

State of Idaho
Department of Water Resources
Permit to Appropriate Water
No. 77-14372

Priority: February 10, 2020

Maximum Diversion Rate: 0.04 CFS

This is to certify that

PECK TRAILBREAKERS PO BOX 24 PECK ID 83545-0024

has applied for a permit to appropriate water from:

Source : SPRING

Tributary: CROOKED 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

0.04 CFS

Location of Point(s) of Diversion

SPRING SE¼ NE¼ SW¼, Sec. 27, Twp 26N, Rge 08E, B.M. IDAHO County

Place of Use: DOMESTIC

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
26N	08E	27									X								

Conditions of Approval

1. Proof of application of water to beneficial use shall be submitted on or before **May 01, 2021**.
2. Subject to all prior water rights.
3. Prior to diversion and use of water under this approval, the right holder shall obtain Forest Service authorization necessary to access the point of diversion or place of use or to convey water across federal land.
4. Upon specific notification by the Department, the right holder shall install a lockable device of a type acceptable to the Department in a manner that will provide suitable control of the diversion.
5. Place of use is located in Mineral Survey No. 1416. The quarter-quarter description has been protracted from the adjacent public land survey.
6. Place of use is located within Lot 8, Blk. A; Crooked Creek Addition Subdivision.
7. The domestic use authorized under this right shall not exceed 13,000 gallons per day.
8. Domestic use is for 1 home.
9. This right does not grant any right-of-way or easement across the land of another.
10. The Director retains jurisdiction to require the right holder to provide purchased or leased natural flow or stored water to offset depletion of Lower Snake River flows if needed for salmon migration

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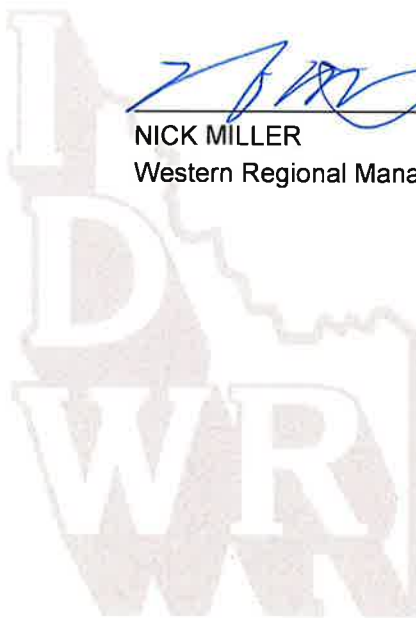
purposes. The amount of water required to be released into the Snake River or a tributary, if needed for this purpose, will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this permit.

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

Signed this 27th day of April, 2020.



NICK MILLER
Western Regional Manager



State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water
77-14372

This map depicts the DOMESTIC 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 0.035 0.07 0.14 Miles





Brad Little
Governor

State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region • 2735 W AIRPORT WAY • BOISE, ID 83705-5082

Phone: (208)334-2190 • Fax: (208)334-2348 • Website: www.idwr.idaho.gov

Gary Spackman
Director

April 27, 2020

PECK TRAILBREAKERS
PO BOX 24
PECK ID 83545-0024

RE: Permit No. 77-14372

Permit Approval Notice

Dear Permit Holders:

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* ("Proof") 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. If you have already diverted and used water to the full extent intended, you may complete and submit the enclosed Proof form immediately.

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.

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 me at (208) 334-2190.

Sincerely,

A handwritten signature in blue ink, appearing to read "Kersie Thornycroft".

Kersie Thornycroft

For: Nick Miller

Western Regional Manager

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on April 27, 2020, I served a true and correct copy of Permit to Appropriate Water No. 77-14372 by U.S. Mail, postage prepaid, to the following:

PECK TRAILBREAKERS
PO BOX 24
PECK ID 83545-0024



Kensie Thorneycroft
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: Application No. 77-14372

FROM: Justin Shearer

DATE: 4/7/2020

RE: Salmon-Clearwater Processing, Basins 77-79 Western Region

The application proposes to divert water from a spring for domestic purposes to one home.

The site is in Dixie, ID approximately 0.12 miles northeast of the landing strip and just east of Crooked Creek.

Wild & Scenic River (WSR) Processing

General Information - WSR processing applies to portions of Bs 77 and 78 but not to Bs 79. It is rarely expected in Bs 78 since WSR right 78-11961 covers federal land upstream from the Rapid River Fish Hatchery slightly southwest of Riggins.¹

Typically WSR issues would be in Bs 77 upstream from Long Tom Bar on the Salmon River, WSR right 77-11941.² This also incorporates the entire Middle Fork Salmon River drainage, MSR right 77-13844.³

WSR processing is required for any source/diversion upstream from any WSR right. This applies to all sources and uses unless the applicant shows the source is not hydraulically connected to any WSR rights.

Specific Information for this Application - WSR processing is required because the proposed source/diversion are upstream from and hydraulically connected to WSR right 77-11941 &/or 77-13844. The WSR spreadsheet was updated, and the WSR legal notice remark was added to the database.

Minimum Streamflow Rights (MSF)

General Information - MSF analysis applies to all surface water upstream⁴ from any MSF rights. Basins 77-79 have various MSF rights that might affect applications. By agreement with SO regarding these basins, specific MSF conditions of approval are not necessary provided the reviewer checks MSF issues and documents the file with the results (7/8/09 telephone conference).

Downstream MSF right 3-8 on the Snake River⁵ is not subordinate to "future dcmi" uses or "future non-dcmi (with cfs limits)" uses. Downstream Salmon River MSF right 79-14119⁶ is subordinated to future dcmi uses but not to future non-dcmi uses.

¹ POD = T23N-R1W-S12.

² POD = T25N-R5E-S31.

³ POD = T23N-R16E-S33.

⁴ Shallow ground water tributary to surface water might involve MSF issues under conjunctive management thinking. Discuss with your supervisor if this comes up.

⁵ POD = T31N-R5W-S10.

⁶ From mouth of river T29N-R4W-S14 upstream thru about Shepp Ranch T24N-R6E-S12.

All Basin 77-79 MSF rights upstream from the ending point of 79-14119 (mouth of Salmon River) include subordination to future dcmi uses. Most of those upstream MSF rights are also subordinate to various amounts of future non-dcmi uses. None of the future non-dcmi cfs rates have been exceeded yet by new approvals. Further MSF analysis is generally not needed until a specific future non-dcmi cfs rate is exceeded.

Because the review memo extensively covers WSR and MSF issues, SO Planning Bureau comments are not needed yet (prior agreement with SO). Planning will be contacted for comments during the legal notice process as a precaution.

Specific Information for this Application –MSF analysis is required for the proposed source and use upstream from MSF rights 3-8 and 79-14119.

This leads to the following MSF conclusions for this application:

- Senior MSF right 3-8 will not be subordinated to the proposed use.
- Senior MSF right 79-14119 will be subordinated to the proposed dcmi use.

Discussion

Effect on Existing Water Rights: Because the application is proposing minimal DCMI use from a spring it is not anticipated that the approval of this application will have a negative effect on existing water rights.

Sufficiency of Water Supply: There is no concern in sufficiency of water supply for this proposal, so no rule 40 info was requested in regards to this matter.

Good Faith, Delay or Speculative Purposes: There is no concern of good faith, delay, or speculative purposes for this proposal, thus no rule 40 info was requested in regards to this matter.

Financial Resources:

Additional information is unnecessary because the applicant estimated the project will cost less than \$5000.

Local Public Interest:

IDEQ, USFS, IDFG, and IDWR Planning Bureau were sought for comment at advertising. IDFG, IDWR Planning Bureau had no concerns, or did not provide comment. IDEQ provided general comment that 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 not be allowed. USFS requested that the permit be conditioned to state the following: the water right does not establish a ROW or easement across the land of another since the land at the POD is not owned by the applicants, it is National Forest System land; that the POU is on Mineral Survey 1416; that the water right is subject to the terms and conditions of the Forest Service Special Use Permit. Aside from these conditions, the USFS does not oppose this water right permit. However, the USFS request to limit 77-14372 to 13,000 gpd for domestic use jointly with domestic permit 77-14368 is not within department standards and 77-14372 will be limited to the standard 13,000 gpd per home.

Conditions of Approval

In addition to typical standard conditions (004, 121 etc.), use the following standard, modified &/or unique conditions for Basins 77-79.

Per WSR processing, part of Basin 77 & 78, no water district currently planned, use the following:

42-111 any source – possible lockable device, but no measuring device or data logger requirement.

- **199 standard** - Upon specific notification by the Department, the right holder shall install a lockable device of a type acceptable to the Department in a manner that will provide suitable control of the diversion.

.....

RECEIVED

MAR 20 2020

WATER RESOURCES
WESTERN REGION

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

77-14372

PECK TRAILBREAKERS

PO BOX 24

PECK, ID 83545-0024

Point of Diversion SENESW

S27 T26N R08E IDAHO

County Source SPRING Tribu-

tary CROOKED CREEK

Use: DOMESTIC 01/01 to

12/31 0.04 CFS

Total Diversion: 0.04 CFS

Date Filed: 02-10-2020

Place Of Use: DOMESTIC

T26N R08E S27 NESW

This application proposes the
diversion and use of water
from a spring tributary to the
Salmon River, a Wild & Scenic
River. The decreed minimum
stream flow rights for the fed-
eral Wild & Scenic Rivers are
subordinate to certain cate-
gories of water use and to spe-
cific amounts of water use es-
tablished after the minimum
stream flow. The water use pro-
posed in this application will
benefit from the subordination
provision because it is for do-
mestic purposes.

Permits will be subject to all
prior water rights. For addi-
tional information concerning
the property location, contact
the Western office at (208)334-
2190; or for a full description
of the right(s), please see
<https://idwr.idaho.gov/apps/ExtSearch/WRApplicationResults/>. Protests may be submit-
ted 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, Western Re-
gion, 2735 W AIRPORT WAY,
BOISE ID 83705-5082 togeth-
er with a protest fee of \$25.00
for each application on or be-
fore 3/23/2020. The protestant
must also send a copy of the
protest to the applicant.

GARY SPACKMAN, Director
Published on 3/5/2020 and
3/12/2020

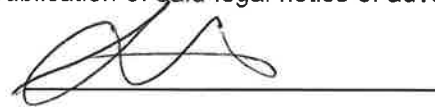
✓ok
KT
3/24/2020

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO

County of Idaho - ss.

Sarah S. 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 coun-
ty 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 4th day of March, 2020; and the last publication on the 11th
day of March, 2020; and that the said legal notice was published
in the newspaper proper and not a supplement; that said news-
paper 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 11th day of March in the year of 2020, before me a Notary
Public personally appeared Sarah S. Klement, known or identi-
fied to me to be the person whose name subscribed to the with-
in instrument, and being by me first duly sworn, declared that the
statements therein are true, and acknowledged to me that she
executed the same.



Notary Public for Idaho

Residing at Grangeville, ID

My commission expires: 07/12/2025

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



STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY

RECEIVED

MAR 04 2020

WATER RESOURCES
WESTERN REGION

1118 F Street • Lewiston, Idaho 83501 • (208) 799-4370
www.deq.idaho.gov

Governor Brad Little
Director John H. Tippetts

March 2, 2020

Kensie Thorneycroft
Idaho Department of Water Resources
2735 Airport Way
Boise, ID 83705

Subject: Water Appropriation, #77-14372

Dear Ms. Thorneycroft:

We received a request for comment along with a copy of an application for a permit to appropriate 0.04 cubic feet per second of water from a spring located on US Forest Service property to be used by a private residence in Idaho County. The applicant will collect the water in a spring box and pipe to a cabin.

The spring is located in Township 26N, Range 08E, and Section 27. The appropriated water will be used for domestic use from January 1 through 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

Sincerely,

A handwritten signature in cursive script that reads "Sujata Connell".

Sujata Connell
Surface Water Quality Manager

c: Peck Trailbreakers
EDMS