

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 95-10535

Priority: May 13, 2009

Maximum Diversion Rate: 0.03 CFS

This is to certify, that JOHN DEBERNARDI And/Or DEBRA DEBERNARDI
PO BOX 579
SPIRIT LAKE ID 83869

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	04/01 to 10/31	0.03 CFS

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER SE1/4NE1/4 Sec. 31, Twp 54N, Rge 04W, B.M. BONNER County

PLACE OF USE: IRRIGATION

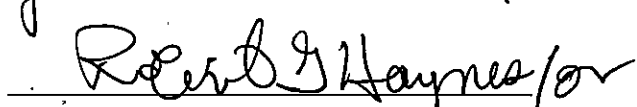
Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
54N	04W	31			1.0														1.0

Total Acres: 1

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **July 01, 2012**.
2. Subject to all prior water rights.
3. 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.
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 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.
6. 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 24th day of June, 2009.


DAVID R. TUTHILL, JR., 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

DAVID R. TUTHILL, JR.
Director

July 1, 2009

JOHN DEBERNARDI
DEBRA DEBERNARDI
PO BOX 579
SPIRIT LAKE ID 83869

RE: Permit No. 95-10535

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 stylized with a large, sweeping "K" and "F".

Keith E. Franklin

Sr. Water Resources Agent

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on July 1, 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.

95-10535

**DEBRA DEBERNARDI
PO BOX 579
SPIRIT LAKE ID 83869**

**JOHN DEBERNARDI
PO BOX 579
SPIRIT LAKE ID 83869**



**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.

AFFIDAVIT OF PUBLICATION

State of Idaho

ss.

County of Bonner, Terri Juie

being first duly sworn on oath deposes and says that he/she is Managing Editor of the Priest River Times, a newspaper printed and published at Priest River, Bonner County, Idaho; that the said newspaper has been continuously and uninterruptedly published in said Bonner County during a period of 12 months prior to the first publication of the hereto attached notice of publication in the case of:

95-10454-CDS StoneRidge Util./95-10535 deBernardi/97-7485 Franchiseur

as it was published in the regular and entire issue of the said newspaper for a period of 2 consecutive weeks, commencing on 20th day of May, 20 09 and ending on the 27th day of May, 20 09 and that said notice was published in said newspaper.

On this 27th day of May in the year of 2009, before me, a Notary Public, personally appeared Terri Juie, 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.

Shannon M. Fodor
Notary Public for Idaho

Residing at Priest River

My commission expires: 10-9-13

RECEIVED

JUN 09 2009

IDWR / NORTH

NOTICE OF APPLICATION OF WATER RIGHTS

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

95-10454
CDS STONERIDGE UTILITIES LLC
PO BOX 298
BLANCHARD ID 83804
Point(s) of Diversion (3) NWSW S20 T54N R05W BONNER County
Source GROUND WATER
Use: MUNICIPAL
01/01 To 12/31 2.22 CFS
Total Diversion: 2.22 CFS

Date Filed: 04/24/2009
Place Of Use: MUNICIPAL
Remark: Municipal use is within service area of applicant.

95-10535
JOHN DEBERNARDI
DEBRA DEBERNARDI
PO BOX 579
SPIRIT LAKE ID 83869
Point(s) of Diversion SENE S31 T54N R04W BONNER County
Source GROUND WATER
Use: IRRIGATION
04/01 To 10/31 0.03 CFS
Total Diversion: 0.03 CFS

Date Filed: 05/13/2009
Place Of Use: IRRIGATION
T54N R04W S31 SWNE
Number of Acres 1
97-7485
GLEN FRACHISEUR
MICHELE FRACHISEUR
PO BOX 870
PRIEST RIVER ID 83856
Point(s) of Diversion NENW S21 T59N R05W BONNER County
Source WEST BRANCH UPPER PRIEST RIVER
Tributary To PRIEST RIVER
Use: IRRIGATION
04/01 To 10/31 0.09 CFS
Total Diversion: 0.09 CFS

Date Filed: 05/07/2009
Place Of Use: IRRIGATION
T59N R05W S21 NENW
Number of Acres 3
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 06/08/2009. The protestant must also send a copy of the protest to the applicant.

PRT Legal 1093
May 20, 27, 2009

DAVID R. TUTHILL, JR., Director

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

W.R. # 95-10535

APPLICATION ID # 75597

ENT. 5/13/09 BCA

OK to Publish 5/13/09

APPLICANT: John and/or Debra De Bernardi

BY: KJ

DATE: 5/13/2009

INITIAL REVIEW

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 5/13/09 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: 5/13/2009
- ☒ (Include Moratorium Remark)
- ☒ Statewide Advertising: (Diversion rate greater than 10 cfs or 1,000 af).
- PRT Wed
- ADVERTISE IN: Bonner County
- Newspaper: Pratt River Times
- Dates scheduled for publication 5/20 + 27/09
- Affidavit of Publication received: 6/9/09
- Dates actually published: 5/20 + 27/09
- Application published correctly. Yes ☒ No ☐
- If not, action taken: _____

Final Date for Protest: 6/8/09

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>757311</u>		Dom. ☒ Non-Dom. ☐	Paid \$ _____	_____	Y() N(☒) <u>1984</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: _____
- ☐ Special conditions of approval supplement and/or cover letter attached: _____

Approval Recommended by: E. J. [Signature] Date: 6/15/09 Sr. Agent initial [Signature]