

AFFIDAVIT OF PUBLICATION

State of Idaho

ss

County of Boundary, Shirley Crewshaw  
being first duly sworn on oath deposes and says that  
he/she is Bookkeeper of the  
Bonners Ferry Herald, a newspaper printed and  
published at Bonners Ferry, Boundary County, Idaho;  
that the said newspaper has been continuously and  
uninterruptedly published in said Boundary County  
during a period of 12 months prior to the first publication  
of the hereto attached notice of publication in the case  
of:

Robert Noel  
\_\_\_\_\_ as it  
was published in the regular and entire issue of the said  
paper for a period of 2 consecutive weeks,  
commencing on 17 day of September, 2009 and  
ending on the 24 day of September, 2009 and  
that said notice was published in said newspaper.

Shirley Crewshaw

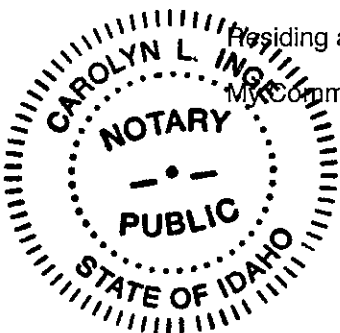
SUBSCRIBED AND SWORN TO before me, this

24 day of September, 2009.

Carolyn L. Inge  
Notary Public-State of Idaho

Residing at: Sandpoint

My Commission Expires: 8-7-12



RECEIVED  
OCT 06 2009  
IDWR / NORTH

#689

RECEIVED  
OCT 06 2009  
IDWR/NORTH

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

98-7896

ROBERT D. NOEL

1811 LIONS'DEN RD

BONNER FERRY, ID 83805

Point of Diversion: SWSE S1 T61N R01W BOUNDARY County

Source: UNNAMED STREAM tributary to SINKS

Points of Diversion: (2) SWSE S1 T61N R01W BOUNDARY CO

Source: SPRINGS tributary to SINKS

Use: IRRIGATION 04/01 to 10/31 0.03 CFS

Use: IRRIGATION STORAGE 04/01 to 10/31 15.3 AF

Use: IRRIGATION FROM STORAGE 04/01 to 10/31 15.3 AF

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

Use: STOCKWATER FROM STORAGE 01/01 to 12/31 0.1 AF

Use: WILDLIFE STORAGE 01/01 to 12/31 12.3 AF

Use: DIVERSION TO STORAGE 01/01 to 12/31 0.2 CFS

Total Diversion: 0.2 CFS 15.3 AF

Date Filed: 7/29/2009

Place Of Use: IRRIGATION T61N R01W S1 SWSE

Place Of Use: All other uses same as IRRIGATION

Total Acres: 1

Stockwater use is for 4 horses

98-7897

ROBERT D. NOEL

1811 LIONS'DEN RD

BONNER FERRY, ID 83805

Point of Diversion: SWSE S1 T61N R01W BOUNDARY County

Source: GROUND WATER

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

Total Diversion: 0.04 CFS

Date Filed: 8/11/2009

Place Of Use: DOMESTIC T61N R01W S1 SWSE

Domestic use is for 1 home

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 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 10/5/2009. The protestant must also send a copy of the protest to the applicant.

BFH Legal 6879

September 17, 2009

GARY SPACKMAN, Interim Director

**IDAHO DEPARTMENT OF WATER RESOURCES  
APPROPRIATION APPLICATION ANALYSIS SHEET**

W.R. # 98-7896

APPLICATION ID # 75781

ENT. ED

BCA 9/9/09

OK to Publish 9/4/09

APPLICANT: NOEL

INITIAL REVIEW

BY: ED

DATE: 8/11/09

**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 8-11-09 By: ED  
 \_\_\_ Field check: by \_\_\_  
 \_\_\_ Field report attached  
 \_\_\_ Analysis Supp. Attached (>5cfs/500af)

\_\_\_ Water delivered by water master? Water District #

WD Permit No.'s:

Tag #

| Type                  | Fees    | Receipt No. |
|-----------------------|---------|-------------|
| Dom. ___ Non-Dom. ___ | Paid \$ |             |
| Dom. ___ Non-Dom. ___ | Paid \$ |             |
| Dom. ___ Non-Dom. ___ | Paid \$ |             |

- \_\_\_ 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:

Eric Davis

Date: 10/9/2009 Sr. Agent initial ED

**PROCESSING**

(Yes)(No) PRIORITY DATE: 7/29/09

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

ADVERTISE IN: Boundary County

Newspaper: Bonner Ferry Herald

Dates scheduled for publication 9/16 + 24/09

Affidavit of Publication received: 10/6/09

Dates actually published: 9/17 + 24/09

Application published correctly. Yes ✓ No \_\_\_

If not, action taken: \_\_\_\_\_

Final Date for Protest: 10/5/09

Protests Received: Yes \_\_\_ No X

**LETTERS SENT REQUESTING:**

( ) Dam Information ( ) Fish Information  
 ( ) Power Information ( ) Other: \_\_\_\_\_

**INFORMATION RECEIVED:**

( ) Dam Information ( ) Fish Information  
 ( ) Power Information ( ) Other: \_\_\_\_\_

**GROUNDWATER SECTION**

Surface Water

Upgrade Needed?  
 Y ( ) N ✓  
 Y ( ) N ( )  
 Y ( ) N ( )



**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](http://www.idwr.idaho.gov)

**C. L. "BUTCH" OTTER**  
Governor

**GARY SPACKMAN**  
Interim Director

November 5, 2009

ROBERT D NOEL  
1811 LIONS DEN RD  
BONNERS FERRY ID 83805

RE: Permit No.98-7896

**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.

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)

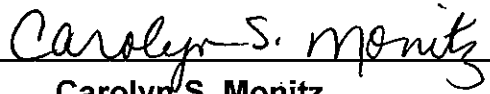
### **CERTIFICATE OF SERVICE**

I hereby certify that on November 6, 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.**

**98-7896**

**ROBERT D NOEL  
1811 LIONS DEN RD  
BONNER FERRY ID 83805**

  
\_\_\_\_\_  
**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.

State of Idaho  
Department of Water Resources  
**Permit to Appropriate Water**

NO. 98-07896

Priority: July 29, 2009

Maximum Diversion Rate: 0.20 CFS  
Maximum Diversion Volume: 15.3 AF

This is to certify, that ROBERT D NOEL  
1811 LIONS DEN RD  
BONNER FERRY ID 83805

has applied for a permit to appropriate water from:

Source: SPRING                      Tributary: SINKS  
                 UNNAMED STREAM                      SINKS

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> | <u>ANNUAL VOLUME</u> |
|-------------------------|----------------------|--------------------------|----------------------|
| IRRIGATION              | 04/01 to 10/31       | 0.03 CFS                 |                      |
| IRRIGATION FROM STORAGE | 04/01 to 10/31       |                          | 3.0 AF               |
| IRRIGATION STORAGE      | 04/01 to 10/31       |                          | 15.3 AF              |
| WILDLIFE STORAGE        | 01/01 to 12/31       |                          | 12.3 AF              |
| STOCKWATER              | 01/01 to 12/31       | 0.02 CFS                 |                      |
| STOCKWATER FROM STORAGE | 01/01 to 12/31       |                          | 0.1 AF               |
| DIVERSION TO STORAGE    | 01/01 to 12/31       | 0.20 CFS                 |                      |

**LOCATION OF POINT(S) OF DIVERSION:**

UNNAMED STREAM SW¼SE¼ Sec. 1, Twp 61N, Rge 01W, B.M. BOUNDARY County  
SPRING SW¼SE¼ Sec. 1, Twp 61N, Rge 01W, B.M. BOUNDARY County  
SPRING SW¼SE¼ Sec. 1, Twp 61N, Rge 01W, B.M. BOUNDARY 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  |        |
| 61N 01W 1   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    | 1.0 | 1.0    |

Total Acres: 1

State of Idaho  
Department of Water Resources

## Permit to Appropriate Water

NO. 98-07896

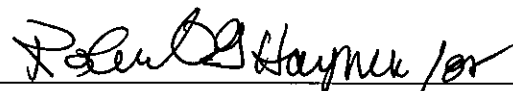
**PLACE OF USE:** IRRIGATION FROM STORAGE And IRRIGATION STORAGE And WILDLIFE STORAGE And STOCKWATER And STOCKWATER FROM STORAGE And DIVERSION TO STORAGE

| Twp Rge Sec | NE |    |    |    | NW |    |    |    | SW |    |    |    | SE |    |    |    | Totals |
|-------------|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|--------|
|             | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE |        |
| 61N 01W 1   |    |    |    |    |    |    |    |    |    |    |    |    |    |    | X  |    |        |

### CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **November 01, 2010**.
2. Subject to all prior water rights.
3. The pond or reservoir established by the storage of water under this right shall not exceed a total capacity of 15.3 acre-feet.
4. This right authorizes the watering of livestock directly from the stream without a diversion.
5. Stockwater use is for 4 horses.
6. This right does not grant any right-of-way or easement across the land of another.
7. 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.

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 5<sup>th</sup> day of November, 2009.

  
GARY SPACKMAN, Interim Director