

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 95-16234

Priority: November 09, 2011

Maximum Diversion Rate: 0.06 CFS

This is to certify, that DON HUMPHREY
3013 BENEWAH CREEK RD
ST MAIRES ID 83861

has applied for a permit to appropriate water from:

Source: POND
SPRING

Tributary: SINKS
SINKS

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>	<u>ANNUAL VOLUME</u>
DOMESTIC	01/01 to 12/31	0.04 CFS	
STOCKWATER	01/01 to 12/31	0.02 CFS	
STOCKWATER STORAGE	01/01 to 12/31		1.5 AF
IRRIGATION	03/01 to 10/31	0.03 CFS	
DIVERSION TO STORAGE	01/01 to 12/31	0.03 CFS	
IRRIGATION STORAGE	03/01 to 10/31		4.5 AF
IRRIGATION FROM STORAGE	03/01 to 10/31		3.0 AF

LOCATION OF POINT(S) OF DIVERSION:

POND NE1/4SW1/4SE1/4 Sec. 22, Twp 46N, Rge 03W, B.M. BENEWAH County
 SPRING NE1/4SW1/4SE1/4 Sec. 22, Twp 46N, Rge 03W, B.M. BENEWAH County
 SPRING NE1/4SW1/4SE1/4 Sec. 22, Twp 46N, Rge 03W, B.M. BENEWAH County
 SPRING NE1/4SW1/4SE1/4 Sec. 22, Twp 46N, Rge 03W, B.M. BENEWAH County

PLACE OF USE: DOMESTIC

Twp Rge Sec	NE				NW				SW				SE				
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
46N 03W 22															X		

State of Idaho
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NO. 95-16234

PLACE OF USE: STOCKWATER

Twp Rge Sec	NE				NW				SW				SE				Totals
46N 03W 22	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
															X		

PLACE OF USE: STOCKWATER STORAGE

Twp Rge Sec	NE				NW				SW				SE				Totals
46N 03W 22	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
															X		

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
46N 03W 22	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
															1.0		1.0

Total Acres: 1

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **February 01, 2013**.
2. Subject to all prior water rights.
3. Stockwater use is for 4 horses.
4. Domestic use is for 1 home. Irrigation of lawn, garden and landscaping associated with the home is authorized under the irrigation component of this right.
5. The pond or reservoirs established by the storage of water under this right shall not exceed a total capacity of 1.5 acre-feet.
6. Right 95-16234 authorize the diversion of an annual total of 4.5 acre-feet to be used for the initial filling of the pond and for the replacement of losses caused by seepage and evaporation.
7. Prior to the diversion and use of water under this approval, the right holder shall comply with applicable county zoning and use ordinances.
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 26 day of January, 2012.

Gary Spackman
GARY SPACKMAN, Interim 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
Interim Director

January 30, 2012

DON HUMPHREY
3013 BENEWAH CREEK RD
ST MAIRES ID 83861

RE: Permit No.95-16234

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,

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

Eric Davis

Sr. Water Resource Agent

Enclosure(s)

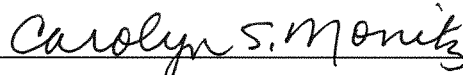
CERTIFICATE OF SERVICE

I hereby certify that on January 31, 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.

95-16234

**DON HUMPHREY
3013 BENEWAH CREEK RD
ST MAIRES ID 83861**

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

**Carolyn S. Monitz
Technical Records Specialist**

Statement of Available Procedures and Applicable Time Limits

RESPONDING TO PRELIMINARY ORDERS ISSUED BY THE IDAHO DEPARTMENT OF WATER RESOURCES (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 issuance 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.

P 12/19/11

IDAHO DEPARTMENT OF WATER RESOURCES APPROPRIATION APPLICATION ANALYSIS SHEET

W.R. # 95-16234 APPLICATION ID # 77616 ENT. ED BCA 12/16 OK to Publish 12/16/11

APPLICANT: Humphrey INITIAL REVIEW BY: ED DATE: 11/29/2011

ITEM REQUIRED INFORMATION

1. ☒ Name and Address
2. ☐ Source
3. ☐ Point of Diversion & County
4. ☐ Quantity
5. ☐ Nature of Proposed Use
6. ☐ Period of Use
7. ☐ Total Quantity
8. ☐ Description of diverting works
9. ☐ Time required for b/u
10. ☐ Proposed use
11. ☐ Place of use or acres irrigated
12. ☐ Other water Rights
13. ☐ Ownership
14. ☐ Map
15. ☒ Signature
16. ☒ Fee (Amt, receipt, acknowledgement)

*** Send info sheet Y () N ()

ADDITIONAL INFORMATION

(Yes)(No)
☒ Shape File Created Date 11-11 By: ED
☐ Field check: by _____
☐ Field report attached
☐ Analysis Supp. Attached (>5cfs/500af)
☐ Water delivered by water master? Water District # _____

PROCESSING

(Yes)(No) PRIORITY DATE: 11/09/2011

☒ (Include Moratorium Remark)
☒ Statewide Advertising: (Diversion rate greater than 10 cfs or 1,000 af).

ADVERTISE IN: Beneva County

Newspaper: SM

Dates scheduled for publication 12/21 & 28/11

Affidavit of Publication received: 12/30/11

Dates actually published: 12/21 & 28/11

Application published correctly. Yes ☒ No ☐

If not, action taken: _____

Final Date for Protest: 1/9/12

Protests Received: Yes ☐ No ☐

LETTERS SENT REQUESTING:

() Dam Information () Fish Information
 () Power Information () Other: _____

INFORMATION RECEIVED:

() Dam Information () Fish Information
 () Power Information () Other: _____

GROUNDWATER SECTION

WD Permit No.'s:	Tag #	Type:	Fees	Receipt No.	Upgrade Needed?
_____	_____	Dom. Non-Dom.	Paid \$ _____	_____	Y () N ()
_____	_____	Dom. Non-Dom.	Paid \$ _____	_____	Y () N ()
_____	_____	Dom. Non-Dom.	Paid \$ _____	_____	Y () N ()

Groundwater management area Spring + pond
 Critical ground water area
 Well Drilling Permit required
 Well Drilling Application and Fees received
 Well Drilling Application approved?

Remarks: _____

FINAL REGIONAL PROCESSING/REVIEW

(Yes)(No)
☒ Notice of pending void order issued. Final order response date: _____/_____/_____
☒ Further information required from applicant _____

☒ Measuring device required
☒ Measuring port required
☒ Special conditions: _____
☒ Special conditions of approval supplement and/or cover letter attached: _____

Approval Recommended by:

ED

Date: 11/11/2011 Sr. Agent initial: ED

RECEIVED

DEC 30 2011

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 100 issues, the first publication being on the 21 day of December, 2011..... and the last on the 28 day of December, 2011.....

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.

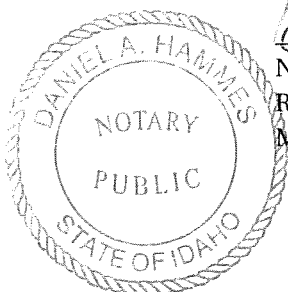
Dated this 28 day of December, 2011.....

Cynthia Ann Hammes

STATE OF IDAHO)

COUNTY OF BENEWAH)

On this 28 day of December, in the year of 2011 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:

95-16234

DON HUMPHREY

3013 BENEWAH CREEK RD

ST MAIRES, ID 83861

Points of Diversion(3) NESWSE S22 T46N R03W
BENEWAH CO

Source SPRINGS Tributary SINKS

Point of Diversion(1) NESWSE S22 T46N R03W
BENEWAH CO

Source POND Tributary Sinks

Use: DIVERSION to Storage 01/01 to 12/31 0.03 CFS

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

Use: IRRIGATION 03/01 to 10/31 0.03 CFS

Use: Irrigation from Storage 03/01 to 10/31 3.0 AF

Use: Irrigation Storage 03/01 to 10/31 4.5 AF

Use: STOCKWATER 01/01 to 12/31 0.02 CFS

Use: Stockwater Storage 01/01 to 12/31 1.5 AF

Total Diversion: 0.06 CFS

Date Filed: 11/9/2011

Place Of Use: DOMESTIC T46N R03W S22 SWSE

All other Places of Use: same as DOMESTIC

Total Acres: 1

Domestic use is for 1 home.

Stockwater use is for 2 horses.

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 1/9/2012. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Interim Director

8194 Dec. 21 & Dec. 28

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

95-16234

DON HUMPHREY

3013 BENEWAH CREEK RD

ST MAIRES, ID 83861

Points of Diversion(3) NESWSE S22 T46N R03W

BENEWAH CO

Source SPRINGS Tributary SINKS

Point of Diversion(1) NESWSE S22 T46N R03W

BENEWAH CO

Source POND Tributary Sinks

Use: DIVERSION to Storage 01/01 to 12/31 0.03 CFS

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

Use: IRRIGATION 03/01 to 10/31 0.03 CFS

Use: Irrigation from Storage 03/01 to 10/31 3.0 AF

Use: Irrigation Storage 03/01 to 10/31 4.5 AF

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Use: Stockwater Storage 01/01 to 12/31 1.5 AF

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All other Places of Use: same as DOMESTIC

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GARY SPACKMAN, Interim Director

Published on 12/21/2011 and 12/28/2011

Ball, Dianne

From: Ball, Dianne
Sent: Friday, December 16, 2011 1:08 PM
To: 'Kaisie Brede'
Subject: Application for Permit No. 95-16234
Attachments: LegalNotice 12-16-11 SM e-mail 95-16234.doc

Good afternoon, Kaisie,

I trust that I am early enough to get this published starting next week.

Please publish the enclosed legal notice on the dates indicated, December 21 and 28, 2011, (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 actually 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 1/9/2012. Your cooperation is ALWAYS greatly appreciated.

Hoping you have a very Merry Christmas!

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

Ball, Dianne

From: Ball, Dianne
Sent: Friday, December 16, 2011 12:33 PM
To: mary.terra-berns@idfg.idaho.gov
Subject: Application for Permit No. 95-16234 Springs, Pond
Attachments: 95-16234_Humphrey.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 enclosed for your reference.

Being prepared for publication in St Maries Gazette on December 21 and 28, 2011 with final date for protest to be received in our office January 10, 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

December 16, 2011

DON HUMPHREY
3013 BENEWAH CREEK RD
ST MAIRES, ID 83861

Application For Permit No. 95-16234

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 12/21/2011 and 12/28/2011. 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 Davis
Sr. Water Resource Agent

Enc. Receipt No. N028548