

State of Idaho
Department of Water Resources
Permit to Appropriate Water
No. 85-15804

Priority: November 25, 2019

Maximum Diversion Rate: 0.20 CFS

This is to certify that

CLARK CHRISTIANSEN 1992 JACOBS RD NEZPERCE ID 83543-5007

has applied for a permit to appropriate water from:

Source : UNNAMED STREAM

Tributary: LAWYER CREEK

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

Beneficial Use

IRRIGATION

Period of Use

04/01 to 10/31

Rate of Diversion

0.20 CFS

Location of Point(s) of Diversion

UNNAMED STREAM NE¼ NE¼, Sec. 21, Twp 33N, Rge 01E, B.M. LEWIS 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		
33N	01E	21	1.5	8.5																10.0

Total Acres: 10.0

Conditions of Approval

1. Proof of application of water to beneficial use shall be submitted on or before **May 01, 2022**.
2. Subject to all prior water rights.
3. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which the permit holder had no control.
4. 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.
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. Water shall not be diverted under this right when flows in the Clearwater River are below minimum flow amounts as defined by Right 85-7583 nor when flows in Lawyer Creek are below the minimum flow amounts as defined by Right 85-15616. Diversion of water is not authorized when flows in the Clearwater River and Lawyer Creek are below established minimum flow amounts. The right holder shall be responsible for monitoring the daily flow of the Clearwater River using real-time data and shall cease diverting water when flows in the Clearwater 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 Lewiston gauging station, No. 13343000, may be used for purposes of determining the daily flow amounts.

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7. 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 21st day of April, 20 20.



ADAM FREDERICK
Water Rights Supervisor






State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water


85-15804

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 0.035 0.07 0.14 Miles





Brad Little
Governor

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

Gary Spackman
Director

April 21, 2020

CLARK CHRISTIANSEN
1992 JACOBS RD
NEZPERCE ID 83543-5007

RE: Permit No. 85-15804

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 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,



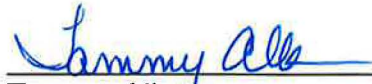
Adam Frederick
Water Rights Supervisor

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on April 21, 2020, I served a true and correct copy of Permit to Appropriate Water No. 85-15804 by U.S. Mail, postage prepaid, to the following:

CLARK CHRISTIANSEN (Current Owner)
1992 JACOBS RD
NEZPERCE ID 83543-5007



Tammy Allen
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 85-15804

From: Luke Bates 

Date: 4/20/2020

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 from the unnamed stream is on the applicant's property and should be available.

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 known issues with any other party.

Financial Resources Information

There should be no significant resources required to develop the unnamed stream.

Local Public Interest

The Idaho Department of Fish & Game (F & G) and the Department of Environmental Quality (DEQ) have been asked to comment by the Idaho Department of Water Resources. DEQ commented that the diversion should not impair existing beneficial uses. F & G did not comment.

Injury to Other Water Rights

There are existing minimum stream flows for Lawyer Creek 85-15616 and for the Clearwater River 85-7583. Condition 227 was added to the permit to address those minimum stream flows.

Recommendation

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

Affidavit of Publication

STATE OF IDAHO, }
County of Idaho, } ss.

I, STEVE A. WHERRY, being first duly sworn, depose and say that I am Editor of the LEWIS COUNTY HERALD, a weekly newspaper, published and issued weekly at Nezperce, Lewis County, State of Idaho, which is of general circulation in said county and state, that the said notice, of which the hereto attached is a true copy, was published in said newspaper for

2 weeks, being published 2 times, the

first publication being on the 2nd day of

January, 2020, and the last publication on the

9th day of January, 2020; and that

the said notice was published in the newspaper proper and not in a supplement; that said newspaper has been continuously and uninterruptedly published in said county during a period of seventy-eight (78) consecutive weeks prior to the first publication of said notice or advertisement.




STATE OF IDAHO, }
County of Idaho, }

On this 9th day of January in the year of 2020,

before me, a Notary Public, personally appeared Steve A. Wherry

know or identified to me to be the person whose name is 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.

GREGORY A WHERRY
COMMISSION NUMBER 53244
NOTARY PUBLIC
State of Idaho
My Commission Expires 09/22/2020


Notary Public for Idaho
Residing at 64400 N. Cottonwood Rd

My commission expires: 9/22/2020

Legal Notice

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

85-15804

CLARK CHRISTIANSEN

1992 JACOBS RD

NEZPERCE, ID 83543-5007

Point of Diversion NENE S21 T33N R01E

LEWIS County

Source UNNAMED STREAM

Tributary LAWYER CREEK

Use: IRRIGATION

04/01 to 10/31 0.2 CFS

Total Diversion: 0.2 CFS

Date Filed: 11/25/2019

Place Of Use: IRRIGATION

T33N R01E S21

NENE NWNE

Permits will be subject to all prior water rights. For additional information concerning the property location, contact Northern Region office at (208) 762-2800. 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 1/21/2020. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Published in the Lewis County Herald
January 2 & 9, 2020

RECEIVED

FEB 03 2020

IDWR / NORTH



STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY

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

Governor Brad Little
Director John H. Tippetts

December 30, 2019

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

Subject: Water Right Application #85-15804

Dear Mr. Frederick:

DEQ has received a request for comment on the approval of a water right application to withdraw 0.20 acre feet from an unnamed tributary to Lawyers Creek. The source is located at Township 33N, Range 01E, and Section 21. The applicant will install a low head concrete cutoff wall and spillway with a small pond. The activity will be from April 1 to October 31. The unnamed tributary will provide water for irrigation.

Assuming all federal, state, and local permits have been obtained, regulations met, and reviews completed, we can offer the following comments.

The intermittent unnamed tributary is in assessment unit ID17060306CL024_02. The unnamed tributary is listed in category 5 of Idaho's 2016 Integrated Report as not supporting the beneficial uses of cold water aquatic life and primary contact recreation due to nutrients, sediment, temperature, and bacteria.

DEQ has no stream flow data on this assessment unit. However, as an intermittent stream segment, we are concerned that there may not be sufficient flow outside of the seasonal high flow period to support the designated beneficial uses. We recommend that the legally appropriated withdrawal be made during periods of seasonal high flow or, at a minimum, flows greater than one cubic foot per second. At no time should the stream be allowed to go dry as a result of legally appropriated and allowable water withdrawals.

Thank you for the opportunity to comment on your application. If you have any questions regarding the Idaho Water Quality Standards or the conditions listed above, please contact me at (208) 983-0808, or by email at daniel.stewart@deq.idaho.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Daniel D. Stewart".

Daniel D. Stewart
Water Quality Analyst

c: Clark Christiansen, Nez Perce, ID
Sujata Connell, DEQ
EDMS