

State of Idaho  
Department of Water Resources  
**Permit to Appropriate Water**  
No. 93-7684

Priority: October 07, 2020

Maximum Diversion Volume: 1.8 AF

This is to certify that

JOHN CADY 32264 S SENKLER RD WORLEY ID 83876-6715

has applied for a permit to appropriate water from:

Source : UNNAMED STREAM

Tributary: NORTH FORK ROCK CREEK

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

<u>Beneficial Use</u>	<u>Period of Use</u>	<u>Annual Volume</u>
STOCKWATER STORAGE	01/01 to 12/31	1.3 AF
WILDLIFE STORAGE	01/01 to 12/31	0.5 AF

Location of Point(s) of Diversion

UNNAMED STREAM NW¼ NE¼, Sec. 34, Twp 47N, Rge 05W, B.M. KOOTENAI County

Place of Use: STOCKWATER STORAGE and WILDLIFE 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	
47N	05W	34		X			X												

**Conditions of Approval**

1. Proof of application of water to beneficial use shall be submitted on or before **December 01, 2025**.
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 93-7684 authorizes total annual storage volume of 1.8 acre-feet, 0.2 acre-feet to be used for the initial filling or carryover storage of the pond, 0.3 acre-feet for the replacement of losses caused by seepage and evaporation, and 1.3 acre-feet for stockwater storage use.
5. The pond established by the storage of water under this right shall not exceed a total capacity of 0.2 acre-feet or a total surface area of 0.1 acres.
6. Stockwater use is for 100 head of mixed stock.
7. Wildlife storage is for waterfowl and wild game use.
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 24th day of November, 2020.

  
ADAM FREDERICK  
Water Rights Supervisor






State of Idaho  
Department of Water Resources

# Attachment to Permit to Appropriate Water

93-7684

This map depicts the STOCKWATER STORAGE and WILDLIFE 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.



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

0 0.035 0.07 0.14 Miles







Brad Little  
Governor

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](http://www.idwr.idaho.gov)

Gary Spackman  
Director

November 24, 2020

JOHN CADY  
32264 S SENKLER RD  
WORLEY ID 83876-6715

RE: Permit No. 93-7684

### Permit Approval Notice

Dear Permit Holder:

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](http://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](http://www.idwr.idaho.gov).**

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

Sincerely,



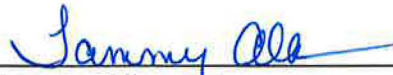
Adam Frederick  
Water Rights Supervisor

Enclosure(s)

## CERTIFICATE OF SERVICE

I hereby certify that on November 24, 2020, I served a true and correct copy of Permit to Appropriate Water No. 93-7684 by U.S. Mail, postage prepaid, to the following:

JOHN CADY (Current Owner)  
32264 S SENKLER RD  
WORLEY ID 83876-6715

  
\_\_\_\_\_  
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 20, 2020

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

REFERENCE: 93-7684 – Cady Pond

Dear Tammy:

We have reviewed the above-named water right application for an existing in stream pond totaling 1.8 acre-feet per year for wildlife and stockwater storage. The source of the water is listed as an unnamed tributary to North Rock 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.

In general, Idaho Department of Fish and Game has significant concerns with ponds being constructed in-channel due to their negative effects on habitat to include the potential for washing out and/or increasing downstream water temperatures. In this case the application is the permit an existing pond that allows flow-through. The tributary in question is a very small one, with a mean annual flow approximately 0.001 cfs with a drainage area off less than one square mile, according to the USGS StreamStats website.

It is unclear from the application if the 100 head of mixed stock will drink directly from the pond. We recommend fencing off all but a portion on the pond to prevent stock from eroding the banks and causing sedimentation downstream. Another option would be to pipe water from the pond into a watering trough. Stock watering directly from the pond will eventually erode banks and cause sediment buildup which will increase maintenance issues for the applicant.

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. Beneficial 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.

*Keeping Idaho's Wildlife Heritage*

Equal Opportunity Employer • 208-769-1414 • Fax 208-769-1418 • Idaho Relay (TDD) Service: 1-800-377-3529 • <https://idfg.idaho.gov>



Ms. Tammy Alleman – Page 2  
November 20, 2020

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](http://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.

Thank you for the opportunity to comment.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Charles E. Corsi', with a stylized flourish at the end.

Charles E. Corsi  
Regional Supervisor

CEC:MH:lat

C: Paul Kline, IDFG Director's Office

# AFFIDAVIT OF PUBLICATION

STATE OF IDAHO )  
 ) ss.  
County of Kootenai )

MARY MOORE, being first duly sworn upon oath, deposes and states:

1. I am now and at all times hereinafter mentioned was a citizen of the United States, resident of the State of Idaho, over the age of twenty-one years and not a party of the above entitled action.

2. I am now and at all times hereinafter mentioned was the printer (principal clerk) of the "Coeur d'Alene Press", a newspaper printed and published daily in Coeur d'Alene, Kootenai County, Idaho, and having a general circulation in said county.

3. The Legal notice of which the annexed is a printed copy, was published in the regular Thursday issue of said newspaper for 2 consecutive weeks commencing on the 5 day of November, 2020, and ending on the 12 day of November, 2020, and such publication was made as often during said period as said daily newspaper was regularly issued.

4. That said newspaper has been continuously and uninterruptedly published in said Kootenai County, during a period of more than seventy-eight consecutive weeks immediately prior to the first publication of said notice

MARY MOORE.

On this 12 day of November in the year of 2020 before me, a Notary Public, personally appeared MARY MOORE, 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.



Katrina George  
Notary Public for the State of Idaho  
Residing in Coeur d'Alene, Idaho

**My Commission Expires 8/29/23**

RECEIVED  
NOV 19 2020  
IDWR / NORTH

01/01 to 12/31 1.3 AF  
Use: WILDLIFE STORAGE  
01/01 to 12/31 0.5 AF  
Total Diversion: 1.8 AF  
Date Filed: 10-07-2020  
Place Of Use: STOCKWATER  
STORAGE, WILDLIFE  
STORAGE  
T47N R05W S34  
NENW, NWNE

**95-18017**  
LEROY E MACKLIN  
ANNETTE M DESJARDINS  
606 W 15TH AVE  
POST FALLS, ID 83854-7217  
Point of Diversion NENWSE  
S30 T52N R05W  
KOOTENAI County  
Source SPRING  
Tributary HAUSER CREEK  
Point of Diversion NENWSE  
S30 T52N R05W  
KOOTENAI County  
Source SPRING  
Tributary HAUSER CREEK  
Use: DOMESTIC  
01/01 to 12/31 0.04 CFS  
Use: STOCKWATER  
01/01 to 12/31 0.02 CFS  
Total Diversion: 0.04 CFS  
Date Filed: 10-13-2020  
Place Of Use:  
DOMESTIC, STOCKWATER  
T52N R05W S30 NWSE

**95-18018**  
MARK DAVIS & JACKIE LYNN  
LIVING TRUST  
16565 N RAMSEY RD  
RATHDRUM, ID 83858-8245  
Point of Diversion NESE  
S27 T52N R04W  
KOOTENAI County  
Source GROUND WATER  
Use: DOMESTIC  
01/01 to 12/31  
Total Diversion: 0.04 CFS  
Date Filed: 10-08-2020  
Place Of Use: DOMESTIC  
T52N R04W S27 NESE

**95-18019**  
MARK DAVIS & JACKIE LYNN  
LIVING TRUST  
16565 N RAMSEY RD  
RATHDRUM, ID 83858-8245  
Point of Diversion NESE  
S27 T52N R04W  
KOOTENAI County  
Source GROUND WATER  
Use: DOMESTIC  
01/01 to 12/31 0.04 CFS  
Use: IRRIGATION  
03/15 to 11/15 0.14 CFS  
Total Diversion: 0.18 CFS  
Date Filed: 10-08-2020  
Place Of Use:  
DOMESTIC, IRRIGATION  
T52N R04W S27 NESE  
Total Acres: 7

**95-18022**  
LINDA M HAGENBARTH  
WILLIAM L HAGENBARTH  
24670 S COTTONWOOD BAY  
LN  
WORLEY, ID 83876-6005  
Point of Diversion NWNE  
S4 T47N R04W  
KOOTENAI County  
Source COEUR D ALENE  
LAKE  
Tributary SPOKANE RIVER

Use: IRRIGATION  
03/15 to 10/31  
Total Diversion: 0.02 CFS  
Date Filed: 10-15-2020  
Place Of Use: IRRIGATION  
T47N R04W S4  
L1(NWNE), NWNE  
Total Acres: 0.3

**95-18023**  
VAUGHN WARD  
KIRSTEN WARD  
7647 E TAILFEATHER DR  
SCOTTSDALE, AZ  
85255-4784  
Point of Diversion SENE  
S16 T50N R04W  
KOOTENAI County  
Source GROUND WATER  
Point of Diversion SENE  
S16 T50N R04W  
KOOTENAI County  
Source GROUND WATER  
Point of Diversion SENE  
S16 T50N R04W  
KOOTENAI County  
Source GROUND WATER  
Use: IRRIGATION  
03/15 to 11/15  
Total Diversion: 0.18 CFS  
Date Filed: 10-16-2020  
Place Of Use: IRRIGATION  
T50N R04W S16 SENE  
Total Acres: 9

**95-18025**  
FAMILY HERITAGE LEGACY  
LLC  
1725 E UPDAHL CT  
HARRISON, ID 83833-7784  
Point of Diversion SWNW  
S8 T49N R03W  
KOOTENAI County  
Source GROUND WATER  
Use: DOMESTIC  
01/01 to 12/31  
Total Diversion: 0.04 CFS  
Date Filed: 10-19-2020  
Place Of Use: DOMESTIC  
T49N R03W S8 SWNW

**95-18026**  
FAMILY HERITAGE LEGACY  
LLC  
1725 E UPDAHL CT  
HARRISON, ID 83833-7784  
Point of Diversion SWNW  
S8 T49N R03W  
KOOTENAI County  
Source UNNAMED STREAM  
Tributary COEUR D ALENE  
LAKE  
Use: IRRIGATION  
03/15 to 11/15  
Total Diversion: 0.09 CFS  
Date Filed: 10-20-2020  
Place Of Use: IRRIGATION  
T49N R03W S8 SWNW  
Total Acres: 3.

**95-18028**  
GARY SCHENKENBERGER  
GAYLE SCHENKENBERGER  
726 W MILL AVE  
COEUR D ALENE, ID  
83814-2438  
Point of Diversion NWNE  
S33 T50N R03W  
KOOTENAI County  
Source GROUND WATER  
Use: DOMESTIC  
01/01 to 12/31  
Total Diversion: 0.1 CFS  
Date Filed: 10-21-2020

Place Of Use: DOMESTIC  
T50N R03W S33 NWNE

**95-18030**  
WALKING HORSE  
PARTNERS LLC  
10063 N NAVION DR  
HAYDEN, ID 83835-5040  
Point of Diversion L3(NWSW)  
S7 T53N R02W  
KOOTENAI County  
Source GROUND WATER  
Use: DOMESTIC  
01/01 to 12/31  
Total Diversion: 0.15 CFS  
Date Filed: 10-26-2020  
Place Of Use: DOMESTIC  
T53N R02W S7  
NESW, L3(NWSW)  
Place Of Use: DOMESTIC  
T53N R03W S12 NESE

Permits will be subject to all  
prior water rights. For addi-  
tional information concerning

the property location, contact  
the Northern office  
(208)762-2800; or for a full de-  
scription of the right(s), please  
see [https://idwr.idaho.gov/app/](https://idwr.idaho.gov/app/ExtSearch/WRAApplicationReults/)  
/ExtSearch/WRAApplicationRe-  
ults/. Protests may be submit-  
ted based on the criteria in  
Idaho Code § 42-203A. A  
protest against the approval of  
this application must be filed  
with the Director, Dept. of Wa-  
ter Resources, Northern Re-  
gion, 7600 N MINERAL DR,  
STE 100, COEUR D ALENE,  
ID 83815-7763 together with  
protest fee of \$25.00 for each  
application on or before  
11/23/2020. The protestor  
must also send a copy of the  
protest to the applicant.  
GARY SPACKMAN, Director  
CDA LEGAL 4454  
AD#417032  
NOVEMBER 5, 12, 2020

## PUBLIC NOTICE

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

**93-7682**  
JOHN CADY  
32264 S SENKLER RD  
WORLEY, ID 83876-6715  
Point of Diversion NWNE  
S34 T47N R05W  
KOOTENAI County  
Source SPRING  
Tributary ROCK CREEK  
Use: STOCKWATER  
01/01 to 12/31  
Total Diversion: 0.03 CFS  
Date Filed: 10-07-2020  
Place Of Use: STOCKWATER  
T47N R05W S34 NWNE

**93-7683**  
JOHN CADY  
32264 S SENKLER RD  
WORLEY, ID 83876-6715  
Point of Diversion NWNE  
S34 T47N R05W  
KOOTENAI County  
Source SPRING  
Tributary ROCK CREEK  
Point of Diversion NWNE  
S34 T47N R05W  
KOOTENAI County  
Source UNNAMED STREAM  
Tributary ROCK CREEK  
Use: WILDLIFE STORAGE  
01/01 to 12/31 0.5 AF  
Use: STOCKWATER  
STORAGE  
01/01 to 12/31 0.1 AF  
Use: DIVERSION TO  
STORAGE  
01/01 to 12/31 0.01 CFS  
Total Diversion: 0.01 CFS,  
0.6 AF  
Date Filed: 10-07-2020  
Place Of Use: DIVERSION TO  
STORAGE, STOCKWATER  
STORAGE, WILDLIFE  
STORAGE  
T47N R05W S34 NWNE

**93-7684**  
JOHN CADY  
32264 S SENKLER RD  
WORLEY, ID 83876-6715  
Point of Diversion NWNE  
S34 T47N R05W  
KOOTENAI County  
Source UNNAMED STREAM  
Tributary ROCK CREEK  
Use: STOCKWATER  
STORAGE