State of Idaho
Department of Water Resources

Permit to Appropriate Water

No. 86-12055

Priority: January 07, 2019 **Maximum Diversion Rate:** 0.02 CFS

This is to certify that

ROBERT W BENNETT 5341 LENVILLE RD MOSCOW ID 83843-7468 AND/OR
NORENE L BENNETT 5341 LENVILLE RD MOSCOW ID 83843-7468

has applied for a permit to appropriate water from:

Source : GROUND WATER

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

Beneficial Use	Period of Use	Rate of Diversion
STOCKWATER	01/01 to 12/31	0.02 CFS
DOMESTIC	01/01 to 12/31	0.02 CFS

Location of Point(s) of Diversion

GROUND WATER L1 (NE¼ NE¼), Sec. 5, Twp 38N, Rge 04W, B.M. LATAH County

Place of Use: STOCKWATER

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
38N	04W	4						X L4											
38N	04W	5	X L1																

Place of Use: DOMESTIC

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
38N	04W	4						X L4											

Conditions of Approval

1. Proof of application of water to beneficial use shall be submitted on or before **May 01, 2022.**
2. Subject to all prior water rights.
3. Right holder shall comply with the drilling permit requirements of Idaho Code § 42-235 and applicable Well Construction Rules of the Department.
4. Domestic use is for 1 home.
5. The irrigation occurring under this domestic use shall not exceed 1/2 acre.
6. Stockwater use is for 4 horses.

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7. The diversion and use of water described in this right 86-12055 may be subject to additional conditions and limitations agreed to by the protestant and the right holder under a separate agreement to which the Department is not a party. Because the Department is not a party, the Department is not responsible for enforcement of any aspect of the agreement not specifically addressed in other conditions herein. Enforcement of those portions of the agreement not specifically addressed in other conditions shall be the responsibility of the protestant and the water right holder.

8. 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 23rd day of April, 2021.

ADAM FREDERICK
Water Rights Supervisor

State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

86-12055

This map depicts the DOMESTIC 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.

04W

38N

Point of Diversion

Place Of Use Boundary

Townships

PLS Sections

Quarter Quarters

0 0.035 0.07 0.14 Miles

N

State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

86-12055

This map depicts the STOCKWATER 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.

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

0 0.035 0.07 0.14 Miles

N

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

April 23, 2021

NORENE L BENNETT
ROBERT W BENNETT
DAVID W BENNETT
5341 LENVILLE RD
MOSCOW ID 83843-7468

RE: Permit No. 86-12055

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

Adam Frederick
Water Rights Supervisor

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on April 23, 2021, I served a true and correct copy of Permit to Appropriate Water No. 86-12055 by U.S. Mail, postage prepaid, to the following:

NORENE L BENNETT (Current Owner)
5341 LENVILLE RD
MOSCOW ID 83843-7468

ROBERT W BENNETT (Current Owner)
5341 LENVILLE RD
MOSCOW ID 83843-7468

DAVID W BENNETT (Representative)
5341 LENVILLE RD
MOSCOW ID 83843

LATAH COUNTY (Protestant)
PO BOX 8068
MOSCOW ID 83843

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 Permit 86-12055**

From: **Luke Bates** LSB

Date: **4/21/2021**

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
Groundwater from an existing well is available at the applicant's property.

Good Faith, Delay, or Speculative Information
The applicant plans to divert water for his/her own use on property that he/she owns and there are no know issues with any other party.

Financial Resources Information
At this time, it appears the applicant has the resources necessary to complete the domestic use project, and stockwater use does not required additional resources for use.

Local Public Interest
The Latah County Commissioner (Commissioner) has been asked to comment by the Department. The Commissioner initiated protest with the application, and has since worked with the applicant to reach resolution to the county's protest, resulting in a withdrawal of protest subject to conditions agreed upon between the applicant and the Commissioner. There are no other known issues with this application.

Injury to Other Water Rights
None anticipated.

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