

**STARTING
LEFT
SIDE OF
FILE**

NO. 96-09272

Maximum Diversion Rate: 0.10 CFS

has applied for a permit to appropriate water from:

and a permit is APPROVED for development of water as follows:

LOCATION OF POINTS OF DIVERSION:

UNNAMED STREAM NE¼ NE¼ Sec. 21, Twp 54N, Rge 03W, B.M. BONNER County
SPRING NE¼ NE¼ NE¼ Sec. 21, Twp 54N, Rge 03W, B.M. BONNER County

PLACE OF USE: IRRIGATION STORAGE and STOCKWATER STORAGE

PLACE OF USE: IRRIGATION FROM STORAGE

Total Acres: 5

State of Idaho
Department of Water Resources

Permit to Appropriate Water

NO. 96-09272

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **April 01, 2008**.
2. Subject to all prior water rights.
3. 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.
4. Stockwater use is for 15 head mixed stock.
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 determine the amount of water diverted from power records and shall annually report the information to the Department.
6. 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.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 5th day of April, 20 06.


for KARI DREHER, Director

RECEIVED

MAR 22 2006

DEPARTMENT OF
WATER RESOURCES

12587

Ident. No. 96-9272

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

RECEIVED

FEB 01 2006

IDWR/North

1. Name of Applicant Kenneth & Barbara Oler Phone (208)683-2936Mailing address 671 Kelso Woods Drive - Athol, ID 838012. Source of water supply Unnamed seasonal creek & Spring which is a tributary of N/A3. Location of point of diversion is Township 54N Range 3W Sec. 21, in the NE $\frac{1}{4}$,
NE $\frac{1}{4}$, Govt. Lot B.M., Bonner County;additional points of diversion if any: (x 2)

4. Water will be used for the following purposes:

Amount 6 acre-feet for Irrigation Storage purposes from 01/01 to 12/31 (both dates inclusive)

(cfs or acre-feet per annum)

Amount 6 acre-feet for Irrigation From Storage purposes from 03/01 to 11/15 (both dates inclusive)

(cfs or acre-feet per annum)

Amount 6.0 CFS for Stock Water From Storage purposes from 01/01 to 12/31 (both dates inclusive)

(cfs or acre-feet per annum)

Amount 0.10 CFS for Diversion To Storage purposes from 01/01 to 12/31 (both dates inclusive)

(cfs or acre-feet per annum)

Amount for purposes from to (both dates inclusive)

(cfs or acre-feet per annum)

5. Total quantity to be appropriated is (a) 0.10 CFS and/or (b) 6 acre-feet
cubic feet per second acre feet per annum

6. Proposed diverting works:

a. Describe type and size of devices used to divert water from the source Gravity flow from existing seasonal creek to
dug pond. Pump from pond to sprinklers.b. Height of storage dam N/A feet; active reservoir capacity 6 acre-feet acre-feet; total
reservoir capacity 6 acre-feet acre-feetc. Proposed well diameter is N/A inches; proposed depth of well is N/A feetd. Is ground water with a temperature of greater than 85°F being sought? Noe. If well is already drilled, when? N/A; Drilling firm N/A;
Well was drilled for (well owner) N/A; Drilling Permit No. N/A7. Time required for completion of works and application of water to proposed beneficial use is 2 years (minimum 1 year)

8. Description of proposed uses (if irrigation only, go to item 9):

a. Hydropower; show total feet of head and proposed capacity in kW. N/Ab. Stockwatering; list number and kind of livestock. 15 Mixedc. Municipal; show name of municipality. d. Domestic; show number of households. e. Other; describe fully.

3. Description of place of use:

- If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- If water is used for other purposes, place a symbol of the use (example: *D* for Domestic) in the corresponding place of use below. See instructions for standard symbols.

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	3W	21	5																5
			*																

Total number of acres to be irrigated 5

10. Describe any other water rights used for the same purposes as described above. N/A

11. a. Who owns the property at the point of diversion? Applicant

b. Who owns the land to be irrigated or place of use? Applicant

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: N/A

12. Remarks: * All uses from Item Number 4.

Attached is a plot plan for intended use. The Latitude/Longitude are as follows:

Seasonal Creek: Latitude = 48 degrees 1' 14.1" Longitude = 116 degrees 41' 53.0"

Pond/Reservoir: Latitude = 48 degrees 1' 13.6" Longitude = 116 degrees 41' 55.0"

13. **MAP OF PROPOSED PROJECT REQUIRED** - Attach an 8½"x11" map clearly identifying the proposed point of diversion, place of use, section #, township & range. (A photocopy of a USGS 7.5 minute topographic quadrangle map is preferred.)

BE IT KNOWN that the undersigned hereby makes this application for permit to appropriate the public waters of the State of Idaho as herein set forth.

Kenneth P. Oley 1/30/2006
Signature of Applicant (and title, if applicable)

Received by [Signature] Date 2/1/06 Time 1:35P Preliminary check by [Signature] Date 2/1/06
Fee \$ 100.00 Receipted by [Signature] # N017351
Publication prepared by [Signature] Date 2/8/06 Published in Bonanza County Bee 2/16+23/06
Publication approved [Signature] Date 2/28/06



**NOW
STARTING
RIGHT
SIDE OF
FILE**



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street, P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 287-4800 Fax: (208) 287-6700 Web Site: www.idwr.idaho.gov

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

April 11, 2006

KENNETH OLER
BARBARA OLER
671 KELSO WOODS DR
ATHOL ID 83801

RE: Permit No. 96-9272

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.

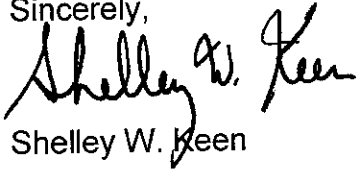
The Department will send you a 'Proof Due Notice' approximately 60 days prior to the above referenced date requesting you to file either a Proof of Beneficial Use form or a Request for Extension of Time form.

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 208-287-4947.

Sincerely,

A handwritten signature in black ink that reads "Shelley W. Keen". The signature is written in a cursive style with a large, stylized "S" and "K".

Shelley W. Keen

Water Rights Supervisor

SWK:klt

Enclosure(s)

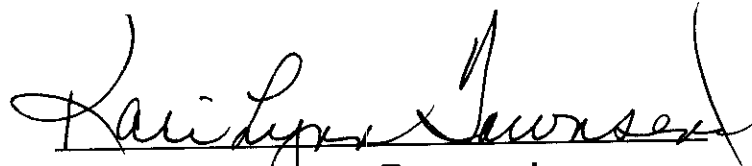
CERTIFICATE OF SERVICE

I hereby certify that on April 11, 2006 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.

96-9272

**BARBARA OLER
KENNETH OLER
671 KELSO WOODS DR
ATHOL ID 83801**

A handwritten signature in cursive script, reading "Kari Lynn Townsend", written over a horizontal line.

**Kari Lynn Townsend
Secretary**

**EXPLANATORY INFORMATION
TO ACCOMPANY A
PRELIMINARY ORDER**

(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. 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.

M E M O R A N D U M

Date: April 05, 2006
To: Water Right File 96-9272
From: eretelle
Re: permit review

NO WD or moratorium.

No overlap or protest.

Irrigation season adjusted to standard.

Spring tributary to sinks to QQQ - interpreted off application map in NENENE

Name connector is AND on the application, but only one signature - changed to and/or.

Recommend approval as suggested by IDWR Northern.

AFFIDAVIT OF PUBLICATION

RECEIVED
FEB 28 2006
IDWR/North

STATE OF IDAHO)
) ss.
County of Bonner)

Sherilyn Jones, being first duly sworn on oath, deposes and states:

1. I am a citizen of the United States of America, over the age of 18 years, a resident of Bonner County, Idaho, and am not a party to the proceedings referred to in the attached Notice of App.
My business address is P.O. Box 159, Sandpoint, Idaho.

2. I am the Bookkeeper of the Bonner County Daily Bee, a newspaper of general publication in Bonner County, Idaho;

3. Said newspaper has been continuously and uninterruptedly published in Bonner County, Idaho during a period of 12 months prior to the first publication of said Notice, and thereafter.

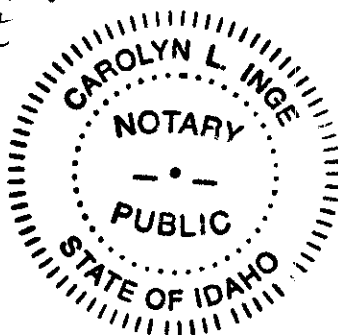
4. The attached Notice was published in the regular and entire issue of the Bonner County Daily Bee for a period of 2 consecutive weeks, commencing on the 16 day of Feb, 2006 and ending on the 23 day of Feb, 2006

Sherilyn Jones

SUBSCRIBED AND SWORN to before me, the undersigned Notary Public, this 23 day of Feb., 2006

Carolyn L. Inge
Notary Public

Residing at: Sandpoint
Comm. Exp.: 8/06



*See reverse for
legal notice
copy*

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

96-9272

KENNETH OLER
BARBARA OLER
671 KELSO WOODS DR
ATHOL ID 83801

Point(s) of Diversion NENE S21 T54N R03W BONNER County

Source UNNAMED STREAM - Tributary To SINKS

Point(s) of Diversion NENE S21 T54N R03W BONNER County

Source SPRING Tributary To SINKS

Use: IRRIGATION STORAGE 01/01 To 12/31 6 AFA

Use: IRRIGATION FROM STORAGE 03/01 To 11/15 6 AFA

Use: STOCKWATER STORAGE 01/01 To 12/31 6 AFA

Use: DIVERSION TO STORAGE 01/01 To 12/31 0.1 CFS

Total Diversion: 0.1 CFS

Date Filed: 02/01/2006

Place Of Use: IRRIGATION STORAGE

T54N R03W S21 NENE

Place Of Use: IRRIGATION FROM STORAGE and STOCKWATER

STORAGE same as IRRIGATION STORAGE

Number of Acres 5

Remark: Stockwater Storage use is for 15 head of mixed stock.

97-7456

MRS NANCY GILLET

4540 DORINDA

YORBA LINDA CA 92887

Point(s) of Diversion NWSW S2 T59N R04W BONNER County

Source LEE CREEK - Tributary To SOLDIER CREEK

Use: STOCKWATER STORAGE 01/01 To 12/31 5 AFA

Use: RECREATION STORAGE 01/01 To 12/31 5 AFA

Use: WILDLIFE STORAGE 01/01 To 12/31 5 AFA

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

Total Diversion: 0.2 CFS

Date Filed: 12/30/2005

Place Of Use: WILDLIFE - T59N R04W S2 NWSW

Place Of Use: WILDLIFE STORAGE, RECREATION STORAGE and

STOCKWATER STORAGE same as WILDLIFE

Remark: Stockwater storage is for 10 head of mixed stock.

Recreation storage is for fishing.

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, 1910 Northwest Blvd, Suite 210, Coeur D' Alene ID 83814 together with a protest fee of \$25.00 for each application on or before 03/06/2006. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director

Legal SNP#7635

February 16, 23, 2006

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

96-9272

KENNETH OLER
BARBARA OLER
671 KELSO WOODS DR
ATHOL ID 83801

Point(s) of Diversion NENE S21 T54N R03W BONNER County

Source UNNAMED STREAM - Tributary To SINKS

Point(s) of Diversion NENE S21 T54N R03W BONNER County

Source SPRING Tributary To SINKS

Use: IRRIGATION STORAGE 01/01 To 12/31 6 AFA

Use: IRRIGATION FROM STORAGE 03/01 To 11/15 6 AFA

Use: STOCKWATER STORAGE 01/01 To 12/31 6 AFA

Use: DIVERSION TO STORAGE 01/01 To 12/31 0.1 CFS

Total Diversion: 0.1 CFS

Date Filed: 02/01/2006

Place Of Use: IRRIGATION STORAGE

T54N R03W S21 NENE

Place Of Use: IRRIGATION FROM STORAGE and STOCKWATER

STORAGE same as IRRIGATION STORAGE

Number of Acres 5

Remark: Stockwater Storage use is for 15 head of mixed stock.

97-7456

MRS NANCY GILLET
4540 DORINDA
YORBA LINDA CA 92887

Point(s) of Diversion NWSW S2 T59N R04W BONNER County

Source LEE CREEK - Tributary To SOLDIER CREEK

Use: STOCKWATER STORAGE 01/01 To 12/31 5 AFA

Use: RECREATION STORAGE 01/01 To 12/31 5 AFA

Use: WILDLIFE STORAGE 01/01 To 12/31 5 AFA

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

Total Diversion: 0.2 CFS

Date Filed: 12/30/2005

Place Of Use: WILDLIFE - T59N R04W S2 NWSW

Place Of Use: WILDLIFE STORAGE, RECREATION STORAGE and

STOCKWATER STORAGE same as WILDLIFE

Remark: Stockwater storage is for 10 head of mixed stock.

Recreation storage is for fishing.

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, 1910 Northwest Blvd, Suite 210, Coeur D' Alene ID 83814 together with a protest fee of \$25.00 for each application on or before 03/06/2006. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director Published on February 16 and 23, 2006



State of Idaho

DEPARTMENT OF WATER RESOURCES

NORTHERN REGION, Suite No. 210 • 1910 Northwest Blvd. • Coeur d'Alene, Idaho 83814-2615
(208) 769-1450

Fax (208) 769-1454

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

February 08, 2006

SHERI JONES
LEGAL NOTICE DEPARTMENT
BONNER COUNTY DAILY BEE
PO BOX 159
SANDPOINT ID 83864

Please FAX proof copy before this goes to press, to 769-1454
Thanks, Dianne

RE: Application for Permit No. 96-9272 and 97-7456

Dear Sheri:

Enclosed you will find a legal notice which we wish to have published in your newspaper on the dates indicated, February 16 and 23, 2006, (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 03/06/2006. Your cooperation is GREATLY appreciated, as always.

Thank you,

Sincerely

Dianne

Dianne Ball
Administrative Assistant

DEPARTMENT OF WATER RESOURCES
1910 NORTHWEST BLVD., SUITE 210 ~ COEUR D'ALENE ID 83814
Phone 208-769-1450 - FAX - 208-769-1454

Ball, Dianne

From: Ball, Dianne
Sent: Wednesday, February 08, 2006 12:01 PM
To: Legal Notices-Bonner Co Daily Bee (E-mail)
Subject: Legal notice for publication on February 16 and 23, 2006 - 95-9326 and 95-9327

Good morning, Sheri,

Attached is our cover letter requesting publication of a legal notice on February 16 and 23, 2006. The legal notice is also attached.

If you have ANY questions, please call me at 769-1450

PLEASE FAX A PROOF COPY BEFORE THIS GOES TO PRESS, to 769-1454.

Thank you very much, it's always super to work with you.

Have a marvelous day.

Dianne

*Dianne Ball
Administrative Assistant
Idaho Dept of Water Resources
1910 Northwest Blvd., Suite 210
Coeur d'Alene, ID 83814
Phone (208)769-1450 FAX (208)769-1454*



CoverLetter
2-08-06 BCDB e-ma.



LegalNotice
2-08-06 BCDB e-ma.



State of Idaho

DEPARTMENT OF WATER RESOURCES

Northern Region, 1910 Northwest Blvd. Suite 210, Coeur d'Alene, Idaho 83814-2615

Phone: (208) 769-1450

Fax: (208) 769-1454

Web Site: www.idwr.idaho.gov

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

February 08, 2006

KENNETH OLER
BARBARA OLER
671 KELSO WOODS DR
ATHOL ID 83801

RE: Application for Permit No 96-9272

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 Bonner County Daily Bee on February 16 and 23, 2006. 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
Water Resource Agent

Enclosure(s) – Receipt No. N017351



State of Idaho

DEPARTMENT OF WATER RESOURCES

Northern Region, 1910 Northwest Blvd. Suite 210, Coeur d'Alene, Idaho 83814-2615

Phone: (208) 769-1450

Fax: (208) 769-1454

Web Site: www.idwr.idaho.gov

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

February 7, 2006

MARY TERRA-BERNS
IDAHO DEPARTMENT OF FISH & GAME
2750 KATHLEEN AVE.
COEUR D'ALENE, ID 83815

FAXED TO MARY 1/19/06
4 pages total

Re: Water Permit Application No. 96-9272

Dear Mary:

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. We are sending this to you for your comments, and would appreciate receiving your comments by no later than **March 3, 2006**. 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 769-1454, or by e-mail to Dianne.Ball@idwr.idaho.gov.

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

Sincerely,

Dianne Ball
Administrative Assistant