

**State of Idaho**  
**Department of Water Resources**  
**Permit to Appropriate Water**  
**No. 81-12023**

**Priority:** June 26, 2020

**Maximum Diversion Rate:** 0.42 CFS

This is to certify that

BLEDSON-CONNOR HOLDINGS LLC 11 OLD ELK SUMMIT RD LOLO MT 59847-9352

has applied for a permit to appropriate water from:

**Source :** BRUSHY FORK CREEK

**Tributary:** CROOKED FORK CREEK

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

**Beneficial Use**

IRRIGATION

**Period of Use**

04/15 to 10/31

**Rate of Diversion**

0.42 CFS

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

BRUSHY FORK CREEK NE¼ SW¼, Sec. 5, Twp 37N, Rge 15E, B.M. IDAHO County

BRUSHY FORK CREEK NW¼ SE¼, Sec. 5, Twp 37N, Rge 15E, B.M. IDAHO County

**Place of Use:** IRRIGATION

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		
37N	15E	5			1.0				1.0	4.0	7.0	1.0			2.0	5.0				21.0

Total Acres: 21.0

**Conditions of Approval**

1. Proof of application of water to beneficial use shall be submitted on or before **September 01, 2025**.
2. Subject to all prior water rights.
3. A fish screen of 3/32 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. 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.
6. Prior to diversion of water under this right, the right holder shall install a lockable device, subject to the approval of the Department, in a manner that will provide suitable control of the diversion.
7. The right holder shall install or construct a straight length of conduit or ditch suitable for installation of a device for measuring the entire flow of water being diverted in connection with this right. If the right holder uses conduit, the straight length of conduit shall be at least fifteen times the diameter of the conduit and shall be above ground or otherwise easily accessible.
8. Upon specific notification by the Department, the right holder shall install and maintain acceptable measuring device(s), including data logger(s), at the authorized point(s) of diversion, in accordance with Department specifications.
9. When notified by the Department or by a watermaster with regulatory authority over this right, the right holder shall report the amount of water diverted in connection with this right. The report shall be submitted in the manner and frequency specified by the Department or the watermaster.

State of Idaho  
Department of Water Resources  
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10. Water shall not be diverted under this right when flows in the Lochsa River are below minimum flow amounts as defined by Right 81-10513, nor when flows in Crooked Fork Creek are below the minimum flows allowed by Right 81-11938, nor when flows in Brushy Fork Creek are below the minimum flows allowed by Right 81-11934. The right holder shall be responsible for monitoring the daily flow of the Lochsa River using real-time data and shall cease diverting water when flows in the Lochsa 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 Lowell gauging station, No. 13337000, may be used for purposes of determining the daily flow amounts.
11. 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 14<sup>th</sup> day of August, 2020.



ADAM FREDERICK  
Water Rights Supervisor

State of Idaho  
Department of Water Resources

# Attachment to Permit to Appropriate Water

81-12023

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 0.1 0.2 0.4 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

August 14, 2020

BLEDSON-CONNOR HOLDINGS LLC  
11 OLD ELK SUMMIT RD  
LOLO MT 59847-9352

RE: Permit No. 81-12023

### 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 first commence the excavation or construction of your diverting works within one year of the date the permit was issued, and you must proceed diligently until the project is complete. In addition, 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.

Also, please note that permit holders are required to report any change of 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. Forms to assign ownership or update your address are available from any office of the Department or on the Department's website.

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

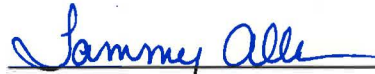
Enclosure(s)

## CERTIFICATE OF SERVICE

I hereby certify that on August 14, 2020, I served a true and correct copy of Permit to Appropriate Water No. 81-12023 by U.S. Mail, postage prepaid, to the following:

BLEDSON-CONNOR HOLDINGS LLC (Current Owner)  
11 OLD ELK SUMMIT RD  
LOLO MT 59847-9352

ALBERT P BARKER (Attorney)  
BARKER RUSHOLT & SIMPSON LLP  
1010 W JEFFERSON ST STE 102  
PO BOX 2139  
BOISE ID 83701-2139



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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 Applications 81-12023**

**From: Luke Bates**

**Date: 8/13/2020** *LSB*

**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**

Water supply from Brushy Fork Creek, which is a tributary of Crooked Fork Creek, should be available at the applicant's property. Future use amounts for the Lochsa River allow for withdrawals of up to 40 cfs and the irrigation of 500 acres. The withdrawals for this application has been entered into the accounting system and does not exceed those limitations. Minimum stream flow to protect Water Right(s) 81-11934 (Brushy Fork Creek MSF) and 81-11938 (Crooked Fork Creek MSF) will be added to the Lochsa River MSF condition listed below. A minimum stream flow condition will be added to this permit to protect Water Right 81-10513 (Lochsa River MSF), with U.S. Geological Survey Lowell gauging station identified for monitoring MSF.

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

The applicant plans to divert water for his/her own use on property that he/she owns and there are no know issues with any other party.

## **Financial Resources Information**

No significant resources are anticipated for the proposed irrigation.

## **Local Public Interest**

The Idaho Department of Fish & Game (IDFG), Department of Environmental Quality (DEQ), and the Idaho Water Resource Board have been asked for comments on the proposed projects. The Idaho Water Resource Board did not respond; IDFG responded that pump intake should use 3/32" mesh screen and approach velocities at intake should not exceed 0.5 feet per second. DEQ responded that the proposed withdrawals should not be allowed to dry up the Creek.

## **Injury to Other Water Rights**

None anticipated.

## **Recommendation**


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

# AFFIDAVIT OF PUBLICATION

STATE OF IDAHO

County of Idaho - ss.

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 15th day of July, 2020 and the last publication on the 22nd day of July, 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 22nd day of July 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.



Notary Public for Idaho

Residing at Grangeville, ID

My commission expires: 7/12/25

RECEIVED

JUL 24 2020

IDWR / NORTH

LINDA MORT  
COMMISSION NO. 20191337  
NOTARY PUBLIC  
STATE OF IDAHO

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

81-12023  
BLED SOE-CONNOR  
HOLDINGS LLC  
11 OLD ELK SUMMIT RD  
LOLO, MT 59847-9352

Point of Diversion NESW  
S5 T37N R15E  
IDAHO County  
Source BRUSHY FORK  
CREEK  
Tributary CROOKED FORK  
CREEK  
Point of Diversion NWSE  
S5 T37N R15E  
IDAHO County  
Source BRUSHY FORK  
CREEK  
Tributary CROOKED FORK  
CREEK  
Use: IRRIGATION  
04/15 to 10/31  
Total Diversion: 0.42 CFS  
Date Filed: 06-26-2020  
Place Of Use: IRRIGATION  
T37N R15E S5  
NESW, NESE, NWSW, N-  
WSE, SWNE, SWNW, SENW  
Total Acres: 21

81-12024  
BLED SOE-CONNOR  
HOLDINGS LLC  
11 OLD ELK SUMMIT RD  
LOLO, MT 59847-9352  
Point of Diversion NENE  
S35 T37N R14E  
IDAHO County  
Source COLT KILLED  
CREEK  
Tributary LOCHSA RIVER  
Use: IRRIGATION  
04/15 to 10/31  
Total Diversion: 0.16 CFS  
Date Filed: 06-26-2020  
Place Of Use: IRRIGATION  
T37N R14E S35  
NENE, NENW, NWNE  
Total Acres: 8

81-12025  
BLED SOE-CONNOR  
HOLDINGS LLC  
11 OLD ELK SUMMIT RD  
LOLO, MT 59847-9352  
Point of Diversion SWSW  
S25 T37N R14E  
IDAHO County  
Source COLT KILLED  
CREEK  
Tributary LOCHSA RIVER  
Use: IRRIGATION  
04/15 to 10/31  
Total Diversion: 0.12 CFS  
Date Filed: 06-26-2020  
Place Of Use: IRRIGATION  
T37N R14E S25  
SWSW, SESW  
Total Acres: 6

81-12026  
BLED SOE-CONNOR  
HOLDINGS LLC  
11 OLD ELK SUMMIT RD  
LOLO, MT 59847-9352  
Point of Diversion NENE  
S12 T37N R14E  
IDAHO County  
Source UNNAMED  
STREAM  
Tributary CROOKED FORK  
CREEK  
Use: IRRIGATION  
04/15 to 10/31  
Total Diversion: 0.12 CFS  
Date Filed: 06-26-2020  
Place Of Use: IRRIGATION  
T37N R14E S12  
NENE, NWNE  
Total Acres: 6

81-12027  
BLED SOE-CONNOR  
HOLDINGS LLC  
11 OLD ELK SUMMIT RD  
LOLO, MT 59847-9352  
Point of Diversion NWSE

S25 T37N R14E  
IDAHO County  
Source CABIN CREEK  
Tributary COLT KILLED  
CREEK  
Use: IRRIGATION  
04/15 to 10/31  
Total Diversion: 0.14 CFS  
Date Filed: 06-26-2020  
Place Of Use: IRRIGATION  
T37N R14E S25  
NESW, NWSE  
Total Acres: 7

81-12028  
BLED SOE-CONNOR  
HOLDINGS LLC  
11 OLD ELK SUMMIT RD  
LOLO, MT 59847-9352  
Point of Diversion NENE  
S12 T37N R14E  
IDAHO County  
Source CROOKED FORK  
CREEK  
Tributary LOCHSA RIVER  
Use: IRRIGATION  
04/15 to 10/31  
Total Diversion: 0.16 CFS  
Date Filed: 06-26-2020  
Place Of Use: IRRIGATION  
T37N R14E S12  
NENE, SWNE, SENE  
Total Acres: 8

Applications 81-12023, 81-12024, 81-12025, 81-12026, 81-12027 & 81-12028 propose the diversion and use of water from surface water tributary to the Lochsa River, a Wild & Scenic River. The decreed minimum stream flow rights for the federal Wild & Scenic Rivers are subordinate to certain categories of water use and to specific amounts of water use established after the minimum stream flow. The water uses proposed in these applications will benefit from the subordination provision because the diversion rate and acres will be applied to the subordination amounts specified in the decree for the Wild & Scenic River listed above.

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 8/3/2020. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director  
Published on 7/15/2020  
and 7/22/2020

## Alleman, Tammy

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**From:** Swearingen, Zachary <zachary.swearingen@idfg.idaho.gov>  
**Sent:** Friday, July 24, 2020 10:08 AM  
**To:** Alleman, Tammy; Frederick, Adam  
**Subject:** RE: Request for Comments for WR#81-12023

Hi Adam,

For application # 81-12023 I recommend the NOAA screening requirements to prevent entrainment of ESA listed salmonids. Pump intakes should use 3/32" mesh screen and approach velocities at the intake should not exceed 0.5 feet per second.

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:** Thursday, July 09, 2020 1:57 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>; spencer@fs.fed.us  
**Subject:** Request for Comments for WR#81-12023

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 August 3, 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

July 10, 2020

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

Subject: Water Right Application #81-12023

Dear Applicant:

DEQ has received a request for comment on the approval of a water right application to withdraw 0.42 cubic feet per second from Brushy Fork Creek, a tributary to Crooked Fork Creek. The applicant will be using the withdrawal for irrigation. The source is located at Township 37N, Range 15E, and Section 5 in Idaho County. The time period requested for the withdrawal is 04/15 through 10/31.

Assuming all federal, state, and local permits have been obtained, regulations met, and reviews completed, we offer the following comments. The water source is in assessment unit ID17060303CL035\_04. This assessment unit is not designated but is assumed to support cold water aquatic life and secondary contact recreation and is listed in Category 3 of Idaho's 2016 Integrated Report as not assessed.

At no time should the stream be allowed to go dry as a result of legally appropriated and allowable water withdrawals. DEQ recommends that withdrawals be made during high flows or when flow is greater than 1 cubic foot per second.

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 [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: Bledsoe-Connor Holdings LLC, Lolo, MT  
EDMS