

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 65-22949

Priority: September 11, 2003

Maximum Diversion Rate: 0.12 CFS

This is to certify, that GEORGE E COLWELL And/Or CHERYL F COLWELL
3990 HWY 52
PAYETTE ID 83661

have applied for a permit to appropriate water from:

Source: UNNAMED DRAIN

Tributary: SNAKE 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>
STOCKWATER	01/01 to 12/31	0.12 CFS

LOCATION OF POINT(S) OF DIVERSION:

UNNAMED DRAIN	SE $\frac{1}{4}$ NE $\frac{1}{4}$	Sec. 29, Twp 09N, Rge 05W, B.M., PAYETTE County
UNNAMED DRAIN	NE $\frac{1}{4}$ SE $\frac{1}{4}$	Sec. 29, Twp 09N, Rge 05W, B.M., PAYETTE County
UNNAMED DRAIN	SW $\frac{1}{4}$ SE $\frac{1}{4}$	Sec. 29, Twp 09N, Rge 05W, B.M., PAYETTE County
UNNAMED DRAIN	L2 (NW $\frac{1}{4}$ SE $\frac{1}{4}$)	Sec. 29, Twp 09N, Rge 05W, B.M., PAYETTE County

PLACE OF USE: STOCKWATER

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
09N 05W 29				X									X	X	X		L2

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **September 01, 2007**.
2. Subject to all prior water rights.
3. 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.
4. Stockwater use is for 500 range cattle.
5. This right does not authorize construction of any new drains or enlargement of any existing drains.
6. The source of water diverted under this right is waste water and is subject to the right of the original appropriator, in good faith and in compliance with state laws governing changes in use and/or expansion of water rights, to cease wasting water, to change the place of use or manner of wasting it, or to recapture it.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 15th day of September, 2005.


for KARL J DREHER, Director

AUG 25 2005

Ident. No. 65-22949 12/99

STATE OF UTAH
DEPARTMENT OF
WATER RESOURCES

DEPARTMENT OF WATER RESOURCES

RECEIVED

MAY 19 2005

**WATER RESOURCES
WESTERN REGION**

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

(Amended)

11/11 5/20/05

1. Name of Applicant George E. Colwell and/or Cheryl F. Colwell Phone (208) 278-3448
Mailing address 3990 Highway 52 Payette, ID 83661
2. Source of water supply unnamed drainage ditch which is a tributary of Snake River
3. Location of point of diversion is Township 9N Range 5W Sec. 29, in the _____ ¼,
SE ¼, NE ¼, Govt. Lot 4, B.M., Payette County;
additional points of diversion if any: _____
4. Water will be used for the following purposes:
- Amount 0.12 cfs for stockwater 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)
Amount _____ for _____ purposes from _____ to _____ (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) 0.12 and/or (b) _____
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 constructed drain ditch; construction date unknown but assumed to be concurrent with development of Washoe Ditch irrigation system; point of diversion will be check structure in drain, 1.5 feet high
- b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet;
total reservoir capacity _____ acre-feet
- c. Proposed well diameter is _____ inches; proposed depth of well is _____ feet
- d. Is ground water with a temperature of greater than 85°F being sought?
- e. If well is already drilled, when? _____; Drilling firm _____;
Well was drilled for (well owner) _____; Drilling Permit No. _____
7. Time required for completion of works and application of water to proposed beneficial use is 5 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.
- b. Stockwatering; list number and kind of livestock. 500 range cattle
- c. Municipal; show name of municipality.
- d. Domestic; show number of households.
- e. Other; describe fully.

9. Description of place of use:

- a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- b. 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	
9N	5W	29				S									S	S Lot 2	S		

Total number of acres to be irrigated

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

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:

12. Remarks:

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.

George E. Chubb, owner
Signature of Applicant (and title, if applicable)

Received by *JZ* Date *5/19/05* Time *1:00* Preliminary check by *JE*
Fee \$ *56 Original* Received by # _____ Date _____
Publication prepared by *AK* Date *6-14-05* Published in **INDEPENDENT ENTERPRISE**
Publication approved *AK* Date *6-17-05*
Fee OK

To appropriate the public waters of the State of Idaho

**WATER RESOURCES
WESTERN REGION**

ORIGINAL
Superseded

9. Description of place of use:

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

b. 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	
9N	5W	29													S	S	S		

Total number of acres to be irrigated _____

10. Describe any other water rights used for the same purposes as described above. _____

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

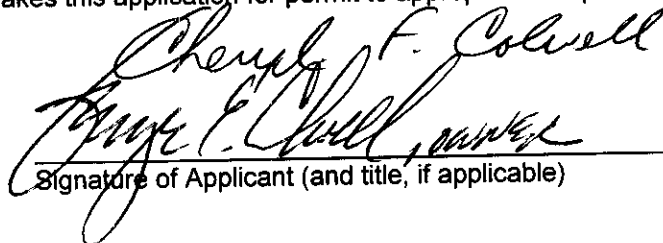
b. Who owns the land to be irrigated or place of use? Applicant

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

12. Remarks: _____

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.


 Cheryl F. Colwell, owner
 Signature of Applicant (and title, if applicable)

Received by KG Date 9/11/03 Time 3:25 Preliminary check by _____
 Fee \$ 10000 Receipted by KG # 1030917 Date 9/11/03
 Publication prepared by KG Date 6-14-05 Published in INDEPENDENT ENTERPRISE
 Publication approved _____ Date _____

USGS 7.5 Quad: Payette

unnamed drain
and place of
use area

USGS 7.5 Quad: Payette

**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

September 15, 2005

GEORGE E COLWELL
CHERYL F COLWELL
3990 HWY 52
PAYETTE ID 83661

RE: Permit No. 65-22949

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.

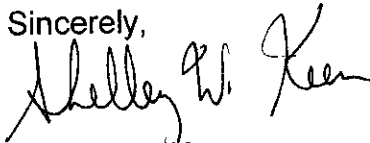
The Department will send you a 'Proof Due Notice' approximately 60 days prior to the above referenced date requesting you to file either a Proof of Beneficial Use form or a Request for Extension of Time form.

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, appearing to read "Shelley W. Keen". The signature is fluid and cursive, with the first name "Shelley" being the most prominent part.

Shelley W. Keen

Water Rights Supervisor

SWK:klf

Enclosure(s)

cc: HOFSTETTER LAW OFFICE LLC

CERTIFICATE OF SERVICE

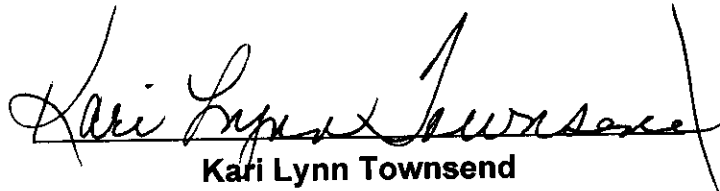
I hereby certify that on September 15, 2005 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved Permit) to the person(s) listed below:

RE: WATER RIGHT NO.

65-22949

**CHERYL F COLWELL
GEORGE E COLWELL
3990 HWY 52
PAYETTE ID 83661**

**HOFSTETTER LAW OFFICE LLC
C/O DANA L HOFSTETTER
608 W FRANKLIN ST
BOISE ID 83702**


**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.

RECEIVED

AUG 25 2005
DEPARTMENT OF
WATER RESOURCES

ADDITIONAL INFORMATION AND

CORRESPONDENCE IN APPLICATION

NO. 65-22948

- JR 8/23/05

Affidavit of Publication

Copy of Notice
(First Copy)

STATE OF IDAHO,
COUNTY OF PAYETTE

ss.

Application for New Water Rights
TITLE OF PUBLICATION

Department of Water Resources
SPONSOR OF PLAINTIFF
PLAINTIFF OR LEGAL AGENT

I, [Signature], being
duly sworn, deposes and says:
That he is the clerk of

THE INDEPENDENT-ENTERPRISE, a weekly newspaper published at Payette, in the County of Payette and State of Idaho; that said paper has been and is in general circulation in the county aforesaid, and in the vicinity of Payette; that the advertisement, a copy of which is attached hereto, was published in said newspaper once a week for two (2) consecutive weeks in the regular and entire issue of said paper during the period and time of publication, and was published in the newspaper proper and not a supplement; that said paper has been established and regularly published for more than seventy-eight consecutive weeks prior to the date of first publication of said advertisement.

Such notice was published in the issue beginning with
June 1, 2005, and ending with the issue of
June 8, 2005.

STATE OF IDAHO
COUNTY OF

On this 9th day of June in the year of 2005, before me,
a Notary Public, personally appeared [Signature]
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.

[Signature]
Notary Public for Idaho

Residing at Payette

My commission expires: 7-1-10

APPLICATIONS FOR NEW WATER RIGHTS

George & Cheryl Colwell of 3990 Hwy 52, Payette ID 83661 filed the following applications on 9/11/2003 to appropriate the public waters of the State of Idaho in Payette County. All applications are for existing unnamed drain ditches. Each application proposes 0.12 cfs stockwater year around for 500 separate range cattle. Except as noted, all applications are (1) tributary to the Snake River, (2) in T9N R5W, and (3) for use within the Washoe Ditch system in the general vicinity of Payette near the confluence of the Snake and Payette Rivers.

Application 65-22948 in T8N R5W Section 8, across the Snake River from Ontario. Application 65-22949 in Section 29. Application 65-22950 in Section 29 & 32. Application 65-22951 in Sections 29, 32 & 33, tributary to Payette River. Application 65-22952 in Section 32. Application 65-22953 in Section 32. Application 65-22954 in Section 33, tributary to Payette River.

All Permits will be subject to all prior water rights. For specific details regarding the applications, please contact the Idaho Department of Water Resources (IDWR) Western Region at 208-334-2190 or visit www.idwr.idaho.gov with detail provided under "new water right applications". Protests may be submitted based on the criteria of Sec 42203A, Idaho Code. Any protest against approval of the applications must be filed with IDWR Western Region, 2735 Airport Way, Boise ID 83705-5082 together with a protest fee of \$25.00 for each application on or before June 20, 2005. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director
No. 1937

June 1, 8

STATEMENT

Independent-Enterprise

PAYETTE, IDAHO

Number of Lines 41

Number of Insertions two (2)

41 Lines @ 1.16 ... \$ 47.56

41 Lines @ .99 ... \$ 40.59

TOTAL COST
WILL BE \$ 88.15

RECEIVED

JUN 10 2005

WATER RESOURCES
WESTERN REGION

No 1937

Kreger (Taylor), Sue

To: eleitzin@idfg.state.id.us
Subject: comment letters

**IDAHO DEPARTMENT OF WATER RESOURCES
WESTERN REGION
2735 AIRPORT WAY
BOISE ID 83705**

May 31, 2005

ERIC LEITZINGER, IDFG
PO BOX 25
BOISE ID 83707

Re: Applications for Permit

Dear Eric:

Attached is a copy(s) of one or more applications that may be of interest to your agency. Please review the application(s) and submit any comments you may have.

This office normally completes the processing of an application within a six-week period and is required to take final action shortly thereafter. However, if your agency desires to file a formal protest against the approval of any of these applications, your written protest along with the \$25.00 protest fee for each application protested, must be received in this office by June 20, 2005.

If you have any questions regarding these applications, please contact this office at 334-2190.

Sincerely,



63-32067.pdf



65-22948.pdf



65-22949.pdf



65-22950.pdf



65-22951.pdf



65-22952.pdf



65-22953.pdf



65-22954.pdf

**IDAHO DEPARTMENT OF WATER RESOURCES
WESTERN REGION
2735 AIRPORT WAY
BOISE ID 83705**

May 24, 2005

Legal Notice Department
INDEPENDENT ENTERPRISE
124 S MAIN
PAYETTE ID 83661

RE: Applications for Permit Nos. 65-22948, 65-22949, 65-22950, 65-22951, 65-22952, 65-22953,
and 65-22954

Dear LEGAL NOTICE DEPARTMENT:

Enclosed you will find a legal notice which we wish to have published in your newspaper on the dates indicated (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 06/20/2005. Your cooperation is appreciated.

Sincerely

Sue Kreger
Administrative Assistant

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Application 65-22950 in Section 29 & 32.

Application 65-22951 in Sections 29, 32 & 33, tributary to Payette River.

Application 65-22952 in Section 32.

Application 65-22953 in Section 32.

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KARL J DREHER, Director

Published in the Independent Enterprise on June 1 and 8, 2005.