

State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 85-15814

Priority: August 07, 2020

Maximum Diversion Volume: 3.8 AF

This is to certify that

JOAN WITTMAN
6045 CACTUS LN
LEWISTON, ID 83501-5197

AND / OR

MARK WITTMAN
6045 CACTUS LN
LEWISTON, ID 83501-5197

have applied for a permit to appropriate water from:

Source : TAMMANY CREEK

Tributary: SNAKE RIVER

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

<u>Beneficial Use</u>	<u>Period of Use</u>	<u>Annual Volume</u>
FIRE PROTECTION STORAGE	01/01 to 12/31	3.8 AF
AESTHETIC STORAGE	01/01 to 12/31	3.8 AF

Location of Point(s) of Diversion

TAMMANY CREEK SE¼, SE¼, Sec. 23, Twp 35N, Rge 06W, B.M., NEZ PERCE County

Place of Use: FIRE PROTECTION 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		
35N	06W	23																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. This right does not grant any right-of-way or easement across the land of another.
4. 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.
5. Right 85-15814 authorizes total annual storage volume of 3.8 Acre Feet (AF). 3.8 AF to be used for the initial filling or carryover storage of the pond.
6. The pond established by the storage of water under this right shall not exceed a total capacity of 3.8 AF or a total surface area of 0.5 acres.
7. Water shall not be diverted from fire protection storage except to fight or repel an existing fire.

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

85-15814

This map depicts the AESTHETIC STORAGE and FIRE PROTECTION 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.

06W



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

0 0.0325 0.065 0.13 Miles



Tax parcel information provided by Nez Perce 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

September 14, 2020

MARK WITTMAN
JOAN WITTMAN
6045 CACTUS LN
LEWISTON ID 83501-5197

RE: Permit No. 85-15814

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 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. 85-15814 by U.S. Mail, postage prepaid, to the following:

MARK WITTMAN (Current Owner)
6045 CACTUS LN
LEWISTON ID 83501-5197

JOAN WITTMAN (Current Owner)
6045 CACTUS LN
LEWISTON ID 83501-5197



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.

TRIBUNE PUBLISHING COMPANY, INC

The Lewiston Tribune
505 C St., P.O.Box 957
Lewiston, Idaho 83501
(208) 743-9411

Date:	<u>08/27/2020</u>	INVOICE NO.	<u>159416</u>
Account No.	<u>964750</u>		
Description	<u>159416 The foll</u>		
Times	<u>2</u>	Lines	<u>57</u>
		Tab. lines	
		\$	<u>81.22</u>

**LEGAL ADVERTISING
INVOICE**

Sold To: ID DEPT. OF WATER RESOURCES
7600 MINERAL DR #100
COEUR D ALENE ID 83814

PO# Alleman, Tammy

NOTICE: This is a invoice of Purchase made by you. Statement will be rendered the first of the month
Please Retain This Invoice as Your Statement Will Refer to Invoice by No. Only.

AFFIDAVIT OF PUBLICATION

159416
The following application(s)
have been filed to appropri-
ate the public waters of the
State of Idaho:
85-15814
MARK WITTMAN
JOAN WITTMAN
6045 CACTUS LN
LEWISTON, ID 83501-5197
Point of Diversion SESE
S23 T35N R06W
NEZ PERCE County
Source TAMMANY CREEK
Tributary SNAKE RIVER
Use: AESTHETIC STOR-
AGE
01/01 to 12/31 3.8 AF
Use: FIRE PROTECTION
STORAGE
01/01 to 12/31 3.8 AF
Total Diversion: 3.8 AF
Date Filed: 08-07-2020
Place Of Use: AESTHETIC
STORAGE, FIRE PROTEC-
TION STORAGE
T35N R06W S23 SESE

Permits will be subject to all
prior water rights. For addi-
tional information concern-
ing 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/WRAp-
plicationResults/](https://idwr.idaho.gov/apps/ExtSearch/WRAp-
plicationResults/). 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 Direc-
tor, Dept. of Water Resourc-
es, Northern Region, 7600
N MINERAL DR STE 100,
COEUR D ALENE ID 83815-
7763 together with a protest
fee of \$25.00 for each appli-
cation on or before 9/8/2020.
The protestant must also
send a copy of the protest to
the applicant.

GARY SPACKMAN,
Director
Published on 8/20/2020
and 8/27/2020

Hollie K Posey, being duly sworn, deposes and
says, I am the Legal Clerk of the Tribune
Publishing Company, a corporation organized and existing
under and by virtue of the laws of the State of Idaho
and under and by virtue of the laws of the State of Washington,
publishers of the Lewiston Tribune, a news-
paper of general circulation published at Lewiston, Nez Perce
County, Idaho; That the said Lewiston Tribune is
an established newspaper and has been published regularly
and issued regularly at least once a day for more than 105
consecutive years next immediately preceding the first
publication of this notice, and has been so published
uninterrupted for said period; that the 159416 The foll
attached hereto and which is made a part of this affidavit
was published in the said Lewiston Tribune,
2 time(s). Publication being on
08/20, or once a WEEK
for 2 consecutive WEEK,
the first publication thereof being on the 08/20/2020,
and the last publication thereof being on the 08/27/2020,
and said 159416 The foll was so published in the
regular and entire issue of said newspaper and was not in a
supplement thereof and was so published in every issue and
number of the said paper, during the period and times of
publication as set forth above.

Hollie K Posey

State of Idaho

S.S.

County of Nez Perce

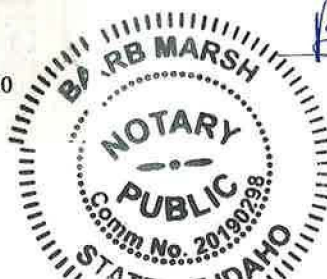
On this 31st day of August in the year
of 2020, before me, a Notary Public, personally
appeared Hollie K Posey, known or identified
to me to be the person whose name subscribed to the
within instrument, and being by me first duly sworn,
declared that the statements therein are true, and
acknowledged to me that he executed the same.

Bark Marsh

Notary Public in and for the State of Idaho,
residing at Lewiston, therein
Commission Expires 2-14-25

RECEIVED

SEP 02 2020





STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY

1118 F Street • Lewiston, Idaho 83501 • (208) 799-4370
www.deq.idaho.gov

Brad Little, Governor
John H. Tippetts, Director

August 13, 2020

Idaho Department of Water Resources
7600 North Mineral Drive, Suite 100
Coeur d'Alene, Idaho 83815

Subject: Water Appropriation, Permit # 85-15814

DEQ received a request for comment on an application to appropriate 3.8 acre feet of water from Tammany Creek for fire protection and aesthetic storage from January 1 to December 31. Assuming all federal, state and local permits have been obtained, regulations met, and reviews completed, we offer the following comments.

Tammany Creek is in assessment unit ID17060103SL014_03, and has designated beneficial uses of cold water aquatic life and secondary contact recreation. This assessment unit is listed in Idaho's 2016 Integrated Report as not supporting the cold water aquatic life or secondary contact recreation uses due to nutrients, sediment, and bacteria impairments. Overall, reducing sedimentation in the stream would likely be a net benefit however; at no time should the stream be allowed to go dry as a result of legally appropriated and allowable water withdrawals.

Thank you for the opportunity to comment on your application. If you have any questions regarding the Idaho Water Quality Standards, please call us at (208) 799-4370.

Sincerely,

A handwritten signature in cursive script that reads "Sujata Connell".

Sujata Connell
Surface Water Quality Manager

c: Joan & Mark Wittman, Lewiston, ID
EDMS