

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 97-07485

Priority: May 07, 2009

Maximum Diversion Rate: 0.09 CFS

This is to certify, that GLEN FRACHISEUR And/Or
MICHELE FRACHISEUR
PO BOX 870
PRIEST RIVER ID 83856
(208)443-6638

has applied for a permit to appropriate water from:

Source: WEST BRANCH UPPER **Tributary:** PRIEST RIVER
PRIEST RIVER

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	0.09 CFS

LOCATION OF POINT(S) OF DIVERSION:

WEST BRANCH UPPER PRIEST RIVER, NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 21, Twp 59N, Rge 05W, B.M.

BONNER County

PLACE OF USE: IRRIGATION

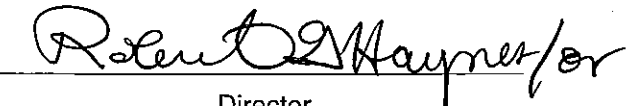
Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
59N 05W 21					3.0												3.0

Total Acres: 3

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **August 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. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.
6. 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.
7. Prior to the diversion and use of water under this approval, the right holder shall comply with all fish screening and/or fish passage requirements of the Idaho Department of Fish and Game.

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 17th day of July, 2009.


Director



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

July 24, 2009

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

GLEN FRACHISEUR
MICHELE FRACHISEUR
PO BOX 870
PRIEST RIVER ID 83856

RE: Permit No. 97-7485

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 fluid and cursive, with the first name "Keith" being more prominent.

Keith E. Franklin

Sr. Water Resources Agent

Enclosure(s)

CERTIFICATE OF SERVICE

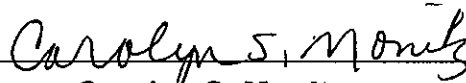
I hereby certify that on July 24, 2009 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved Permit) to the person(s) listed below:

RE: WATER RIGHT NO.

97-7485

**GLEN FRACHISEUR
PO BOX 870
PRIEST RIVER ID 83856**

**MICHELE FRACHISEUR
PO BOX 870
PRIEST RIVER ID 83856**

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

**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.

APPROPRIATION APPLICATION ANALYSIS SHEET

W.R. # 97-7485 APPLICATION ID # 75588 ENT. EPD BCA 5/13/09 OK to Publish 5/11/09
 APPLICANT: FRANCHISEUR INITIAL REVIEW BY: EPD DATE: 5/17/2009

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)

PROCESSING

(Yes)(No) PRIORITY DATE: 5/17/2009

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

ADVERTISE IN: BONNER County

Newspaper: Piedmont 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: _____

*** Send info sheet Y () N ()

ADDITIONAL INFORMATION

(Yes)(No)

☒ Shape File Created Date 5-8-09 By: EPD

Field check: by _____

Field report attached _____

Analysis Supp. Attached (>5cfs/500af) _____

Water delivered by water master? Water District # _____

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. Final order response date: _____/_____/_____

☒ Further information required from applicant _____

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

Approval Recommended by: Kate E. Davidson Date: 6/15/09 Sr. Agent initial KJ

AFFIDAVIT OF PUBLICATION

State of Idaho

ss.

County of Bonner, Terr Lue

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 Jenni Lue, 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. Foster
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



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

DAVID R. TUTHILL, JR
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

May 13, 2009

SHANNON FOOTE
LEGAL NOTICE DEPARTMENT
PRIEST RIVER TIMES
PO BOX 10
PRIEST RIVER ID 83856

RE: Application for Permit No. 95-10454, 95-10535 and 97-7485

Dear Shannon:

Enclosed you will find a legal notice which we wish to have published in your newspaper on the dates indicated, May 20 and 27, 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 06/08/2009. Your cooperation is appreciated.

Sincerely

Dianne

Dianne Ball
Administrative Assistant

Ball, Dianne

From: Ball, Dianne
Sent: Thursday, May 14, 2009 11:08 AM
To: Legal Notices-Priest River Times - Shannon Foote
Subject: Legal notice for publication on May 20 and 27,
Attachments: CoverLetter 05-13-09 PRT e-mail 95-10454,10535, 97-7485.doc; LegalNotice 05-13-09 PRT e-mail 95-10454,10535 97-7485.doc

Good morning to you, Shannon,

Attached is our cover letter requesting publication of a legal notice on May 20 and 27, 2009. The legal notice is also attached.

One of the applications in this legal, the CDS Stoneridge Utilities LLC, is also scheduled to publish in the Bonner County Daily Bee - on May 21 and 28, 2009.

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

Shannon, I am assuming that you are still only publishing on Wednesdays. If you have gone to a daily publication, please let me know because then we would schedule things for publication on Thursdays.

And by the way, it's ALWAYS a pleasure to work with you, you are VERY helpful.

Don't count the days, let the days count.



CoverLetter
5-13-09 PRT e-mai..



LegalNotice
5-13-09 PRT e-mai..

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

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.

DAVID R. TUTHILL, JR., Director

Legal #

Published May 20 and 27, 2009.



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

May 13, 2009

GLEN FRACHISEUR
MICHELE FRACHISEUR
PO BOX 870
PRIEST RIVER ID 83856

RE: Application for Permit No 97-7485

Dear Applicant(s):

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

A legal notice of the application has been prepared and is scheduled for publication in the Priest River Times on May 20 and 27, 2009. Submittal of protests to this application will be allowed for a period ending ten days after the second publication.

If the application is protested you will be sent a copy of the protest(s). 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, it will be forwarded to our State Office in Boise for final processing. The State Office will notify you of any action taken on the application and will send you a copy of the permit if approved. A typical processing time for an unprotested application is about eight to twelve weeks.

Please feel free to contact this office if you have any questions.

Sincerely,

Keith E. Franklin
Senior Water Resource Agent

Enclosure(s) – Receipt No. N020509



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

DAVID R. TUTHILL, JR
Director

May 11, 2009

MARY TERRA-BERNS
IDAHO DEPARTMENT OF FISH AND GAME
2885 W KATHLEEN AVE.
COEUR D'ALENE, ID 83815

Re: Water Permit Application No. 97-7485 - Franchiseur

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

This office can publish notice of the application as soon as the initial review is completed; therefore, your prompt response 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, and by sending a copy of your protest to the applicant. This will be scheduled for publication on May 20 and 27, 2009 in the Priest River Times.

We are sending this to you for your comments, and would appreciate receiving your comments by no later than **June 8, 2009**. That is also the final date for protest to be received in our office.

If we do not hear from you by that date, we will assume that no comment from you means you have no objection to, concerns about, or conditions pertaining to the issuance of this permit.

You may send comments by regular mail to the address above, by FAX to 762-2819, or by e-mail to Eric.Davis@idwr.idaho.gov.

We request that you send a copy of your comments regarding, and/or notice that you intend to protest this application to the applicant as well as to our office.

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

Sincerely,

Dianne

Dianne Ball
Administrative Assistant

Ball, Dianne

From: Ball, Dianne
Sent: Monday, May 11, 2009 4:11 PM
To: mterrabe@idfg.idaho.gov
Subject: Agency Comment Request re 97-7485 Frachiseur
Attachments: Agency Comment Request.doc; 97-7485 Frachiseur.pdf

Good afternoon, Mary,

Attached is our letter requesting your comments as well as a copy of the application on which we need your comments.

Please respond to Eric Davis on this one.

Thanks,



Agency Comment Request.doc (31...
97-7485 Frachiseur.pdf (313 KE

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