

State of Idaho
Department of Water Resources
Permit to Appropriate Water
No. 86-12112

Priority: April 26, 2021

Maximum Diversion Volume: 1.0 AF

This is to certify that

WARREN R CASE PO BOX 105 DEARY ID 83823-0105

has applied for a permit to appropriate water from:

Source : SURFACE RUNOFF

Tributary: SINKS

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

<u>Beneficial Use</u>	<u>Period of Use</u>	<u>Annual Volume</u>
WILDLIFE STORAGE	01/01 to 12/31	1.0 AF
RECREATION STORAGE	01/01 to 12/31	1.0 AF
FIRE PROTECTION STORAGE	01/01 to 12/31	1.0 AF

Location of Point(s) of Diversion

SURFACE RUNOFF NE¼ NW¼, Sec. 26, Twp 39N, Rge 02W, B.M. LATAH County

Place of Use: WILDLIFE STORAGE, RECREATION STORAGE, and FIRE PROTECTION STORAGE

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
39N	02W	26					X												

Conditions of Approval

1. Proof of application of water to beneficial use shall be submitted on or before **July 01, 2022**.
2. Subject to all prior water rights.
3. 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.
4. Water shall not be diverted from fire protection storage except to fight or repel an existing fire.
5. Right 86-12112 authorizes a total annual storage volume of 1.0 acre-feet, 0.6 acre-feet to be used for the initial filling or carryover storage of the pond and 0.4 acre-feet for the replacement of losses caused by seepage and evaporation.
6. The pond established by the storage of water under this right shall not exceed a total capacity of 0.6 acre-feet or a total surface area of 0.2 acres.
7. This right does not grant any right-of-way or easement across the land of another.

This permit is issued pursuant to the provisions of Idaho Code § 42-204.

Signed this 25th day of June, 2021.



ADAM FREDERICK
Water Rights Supervisor

State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

86-12112

This map depicts the WILDLIFE STORAGE, RECREATION STORAGE, and FIRE PROTECTION STORAGE place of use boundary for this water right at the time of this approval and is attached to the approval document solely for illustrative purposes.

02W



-  Point of Diversion
-  Place Of Use Boundary
-  Townships
-  PLS Sections
-  Quarter Quarters

0 0.035 0.07 0.14 Miles





State of Idaho

DEPARTMENT OF WATER RESOURCES

Northern Region • 7600 N MINERAL DR STE 100 • COEUR D'ALENE, ID 83815-7763
Phone: (208)762-2800 • Fax: (208)769-2819 • Website: www.idwr.idaho.gov

Brad Little
Governor

Gary Spackman
Director

June 25, 2021

WARREN R CASE
PO BOX 105
DEARY ID 83823-0105

RE: Permit No. 86-12112

Permit Approval Notice

Dear Permit Holder(s):

The Department of Water Resources ("Department") has issued the enclosed permit authorizing you to establish a new water right. Please be sure to thoroughly review all the conditions of approval listed on your permit. The conditions include requirements that you must accomplish, such as timely submittal of proof of beneficial use or installation of a measuring device, as well as information about how your water use may be administered, such as regulation by a watermaster in a water district. Failure to comply with the conditions of approval may result in your permit lapsing or being canceled.

The permit is a PRELIMINARY ORDER issued pursuant to Rule 730 of the Department's Rules of Procedure (IDAPA 37.01.01.730). It can and will become a final order without further action by the Department unless a party petitions for reconsideration, files exceptions, or requests a hearing as described in the enclosed information sheet.

The final step in the water right process is issuance of a water right license. To receive a water right license, you must divert and use water to the full extent intended and submit a *Statement of Completion for Submitting Proof of Beneficial Use* by the date shown in condition no. 1 of your permit. The Department will send you a *Proof Due Notice* approximately 60 days prior to the date listed in condition no. 1 of your permit.

You may also require approvals from other Department programs, such as Ground Water Protection, Safety of Dams, or Stream Channel Protection, to accomplish your proposed development. Please call or visit any Department office or see the Department's website at idwr.idaho.gov for more information about these programs.

Please be advised that Idaho Code § 42-248, requires you or the owner of this water permit to maintain current ownership and address records on file with the Department. Forms to file an assignment of permit and/or a change in the address of the permit owner are available from any Department office or at the Department's website at www.idwr.idaho.gov.

If you have any questions concerning the enclosed information, please contact the Northern Region Office at (208) 762-2800.

Sincerely,



Adam Frederick
Water Rights Supervisor

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on June 25, 2021, I served a true and correct copy of Permit to Appropriate Water No. 86-12112 by U.S. Mail, postage prepaid, to the following:

WARREN R CASE (Current Owner)
PO BOX 105
DEARY ID 83823-0105



Tammy Alleman
Administrative Assistant 1

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. **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 service date 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.

MEMORANDUM

To: Water Right Application 86-12111, 86-12112, 86-12113, & 86-12114

From: Luke Bates

JSB

Date: 6/23/2021

Re: Application for a Permit to Appropriate Water within the Salmon and Clearwater River Basins.

Re: Regional Analysis and Recommendation in accordance with Water Appropriation Rules (IDAPA 37.03.08.040.05).

Water Supply Information

Water should be available from the surface runoff source(s), and the unnamed stream source.

Good Faith, Delay, or Speculative Information

The applicant plans to use water from multiple pond(s) existing on the applicant's property. There are no known issues with any other party.

Financial Resources Information

The seven ponds associated with these water permit(s) are existing ponds, and it appears the applicant has the resources needed for the irrigation from storage development of these project(s).

Local Public Interest

The Idaho Department of Fish & Game (F & G) and the Department of Environmental Quality (DEQ), and Latah County Commissioner (Commissioner) have been asked to comment by the Idaho Department of Water Resources. DEQ and the Latah County Commissioner did not respond to the four applications for permit. F & G commented asserting that the wildlife storage beneficial use component be removed from 86-12112 as the applicant did not specify the types of wildlife that will benefit from the impoundment of water in the ponds, and that recreation storage occurring under 86-12111, 86-12113, & 86-12114 shall require a stocking permit if the applicant elects to pursue fish stocking in the pond(s). There were no other known issues with this application as no protests were received.

Injury to Other Water Rights

Water from the Unnamed Stream source for 86-12113 subordinates Pine Creek, and subordinates the Potlatch River. As a result, Minimum Stream Flow (MSF) water rights 86-11958 & 86-11960 for Pine Creek and the Potlatch River respectively were not included in condition for permit approval. There is no additional concern for injury to other water rights for the four each permits, as surface water source(s) sink within the applicant's property boundary.

Recommendation

The Northern Region recommends proceeding with the processing of this water right application.

NEWS REVIEW PUBLISHING COMPANY

The Moscow-Pullman Daily News

P.O.Box 957

Lewiston, Idaho 83501

(208) 743-9411

Date:

05/27/2021

INVOICE NO.

163293

Account No.

964750

Description

163293 The foll

Times

2

Lines

170

Tab. lines

"Per Talitha"\$ 523.57\$ 765.00**LEGAL ADVERTISING
INVOICE**

Sold To: ID DEPT. OF WATER RESOURCES

7600 MINERAL DR #100

COEUR D ALENE ID 83814

PO#

Alleman, Tammy

NOTICE: This is a invoice of Purchase made by you. Statement will be rendered the first of the month
Please Retain This Invoice as Your Statement Will Refer to Invoice by No. Only.

AFFIDAVIT OF PUBLICATION

Hollie K Vance, Legal Clerk
being first duly sworn, on oath deposes
and says: I am the printer of
Moscow-Pullman Daily News, a newspaper
of general circulation, published daily
except Sunday at Moscow, Latah County,
Idaho, in compliance with Sections 60-106,
60-107, and 60-108 of the Idaho Code and the
amendments thereto; and an official newspaper
for Whitman County, Washington as required
by R.C.W. 36.72.071 and other provisions of
the Revised Code of Washington and the
amendments thereto: that the notice of which the
annexed is a full, true and correct printed
copy was published in the regular and entire
issues of said newspaper and not in a
supplement thereto, upon the following dates:

May 20, 27, 2021

the same being the date designated for
the publication of said notice.

Hollie K Vance

On this 27 day of may
in the year of 2021, before me, a Notary Public,
personally appeared Hollie K Vance,
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 Lewiston, Idaho
My Commission Expires 1/23/22

RECEIVED**JUN 01 2021****IDWR / NORTH**

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

86-12111

WARREN R CASE

PO BOX 105

DEARY, ID 83823-0105

Point of Diversion SWSE

S23 T39N R02W

LATAH County

Source SURFACE RUNOFF

Tributary SINKS

Use: FIRE PROTECTION STORAGE

01/01 to 12/31 11.6 AF

Use: IRRIGATION STORAGE

01/01 to 12/31 7.2 AF

Use: RECREATION STORAGE

01/01 to 12/31 11.6 AF

Use: IRRIGATION FROM STORAGE

03/15 to 11/15 7.2 AF

Total Diversion: 18.8 AF

Date Filed: 04-26-2021

Place Of Use: FIRE PROTECTION STORAGE, IRRIGATION FROM STORAGE, IRRIGATION STORAGE, RECREATION STORAGE

T39N R02W S23 SWSE

Place Of Use: IRRIGATION FROM STORAGE

T39N R02W S26

NENW,NWNE

Total Acres: 2.4

86-12112

WARREN R CASE

PO BOX 105

DEARY, ID 83823-0105

Point of Diversion NENW

S26 T39N R02W

LATAH County

Source SURFACE RUNOFF

Tributary SINKS

Use: FIRE PROTECTION STORAGE

01/01 to 12/31 1 AF

Use: WILDLIFE STORAGE

01/01 to 12/31 1 AF

Use: RECREATION STORAGE

01/01 to 12/31 1 AF

Total Diversion: 1 AF

Date Filed: 04-26-2021

Place Of Use: FIRE PROTECTION STORAGE, RECREATION STORAGE, WILDLIFE STORAGE

T39N R02W S26 NENW

86-12113

WARREN R CASE

PO BOX 105

DEARY, ID 83823-0105

Point of Diversion SESE

S23 T39N R02W

LATAH County

Source UNNAMED STREAM

Tributary PINE CREEK

Point of Diversion NENE

S26 T39N R02W

LATAH County

Source UNNAMED STREAM

Tributary PINE CREEK

Use: IRRIGATION STORAGE

01/01 to 12/31 12.6 AF

Use: IRRIGATION FROM STORAGE

03/15 to 11/15 12.6 AF

Use: FIRE PROTECTION STORAGE

01/01 to 12/31 45.1 AF

Use: RECREATION STORAGE

01/01 to 12/31 45.1 AF

Total Diversion: 57.7 AF

Date Filed: 04-26-2021

Place Of Use: FIRE PROTECTION STORAGE, IRRIGATION FROM STORAGE, IRRIGATION STORAGE, RECREATION STORAGE

T39N R02W S23 SESE

Place Of Use: IRRIGATION FROM STORAGE

T39N R02W S23 SWSE

Place Of Use: FIRE PROTECTION STORAGE, IRRIGATION FROM STORAGE, IRRIGATION STORAGE, RECREATION STORAGE

T39N R02W S26 NENE

Place Of Use: IRRIGATION FROM STORAGE

T39N R02W S26 NWNE

Total Acres: 4.2

86-12114

WARREN R CASE

PO BOX 105

DEARY, ID 83823-0105

Point of Diversion SESE

S23 T39N R02W

LATAH County

Source SURFACE RUNOFF

Tributary SINKS

Point of Diversion SESE

S23 T39N R02W

LATAH County

Source SURFACE RUNOFF

Tributary SINKS

Point of Diversion SESE

S23 T39N R02W

LATAH County

Source SURFACE RUNOFF

Tributary SINKS

Use: FIRE PROTECTION STORAGE

01/01 to 12/31 20.3 AF

Use: RECREATION STORAGE

01/01 to 12/31 20.3 AF

Use: IRRIGATION STORAGE

01/01 to 12/31 1.5 AF

Use: IRRIGATION FROM STORAGE

01/01 to 12/31 1.5 AF

Total Diversion: 21.8 AF

Date Filed: 04-26-2021

Place Of Use: FIRE PROTECTION STORAGE, IRRIGATION FROM STORAGE, IRRIGATION STORAGE, RECREATION STORAGE

T39N R02W S23 SESE

Place Of Use: IRRIGATION FROM STORAGE

T39N R02W S23 SWSE

87-12276

DARREL WILKINS

PO BOX 101

PRINCETON, ID 83857-0101

Point of Diversion NWSE

S34 T41N R04W

LATAH County

Source SURFACE RUNOFF

Tributary HATTER CREEK

Point of Diversion NWSE

S34 T41N R04W

LATAH County

Source SURFACE RUNOFF

Tributary HATTER CREEK

Point of Diversion NWSE

S34 T41N R04W

LATAH County

Source SURFACE RUNOFF

Tributary HATTER CREEK

Point of Diversion SENE

S34 T41N R04W

LATAH County

Source SURFACE RUNOFF

Tributary HATTER CREEK

Use: FIRE PROTECTION STORAGE

01/01 to 12/31 6.9 AF

Use: RECREATION STORAGE

01/01 to 12/31 6.9 AF

Use: WILDLIFE STORAGE

01/01 to 12/31 6.9 AF

Total Diversion: 6.9 AF

Date Filed: 05-05-2021

Place Of Use: FIRE PROTECTION STORAGE, RECREATION STORAGE, WILDLIFE STORAGE

T41N R04W S34

NWSE,SENE

Permits will be subject to all prior water rights. For additional information concerning the property location, contact the Northern office at (208)762-2800; or for a full description of the right(s), please see <https://idwr.idaho.gov/apps/ExtSearch/WRAApplicationResults/>. Protests may be submitted based on the criteria of Idaho Code § 42-203A. Any protest against the approval of this application must be filed with the Director, Dept. of Water Resources, Northern Region, 7600 N MINERAL DR STE 100, COEUR D ALENE ID 83815-7763 together with a protest fee of \$25.00 for each application on or before 6/7/2021. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN,
Director

Published on 5/20/2021
and 5/27/2021

Alleman, Tammy

From: Swearingen, Zachary <zachary.swearingen@idfg.idaho.gov>
Sent: Friday, May 28, 2021 12:06 PM
To: Alleman, Tammy
Subject: RE: Request for Comments 86-12112

Hi Tammy,

I have reviewed application- WR #86-12112.

The application lists wildlife storage as one of the intended purposes for the water right. It is our opinion that to be beneficial to wildlife, diverted or impounded water must be managed with the primary purpose of developing habitat that corresponds to the range of characteristics required by a targeted species. IDFG contends that in order to benefit wildlife, diverted or stored water should primarily be managed to enhance the stability or growth of the targeted wildlife population(s). As written, the application only mentions wildlife storage and does not describe which wildlife it is intended to benefit or management actions necessary to create habitat that would increase survival or productivity rates of the targeted population(s). We recommend wildlife storage be removed as a purpose for the water appropriation.

Thank you,

Zach Swearingen
Environmental Staff Biologist
Idaho Department of Fish and Game - Clearwater Region
3316 16th St
Lewiston, ID 83501
208-799-5010



From: Alleman, Tammy <Tammy.Alleman@idwr.idaho.gov>
Sent: Tuesday, May 11, 2021 1:29 PM
To: Sujata.Connell@deq.idaho.gov; Swearingen, Zachary <zachary.swearingen@idfg.idaho.gov>; commissioners <bocc@latah.id.us>; Kara Egan <kegan@latah.id.us>; jpiper@latah.id.us
Subject: Request for Comments 86-12112

Dear Interested Agencies:

The Department of Water Resources is seeking written comment and/or recommendations from your agency regarding the above referenced Water Right Permit application. You can find copies of the application at: <http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx>.

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 the

application(s), 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. The deadline for comments on the applications is June 7, 2021.

Please contact the Northern Region Office at (208) 762-2800 if you have any questions regarding the Permit application.

Thank you,

Tammy

*Tammy Alleman
Administrative Assistant
Idaho Department of Water Resources
7600 N Mineral Drive, Suite 100
Coeur d'Alene, ID 83815-7763
Phone: (208) 762-2800
Fax (208) 762-2819*