

79410

Ident. No. 91-7792

FORM 202 11/13  
RECEIVED

JUN 30 2014

IDWR/NORTHERN

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
**APPLICATION FOR PERMIT**  
To appropriate the public waters of the State of Idaho

1. Name of applicant(s) Benewah County Phone (208) 245-2234  
Name connector (check one): ☐ and ☐ or ☐ and/or  
Mailing address 701 W. College Avenue City St. Maries  
State ID Zip 83861 Email \_\_\_\_\_
2. Source of water supply St. Joe River which is a tributary of Coeur d'Alene Lake
3. Location of point(s) of diversion:

| TWP | RGE | SEC | Govt Lot | 1/4 | 1/4 | 1/4 | County  | Source        | Local name or tag # |
|-----|-----|-----|----------|-----|-----|-----|---------|---------------|---------------------|
| 46N | 02W | 20  |          | NW  | NE  |     | Benewah | St. Joe River |                     |
|     |     |     |          |     |     |     |         |               |                     |
|     |     |     |          |     |     |     |         |               |                     |
|     |     |     |          |     |     |     |         |               |                     |

4. Water will be used for the following purposes:  
Amount 0.27 for Irrigation purposes from 3/15 to 10/31 (both dates inclusive)  
(cfs or acre-feet per year)  
Amount \_\_\_\_\_ for \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_ (both dates inclusive)  
(cfs or acre-feet per year)  
Amount \_\_\_\_\_ for \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_ (both dates inclusive)  
(cfs or acre-feet per year)  
Amount \_\_\_\_\_ for \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_ (both dates inclusive)  
(cfs or acre-feet per year)

5. Total quantity to be appropriated is (a) 0.27 cubic feet per second (cfs) and/or (b) \_\_\_\_\_ acre feet per year (af).

6. Proposed diverting works:
- a. Describe type and size of devices used to divert water from the source. A single 1.5 HP pump draws water from the river and delivers it to the sprinkler system via a 2" pipe.
- b. Height of storage dam N/A feet; active reservoir capacity N/A acre-feet; total reservoir capacity N/A acre-feet. If the reservoir will be filled more than once each year, describe the refill plan in item 11. For dams 10 feet or more in height OR reservoirs with a total storage capacity of 50 acre-feet or more, submit a separate Application for Construction or Enlargement of a New or Existing Dam. Application required? ☐ Yes ☒ No
- c. Proposed well diameter is N/A inches; proposed depth of well is \_\_\_\_\_ feet.
- d. Is ground water with a temperature of greater than 85°F being sought? ☐ Yes ☒ No
- e. If well is already drilled, when? N/A; drilling firm N/A; well was drilled for (well owner) N/A; Drilling Permit No. N/A

7. Description of proposed uses (if irrigation only, go to item 8):
- a. Hydropower; show total feet of head and proposed capacity in kW. \_\_\_\_\_
- b. Stockwatering; list number and kind of livestock. \_\_\_\_\_
- c. Municipal; complete and attach the [Municipal Water Right Application Checklist](#).
- d. Domestic; show number of households \_\_\_\_\_
- e. Other; describe fully. \_\_\_\_\_

SCANNED  
JUL 01 2014

## 8. Description of place of use:

- a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- b. If water is used for other purposes, place a symbol of the use (example: D for Domestic) in the corresponding place of use below.  
See instructions for standard symbols.

| 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 | 02W | 20  |                        | 0.8 |    |    | 0.3                    |    |    |    | 1.2 acre (Gov't Lot 11) |    |    |    | 1.9 acre (Gov't Lot 12) |    |    |    |        |
| 46N | 02W | 17  | 1.5 acre (Gov't Lot 2) |     |    |    | 0.3 acre (Gov't Lot 2) |    |    |    |                         |    |    |    |                         |    |    |    |        |
|     |     |     |                        |     |    |    |                        |    |    |    |                         |    |    |    |                         |    |    |    |        |
|     |     |     |                        |     |    |    |                        |    |    |    |                         |    |    |    |                         |    |    |    |        |
|     |     |     |                        |     |    |    |                        |    |    |    |                         |    |    |    |                         |    |    |    |        |
|     |     |     |                        |     |    |    |                        |    |    |    |                         |    |    |    |                         |    |    |    |        |

Total number of acres to be irrigated: 6

9. Describe any other water rights used for the same purposes as described above. Include water delivered by a municipality, canal company, or irrigation district. If this application is for domestic purposes, do you intend to use this water, water from another source, or both, to irrigate your lawn, garden, and/or landscaping?

Not applicable

10. a. Who owns the property at the point of diversion? Benewah County
- b. Who owns the land to be irrigated or place of use? Benewah County
- c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing:  
Not applicable

11. Describe your proposal in narrative form, and provide additional explanation for any of the items above. Attach additional pages if necessary.

The place of use was granted to Benewah County in 1976 (see attached Warranty Deeds). Since that time, the County has developed it into a public park/boaters access. The County irrigates the park with water pulled from the St. Joe River by a single pump as described in part 6a. The park is irrigated with 12 sprinklers, which use 10 gpm each (for a total of 120 gpm). Since there is no storage, this is the instantaneous flow rate pulled from the river.

12. Time required for completion of works and application of water to proposed beneficial use is 5 years (minimum 1 year).
13. **MAP OF PROPOSED PROJECT REQUIRED** - Attach an 8½" x 11" map clearly identifying the proposed point of diversion, place of use, section #, township & range. A photocopy of a USGS 7.5 minute topographic quadrangle map is preferred.

The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval.

Signature of Applicant

Signature of Applicant

Print Name (and title, if applicable)

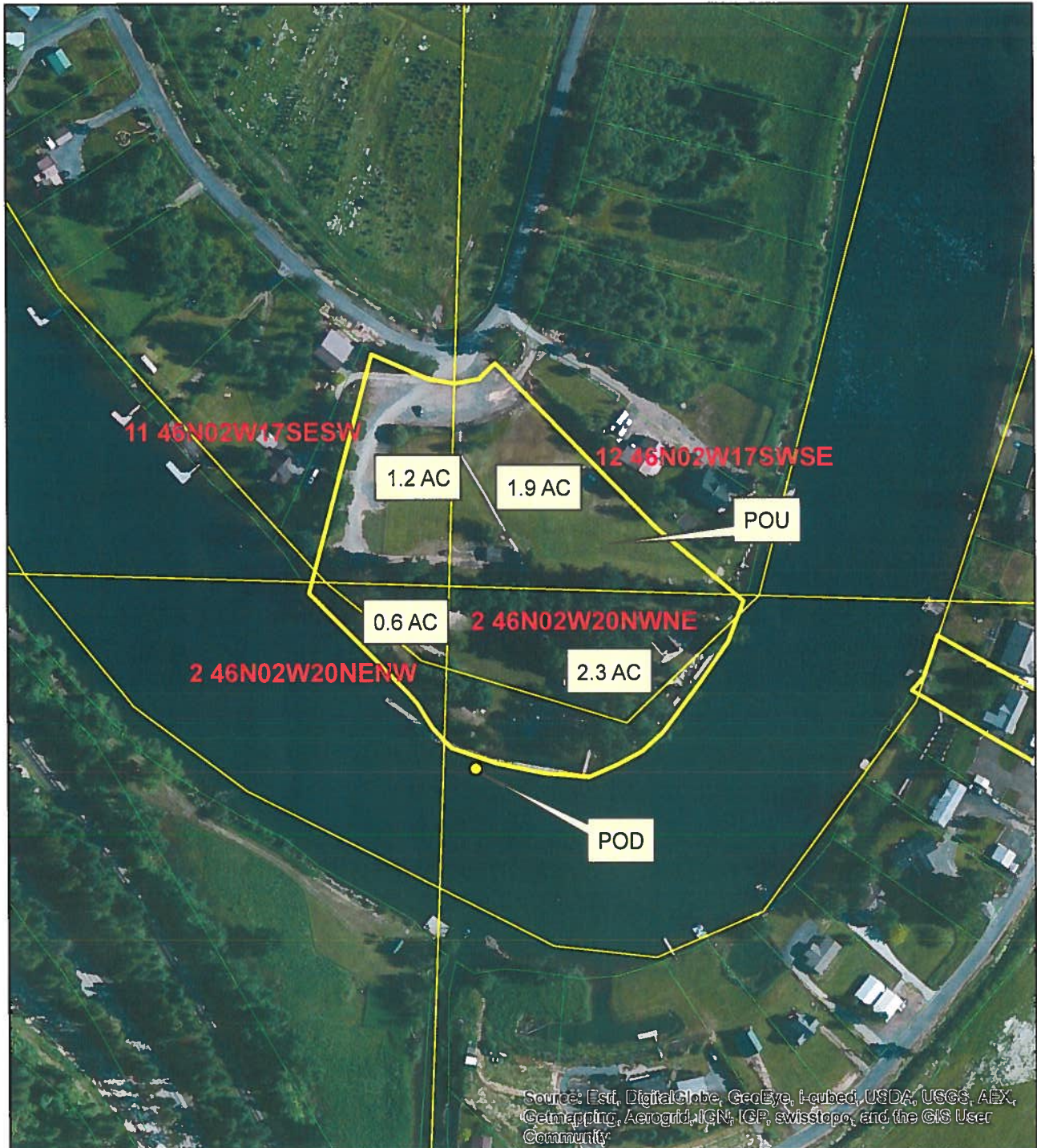
Print Name (and title, if applicable)

Benewah County

## For Department Use:

Received by Cm Date 5/29/14 Time 4:43pm Preliminary check by \_\_\_\_\_  
 Fee \$ 250.00 Received by Cm Receipt No. N030478 Date 5-29-2014

91-7792



**Legend**

-  Working\_POD
-  Working\_POU
-  QQ
-  Taxlots

0 0.02 0.04 0.08 Miles



SCANNED  
JUL 11 2014





RECEIVED

136388

✓ Book 100 - Page 4892

✓ 76 OCT 27 P 4: 01 SEP 28 1976

WARRANTY DEEDBEVERLY RAGAN CLERK  
Thane Edwards DEPUTY16-2 (w)  
20-

CHARLES C. BAUER and PATRICIA BAUER, husband and wife, hereinafter called the Grantors, for and in consideration of Ten and no/100 Dollars (\$10.00) and other valuable consideration in hand paid, grant, convey and warrant to BENEWAH COUNTY the following described real estate, situated in the County of Benewah, State of Idaho:

Government Lot Two (2), Section Twenty (20),  
Township Forty-six (46) North, Range Two  
West, Boise Meridian,

with all appurtenances.

The Grantors further covenant and warrant that they are well seized of said real estate and have full right and lawful authority to convey the same.

IN WITNESS WHEREOF, the Grantors have executed this deed this 28 day of September, 1976.

Charles C. Bauer  
Charles C. Bauer

Patricia Bauer  
Patricia Bauer

STATE OF WASHINGTON )  
                                  : ss.  
County of Spokane )

THIS IS TO CERTIFY that before me the undersigned Notary Public in and for the State and County aforesaid personally appeared CHARLES C. BAUER and PATRICIA BAUER, husband and wife to me known to be the persons whose names are subscribed to the foregoing Warranty Deed and acknowledged to me that they signed the same for the uses and purposes therein set forth.

DATED this 28 day of September, 1976

SCANNED

JUL 11 2014

--- this day of September, 1976.

To be continued 1. 1



*Carla M. [illegible]*  
Notary Public in and for Washington

Res. & P.O. Addr: *2058 [illegible] [illegible]*

Commission expires: *1-26-1980*

SCANNED  
JUL 11 2014

FEB 21 1977

WARRANTY DEED

ST. JOE RECREATION PROPERTIES, a partnership,  
hereinafter called the Grantor, for and in consideration  
of Ten and no/100 Dollars (\$10.00) and other valuable  
consideration in hand paid, grants, conveys and warrants to  
BENEWAH COUNTY, IDAHO, a political subdivision of the State  
of Idaho, the following described real estate, situated in,  
the County of Benewah, State of Idaho:

# 136951  
100 - 5027  
12/27/76

17-46-2000

A parcel of land being a part of Government  
Lots Eleven (11) and Twelve (12), Section  
Seventeen (17), Township Forty-six (46),  
North, Range Two (2) West, more particularly  
described as: Beginning at a point on the  
South right-of-way of Cottonwood Drive as  
located on the recorded plat of Cottonwood  
Point, First Addition, said point being  
South 48° 03' 41" West, 3,423.41 feet from  
the East 1/4 corner of said Section 17;  
thence South 46° 01' 58" East, 522.88 feet  
to a point on the South boundary of Section 17  
and common to the meander corner between  
Sections 17 and 20 on the East; thence South  
89° 51' West, 663.30 feet along the South  
boundary of Section 17 to a point common to  
the meander corner between Sections 17 and 20  
on the West; thence North 11° 20' East,  
358.90 feet to a point on the South right-of-way  
of Cottonwood Drive; thence along said  
right-of-way on the arc of a 152.13 foot radius  
curve to the left a distance of 236.96 feet,  
through a Delta angle of 89° 14' 17",  
through the long chord of which bears North  
85° 52' 09" East, a distance of 213.71 feet  
to the point of beginning, containing 4.54  
acres, more or less.

with all appurtenances.

The Grantor further covenants and warrants that  
it is well seized of said real estate and has full right and  
lawful authority to convey the same.

IN WITNESS WHEREOF, the Grantor has executed this  
deed this 30<sup>th</sup> day of September, 1976.

ST. JOE RECREATION PROPERTIES

V. Anthony Allen  
General Partner

By E. Chase  
General Partner

FEB 24 1977

WARRANTY DEED

OTTO F. ANDERSON, a single man, hereinafter called the Grantor, for and in consideration of Ten and no/100 Dollars (\$10.00) and other valuable consideration in hand paid, grants, conveys and warrants to ST. JOE RECREATION PROPERTIES, a partnership, 1016 Main Avenue, St. Maries, Idaho 83861, the following described real estate, situated in the County of Benewah, State of Idaho:

A parcel of land being a part of Government Lots Eleven (11) and Twelve (12), Section Seventeen (17), Township Forty-six (46) North, Range Two (2) West, more particularly described as: Beginning at a point on the South right-of-way of Cottonwood Drive as located on the recorded plat of Cottonwood Point, First Addition, said point being South 48° 03' 41" West, 3,423.41 feet from the East 1/4 corner of said Section 17; thence South 46° 01' 58" East, 522.88 feet to a point on the South boundary of Section 17 and common to the meander corner between Sections 17 and 20 on the East; thence South 89° 51' West, 663.30 feet along the South boundary of Section 17 to a point common to the meander corner between Sections 17 and 20 on the West; thence North 11° 20' East, 358.90 feet to a point on the South right-of-way of Cottonwood Drive; thence along said right-of-way on the arc of a 152.13 foot radius curve to the left a distance of 236.96 feet, through a Delta angle of 89° 14' 17", through the long chord of which bears North 85° 52' 09" East, a distance of 213.71 feet to the point of beginning, containing 4.54 acres, more or less,

with all appurtenances.

The Grantor further covenants and warrants that he is well seized of said real estate and has full right and lawful authority to convey the same.

IN WITNESS WHEREOF, the Grantor has executed this deed this 18<sup>th</sup> day of December, 1976.

Otto F. Anderson  
Otto F. Anderson

# 136 886  
100 - 5012  
12/20/76

## Ball, Dianne

---

**From:** Terra Berns, Mary [mary.terra-berns@idfg.idaho.gov]  
**Sent:** Wednesday, July 30, 2014 11:32 AM  
**To:** Ball, Dianne  
**Subject:** RE: Application for Permit No. 91-7792 Benewah County - irrigation from St Jue

Hi Dianne,

Yes, I reviewed that one while you were out (I hope your surgery went well!) and we did not have any comments.

Thanks,  
Mary

---

**From:** Ball, Dianne [<mailto:Dianne.Ball@idwr.idaho.gov>]  
**Sent:** Wednesday, July 30, 2014 10:18 AM  
**To:** Terra Berns, Mary  
**Subject:** RE: Application for Permit No. 91-7792 Benewah County - irrigation from St Jue

Dear Mary:

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 out for publication scheduled to publish in St Maries Gazette on August 6 and 13, 2014, with August 25<sup>th</sup> as final date for protests to be received in our office.

I believe Keith initially sent a request to you, Mary, back on July 1<sup>st</sup> and Suzy Cooley-Denney sent it again on July 7<sup>th</sup>. (I was out for surgery so I'm now working on this as part of catching up for time off.)

I don't find anything in file to indicate you sent any comments.

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 Keith Franklin in this office if you have any questions regarding the application.

Thanks,

Sincerely,  
*Dianne Ball*

Administrative Assistant  
Idaho Department of Water Resources



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](http://www.idwr.idaho.gov)

July 28, 2014

C.L. "BUTCH" OTTER  
Governor

GARY SPACKMAN  
Director

BENEWAH COUNTY  
701 W COLLEGE AVE.  
ST. MARIES, ID 83861

Application For Permit No. 91-7792

Dear Applicant(s):

The Department of Water Resources has received your water right application. Please refer to the number referenced above in all future correspondence regarding this application.

A legal notice of the application has been prepared and is scheduled for publication in the ST MARIES GAZETTE RECORD on 8/6/2014 and 8/13/2014. Protests to this application may be submitted for a period ending ten (10) days after the second publication.

If the application is protested, you will be sent a copy of each protest. All protests must be resolved before the application can be considered for approval. If the protest(s) cannot be resolved voluntarily, the Department will conduct a conference and/or hearing on the matter.

If the application is not protested, the Department will process your application and notify you of any action taken on the application. If your application is approved, the Department will send you a copy of the permit.

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

Sincerely,

A handwritten signature in black ink that reads "Keith Franklin".

Keith Franklin  
Program Manager

**Ball, Dianne**

---

**From:** Ball, Dianne  
**Sent:** Monday, July 28, 2014 3:47 PM  
**To:** Legal Notices-SMGazette Benewah Co (kaisie@smgazette.com)  
**Subject:** Application for Permit No. 91-7792  
**Attachments:** LegalNotice 07-28-14 SM e-mail 91-7792.doc

Hi, Kaisie,

Please publish the enclosed legal notice on the dates indicated, August 6 and 13, 2014, (once a week for two consecutive weekly issues). If you cannot publish the notice on the proposed dates, please contact us immediately.

This should be very close to press ready – 2-column, 8.5pt. I don't have Utopia so it is submitted in Arial.

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before 8/25/2014. Your cooperation is appreciated.

Thanks for all your great help and if you have any questions, please call or reply to this e-mail.

*Dianne Ball*

Administrative Assistant  
Idaho Department of Water Resources  
7600 N Mineral Dr., Ste. 100  
Coeur d'Alene, ID 83815  
208-762-2800 Fax 208-762-2819

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

**91-7792**

BENEWAH COUNTY  
701 W COLLEGE AVE.

ST. MARIES, ID 83861

Point of Diversion L2(NWNE) S20 T46N R02W BENEWAH CO

Source ST JOE RIVER tributary COEUR D ALENE LAKE

Use: IRRIGATION 03/15 to 10/31 0.27 CFS

Total Diversion: 0.27 CFS

Date Filed: 6/30/2014

Place of Use: IRRIGATION

T46N R02W S17 L11(ESW) L12(SWSE)

T46N R02W S20 L2(NWNE) L2(NENW)

Total Acres: 6

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

[www.idwr.idaho.gov/apps/ExtSearch/WRFiling.asp](http://www.idwr.idaho.gov/apps/ExtSearch/WRFiling.asp).

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 8/25/2014. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Published on 8/6/2014 and 8/13/2014

## Cooley-Denney, Suzy

---

**From:** Jim Brady [jbrady@idl.idaho.gov]  
**Sent:** Monday, July 07, 2014 2:28 PM  
**To:** Cooley-Denney, Suzy  
**Subject:** RE: Water Right No. 91-7792 (Benewah County)

This location is within the jurisdiction of the Coeur d'Alene Tribe, therefore, IDL has no comment.  
Thanks

Jim Brady,  
Resource Supervisor - Lands and Waterways  
Mica/Cataldo Supervisory Area  
3258 W. Industrial Loop  
Coeur d'Alene, ID 83815  
(208) 769-1577  
(208) 769-1597 Fax

---

**From:** Cooley-Denney, Suzy [<mailto:Suzy.Cooley-Denney@idwr.idaho.gov>]  
**Sent:** Monday, July 07, 2014 1:40 PM  
**To:** Terra Berns, Mary; Jim Brady  
**Subject:** Water Right No. 91-7792 (Benewah County)

Mary and Jim ~

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 attached for your reference.

We will be trying to prepare this for publication on July 16, 2014.

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 Eric Davis at (208) 762-2814 if you have any questions regarding this application.

~ Suzy

## Cooley-Denney, Suzy

---

**From:** Cooley-Denney, Suzy  
**Sent:** Monday, July 07, 2014 1:40 PM  
**To:** 'Terra Berns, Mary'; 'jbrady@idl.idaho.gov'  
**Subject:** Water Right No. 91-7792 (Benewah County)  
**Attachments:** 91-7792.pdf

Mary and Jim ~

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 attached for your reference.

We will be trying to prepare this for publication on July 16, 2014.

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 Eric Davis at (208) 762-2814 if you have any questions regarding this application.

~ Suzy

## Franklin, Keith

---

**From:** Franklin, Keith  
**Sent:** Tuesday, July 01, 2014 3:29 PM  
**To:** 'Terra Berns, Mary'  
**Subject:** Water Right Application  
**Attachments:** Application.pdf

Mary,

Attached please find an application for a new water right from Benewah County to irrigate 6 acres of a public park from the St. Joe River, for your review and comment.

Please submit any comments you have by July 15, 2014.

Thanks.

Keith.

NANCY A. WOLFF

**MORRIS & WOLFF, P.A.**  
**ATTORNEYS AT LAW**  
722 MAIN AVENUE, ST. MARIES, IDAHO 83861  
Tel: (208) 245-2523 - FAX: (208) 245-4392  
E-MAIL: reception@morriswolff.net

MARIAH R. DUNHAM

June 26, 2014

Keith E. Franklin  
Idaho Department of Water Resources  
7600 N. Mineral Drive, Ste 100  
Coeur d'Alene, Idaho 83815

RECEIVED  
JUN 30 2014  
IDWR/NORTHERN

Re: Application for Permit to appropriate the Public Waters of the State of Idaho  
Benewah County, Cherry Bend Boat Park

Dear Mr. Franklin:

Our office serves as civil council for Benewah County. Please find enclosed for processing the original Application for Permit to appropriate the Public Waters of the State of Idaho filed by Benewah County the Cherry Bend Boat Park. Please conform the enclosed copy of the Application and return them to our office in the enclosed self-address stamped envelope.

I have also enclosed the receipt showing payment for this application in the amount of \$250.00 on May 29, 2014. As you may recall, this application was originally submitted as a municipal water right to irrigate a municipal park. You returned the application to the County with the direction to resubmit the application for irrigation use rather than municipal use.

Should you have any questions or need anything additional, please do not hesitate to contact our office.

Sincerely,

MORRIS AND WOLFF, P.A.

By: Mariah R. Dunham  
MARIAH R. DUNHAM

MRD:tjr

Enclosure(s)

cc: Benewah County Clerk  
Welch Comer Engineering

SCANNED  
JUL 01 2014