

State of Idaho
Department of Water Resources
Permit to Appropriate Water
No. 95-17973

Priority: July 16, 2020

Maximum Diversion Volume: 11.0 AF

This is to certify that

PHILIP L DAMIANO 8850 E FERNAN LAKE RD COEUR D ALENE ID 83814-7782
LESLIE E DAMIANO 8850 E FERNAN LAKE RD COEUR D ALENE ID 83814-7782

has applied for a permit to appropriate water from:

Source : GROUND WATER

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	11.0 AF
WILDLIFE STORAGE	01/01 to 12/31	11.0 AF
RECREATION STORAGE	01/01 to 12/31	11.0 AF
AESTHETIC STORAGE	01/01 to 12/31	11.0 AF

Location of Point(s) of Diversion

GROUND WATER SE¼ SW¼, Sec. 10, Twp 50N, Rge 03W, B.M. KOOTENAI County
GROUND WATER SE¼ SW¼, Sec. 10, Twp 50N, Rge 03W, B.M. KOOTENAI County

Place of Use: STOCKWATER STORAGE, WILDLIFE STORAGE, RECREATION STORAGE, and AESTHETIC 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		
50N	03W	10												X						

Conditions of Approval

1. Proof of application of water to beneficial use shall be submitted on or before **September 01, 2025**.
2. Subject to all prior water rights.
3. Right 95-17973 authorizes a total annual storage volume of 11 acre-feet, 9.4 acre-feet to be used for the initial filling or carryover storage of the two ponds and 1.6 acre-feet for the replacement of losses caused by evaporation.
4. The two ponds established by the storage of water under this right shall not exceed a total capacity of 9.4 acre-feet or a total surface area of 1.3 acres.
5. Water stored under this right is subject to fluctuations of the water table caused by changes in the flow of local streams and by diversions under prior ground water rights. This right does not guarantee the maintenance of any particular ground water level.
6. Stockwater storage use is for 50 head of mixed stock.
7. Pond storage is for aesthetics, wildlife, and recreation use purposes.
8. This right does not grant any right-of-way or easement across the land of another.

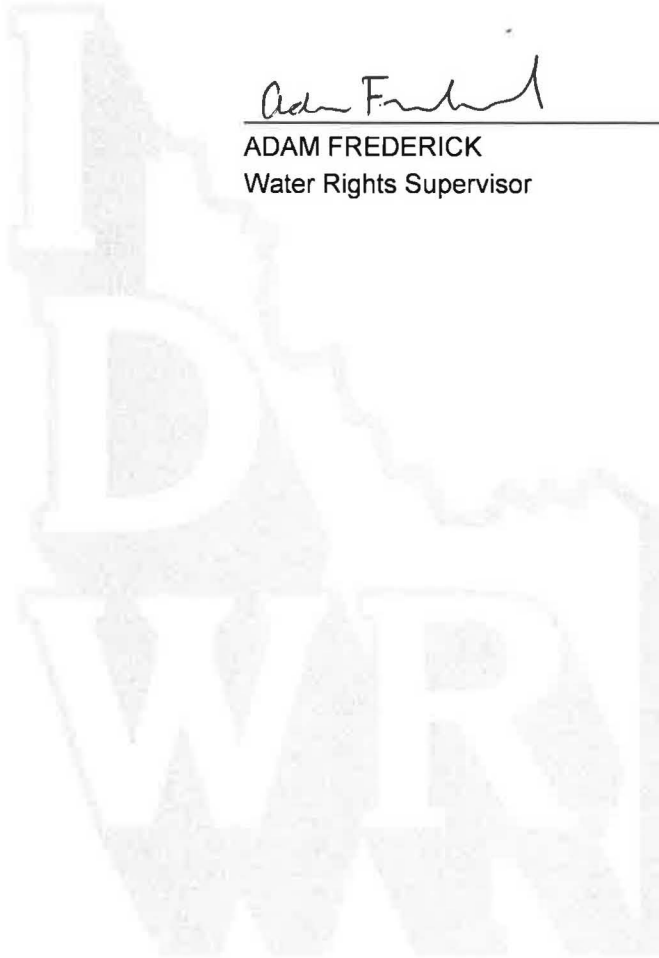
State of Idaho
Department of Water Resources
Permit to Appropriate Water
No. 95-17973

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

Signed this 14th day of September, 2020.



ADAM FREDERICK
Water Rights Supervisor








State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

95-17973

This map depicts the STOCKWATER STORAGE, WILDLIFE STORAGE, RECREATION STORAGE, and AESTHETIC STORAGE places 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





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

September 14, 2020

PHILIP L DAMIANO
LESLIE E DAMIANO
8850 E FERNAN LAKE RD
COEUR D ALENE ID 83814-7782

RE: Permit No. 95-17973

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 first commence the excavation or construction of your diverting works within one year of the date the permit was issued, and you must proceed diligently until the project is complete. In addition, 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.

Also, please note that permit holders are required to report any change of ownership and/or mailing address to the Department within 120 days of the change. Failure to report these changes could result in a \$100 late filing fee. Forms to assign ownership or update your address are available from any office of the Department or on the Department's website.

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 September 14, 2020, I served a true and correct copy of Permit to Appropriate Water No. 95-17973 by U.S. Mail, postage prepaid, to the following:

PHILIP L DAMIANO (Current Owner)
8850 E FERNAN LAKE RD
COEUR D ALENE ID 83814-7782

LESLIE E DAMIANO (Current Owner)
8850 E FERNAN LAKE RD
COEUR D ALENE ID 83814-7782

ROBERT G HAYNES (Representative)
2571 S REYNOLDS RD
COEUR D ALENE ID 83814-7965



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.

Total Storage Calculations

FILE NUMBER	95-17973
REVIEWER	Luke Bates
DATE	9/3/2020

This spreadsheet has been designed by Idaho Department of Water Resources to estimate the total seepage, evaporation and fill capacity required for a pond.

User Input
Calculated value
Formula Explanations

Surface Area (AC.)	1.3	"Surface Area" is automatically carried over from the "Seepage Loss" sheet.
Average Pond Depth (FT.)	7.2	"Average Pond Depth" depicts the actual depth of the pond either measured or estimated. Note: If you know the maximum depth and not the average depth, the Field Examiner's Handbook suggests multiplying the maximum depth by 0.4 to get the average depth, or you can use any method that seems reasonable to attain average depth.
Pond Capacity (AF)	9.4	Pond Capacity is calculated by multiplying the Pond Surface Area by the Average Pond Depth. If you know the capacity, divide the capacity by surface area and enter the average pond depth in the space above. Note: If pond capacity is determined using a method shown on the "Pond Capacity" sheet, the user may need to modify the value of "Pond Capacity" (cell B9) manually. Note that if the value is modified manually, the formula will be altered for future use.
Multiple Fill Volume Above Initial Fill to Fulfill From Storage Needs- "Multiple Fills" (AF)	0	The "Multiple Fill Volume Above Initial Fill" is the acre-feet of water required to meet a <i>from storage</i> component if the <i>from storage</i> component exceeds a one time fill. This section should not include the amount of water needed to fill the pond initially or the amount of water needed to maintain the pond level due to evaporation or seepage. For example: if a pond has a capacity of 5 acre feet and 2.5 acre feet of seepage and evaporation, but the pond is used for irrigation that requires 10 acre feet of from storage for the irrigation use, then you would insert 5 acre feet into this location (10 acre feet needed - 5 acre feet from the initial fill = 5 acre feet of additional storage needed). Note: You must have a <u>"From Storage"</u> component exceeding the initial fill on the permit to include a volume in this space.
Estimated Seepage Loss (AF)	0.0	The "Estimated Seepage Loss" is automatically carried over from the "Seepage Loss" sheet.
Estimated Evaporation Loss (AF)	1.6	The "Estimated Evaporation Loss" is automatically carried over from the "Evaporation Loss" sheet.
Total Volume Required (AF)	11.0	The "Total Volume Required" is calculated by adding the Pond Capacity, Multiple Fills, Seepage Loss, and Evaporation Loss amounts to determine the total amount of storage required.

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 6 day of August, 2020, and ending on the 13 day of August, 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 13 day of August 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.

PUBLIC NOTICE

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

95-17968

TERRY L PETERSON
6288 E SNOWY LN
ATHOL, ID 83801-8674
Point of Diversion NESW
S14 T53N R03W
KOOTENAI County
Source GROUND WATER
Use: DOMESTIC
01/01 to 12/31
Total Diversion: 0.04 CFS
Date Filed: 07-06-2020
Place Of Use: DOMESTIC
T53N R03W S14 NWSW

95-17972

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

95-17973

PHILIP L DAMIANO
LESLIE E DAMIANO
8850 E FERNAN LAKE RD
COEUR D'ALENE, ID
83814-7782
Point of Diversion SESW
S10 T50N R03W
KOOTENAI County
Source GROUND WATER
Point of Diversion SESW
S10 T50N R03W
KOOTENAI County
Source GROUND WATER
Use: AESTHETIC STORAGE
01/01 to 12/31 11 AF
Use: STOCKWATER STORAGE
01/01 to 12/31 11 AF
Use: WILDLIFE STORAGE
01/01 to 12/31 11 AF
Use: RECREATION STORAGE
01/01 to 12/31 11 AF
Total Diversion: 11 AF
Date Filed: 07-16-2020
Place Of Use: AESTHETIC STORAGE, RECREATION STORAGE, STOCKWATER STORAGE, WILDLIFE STORAGE
T50N R03W S10 SESW



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

My Commission Expires 8/29/23

RECEIVED
AUG 31 2020
IDWR / NORTH

95-17974

BDH PROPERTIES LLLP

PO BOX 6200
COEUR D ALENE, ID
83816-1937
Point of Diversion NESE
S20 T48N R04W
KOOTENAI County
Source COEUR D ALENE
LAKE
Tributary SPOKANE RIVER
Use: DOMESTIC
01/01 to 12/31 0.04 CFS
Use: IRRIGATION
03/15 to 11/15 0.1 CFS
Use: AESTHETIC
01/01 to 12/31 0.1 CFS
Total Diversion: 0.1 CFS
Date Filed: 07-15-2020
Place Of Use: AESTHETIC
T48N R04W S20
NESE, L5(NESE)
Place Of Use:
DOMESTIC, IRRIGATION
T48N R04W S20 NESE
Place Of Use: IRRIGATION
T48N R04W S20
L5(NESE)
Total Acres: 0.6

95-17975

PHILIP L DAMIANO
LESLIE E DAMIANO
8850 E FERNAN LAKE RD
COEUR D ALENE, ID
83814-7782
Point of Diversion SESWSW
S10 T50N R03W
KOOTENAI County
Source SPRING
Tributary FERNAN CREEK
Use: IRRIGATION
04/01 to 10/31 0.85 CFS
Total Diversion: 0.85 CFS
Date Filed: 07-16-2020
Place Of Use: IRRIGATION
T50N R03W S10
NESW, NWSE, SWSW, SWSE,
SESW
Total Acres: 42.8

95-17976

PHILIP L DAMIANO
LESLIE E DAMIANO
8850 E FERNAN LAKE RD
COEUR D ALENE, ID
83814-7782
Point of Diversion SESW
S10 T50N R03W
KOOTENAI County
Source GROUND WATER
Use: IRRIGATION
04/01 to 10/31 0.11 CFS
Total Diversion: 0.11 CFS
Date Filed: 07-16-2020
Place Of Use: IRRIGATION
T50N R03W S10
NESW, NWSE, SWSE, SESW
Total Acres: 3.7

95-17977

RANDY UCHYTIL
8072 S UPPER TWIN LAKE
SHR
RATHDRUM, ID 83858-3200
Point of Diversion L4(SWSW)
S31 T53N R04W
KOOTENAI County
Source TWIN LAKES
Tributary RATHDRUM CREEK
Use: DOMESTIC
01/01 to 12/31
Total Diversion: 0.4 CFS
Date Filed: 07-17-2020
Place Of Use: DOMESTIC
T52N R04W S6
L3(NWNW)
Place Of Use: DOMESTIC
T52N R05W S1
L1(NENE)
Place Of Use: DOMESTIC
T53N R04W S31
L4(SWSW)
Place Of Use: DOMESTIC
T53N R05W S36
L1(SESE)

95-17978

STEVE PETERS

PO BOX 762
SPIRIT LAKE, ID 83869-0762
Point of Diversion NENW
S13 T53N R05W
KOOTENAI County
Source SPIRIT LAKE
Tributary SPIRIT CREEK
Use: DOMESTIC
01/01 to 12/31
Total Diversion: 0.04 CFS
Date Filed: 07-17-2020
Place Of Use: DOMESTIC
T53N R05W S13
L3(NENW)

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 8/24/2020. The protestant must also send a copy of the protest to the applicant.
GARY SPACKMAN, Director
CDA LEGAL 3933
AD#399308
AUGUST 6, 13, 2020