

State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 98-07833

Priority: August 09, 2004

Maximum Diversion Volume: 4.0 AF

This is to certify, that BERNARD HEINEMANN And/Or JUNE HEINEMANN
HCR 60 BOX 215
BONNERS FERRY ID 83805

have applied for a permit to appropriate water from:

Source: TROW CREEK

Tributary: KOOTENAI RIVER

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

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>ANNUAL VOLUME</u>
RECREATION STORAGE	01/01 to 12/31	4.0 AF

LOCATION OF POINT OF DIVERSION:

TROW CREEK SW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 10, Twp 65N, Rge 01W, B.M., BOUNDARY County

PLACE OF USE: RECREATION STORAGE

Twp Rge Sec	NE				NW				SW				SE				
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
65N 01W 10															X		

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **October 01, 2009**.
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. Recreation storage use is for two ponds for wildlife and fish.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 26th day of October, 2004.


for KARL J DREHER, Director

SEND TO:

AL BEARDSLEE
IDWR

FORM 202 1910 NW 3600

2/96

CO'A ID 83814

71449

STATE OF IDAHO

Ident. No. 98-1833

DEPARTMENT OF WATER RESOURCES

RECEIVED

OCT 19 2004

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

RECEIVED

AUG 09 2004

IDWR/North

Department of Water Resources

1. Name of Applicant BERNARD & JUNE HEINEMANN Phone 208-222-2229

Mailing address HCR 60 BOX 215 BONNERS FERRY 83805

2. Source of water supply TROW CREEK which is a tributary of KOOTENAI RIVER

3. Location of point of diversion is Township 65N Range 14W Sec. 10 in the 1/4,

SW 1/4, SE 1/4 Govt. Lot , B.M., BOUNDARY County;

additional points of diversion if any:

4. Water will be used for the following purposes:

Amount 4.0 for STORAGE FOR RECREATION purposes from 1/1 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)

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) and/or (b) 4.0
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 2 - 5 ACRE POUNDS

8' AVERAGE DEPTH

b. Height of storage dam 9 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.

c. Municipal; show name of municipality.

d. Domestic; show number of households.

e. Other; describe fully. RECREATION STORAGE IS FOR WILDLIFE & FISH.

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	N E				N W				S W				S E				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
65N	11W	10																R	

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.

Bernie June Heinemann
Signature of Applicant (and title, if applicable)

Received by db Date 8/19/04 Time 11:50 a Preliminary check by _____
 Fee \$ 100.00 Received by db # N016483 Date 8/19/04
 Publication prepared by db Date 8/26/04 Published in Bonners Ferry Herald 9/2+9/04
 Publication approved db Date 10/5/04

TOPOGRAPHIC 5' COPELAND ROAD MAP

Bernard Heinemann

BONNERS FERRY SERVICE CENTER

NRCS

BOUNDARY SOIL CONSERVATION DISTRICT

MICHAEL GONDEK

13.8

1-208-267-3340

Date: 06/28/2004 USDA WHIP AND IDFG HIP PROGRAMS

TWP 65N R 1W S 10 FARM 55 TRACT 09



Legend

- Planned Land Units
- Soils Map
- Planned Land Units Labels



500

0

500

1000 Feet





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

October 27, 2004

BERNARD HEINEMANN
JUNE HEINEMANN
HCR 60 BOX 215
BONNERS FERRY ID 83805

RE: Permit No. 98-7833

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.

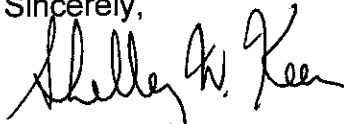
The Department will send you a 'Proof Due Notice' approximately 60 days prior to the above referenced date requesting you to file either a Proof of Beneficial Use form or a Request for Extension of Time form.

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 a 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 more prominent.

Shelley W. Keen

Water Rights Supervisor

SWK:klt

Enclosure(s)

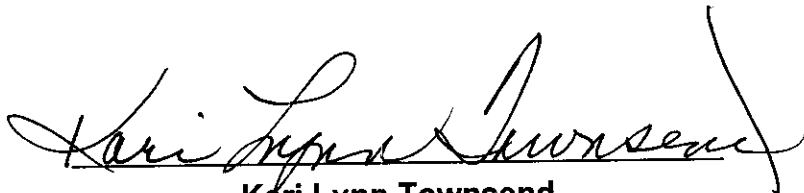
CERTIFICATE OF SERVICE

I hereby certify that on October 27, 2004 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.

98-7833

**BERNARD HEINEMANN
JUNE HEINEMANN
HCR 60 BOX 215
BONNERS FERRY ID 83805**



**Kari Lynn Townsend
Secretary**

**EXPLANATORY INFORMATION
TO ACCOMPANY A
PRELIMINARY ORDER**

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 Idaho Water Resource Board (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.

Comment Report

98-7833

1. dball 8/12/2004 Legal Notice Remarks

Comment: Recreation storage is for wildlife and fish.

2. kwalker 10/26/2004 Permit Review

Comment: Application is not located in any problem areas. Filed for on stream storage ponds. Recommend approval.

IDAHO DEPARTMENT OF WATER RESOURCES
APPROPRIATION APPLICATION ANALYSIS SHEET

W.R. # 98-1833

APPLICATION ID # 71449
INITIAL REVIEW

ENT. 8/12/04 BCA 8/12 OK to Publish 8/12

APPLICANT: Heine man BY: DAW DATE: 8/11/04

- ITEM REQUIRED INFORMATION
- ☒ Name and Address
 - ☒ Source
 - ☒ Point of Diversion & County
 - ☒ Quantity
 - ☒ Nature of Proposed Use
 - ☒ Period of Use
 - ☒ Total Quantity
 - ☒ Description of diverting works
 - ☒ Time required for b/u
 - ☒ Proposed use
 - ☒ Place of use or acres irrigated
 - ☒ Other water Rights
 - ☒ Ownership
 - ☒ Map
 - ☒ Signature
 - ☒ Fee (Amt, receipt, acknowledgement)

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

ADDITIONAL INFORMATION
(Yes)(No)

☐ Shape File Created Date _____ By: _____
☐ Field check: by _____
☐ Field report attached
☐ Analysis Supp. attached(>5cfs/500af)
☐ Water delivered by water master? Water District # _____

PROCESSING
(Yes)(No) PRIORITY DATE: 8/9/04
(Include Moratorium Remark)
Statewide Advertising: (Diversion rate greater than 10 cfs or 1,000 af).
BF / Jura
ADVERTISE IN: Boundary County

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. Final order response date: ____/____/____
☐ Further information required from applicant
☒ Affidavit of publication received
☐ Application published correctly. If not, record action taken: _____
8/26 Publication dates and paper recorded on application
Protests received, Final protest date: 9/20/04
Measuring device required
Measuring port required
Special conditions: _____
Special conditions of approval supplement and/or cover letter attached: _____

Approval Recommended by: AS Date: 10/04/04

RECEIVED

Department of Water Resources

AFFIDAVIT OF PUBLICATION

State of Idaho

RECEIVED

OCT 05 2004

IDWR/North

ss

County of Boundary, Carol Arthur

being first duly sworn on oath deposes and says that

he/she is ad manager

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:

5377 Water Right
Heinemann

as it was published in the regular and entire issue of the

said paper for a period of 2 consecutive weeks,

commencing on 2 day of Sept, 2004

and ending on the 9 day of Sept, 2004

and that said notice was published in said newspaper.

On the 9 day of September in the year

of 2004, before me, a Notary Public, personally

appeared Carol A. Arthur

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.

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

98-7833

BERNARD HEINEMANN

JUNE HEINEMANN

HCR 60 BOX 215

BONNERS FERRY ID 83805

Point(s) of Diversion: SWSE S10 T65N R01W BOUNDARY County

Source: TROW CREEK Tributary To KOOTENAI RIVER

Use: RECREATION STORAGE 01/01 To 12/31 4 AFA

Total Diversion: 4 AFA

Date Filed: 08/09/2004

Place Of Use: RECREATION STORAGE T65N R01W S10 SWSE

Remark: Recreation storage is for wildlife and fish.

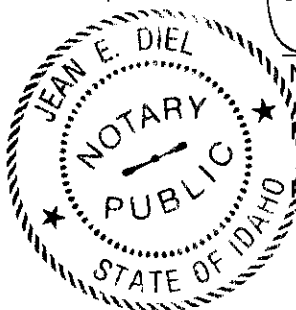
Permits will be subject to all prior water rights. Protests may be submitted based on the criteria of Sec 42-203A, Idaho Code.

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 09/20/2004. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director

Legal BFH #5377

September 2, 9, 2004



Notary Public for Idaho

Residing at

My Commission expires:

Bonnerr's Ferry
7/22/2008



State of Idaho
DEPARTMENT OF WATER RESOURCES

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

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

August 26, 2004

BERNARD HEINEMANN
JUNE HEINEMANN
HCR 60 BOX 215
BONNERS FERRY ID 83805

RE: Application for Permit No 98-7833

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 Bonners Ferry Herald on September 2 and 9, 2004. 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,

A handwritten signature in cursive script that reads "Allen Beardslee".

Allen Beardslee
Senior Water Resource Agent

Enclosure(s) - Receipt No. N016483



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

August 26, 2004

~ PLEASE FAX PROOF PRIOR TO PUBLICATION ~

CAROL ARTHUR & JEAN DIEL
LEGAL NOTICE DEPARTMENT
BONNERS FERRY HERALD
PO BOX 539
BONNERS FERRY ID 83805

e-mailed to bfherald@cdapress.com

RE: Application for Permit No. 98-7833

Dear Carol and Jean:

Enclosed you will find a legal notice which we wish to have published in your newspaper on the dates indicated, September 2 and 9, 2004, (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 09/20/2004. Your cooperation is, as always, GREATLY appreciated.

Sincerely

Dianne

Dianne Ball
Administrative Assistant

Ball, Dianne

From: Ball, Dianne
Sent: Thursday, August 26, 2004 12:00 PM
To: Legal Notices-BFHerald (E-mail)
Subject: Legal notice for publication on September 2 and 9, 2004

Good day to you, ladies. Has autumn arrived in Bonners Ferry? It sure feels like it has in Coeur d'Alene.

Attached is our Cover Letter requesting publication of a Legal Notice on September 2 and 9, 2004. Also attached is the Legal Notice.

If you have ANY questions, please call me at 208-769-1450 or e-mail me at dball@idwr.state.id.us

PLEASE FAX A PROOF PRIOR TO PUBLICATION. I have found that tabs to crazy things sometimes when we cut and paste, but at least that is easier than for you to have to re-type the legal.

Thanks again for ALL your help, and have a wonderful day.

 Dianne

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

8/26/2004

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

98-7833

BERNARD HEINEMANN
JUNE HEINEMANN
HCR 60 BOX 215
BONNERS FERRY ID 83805

Point(s) of Diversion SWSE S10 T65N R01W BOUNDARY County
Source TROW CREEK Tributary To KOOTENAI RIVER

Use: RECREATION STORAGE	01/01 To 12/31	4 AFA
Total Diversion:		4 AFA

Date Filed: 08/09/2004

Place Of Use: RECREATION STORAGE T65N R01W S10 SWSE
Remark: Recreation storage is for wildlife and fish.

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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 09/20/2004. The protestant must also send a
copy of the protest to the applicant.

KARL J DREHER, Director Published on September 2 and 9, 2004



State of Idaho
DEPARTMENT OF WATER RESOURCES

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

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

August 12, 2004

MARY TERRA-BERNS
STATE OF IDAHO
DEPT OF FISH & GAME
2750 KATHLEEN AVE
COEUR D ALENE, ID 83814

FAXED to Mary 8/12/04
4 pages total

Application to Permit No. 98-7833

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. 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.

If you will not be protesting this application, you may reply by e-mail to dball@idwr.state.id.us.

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

Sincerely,

A handwritten signature in cursive script, appearing to read 'Dianne', is written in black ink.

Dianne Ball
Administrative Assistant

Enclosure(s)