

State of Idaho
Department of Water Resources
Permit to Appropriate Water
No. 98-8035

Priority: February 12, 2021

Maximum Diversion Rate: 0.35 CFS

This is to certify that

PHILIP LATENSER PO BOX 1931 BONNERS FERRY ID 83805-1931 AND/OR
DAVENE KING PO BOX 1931 BONNERS FERRY ID 83805-1931

has applied for a permit to appropriate water from:

Source : MEADOW CREEK

Tributary: MOYIE RIVER

Source : GROUND WATER

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>	<u>Annual Volume</u>
WILDLIFE STORAGE	01/01 to 12/31		0.6 AF
RECREATION	01/01 to 12/31	0.35 CFS	
RECREATION STORAGE	01/01 to 12/31		0.6 AF
FIRE PROTECTION STORAGE	01/01 to 12/31		0.6 AF
DIVERSION TO STORAGE	01/01 to 12/31	0.35 CFS	

Location of Point(s) of Diversion

MEADOW CREEK SE¼ SE¼, Sec. 1, Twp 63N, Rge 01E, B.M. BOUNDARY County
GROUND WATER SE¼ SE¼, Sec. 1, Twp 63N, Rge 01E, B.M. BOUNDARY 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	
63N	01E	1																X	

Place of Use: RECREATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
63N	01E	1																X	

Conditions of Approval

1. Proof of application of water to beneficial use shall be submitted on or before **April 01, 2026**.
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. Right 98-8035 authorizes a total annual storage volume of 0.6 acre-feet, 0.4 acre-feet to be used for the initial filling or carryover storage of the pond and 0.2 acre-feet for the replacement of losses caused by evaporation.
5. 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 0.1 acres.

State of Idaho
Department of Water Resources
Permit to Appropriate Water
No. 98-8035

6. Water stored under this right is subject to fluctuations of the water table caused by changes in the flow of local streams and by diversions under prior ground water rights. This right does not guarantee the maintenance of any particular ground water level.
7. Water shall not be diverted from fire protection storage except to fight or repel an existing fire.
8. Use of water under this right shall be non-consumptive for recreation use.
9. Water shall not be diverted under this right when flows in the Moyie River are below minimum flow amounts as defined by Right 98-7704. The right holder shall be responsible for monitoring the daily flow of the Moyie River using real-time data and shall cease diverting water when flows in the Moyie River are below established minimum flow amounts. Unless otherwise specified by the Director of the Department of Water Resources, data from the U.S. Geological Survey Eastport gauging station, No. 12306500, may be used for purposes of determining the daily flow amounts.
10. 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 24th day of March, 2021.



ADAM FREDERICK
Water Rights Supervisor

State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

98-8035

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.

01E



-  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

Attachment to Permit to Appropriate Water

98-8035

This map depicts the RECREATION 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.

01E



-  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

March 24, 2021

PHILIP LATENSER
DAVENE KING
PO BOX 1931
BONNERS FERRY ID 83805-1931

RE: Permit No. 98-8035

Permit Approval Notice

Dear Permit Holders:

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 March 24, 2021, I served a true and correct copy of Permit to Appropriate Water No. 98-8035 by U.S. Mail, postage prepaid, to the following:

PHILIP LATENSER (Current Owner)
PO BOX 1931
BONNERS FERRY ID 83805-1931

DAVENE KING (Current Owner)
PO BOX 1931
BONNERS FERRY ID 83805-1931



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.



RECEIVED

MAR 22 2021

IDWR / NORTH

IDAHO DEPARTMENT OF FISH AND GAME

PANHANDLE REGION

2885 West Kathleen Avenue
Coeur d'Alene, Idaho 83815

Brad Little / Governor
Ed Schriever / Director

March 17, 2021

Ms. Tammy Alleman
Idaho Department of Water Resources
7600 North Mineral Drive, Suite 100
Coeur d'Alene, ID 83815

REFERENCE: 98-8035 – Latenser/King Pond

Dear Tammy:

We have reviewed the above-named water right application for an existing off channel pond totaling 0.6 acre-feet per year and a diversion rate of 0.35 cfs for wildlife storage, fire protection storage, and recreation. The source of the water is listed as groundwater and Meadow Creek. The purpose of these comments is to assist the decision-making authority and applicant by providing technical information addressing potential effects on wildlife and wildlife habitat and how any adverse effects might be mitigated.

This application is to permit an existing manmade pond that is partially filled by groundwater, and requesting additional water from Meadow Creek to create a screened flow through design. The groundwater influence should mitigate any negative temperature effects that the flow through design may cause.

Wildlife storage is listed as a beneficial use for this private pond, but the application does not define specifically what wildlife will be benefitted. In much of the Idaho Panhandle, water sources for wildlife are not limiting to populations. Protecting existing wetlands and streams is typically more beneficial to area wildlife than made-made, open water habitat. Ideally, wildlife storage projects mimic natural seasonal wetlands, with average depths of 3' or less, have seasonal drawdowns, and provide ample herbaceous aquatic and shoreline vegetation.

It is not clear whether there is a desire to place fish in this pond. Private fish ponds have the potential to harm aquatic wildlife through the introduction of disease and/or invasive species. If the applicants intend to stock the pond with fish to support recreational use, a private pond permit must be obtained prior to stocking. The application is available on our website (fishandgame.idaho.gov under Fishing → Private Ponds). The applicant may contact our Regional Fisheries Manager, Andy Dux, with questions or to review a private pond application: 208-769-1414.

Keeping Idaho's Wildlife Heritage

Ms. Tammy Alleman – Page 2
March 17, 2021

Thank you for the opportunity to comment.

Sincerely,



Charles E. Corsi
Regional Supervisor

CEC:MH:lat

C: Paul Kline, IDFG Director's Office

AFFIDAVIT OF PUBLICATION

State of Idaho

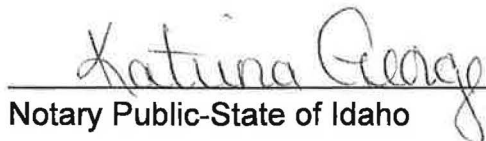
ss

County of Boundary, Celia Lopez being first duly sworn on oath deposes and says that he/she is the book keeper 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: Public Notice 98-8035

 as it was published in the regular and entire issue of the said paper for a period of 2 consecutive weeks, commencing on 4 day of March, 2021 and ending on the 11 day of March, 2021 and that said notice was published in said newspaper.



SUBSCRIBED AND SWORN TO before me, this 11 day of March, 2021.


Notary Public-State of Idaho

Residing at: Kootenai County

My Commission Expires 8/29/23



PUBLIC NOTICE

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

98-8035

PHILIP LATENSER
DAVENE KING
PO BOX 1931
BONNERS FERRY, ID
83805-1931
Point of Diversion SESE
S1 T63N R01E
BOUNDARY County
Source GROUND WATER
Point of Diversion SESE
S1 T63N R01E
BOUNDARY County
Source MEADOW CREEK
Tributary MOYIE RIVER
Use: DIVERSION TO
STORAGE
01/01 to 12/31 0.35 CFS
Use: FIRE PROTECTION
STORAGE
01/01 to 12/31 0.6 AF
Use: WILDLIFE STORAGE
01/01 to 12/31 0.6 AF
Use: RECREATION
STORAGE
01/01 to 12/31 0.6 AF
Use: RECREATION
01/01 to 12/31 0.35 CFS
Total Diversion: 0.35 CFS
Date Filed: 02-12-2021
Place Of Use: DIVERSION TO
STORAGE, FIRE
PROTECTION STORAGE,
RECREATION,
RECREATION STORAGE,
WILDLIFE STORAGE
T63N R01E S1 SESE

98-8036

THE CARRIZOSA FAMILY
REVOCABLE TRUST
PO BOX 495
BONNERS FERRY, ID
83805-0495
Point of Diversion SESE
S1 T63N R01E
BOUNDARY County
Source MEADOW CREEK
Tributary MOYIE RIVER
Use: DIVERSION TO
STORAGE
01/01 to 12/31 0.2 CFS
Use: RECREATION
STORAGE
01/01 to 12/31 8.1 AF
Use: FIRE PROTECTION
STORAGE
01/01 to 12/31 8.1 AF
Use: STOCKWATER
STORAGE
01/01 to 12/31 0.1 AF
Use: STOCKWATER FROM
STORAGE
01/01 to 12/31 0.1 AF
Use: IRRIGATION STORAGE
04/01 to 10/31 6 AF
Use: IRRIGATION FROM
STORAGE
04/01 to 10/31 6 AF
Total Diversion: 0.2 CFS,
14.2 AF
Date Filed: 02-24-2021
Place Of Use: DIVERSION TO
STORAGE, FIRE PROTEC-
TION STORAGE, IRRIGATION
FROM
STORAGE, IRRIGATION
STORAGE, RECREATION
STORAGE, STOCKWATER
FROM
STORAGE, STOCKWATER
STORAGE
T63N R01E S1 SESE
Total Acres: 2

98-8037

THE CARRIZOSA FAMILY
REVOCABLE TRUST
PO BOX 495
BONNERS FERRY, ID
83805-0495
Point of Diversion SESE
S1 T63N R01E
BOUNDARY County
Source GROUND WATER
Point of Diversion SESE
S1 T63N R01E
BOUNDARY County
Source UNNAMED STREAM
Tributary SINKS
Use: DOMESTIC
01/01 to 12/31 0.1 CFS
Use: STOCKWATER
01/01 to 12/31 0.02 CFS
Use: IRRIGATION
04/01 to 10/31 0.06 CFS
Total Diversion: 0.18 CFS
Date Filed: 02-24-2021
Place Of Use:
DOMESTIC, IRRIGATION,
STOCKWATER
T63N R01E S1 SESE
Total Acres: 2

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/WRApplicationRes>

ults/. 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 3/22/2021. The protestant must also send a copy of the protest to the applicant.
GARY SPACKMAN, Director
BFH#10590/AD#441446
MARCH 4, 11, 2021