

State of Idaho  
Department of Water Resources  
**Permit to Appropriate Water**  
No. 82-12287

**Priority:** September 08, 2020

**Maximum Diversion Volume:** 4.9 AF

This is to certify that

RAY WOLVERTON 109 GANGL RD WAPATO WA 98951-8001 AND/OR  
PAULA WOLVERTON 109 GANGL RD WAPATO WA 98951-8001

has applied for a permit to appropriate water from:

**Source :** UNNAMED STREAM

**Tributary:** RED RIVER

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

<u>Beneficial Use</u>	<u>Period of Use</u>	<u>Annual Volume</u>
FIRE PROTECTION STORAGE	01/01 to 12/31	4.9 AF
AESTHETIC STORAGE	01/01 to 12/31	4.9 AF

**Location of Point(s) of Diversion**

UNNAMED STREAM NW¼ NE¼, Sec. 16, Twp 28N, Rge 10E, B.M. IDAHO County

**Place of Use:** FIRE PROTECTION STORAGE AND AESTHETIC STORAGE

Twp	Rng	Sec	NE				NW				SW				SE				No QQ	Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
28N	10E	16		X																

**Place of Use:** AESTHETIC STORAGE

Twp	Rng	Sec	NE				NW				SW				SE				No QQ	Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
28N	10E	16		X																

**Conditions of Approval**

1. Proof of application of water to beneficial use shall be submitted on or before **November 01, 2023**.
2. Subject to all prior water rights.
3. Prior to the diversion and use of water under this approval, the right holder shall comply with all fish screening and/or fish passage requirements of the Idaho Department of Fish and Game.
4. Water shall not be diverted from fire protection storage except to fight or repel an existing fire.
5. Right 82-12287 authorizes a total annual storage volume of 4.9 acre-feet, 4.5 acre-feet to be used for the initial filling or carryover storage of the pond and 0.4 acre-feet for the replacement of losses caused by seepage and evaporation.
6. The pond established by the storage of water under this right shall not exceed a total capacity of 4.5 acre-feet or a total surface area of 0.3 acres.
7. The place of use does not include federal land.

State of Idaho  
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8. Property is also known as Homestead Entry Survey No. 245 Tract B.
9. Water shall not be diverted under this right when flows in the Red River are below established minimum flow amounts as defined by Right 82-12233.
10. This right does not grant any right-of-way or easement across the land of another.

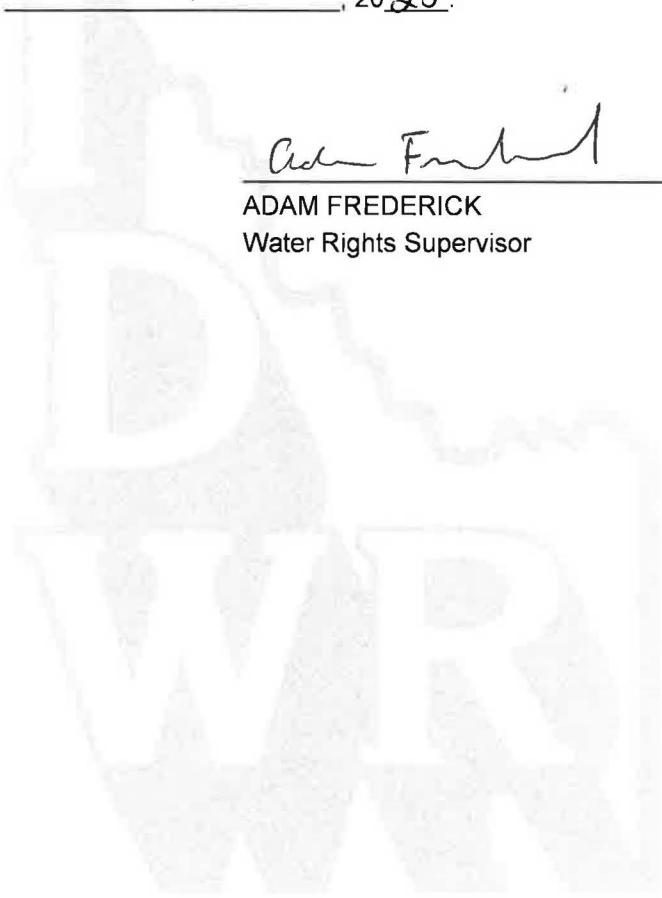
This permit is issued pursuant to the provisions of Idaho Code § 42-204.

Signed this 30<sup>th</sup> day of October, 2020.



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ADAM FREDERICK  
Water Rights Supervisor



State of Idaho  
Department of Water Resources






# Attachment to Permit to Appropriate Water

82-12287

This map depicts the FIRE PROTECTION STORAGE and AESTHETIC STORAGE 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.

10E



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

0 0.035 0.07 0.14 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](http://www.idwr.idaho.gov)

Brad Little  
Governor

Gary Spackman  
Director

October 30, 2020

RAY WOLVERTON  
PAULA WOLVERTON  
109 GANGL RD  
WAPATO WA 98951-8001

RE: Permit No. 82-12287

### 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](http://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](http://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

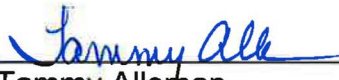
Enclosure(s)

## CERTIFICATE OF SERVICE

I hereby certify that on October 30, 2020, I served a true and correct copy of Permit to Appropriate Water No. 82-12287 by U.S. Mail, postage prepaid, to the following:

RAY WOLVERTON (Current Owner)  
109 GANGL RD  
WAPATO WA 98951-8001

PAULA WOLVERTON (Current Owner)  
109 GANGL RD  
WAPATO WA 98951-8001

  
\_\_\_\_\_  
Tammy Alleman  
Administrative Assistant 1

# MEMORANDUM

**To:** Water Right Application 82-12287

**From:** Luke Bates 

**Date:** 10/29/2020

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

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

## **Water Supply Information**

The water is from an unnamed stream which fed by springs above the pond. Water should be available for beneficial use as long as it is flowing.

## **Good Faith, Delay, or Speculative Information**

The applicant plans to divert water from his/her own property.

## **Financial Resources Information**

No significant resources required.

## **Local Public Interest**

The Idaho Department of Fish & Game, Department of Environmental Quality, and Idaho Water Resource Board have been asked to comment by the Idaho Department of Water Resources. Department of Environmental Quality responded by letter that this proposed action should not be allowed to impair existing beneficial uses of groundwater and interconnected surface water. Idaho Department of Fish & Game responded that proper permitting and screening should occur to prevent entrapment of fish from the Red River and protect species from escaping the pond to the Red River. The Idaho Water Resource Board did not comment.

## **Injury to Other Water Rights**

The proposed diversion is from an unnamed stream tributary to the Red River. The IWRB holds a MSF water right 82-12233 on the Red River. The MSF is subordinated to all DCMI development plus up to 3.3 cfs of non DCMI development. As such, the proposed use should not injure the MSF, but a minimum stream flow condition will be added to the permit. There are only a few nearby water rights for uses such as domestic and stockwater that do not use this unnamed stream.

## **Recommendation**

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

## Frederick, Adam

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**From:** Spencer, Steven M -FS <steven.spencer@usda.gov>  
**Sent:** Wednesday, October 7, 2020 4:25 PM  
**To:** Frederick, Adam  
**Subject:** 82-12287 Forest Service Comments  
**Attachments:** 82-12287 Maps.pdf

Adam,

Thank you for talking on the phone with me yesterday about this water right application. As we talked, this water right is on private land deep in the Nez Perce National Forest on one of several Homestead Entry Surveys. Like we have done in similar situations, even though the projected Public Land Survey legal description is in the NWNE Sec 16 T28N R10E, there is also National Forest System (NFS) land in this same quarter-quarter. The actual legal description of the applicants lot is that it is on Homestead Entry Survey 245 Tract B. It would be helpful to all parties, now and in the future, to include in the legal description of the permit and subsequent license that the water right is on private land in MS 245 Tract B so that there is no confusion as to the legal location of the water right. I know the Department has some standard clauses now that will probably accommodate this addition to the water right.

The attachment is four maps for your water right file substantiating this information:

- A USGS Quad showing that this block of private land is surrounded by NFS land.

- A portion of the BLM Master Title Plat showing these Homestead Entry Survey lands with HES 245 Tract B outlined in Green.

- The Homestead Entry Survey plat for HES 245, again showing Tract B outlined in Green.

- A map from the Departments Map Maker, again showing Tract B outlined in Green.

If there is any problem with getting a clause or condition on this water right reflecting this information or if you have any questions please contact me.

Thank you,

*Steve*



**Steven M. Spencer**  
Idaho Water Use Specialist  
Forest Service

Northern Region

p: 208-365-7055

[steven.spencer@usda.gov](mailto:steven.spencer@usda.gov)

1857 Hwy 16 Suite 1  
Emmett, ID 83617

[www.fs.usda.gov](http://www.fs.usda.gov)



Caring for the land and serving people

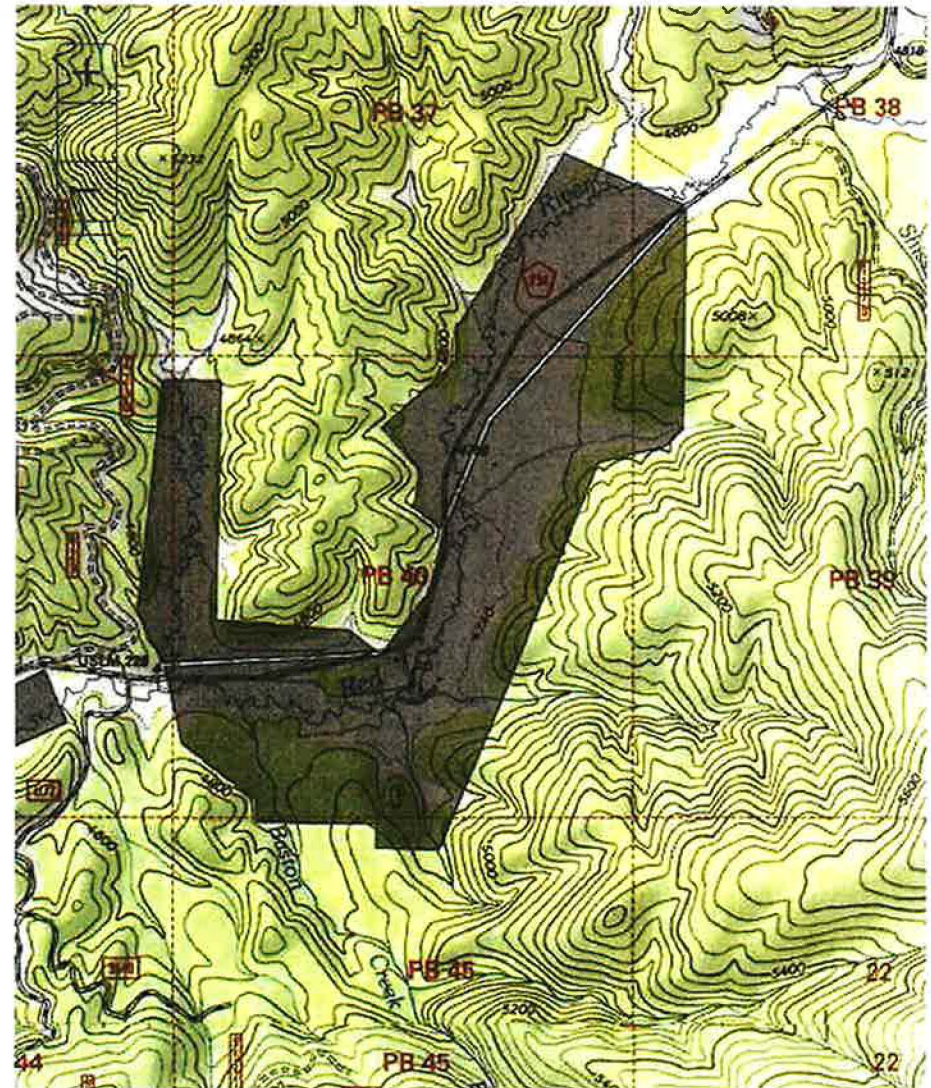


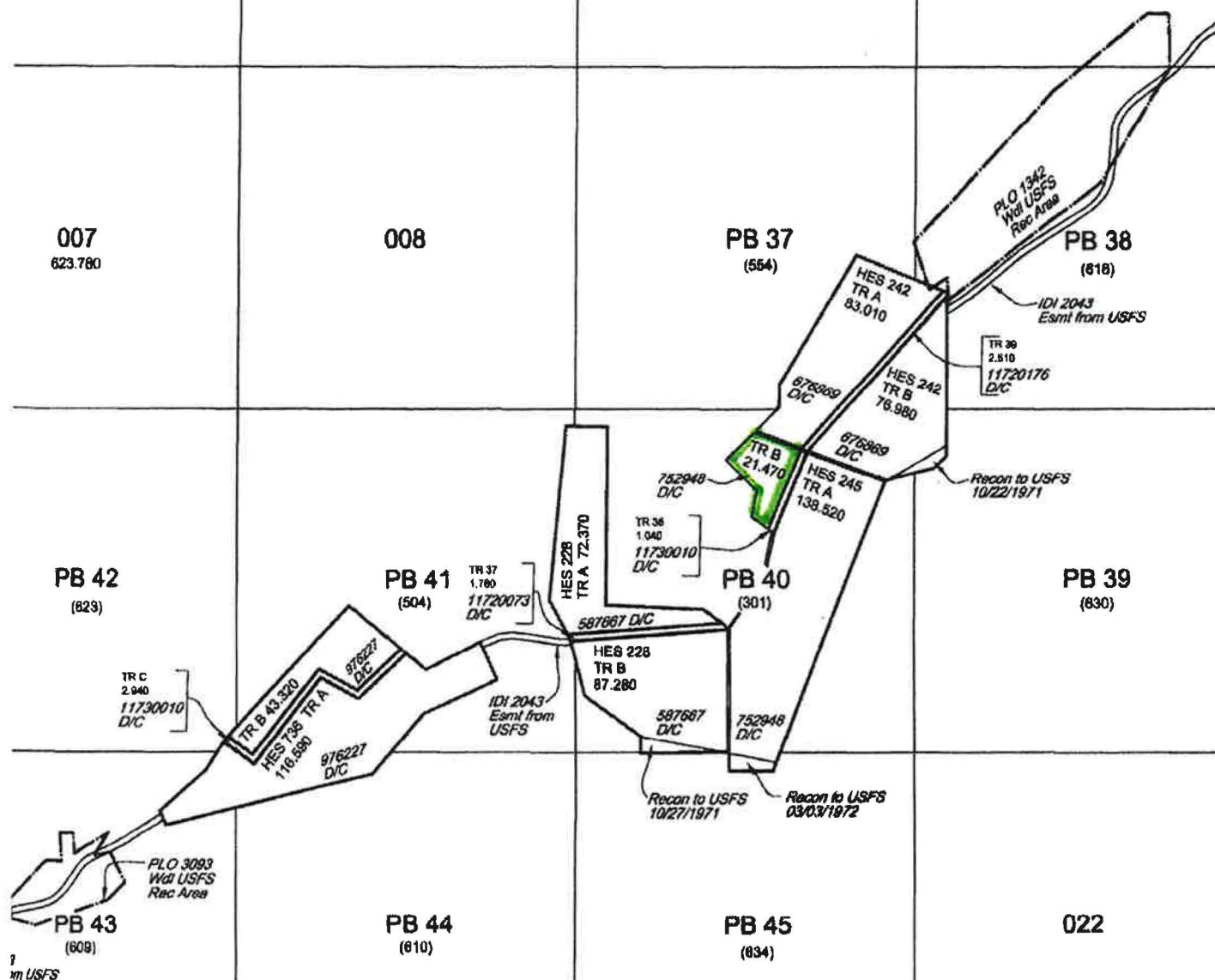
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## ArcGIS ▾ USA Topo Maps

[Details](#)[Basemap](#)[About](#)[Content](#)[Legend](#)

## Contents

☒ USA Topo Maps☐ Topographic





ORIGINAL

Survey accepted March 16, 1918  
G.L.O.

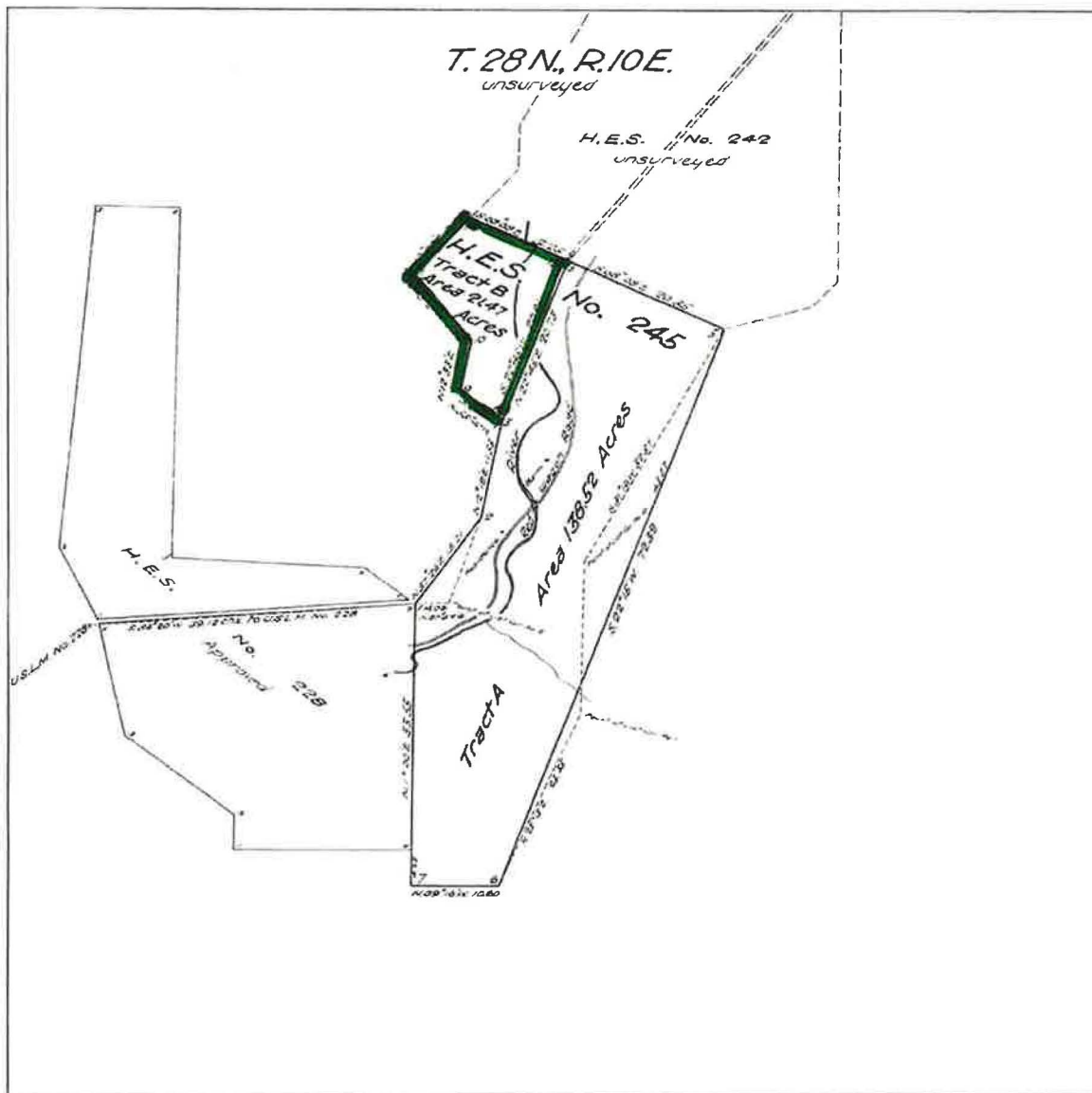
PLAT OF  
HOMESTEAD ENTRY SURVEY No. 245  
in the  
NEZPERCE NATIONAL FOREST  
in  
Section 15 unsurveyed, T. 28 N. R. 10 E.

of the  
BOISE MERIDIAN  
IDAHO

This plat of Homestead Entry Survey No. 245 situated in Section 15 unsurveyed, in Township 28 North of Range 10 East and in Section \_\_\_\_\_ surveyed, in Township \_\_\_\_\_ of Range \_\_\_\_\_ and in Section \_\_\_\_\_ surveyed, in Township \_\_\_\_\_ of Range \_\_\_\_\_ and in Section \_\_\_\_\_ surveyed, in Township \_\_\_\_\_ of Range \_\_\_\_\_ of the Boise Meridian is strictly conformable to the field notes of the Survey thereof, on file in this office, which have been examined and approved.

Office of U.S. Surveyor General  
Boise, Idaho August 23, 1918.

*William A. Utter*  
U.S. Surveyor General



Scale  
10 Chains equal 1 inch  
Initials P.C.

Survey Designator	By Whom Surveyed	Instructions or Order No.	When Surveyed	Date of Approval
H.E. Survey No. 245	Elmer R. Johnson	245 June 12 1914	When Surveyed began completed	Aug 23 1918
H.E. Survey No. 229	Elmer R. Johnson	229 May 12 1914	When Surveyed began completed	Aug 23 1918

Areas		Conflicts
H.E. Survey No. 245		
Tract A Listed	138.62	
Tract A Unlisted	13.63	
Tract A Total	152.25	
Tract B Listed	21.47	
Total	173.72	

List No. 1-1592 Date November 19, 1912	
List No. 1-1632 Date September 24, 1913	
Act of June 11, 1906 Act of March 3, 1907	
June 30, 1914	
Latitude 45° 45' N.	At Cor. No. 1
Longitude 115° 12' W.	
Mean Mag. Decl. 21° 40' E.	





# AFFIDAVIT OF PUBLICATION

STATE OF IDAHO

County of Idaho - ss.

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

82-12287  
RAY WOLVERTON  
PAULA WOLVERTON  
109 GANGL RD  
WAPATO, WA 98951-8001  
Point of Diversion NWNE  
S16 T28N R10E  
IDAHO County  
Source UNNAMED STREAM  
Tributary RED RIVER  
Use: AESTHETIC STORAGE  
01/01 to 12/31 4.9 AF  
Use: FIRE PROTECTION  
STORAGE  
01/01 to 12/31 4.9 AF  
Total Diversion: 4.9 AF

Date Filed: 09-08-2020  
Place Of Use: AESTHETIC  
STORAGE, FIRE PROTECTION  
STORAGE

T28N R10E S16 NWNE  
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/](https://idwr.idaho.gov/apps/ExtSearch/WRAApplicationResults/). Pro-  
tests 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, North-  
ern Region, 7600 N MINERAL  
DR STE 100, COEUR D'ALENE ID  
83815-7763 together with a pro-  
test fee of \$25.00 for each appli-  
cation on or before 10/5/2020.  
The protestant must also send  
a copy of the protest to the ap-  
plicant.

GARY SPACKMAN, Director

Published  
on 9/17/2020 and 9/24/2020

(S17-S24)

Sarah Klement, being first duly sworn, says she is  
the Publisher of the IDAHO COUNTY FREE PRESS,  
a weekly newspaper published and issued weekly  
at Grangeville, Idaho County, State of Idaho, and  
is of general circulation in said county and state,  
that the said legal notice, of which the one hereto  
attached is a true copy, was published in said  
paper for two weeks, being published two times,  
the first publication being on the 16th day of  
September, 2020 and the last publication on the  
23rd day of September, 2020; and that the said  
legal notice was published in the newspaper  
proper and not a supplement; that said  
newspaper has been continuously and  
uninterruptedly published in said county during a  
period of seventy-eight consecutive weeks prior  
to the publication of said legal notice of  
advertisement.

STATE OF IDAHO )

COUNTY OF IDAHO )

On this 23rd day of September in the year of  
2020, before me a Notary Public personally  
appeared Sarah Klement, 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.

*Shayla M. Kaschmitter*

Notary Public for Idaho

Residing at Grangeville, ID

My commission expires: 07-12-2025

RECEIVED

SEP 28 2020

IDWR / NORTH

SHAYLA M. KASCHMITTER  
COMMISSION NO. 20191336  
NOTARY PUBLIC  
STATE OF IDAHO

## Alleman, Tammy

---

**From:** Swearingen,Zachary <zachary.swearingen@idfg.idaho.gov>  
**Sent:** Thursday, September 24, 2020 1:39 PM  
**To:** Alleman, Tammy  
**Subject:** RE: Request for Comments for WR# 82-12287

Hi Tammy,

I was able to discuss this application with Mr. Fredrick earlier in the month.

Although the application does not list recreation storage or discuss fish stocking, I would like to note that if in the future the applicant has a desire to stock fish in this reservoir the applicant will need a permit from IDFG per Idaho Code 36-706. Ponds which will be stocked with fish also require a screen on their inlet and outlet to prevent fish escapement. I only mention this because of the sensitive nature of fisheries within Red River and want to make sure the applicant is aware of these rules. In addition, it is important that fish cannot enter the pond from Red River and become trapped in the pond as Red River contains several ESA listed species.

Thank you,

Zach Swearingen  
Environmental Staff Biologist  
Idaho Department of Fish and Game - Clearwater Region  
3316 16th St  
Lewiston, ID 83501  
208-799-5010



**From:** Alleman, Tammy <Tammy.Alleman@idwr.idaho.gov>  
**Sent:** Wednesday, September 09, 2020 4:13 PM  
**To:** Sujata.Connell@deq.idaho.gov; Swearingen,Zachary <zachary.swearingen@idfg.idaho.gov>; Skoro, Emily <Emily.Skoro@idwr.idaho.gov>; Golden, Kala <Kala.Golden@idwr.idaho.gov>; sspencer@fs.fed.us  
**Subject:** Request for Comments for WR# 82-12287

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 October 5<sup>th</sup>, 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*



STATE OF IDAHO  
DEPARTMENT OF  
ENVIRONMENTAL QUALITY

1118 F Street • Lewiston, Idaho 83501 • (208) 799-4370  
[www.deq.idaho.gov](http://www.deq.idaho.gov)

Brad Little, Governor  
John H. Tippetts, Director

September 18, 2020

Idaho Department of Water Resources  
7600 North Mineral Drive, Suite 100  
Coeur d'Alene, Idaho 83815

Subject: Water Appropriation, # 82-12287

We received a request for comment along with a copy of an application to appropriate 4.9 acre feet of water from a spring that flows into a storage pond on private property located in Idaho County. The spring is located in Township 28N, Range 10E, and Section 16. The applicant will be deepening an already existing pond and the appropriated water will be stored in the pond and used for fire protection from January 1 to December 31. Assuming all federal, state and local permits have been obtained, regulations met, and reviews completed, we offer the following comments.

Because we assume any water of the State which occurs beneath the surface of the earth in a saturated geological formation of rock or soil to be ground water (Idaho Code 58.01.02.010.45), we assume there to be hydrologic gradient connectivity to surface waters of the State. It is the policy of the State of Idaho Ground Water Management Plan that existing and projected beneficial uses of ground water and interconnected surface water be maintained and protected and degradation that would impair beneficial uses of ground water and interconnected surface water not be allowed.

Thank you for the opportunity to comment on your application. If you have any questions regarding the Idaho Water Quality Standards, please call us at (208) 799-4370, or by email at [Sujata.Connell@deq.idaho.gov](mailto:Sujata.Connell@deq.idaho.gov)

Sincerely,

A handwritten signature in black ink that reads "Sujata Connell".

Sujata Connell  
Surface Water Quality Manager

c: Paula & Ray Wolverton, Wapato, WA  
EDMS