

State of Idaho
Department of Water Resources
Permit to Appropriate Water
No. 97-7583

Priority: October 16, 2020

Maximum Diversion Rate: 0.85 CFS

This is to certify that

JEFFREY JOSEPH EMMERT 287 ROPP RD PRIEST RIVER ID 83856-9662 AND/OR
DEBRA LYNN EMMERT 287 ROPP RD PRIEST RIVER ID 83856-9662

has applied for a permit to appropriate water from:

Source : OLE CREEK

Tributary: LOWER WEST BRANCH
PRIEST 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	04/01 to 10/31	0.82 CFS
STOCKWATER	01/01 to 12/31	0.03 CFS

Location of Point(s) of Diversion

OLE CREEK L11 (SW¼ SW¼), Sec. 6, Twp 57N, Rge 05W, B.M. BONNER County
OLE CREEK L11 (SW¼ SW¼), Sec. 6, Twp 57N, Rge 05W, B.M. BONNER County

Place of Use: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
57N	05W	6											23.0 L11	18.0					41.0

Total Acres: 41.0

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	
57N	05W	6											X L11	X					

Conditions of Approval

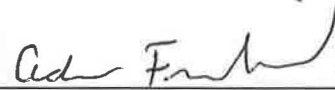
1. Proof of application of water to beneficial use shall be submitted on or before **December 01, 2025**.
2. Subject to all prior water rights.
3. A fish screen of 1/4 inch or smaller mesh shall be installed and maintained at the point of diversion.
4. The approach velocity at the point of diversion shall not exceed 0.5 feet per second.
5. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.
6. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.0 afa per acre at the field headgate for irrigation of the place of use.

State of Idaho
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7. Stockwater use is for 70 head of mixed stock.
8. Water shall not be diverted under this right when flows in Priest River are below established minimum flow amounts established in water right 95-7380.
9. 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 25th day of November, 20 20.



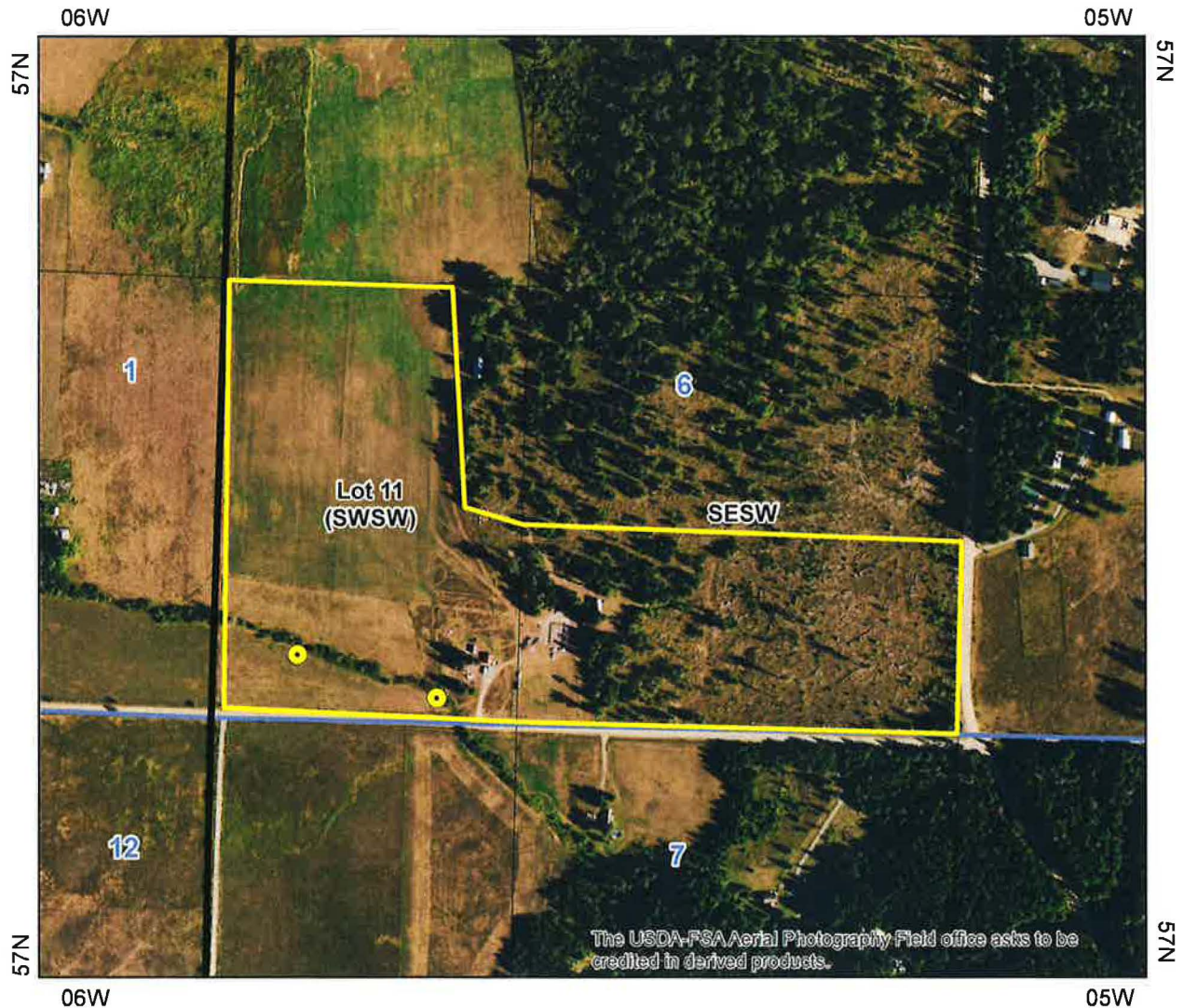
ADAM FREDERICK
Water Rights Supervisor

State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

97-7583

This map depicts the IRRIGATION 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.



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

0 0.05 0.1 0.2 Miles

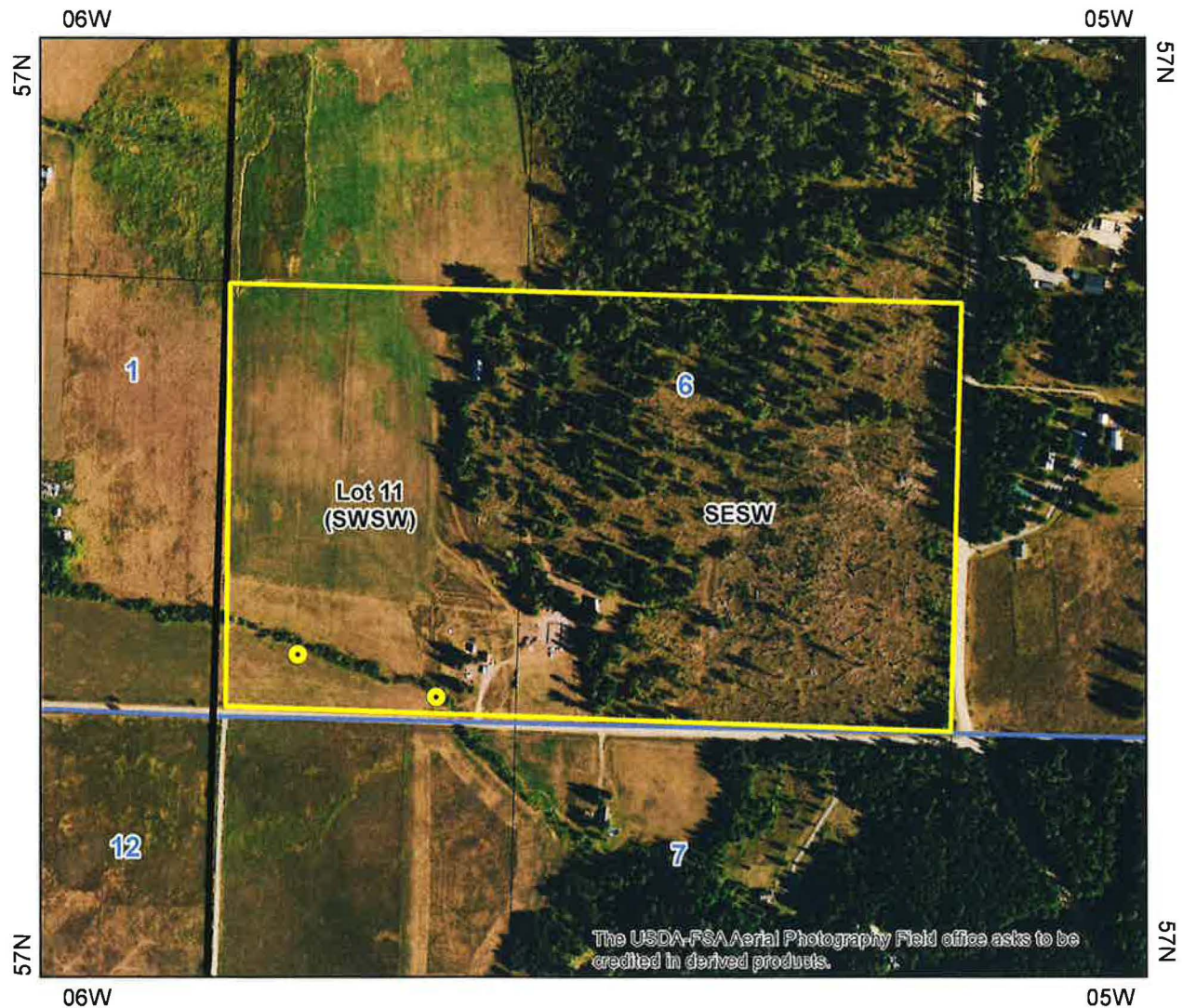


State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

97-7583

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.



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

0 0.05 0.1 0.2 Miles





State of Idaho

DEPARTMENT OF WATER RESOURCES

Northern Region • 7600 N MINERAL DR STE 100 • COEUR D ALENE, ID 83815-7763

Phone: (208)762-2800 • Fax: (208)769-2819 • Website: www.idwr.idaho.gov

Brad Little
Governor

Gary Spackman
Director

November 25, 2020

DEBRA LYNN EMMERT
JEFFREY JOSEPH EMMERT
287 ROPP RD
PRIEST RIVER ID 83856-9662

RE: Permit No. 97-7583

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 November 25, 2020, I served a true and correct copy of Permit to Appropriate Water No. 97-7583 by U.S. Mail, postage prepaid, to the following:

DEBRA LYNN EMMERT (Current Owner)
287 ROPP RD
PRIEST RIVER ID 83856-9662

JEFFREY JOSEPH EMMERT (Current Owner)
287 ROPP RD
PRIEST RIVER ID 83856-9662



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.



IDAHO DEPARTMENT OF FISH AND GAME

PANHANDLE REGION
2885 West Kathleen Avenue
Coeur d'Alene, Idaho 83815

Brad Little / Governor
Ed Schriever / Director

November 20, 2020

Ms. Tammy Alleman
Idaho Department of Water Resources
7600 North Mineral Drive, Suite 100
Coeur d'Alene, ID 83815

REFERENCE: 97-7583 - Emmert

Dear Tammy:

We have reviewed the above-named water right application. The permit request is to divert 0.85 cfs from Ole Creek for stock water and to irrigate 41 acres of land. The purpose of these comments is to assist the decision-making authority by providing technical information addressing potential effects on wildlife and wildlife habitat and how any adverse effects might be mitigated.

Ole Creek is a small creek that drains approximately 1.3 square miles of land, approximately half of which is in the State of Washington. The average flow near the proposed diversion is approximately 1 cfs according to the USGS StreamStat Estimate for un-gaged sites in Idaho. Only 0.03 cfs will be used year round for stockwater, but during the irrigation season an additional 0.82 cfs will be used. If the entire amount is diverted from Ole Creek during average flows it will be over 75% of Ole Creeks flow, and have the potential to dewater a portion of the stream during dry months. No flow monitoring data exists to evaluate how the loss will potentially affect aquatic biota in this small tributary. The applicant runs the risk of totally dewatering a portion of the creek on low water years. We are concerned that the cumulative loss of flow from private diversions may negatively impact habitat availability for native species.

The applicants state that they plan to divert water from two locations along Ole Creek using a "water catch basin" along the creek, and pump water from the creek to pipes for irrigation. We recommend that a low maintenance diversions be installed for minimal disturbance in the creek channel. According to Idaho Code 36-906, a diversion must be properly screened in order to prevent fish entrainment. We recommend **less than 0.25" mesh screen and approach velocity of less than 0.5 feet per second** in order to protect juvenile fish from the proposed diversion and pump.

Thank you for the opportunity to comment.

Sincerely,

A handwritten signature in blue ink, appearing to read "Charles E. Corsi".

Charles E. Corsi
Regional Supervisor

CEC:MH:dsn

C: Paul Kline, IDFG Director's Office

Keeping Idaho's Wildlife Heritage

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO)
) ss.
County of Bonner)

Danielle Rukmschottel, being first duly sworn on
oath, deposes and states:

1. I am a citizen of the United States of America, over
the age of 18 years, a resident of Bonner County, Idaho, and
am not a party to the proceedings referred to in the attached

Public Notice
My business address is P.O. Box 159, Sandpoint, Idaho.

2. I am the bookkeeper of the Bonner County
Daily Bee, a newspaper of general publication in Bonner
County, Idaho;

3. Said newspaper has been continuously and
uninterruptedly published in Bonner County, Idaho during a
period of 12 months prior to the first publication of said
Notice, and thereafter.

4. The attached Notice was published in the regular and
entire issue of the Bonner County Daily Bee for a period of
2 consecutive weeks, commencing on the 4 day of
November, 2020, and ending on the 11 day of
November, 2020.

Danielle Rukmschottel

State of Idaho, county of Bonner ss.

On this 11 day of November, in the year of 2020,
before me, Katrina George, Notary Public, personally
appeared Danielle Rukmschottel known or
identified to me to be the person whose name is subscribed
to the within instrument, and acknowledged to me that he (or
they) executed the same.

Katrina George
Notary Public
Residing at: Kootenai County

My Commission Expires 8/29/23

RECEIVED

NOV 16 2020

IDWR / NORTH



PUBLIC NOTICE

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

97-7583
JEFFREY JOSEPH EMMERT
DEBRA LYNN EMMERT
287 ROPP RD
PRIEST RIVER, ID
83856-9662
Point of Diversion L11(SWSW)
S6 T57N R05W
BONNER County
Source OLE CREEK
Tributary LOWER WEST
BRANCH PRIEST RIVER
Point of Diversion L11(SWSW)
S6 T57N R05W
BONNER County
Source OLE CREEK
Tributary LOWER WEST
BRANCH PRIEST RIVER
Use: STOCKWATER
01/01 to 12/31 0.03 CFS
Use: IRRIGATION
04/01 to 10/31 0.82 CFS
Total Diversion: 0.85 CFS
Date Filed: 10-16-2020
Place Of Use:
IRRIGATION, STOCKWATER
T57N R05W S6
L11(SWSW), SESW
Total Acres: 41

97-7584
JEFFREY JOSEPH EMMERT
DEBRA LYNN EMMERT
287 ROPP RD
PRIEST RIVER, ID
83856-9662
Point of Diversion L10(NWSW)
S6 T57N R05W
BONNER County
Source SLOUGH CREEK
Tributary LOWER WEST
BRANCH PRIEST RIVER

Use: DIVERSION TO
STORAGE
01/01 to 12/31 0.35 CFS
Use: IRRIGATION STORAGE
04/01 to 10/31 60 AF
Use: IRRIGATION FROM
STORAGE
04/01 to 10/31 60 AF
Use: WILDLIFE STORAGE
01/01 to 12/31 0.6 AF
Use: STOCKWATER
STORAGE
01/01 to 12/31 0.1 AF
Total Diversion: 0.35 CFS,
60.7 AF
Date Filed: 10-16-2020
Place Of Use: DIVERSION TO
STORAGE, IRRIGATION
FROM
STORAGE, IRRIGATION
STORAGE, STOCKWATER
STORAGE, WILDLIFE
STORAGE
T57N R05W S6
L10(NWSW)
Total Acres: 20

97-7585
DAVID BLOMGREN
CINDY BLOMGREN
PO BOX 1237
LEBEC, CA 93243-1237
Point of Diversion SENE
S12 T57N R06W
BONNER County
Source UNNAMED STREAM
Tributary OLE CREEK
Use: DOMESTIC
01/01 to 12/31 0.06 CFS
Use: STOCKWATER
01/01 to 12/31 0.02 CFS
Use: IRRIGATION
04/01 to 10/31 0.15 CFS
Total Diversion: 0.23 CFS
Date Filed: 10-26-2020
Place Of Use:
DOMESTIC, IRRIGATION, STO
CKWATER
T57N R06W S12 SENE
Total Acres: 5

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 11/23/2020. The protestant must also send a copy of the protest to the applicant.
GARY SPACKMAN, Director
SNP LEGAL 8181
AD#416851
NOVEMBER 4, 11, 2020

Alleman, Tammy

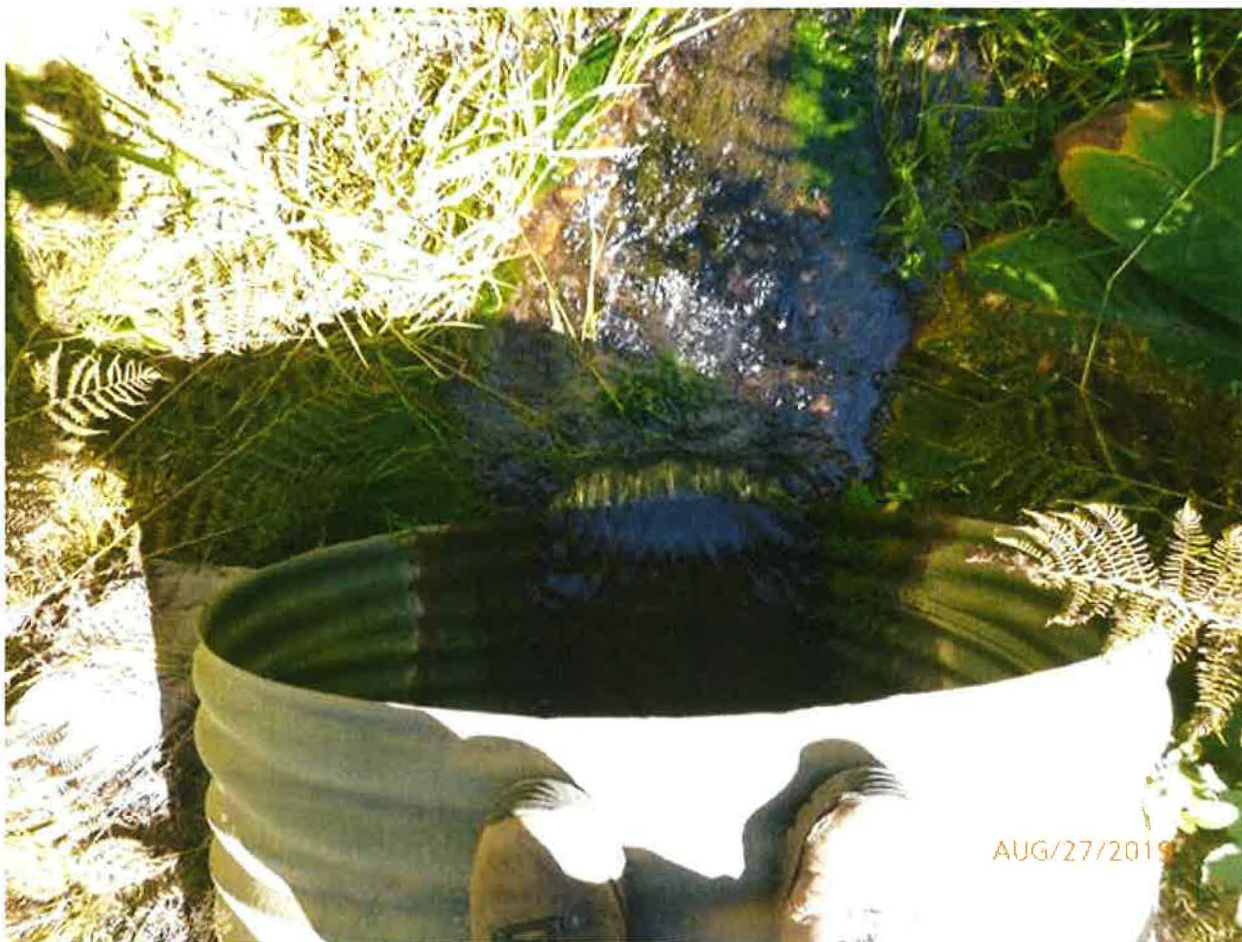
From: Chantilly.Higbee@deq.idaho.gov
Sent: Wednesday, November 4, 2020 2:03 PM
To: Alleman, Tammy
Subject: RE: Request for Comments WR#97-7583

Tammy,

Please consider this email as comment from Idaho Department of Environmental Quality (DEQ) regarding Water Right # 97-7583.

On August 27, 2019, DEQ performed a stream survey on Ole Creek at 48.309033, -117.010585. At that time, flow was estimated to be around 0.1 cubic feet per second (cfs); the crew characterized this as "low flow".

Ole Creek is presumed to have the cold water aquatic life beneficial use and should be protected. Given that Ole Creek is known to experience low flow conditions in late summer, all upstream waters likely also experience these conditions. DEQ recommends IDWR consider limiting water diversion from the unnamed creek during late summer months in order to maintain adequate flow and temperature, thus supporting the cold water aquatic life use.



Thank you for the opportunity to comment.



Chantilly Higbee | Water Quality Compliance Officer

Idaho Department of Environmental Quality

2110 Ironwood Parkway

Coeur d'Alene, Idaho 83814

Office: (208) 666-4605

<http://www.deq.idaho.gov/>

Our mission is to protect human health and the quality of Idaho's air, land, and water.

From: Alleman, Tammy [mailto:Tammy.Alleman@idwr.idaho.gov]

Sent: Wednesday, October 28, 2020 9:49 AM

To: Chantilly Higbee; Anna Moody; merritt.horsmon@idfg.idaho.gov; Skoro, Emily; Golden, Kala

Subject: Request for Comments WR#97-7583

Dear Interested Agencies:

The Department of Water Resources is seeking written comment and/or recommendations from your agency regarding the above referenced Water Right applications. You can find copies of the applications 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 November 23rd, 2020.**

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

Thank you,

Tammy

Tammy Alleman

Administrative Assistant

Idaho Department of Water Resources

7600 N Mineral Drive, Suite 100

Coeur d'Alene, ID 83815-7763

Phone: (208) 762-2800

Fax (208) 762-2819

From: Debra Emmert <emmertdebra@yahoo.com>
Sent: Friday, October 30, 2020 7:53 AM
To: Bates, Luke
Subject: Emmert contact info

This is a request to change our
contact numbers for water permits associated with the contact information (97-7583 & 97-7584).

Jeff Emmert 208-217-7630
Debra Emmert 208-217-7053
287 Ropp Rd
Priest River Idaho 83856

Sent from my iPhone