

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 95-10579

Priority: May 22, 2009

Maximum Diversion Rate: 0.10 CFS

This is to certify, that MICHAEL MICHALAK And
RITA MICHALAK
17523 N WILKINSON RD
RATHDRUM ID 83858
(208) 687-1392

has applied for a permit to appropriate water from:

Source: GROUNDWATER

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
IRRIGATION	03/15 to 11/15	0.06 CFS

LOCATION OF POINT(S) OF DIVERSION:GROUNDWATER, NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 27, Twp 52N, Rge 04W, 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	
52N 04W 27					X												

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 27					5.0												5.0

Total Acres: 5

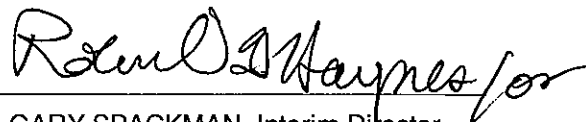
State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 95-10579

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **January 01, 2012**.
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. 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.
5. 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.
6. 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.
7. 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.
8. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
9. 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.

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 6th day of January, 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

January 7, 2010

MICHAEL MICHALAK
17523 N WILKINSON RD
RATHDRUM ID 83858

RITA MICHALAK
17523 N WILKINSON RD
RATHDRUM ID 83858

RE: Permit No.95-10579

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

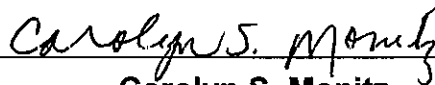
I hereby certify that on January 7, 2010 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved Permit) to the person(s) listed below:

RE: WATER RIGHT NO.

95-10579

**MICHAEL MICHALAK
17523 N WILKINSON RD
RATHDRUM ID 83858**

**RITA MICHALAK
17523 N WILKINSON RD
RATHDRUM ID 83858**

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

**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.

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO,
County of Kootenai,

} ss.

JUL 16 2009

IDWR / NORTH

being first duly sworn

Kattie Hey

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 issue of said newspaper for 2 consecutive Thursday weeks commencing on the 2 day of July, 2009, and ending on the 9 day of July, 2009, and such publication was made as often during said period as said Daily newspaper was regularly issued.

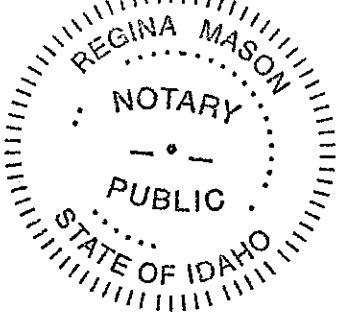
4. That said newspaper has been continuously and uninterruptedly published in said Kootenai County, during a period of more than seventy-eight consecutive weeks immediately prior to the first publication of said notice.

On this 9 day of July, in the year of 2009, before me, a Notary Public, personally appeared Kattie Hey, 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



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

95-10577

LESLIE M OLSON

LINDA OLSON

17189 N WILKINSON RD

RATHDRUM ID 83858

Point of Diversion SENW S27 T52N R04W KOOTENAI County

Source GROUNDWATER

Use: IRRIGATION 03/01 To 11/15 0.06 CFS

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

Total Diversion: 0.1 CFS

Date Filed: 05/22/2009

Place Of Use: DOMESTIC

T52N R04W S27 NENW SENW

Place Of Use: IRRIGATION same as DOMESIC

Number of Acres 5

Remark: Domestic use is for 2 homes.

95-10579

MICHAEL MICHALAK

RITA MICHALAK

17523 N WILKINSON RD

RATHDRUM ID 83858

Point of Diversion NENW S27 T52N R04W KOOTENAI County

Source GROUNDWATER

Use: IRRIGATION 03/15 To 11/15 0.06 CFS

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

Total Diversion: 0.1 CFS

Date Filed: 05/22/2009

Place Of Use: DOMESTIC

T52N R04W S27 NENW

Place Of Use: IRRIGATION same as DOMESTIC

Number of Acres 5

Remark: Domestic use is for 1 home

95-10580

STEVE EACHON

PO BOX 1358

HAYDEN ID 83835

Point of Diversion NWNW S35 T52N R04W KOOTENAI County

Source GROUNDWATER

Use: IRRIGATION 03/15 To 11/15 0.1 CFS

Use: INDUSTRIAL 01/01 To 12/31 0.1 CFS

Total Diversion: 0.1 CFS

Date Filed: 05/20/2009

Place Of Use: IRRIGATION

T52N R04W S35 NWNW

Number of Acres 5

Place Of Use: INDUSTRIAL same as IRRIGATION

Remark: Industrial use is for a tree farm.

95-10587

MARY R MCINTOSH

PO BOX 727

RATHDRUM ID 83858

Point of Diversion NENE S11 T51N R05W KOOTENAI County

Source GROUND WATER

Use: COMMERCIAL 01/01 to 12/31 0.2 CFS

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

Total Diversion: 0.2 CFS

Date Filed: 05/20/2009

Place Of Use: COMMERCIAL

T51N R05W S11 NENE

Place Of Use: FIRE PROTECTION same as COMMERCIAL

Remark: Commercial use is for wood preserving company

95-10588

ROBERT LOUIS GRIER

LONNA J GRIER

2002 W SCARCELLO RD

RATHDRUM ID 83858

Point of Diversion NWSE S10 T52N R04W KOOTENAI County

Source GROUND WATER

Use: IRRIGATION 03/15 To 11/15 0.06 CFS

Total Diversion: 0.06 CFS

Date Filed: 05/20/2009

Place Of Use: IRRIGATION

T52N R04W S10 NWSE

Number of Acres 2

95-10593

NORM KUHLMAN

1575 E 16TH AVE

POST FALLS ID 83854-4427

Point of Diversion SWNE S35 T51N R05W KOOTENAI County

Source GROUNDWATER

Use: IRRIGATION 03/15 To 11/15 0.06 CFS

Total Diversion: 0.06 CFS

Date Filed: 05/20/2009

Place Of Use: IRRIGATION

T51N R05W S35 SWNE

Number of Acres 2.5

95-10595

DOUGLAS ALBERT

MICHELLE ALBERT

7203 E OHIO MATCH RD

HAYDEN ID 83835

Point of Diversion NWNE S21 T52N R03W KOOTENAI County

Source GROUND WATER

Use: IRRIGATION 03/15 To 11/15 0.14 CFS

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

Total Diversion: 0.16 CFS

Date Filed: 05/21/2009

Place Of Use: IRRIGATION

T52N R03W S21 NWNE

Number of Acres 7

Place Of Use: STOCKWATER same as IRRIGATION

Remark: Stockwater use is for 30 head of mixed stock.

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 Resource, 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 07/20/2009.

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

DAVID R. TUTHILL, JR., Director

Legal 6924

July 2, 9, 2009

**IDAHO DEPARTMENT OF WATER RESOURCES
AFFIDAVIT OF OPERATION APPLICATION ANALYSIS SHEET**

W.R. # 95-10579 APPLICATION ID # 75615 ENT. BCA 4/26/09 OK to Publish 4/25/09
 APPLICANT: Michalak INITIAL REVIEW BY: [Signature] DATE: 5/26/2009

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 5-26-09 By: [Signature]
☐ Field check: by _____
☐ Field report attached _____
☐ Analysis Supp. Attached (>5cfs/500af) _____
☐ Water delivered by water master? Water District # _____

PROCESSING

(Yes)(No) PRIORITY DATE: 5/22/2009

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

ADVERTISE IN:

Newspaper: Kootenai County
 Dates scheduled for publication 7/2+9/09
 Affidavit of Publication received: 7/16/09
 Dates actually published: 7/2+9/09
 Application published correctly. Yes ☒ No _____
 If not, action taken: _____

Final Date for Protest: 7/20/09
 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>838281</u>	<u>DOCH/127</u>	Dom. _____ Non-Dom. _____	Paid \$ <u>100</u>	<u>N020680</u>	<u>5/22/09</u> Y (X) N ()
_____	_____	Dom. _____ Non-Dom. _____	Paid \$ <u>25</u>	<u>N021878</u>	<u>8/26/09</u> Y (X) 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: Bathrum Prairie GwMA
 Special conditions of approval supplement and/or cover letter attached: _____

Approval Recommended by: [Signature] Date: 8/16/2009 Sr. Agent initial [Signature]