

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 91-07918

Priority: April 25, 2016

Maximum Diversion Rate: 0.04 CFS

This is to certify, that CAPAUAL - CLUTTER LLC
5079 N PINEGROVE DR
COEUR D ALENE ID 83815

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

LOCATION OF POINT(S) OF DIVERSION:

ST JOE RIVER L12, (NE1/4, SE1/4), Sec. 16, Twp 46N, Rge 01W, B.M.BENEWAH County

PLACE OF USE: DOMESTIC

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	16														X			
																			L 12

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **August 01, 2017**.
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 Calder gauging station, No. 12414500, 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. Place of use is located within Lot 4 Cedar Grove subdivision.

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

Signed, this 9th day of August, 20 16.


MORGAN CASE, Northern Regional Manager

State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

91-7918

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.



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

0 0.015 0.03 0.06 Miles





State of Idaho

DEPARTMENT OF WATER RESOURCES

Northern Region, 7600 Mineral Drive, Suite 100, Coeur d'Alene, Idaho 83815

Phone: (208) 762-2800 FAX: (208) 762-2819 www.idwr.idaho.gov

August 17, 2016

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

CAPAUAL CLUTTER LLC
5079 N PINEGROVE DR
COEUR D ALENE ID 83815

RE: Permit No.91-7918

Permit Approval Notice

Dear Permit Holder:

The Department of Water Resources has issued the enclosed permit authorizing you to establish a new water right. Please be sure to thoroughly review the conditions of approval and remarks listed on your permit.

The permit 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 by the Department unless a party petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date as described in the enclosed information sheet.

Enclosed is a form entitled 'Instructions for Proof of Beneficial Use.' Please read the instructions carefully since you must take further action to develop this permit into a licensed water right. Also enclosed is a form entitled 'Proof of Beneficial Use.' If your project is already completed, you should complete and submit this form immediately.

Please note that a separate stream channel alteration permit must be obtained from the Department prior to any activity in the stream channel other than construction or maintenance of the diversion structure for your water right(s). Applications for stream channel alteration permits must be filed at least sixty days prior to the commencement of work in the stream.

Also, please note that water right owners are required to report any change of water right 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. Contact any office of the Department or visit the Department's homepage on the Internet to obtain the proper forms and instructions.

If you have any questions, please contact me at 208-762-2800.

Sincerely,



Morgan Case
Northern Regional Manager

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on August 17, 2016 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved Permit) to the person(s) listed below:

RE: WATER RIGHT NO.

91-7918

**CAPAUAL CLUTTER LLC
5079 N PINEGROVE DR
COEUR D ALENE ID 83815**



**Dianne L Ball
Administrative Assistant**

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.

Case, Morgan

From: Case, Morgan
Sent: Tuesday, July 26, 2016 10:43 AM
To: Thiel, Sandra
Cc: Maxey, Shaun; Clark, Cynthia (Bridge)
Subject: Application for Permit No. 91-7918

Sandra:

The Department has received your memo concerning Application for Permit No. 91-7918. The application proposes diversion of 0.04 cfs from the St. Joe River for domestic purposes within the reach of the Board's minimum stream flow (MSF) water right no. 91-7122. Your memo requested active administration of water rights to protect the minimum stream flow. Basin 91 does not currently have any active water districts. When issuing applications which propose to divert water from MSF reaches, the Northern Region adds a condition requiring the right holder to monitor any active USGS stream gages within the reach to ensure that diversion of their water right would not reduce flows below the MSF. If a water district is established on the St. Joe River, the Board's MSF water right would be actively administered by a water master.

Please let me know if you have any questions.

Morgan

Morgan Case
Northern Regional Manager
Idaho Department of Water Resources
7600 N Mineral Dr. Suite 100
Coeur d'Alene, ID 83815
208.762.2800

MEMORANDUM

DATE: July 25, 2016
TO: Water Right 91-7918
FROM: Planning & Projects Section
RE: Application for Permit No. 91-7918

IDWR Planning & Projects Section staff reviewed the above referenced application for permit on behalf of the Idaho Water Resource Board (Board). On June 27, 2016 the Department received an amended application for permit to divert water from the St. Joe River. The applicant seeks to divert 0.04 cfs year round for domestic purposes, for one recreational RV campsite.

The applicant should be aware that the Idaho Water Resource Board holds minimum stream flow water right 91-7122 on the St. Joe River. This right has a priority date of June 15, 1992 for the protection of fish and wildlife habitat, aquatic life and recreational values.

From August 1 through October 31, the minimum stream flow is 470 cfs; from November 1 through July 31 the minimum stream flow is 941 cfs. As a junior water right holder the applicant's water could be curtailed when the minimum stream flow is not being met. The Idaho Water Resource Board would like assurance that this water right will be actively administered to protect the Board's minimum stream flow right.

Affidavit of Publication

RECEIVED
JUL 14 2016
IDWR / NORTH

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 9 issues, the first publication being on the 13 day of July, 2016 and the last on the 13 day of July, 2016.

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.

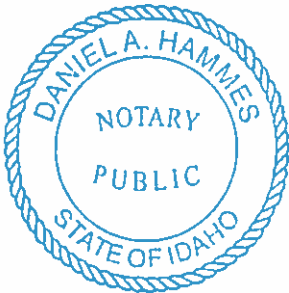
Dated this 13 day of July, 2016

Cynthia Ann Hammes

STATE OF IDAHO

COUNTY OF BENEWAH

On this 13 day of July, in the year of 2016 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

PUBLIC NOTICE

The following is an amendment to an application filed to appropriate the public waters of the State of Idaho:

91-7918

CAPAUAL - CLUTTER LLC

5079 N PINEGROVE DR

COEUR D'ALENE, ID 83815

Point of Diversion L12(NESE) S16 T46N R01W BENEWAH County

Source ST JOE RIVER tributary COEUR D'ALENE LAKE

Use: DOMESTIC

01/01 to 12/31

0.04 CFS

Total Diversion:

0.04 CFS

Date Filed: 4/25/2016

Place of Use: DOMESTIC T46N R01W S16 L12(NESE)

Domestic use is for 1 RV/Recreational Campsite with up to 1/2 acre irrigation.

Permits will be subject to all prior water rights. For additional information concerning the property location, contact Northern Region office at (208) 762-2800 ; or for a full description of the right(s), please see:

<http://www.idwr.idaho.gov/apps/ExtSearch/WRApplicationResults/>.

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 Mineral Drive, Suite 100, Coeur D'Alene ID 83815 together with a protest fee of \$25.00 for each application on or before 7/25/2016. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Published on 7/6/2016 and 7/13/2016

9437 July 6 - 13

Ball, Dianne

From: Richard Furman [RFurman@idl.idaho.gov]
Sent: Tuesday, June 07, 2016 8:05 AM
To: Ball, Dianne
Cc: Mike Ahmer
Subject: RE: Application for Permit No. 91-7918

Dianne: The IDL has no input in regards to the water right claim. However, the applicant will need to contact the IDL (Mike Ahmer, Mica Area Office; 3258 West Industrial Loop, Coeur d'Alene, ID 83815; 208-769-1577) to obtain an Encroachment Permit for the diversion since it will be coming out of a Navigable River, administered by the IDL as a Public Trust.

Thank you;

Richard F. Furman
St. Joe Area Manager
Idaho Department of Lands
1806 Main Avenue
St. Maries, ID 83861
208-245-4550

Old Chinese Proverb: It is not the height of the mountain that prevents you from reaching the top, it is the size of the pebble in your shoe.

From: Ball, Dianne [<mailto:Dianne.Ball@idwr.idaho.gov>]
Sent: Thursday, May 26, 2016 3:16 PM
To: kiira.siitari@idfg.idaho.gov; Richard Furman
Subject: RE: Application for Permit No. 91-7918

Dear Kiira and Richard :

The Department of Water Resources is seeking written comment and/or recommendations from your agency regarding the above referenced water right application. A copy of the application is enclosed for your reference.

This is being prepared for publication in the St Maries Gazette on June 2 and 9, 2016 with June 20, 2016 as final date for protests to be received in our office.

Your prompt response to this request is appreciated. If your agency desires to formally protest the approval of this application, you may do so after the notice is published by filing a written protest along with a \$25.00 filing fee within 10 days after final publication.

Please contact Shaun Maxey in this office if you have any questions regarding the application.

Sincerely,

Affidavit of Publication

RECEIVED
JUN 10 2015
IDWR / NORTH

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 June, 2016 and the last on the 8 day of June, 2016.

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.

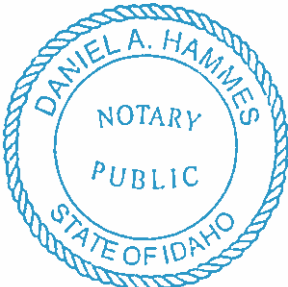
Dated this 8 day of June, 2016.

Cynthia Ann Hammes

STATE OF IDAHO)

COUNTY OF BENEWAH)

On this 8 day of June, in the year of 2016 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

PUBLIC NOTICE

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

91-7918

CAPAUIL-CLUTTER LLC

5079 N PINEGROVE DR

COEUR D'ALENE, ID 83815

Point of Diversion L2(NWSW) S15 T46N R01W BENEWAH CO

Source ST JOE RIVER tributary COEUR D'ALENE LAKE

Use: DOMESTIC 01/01 to 12/31 0.04 CFS

Total Diversion: 0.04 CFS

Date Filed: 4/15/2016

Place of Use: DOMESTIC T46N R01W S15 L2(NWSW)

Domestic use is for 1 RV/Recreational Campsite with up to 1/2 acre irrigation.

Permits will be subject to all prior water rights. For additional information concerning the property location, contact Northern Region office at (208) 762-2800; or for a full description of the right(s), please see:

<http://www.idwr.idaho.gov/apps/ExtSearch/WRAApplicationResults/>.

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 Mineral Drive, Suite 100, Coeur D'Alene ID 83815 together with a protest fee of \$25.00 for each application on or before 6/20/2016. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Published on 6/1/2016 and 6/8/2016

9419 June 1 - 8