

State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 95-18002

Priority: September 10, 2020

Maximum Diversion Rate: 0.08 CFS

This is to certify that

JUSTIN L BYBEE
11483 S KATEY CT
SANDY, UT 84092-5467

AND

TRACEY M BYBEE
11483 S KATEY CT
SANDY, UT 84092-5467

have applied for a permit to appropriate water from:

Source : SPIRIT LAKE

Tributary: SPIRIT 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
DOMESTIC	01/01 to 12/31	0.06 CFS

Location of Point(s) of Diversion

SPIRIT LAKE

NW¼, SW¼, Sec. 8, Twp 53N, Rge 04W, B.M., KOOTENAI County

Place of Use: DOMESTIC and STOCKWATER

Twp	Rng	Sec	NE				NW				SW				SE				No QQ	Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
53N	04W	8										X L2								

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. Domestic use is for 2 homes.
5. Stockwater use is for 50 head Mixed Stock.
6. The irrigation occurring under this domestic use shall not exceed 1/2 acre.
7. A fish screen of 0.25 inch or smaller mesh shall be installed and maintained at the point of diversion.
8. The approach velocity at the point of diversion shall not exceed 0.5 feet per second.

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

Signed this 28th day of October, 2020.



ADAM FREDERICK
Water Rights Supervisor






State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

95-18002

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.



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

0 0.0175 0.035 0.07 Miles



Tax parcel information provided by Kootenai County.

State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

95-18002

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.

04W



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

0 0.0175 0.035 0.07 Miles



Tax parcel information provided by Kootenai 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

Brad Little
Governor

Gary Spackman
Director

October 29, 2020

JUSTIN L BYBEE
TRACEY M BYBEE
11483 S KATEY CT
SANDY UT 84092-5467

RE: Permit No. 95-18002

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

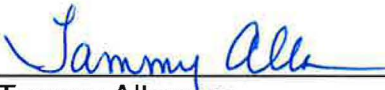
Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on October 29, 2020, I served a true and correct copy of Permit to Appropriate Water No. 95-18002 by U.S. Mail, postage prepaid, to the following:

JUSTIN L BYBEE (Current Owner)
11483 S KATEY CT
SANDY UT 84092-5467

TRACEY M BYBEE (Current Owner)
11483 S KATEY CT
SANDY UT 84092-5467



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

OCT 19 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 14, 2020

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

REFERENCE: 95-18002 - Bybee

Dear Tammy:

We have reviewed the above-named water right application. The permit request is to pump 0.08 cfs for domestic use for two homes, stock water, and irrigation use for 1/2 acre of land from Spirit Lake in Kootenai 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.

The application fails to describe screening the proposed pump in Spirit Lake. 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)
) 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 1 day of October, 2020, and ending on the 8 day of October, 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 8 day of October 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

NOTICE OF PROPOSED CHANGE OF WATER RIGHT TRANSFER NO. 84394

ROSS POINT WATER DISTRICT, PO BOX 70, POST FALLS, ID 83877-0070 has filed Application No. 84394 for changes to the following water rights within KOOTENAI County(s): Right No(s). 95-15533, 95-4088, 95-7258, 95-7698, 95-8477, 95-9009; to see a full description of these rights and the proposed transfer, please see <https://research.idwr.idaho.gov/apps/waterrights/querynewtransfers>. The purpose of the transfer is to change a portion of the above rights as follows:

This transfer proposes to add a well to the Ross Point Water District's existing groundwater rights in the NWSE of Section 30, Twp 51N, Rge 04W.

For additional information concerning the property location, contact Northern Region office at (208)762-2800. Protests may be submitted based on the criteria of Idaho Code Sec. 42-222. Any protest against the proposed change must be filed with the Department 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 10/19/2020. The protestant must also send a copy of the protest to the applicant.
GARY SPACKMAN, Director

The following application has been filed to amend Permit to Appropriate Water:

95-17905
WOODLAND AT FROSTY PINE LLC
3835 BECKON RIDGE RD
COEUR D'ALENE, ID
83814-0092

Point of Diversion SWNW
S17 T50N R03W
KOOTENAI County

Source GROUND WATER

Point of Diversion SENW

S17 T50N R03W

KOOTENAI County

Source GROUND WATER

Point of Diversion NENW

S17 T50N R03W

KOOTENAI County

Source GROUND WATER

Use: DOMESTIC

01/01 to 12/31 0.15 CFS

Total Diversion: 0.15 CFS

Date Filed: 11/13/2019

Place Of Use: DOMESTIC

T50N R03W S17 SENW

This amendment of permit proposes to add a third point of diversion to the applicants existing permit. The permitted diversion rate, nature of use, and place of use will remain the same.

RECEIVED

OCT 16 2020

IDWR / NORTH

The following applications have been filed to appropriate the public waters of the State of Idaho:

95-18002

JUSTIN L BYBEE
TRACEY M BYBEE
11483 S KATEY CT
SANDY, UT 84092-5467
Point of Diversion NWSW
S8 T53N R04W
KOOTENAI County
Source SPIRIT LAKE
Tributary SPIRIT CREEK
Use: DOMESTIC

01/01 to 12/31 0.06 CFS
Use: STOCKWATER
01/01 to 12/31 0.02 CFS
Total Diversion: 0.08 CFS
Date Filed: 09-10-2020
Place Of Use:
DOMESTIC, STOCKWATER
T53N R04W S8
L2(NWSW)

95-18004

WHITNEY TRUST
814 PACIFIC AVE
MANHATTAN BCH, CA
90266-5850
Point of Diversion NESW
S13 T49N R04W
KOOTENAI County
Source COEUR D ALENE LAKE
Tributary SPOKANE RIVER
Use: DOMESTIC
01/01 to 12/31 0.06 CFS
Use: IRRIGATION
03/15 to 11/15 0.03 CFS
Total Diversion: 0.06 CFS
Date Filed: 09-17-2020
Place Of Use: DOMESTIC
T49N R04W S13
NESW, L2(NESW)
Place Of Use: IRRIGATION
T49N R04W S13
L2(NESW), NESW
Total Acres: 1.7

95-18005

PAUL AND SUSAN FINNEY
REVOCABLE INTER VIVOS TRUST
PAUL & SUSAN FINNEY TRUSTEES
7041 S EDDYVILLE RD
HARRISON, ID 83833
Point of Diversion L5(NWSW)
S4 T49N R03W
KOOTENAI County
Source COEUR D ALENE LAKE
Tributary SPOKANE RIVER
Use: IRRIGATION
03/15 to 11/15
Total Diversion: 0.05 CFS
Date Filed: 09-17-2020
Place Of Use: IRRIGATION
T49N R03W S4
L5(NWSW)
Total Acres: 1.5

95-18007

THE SOLOMON FOUNDATION
16965 PINE LN STE 200
PARKER, CO 80134
Point of Diversion L4(ENE)
S36 T51N R05W
KOOTENAI County
Source GROUND WATER
Use: IRRIGATION
03/15 to 11/15
Total Diversion: 0.12 CFS
12 AF
Date Filed: 09-17-2020
Place Of Use: IRRIGATION
T51N R05W S36
L4(ENE)
Total Acres: 4

95-18009

ALFRED SCARTH
SUZAN D SCARTH
302 S MADISON RD
POST FALLS, ID 83854-9458
Point of Diversion L4(NWSW)
S8 T50N R05W
KOOTENAI County
Source GROUND WATER
Use: DOMESTIC
01/01 to 12/31
Total Diversion: 0.06 CFS
Date Filed: 09-24-2020
Place Of Use: DOMESTIC
T50N R05W S8
L4(NWSW), L3(SWNW)

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 10/19/2020. The protestant must also send a copy of the protest to the applicant.
GARY SPACKMAN, Director
CDA LEGAL 4277
AD#409562
OCTOBER 1, 8, 2020