: _____

Approval Recommended by: Keith J. Franklin

Date: 12/2/2009 Sr. Agent initial KJ

AFFIDAVIT OF PUBLICATION

RECEIVED

SEP 25 2009

STATE OF IDAHO,
County of Kootenai,

ss.

Kelli Buley

being IDWR NORTH

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

NOTICE OF CORRECTION
NOTICE IS HEREBY GIVEN
THAT APPLICATIONS FOR
PERMITS No.95-10671 in the
name of James A & Marie P
Garr, 16804 N Trails End Rd in
Rathdrum, ID 83858, and
No.95-10679 in the name of Fred
B or Darcy K Birdsall, 27988 N
Bohn Rd, Athol, ID 83801, and
No.95-10687 in the name of
James & Janet Allen, 17461 N
Right Fork Rd, Hauser Lake, ID
83854, and No.95-101719 in the
name of Michael Gurian, 417 W
32nd Ave, Spokane, WA 99203,
and No.95-10725 in the name of
Ted D. DePee, 9430 W Twin
Lakes Rd., Rathdrum ID 83858,
were incorrectly advertised on
August 6 and 13, 2009.

In each case the Place of Use
was incorrectly advertised.

Place of Use for Garr,
Application No.95-10671 was
shown as SENE whereas
correctly it should be NWSE.

Place of Use for Birdsall,
Application No.95-10679 was
shown as SWNW whereas
correctly it should be NWSW.

Place of Use for Allen,
Application No.95-10687 was
shown as NENW whereas
correctly it should be NWNE.

Place of Use for Gurian,
Application No.95-10719 was
shown as SWSE whereas
correctly it should be SESW.

Place of Use for DePee,
Application No.95-10725 was
shown as SENE whereas
correctly it should be NWSE.

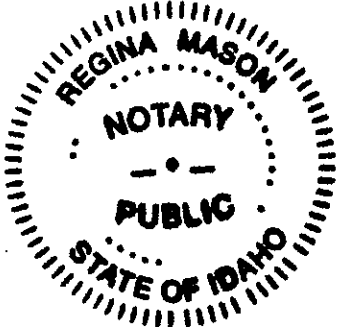
(For additional information
concerning the property
locations, call the Northern
Regional Office at 762-2800.)

Any protests against the
approval of the above-referenced
corrections must be filed with
the applicant and with the
Director, Dept. of Water
Resources, 7600 N. Mineral
Drive, Suite 100, Coeur d'Alene,
Id. 83815, together with a protest
fee of \$25.00 on or before
October 5, 2009.

GARY SPACKMAN, Interim
Director

Legal 7695

September 17, 24, 2009.



RECEIVED
AFFIDAVIT OF PUBLICATION

AUG 14 2009

STATE OF IDAHO,
County of Kootenai,

SS.

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 "Coœur 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

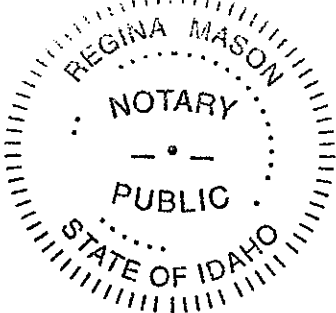
Legal Notice

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 12 day of August, 20 09, and ending on the 13 day of August, 20 09, 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 13 day of August 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
AUG 14 2009
IDWR / NORTH

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

95-10671

JAMES A GARR

MARIE P GARR

16804 N TRAILS END RD

RATHDRUM, ID 83858

Point of Diversion NWSE S29 T52N R04W KOOTENAI County

Source GROUND WATER

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

Total Diversion: 0.12 CFS

Date Filed: 6/16/2009

Place Of Use: IRRIGATION T52N R04W S29 SENE

Number of acres: 4

95-10679

FRED B BIRDSALL

DARCY K BIRDSALL

27988 N BOHN RD

ATHOL, ID 83801

Point of Diversion NWSW S24 T53N R03W KOOTENAI County

Source GROUND WATER

Use: IRRIGATION 04/01 to 10/31 0.2 CFS

Total Diversion: 0.2 CFS

Date Filed: 6/17/2009

Place Of Use: IRRIGATION T53N R03W S24 SWNW

Number of acres 20

95-10687

JAMES ALLEN

JANET ALLEN

17461 N RIGHT FORK RD

HAUSER LAKE, ID 83854

Point of Diversion NWNE S30 T52N R05W KOOTENAI County

Source SPRING tributary to UNAMED STREAM

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

Total Diversion: 0.04 CFS

Date Filed: 6/17/2009

Place Of Use: DOMESTIC T52N R05W S30 NENW

Domestic use is for 1 home.

95-10704

MARY F ANDERSON

24327 N FISH LAKE RD

RATHDRUM, ID 83858

Point of Diversion SESE S36 T53N R05W 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: 6/23/2009

Place Of Use: IRRIGATION T53N R05W S36 SESE

Number of acres .5

95-10706

BOB WILSON

7875 E HIGHWAY 54

ATHOL, ID 83801

Point of Diversion SWSW S11 T53N R03W KOOTENAI County

Source GROUND WATER

Use: COMMERCIAL 01/01 to 12/31 0.1 CFS

Total Diversion: 0.1 CFS

Date Filed: 6/23/2009

Place Of Use: COMMERCIAL T53N R03W S11 SWSW

Commercial use is for greenhouse.

95-10719

MICHAEL GURIAN

417 W 32nd AVE

SPOKANE, WA 99203

Point of Diversion SESW S18 T53N R04W KOOTENAI County

Source SPIRIT LAKE tributary to SPIRIT CREEK

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

Total Diversion: 0.04 CFS

Date Filed: 6/19/2009

Place Of Use: DOMESTIC T53N R04W S18 SWSE

Domestic use is for 1 home.

95-10725

TED D DEPEE

9430 W TWIN LAKES RD

RATHDRUM, ID 83858

Point of Diversion NWSE S36 T53N R05W KOOTENAI County

Source TWIN LAKES tributary to RATHDRUM CREEK

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

Total Diversion: 0.04 CFS

Date Filed: 6/29/2009

Place Of Use: DOMESTIC T53N R05W S36 SENE

Domestic use is for 1 home

95-10759

JOHN GIESEN

7124 ENGLISH PT

HAYDEN, ID 83835

Point of Diversion SWNENE S3 T52N R03W KOOTENAI County

Source SPRING tributary to SINKS

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

Total Diversion: 0.03 CFS

Date Filed: 6/23/2009

Place Of Use: IRRIGATION T53N R03W S34 SESE

Number of acres: 1

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 8/24/2009.

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

GARY SPACKMAN, Interim Director

Legal 7250

August 6, 13, 2009

RECEIVED
AUG 14 2009
IDWR / NORTH