

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 91-08026

Priority: June 27, 2018

Maximum Diversion Rate: 0.06 CFS

This is to certify, that JEFFREY C SHIPPY
95 FERGUSON ST
ST MARIES ID 83861

has applied for a permit to appropriate water from:

Source: ST JOE RIVER

Tributary: COEUR D ALENE 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>
DOMESTIC	01/01 to 12/31	0.04 CFS
STOCKWATER	01/01 to 12/31	0.02 CFS

LOCATION OF POINT(S) OF DIVERSION:

ST JOE RIVER L1, (NE1/4, NE1/4), Sec. 18, Twp 46N, Rge 01W, B.M., BENEWAH County

PLACE OF USE: DOMESTIC and STOCKWATER

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
46N 01W 18	X																
	L 1																

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **February 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. Water shall not be diverted under this right when flows in the St. Joe River are below minimum flow amounts as defined by Right 91-7122. The right holder shall be responsible for monitoring the daily flow of the St. Joe River using real-time data and shall cease diverting water when flows in the St. Joe 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 gauging station, No. 12415135, may be used for purposes of determining the daily flow amounts.
5. A fish screen of 1/4 inch or smaller mesh shall be installed and maintained at the point of diversion.
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 10 horses.

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

Signed, this 7th day of February, 20 19.


DOUGLAS JONES, P.E., Northern Regional Manager

State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

91-8026

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.

01W



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

0 0.01 0.02 0.04 Miles



Tax parcel information provided by Benewah County.

State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

91-8026

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.



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

0 0.01 0.02 0.04 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

February 08, 2019

JEFFREY C SHIPPY
95 FERGUSON ST
ST MARIES ID 83861

RE: Permit No. 91-8026

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.

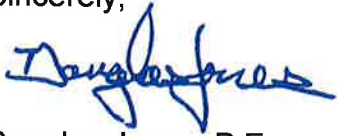
The final step in the water right process is issuance of a water right license. To receive a water right license, you must divert and use water to the full extent intended and submit a *Statement of Completion for Submitting Proof of Beneficial Use* ("Proof") by the date shown in condition no. 1 of your 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,

A handwritten signature in blue ink, appearing to read "Douglas Jones", written over a horizontal line.

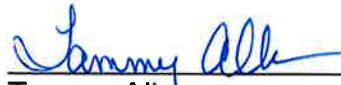
Douglas Jones, P.E.
Northern Regional Manager

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on February 08, 2019, I served a true and correct copy of Permit to Appropriate Water No. 91-8026 by U.S. Mail, postage prepaid, to the following:

JEFFREY C SHIPPY (Current Owner)
95 FERGUSON ST
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.

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 1 day of Aug, 2018 and the last on the 8 day of Aug, 2018.

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 8 day of August, 2018

Cynthia Ann Hammes

)

STATE OF IDAHO

)

COUNTY OF BENEWAH

)

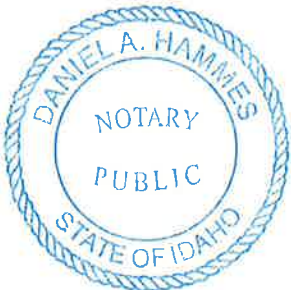
)

On this 8 day of August, in the year of 2018
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:

July 13, 2019



RECEIVED

AUG 09 2018

IDWR / NORTH

PUBLIC NOTICE

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

91-8026

JEFFREY C SHIPPY

95 FERGUSON ST

ST MARIES, ID 83861

Point of Diversion L1(NENE)

S18 T46N R01W

BENEWAH County

Source ST JOE RIVER

Tributary, COEUR D ALENE LAKE

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: 6/27/2018

Place Of Use: DOMESTIC

T46N R01W S18 L1(NENE)

Place Of Use: STOCKWATER

T46N R01W S18 L1(NENE)

91-8028

DAVID L VALLIANT

CAROL VALLIANT

303 SILCOTT ST

LEWISTON, ID 83501

Point of Diversion L4(NWSW)

S14 T46N R01W

BENEWAH County

Source ST JOE RIVER

Tributary COEUR D ALENE LAKE

Use: DOMESTIC

01/01 to 12/31 0.04 CFS

Use: IRRIGATION

03/15 to 10/31 0.02 CFS

Total Diversion: 0.04 CFS

Date Filed: 7/20/2018

Place Of Use: DOMESTIC

T46N R01W S14 L4(NWSW)

Place Of Use: IRRIGATION

T46N R01W S14

L4(NWSW) L4(SWSW)

Total Acres: 0.8

93-7679

MARC BOROFF

ERIN BOROFF

200 ROSEMONT LN

TENSED, ID 83870

Point of Diversion NWNWNE

S27 T44N R04W

BENEWAH County

Source SPRING

Tributary SINKS

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: 6/27/2018

Place Of Use: DOMESTIC

T44N R04W S27 NWNE

Place Of Use: STOCKWATER

T44N R04W S27 NWNE

95-17594

LORRIE K ARMSTRONG

KEN E COOPER

1312 WADDELL RD

ST MARIES, ID 83861

Point of Diversion SESW

S3 T45N R03W

BENEWAH County

Source UNNAMED STREAM

Tributary BENEWAH CREEK

Use: IRRIGATION FROM STORAGE

03/15 to 11/15 1.5 AF

Use: IRRIGATION STORAGE

01/01 to 12/31 10.2 AF

Use: RECREATION STORAGE

01/01 to 12/31 8.7 AF

Use: STOCKWATER FROM STORAGE

01/01 to 12/31 0.6 AF

Use: STOCKWATER STORAGE

01/01 to 12/31 10.8 AF

Use: WILDLIFE STORAGE

01/01 to 12/31 8.7 AF

Total Diversion: 10.8 AF

Date Filed: 7/20/2018

Place Of Use: RECREATION STORAGE

T45N R03W S3 SESW

Place Of Use: WILDLIFE STORAGE

T45N R03W S3 SESW

Place Of Use: STOCKWATER STORAGE

T45N R03W S3 SESW

Place Of Use: IRRIGATION STORAGE

T45N R03W S3 SESW

Place Of Use: IRRIGATION FROM STORAGE

T45N R03W S3 SESW

Place Of Use: STOCKWATER FROM STORAGE

T45N R03W S3 SESW

Total Acres: 0.5

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 8/20/2018. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Published on 1/1/2018 and 8/8/2018

103 Aug. 1 - 8

MEMORANDUM

DATE: August 3, 2018
TO: Tammy Alleman
FROM: Emily Skoro
RE: IDWR Application for Permit No. 91-8026

The Idaho Water Resource Board (Board), would like to submit the following comments for consideration when processing the Application for Permit No. 91-8026. The applicant is requesting a water right which includes domestic use (0.04 cfs) and stockwater use (0.02 cfs) for a total diversion rate of 0.06 cfs. The water supply source is the St. Joe River which is a tributary of Coeur D Alene Lake.

The applicant should be aware that the Board holds a minimum stream flow (MSF) water right 91-7122 on the St. Joe River adjacent to and downstream of the applicant's 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 12415135 (St. Joe River at Ramsdell near St. Maries, ID) is located downstream of the Board's MSF water right. Historic records show that flows in this reach of the St. Joe River are generally below the MSF most of the year except all or part of February through June during minimum flow years. Therefore, flows measured at the referenced gage should be used to verify current St. Joe 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 91-7122.

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

7/25/2018

Water Right 91-7122

<u>Owner Type</u>	<u>Name and Address</u>
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: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
ST JOE RIVER	COEUR D ALENE LAKE

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
MINIMUM STREAM FLOW	08/01	10/31	470.000 CFS	
MINIMUM STREAM FLOW	11/01	07/31	941.000 CFS	
	<u>Total Diversion</u>		941.000 CFS	

Source and Point(s) of Diversion

ST JOE RIVER	SENE SW	Sec. 23, Twp 46N, Rge 02W, BENEWAH County(E)
ST JOE RIVER	L6(SENENW)	Sec. 13, Twp 45N, Rge 03E, SHOSHONE County(B)

Place Of Use

MINIMUM STREAM FLOW

Conditions of Approval:

1. C18 This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.
2. 092 Upon future finding and order of the director that gaging stations are required to maintain the approved minimum stream flow, the right holder shall permanently install and maintain gaging stations as specified by the department.
3. This minimum stream flow is for the protection of fish and wildlife habitat, aquatic life and recreational values.
4. 027 Use of water under this right shall be non-consumptive.
5. This minimum stream flow begins at the confluence of the St. Joe River with Marble Creek in T45N, R03E, S13, SENENW (Lot 6) and ends 36 miles downstream at the confluence of the St. Joe River with the St. Maries River in T46N, R02W, S23, SENESW.
6. The Idaho Water Resource Board, upon receiving a request, or upon its own initiative, may petition the Director for an amendment to this water 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 notify interested parties of the proposed change, and conduct a hearing for the purpose of determining whether the right should be amended in the

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

7/25/2018

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

Comments:

Dates and Other Information

Decreed Date: 11/13/2015

Civil Case Number: 49576

Judicial District: FIFTH

Mitigation Plan: False

Combined Use Limits

N/A

Element Reviewed/Verified Dates:

<u>Element</u>	<u>Last Reviewed Date</u>	<u>Reviewer</u>	<u>Last Verified Date</u>	<u>Verifier</u>	<u>Status</u>
Contacts	8/13/2014	cfritsch			Closed
Priority Date	8/13/2014	cfritsch			Closed
POD	8/13/2014	cfritsch			Closed
Source	8/13/2014	cfritsch			Closed
POD	8/13/2014	cfritsch			Closed
POU	8/13/2014	cfritsch			Closed
Use	8/13/2014	cfritsch			Closed
Season	8/13/2014	cfritsch			Closed
Quantity	8/13/2014	cfritsch			Closed
Summary	8/13/2014	cfritsch	8/13/2014	cfritsch	Closed

Verification Log

<u>Element</u>	<u>Date</u>	<u>User</u>	<u>Log Text</u>
Contacts	8/13/2014	cfritsch	(No) 1. Do you want to schedule an appointment? Comment for 1: In office review
General	8/13/2014	cfritsch	(No) 1. Should this water use have been included in a later court decree of the water rights from this source? (Yes) 4. Is the basis of claim decree or license? (Yes) 5. Does the decree or license have a Priority Date? (Yes) 6. Did the Claimant claim the decreed or licensed Priority Date ? (Yes) 15. Is the basis of claim coded correctly? (No) 16. Is a Priority Date remark and/or condition required?
POD	8/13/2014	cfritsch	(Yes) 1. Is the basis of this claim a Decree or License? (Yes) 4. Does the Decree or License have a POD? (Yes) 5. Can the claimed POD be verified using the water right file? (Yes) 10. Is a POD remark and/or condition required?
POD	8/13/2014	cfritsch	Updated Shape
POD	8/13/2014	cfritsch	Updated PLS

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

7/25/2018

Source	8/13/2014	cfritsch	(Yes) 1. Is the basis of claim Decree or License? (Yes) 4. Does the Decree or License have a source? (Yes) 5. Can the claimed source be verified using the water right file? (No) 11. Is a Source remark and/or condition required?
POD	8/13/2014	cfritsch	(Yes) 1. Is the basis of this claim a Decree or License? (Yes) 4. Does the Decree or License have a POD? (Yes) 5. Can the claimed POD be verified using the water right file? (No) 10. Is a POD remark and/or condition required?
POU	8/13/2014	cfritsch	(Yes) 1. Is the basis of this claim a Decree or License? (Yes) 2a. Is the POU required? (Yes) 5. Does the Decree or License have a POU? (Yes) 6. Can the claimed POU be verified using the water right file? (Yes) 14. Is a POU remark and/or condition required?
Use	8/13/2014	cfritsch	(Yes) 1. Is the basis of this claim a Decree or License? (Yes) 4. Does the Decree or License have a Purpose of Use? (Yes) 5. Can the claimed Purpose of Use be verified using the water right file? (Yes) 13. Is a Purpose of Use remark and/or condition required?
Season	8/13/2014	cfritsch	(Yes) 1. Is the basis of claim Decree or License? (Yes) 4. Does the Decree or License have a Period of Use? (Yes) 5. Can the claimed Period of Use be verified using the water right file? (No) 14. Is irrigation claimed as a Purpose of Use? (No) 18. Is a Period of Use remark and/or condition required?
Quantity	8/13/2014	cfritsch	(Yes) 1. Is the basis of this claim a Decree or License? (Yes) 4. Does the Decree or License have a diversion rate and/or volume? (Yes) 5. Can the claimed diversion rate and/or volume be verified using the water right file? (No) 8. Does the parent right have an annual diversion volume limit? (No) 9. Is the source Groundwater and does the purpose of use require a diversion volume limit? (No) 11. Has a diversion volume limit been established by a decree, license or transfer for this water use? (No) 12. Is a Quantity remark or condition required?
Summary	8/13/2014	cfritsch	(Yes) 1. Is the basis of this claim a Decree, License, Permit, Application or Posted Notice? (No) 2. Does any evidence indicate a five year period of continuous nonuse occurred that could result in recommending forfeiture or partial forfeiture? (No) 5. Does this right have any combined use limits with other rights? (Yes) 6. Is an additional remark and/or condition required? (Yes) 7. Would you like to view the recommended right? (No) 8. Is this a split or combined right? (No) 9. Do you have documents you would like to attach or link to the file? (Yes) 10. Would you like to set the verification date?

SubCase:

N/A

Water Supply Bank:

N/A