

State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 91-07710

Priority: July 11, 2012

Maximum Diversion Rate: 0.12 CFS

This is to certify, that NORVIN D SMITH Or
MARY LOU SMITH
789 REEDS CREEK RD
ST MARIES, ID 83861

has applied for a permit to appropriate water from:

Source: REEDS CREEK

Tributary: ST JOE RIVER

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>
IRRIGATION	03/15 to 11/15	0.12 CFS

LOCATION OF POINT(S) OF DIVERSION:

REEDS CREEK, SW1/4NW1/4, Sec. 17, Twp 46N, Rge 01E, B.M., BENEWAH County

PLACE OF USE: IRRIGATION

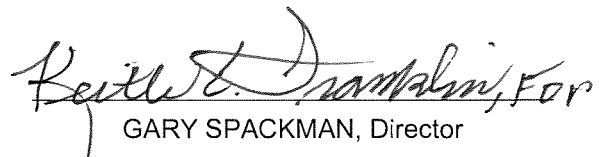
Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
46N	01E	17							4.0										4.0

Total Acres: 4

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **October 01, 2017**.
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. The approach velocity at the point of diversion shall not exceed 0.5 feet per second.
6. 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.
7. 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.
8. 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. Witness the signature of the Director, affixed at Coeur d'Alene, this 18 day of September, 2012.


GARY SPACKMAN, Director



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

Phone: (208) 762-2800 • Fax: (208) 762-2819 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

September 19, 2012

NORVIN D SMITH
789 REEDS CREEK RD
ST MARIES ID 83861

MARY LOU SMITH
789 REEDS CREEK RD
ST MARIES ID 83861

RE: Permit No.91-7710

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.

As a permit owner you must commence the excavation or construction of the diverting works within one year of the date the permit was issued, and you must proceed diligently until the project is completed. The date shown under condition no. 1 is the date when the project must be completed.

The Department will send you a 'Proof Due Notice' approximately 60 days prior to the above referenced date requesting you to file either a Proof of Beneficial Use form or a Request for Extension of Time form.

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,

A handwritten signature in black ink, appearing to read "Eric Davis". The signature is written in a cursive, flowing style.

Eric Davis

Sr. Water Resource Agent

Enclosure(s)

CERTIFICATE OF SERVICE

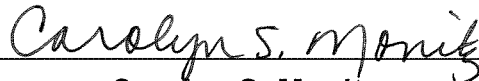
I hereby certify that on September 19, 2012 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (Approved Permit) to the person(s) listed below:

RE: WATER RIGHT NO.

91-7710

**MARY LOU SMITH
789 REEDS CREEK RD
ST MARIES ID 83861**

**NORVIN D SMITH
789 REEDS CREEK RD
ST MARIES ID 83861**

A handwritten signature in cursive script, reading "Carolyn S. Monitz", is written over a horizontal line.

**Carolyn S. Monitz
Technical Records Specialist**

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.

RECEIVED

JUL 27 2012

IDWR / NORTH

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 18 day of July, 2012 and the last on the 25 day of July, 2012.

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.

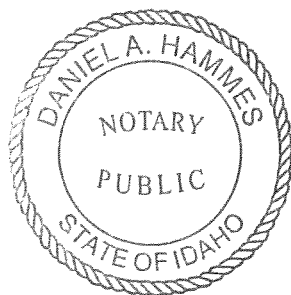
Dated this 25 day of July, 2012

Cynthia Ann Hammes

STATE OF IDAHO

COUNTY OF BENEWAH

On this 25 day of July, in the year of 2012 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:

07-13-2013

APPLICATION NOTICE

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

91-7710

NORVIN D. SMITH

MARY LOU SMITH

789 REEDS CREEK RD

SAINT MARIES, ID 83861

Point of Diversion SWNW S17 T46N R01E BENEWAH CO

Source REEDS CREEK tributary ST JOE RIVER

Use: IRRIGATION 03/15 to 11/15 0.12 CFS

Total Diversion: 0.12 CFS

Date Filed: 7/11/2012

Place of Use: IRRIGATION T46N R01E S17 SWNW

Total Acres: 4

92-10870

EMIDA WATER AND SEWER ASSN. INC.

160 S MAIN AVE.

ST. MARIES, ID 83861

Point of Diversion NESW S33 T44N R02W BENEWAH CO

Source GROUND WATER

Point of Diversion SENW S33 T44N R02W BENEWAH CO

Source GROUND WATER

Use: FIRE PROTECTION 01/01 to 12/31 0.2 CFS

Use: MUNICIPAL 01/01 to 12/31 0.2 CFS

Total Diversion: 0.2 CFS

Date Filed: 6/6/2011

Place of Use: FIRE PROTECTION T44N R02W S33

SWNE SWNW SENW NESW NWSE

Place of Use: MUNICIPAL

Municipal use is within service area of applicant.

93-7428

ALLEN THOMAS

KIMBERLY THOMAS

8776 E TRUAX

FAIRFIELD, WA 99012

Point of Diversion L2(SENW) S12 T46N R06W

BENEWAH County

Source GROUNDWATER

Use: IRRIGATION 04/01 to 10/31 0.2 CFS

Total Diversion: 0.2 CFS

Date Filed: 6/25/2012

Place of Use: IRRIGATION T46N R06W S12

L1(NENW) L2(SENW)

Total Acres: 51

95-16491

LARRY GRAY

VELMA GRAY

4546 TRESIZE RD

RAYMOND, WA 98577

Point of Diversion SENW S5 T45N R04W BENEWAH CO

Source GROUNDWATER

Use: COMMERCIAL 01/01 to 12/31 0.2 CFS

Total Diversion: 0.2 CFS

Date Filed: 7/5/2012

Place of Use: COMMERCIAL T45N R04W S5 SENW

Commercial use is for water bottling company.

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 Mineral Drive, Suite 100, Coeur D' Alene ID 83815 together with a protest fee of \$25.00 for each application on or before 8/6/2012. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Ball, Dianne

From: Ball, Dianne
Sent: Thursday, July 12, 2012 1:57 PM
To: 'Kaisie Brede'
Subject: Application for Permit No.91-7710, 92-10870, 93-7428, 95-16491
Attachments: LegalNotice 07-12-12 SM e-mail 91-7710,92-10870,93-7428,95-16491.doc

Good afternoon, Kaisie,

It's been a while but we have a legal for publication again.

Please publish the enclosed legal notice on the dates indicated, July 18 and 25, 2012, (once a week for two consecutive weekly issues). If you cannot publish the notice on the proposed dates, please contact us immediately.

Please send a proof/preview copy for my review before this goes to press.

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 8/6/2012. Your cooperation is always appreciated.

Thanks for all your wonderful help, and have a marvelous evening.

Don't count the days, let the days count!

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:

91-7710

NORVIN D. SMITH

MARY LOU SMITH

789 REEDS CREEK RD

SAINT MARIES, ID 83861

Point of Diversion SWNW S17 T46N R01E BENEWAH CO

Source REEDS CREEK tributary ST JOE RIVER

Use: IRRIGATION 03/15 to 11/15 0.12 CFS

Total Diversion: 0.12 CFS

Date Filed: 7/11/2012

Place of Use: IRRIGATION T46N R01E S17 SWNW

Total Acres: 4

92-10870

EMIDA WATER AND SEWER ASSN. INC.

160 S MAIN AVE.

ST. MARIES, ID 83861

Point of Diversion NESW S33 T44N R02W BENEWAH CO

Source GROUND WATER

Point of Diversion SENW S33 T44N R02W BENEWAH CO

Source GROUND WATER

Use: FIRE PROTECTION 01/01 to 12/31 0.2 CFS

Use: MUNICIPAL 01/01 to 12/31 0.2 CFS

Total Diversion: 0.2 CFS

Date Filed: 6/6/2011

Place of Use: FIRE PROTECTION T44N R02W S33

SWNE SWNW SENW NESW NWSE

Place of Use: MUNICIPAL

Municipal use is within service area of applicant.

93-7428

ALLEN THOMAS

KIMBERLY THOMAS

8776 E TRUAX

FAIRFIELD, WA 99012

Point of Diversion L2(SENW) S12 T46N R06W

BENEWAH County

Source GROUNDWATER

Use: IRRIGATION 04/01 to 10/31 0.2 CFS

Total Diversion: 0.2 CFS

Date Filed: 6/25/2012

Place of Use: IRRIGATION T46N R06W S12

L1(NENW) L2(SENW)

Total Acres: 51

95-16491

LARRY GRAY

VELMA GRAY

4546 TRESIZE RD

RAYMOND, WA 98577

Point of Diversion SENW S5 T45N R04W BENEWAH CO

Source GROUNDWATER

Use: COMMERCIAL 01/01 to 12/31 0.2 CFS

Total Diversion: 0.2 CFS

Date Filed: 7/5/2012

Place of Use: COMMERCIAL T45N R04W S5 SENW

Commercial use is for water bottling company.

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 Mineral Drive, Suite 100, Coeur D' Alene ID 83815 together with a protest fee of \$25.00 for each application on or before 8/6/2012. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Published on 7/18/2012 and 7/25/2012

Ball, Dianne

From: Ball, Dianne
Sent: Thursday, July 12, 2012 12:20 PM
To: 'Terra Berns, Mary'
Subject: RE: Application for Permit No. 91-7710
Attachments: 91-7710_Smith.pdf

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 attached for your reference.

This will publish in St Maries Gazette on July 18 and 25, 2012 with final date for protests to be received in our office as August 6, 2012.

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 this office if you have any questions regarding the application.

Sincerely,

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



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

Phone: (208) 762-2800 • Fax: (208) 762-2819 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

July 12, 2012

NORVIN D SMITH
MARY LOU SMITH
789 REEDS CREEK RD
SAINT MARIES, ID 83861

Application For Permit No. 91-7710

Dear Applicant(s):

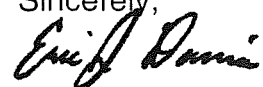
The Department of Water Resources has received your water right application. Please refer to the number referenced above in all future correspondence regarding this application.

A legal notice of the application has been prepared and is scheduled for publication in the ST MARIES GAZETTE RECORD on 7/18/2012 and 7/25/2012. 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,


Eric J. Davis
Sr. Water Resource Agent