

State of Idaho
Department of Water Resources
Permit to Appropriate Water
No. 95-18031

Priority: October 27, 2020

Maximum Diversion Rate: 0.02 CFS

This is to certify that

DUANE DILL PO BOX 233 PLUMMER ID 83851-0233 AND/OR
KELLY DILL PO BOX 233 PLUMMER ID 83851-0233

has applied for a permit to appropriate water from:

Source : UNNAMED STREAM

Tributary: LITTLE PLUMMER CREEK

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	0.02 CFS

Location of Point(s) of Diversion

UNNAMED STREAM SE¼ NE¼, Sec. 4, Twp 45N, Rge 04W, B.M. BENEWAH County
UNNAMED STREAM L1 (NE¼ NE¼), Sec. 4, Twp 45N, Rge 04W, B.M. BENEWAH 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	
45N	04W	4	X L1			X													

Conditions of Approval

1. Proof of application of water to beneficial use shall be submitted on or before **December 01, 2021**.
2. Subject to all prior water rights.
3. This right authorizes the watering of livestock directly from the stream without a diversion.
4. Stockwater use is for 50 range cattle.
5. 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 November, 2020.



ADAM FREDERICK
Water Rights Supervisor

State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water 95-18031

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 0.0425 0.085 0.17 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

November 25, 2020

KELLY DILL
DUANE DILL
PO BOX 233
PLUMMER ID 83851-0233

RE: Permit No. 95-18031

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

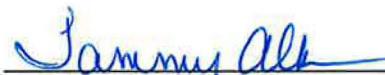
Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on November 25, 2020, I served a true and correct copy of Permit to Appropriate Water No. 95-18031 by U.S. Mail, postage prepaid, to the following:

KELLY DILL (Current Owner)
PO BOX 233
PLUMMER ID 83851-0233

DUANE DILL (Current Owner)
PO BOX 233
PLUMMER ID 83851-0233



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.



IDAHO DEPARTMENT OF FISH AND GAME

PANHANDLE REGION
2885 West Kathleen Avenue
Coeur d'Alene, Idaho 83815

Brad Little / Governor
Ed Schriever / Director

November 23, 2020

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

REFERENCE: Application 95-18031 and 95-18032 – Dill

Dear Tammy:

We have reviewed the above named applications to appropriate 0.02 cfs from two unnamed tributaries to Little Plummer Creek in Benewah County. The purpose of these comments is to assist the decision-making authority by providing technical information addressing potential effects on wildlife and wildlife habitat and how any adverse effects might be mitigated.

While these requests are for small amounts of water (0.02 cfs each), as "in-stream" water rights, we have concerns about the negative effects to the stream banks, and stream erosion that 50 head of cattle watering in the stream will likely cause. Without fencing, or some manner of pasture rotation or herding, over time cattle can damage riparian vegetation and erode banks causing sediment deposition in the creeks, which can cause negative habitat damage both at the source and downstream. We recommend the applicant fence the majority of the reaches within the applications, allowing small controlled areas for cattle to water in the creek, or implementing livestock management that limits time spent along the creek. The NRCS is a good resource for this type of project, and may also have funding options available to implement streambank protection measures.

Thank you for the opportunity to comment.

Sincerely,

A handwritten signature in blue ink, appearing to read "Charles E. Corsi".

Charles E. Corsi
Regional Supervisor

CEC:MH:lat

C: Paul Kline, IDFG Director's Office

Keeping Idaho's Wildlife Heritage

Affidavit of Publication

STATE OF IDAHO

County of Benewah, ss.

Cynthia Ann Hammes, being first duly sworn on oath, deposes and says that she is vice president of The Corporation, owner of the St. Maries Gazette Record, a weekly newspaper printed and published at St. Maries, Benewah County, State of Idaho; the St. Maries Gazette Record is a newspaper having general circulation in Benewah County, State of Idaho, and has been continuously and uninterruptedly published in Benewah County, State of Idaho, during a period of more than seventy-eight consecutive weeks prior to the first publication of notice of advertisement herein.

That the notice, of which the one hereto attached is a true copy, was published in said newspaper for a period of 2 issues, the first publication being on the 4 day of NOVEMBER, 2020 and the last on the 11 day of NOVEMBER, 2020.

That said newspaper was regularly distributed to its subscribers during the time of the same period; that said notice was published in the regular and entire issue of said paper.

Dated this 11 day of NOVEMBER, 2020.

Cynthia Ann Hammes

STATE OF IDAHO

COUNTY OF BENEWAH

On this 11 day of NOVEMBER, in the year of 2020 before me, a Notary Public, personally appeared Cynthia Ann Hammes, known or identified to me to be the person whose name subscribed to within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that she executed the same.

Daniel A. Hammes

Notary Public for Idaho
Residing at St. Maries, Idaho
My commission expires:

07.23.25



RECEIVED

NOV 16 2020

IDWR / NORTH

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

95-18031

KELLY DILL
DUANE DILL
PO BOX 233
PLUMMER, ID 83851-0233
Point of Diversion SENE
S4 T45N R04W
BENEWAH County
Source UNNAMED STREAM
Tributary LITTLE PLUMMER CREEK
Point of Diversion L1(NENE)
S4 T45N R04W
BENEWAH County
Source UNNAMED STREAM
Tributary LITTLE PLUMMER CREEK
Use: STOCKWATER
01/01 to 12/31
Total Diversion: 0.02 CFS
Date Filed: 10-27-2020
Place Of Use: STOCKWATER
T45N R04W S4
L1(NENE),SENE

95-18032

KELLY DILL
DUANE DILL
PO BOX 233
PLUMMER, ID 83851-0233
Point of Diversion SESE
S33 T46N R04W
BENEWAH County
Source UNNAMED STREAM
Tributary LITTLE PLUMMER CREEK
Point of Diversion SESE
S33 T46N R04W
BENEWAH County
Source UNNAMED STREAM
Tributary LITTLE PLUMMER CREEK
Use: STOCKWATER
01/01 to 12/31
Total Diversion: 0.02 CFS
Date Filed: 10-27-2020
Place Of Use: STOCKWATER
T46N R04W S33 SESE

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 11/23/2020. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director
Published on 11/4/2020 and 11/11/2020
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