

State of Idaho
Department of Water Resources
Permit to Appropriate Water
No. 86-12142

Priority: February 11, 2022

Maximum Diversion Rate: 0.02 CFS

This is to certify that

DON HALVORSON 1290 AMERICAN RIDGE RD KENDRICK ID 83537-9504 AND/OR
CHARLOTTE HALVORSON 1290 AMERICAN RIDGE RD KENDRICK ID 83537-9504

has applied for a permit to appropriate water from:

Source : MIDDLE POTLATCH CREEK

Tributary: POTLATCH 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>
STOCKWATER	01/01 to 12/31	0.02 CFS

Location of Point(s) of Diversion

MIDDLE POTLATCH CREEK NE¼ SW¼, Sec. 33, Twp 38N, Rge 03W, B.M. LATAH County
(Beginning of Stream Flow)

MIDDLE POTLATCH CREEK NE¼ SW¼, Sec. 33, Twp 38N, Rge 03W, B.M. LATAH County
(Ending of Stream Flow)

Place of Use: STOCKWATER

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
38N	03W	33									X								

Conditions of Approval

1. Proof of application of water to beneficial use shall be submitted on or before **April 01, 2024**.
2. Subject to all prior water rights.
3. This right authorizes the watering of livestock directly from the stream without a diversion.
4. Stockwater use is for 75 head range cattle.
5. Water shall not be diverted under this right when flows in the Potlatch River are below minimum flow amounts as defined by Right 86-11960. The right holder shall be responsible for monitoring the daily flow of the Potlatch River using real-time data and shall cease diverting water when flows in the Potlatch 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 Potlatch River below Little Potlatch Creek near Spalding gauging station, No. 03341570, may be used for purposes of determining the daily flow amounts.
6. 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 Idaho Code § 42-204.

Signed this 23rd day of March, 2022.



ADAM FREDERICK
Water Rights Supervisor

State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

86-12142

This map depicts the STOCKWATER 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.

03W



-  Point of Diversion
-  Place Of Use Boundary
-  Townships
-  PLS Sections
-  Quarter Quarters

0 0.0375 0.075 0.15 Miles





IDAHO DEPARTMENT OF
WATER RESOURCES

Northern Region • 7600 N Mineral Drive, Suite 100 • Coeur D'Alene, ID 83815-7763
Phone: 208-762-2800 • Fax: 208-762-2819 • Email: northerninfo@idwr.idaho.gov • Web: idwr.idaho.gov

Governor Brad Little

Director Gary Spackman

March 23, 2022

DON HALVORSON
CHARLOTTE HALVORSON
1290 AMERICAN RIDGE RD
KENDRICK ID 83537-9504

RE: Permit No. 86-12142

Permit Approval Notice

Dear Permit Holder(s):

The Department of Water Resources ("Department") has issued the enclosed permit authorizing you to establish a new water right. Please be sure to thoroughly review all the conditions of approval listed on your permit. The conditions include requirements that you must accomplish, such as timely submittal of proof of beneficial use or installation of a measuring device, as well as information about how your water use may be administered, such as regulation by a watermaster in a water district. Failure to comply with the conditions of approval may result in your permit lapsing or being canceled.

The permit is a PRELIMINARY ORDER issued pursuant to Rule 730 of the Department's Rules of Procedure (IDAPA 37.01.01.730). It can and will become a final order without further action by the Department unless a party petitions for reconsideration, files exceptions, or requests a hearing as described in the enclosed information sheet.

The final step in the water right process is issuance of a water right license. To receive a water right license, you must divert and use water to the full extent intended and submit a *Statement of Completion for Submitting Proof of Beneficial Use* by the date shown in condition no. 1 of your permit. The Department will send you a *Proof Due Notice* approximately 60 days prior to the date listed in condition no. 1 of your permit.

You may also require approvals from other Department programs, such as Ground Water Protection, Safety of Dams, or Stream Channel Protection, to accomplish your proposed development. Please call or visit any Department office or see the Department's website at idwr.idaho.gov for more information about these programs.

Please be advised that Idaho Code § 42-248, requires you or the owner of this water permit to maintain current ownership and address records on file with the Department. Forms to file an assignment of permit and/or a change in the address of the permit owner are available from any Department office or at the Department's website at www.idwr.idaho.gov.

If you have any questions concerning the enclosed information, please contact the Northern Region Office at (208) 762-2800.

Sincerely,



Adam Frederick
Water Rights Supervisor

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on March 23, 2022, I served a true and correct copy of Permit to Appropriate Water No. 86-12142 by U.S. Mail, postage prepaid, to the following:

DON HALVORSON (Current Owner)
1290 AMERICAN RIDGE RD
KENDRICK ID 83537-9504

CHARLOTTE HALVORSON (Current Owner)
1290 AMERICAN RIDGE RD
KENDRICK ID 83537-9504



Tammy Alleman
Administrative Assistant 1

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.

MEMORANDUM

To: Water Right Application 86-12142 and 86-12143

From: Luke Bates *JSB*

Date: 3/22/2022

Re: Application for a Permit to Appropriate Water within the Salmon and Clearwater River Basins.

Re: Regional Analysis and Recommendation in accordance with Water Appropriation Rules (IDAPA 37.03.08.040.05).

Water Supply Information

Water should be available from Middle Potlatch Creek source (86-12142) and subsequent unnamed stream source (86-12143).

Good Faith, Delay, or Speculative Information

The applicant plans to use water for instream stockwater use. There are no known issues with any other party.

Financial Resources Information

No resources are needed by the applicant and both the beginning and ending reach(s) of instream stockwater use are within the applicant's property boundaries.

Local Public Interest

The Idaho Department of Fish & Game (F & G), Department of Environmental Quality (DEQ), Latah County Commissioner (Commissioner), and Water Board (WB) have been asked to comment by the Idaho Department of Water Resources. DEQ and F & G comment(s) are explanatory in nature and do not degrade the application toward permit approval. The Commissioner and WB did not comment during the advertising period for this application. There were no other known issues with this application as no protests were received.

Injury to Other Water Rights

Water from Middle Potlatch Creek & unnamed stream source(s) are tributary to the Potlatch River & the Clearwater River. Both permit's stockwater use subordinates the Clearwater minimum stream flow (MSF) Right 86-7345, but not Potlatch River MSF Right 86-11960. Condition 227 was added to prescribe permit(s) 86-12142 & 86-12143's minimum stream flow requirements as designated in Right 86-11960.

Recommendation

The Northern Region recommends proceeding with the processing of this water right application.



STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY

1118 F Street, Lewiston, ID 83501
(208) 799-4370

Brad Little, Governor
Jess Byrne, Director

March 21, 2021

Idaho Department of Water Resources
Northern Regional Office
7600 N Mineral Drive, Suite 100
Coeur d'Alene, ID 83815

Subject: Water Right Applications #86-12140, #86-12142, #86-12143, Don and Charlotte Halverson, Kendrick, ID

DEQ has received a request for comment on the approval of the following water right applications, from the same applicant, in Township 38N, Range 3W, Section 28 in Latah County:

- Water Right No. 86-12140 – to withdraw 0.13 cubic feet per second (cfs) from an unnamed tributary to the Middle Potlatch Creek for irrigation from March 1 through November 15,
- Water Right No. 86-12142 – to withdraw 0.02 cfs from Middle Potlatch Creek, a tributary to Potlatch River, for stockwater from January 1 through December 31, and
- Water Right No. 86-12143 – to withdraw 0.02 cfs from an unnamed tributary to the Middle Potlatch Creek, for stockwater from January 1 through December 31.

The unnamed tributary is presently not defined and has no assessment unit ID, or existing water supply designations.

Middle Potlatch Creek (Assessment Unit ID17060306CL062_03) is a 3rd order stream last assessed on May 05, 2017. It is listed in the Idaho 2018/2020 Integrated Report as Category 4c – not supporting of cold water aquatic life due to flow regime modification and physical substrate habitat alterations, and as Category 4a – not supporting of cold water aquatic life because of sedimentation/siltation and temperature and not supporting salmonid spawning on the basis of temperature. It meets *Escherichia Coli* (*E. coli*) bacteria criteria and is designated as fully supporting of secondary contact recreation uses. Flow in Middle Potlatch Creek recorded under DEQ's Beneficial Use Reconnaissance Program (BURP) ranged from 0.05 cfs to 0.44 cfs.

Downstream flow in the Potlatch River is highly variable, with daily average flows in 2021 ranging from 0.15 cfs (August 17th) to 5,510 cfs (January 13th) as recorded by a United States Geological Survey (USGS) station located below Little Potlatch Creek. Two BURP flow measurements in the Potlatch River near the confluence with Middle Potlatch Creek range were 3.83 cfs and 10.19 cfs.

A temperature total maximum daily load (TMDL) was approved in 2018 for the Potlatch River Watershed, which encompasses both the Middle Potlatch Creek and the unnamed tributary. The TMDL document identifies Middle Potlatch Creek, along with Moose Creek and Pine Creek, as representing "some of the largest percentages of excess solar loads" in the Potlatch River watershed and regarded these stream segments as having "an opportunity to contribute a relatively large portion of the total heat load". While any withdrawal has the potential to adversely affect temperature, DEQ notes that the requested withdrawals are small, especially relative to the major sources of temperature load input in the Potlatch River Watershed.

Given the absence of flow data for the unnamed tributary, and the low flows and existing excess temperature load in Middle Potlatch Creek, DEQ recommends that the legally appropriated withdrawal be made during

Idaho Department of Water Resources
March 21, 2022
Page 2

periods of seasonal high flow and managed such that the streams are not allowed to go dry because of legally appropriated and allowable water withdrawals. It is also recommended that livestock be excluded from the stream channels insofar as possible to reduce *E. coli* input, maintain riparian vegetation, and support designated beneficial uses.

Thank you for the opportunity to comment on your application. If you have any questions regarding the Idaho Water Quality Standards, please contact us at (208) 799-4370, or by email at david.mcintyre@deq.idaho.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read 'DMcIntyre', with a long horizontal flourish extending to the right.

David McIntyre
Water Quality Analyst

c: Don & Charlotte Halvorson, Kendrick, ID
EDMS

Alleman, Tammy

From: Hickey, Clay <clay.hickey@idfg.idaho.gov>
Sent: Thursday, March 17, 2022 10:23 AM
To: Alleman, Tammy; Sujata Connell; IWRB Water Use Reviews; commissioners
Cc: Jennifer Piper; Michelle Fuson; Ryan Banks; Allison Lebeda
Subject: RE: Request for Comments for WR#86-121402 Stockwater (0.02 cfs) from Middle Potlatch Creek tributary of Potlatch River

Hi Tammy,

Since this applicant is not modifying the stream and is only watering cows on this stretch of the stream he does not need a water right. However, to avoid stream quality issues and damage to riparian vegetation IDFG would prefer if the applicant did divert water and water his cows outside of the stream channel. We appreciate the opportunity comment on this application. Thanks Clay

Clay Hickey
Environmental Staff Biologist, Clearwater Region
Idaho Department of Fish and Game
3316 16th Street
Lewiston, ID 83501
Office (208) 750-4217
Clay.hickey@idfg.idaho.gov



From: Alleman, Tammy <Tammy.Alleman@idwr.idaho.gov>
Sent: Wednesday, February 16, 2022 3:10 PM
To: Hickey, Clay <clay.hickey@idfg.idaho.gov>; Sujata Connell <Sujata.CConnell@deq.idaho.gov>; IWRB Water Use Reviews <WaterUseApprovalReviews@idahogov.onmicrosoft.com>; commissioners <bocc@latah.id.us>
Cc: Jennifer Piper <jpiper@latah.id.us>; Michelle Fuson <MFuson@latah.id.us>
Subject: Request for Comments for WR#86-121402 Stockwater (0.02 cfs) from Middle Potlatch Creek tributary of Potlatch River

Dear Interested Agencies:

The Department of Water Resources is seeking written comment and/or recommendations from your agency regarding the above referenced Water Right Permit application. You can find copies of the application at: <http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx>.

This office can publish notice of the application as soon as the initial review is completed; therefore, your prompt response to this request is appreciated. If your agency desires to formally protest the approval of the application(s), 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. The deadline for comments on the applications is March 21, 2022.

Please contact the Northern Region Office at (208) 762-2800 if you have any questions regarding the Permit application.

Thank you,

Tammy



Tammy Alleman | Administrative Assistant
Idaho Department of Water Resources
Northern Regional Office
7600 N Mineral Drive, Suite 100
Coeur d'Alene, ID 83815-7763
Phone: (208) 762-2800

NEWS REVIEW PUBLISHING COMPANY
The Moscow-Pullman Daily News
P.O.Box 957
Lewiston, Idaho 83501
(208) 743-9411

Date:

03/10/2022

INVOICE NO.

167650

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964750

Description

167650 The foll

Times

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Lines

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Tab. lines

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LEGAL ADVERTISING
INVOICE

Sold To: ID DEPT. OF WATER RESOURCES
7600 MINERAL DR #100
COEUR D ALENE ID 83814

RECEIVED

MAR 14 2022

IDWR/NORTH

PO#

Alleman, Tammy

NOTICE: This is a invoice of Purchase made by you. Statement will be rendered the first of the month
Please Retain This Invoice as Your Statement Will Refer to Invoice by No. Only.

167650
The following application(s) have been filed to appropriate
the public waters of the State of Idaho:
86-12140
DON HALVORSON CHARLOTTE HALVORSON
1290 AMERICAN RIDGE RD KENDRICK, ID 83537-9504
Point of Diversion NWSE S28 T38N R03W
LATAH County
Source UNNAMED STREAM
Tributary MIDDLE POTLATCH CREEK
Point of Diversion NWSE S28 T38N R03W
LATAH County
Source UNNAMED STREAM
Tributary MIDDLE POTLATCH CREEK
Use: FIRE PROTECTION STORAGE 01/01 to 12/31 1.9 AF
Use: STOCKWATER STORAGE 01/01 to 12/31 1 AF
Use: STOCKWATER FROM STORAGE 01/01 to 12/31 1 AF
Use: IRRIGATION STORAGE 01/01 to 12/31 16.8 AF
Use: IRRIGATION FROM STORAGE 03/15 to 11/15 16.8 AF
Use: IRRIGATION 03/01 to 11/15 0.13 CFS
Total Diversion: 0.13 CFS, 19.7 AF
Date Filed: 01-20-2022
Place Of Use: FIRE PROTECTION STORAGE, IRRIGATION,
IRRIGATION FROM STORAGE, IRRIGATION STORAGE,
STOCKWATER FROM STORAGE, STOCKWATER STOR-
AGE T38N R03W S28 NWSE
Place Of Use: IRRIGATION, IRRIGATION FROM STOR-
AGE, STOCKWATER FROM STORAGE T38N R03W S28
SWNE, SWSE
Total Acres: 4.2

86-12141
DON HALVORSON CHARLOTTE HALVORSON
1290 AMERICAN RIDGE RD KENDRICK, ID 83537-9504
Point of Diversion NENWSE S33 T38N R03W
LATAH County
Source SPRING
Tributary SINKS
Use: STOCKWATER 01/01 to 12/31 0.03 CFS
Use: IRRIGATION 03/01 to 11/15 0.2 CFS
Total Diversion: 0.2 CFS Date Filed: 02-11-2022
Place Of Use: IRRIGATION, STOCKWATER T38N R03W S28
NESE, NWSE
Total Acres: 11.1

AFFIDAVIT OF PUBLICATION

S KELLAM _____, Legal Clerk
being first duly sworn, on oath deposes
and says: I am the printer of
Moscow-Pullman Daily News, a newspaper
of general circulation, published daily
except Sunday at Moscow, Latah County,
Idaho, in compliance with Sections 60-106,
60-107, and 60-108 of the Idaho Code and the
amendments thereto; and an official newspaper
for Whitman County, Washington as required
by R.C.W. 36.72.071 and other provisions of
the Revised Code of Washington and the
amendments thereto: that the notice of which the
annexed is a full, true and correct printed
copy was published in the regular and entire
issues of said newspaper and not in a
supplement thereto, upon the following dates:

3/3 & 3/10/2022

the same being the date designated for
the publication of said notice.

S Kellam

On this 11 day of mar
in the year of 2022 before me, a Notary Public,
personally appeared S KELLAM
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 he executed the same.

Notary Public for Idaho,
Residing at Lewiston, Idaho
My Commission Expires 1/23/28



86-12142

DON HALVORSON CHARLOTTE HALVORSON
1290 AMERICAN RIDGE RD KENDRICK, ID 83537-9504
Point of Diversion NESW S33 T38N R03W
LATAH County
Source MIDDLE POTLATCH CREEK
Tributary POTLATCH RIVER
Point of Diversion NESW S33 T38N R03W
LATAH County
Source MIDDLE POTLATCH CREEK
Tributary POTLATCH RIVER
Use: STOCKWATER 01/01 to 12/31
Total Diversion: 0.02 CFS
Date Filed: 02-11-2022
Place Of Use: STOCKWATER T38N R03W S33 NESW

86-12143

DON HALVORSON CHARLOTTE HALVORSON
1290 AMERICAN RIDGE RD KENDRICK, ID 83537-9504
Point of Diversion NWNE S33 T38N R03W
LATAH County Source UNNAMED STREAM
Tributary MIDDLE POTLATCH CREEK
Point of Diversion NESW S33 T38N R03W
LATAH County
Source UNNAMED STREAM
Tributary MIDDLE POTLATCH CREEK
Use: STOCKWATER 01/01 to 12/31
Total Diversion: 0.02 CFS
Date Filed: 02-11-2022
Place Of Use: STOCKWATER T38N R03W S33 SWNE, SENW,
NESW

87-12353

JAMES FRY JULIE FRY
515 CHRISTIE ST TROY, ID 83871-9667
Point of Diversion SWSE S31 T40N R04W
LATAH County
Source GROUND WATER
Point of Diversion L2(NWNE) S6 T39N R04W
LATAH County
Source GROUND WATER
Point of Diversion L1(NENE) S6 T39N R04W
LATAH County
Source GROUND WATER
Use: DOMESTIC 01/01 to 12/31 0.04 CFS
Use: COMMERCIAL 01/01 to 12/31 0.06 CFS
Use: IRRIGATION 04/01 to 10/31 0.5 CFS
Total Diversion: 0.6 CFS
Date Filed: 02-04-2022
Place Of Use: COMMERCIAL, DOMESTIC T39N R04W S6
L1(NENE), L2(NWNE)
Place Of Use: IRRIGATION T39N R04W S6 L1(NENE)
Place Of Use: COMMERCIAL, DOMESTIC T40N R04W S31
SWSE
Place Of Use: IRRIGATION T40N R04W S31 SESE
Total Acres: 25

Permits will be subject to all prior water rights. For additional information concerning the property location, contact the Northern office at (208)762-2800; or for a full description of the right(s), please see <https://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 N MINERAL DR STE 100, COEUR D'ALENE ID 83815-7763 together with a protest fee of \$25.00 for each application on or before 3/21/2022. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director
Published on 3/3/2022 and 3/10/2022