

State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 85-15792

Priority: August 01, 2018

Maximum Diversion Rate: 0.20 CFS

This is to certify, that MARK WITTMAN And/Or
JOAN WITTMAN
6045 CACTUS LN
LEWISTON ID 83501

has applied for a permit to appropriate water from:

Source: TAMMANY CREEK

Tributary: SNAKE RIVER

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

BENEFICIAL USE
IRRIGATION

PERIOD OF USE
02/15 to 11/30

RATE OF DIVERSION
0.20 CFS

LOCATION OF POINT(S) OF DIVERSION:

TAMMANY CREEK SE1/4SE1/4 Sec. 23, Twp 35N, Rge 06W, B.M. NEZ PERCE County

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
35N 06W 23																	10.0 10.0

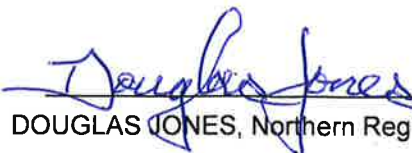
Total Acres: 10

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **October 01, 2023**.
2. Subject to all prior water rights.
3. 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.
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 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the place of use.
6. Rights 85-15767 and 85-15792 when combined shall not exceed a total diversion rate of 0.26 cfs and the irrigation of 10 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 Section 42-204, Idaho Code.

Signed this 25 day of September, 2018.


DOUGLAS JONES, Northern Regional Manager

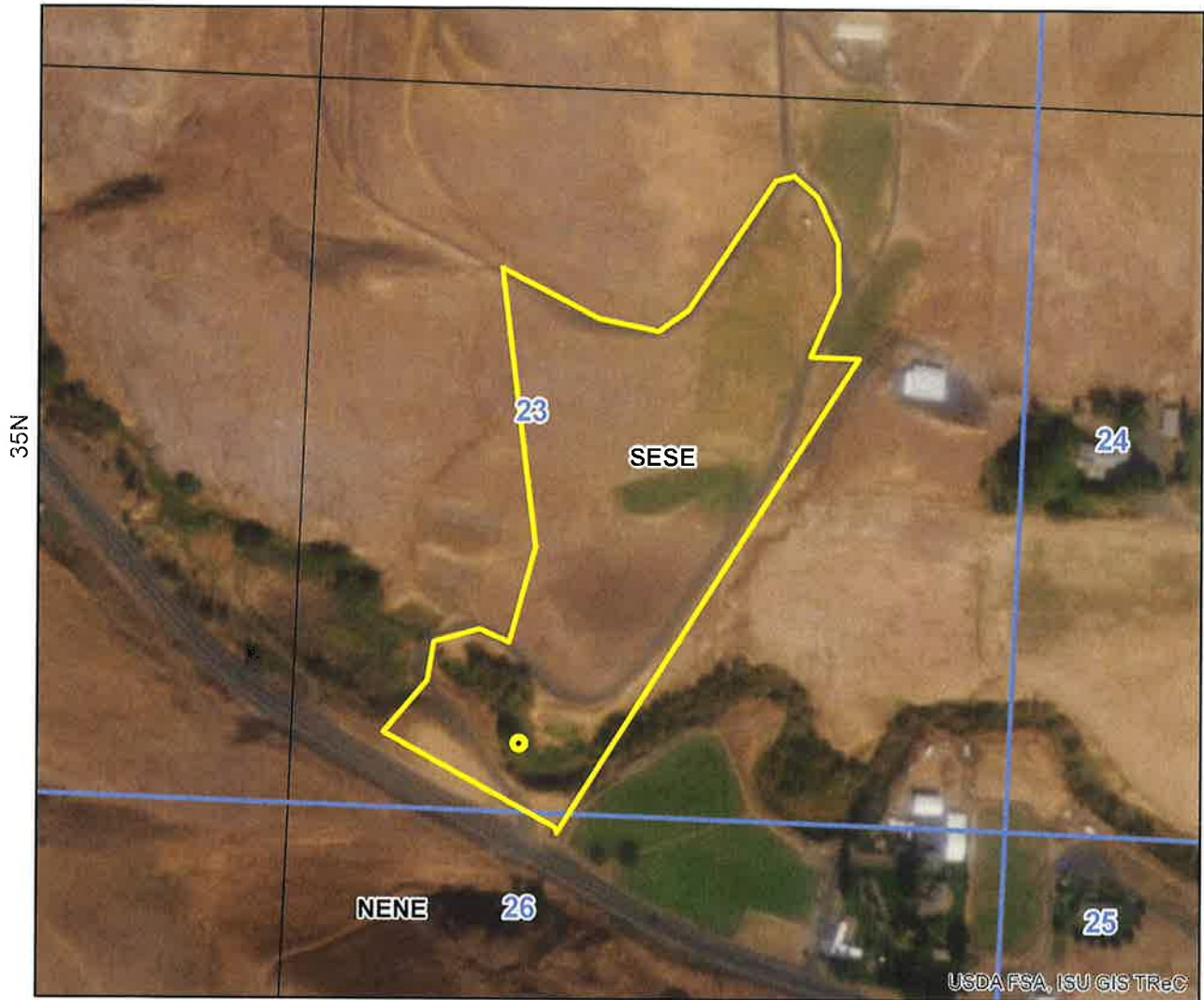
State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

85-15792

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.

06W



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

0 0.04 0.08 0.16 Miles





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

C.L. "Butch" Otter
Governor

Gary Spackman
Director

September 25, 2018

MARK WITTMAN
6045 CACTUS LN
LEWISTON ID 83501

JOAN WITTMAN
6045 CACTUS LN
LEWISTON ID 83501

RE: Permit No. 85-15792

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.

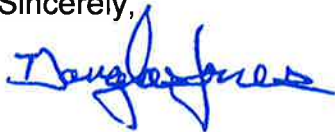
The final step in the water right process is issuance of a water right license. To receive a water right license, you must first commence the excavation or construction of your diverting works within one year of the date the permit was issued, and you must proceed diligently until the project is complete. 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,



Douglas Jones, P.E.
Northern Regional Manager

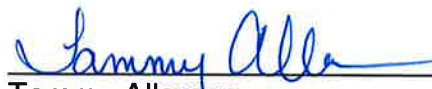
Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on September 25, 2018, I served a true and correct copy of Permit to Appropriate Water No. 85-15792 by U.S. Mail, postage prepaid, to the following:

MARK WITTMAN (Current Owner)
6045 CACTUS LN
LEWISTON ID 83501

JOAN WITTMAN (Current Owner)
6045 CACTUS LN
LEWISTON ID 83501



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.

TRIBUNE PUBLISHING COMPANY, INC

The Lewiston Tribune
505 C St., P.O.Box 957
Lewiston, Idaho 83501
(208) 743-9411

**LEGAL ADVERTISING
INVOICE**

Date:	<u>09/13/2018</u>	INVOICE NO.	<u>146747</u>
Account No.	<u>964750</u>		
Description	<u>146747 The foll</u>		
Times	<u>2</u>	Lines	<u>77</u>
		Tab. lines	
		\$	<u>225.22</u>

Sold To: ID DEPT. OF WATER RESOURCES
7600 MINERAL DR #100
COEUR D ALENE ID 83814

PO#

NOTICE: This is a invoice of Purchase made by you. Statement will be rendered the first of the month
Please Retain This Invoice as Your Statement Will Refer to Invoice by No. Only.

The following applications have been filed to appropriate the public waters of the State of Idaho: ¹⁴⁶⁷⁴⁷

85-15791
VERL LONG
3115 21ST STREET
CLARKSTON, WA 99403
Point of Diversion NWNW
S15 T34N R05W
NEZ PERCE County
Source GROUND WATER
Point of Diversion NENW
S15 T34N R05W
NEZ PERCE County
Source GROUND WATER
Use: DOMESTIC
01/01 to 12/31 0.05 CFS
Total Diversion: 0.05 CFS
Date Filed: 6/20/2018
Place Of Use: DOMESTIC
T34N R05W S15 NENW NWNW
85-15792
MARK WITTMAN
JOAN WITTMAN
6045 CACTUS LN
LEWISTON, ID 83501
Point of Diversion SESE
S23 T35N R06W
NEZ PERCE County
Source TAMMANY CREEK
Tributary SNAKE RIVER
Use: IRRIGATION
02/15 to 11/30 0.2 CFS
Total Diversion: 0.2 CFS
Date Filed: 8/1/2018
Place Of Use: IRRIGATION
T35N R06W S23 SESE
Total Acres: 10

AFFIDAVIT OF PUBLICATION

Julie L. Winters, being duly sworn, deposes and says, I am the Legal Clerk of the Tribune Publishing Company, a corporation organized and existing under and by virtue of the laws of the State of Idaho and under and by virtue of the laws of the State of Washington, publishers of the Lewiston Tribune, a news-paper of general circulation published at Lewiston, Nez Perce County, Idaho; That the said Lewiston Tribune is an established newspaper and has been published regularly and issued regularly at least once a day for more than 105 consecutive years next immediately preceding the first publication of this notice, and has been so published uninterrupted for said period; that the 146747 The foll attached hereto and which is made a part of this affidavit was published in the said Lewiston Tribune, 2 time(s) Publication being on 09/06, or once a Week for 2 consecutive Week, the first publication thereof being on the 09/06/2018, and the last publication thereof being on the 09/13/2018, and said 146747 The foll was so published in the regular and entire issue of said newspaper and was not in a supplement thereof and was so published in every issue and number of the said paper, during the period and times of publication as set forth above.

Julie L. Winters

State of Idaho

S.S.

County of Nez Perce

On this 17th day of Sept in the year of 2018, before me, a Notary Public, personally appeared Julie L. Winters, 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.

Cheri Whitby
Notary Public in and for the State of Idaho,
residing at Lewiston, therein
Commission Expires 4/17/21



RECEIVED

SEP 19 2018

IDWR / NORTH

94-9620

STATE OF IDAHO
DEPT OF FISH & GAME
2885 WEST KATHLEEN AVE
COEUR D ALENE, ID 83815
Point of Diversion NENE
S7 T48N R01W
KOOTENAI County
Source BLACKROCK GULCH
Tributary COEUR D ALENE RIVER
Point of Diversion NENE
S7 T48N R01W

KOOTENAI County
Source BULL RUN CREEK
Tributary COEUR D ALENE RIVER
Use: WILDLIFE STORAGE
01/01 to 12/31 2090 AF
Total Diversion: 2090 AF
Date Filed: 7/24/2018
Place Of Use: WILDLIFE STORAGE

T48N R01W S5
NESW SWSW SESW L9(NESE) L10(NWSE) SWSE SESE
T48N R01W S6 L10(SESE)
T48N R01W S7 NENE NWNE SWNE SENE L5(SENW) NESE
NWSE SESE

T48N R01W S8 NWNE NENW NWNW
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 9/24/2018. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Published on 9/6/2018
and 9/13/2018

Frederick, Adam

From: Swearingen,Zachary <zachary.swearingen@idfg.idaho.gov>
Sent: Saturday, September 01, 2018 11:20 AM
To: Frederick, Adam
Cc: Teare,Jim; Alleman, Tammy
Subject: RE: Application for Permit #85-15792

Hi Adam,

After reviewing application 85-15792 I believe Tammany Creek is currently over allocated. My research shows for most of the year Tammany Creek has approximately 1.54 cfs of withdrawal. Using stream stats Tammany Creek likely averages below 1.5 cfs from March through December.

It is likely adult steelhead enter the mouth of Tammany Creek on occasion, but unlikely juvenile salmonids are located within Tammany Creek.

As Tammany seems to already be over allocated I do not plan to further comment on this application.

Thanks for the opportunity to review.

Zach Swearingen
Environmental Staff Biologist
Idaho Department of Fish and Game - Clearwater Region
3316 16th St
Lewiston, ID 83501
208-799-5010



From: Alleman, Tammy <Tammy.Alleman@idwr.idaho.gov>
Sent: Friday, August 17, 2018 9:41 AM
To: Swearingen,Zachary <zachary.swearingen@idfg.idaho.gov>
Subject: FW: Application for Permit #85-15792

Hi Zach,

I sent this to the wrong person. This is for your Comments.

Thank you,

Tammy

Tammy Alleman