

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 95-17846

Priority: July 11, 2019

Maximum Diversion Rate: 0.06 CFS

This is to certify that

WILLIAM M CUSHMAN
1391 WADDELL RD
ST MARIES, ID 83861

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>Rate of Diversion</u>
STOCKWATER	01/01 to 12/31	0.02 CFS
DOMESTIC	01/01 to 12/31	0.04 CFS

Location of Point(s) of Diversion

GROUND WATER SE¼, SW¼, Sec. 3, Twp 45N, Rge 03W, B.M., BENEWAH County

Place of Use: DOMESTIC and STOCKWATER

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		
45N	03W	3												X						

Conditions of Approval

1. Proof of application of water to beneficial use shall be submitted on or before **February 01, 2022**.
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. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which the permit holder had no control.
5. Right holder shall comply with the drilling permit requirements of Idaho Code § 42-235 and applicable Well Construction Rules of the Department.
6. Domestic use is for 1 home.
7. The irrigation occurring under this domestic use shall not exceed 1/2 acre.
8. Stockwater use is for two goats and 12 chickens.

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

Signed this 28th day of January, 2020.



ADAM FREDERICK
Water Rights Supervisor

State of Idaho
Department of Water Resources






Attachment to Permit to Appropriate Water

95-17846

This map depicts the DOMESTIC 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 0.025 0.05 0.1 Miles



Tax parcel information provided by Benewah County.

State of Idaho
Department of Water Resources






Attachment to Permit to Appropriate Water

95-17846

This map depicts the STOCKWATER 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 0.02 0.04 0.08 Miles



Tax parcel information provided by Benewah 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

January 28, 2020

WILLIAM M CUSHMAN
1391 WADDELL RD
ST MARIES ID 83861

RE: Permit No. 95-17846

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 January 28, 2020, I served a true and correct copy of Permit to Appropriate Water No. 95-17846 by U.S. Mail, postage prepaid, to the following:

WILLIAM M CUSHMAN (Current Owner)
1391 WADDELL RD
ST MARIES ID 83861



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 03 2019

DEPARTMENT OF
WATER RESOURCES

Affidavit of Publication

STATE OF IDAHO

County of Benewah, ss.

Cynthia Ann Hammes, being first duly sworn on oath, deposes and says that she is vice president of The Corporation, owner of the St. Maries Gazette Record, a weekly newspaper printed and published at St. Maries, Benewah County, State of Idaho; the St. Maries Gazette Record is a newspaper having general circulation in Benewah County, State of Idaho, and has been continuously and uninterruptedly published in Benewah County, State of Idaho, during a period of more than seventy-eight consecutive weeks prior to the first publication of notice of advertisement herein.

That the notice, of which the one hereto attached is a true copy, was published in said newspaper for a period of 2 issues, the first publication being on the 18 day of SEPT, 2019 and the last on the 25 day of SEPT, 2019.

That said newspaper was regularly distributed to its subscribers during the time of the same period; that said notice was published in the regular and entire issue of said paper.

Dated this 25 day of SEPTEMBER, 2019.

Cynthia Ann Hammes

STATE OF IDAHO

COUNTY OF BENEWAH

On this 25 day of SEPTEMBER, in the year of 2019 before me, a Notary Public, personally appeared Cynthia Ann Hammes, known or identified to me to be the person whose name subscribed to within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that she executed the same.

Daniel A. Hammes

Notary Public for Idaho
Residing at St. Maries, Idaho
My commission expires:

07.23.25



NOTICE OF APPLICATION

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

92-11096
KENNETH SQUIRES
1216 20TH AVE
CLARKSTON, WA 99403-3120
Point of Diversion NENW
S14 T43N R01W
BENEWAH County
Source LITTLE
CARPENTER CREEK
Tributary CARPENTER CREEK
Use: DOMESTIC
01/01 to 12/31 0.04 CFS
Total Diversion: 0.04 CFS
Date Filed: 8/29/2019
Place Of Use: DOMESTIC
T43N R01W S14 NENW
95-17645
ESSENTIAL OIL
RESEARCH FARM LLC
3125 W EXECUTIVE PKWY
LEHI, UT 84043
4 Points of Diversion
within SWNW
S28 T46N R03W
BENEWAH County
Source UNNAMED
STREAM
Tributary COON CREEK
1 Point of Diversion SENE
S29 T46N R03W
BENEWAH County
Source UNNAMED
STREAM
Tributary COON CREEK
Use: COMMERCIAL
FROM STORAGE
01/01 to 12/31 128 AF
Use: COMMERCIAL
STORAGE
01/01 to 12/31 128 AF
Use: IRRIGATION
04/01 to 10/31 1.02 CFS
Use: IRRIGATION FROM
STORAGE
04/01 to 10/31 88 AF
Use: IRRIGATION
STORAGE
01/01 to 12/31 88 AF
Total Diversion: 1.02 CFS

128 AF
Date Filed: 7/5/2019
Place Of Use: IRRIGATION
FROM STORAGE
T46N R03W S28
SWNW SENW NESW
NWSW
T46N R03W S29
SWNE SENE
Place Of Use:
COMMERCIAL FROM
STORAGE
T46N R03W S28 SWNW
Place Of Use: IRRIGATION
STORAGE
T46N R03W S28 SWNW
T46N R03W S29 SENE
Place Of Use: IRRIGATION
T46N R03W S28
SWNW SENW NESW
NWSW
T46N R03W S29
SWNE SENE
Place Of Use:
COMMERCIAL STORAGE
T46N R03W S28SWNW
T46N R03W S29 SENE
Total Acres: 51 ACRES
WITHIN 195 ACRES
95-17846
WILLIAM M CUSHMAN
1391 WADDELL RD
ST MARIES, ID 83861
Point of Diversion SESW
S3 T45N R03W
BENEWAH County
Source GROUND WATER
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: 7/11/2019
Place Of Use: DOMESTIC
T45N R03W S3 SESW
Place Of Use:
STOCKWATER
T45N R03W S3 SESW
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 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 10/7/2019. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN,
Director
404 - Sept. 18-25