State of Idaho
Department of Water Resources

Permit to Appropriate Water

NO. 95-17680

Priority: November 06, 2018 **Maximum Diversion Rate:** 0.02 CFS

This is to certify that

COMERFORD FIVE LLC 1217 E 26TH AVE SPOKANE WA 99203

has applied for a permit to appropriate water from:

Source : COEUR D ALENE LAKE **Tributary:** SPOKANE RIVER

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

Beneficial Use	Period of Use	Rate of Diversion
IRRIGATION	03/15 to 11/15	0.02 CFS

Location of Point(s) of Diversion

COEUR D ALENE LAKE NW¼, SW¼, Sec. 20, Twp 48N, Rge 04W, B.M., KOOTENAI County

Place of Use: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE					Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	No QQ	
48N	04W	20							0.1 L2			0.4 L2								0.5
48N	04W	20										0.1								0.1

Total Acres: 0.6

Conditions of Approval

1. Proof of application of water to beneficial use shall be submitted on or before **May 01, 2020.**
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. A fish screen of 1/4 inch or smaller mesh shall be installed and maintained at the point of diversion.
5. This right when combined with all other rights shall provide no more than 0.03 cfs per acre nor more than 3.0 afa per acre at the field headgate for irrigation of the place of use.
6. Water shall not be diverted under this right when flows in the Spokane River are below minimum flow amounts as defined by Right 95-8780. The right holder shall be responsible for monitoring the daily flow of the Spokane River using real-time data and shall cease diverting water when flows in the Spokane River are below established minimum flow amounts. Unless otherwise specified by the Director of the Department of Water Resources, data from the U.S. Geological Survey (Spokane River near Post Falls, Idaho) gauging station, No.12419000, may be used for purposes of determining the daily flow amounts.
7. Place of use is located within Tax # 17565, in Lot 2, Benpoint subdivision.

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

Signed, this 24th day of April, 20 19.

D Douglas Jones

DOUGLAS JONES
Northern Regional Manager

State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

95-17680

This map depicts the IRRIGATION 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.

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

0 0.01 0.02 0.04 Miles

N

Tax parcel information provided by Kootenai 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

April 24, 2019

COMERFORD FIVE LLC
1217 E 26TH AVE
SPOKANE WA 99203

RE: Permit No. 95-17680

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 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,

Douglas Jones
Northern Regional Manager

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on April 24, 2019, I served a true and correct copy of Permit to Appropriate Water No. 95-17680 by U.S. Mail, postage prepaid, to the following:

COMERFORD FIVE LLC (Current Owner)
1217 E 26TH AVE
SPOKANE WA 99203

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

DATE: **December 21, 2018**

TO: Tammy Alleman, IDWR

FROM: Emily Skoro, Staff Engineer, Water Projects Section,

RE: IDWR Application for Permit No. 95-17680

The Idaho Water Resource Board (Board), would like to submit the following comments for consideration when processing the Application for Permit No. 95-17680. The applicant is requesting a water right for an irrigation beneficial use with a total diversion rate of 0.02 cfs. The water supply source is Coeur D Alene Lake which is a tributary to the Spokane River.

The applicant should be aware that the Board holds a minimum stream flow (MSF) water right 95-8780 on the Spokane River downstream of the applicant's point of diversion (POD). Any water rights with a priority date junior to the Board's water right should be administered in priority and may be curtailed if the MSF is not being met. USGS Gage 12419000 (Spokane River near Post Falls Idaho) is located along the Board's MSF water right. Historic records show that this reach of the Spokane River is generally below the MSF most of the year except parts of April and May during low flow years. Therefore, flows measured at the referenced gage should be used to verify current Spokane River stream flows and diversions should be limited to times when the Board's MSF water right is met. Please see the attached Proof Report for the diversion rates authorized under the Board's MSF water right 95-8780.

IDAHO DEPARTMENT OF WATER RESOURCES 12/11/2018

Proof Report

Water Right 95-8780

Owner Type	Name and Address
Current Owner	STATE OF IDAHO IDAHO WATER RESOURCE BOARD 322 E FRONT ST PO BOX 83720 BOISE, ID 83720-0098 (208) 287-4800

Priority Date: 6/15/1992
Basis: License
Status: Active

Source	Tributary
SPOKANE RIVER	COLUMBIA RIVER

Beneficial Use	From	To	Diversion Rate	Volume
MINIMUM STREAM FLOW	11/01	6/30	2,495.000 CFS	
MINIMUM STREAM FLOW	7/01	10/31	951.000 CFS	
	Total Diversion		2,495.000 CFS	

Source and Point(s) of Diversion

SPOKANE RIVER	SWNE	Sec. 4, Twp 50N, Rge 05W, KOOTENAI County(B)
SPOKANE RIVER	SWNW	Sec. 12, Twp 50N, Rge 06W, KOOTENAI County(E)

Place Of Use

MINIMUM STREAM FLOW

Conditions of Approval:

1. 027 Use of water under this right shall be non-consumptive.
2. This minimum streamflow shall be subject to future municipal and domestic development from the Spokane River and its tributaries for the use in the basin within and upstream of the minimum streamflow reach. The minimum streamflow will not be subject to water rights established in the future for irrigation uses or other large consumptive purposes even though covered under a municipal or domestic use definition.

   Specifically because of the generalization of the Tennant method, the Director retains jurisdiction, as described below, to review and amend any and all parameters of this right. The Board, upon receiving a request, or upon its own initiative, may petition the Director for an amendment to the right. The petition must set forth any significant change in circumstances and evidence of the public interest supporting the proposed amendment. The Director will notify the general public and specific persons or known interested parties of the proposed change, and conduct a hearing for the purpose of determining whether the right should be amended in the public interest.

   The burden of proof at the hearing shall be upon the persons or parties seeking the amendment to establish that the amendment of the right would be in the public interest.

   Use of water under this right shall recognize and allow the continued beneficial diversion of water under any prior existing water right established by diversion and application to beneficial use or by an application, permit, or license on file or issued by

the Director under the provisions of Chapter 2, Title 42, Idaho Code, with a priority of water right date earlier that 06/15/1992.

Upon further finding and order of the Director that gauging stations are required to maintain the approved minimum flows on Spokane River, such measuring devices shall be permanently installed and maintained as specified by the Director.

Establishment of minimum flows on the Spokane River in the requested reach shall serve to protect water released from Post Falls Dam as it flows through the requested reach at rates up to the established minimum flow, but shall not directly or indirectly cause any change in operation of Post Falls Dam.

The reach of the Spokane River for which the requested minimum flows are established is as follows: Spokane River, commencing at a point downstream from the Post Falls Dam at which the overflow channels converge with the main channel below the dam in the SWNE, S4, T50N, R5W and extending downstream to the Idaho-Washington state line in the SWNW, S12, T50N, R6W, Kootenai County, a reach of approximately five miles.

This minimum stream flow is for the protection of fish and wildlife habitat, aquatic life and recreational values.

Comments:

1. mciscell 6/10/2013 POD
Bulk Generate Shape From PLS

2. cfritsch 8/16/2017 POD
PODID 88525 correlated from SpatialDataID 479951 to SpatialDataID 402540

3. cfritsch 8/16/2017 POD
PODID 88526 correlated from SpatialDataID 482879 to SpatialDataID 511256

Dates and Other Information
Licensed Date: 10/24/1995
Mitigation Plan: False

Combined Use Limits
N/A

Verification Log

SubCase:
N/A

Water Supply Bank:
N/A

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO)
) ss.
County of Kootenai)

Ashley Kinzer, being first duly sworn upon oath, deposes and states:

1. I am now and at all times hereinafter mentioned was a citizen of the United States, resident of the State of Idaho, over the age of twenty-one years and not a party of the above entitled action.

2. I am now and at all times hereinafter mentioned was the printer (principal clerk) of the "Coeur d'Alene Press", a newspaper printed and published daily in Coeur d'Alene, Kootenai County, Idaho, and having a general circulation in said county.

3. The Legal Notice of which the annexed is a printed copy, was published in the regular Thursday issue of said newspaper for 2 consecutive Week commencing on the 6 day of December, 2018, and ending on the 13 day of December, 2018, and such publication was made as often during said period as said daily newspaper was regularly issued.

4. That said newspaper has been continuously and uninterruptedly published in said Kootenai County, during a period of more than seventy-eight consecutive weeks immediately prior to the first publication of said notice Ashley Kinzer.

On this 13 day of December in the year of 2018 before me, a Notary Public, personally appeared Ashley Kinzer, 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.

RECEIVED
DEC 20 2018
IDWR / NORTH

KATRINA GEORGE NOTARY PUBLIC COMM. NO. 58374 STATE OF IDAHO

Katrina George
Notary Public for the State of Idaho
Residing in Coeur d'Alene, Idaho

MY COMMISSION EXPIRES 8/29/23

NOTICE FOR WATER RIGHT APPLICATIONS

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

95-17680
COMERFORD FIVE LLC
1217 E 26TH AVE
SPOKANE, WA 99203
Point of Diversion NWSW
S20 T48N R04W
KOOTENAI County
Source COEUR D ALENE LAKE
Tributary SPOKANE RIVER
Use: IRRIGATION
03/15 to 11/15 0.02 CFS
Total Diversion: 0.02 CFS
Date Filed: 11/6/2018
Place Of Use: IRRIGATION
T48N R04W S20
L2(SWNW) L2(NWSW)
Total Acres: 0.6

95-17688
THE WATT FAMILY TRUST
4201 CHESTNUT AVE
LONG BEACH, CA 90807
Point of Diversion L9(SESE)
S5 T50N R05W
KOOTENAI County
Source SPOKANE RIVER
Tributary COLUMBIA RIVER
Use: DOMESTIC
01/01 to 12/31 0.04 CFS
Total Diversion: 0.04 CFS
Date Filed: 11/8/2018
Place Of Use: DOMESTIC
T50N R05W S5 L9(SESE)

95-17691
GLENN R BURDICK
KELLIE R BURDICK
4605 S WILDWOOD LN
SPOKANE, WA 99206
Point of Diversion SESW
S14 T49N R04W
KOOTENAI County
Source COEUR D ALENE LAKE
Tributary SPOKANE RIVER
Use: DOMESTIC
01/01 to 12/31 0.04 CFS
Total Diversion: 0.04 CFS
Date Filed: 11/19/2018
Place Of Use: DOMESTIC
T49N R04W S14 L4(SESW)

95-17696
CDA LAKE LLC
5114 S MUIRFIELD RD
SPOKANE, WA 99223
Point of Diversion L1(NENE)
S25 T48N R05W
KOOTENAI County
Source GROUND WATER
Use: DOMESTIC
01/01 to 12/31 0.04 CFS
Total Diversion: 0.04 CFS
Date Filed: 11/23/2018
Place Of Use: DOMESTIC
T48N R05W S25 L1(NENE)

95-17699
PEGGY L EMTMAN
20802 RD 6 NW
QUINCY, WA 98848
Point of Diversion L1(NENE)
S25 T48N R05W
KOOTENAI County
Source GROUND WATER
Use: DOMESTIC
01/01 to 12/31 0.04 CFS
Total Diversion: 0.04 CFS
Date Filed: 11/23/2018
Place Of Use: DOMESTIC
T48N R05W S25 L1(NENE)

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 12/24/2018. The protestant must also send a copy of the protest to the applicant.
GARY SPACKMAN, Director
Published on 12/6/2018 and 12/13/2018
CDA LEGAL 788
AD# 251008
DECEMBER 6, 13, 2018