

State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO.86-12090

Priority: July 13, 2020

Maximum Diversion Volume: 6.0 AF

This is to certify that

MICHAEL T BARROWS
1035 DEER RD
DEARY, ID 83823-8612

AND / OR

SANDI J BARROWS
1035 DEER RD
DEARY, ID 83823-8612

have applied for a permit to appropriate water from:

Source : SPRING

Tributary: SINKS

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>	<u>Annual Volume</u>
WILDLIFE STORAGE	01/01 to 12/31		6.0 AF
FIRE PROTECTION STORAGE	01/01 to 12/31		6.0 AF

Location of Point(s) of Diversion

SPRING NW¼, NE¼, NE¼, Sec. 7, Twp 40N, Rge 02W, B.M., LATAH County

Place of Use: WILDLIFE STORAGE and FIRE PROTECTION 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		
40N	02W	7	X																	

Conditions of Approval

1. Proof of application of water to beneficial use shall be submitted on or before **September 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 4.2 Acre Feet (AF) or a total surface area of 0.7 acres.
5. Right 86-12090 authorizes total annual storage volume of 6.0 Acre Feet (AF), 4.2 AF to be used for the initial filling or carryover storage of the pond, and 1.8 AF for the replacement of losses caused by seepage and evaporation.
6. 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

86-12090


This map depicts the FIRE PROTECTION 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.

02W



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

0 0.05 0.1 0.2 Miles



Tax parcel information provided by Latah County.



Brad Little
Governor

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

Gary Spackman
Director

September 14, 2020

MICHAEL T BARROWS
SANDI J BARROWS
1035 DEER RD
DEARY ID 83823-8612

RE: Permit No. 86-12090

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* ("Proof") 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. If you have already diverted and used water to the full extent intended, you may complete and submit the enclosed Proof form immediately.

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

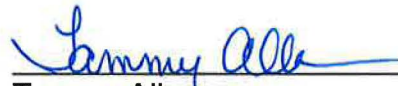
Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on September 14, 2020, I served a true and correct copy of Permit to Appropriate Water No. 86-12090 by U.S. Mail, postage prepaid, to the following:

MICHAEL T BARROWS (Current Owner)
1035 DEER RD
DEARY ID 83823-8612

SANDI J BARROWS (Current Owner)
1035 DEER RD
DEARY ID 83823-8612



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.

MEMORANDUM

September 11, 2020

Water Permit: 86-12090

Author: Shaun Maxey, IDWR Northern Region

Subject: IDWR Regional Analysis Sensitive Basin Memo & Recommendation in Accordance with Water Appropriation Rules (IDAPA 37.03.08.040.05)

Water Supply Information: The Application proposes storage of 6.0 Acre Feet (AF) in a one time fill of an existing excavated pond that sinks into the ground. The record does not contain information that indicates an inadequate water supply is available for the proposed uses of Wildlife Storage and Fire Protection Storage.

Good Faith, Delay, or Speculative Information: Latah County property tax records indicate that that Applicants; Michael T. Barrows and Sandi J. Barrows, own the Point of Diversion (POD) and Place of Use (POU) tax parcel. IDWR has no information that suggests the Application is not being made in good faith, is intended to delay, or that it is speculative.

Financial Resources Information: The scope of the project and one year development period for an existing pond, appears to be feasible. IDWR has no information that indicates the Applicants are financially incapable of completing the project.

Local Public Interest: Idaho Department of Environmental Quality (IDEQ) and Idaho Department of Fish and Game (IDFG) were contacted for comment on recreation, fish, and wildlife resources. The Application file indicates that IDFG did not submit comments. A letter from IDEQ indicates that the pond should not be allowed to affect other water uses but identifies no other uses that may suffer an adverse impact.

Injury to Other Users – Other Water Rights: No other water rights have been identified that are expected to be adversely affected by storage uses in the proposed pond.

Recommendation. Northern Region recommends that IDWR proceed to issuing a Permit for this Water Right Application (86-12090).

NEWS REVIEW PUBLISHING COMPANY

The Moscow-Pullman Daily News

P.O.Box 957

Lewiston, Idaho 83501

(208) 743-9411

Date:

08/13/2020

INVOICE NO.

159184

Account No.

964750

Description

159184 The foll

Times

2

Lines

72

Tab. lines

\$ 102.60

**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.

159184
The following application(s)
have been filed to appropri-
ate the public waters of the
State of Idaho:
86-12089
MICHAEL T BARROWS
SANDI J BARROWS
1035 DEER RD
DEARY, ID 83823-8612
Point of Diversion NENE
S7 T40N R02W
LATAH County
Source GROUND WATER
Use: DOMESTIC
01/01 to 12/31
Total Diversion: 0.04 CFS
Date Filed: 07-13-2020
Place Of Use: DOMESTIC
T40N R02W S7 NENE

86-12090
MICHAEL T BARROWS
SANDI J BARROWS
1035 DEER RD
DEARY, ID 83823-8612
Point of Diversion NWNENE
S7 T40N R02W
LATAH County
Source SPRING
Tributary SINKS
Use: WILDLIFE STORAGE
01/01 to 12/31 6 AF
Use: FIRE PROTECTION
STORAGE
01/01 to 12/31 6 AF
Total Diversion: 6 AF
Date Filed: 07-13-2020
Place Of Use: FIRE PROTEC-
TION STORAGE, WILDLIFE
STORAGE
T40N R02W S7 NENE

AFFIDAVIT OF PUBLICATION

Hollie K Posey, Legal Clerk
being first duly sworn, on oath deposes
and says: I am the printer of
Moscow-Pullman Daily News, a newspaper
of general circulation, published daily
except Sunday at Moscow, Latah County,
Idaho, in compliance with Sections 60-106,
60-107, and 60-108 of the Idaho Code and the
amendments thereto; and an official newspaper
for Whitman County, Washington as required
by R.C.W. 36.72.071 and other provisions of
the Revised Code of Washington and the
amendments thereto: that the notice of which the
annexed is a full, true and correct printed
copy was published in the regular and entire
issues of said newspaper and not in a
supplement thereto, upon the following dates:

Aug. 6, 13, 2020

the same being the date designated for
the publication of said notice.

Hollie K Posey

On this 13th 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.

Barb Marsh

Notary Public for Idaho,
Residing at Lewiston, Idaho
My Commission Expires

2.14.25



RECEIVED

AUG 21 2020

IDWR / NOTU

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
Published on 8/6/2020
and 8/13/2020



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

July 31, 2020

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

Subject: Water Appropriation Application #'s 86-12089 & 86-12090

DEQ received a request for comment along with a copy of two applications to appropriate 0.04 cubic feet per second of water from a well and 6 acre feet of water from a spring located on private property in Latah County. The applicant will utilize the well water for domestic and irrigation uses and will utilize the pond for water storage for fire protection and water and habitat for wildlife.

The withdrawal sites are located in Township 40N, Range 02W, and Section 7. The appropriated water will be used for domestic, irrigation, wildlife, and fire protection purposes from 01/01 to 12/31. Assuming all federal, state and local permits have been obtained, regulations met, and reviews completed, we offer the following comments.

Because we assume any water of the State which occurs beneath the surface of the earth in a saturated geological formation of rock or soil to be ground water (Idaho Code 58.01.02.010.45), we assume there to be hydrologic gradient connectivity to surface waters of the State. It is the policy of the State of Idaho Ground Water Management Plan that existing and projected beneficial uses of ground water and interconnected surface water be maintained and protected and degradation that would impair beneficial uses of ground water and interconnected surface water not be allowed.

Thank you for the opportunity to comment on your application. If you have any questions regarding the Idaho Water Quality Standards, please contact us at (208-799-4370, or by email at Sujata.Connell@deq.idaho.gov

Sincerely,

A handwritten signature in black ink that reads "Sujata Connell".

Sujata Connell
Surface Water Quality Manager

c: Michael and Sandi Barrows, Deary, ID
EDMS

MEMORANDUM

Date: July 16, 2020
To: Water Right File 86-12090
From: smaxey
Re: Spring Point Of Diversion (POD) legal description

<u>DOCUMENT</u>	<u>PRIORITY DATE</u>	<u>ISSUE</u>
APPLICATION ACCEPTABLE FOR FILING	7/13/2020	APPLICATION RECEIVED AT NORTHERN REGION. APPLICATION ACCEPTABLE FOR FILING BUT HAS DISCREPANCY BETWEEN MAP AND LINE 4 OF APPLICATION FOR SPRING LEGAL DESCRIPTION. MAP SHOWS POD IN '...NW, NE, NE...' & LINE 4 HAS POD IN '...NE, NE, NE...'
CORRECTED INFORMATION RECVD	7/13/2020	IDWR NORTH RECEIVED 7/15/220 APPLICANT E-MAIL AGREEING TO CORRECTION OF LEGAL DESCRIPTION ON LINE 4 OF APPLICATION TO MATCH LEGAL DESCRIPTION SHOWN ON MAP. ('...NE, NE, NE...'). CORRECT LEGAL DESCRIPTION DATA ENTERED IN ACCORDANCE WITH APPLICATION PROCESSING MEMO. # 9.