

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 92-10008

Priority: September 29, 2003

Maximum Diversion Rate: 0.02 CFS

This is to certify, that EARL E BENWARE
1155 SE PRO MALL BLVD #425
PULLMAN WA 99163

has applied for a permit to appropriate water from:

Source: SPRING

Tributary: SANTA CREEK

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

BENEFICIAL USE

DOMESTIC

PERIOD OF USE

01/01 to 12/31

RATE OF DIVERSION

0.02 CFS

LOCATION OF POINT OF DIVERSION:

SPRING L2 (NE $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$) Sec. 1, Twp 43N, Rge 03W, B.M., BENEWAH County

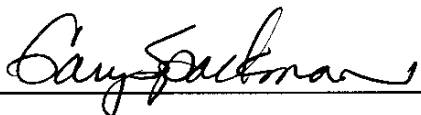
PLACE OF USE: DOMESTIC

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
43N 03W 1		X															
		L 2															

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **February 01, 2007**.
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 permit holder had no control.
4. Domestic use is for 1 home.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 5th day of February, 2004.



Acting for KARL J DREHER, Director

10997
STATE OF IDAHO

Ident. No. 92-10008

RECEIVED

SEP 29 2003

IDWR/North
338-1012

RECEIVED

FEB - 4 2004

DEPARTMENT OF WATER RESOURCES APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

Department of Water Resources

- Name of Applicant Earl E. Benware Phone (509) 338-0844
Mailing address 1155 SE Promall Blvd. #425, Pullman, WA 99163
- Source of water supply Underground Spring which is a tributary of Sagehen Mountain runoff
- Location of point of diversion is Township 543N Range 3W Sec. 1-43N-3W in the NE $\frac{1}{4}$, 186W $\frac{1}{4}$, NE $\frac{1}{4}$, Govt. Lot 2, B.M., Beneviah County;
additional points of diversion if any: runoff to GYA7-W2E2 of Sub. lot 2 sec. 1-43N-3W
- Water will be used for the following purposes:

Amount <u>1200 gal per min</u> for <u>domestic</u> purposes from <u>1-13</u> to <u>12-31</u> (both dates inclusive)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
- Total quantity to be appropriated is (a) .02 and/or (b) _____
cubic feet per second acre feet per annum
- Proposed diverting works:
 - Describe type and size of devices used to divert water from the source 1,200 gal. plastic underground tank, 2" PVC pipe from the underground spring
 - Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet
 - Proposed well diameter is _____ inches; proposed depth of well is _____ feet
 - Is ground water with a temperature of greater than 85°F being sought? NO
 - If well is already drilled, when? _____; Drilling firm _____
Well was drilled for (well owner) _____; Drilling Permit No. _____
- Time required for completion of works and application of water to proposed beneficial use is 3 years (minimum 1 year)
- Description of proposed uses (if irrigation only, go to item 9):
 - Hydropower; show total feet of head and proposed capacity in kW. _____
 - Stockwatering; list number and kind of livestock. _____
 - Municipal; show name of municipality. _____
 - Domestic; show number of households. Domestic, 1 household
 - Other; describe fully. _____

3. 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.

no 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	
43N	34W	1		D															

Total number of acres to be irrigated _____

10. Describe any other water rights used for the same purposes as described above. _____

11. a. Who owns the property at the point of diversion? Earl E Benware

b. Who owns the land to be irrigated or place of use? Earl E Benware

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing:

12. Remarks: the water will be used for household purposes only.

13. **MAP OF PROPOSED PROJECT REQUIRED** - Attach an 8½"x11" 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.)

BE IT KNOWN that the undersigned hereby makes this application for permit to appropriate the public waters of the State of Idaho as herein set forth.

Earl E Benware
Signature of Applicant (and title, if applicable)

Received by [Signature] Date 9-29-03 Time 3:18 Preliminary check by [Signature]
 Fee \$ 100 Received by [Signature] # NO15936 Date 9-29-03
 Publication prepared by [Signature] Date 12/31/03 Published in St Maritz Gazette 1/7 + 14/04
 Publication approved [Signature] Date 1/27/04

Now
Starting
Right Side
of file.



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

February 5, 2004

EARL E BENWARE
1155 SE PRO MALL BLVD #425
PULLMAN WA 99163

RE: Permit No. 92-10008

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.

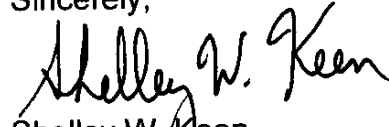
The Department will send you a 'Proof Due Notice' approximately 60 days prior to the above referenced date requesting you to file either a Proof of Beneficial Use form or a Request for Extension of Time form.

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 a 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 208-327-7946.

Sincerely,

A handwritten signature in black ink that reads "Shelley W. Keen". The signature is written in a cursive style with a large, stylized 'S' and 'K'.

Shelley W. Keen

Water Rights Supervisor

SWK:klt

Enclosure(s)

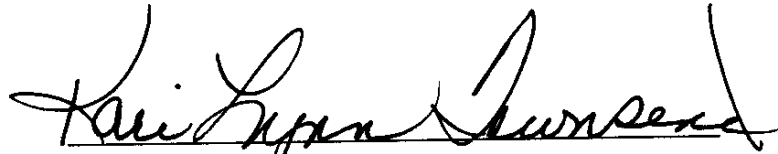
CERTIFICATE OF SERVICE

I hereby certify that on February 5, 2004 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.

92-10008

**EARL E BENWARE
1155 SE PRO MALL BLVD #425
PULLMAN WA 99163**

A handwritten signature in black ink, reading "Kari Lynn Townsend", written over a horizontal line.

**Kari Lynn Townsend
Secretary**

**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. 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.

Comment Report

92-10008

1. dball 12/31/2003 Legal Notice Remarks

Comment: Domestic use is for 1 home.

2. dball 1/6/2004 3:48:27 PM Comment Letter Notes

Comment:

WHO: IDF&G - Chip Corsi - Panhandle Regional supervisor

RESPONSE: Recommended

DATE RECEIVED: 1/2/2004

This particular request appears to pose no significant threat to fish or wildlife, thus we have no objections or further comments on the application.

3. kwalker 2/4/2004 Permit Review

Comment: Recommend approval.

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 two issues, the first publication being on the 12 day of January, 2004 and the last on the 14 day of January, 2004.

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.

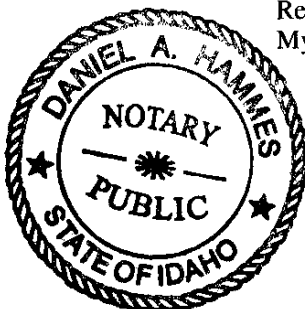
Dated this 14 day of January, 2004.

Cynthia Ann Hammes

STATE OF IDAHO)
COUNTY OF BENEWAH)

On this 14 day of January in the year of 2004 before me, a Notary Public, personally appeared Cynthia Ann Hammes, 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 she executed the same.

Daniel C. Hamm
Notary Public for Idaho
Residing at St. Maries, Idaho
My commission expires: 07-13-2007



RECEIVED
JAN 27 2004
IDWR/North

Water use application

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

92-10008

EARL E BENEWAH
1155 SE PRO MALL BLVD #425
PULLMAN WA 99163

Point(s) of Diversion L2 (NENWNE) S1 T43N R03W
BENEWAH County Source SPRING Tributary To SANTA CREEK

Use: DOMESTIC 01/01 To 12/31 0.02 CFS

Total Diversion: 0.02 CFS

Date Filed: 09/29/2003

Place Of Use: DOMESTIC T43N R03W S1 NWNE Lot 2

Remark: Domestic use is for 1 home.

Permits will be subject to all prior water rights. Protests may be submitted based on the criteria of Sec 42-203A, Idaho Code.

Any protest against the approval of this application must be filed with the Director, Dept. of Water Resource, Northern Region, 1910 Northwest Blvd, Suite 210, Coeur D'Alene ID 83814 together with a protest fee of \$25.00 for each application on or before 01/26/2004. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director

Published on January 7 and 14, 2004

5769 Jan. 7 - Jan. 14

Ball, Dianne

From: Corsi, Charles [ccorsi@IDFG.STATE.ID.US]
Sent: Friday, January 02, 2004 2:38 PM
To: dball@idwr.state.id.us
Subject: 92-10008 Benware

Hi Dianne -

Ray Henneky has taken a lateral transfer to our Lewiston office, and his position has not yet been re-filled. In the meantime (hopefully not too long!) I'll be covering for him on things of this nature.

This particular request appears to pose no significant threat to fish or wildlife, thus we have no objections or further comments on the application. Thanks for the opportunity to look it over.

Happy New Year,

Chip Corsi
Panhandle Regional Supervisor
Idaho Department of Fish and Game
2750 Kathleen Ave.
Coeur d'Alene, ID 83814
(208)769-1414

*Entered on computer
1/2/04
D*



State of Idaho
DEPARTMENT OF WATER RESOURCES

NORTHERN REGION, Suite No. 210 • 1910 Northwest Blvd. • Coeur d'Alene, Idaho 83814-2615
(208) 769-1450

Fax (208) 769-1454

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

December 31, 2003

EARL E BENWARE
1155 SE PRO MALL BLVD #425
PULLMAN WA 99163

RE: Application for Permit No 92-10008

Dear Applicant(s):

The Department of Water Resources acknowledges receipt of your water right application. Please refer to the above referenced number 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 on January 7 and 14, 2004. Submittal of protests to this application will be allowed for a period ending ten days after the second publication.

If the application is protested you will be sent a copy of the protest(s). 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, it will be forwarded to our State Office in Boise for final processing. The State Office will notify you of any action taken on the application and will send you a copy of the permit if approved. A typical processing time for an unprotested application is about eight to twelve weeks.

Please feel free to contact this office if you have any questions.

Sincerely,

A handwritten signature in cursive script, reading 'Allen Beardslee'.

Allen Beardslee
Senior Water Resource Agent



State of Idaho
DEPARTMENT OF WATER RESOURCES

NORTHERN REGION, Suite No. 210 • 1910 Northwest Blvd. • Coeur d'Alene, Idaho 83814-2615
(208) 769-1450

Fax (208) 769-1454

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

December 31, 2003

--PLEASE FAX PROOF PRIOR TO PUBLICATION--

LEGAL NOTICE DEPARTMENT
ST MARIES GAZETTE RECORD
610 MAIN AVE
ST MARIES ID 83861-1838

e-mailed to kaisie@smgazette.com
PLEASE REPLY TO ACKNOWLEDGE RECEIPT
and also FAXED 12/31/03
2 PAGES TOTAL

RE: Application for Permit No. 92-10008

Dear Kaisie:

Enclosed you will find a legal notice which we wish to have published in your newspaper on the dates indicated, January 7 and 14, 2004, (once a week for two consecutive weekly issues). If you cannot publish the notice on the proposed dates, please contact us immediately.

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 01/26/2004. Your cooperation is GREATLY appreciated.

Sincerely

Dianne

Dianne Ball
Administrative Assistant

Ball, Dianne

From: Kaisie [Kaisie@smgazette.com]
Sent: Wednesday, December 31, 2003 3:02 PM
To: Ball, Dianne
Subject: Re: Legal Notice for publication on January 7 and 14, 2003

I received your email. Looks like they will work just dandy.
Thanks!
Kaisie

----- Original Message -----
From: Ball, Dianne
To: 'kaisie@smgazette.com'
Sent: Wednesday, December 31, 2003 2:59 PM
Subject: Legal Notice for publication on January 7 and 14, 2003

Greetings Kaisie,

I am thankful that this method will work for you - and perhaps make your life a little easier!! I am also going to fax a hard copy just to cover all bases.

Attached you will find a copy of our Cover Letter requesting publication of a legal notice, also attached. Please publish on the dates requested.

If you have **ANY** questions, please do not hesitate to give me a call.

Please reply to this e-mail to acknowledge receipt, or if you prefer, give me a call at 208-769-1450.

I wish for you a very happy and prosperous new year.

Remember, when you can't see the bright side, try polishing the dull side.

Dianne

Dianne Ball, Administrative Assistant
Idaho Department of Water Resources
1910 Northwest Blvd., Suite 210
Coeur d'Alene, ID 83814
Phone 208-769-1450 FAX 208-769-1454

12/31/2003

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

92-10008

EARL E BENWARE
1155 SE PRO MALL BLVD #425
PULLMAN WA 99163

Point(s) of Diversion L2 (NENWNE) S1 T43N R03W
BENEWAH County Source SPRING Tributary To SANTA CREEK

Use: DOMESTIC 01/01 To 12/31 0.02 CFS

Total Diversion: 0.02 CFS

Date Filed: 09/29/2003

Place Of Use: DOMESTIC T43N R03W S1 NWNE Lot 2

Remark: Domestic use is for 1 home.

Permits will be subject to all prior water rights. Protests may be submitted
based on the criteria of Sec 42-203A, Idaho Code.

Any protest against the approval of this application must be filed with the
Director, Dept. of Water Resource, Northern Region, 1910 Northwest Blvd,
Suite 210, Coeur D' Alene ID 83814 together with a protest fee of \$25.00 for
each application on or before 01/26/2004. The protestant must also send a
copy of the protest to the applicant.

KARL J DREHER, Director

Published on January 7 and 14, 2004



State of Idaho
DEPARTMENT OF WATER RESOURCES

NORTHERN REGION, Suite No. 210 • 1910 Northwest Blvd. • Coeur d'Alene, Idaho 83814-2615
(208) 769-1450

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

December 31, 2003

RAY HENNEKEY
STATE OF IDAHO
DEPT OF FISH & GAME
2750 KATHLEEN AVE
COEUR D ALENE, ID 83814

FAXED TO RAY 12/31/03
4 PAGES TOTAL
THE MAP FAXED HERewith IS VERY DARK

Application to Permit No. 92-10008 - Benware

Dear Ray:

Enclosed is a copy of the above referenced application. Please review the application, and submit your comments to this office within two weeks of receipt of this request, by January 16, 2004. You may respond by e-mail to dball@idwr.state.id.us.

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

Sincerely,

Dianne Ball
Administrative Assistant

Enclosure(s)

Ball, Dianne

From: Inancy [snowirish@imbris.com]
Sent: Sunday, December 28, 2003 12:51 PM
To: Ball, Dianne
Subject: Water rights question..

Bob / Al

Dear Dianne,

We filed for water rights in October of 2003 from our property off of Santa Creek rd. in Benewah County Idaho . We were wondering what was happening at this point with the process as we haven't heard anything yet.

Please respond to us at cbutterfield.11@juno.com or 509-332-1012.

Thank you for your time,
Earl Benware and Cathy Butterfield.

12/29/2003