

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 95-11042

Priority: August 25, 2009

Maximum Diversion Rate: 0.18 CFS

This is to certify, that DON L BUTLER
PO BOX 2889
POST FALLS ID 83877

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	0.18 CFS

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER NW1/4SW1/4 Sec. 17, Twp 51N, Rge 04W, B.M. KOOTENAI County

PLACE OF USE: IRRIGATION

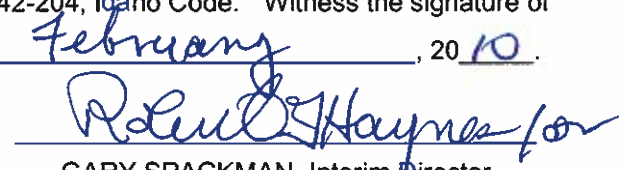
Twp Rge Sec	NE				NW				SW				SE				
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
51N 04W 17											9.0						9.0

Total Acres: 9

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **February 01, 2011**.
2. Subject to all prior water rights.
3. 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.
4. 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.
5. 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 10th day of February, 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

February 12, 2010

DON L BUTLER
PO BOX 2889
POST FALLS ID 83877

RE: Permit No.95-11042

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,



Keith E. Franklin

Sr. Water Resources Agent

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on February 12, 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.

95-11042

**DON L BUTLER
PO BOX 2889
POST FALLS ID 83877**



**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.

RECEIVED
AFFIDAVIT OF PUBLICATION

NOV 16 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 "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

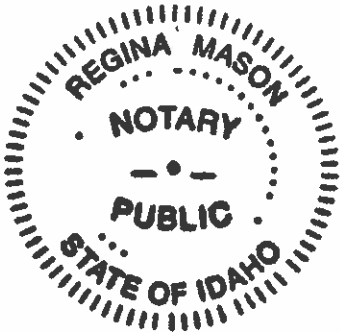
of which the annexed is a printed copy, was published in the regular Thursday issue of said newspaper for 2 consecutive weeks commencing on the 5 day of November 2009, and ending on the 12 day of November 2009, and such publication was made as often during said period as said Daily newspaper was regularly 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 12 day of November 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



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

000

E. HANSON ET UX TRUSTEES

32411 PINE RD

COEUR D'ALENE, ID 83814

Point of Diversion: SW/4SW S8 T49N R04W KOOTENAI CO

Source: SPRINGS tributary to MICA CREEK

Point of Diversion: NW/4SW S9 T49N R04W KOOTENAI CO

Source: SPRINGS

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

Use: WILDLIFE STORAGE 01/01 to 12/31 4.7 AF

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

Use: RECREATION STORAGE 01/01 to 12/31 4.7 AF

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

Use: FIRE PROTECTION STORAGE 01/01 to 12/31 6.1 AF

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

Use: AESTHETIC STORAGE 01/01 to 12/31 6.1 AF

Total Diversion: 0.2 CFS 6.1 AF

Date Filed: 8/26/2009

Place of Use: RECREATION T49N R04W S9 NW/4SW

Place of Use: All other uses same as RECREATION

Recreation use is for fish

95-11024

DOUGLAS O. NUSTAD

PO BOX 2778

HAYDEN, ID 83833

Point of Diversion: E/4NE/4 S4 T51N R03W KOOTENAI CO

Source: HAYDEN LAKE tributary to SINKS

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

Total Diversion: 0.04 CFS

Date Filed: 8/26/2009

Place of Use: DOMESTIC T51N R03W S4 E/4NE/4

Domestic use is for 1 home

95-11041

KEN COMBELL

70N SCHWARTZ

ANN CLEVERING

PO BOX 189

HAYDEN, ID 83833

Point of Diversion: E/4NE/4 S4 T49N R03W KOOTENAI CO

Source: GROUND WATER

Use: IRRIGATION 01/01 to 12/31 0.12 CFS

Total Diversion: 0.08 CFS

Date Filed: 7/23/2009

Place of Use: DOMESTIC T49N R03W S4 E/4NE/4

Place of Use: IRRIGATION same as DOMESTIC

Total Acres: 5

Domestic use is for 3 homes

95-11042

DON R. BUCHER

PO BOX 288

POST FALLS, ID 83877

Point of Diversion: NW/4SW S4 T51N R03W KOOTENAI CO

Source: GROUND WATER

Use: IRRIGATION 01/01 to 12/31 0.18 CFS

Total Diversion: 0.18 CFS

Date Filed: 8/26/2009

Place of Use: IRRIGATION T51N R03W S4 NW/4SW

Total Acres: 9

95-11043

RANDY HURST

15015 ROCKY RIDGE DR

SPOKANE VALLEY, WA 99212

Point of Diversion: E/4NE/4 S4 T51N R03W KOOTENAI CO

Source: SPOKANE RIVER tributary to SPOKANE RIVER

Use: IRRIGATION 01/01 to 12/31 0.08 CFS

Total Diversion: 0.04 CFS

Date Filed: 7/29/2009

Place of Use: DOMESTIC T51N R04W S4 E/4NE/4

Place of Use: IRRIGATION same as DOMESTIC

Total Acres: 1

Domestic use is for 1 home

95-11044

DAVE SIMPSON

PO BOX 189

HAYDEN, ID 83833

Point of Diversion: E/4NE/4 S4 T51N R03W KOOTENAI CO

Source: HAYDEN LAKE tributary to SINKS

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

Total Diversion: 0.04 CFS

Date Filed: 8/26/2009

Place of Use: DOMESTIC T51N R03W S4 E/4NE/4

Domestic use is for 1 home

95-11045

RANDY HURST

SUSAN HURST

MLS REAL ESTATE

POST FALLS, ID 83877

Point of Diversion: E/4NE/4 S4 T51N R03W KOOTENAI CO

Source: SPOKANE RIVER tributary to GODDARD RIVER

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

Total Diversion: 0.04 CFS

Date Filed: 8/18/2009

Place of Use: IRRIGATION

T51N R03W S4 E/4NE/4

T51N R03W S4 E/4NE/4

T51N R03W S4 E/4NE/4

Total Acres: 1.5

95-11046

DAVID M. DESKETT

52614 VIEWMONT CT

SPOKANE VALLEY, WA 99016

Point of Diversion: E/4NE/4 S4 T51N R03W KOOTENAI CO

Source: SPOKANE RIVER tributary to SPOKANE RIVER

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

Total Diversion: 0.01 CFS

Date Filed: 8/21/2009

Place of Use: DOMESTIC T51N R03W S4 E/4NE/4

Domestic use is for 1 home

95-11052

HARRY HAMMAK

DEVILY HAMMAK

1160 W. COUGAR GLITCH RD

COEUR D'ALENE, ID 83814

Point of Diversion: E/4NE/4 S4 T51N R03W KOOTENAI CO

Source: SPRING tributary to SINKS

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

Total Diversion: 0.04 CFS

Date Filed: 8/26/2009

Place of Use: DOMESTIC T51N R03W S4 E/4NE/4

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 Exposure, 760 Mineral Drive, Suite 100, Coeur d'Alene, ID 83815 together with a protest fee of \$25.00 for each application on or before 11/23/2009. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Interim Director

Legal 8173

November 5, 12, 2009

RECEIVED
NOV 16 2009
IDWR / NORTH



State of Idaho

DEPARTMENT OF WATER RESOURCES

Northern Region, 7600 Mineral Drive, Suite 100, Coeur d'Alene, Idaho 83815

Phone: (208) 762-2800 FAX: (208) 762-2819 www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

Please Fax or e-mail proof/preview copy to me before this goes to press.

Fax (208) 762-2819 ~ e-mail dianne.ball@idwr.idaho.gov

Thanks, Dianne

October 23, 2009

KELLI BULEY
LEGAL NOTICE DEPARTMENT
COEUR D ALENE PRESS
201 N 2ND
COEUR D ALENE, ID 83814

RE: Application For Permit No(s): 95-11009, 95-11024, 95-11041, 95-11042, 95-11043, 95-11044, 95-11046, 95-11048, 95-11052

Dear Kelli:

This is the **THIRD** legal notice submitted to the Press for publication on November 5 and 12, 2009, (once a week for two consecutive weekly issues). If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before 11/23/2009. Your cooperation is appreciated.

Sincerely,

Dianne Ball
Administrative Assistant

Dianne

Enclosure(s)

Ball, Dianne

From: Ball, Dianne
Sent: Friday, October 23, 2009 11:08 AM
To: Legal Notices-CdA Press; Legal Notices-CdAPress - Kelli Buley
Subject: Application for Permit No. 95-11009, 95-11024, 95-11041, 95-11042, 95-11043, 95-11044, 95-11046, 95-11048, 95-11052

Attachments: CoverLetter 10-23-09 CDA e-mail, 95-11009,024,041,042,043,044,046,048,052.doc;
LegalNotice 10-23-09 CDA e-mail 95-11009,024,041,042,043,044,046,048,052.doc

Good morning, Kelli,

This is the **THIRD** legal notice submitted to the Press for publication on November 5 and 12, 2009, (once a week for two consecutive weekly issues). If you cannot publish the notice on the proposed dates, please contact us immediately. Cover letter and legal notice attached.

Please send proof/preview copy for all three for my review, as soon as layout is ready.



CoverLetter
0-23-09 CDA e-mai.



LegalNotice
0-23-09 CDA e-mai.

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before 11/23/2009. Your cooperation is very greatly appreciated.

[I may have yet another legal notice if I can get one more completed timely.]

Thanks, Kelli, for all your super help.

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



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

October 23, 2009

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

DON L BUTLER
PO BOX 2889
POST FALLS, ID 83877

Application For Permit No. 95-11042

Dear Applicant(s):

The Department of Water Resources has received your water right application. Please refer to the number referenced above in all future correspondence regarding this application.

A legal notice of the application has been prepared and is scheduled for publication in the COEUR D ALENE PRESS on 11/5/2009 and 11/12/2009. Protests to this application may be submitted for a period ending ten (10) days after the second publication.

If the application is protested, you will be sent a copy of each protest. All protests must be resolved before the application can be considered for approval. If the protest(s) cannot be resolved voluntarily, the Department will conduct a conference and/or hearing on the matter.

If the application is not protested, the Department will process your application and notify you of any action taken on the application. If your application is approved, the Department will send you a copy of the permit.

Please contact this office if you have any questions regarding the application.

Sincerely,

Eric J. Davis
Sr. Water Resource Agent

Idaho Department of Water Resources Receipt

Receipt ID: N021862

Payment Amount	\$290.00	Date Received	8/25/09 2:21	Region	NORTHERN
Payment Type	Check	Check Number	1026		
Payer	BUTLER, DON L				

Comments NIA Filing Fee \$25.00
Well Upgrade Fee re D0022314 \$165.00
WR Permit App Fee \$100.00

Fee Details

Amount	Description	Fund	Fund Detail	PCA	Subobject
\$25.00	NORTHERN ID ADJUDICATION FILING FEE	0337	1	75503	1155
\$165.00	DRILLING PERMITS	0229	21	65134	1205
\$100.00	PERMITS	0229	21	65103	1155

COPY

Signature Line (Department Representative)