

State of Idaho
Department of Water Resources
Permit to Appropriate Water
No. 98-8011

Priority: November 27, 2019

Maximum Diversion Rate: 0.20 CFS

This is to certify that

DEBORAH A DAVIS 8619 OLD HIGHWAY TWO LOOP MOYIE SPRINGS ID 83845-5080

has applied for a permit to appropriate water from:

Source : GROUND WATER

Source : UNNAMED STREAM

Tributary: HERMAN LAKE

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>
IRRIGATION STORAGE	01/01 to 12/31		3.0 AF
IRRIGATION FROM STORAGE	04/01 to 10/31		3.0 AF
WILDLIFE	01/01 to 12/31	0.20 CFS	
WILDLIFE STORAGE	01/01 to 12/31		15.1 AF
DIVERSION TO STORAGE	01/01 to 12/31	0.20 CFS	

Location of Point(s) of Diversion

GROUND WATER NW¼ NW¼, Sec. 27, Twp 62N, Rge 03E, B.M. BOUNDARY County
UNNAMED STREAM NW¼ NW¼, Sec. 27, Twp 62N, Rge 03E, B.M. BOUNDARY County

Place of Use: IRRIGATION STORAGE, WILDLIFE STORAGE, AND WILDLIFE

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		
62N	03E	27						X	X											

Place of Use: IRRIGATION FROM 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		
62N	03E	27						1.0												1.0

Total Acres: 1.0

Conditions of Approval

1. Proof of application of water to beneficial use shall be submitted on or before **March 01, 2025**.
2. Subject to all prior water rights.
3. 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.
4. This right when combined with all other rights shall provide no more than 3.0 afa per acre at the field headgate for irrigation of the place of use.

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5. Right 98-8011 authorizes the storage of an annual total of 18.1 acre-feet, comprised of 12.0 acre-feet to be used for the initial filling of the pond, 3.1 acre-feet for the replacement of losses due to evaporation, and up to 3.0 acre-feet for additional refills for irrigation from storage use.
6. The pond established by the storage of water under this right shall not exceed a total capacity of 12.0 acre-feet or a total surface area of 3.0 acres.
7. This right does not grant any right-of-way or easement across the land of another.

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

Signed this 12th day of March, 2020.



ADAM FREDERICK
Water Rights Supervisor

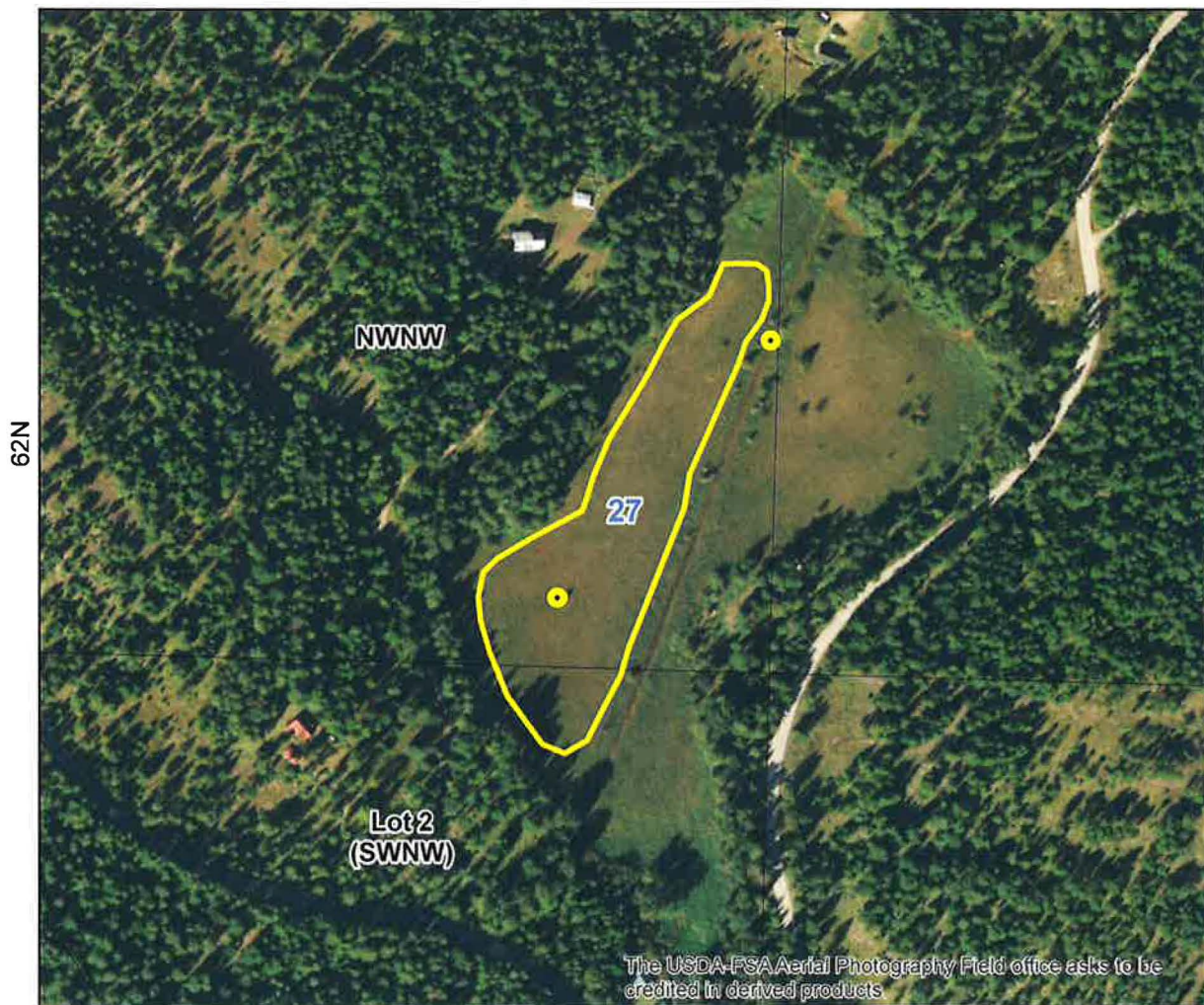
State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

98-8011

This map depicts the IRRIGATION 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.

03E



● 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






Attachment to Permit to Appropriate Water

98-8011

This map depicts the IRRIGATION FROM 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.

03E



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

0 0.035 0.07 0.14 Miles





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

March 12, 2020

DEBORAH A DAVIS
8619 OLD HIGHWAY TWO LOOP
MOYIE SPRINGS ID 83845-5080

RE: Permit No. 98-8011

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

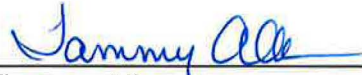
Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on March 12, 2020, I served a true and correct copy of Permit to Appropriate Water No. 98-8011 by U.S. Mail, postage prepaid, to the following:

DEBORAH A DAVIS (Current Owner)
8619 OLD HIGHWAY TWO LOOP
MOYIE SPRINGS ID 83845-5080

NORTHWEST LOGGING (Representative)
774 GROUSE HILL RD
BONNERS FERRY ID 83805-5850



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

MAR 02 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

February 27, 2020

Ms. Tammy Alleman
Idaho Department of Water Resources
7600 N. Mineral Dr, Ste. 100
Coeur d'Alene, ID 83815

REFERENCE: 98-8011 – Davis Pond

Dear Tammy:

We have reviewed the above-named water right application consisting of a diversion of 0.4 cfs and a storage pond totaling 18.1 acre-feet per year for wildlife storage and irrigation. The source of the water for the pond is listed as ground water and a diversion from an unnamed stream. 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 determined through aerial maps and the USGS Stream Stat website that the unnamed stream the applicant intends to divert is actually an irrigation or drainage ditch. It is unknown if diverting this water will have any effects on nearby water users.

Wildlife storage is listed as a beneficial use for these private water storage developments. It would be helpful if the applicants could define specifically what wildlife they are looking to benefit and identify how surface water developments will provide resources to wildlife. In much of the Idaho Panhandle, water sources for wildlife are not limiting to populations. In this case Herman Lake is a mere 0.2 miles away. Beneficial wildlife storage projects should mimic natural seasonal wetlands, with average depths of 3' or less, have seasonal drawdowns, and provides ample herbaceous aquatic and shoreline vegetation. Characteristics such as these can help differentiate between water appropriated for wildlife versus incidental wildlife use of a water storage development for other purposes. It is likely that if this pond fills from runoff in the spring and is used for irrigation during the summer months in may closely mimic natural seasonal wetlands.

Ms. Tammy Alleman – Page 2
February 27, 2020

If the applicants intend to include fishing as one of the recreational uses of the pond, a private pond permit must be obtained prior to stocking. Private fish ponds have the potential to seriously harm aquatic wildlife populations through the introduction of disease and invasive species. The application is available on our website (fishandgame.idaho.gov under Fishing → Private Ponds). The applicant may contact our Regional Fisheries Manager, Andy Dux with questions or to review their application: 208-769-1414.

Thank you for the opportunity to comment.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Charles E Corsi', with a stylized flourish at the end.

Charles E Corsi
Panhandle Regional Supervisor

CEC:MH:lat

C: Paul Kline, IDFG Director's Office

AFFIDAVIT OF PUBLICATION

State of Idaho

ss

County of Boundary, Sinda Johnson
being first duly sworn on oath deposes and says that
he/she is book keeper of the
Bonners Ferry Herald, a newspaper printed and
published at Bonners Ferry, Boundary County, Idaho;
that the said newspaper has been continuously and
uninterruptedly published in said Boundary County during
a period of 12 months prior to the first publication of the
hereto attached notice of publication in the case of:

WR # 98-8011- Davis
_____ as it

was published in the regular and entire issue of the said
paper for a period of 2 consecutive weeks,
commencing on 20th day of Feb, 2020 and
ending on the 27th day of Feb, 2020 and
that said notice was published in said newspaper.

Sinda Johnson

SUBSCRIBED AND SWORN TO before me, this

27th day of Feb, 2020.

Katrina George

Notary Public-State of Idaho

Residing at: Kootenai County

My Commission Expires 8/29/23



PUBLIC NOTICE

The following application(s)
have been filed to appropriate
the public waters of the State
of Idaho:
98-8011
DEBORAH A DAVIS
8619 OLD HIGHWAY

TWO LOOP
MOYIE SPRINGS, ID
83845-5080
Point of Diversion NWNW
S27 T62N R03E
BOUNDARY County
Source GROUND WATER
Point of Diversion NWNW
S27 T62N R03E
BOUNDARY County
Source UNNAMED STREAM
Tributary HERMAN LAKE
Use: DIVERSION TO
STORAGE
01/01 to 12/31 0.2 CFS
Use: IRRIGATION FROM
STORAGE
04/01 to 10/31 3 AF
Use: IRRIGATION STORAGE
01/01 to 12/31 3 AF
Use: WILDLIFE
01/01 to 12/31 0.2 CFS
Use: WILDLIFE STORAGE
01/01 to 12/31 15.1 AF
Total Diversion: 0.2 CFS
Date Filed: 11/27/2019
Place Of Use: WILDLIFE
T62N R03E S27
NWNW L2(SWNW)
Place Of Use: WILDLIFE
STORAGE
T62N R03E S27
NWNW L2(SWNW)
Place Of Use: IRRIGATION
STORAGE
T62N R03E S27
NWNW L2(SWNW)
Place Of Use: IRRIGATION
FROM STORAGE
T62N R03E S27 NWNW
Total Acres: 1
Permits will be subject to all
prior water rights. 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 § 42-203A. Any
protest against the approval of
this application must be filed
with the Director, Dept. of Wa-
ter Resources, Northern Re-
gion, 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
3/9/2020. The protestant must
also send a copy of the protest
to the applicant.
GARY SPACKMAN, Director
BFH#10344
FEBRUARY 20, 27, 2020

RECEIVED

MAR 04 2020

IDWR / NORTH