

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 91-07192

Priority: September 14, 2009

Maximum Diversion Rate: 0.04 CFS

This is to certify, that CHARLES ESKRO
704 NORTH 22ND ST
BILLINGS MT 59101
(406) 252-4340

has applied for a permit to appropriate water from:

Source: ST JOE RIVER

Tributary: COEUR D ALENE LAKE

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

LOCATION OF POINT(S) OF DIVERSION:

ST JOE RIVER, L11 (SE1/4NE1/4), Sec. 16, Twp 46N, Rge 01W, B.M., BENEWAH County

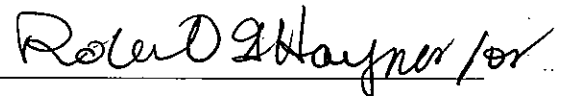
PLACE OF USE: DOMESTIC

Twp Rge Sec	NE				NW				SW				SE				
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
46N 01W 16				X									X				
				L 11									L 12				

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 does not grant any right-of-way or easement across the land of another.
4. Domestic use is for a recreational trailer site or approve dry cabin.
5. The irrigation occurring under this domestic use shall not exceed 1/2 acre.
6. A fish screen of 0.25 inch or smaller mesh shall be installed and maintained at the point of diversion.
7. The approach velocity at the point of diversion shall not exceed 0.5 feet per second.
8. This right shall conform to the minimum stream flow requirements for the St. Joe River as per water right 91-7122.

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 4th 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

DAVID R. TUTHILL, JR.
Director

February 4, 2010

CHARLES ESKRO
704 NORTH 22ND ST
BILLINGS MT 59101

RE: Permit No.91-7192

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.

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.

COPY

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

Senior Water Resources Agent

Enclosure(s)

COPY

CERTIFICATE OF SERVICE

I hereby certify that on February 5, 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.

91-7192

**CHARLES ESKRO
704 NORTH 22ND ST
BILLINGS MT 59101**

A handwritten signature in cursive script, appearing to read "Keith E. Franklin", is written over a horizontal line.

Keith E. Franklin

COPY

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.

IDAHO DEPARTMENT OF WATER RESOURCES
APPROPRIATION APPLICATION ANALYSIS SHEET

W.R. # 91-7192

APPLICATION ID # 75948

ENT. 9/15 BCA 11/21

OK to Publish 11/24/09

APPLICANT: Charles Eskro

INITIAL REVIEW

BY: KJ

DATE: 9/15/2009

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 9/15 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: 9/14/2009

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

ADVERTISE IN:

Benewah County
Newspaper: SM
Dates scheduled for publication 12/24/09
Affidavit of Publication received: 12/10/09
Dates actually published: 12/24/09
Application published correctly. Yes ☒ No ☐
If not, action taken: _____

Final Date for Protest: 12/21/09

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.
- ☒ Further information required from applicant

Final order response date: ____/____/____

- ☒ Measuring device required
- ☒ Measuring port required
- ☒ Special conditions: Min. Stream Flow 91-7192
- ☒ Special conditions of approval supplement and/or cover letter attached: _____

Approval Recommended by:

Beth J. [Signature]

Date: 1/14/2010 Sr. Agent initial

KJ



IDAHO DEPARTMENT OF FISH AND GAME

PANHANDLE REGION
2885 West Kathleen Avenue
Coeur d'Alene, Idaho 83815

C.L. "Butch" Otter/Governor
December 19, 2009 Cal Groen/Director

Mr. Keith Franklin
Idaho Department of Water Resources
Northern Region
7600 Mineral Drive, Ste 100
Coeur d'Alene, ID 83815

*Go on computer
(data base)*

RECEIVED

DEC 23 2009

IDWR / NORTH

Dear Keith:

REFERENCE: ESKRO: 91-7192

We have reviewed the above-named application by Charles Eskro to divert 0.04 cfs from the St. Joe River for domestic use.

The St. Joe River contains populations of resident, river run (fluvial) and lake run (adfluvial) cutthroat trout. Historically the St. Joe River has been regarded as among the finest cutthroat trout streams in America. The river has regained that status and trends have shown marked improvements in recent years. Additionally, the St. Joe River also harbors bull trout (ESA listed as Threatened) that migrate though the lower reaches to spawn in the headwaters of the St. Joe River. Annual counts of 15 to 91 redds were made in three index streams of the St. Joe River between 1992 and 2005 with an increasing trend over those years. IDFG manages the St. Joe River for quality cutthroat trout fishing. Bull trout are managed under "conservation" status, to conserve and restore bull trout numbers.

Although the amount requested in this particular application is small (0.04 cfs), we are concerned that the cumulative effects of recreational lot owners applying for diversions may be harmful to this economically and ecologically important fishery. There is a minimum stream flow on the St. Joe River (WR 91-7122) of 470.0 cfs from August 1 to October 31, and 941.0 cfs from November 1 through July 31. The applicant should be made aware that their diversion cannot negatively impact the established minimum flow in the St. Joe River. Because water right diversions allow water users to manipulate streams, we recommend this permit be conditioned to require no disturbance to the stream channel. If pumps are used, they should be adequately screened to prevent entrainment and /or impingement of juvenile trout (we recommend ≤ 0.25 " mesh, with approach velocity of ≤ 0.5 feet per second).

Thank you for your attention to this matter.

Sincerely,

Charles E. "Chip" Corsi
Regional Supervisor

CEC:MTB
C: Sharon Kiefer, IDFG Boise
USFWS, Spokane
File: IDWR Eskro 91-7192

Keeping Idaho's Wildlife Heritage

RECEIVED

DEC 10 2009

Affidavit of Publication

IDWR / NORTH

STATE OF IDAHO

County of Benewah, ss.

Cynthia Ann Hammes, being first duly sworn on oath, deposes and says that she is vice president of The Corporation, owner of the St. Maries Gazette Record, a weekly newspaper printed and published at St. Maries, Benewah County, State of Idaho; the St. Maries Gazette Record is a newspaper having general circulation in Benewah County, State of Idaho, and has been continuously and uninterruptedly published in Benewah County, State of Idaho, during a period of more than seventy-eight consecutive weeks prior to the first publication of notice of advertisement herein.

That the notice, of which the one hereto attached is a true copy, was published in said newspaper for a period of 2 issues, the first publication being on the 2 day of December, 2009, and the last on the 9 day of December, 2009.

That said newspaper was regularly distributed to its subscribers during the time of the same period; that said notice was published in the regular and entire issue of said paper.

Dated this 9 day of December, 2009.

Cynthia Ann Hammes

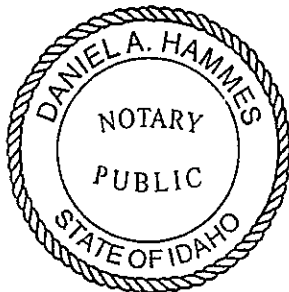
STATE OF IDAHO

COUNTY OF BENEWAH

On this 9 day of December, in the year of 2009 before me, a Notary Public, personally appeared Cynthia Ann Hammes, known or identified to me to be the person whose name subscribed to within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that she executed the same.

Daniel A. Hammes

Notary Public for Idaho
Residing at St. Maries, Idaho
My commission expires:



07-13-2013

NOTICE OF APPLICATION

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

91-7190

MARK REYNOLDS

SHERRIE REYNOLDS

58 BAILEY ST

ST MARIES, ID 83861

Point of Diversion L11(SEN) S16 T46N R01W BENEWAH CO

Source ST JOE RIVER Tributary COEUR D ALENE LAKE

Use: DOMESTIC

01/01 to 12/31 0.04 CFS

Total Diversion: 0.04 CFS

Date Filed: 8/26/2009

Place Of Use: DOMESTIC T46N R01W S16 L11(SEN)

Domestic use is for recreational site, trailer or approved dry cabin.

91-7191

CHELCE DANIEL

BRYNA BOWMAN

58 BAILEY ST

ST MARIES, ID 83861

Point of Diversion L11(SEN) S16 T46N R01W BENEWAH CO

Source ST JOE RIVER Tributary COEUR D ALENE LAKE

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01/01 to 12/31 0.04 CFS

Total Diversion: 0.04 CFS

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Domestic use is for recreational site, trailer or approved dry cabin.

91-7192

CHARLES ESKRO

704 NORTH 22ND ST

BILLINGS, MT 59101

Point of Diversion L11(SEN) S16 T46N R01W BENEWAH CO

Source ST JOE RIVER Tributary COEUR D ALENE LAKE

Use: DOMESTIC

01/01 to 12/31 0.04 CFS

Total Diversion: 0.04 CFS

Date Filed: 9/14/2009

Place Of Use: DOMESTIC

T46N R01W S16 L11(SEN) L12(NESE)

Domestic use is for recreational site, trailer or approved dry cabin.

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 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 12/21/2009. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Interim Director
7524 Dec. 2-Dec. 9

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91-7190

MARK REYNOLDS
SHERRIE REYNOLDS
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ST MARIES, ID 83861

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Total Diversion: 0.04 CFS

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Place Of Use: DOMESTIC T46N R01W S16 L11(SENE)

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91-7191

CHELICIE DANIEL
BRYNA BOWMAN
58 BAILEY ST

ST MARIES, ID 83861

Point of Diversion L11(SENE) S16 T46N R01W BENEWAH CO

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91-7192

CHARLES ESKRO
704 NORTH 22ND ST
BILLINGS, MT 59101

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GARY SPACKMAN, Interim Director

Legal #

Published on 12/2/2009 and 12/9/2009

Ball, Dianne

From: Ball, Dianne
Sent: Wednesday, November 25, 2009 10:17 AM
To: Legal Notices-SM Gazette - Kaisie Brede
Subject: Application for Permit No. 91-7190, 91-7191, 91-7192
Attachments: LegalNotice 11-25-09 SM e-mail 91-7190,91,92.doc

Good day to you, Kaisie,

Please publish the attached legal notice on the dates indicated, December 2 and 9, 2009, (once a week for two consecutive weekly issues). If you cannot publish the notice on the proposed dates, please contact us immediately.



LegalNotice
11-25-09 SM e-mail..

Please send a proof/preview copy for my review before this goes to press.

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 12/21/2009. Your cooperation is appreciated.

If you have any questions, please call me or reply to this e-mail.

Thank you very much for all your help.

Have a blessed Thanksgiving,

Love is the holding of memories only the heart can see.

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

November 25, 2009

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

CHARLES ESKRO
704 NORTH 22ND ST
BILLINGS, MT 59101

Application For Permit No. 91-7192

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 GAZETTE RECORD, ST MARIES GAZETTE RECORD on 12/2/2009 and 12/9/2009. 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,

A handwritten signature in black ink, appearing to read "Keith Franklin". The signature is fluid and cursive, with the first name "Keith" and last name "Franklin" clearly distinguishable.

Keith Franklin
Sr. Water Resource Agent

Enclosure(s) Receipt No. N022068

**IDAHO DEPARTMENT OF FISH AND GAME****PANHANDLE REGION**

2885 West Kathleen Avenue
Coeur d'Alene, Idaho 83815

Mr. Keith Franklin

Idaho Department of Water Resources
Northern Region
7600 Mineral Drive, Ste 100
Coeur d'Alene, ID 83815

C.L. "Butch" Otter/Governor

December 19, 2009 Cal Groen/Director

En on computer
db

Dear Keith:

REFERENCE: ESKRO: 91-7192

We have reviewed the above-named application by Charles Eskro to divert 0.04 cfs from the St. Joe River for domestic use.

The St. Joe River contains populations of resident, river run (fluvial) and lake run (adfluvial) cutthroat trout. Historically the St. Joe River has been regarded as among the finest cutthroat trout streams in America. The river has regained that status and trends have shown marked improvements in recent years. Additionally, the St. Joe River also harbors bull trout (ESA listed as Threatened) that migrate though the lower reaches to spawn in the headwaters of the St. Joe River. Annual counts of 15 to 91 redds were made in three index streams of the St. Joe River between 1992 and 2005 with an increasing trend over those years. IDFG manages the St. Joe River for quality cutthroat trout fishing. Bull trout are managed under "conservation" status, to conserve and restore bull trout numbers.

Although the amount requested in this particular application is small (0.04 cfs), we are concerned that the cumulative effects of recreational lot owners applying for diversions may be harmful to this economically and ecologically important fishery. There is a minimum stream flow on the St. Joe River (WR 91-7122) of 470.0 cfs from August 1 to October 31, and 941.0 cfs from November 1 through July 31. The applicant should be made aware that their diversion cannot negatively impact the established minimum flow in the St. Joe River. Because water right diversions allow water users to manipulate streams, we recommend this permit be conditioned to require no disturbance to the stream channel. If pumps are used, they should be adequately screened to prevent entrainment and /or impingement of juvenile trout (we recommend ≤ 0.25 " mesh, with approach velocity of ≤ 0.5 feet per second).

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Charles E. Corsi".

Charles E. "Chip" Corsi
Regional Supervisor

CEC:MTB

C: Sharon Kiefer, IDFG Boise
USFWS, Spokane
File: IDWR Eskro 91-7192

Keeping Idaho's Wildlife Heritage

Ball, Dianne

From: Ball, Dianne
Sent: Tuesday, November 24, 2009 2:15 PM
To: mary.terra-berns@idfg.idaho.gov; jbennett@idl.idaho.gov
Subject: RE: Application for Permit No. 91-7190 Reynolds, 91-7191 Bowman, and 91-7192 Eskro

Attachments: 91-7190 Reynolds.pdf; 91-7191 Daniel and Bowman.pdf; 91-7192 Eskro.pdf

Dear Mary and Jim:

The Department of Water Resources is seeking written comment and/or recommendations from your agency regarding the above referenced water right applications. A copy of each of the applications is enclosed for your reference.



91-7190
eynolds.pdf (419 KE



91-7191 Daniel and
Bowman.pdf ...



91-7192 Eskro.pdf
(482 KB)

Final date for protest should be December 21, 2009.

This office can publish notice of the applications as soon as the initial review is completed; therefore, your prompt reponse 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.

Please contact Keith Franklin at this office if you have any questions regarding these applications.

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