

State of Idaho  
Department of Water Resources  
**Permit to Appropriate Water**  
NO. 95-17993

**Priority:** August 31, 2020

**Maximum Diversion Volume:** 0.8 AF

This is to certify that

STIRLING FAMILY TRUST  
3975 E UPPER HAYDEN LAKE RD  
HAYDEN, ID 83835-7194

has applied for a permit to appropriate water from:

**Source :** UNNAMED STREAM

**Tributary:** HAYDEN LAKE

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

| <u>Beneficial Use</u> | <u>Period of Use</u> | <u>Annual Volume</u> |
|-----------------------|----------------------|----------------------|
| WILDLIFE STORAGE      | 01/01 to 12/31       | 0.8 AF               |
| AESTHETIC STORAGE     | 01/01 to 12/31       | 0.8 AF               |

**Location of Point(s) of Diversion**

UNNAMED STREAM SE¼, SW¼, Sec. 20, Twp 51N, Rge 03W, B.M., KOOTENAI County

**Place of Use:** AESTHETIC STORAGE and WILDLIFE STORAGE

| 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 |       |        |
| 51N | 03W | 20  |    |    |    |    |    |    |    |    |    |    |    | X  |    |    |    |    |       |        |

**Conditions of Approval:**

1. Proof of application of water to beneficial use shall be submitted on or before **October 01, 2021**.
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. The pond established by the storage of water under this right shall not exceed a total capacity of 0.54 Acre Feet (AF) or a total surface area of 0.1 acres.
5. 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.
6. Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 95A.
7. Right 95-17993 authorizes total annual storage volume of 0.8 Acre Feet (AF), 0.54 AF to be used for the initial filling or carryover storage of the pond, and 0.2 AF for the replacement of losses caused by seepage and evaporation.

Signed this 14<sup>th</sup> day of October, 2020.



ADAM FREDERICK  
Water Rights Supervisor

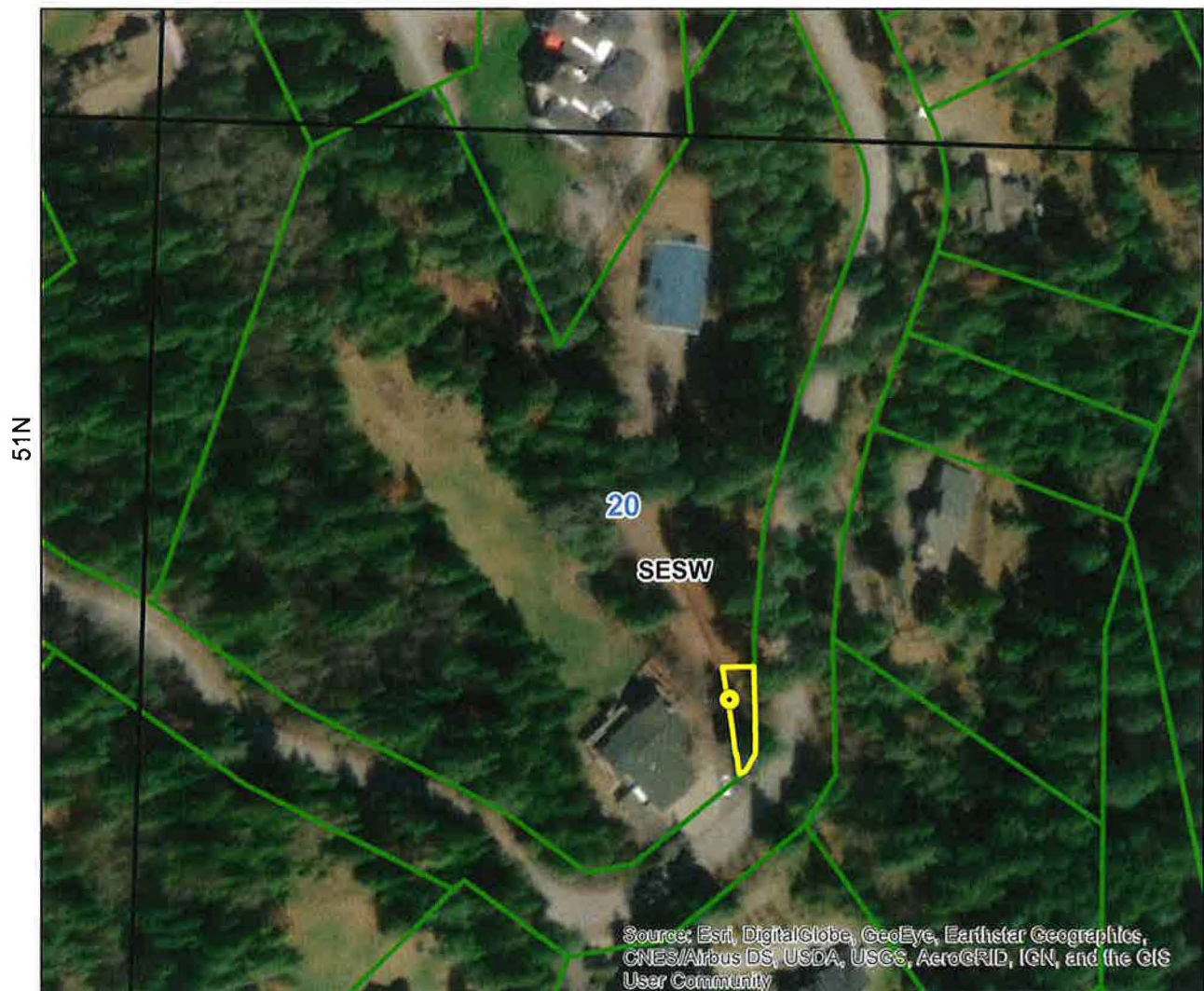
State of Idaho  
Department of Water Resources

# Attachment to Permit to Appropriate Water

95-17993

This map depicts the AESTHETIC 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.

03W



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

0 0.015 0.03 0.06 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](http://www.idwr.idaho.gov)

Brad Little  
Governor

Gary Spackman  
Director

October 15, 2020

STIRLING FAMILY TRUST  
3975 E UPPER HAYDEN LAKE RD  
HAYDEN ID 83835-7194

RE: Permit No. 95-17993

### 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](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)

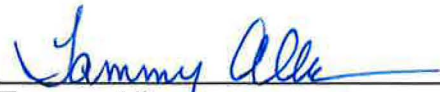
## CERTIFICATE OF SERVICE

I hereby certify that on October 15, 2020, I served a true and correct copy of Permit to Appropriate Water No. 95-17993 by U.S. Mail, postage prepaid, to the following:

STIRLING FAMILY TRUST (Current Owner)  
3975 E UPPER HAYDEN LAKE RD  
HAYDEN ID 83835-7194

BRIAN P STIRLING (Trustee)  
3975 E UPPER HAYDEN LAKE RD  
HAYDEN ID 83835-7194

ANN H STIRLING (Trustee)  
3975 E UPPER HAYDEN LAKE RD  
HAYDEN ID 83835-7194



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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 07 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 2, 2020

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

REFERENCE: 95-17992 – Stirling Family Trust Pond

Dear Tammy:

We have reviewed the above-named water right application for an existing pond totaling 0.8 acre-feet per year for wildlife and aesthetic storage. The source of the water is listed as an unnamed tributary to Hayden Lake. 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.

Upon review, it was not apparent where the pond was actually located. The point of use on the map attached to the application appeared to be a driveway. It is also unclear whether a man-made diversion exists or if the "natural gravitational flow" is a natural in-channel pond. The tributary in question is a very small one with a mean annual flow of >0.2 cfs according to the USGS StreamStats website. Even the smallest diversion may completely dewater the creek below the pond.

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. This particular pond is within close proximity to a natural tributary and Hayden Lake. It is also within a developed rural area where wildlife may be considered nuisances by neighbors. 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  
October 2, 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 dark ink, appearing to read 'Charles E. Corsi', written in a cursive style.

for CEC

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 17 day of September, 2020, and ending on the 24 day of September, 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 24 day of September 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  
OCT 05 2020  
IDWR / NORTH

3130 E CRESTWOOD CT  
COEUR D ALENE, ID  
83815-7071  
Point of Diversion SWSW  
S32 T50N R03W  
KOOTENAI County  
Source COEUR D ALENE  
LAKE

Tributary SPOKANE RIVER  
Use: IRRIGATION  
03/15 to 11/15  
Total Diversion: 0.03 CFS  
Date Filed: 08-28-2020  
Place Of Use: IRRIGATION  
T50N R03W S32 SWSW  
Total Acres: 1

**95-17993**

STIRLING FAMILY TRUST  
3975 E UPPER HAYDEN  
LAKE RD  
HAYDEN, ID 83835-7194  
Point of Diversion SESW  
S20 T51N R03W  
KOOTENAI County  
Source UNNAMED STREAM  
Tributary HAYDEN LAKE  
Use: AESTHETIC STORAGE  
01/01 to 12/31 0.8 AF  
Use: WILDLIFE STORAGE  
01/01 to 12/31 0.8 AF  
Total Diversion: 0.8 AF  
Date Filed: 08-31-2020  
Place Of Use: AESTHETIC  
STORAGE WILDLIFE  
STORAGE  
T51N R03W S20 SESW

**95-17994**

RANCH AT COUGAR CREEK  
LLC  
PO BOX 3029  
HAYDEN, ID 83835-3029  
Point of Diversion SENE  
S19 T50N R04W  
KOOTENAI County  
Source GROUND WATER  
Use: DOMESTIC  
01/01 to 12/31  
Total Diversion: 0.1 CFS  
Date Filed: 09-03-2020  
Place Of Use: DOMESTIC  
T50N R04W S19  
SWNE, SENE

**95-17998**

DONALD E GAGE  
NANCY LEE GAGE  
1266 W HANLEY AVE  
COEUR D ALENE, ID  
83815-8958  
Point of Diversion NWNW  
S35 T52N R04W  
KOOTENAI County  
Source GROUND WATER  
Use: DOMESTIC  
01/01 to 12/31 0.06 CFS  
Use: STOCKWATER  
01/01 to 12/31 0.02 CFS  
Use: IRRIGATION  
03/15 to 11/15 0.2 CFS  
Total Diversion: 0.2 CFS  
Date Filed: 09-09-2020  
Place Of Use:  
DOMESTIC, IRRIGATION, STO  
CKWATER  
T52N R04W S35 NWNW  
Total Acres: 10

**95-17999**

BILLIE JO DAVIS  
GEORGE GAGNON  
3325 BRISTOL AVE  
COEUR D ALENE, ID  
83815-7821  
Point of Diversion L8(SWNW)  
S9 T50N R04W  
KOOTENAI County  
Source SPOKANE RIVER  
Tributary COLUMBIA RIVER  
Use: IRRIGATION

03/15 to 11/15  
Total Diversion: 0.04 CFS  
Date Filed: 09-02-2020  
Place Of Use: IRRIGATION  
T50N R04W S9  
L8(SWNW)  
Total Acres: 1.4

**95-18000**

JULIE MAGUIRE  
31782 N CARAVELLE RD  
ATHOL, ID 83801-8842  
Point of Diversion NWNW  
S7 T53N R02W  
KOOTENAI County  
Source GROUND WATER  
Use: DOMESTIC  
01/01 to 12/31 0.04 CFS  
Use: IRRIGATION  
04/01 to 10/31 0.14 CFS  
Use: STOCKWATER  
01/01 to 12/31 0.02 CFS  
Total Diversion: 0.2 CFS  
Date Filed: 09-08-2020  
Place Of Use:  
DOMESTIC, IRRIGATION, STO  
CKWATER  
T53N R02W S7 NWNW  
Total Acres: 5

**95-18001**

ROBERT K SCOTT  
9030 N HESS ST PMB 443  
HAYDEN, ID 83835-9827  
Point of Diversion L3(NWSW)  
S30 T53N R03W  
KOOTENAI County  
Source GROUND WATER  
Use: DOMESTIC  
01/01 to 12/31  
Total Diversion: 0.04 CFS  
Date Filed: 09-09-2020  
Place Of Use: DOMESTIC  
T53N R03W S30  
L3(NWSW)

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 10/5/2020. The protestant must also send a copy of the protest to the applicant. GARY SPACKMAN, Director CDA LEGAL 4205 AD#407190 SEPTEMBER 17, 24, 2020

**PUBLIC NOTICE**

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

**95-17972**

ANTHONY BREITKREUTZ  
CASSANDRA BREITKREUTZ  
13662 N RAGGED RIDGE RD  
HAUSER, ID 83854-5606  
Point of Diversion  
L2(NENWNE)  
S1 T51N R06W  
KOOTENAI County  
Source SPRING  
Tributary SINKS  
Use: STOCKWATER  
01/01 to 12/31 0.02 CFS  
Use: DOMESTIC  
01/01 to 12/31 0.04 CFS  
Total Diversion: 0.06 CFS  
Date Filed: 07-14-2020  
Place Of Use:  
DOMESTIC, STOCKWATER  
T51N R06W S1 SWNE

**95-17992**

JAMES EISSES  
JUDITH EISSES