

State of Idaho
Department of Water Resources
Permit to Appropriate Water
No. 98-8001

Priority: June 14, 2019

Maximum Diversion Rate: 0.14 CFS

This is to certify that

SETTIMI HOMESTEAD LLC 639 FALLS DR CLAYTON NC 27527-5564

has applied for a permit to appropriate water from:

Source : HALL CREEK

Tributary: KOOTENAI RIVER

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

Beneficial Use

POWER

Period of Use

01/01 to 12/31

Rate of Diversion

0.14 CFS

Location of Point(s) of Diversion

HALL CREEK

SE¼, NW¼, Sec. 36, Twp 65N, Rge 01W, B.M., BOUNDARY County

Place of Use: POWER

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		
65N	01W	36								X										

Conditions of Approval

1. Proof of application of water to beneficial use shall be submitted on or before **January 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. 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. This right does not constitute Idaho Public Utilities Commission or Federal Energy Regulatory Commission approval that may be required.
6. Use of water under this right shall be non-consumptive.
7. The term of this permit shall extend to 01/01/2045. Prior to the expiration of the term, the Director may issue an order canceling all or any part of the use authorized herein, may establish a new term, or may revise, delete, or add conditions under which Permit 98-8001 or subsequent water right license may be exercised. The order shall take effect on the date the current term expires. If the Director does not issue such an order, the term shall automatically extend to a length equal to the project's prior term and any prior conditions on Permit 98-8001 or subsequent water right license shall remain in effect.
8. A fish screen of 1/4 inch or smaller mesh shall be installed and maintained at the point of diversion.
9. The approach velocity at the point of diversion shall not exceed 0.5 Cubic Feet per Second (CFS).
10. The right holder shall install a measuring device that can be used to determine the instantaneous rate of flow of water through the system, or the right holder shall provide to the department a flow rate measurement or computation made by a certified water right examiner in accordance with actual system design and operation.
11. Proof of application of water to beneficial use shall be submitted no sooner than 07/01/2024 and received no later than the beneficial use due date of 01/01/2025.
12. To facilitate determination of the volume of water beneficially used by this project, the right holder shall provide the Department a copy of the characteristic performance curve for the turbine(s) and a copy of the monthly power generation figures during the development period. These items shall be submitted with the required Proof of Beneficial Use statement. Failure to submit these items shall be cause for the Director to reject the Proof of Beneficial Use statement.

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13. The rights for the use of water acquired under this right shall be junior and subordinate to all other rights for the use of water, other than hydropower, within the State of Idaho that are initiated later in time than the priority of this right and shall not give rise to any claim against any future rights for the use of water, other than hydropower, within the State of Idaho initiated later in time than the priority of this permit.

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

Signed this 8th day of January, 2020.



ADAM FREDERICK
Water Rights Supervisor

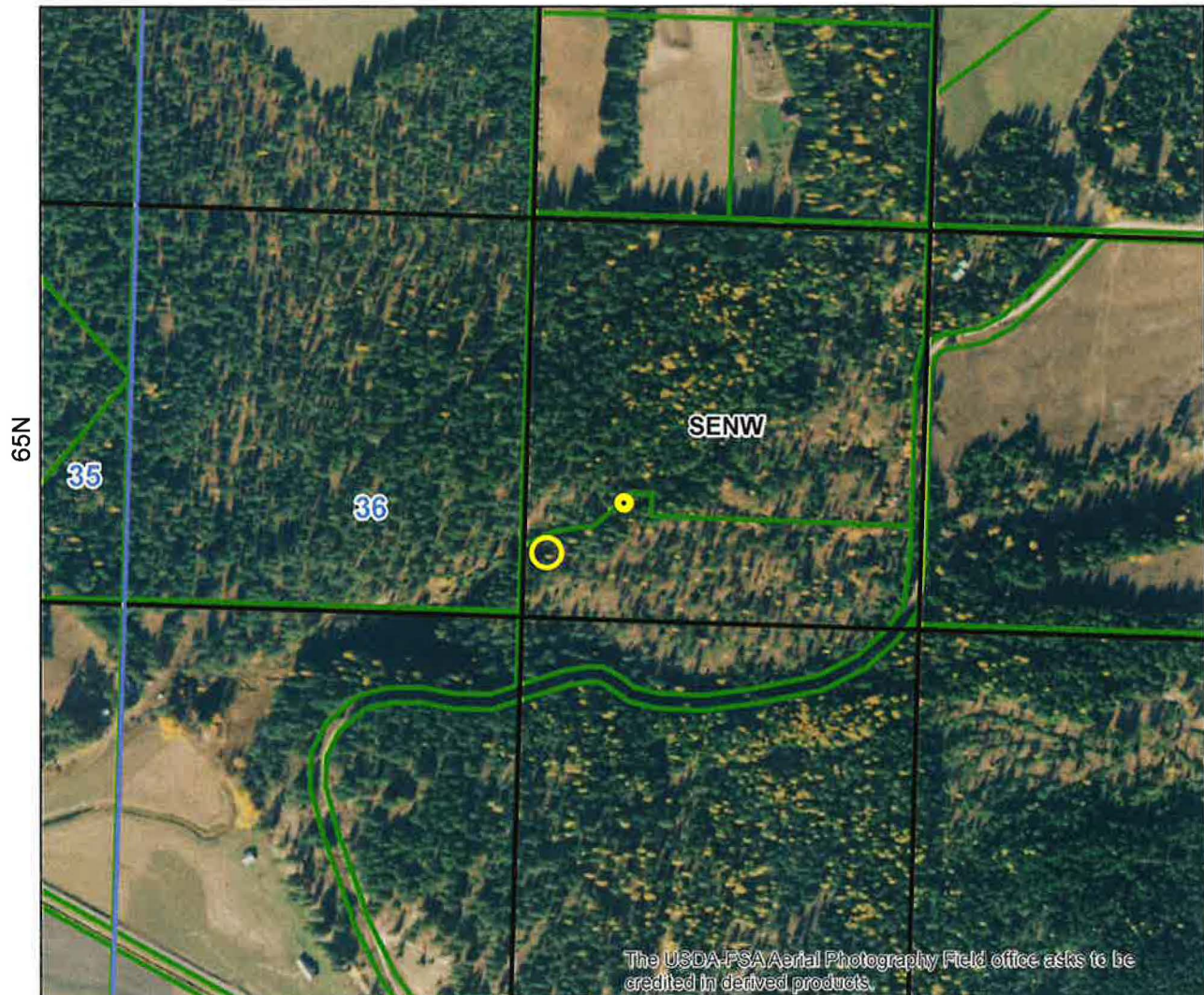
State of Idaho
Department of Water Resources






Attachment to Permit to Appropriate Water

98-8001

This map depicts the POWER 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.

01W



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

0 0.075 0.15 0.3 Miles



Tax parcel information provided by Boundary 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

January 08, 2020

SETTIMI HOMESTEAD LLC
639 FALLS DR
CLAYTON NC 27527-5564

RE: Permit No. 98-8001

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 08, 2020, I served a true and correct copy of Permit to Appropriate Water No. 98-8001 by U.S. Mail, postage prepaid, to the following:

SETTIMI HOMESTEAD LLC (Current Owner)
639 FALLS DR
CLAYTON NC 27527-5564

BRIAN DOMKE (Representative)
PO BOX 711
SAGLE ID 83860-0711



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.

AFFIDAVIT OF PUBLICATION

State of Idaho

SS

County of Boundary, Rinda Johnson
being first duly sworn on oath deposes and says that
he/she is Loob Baper 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:

Legal Notice For 98-8001
as it
was published in the regular and entire issue of the said
paper for a period of 2 consecutive weeks,
commencing on 4th day of July, 2019 and
ending on the 11th day of July, 2019 and
that said notice was published in said newspaper.

Rinda Johnson
SUBSCRIBED AND SWORN TO before me, this
11th day of July, 2019.

Katrina George
Notary Public-State of Idaho
Residing at: Kootenai County

The following application(s)
have been filed to appropriate
the public waters of the State
of Idaho:
98-8001
SETTIMI HOMESTEAD LLC
639 FALLS DR
CLAYTON, NC 27527-5564
Point of Diversion SENW
S36 T65N R01W
BOUNDARY County
Source HALL CREEK
Tributary KOOTENAI RIVER
Use: POWER
01/01 to 12/31 0.14 CFS
Total Diversion: 0.14 CFS
Date Filed: 6/14/2019
Place Of Use: POWER
T65N R01W S36 SENW
Permits will be subject to all
prior water rights. For addition-
al 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
7/22/2019. The protestant
must also send a copy of the
protest to the applicant.
GARY SPACKMAN, Director
BFH Legal 10210
July 4, 11, 2019

MY COMMISSION EXPIRES 8/29/23



RECEIVED
JUL 15 2019
IDWR / NORTH