

State of Idaho  
Department of Water Resources  
**Permit to Appropriate Water**  
No. 92-11113

Priority: September 22, 2020

Maximum Diversion Rate: 0.05 CFS

This is to certify that

ROBERT K WOLFF  
PO BOX 241  
FERNWOOD, ID 83830-0241

AND

CINDY L WOLFF  
PO BOX 241  
FERNWOOD, ID 83830-0241

have applied for a permit to appropriate water from:

Source : ST MARIES RIVER

Tributary: ST JOE RIVER

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>
IRRIGATION	04/01 to 10/31	0.03 CFS
STOCKWATER	01/01 to 12/31	0.02 CFS

Location of Point(s) of Diversion

ST MARIES RIVER

NE¼, NE¼, Sec. 26, Twp 44N, Rge 01W, B.M., BENEWAH County

**Place of Use: IRRIGATION**

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
44N	01W	26	1.0																1.0

Right Acre Limit: 1.0

Total Acres: 1.0

**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	
44N	01W	26	X																

**Conditions of Approval:**

1. Proof of application of water to beneficial use shall be submitted on or before **November 01, 2025**.
2. Subject to all prior water rights.
3. This right does not grant any right-of-way or easement across the land of another.
4. A fish screen of 0.25 inch or smaller mesh shall be installed and maintained at the point of diversion.
5. The approach velocity at the point of diversion shall not exceed 0.5 feet per second.
6. This right when combined with all other rights shall provide no more than 0.03 Cubic Feet per Second (CFS) per acre nor more than 3.0 Acre Feet (AF) annually per acre at the field headgate for irrigation of the place of use.
7. Stockwater use is for 50 head Mixed Stock.
8. Water shall not be diverted under this right when flows in the St. Maries River are below minimum flow amounts as defined by Right 92-7200.

State of Idaho  
Department of Water Resources  
**Permit to Appropriate Water**  
No. 92-11113

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

Signed this 6<sup>th</sup> day of November, 2020.



Adam Frederick

ADAM FREDERICK  
Water Rights Supervisor

State of Idaho  
Department of Water Resources






# Attachment to Permit to Appropriate Water

92-11113

This map depicts the IRRIGATION 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.

01W



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

0 0.035 0.07 0.14 Miles



Tax parcel information provided by Benewah County.



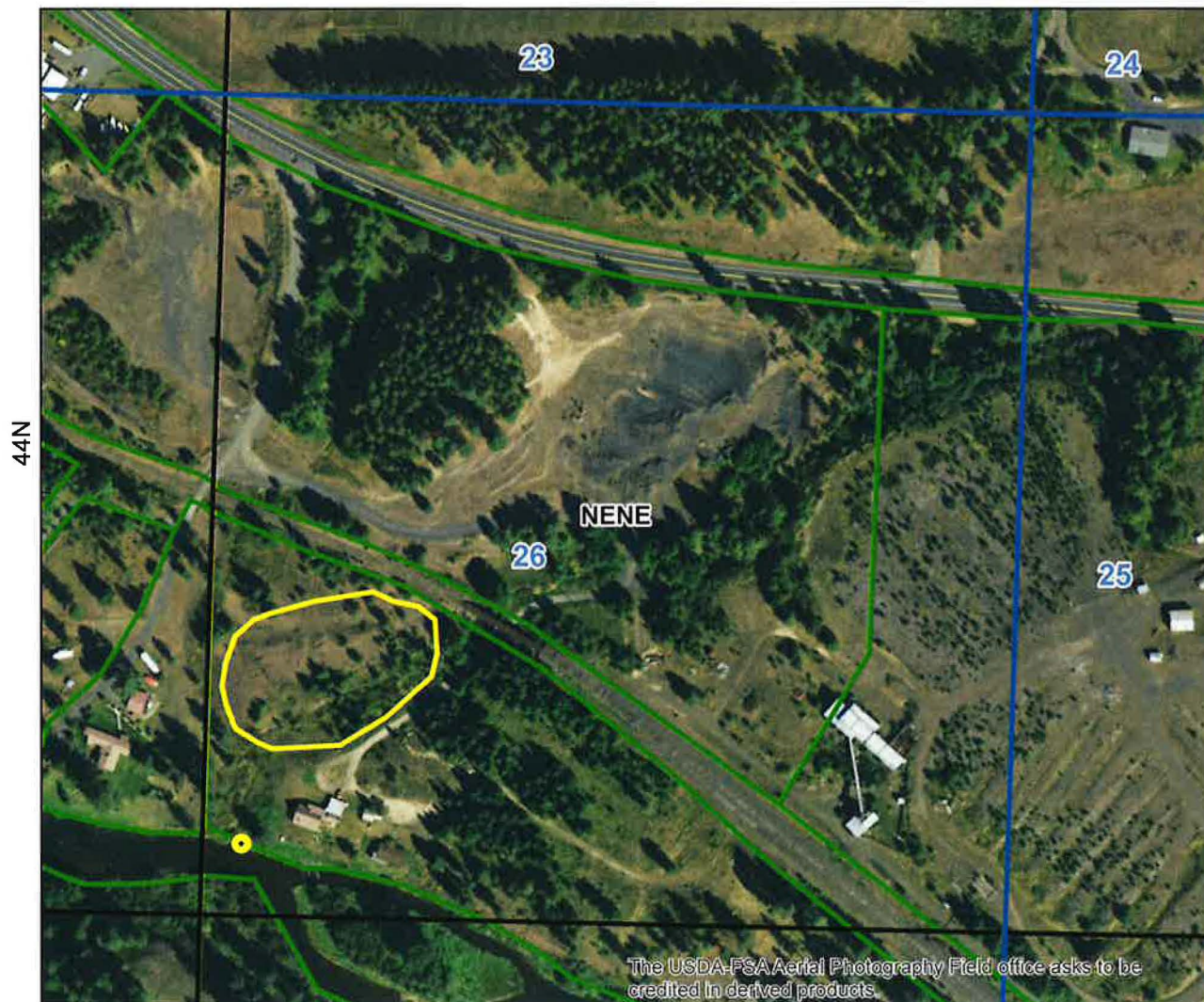
State of Idaho  
Department of Water Resources






# Attachment to Permit to Appropriate Water

92-11113

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.

01W



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

0 0.035 0.07 0.14 Miles



Tax parcel information provided by Benewah County.



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)

Brad Little  
Governor

Gary Spackman  
Director

November 06, 2020

CINDY L WOLFF  
ROBERT K WOLFF  
PO BOX 241  
FERNWOOD ID 83830-0241

RE: Permit No. 92-11113

### 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](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*

Adam Frederick  
Water Rights Supervisor

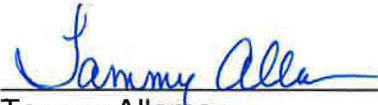
Enclosure(s)

## CERTIFICATE OF SERVICE

I hereby certify that on November 06, 2020, I served a true and correct copy of Permit to Appropriate Water No. 92-11113 by U.S. Mail, postage prepaid, to the following:

CINDY L WOLFF (Current Owner)  
PO BOX 241  
FERNWOOD ID 83830-0241

ROBERT K WOLFF (Current Owner)  
PO BOX 241  
FERNWOOD ID 83830-0241

A handwritten signature in blue ink, appearing to read "Tammy Allen", is written over a horizontal line.

Tammy Allen  
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

OCT 28 2020

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

October 23, 2020

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

REFERENCE: 92-1113 - Wolff

Dear Tammy:

We have reviewed the above-named water right application. The permit request is to pump 0.05 cfs for stock water and irrigation use for 1 acre of land from the St. Maries River 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.

St. Maries River is designated as critical habitat for bull trout by the United States Fish and Wildlife Service. Additionally, Westslope cutthroat trout, a species of concern in Idaho, can be found year round throughout the system. We are concerned that the cumulative loss of water from private diversions may negatively impact habitat availability for these native species.

The application fails to describe screening their proposed pump. According to Idaho Code 36-906, a diversion must be properly screened in order to prevent fish entrainment. We recommend **less than 0.25" mesh screen** and **approach velocity of less than 0.5 feet per second** in order to protect juvenile fish from the proposed pump.

Thank you for the opportunity to comment.

Sincerely,

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 7 day of OCTOBER, 2020 and the last on the 14 day of OCTOBER, 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 14 day of OCTOBER, 2020

*Cynthia Ann Hammes*

STATE OF IDAHO )

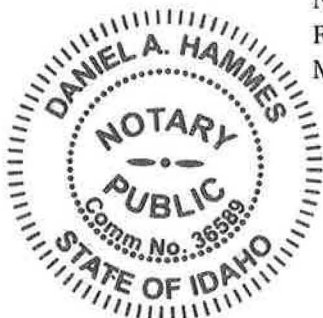
COUNTY OF BENEWAH )

On this 14 day of OCTOBER, 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:

01.23.25



**PUBLIC NOTICE**

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

92-11113  
ROBERT K WOLFF  
CINDY L WOLFF  
PO BOX 241  
FERNWOOD, ID 83830-0241  
Point of Diversion NENE  
S26 T44N R01W  
BENEWAH County  
Source ST MARIES RIVER  
Tributary ST JOE RIVER  
Use: IRRIGATION  
04/01 to 10/31 0.03 CFS  
Use: STOCKWATER  
01/01 to 12/31 0.02 CFS  
Total Diversion: 0.05 CFS  
Date Filed: 09-22-2020  
Place Of Use: IRRIGATION, STOCKWATER  
T44N R01W S26 NENE  
Total Acres: 1

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 10/26/2020. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director  
Published on 10/7/2020 and 10/14/2020  
657 - Oct. 7-14

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OCT 18 2020

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