

State of Idaho  
Department of Water Resources

## Water Right License

Water Right No. 74-16176

**Priority:** July 23, 2018

**Maximum Diversion Rate:** 0.80 CFS

**Maximum Diversion Volume:** 390.0 AF

It is hereby certified that:

STATE OF IDAHO  
DEPT OF FISH AND GAME  
PO BOX 25  
BOISE ID 83707-0025

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated July 23, 2018, and has submitted Proof of Beneficial Use on November 13, 2018. An examination confirms water is diverted from:

**Source :** EIGHTEENMILE CREEK

**Tributary:** LEMHI RIVER

**Beneficial Use**

FISH PROPAGATION

**Period of Use**

03/15 to 11/15

**Rate of Diversion**

0.80 CFS

**Annual Volume**

390.0 AF

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

EIGHTEENMILE CREEK SE¼ NE¼, Sec. 34, Twp 16N, Rge 26E, B.M. LEMHI County

**Place of Use:** FISH PROPAGATION

| Twp | Rng | Sec | NE |    |    |    | NW |    |    |    | SW |    |    |    | SE |    |    |    |
|-----|-----|-----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|
|     |     |     | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE |
| 16N | 26E | 34  |    |    |    | X  |    |    |    |    |    |    |    |    |    |    |    |    |

**Conditions of Approval**

1. Fish propagation use is for fish protection through the installation of a deflection screen and a bypass pipe to provide passage for fish back to Eighteenmile Creek.
2. Point of diversion is also identified by Idaho Fish and Game Commission as LEM-01.
3. Use of water under this right shall be non-consumptive.
4. Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 74W.
5. A lockable device subject to the approval of the Department shall be maintained on the diverting works in a manner that will provide the watermaster suitable control of the diversion.
6. 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.
7. This right does not grant any right-of-way or easement across the land of another.

State of Idaho  
Department of Water Resources  
**Water Right License**  
Water Right No. 74-16176

This license is issued pursuant to the provisions of Idaho Code § 42-219. The water right confirmed by this license is subject to all prior water rights and shall be used in accordance with Idaho law and applicable rules of the Department of Water Resources.

Signed this 9<sup>th</sup> day of March, 2020.



JAMES CEFALO  
Eastern Regional Manager



STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
BENEFICIAL USE FIELD REPORT

**A. GENERAL INFORMATION**

**Permit No:** 74-16176  
**Exam Date:** 6/17/2019

1. Current Owner:  
STATE OF IDAHO  
DEPT OF FISH AND GAME  
PO BOX 25  
BOISE, ID 83707-0025
2. Accompanied by: MIKE DEMICK  
Phone No: 208-756-6022  
Address: 97 HIGHWAY 93 NORTH  
SALMON, ID 83467  
Relationship to permit Holder: IDFG Easement Specialist

3. **SOURCE:**  
EIGHTEENMILE CREEK

**Tributary**  
LEMHI RIVER

**Method of Determination:** Field exam and GIS

**B. OVERLAP REVIEW**

1. Other water rights with the same place of use: No overlap at POU
2. Other water rights with the same point-of-diversion:

| Water Right No. | Source       | Purpose of Use | Basis   |
|-----------------|--------------|----------------|---------|
| 74-871          | Springs      | Irrigation     | Decreed |
| 74-2326         | Hawley Creek | Irrigation     | Decreed |

Comments: The purpose of this fish propagation right is to allow IDFG to provide a screened diversion with fish bypass to satisfy the water rights listed above.

**C. DIVERSION AND DELIVERY SYSTEM**1. **LOCATION OF POINT(S) OF DIVERSION:**

EIGHTEENMILE CREEK SE¼ NE¼, Sec. 34, Twp 16N, Rge 26E, B.M. LEMHI County

Method of Determination: Field exam and GIS

**PLACE OF USE:** FISH PROPAGATION

| Twp | Rng | Sec | NE |    |    |    | NW |    |    |    | SW |    |    |    | SE |    |    |    | Totals |
|-----|-----|-----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|--------|
|     |     |     | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE |        |
| 16N | 26E | 34  |    |    |    | X  |    |    |    |    |    |    |    |    |    |    |    |    |        |

Method of Determination: Field exam and GIS

**D. FLOW MEASUREMENTS**

1. Measurements: None taken. The configuration of this diversion does not allow for the direct measurement of only the Fish Propagation portion of the water being diverted.

**E. FLOW CALCULATIONS**

\_\_\_\_ Additional Computation Sheets Attached

Measured Method:

The following equation has been used historically by IDWR for similar IDFG fish bypass structures:

$$Q = C_d A_o \sqrt{(2gh)}$$

Where:

Q = flowrate (cfs)

$C_d$  = coefficient of discharge

$A_o$  = Area of orifice opening (ft<sup>2</sup>)

g = gravitational acceleration  $\left(32.2 \frac{\text{ft}}{\text{s}^2}\right)$

h = Measured head above center of orifice opening (ft)

The orifice diameter for this structure is 6 inches, which results in  $A_o = 0.2 \text{ ft}^2$ .

The measured height of water above the orifice center at the time of the field exam was 1.6 ft.

The standard coefficient of discharge used by IDWR for similar IDFG diversion structures is 0.67.

$$Q = 1.4 \text{ cfs}$$

**F. VOLUME CALCULATIONS**

1. Volume Calculations for irrigation: N/A

2. Volume Calculations for Other Uses:  $0.8 \text{ cfs} \times 1.9835 \text{ AF/cfs/day} \times 246 \text{ days/season} = 390 \text{ AF/season}$

**G. NARRATIVE/REMARKS/COMMENTS**

This diversion structure is similar to many other diversions built by Fish & Game throughout the Lemhi and Salmon River basins to protect fish from entering the irrigating works. The calculated flowrate for the structure exceeds the permitted rate.

Have conditions of permit approval been met?   x   Yes        No

**H. RECOMMENDATIONS****1. Recommended Amounts**

| <u>Beneficial Use</u> | <u>Period of Use</u> | <u>Rate of Diversion</u> | <u>Annual volume</u> |
|-----------------------|----------------------|--------------------------|----------------------|
| FISH PROPAGATION      | 03/15 to 11/15       | 0.80 CFS                 | 390 AF               |

**Totals:** 0.80 CFS

**2. Recommended Amendments**

\_\_\_\_ Change P.D. as reflected above    \_\_\_\_ Add P.D. as reflected above      x   None

\_\_\_\_ Change P.U. as reflected above    \_\_\_\_ Add P.U. as reflected above      x   None

**I. AUTHENTICATION**      Brian Normandeau - Engineer-in-Training

Field Examiner's Name: Brian Normandeau & Jeff Nield

Date: 2/7/2020

Reviewer James Cefalo Date 3/9/2020

# Water Permit 74-16176 Beneficial Use Exam Map



## Legend

- Water Permit POD
- ▨ Water Permit POU
- Township/Range
- Sections
- QQ

0 120 240 480 Feet

1 inch = 250 feet





Photo 1: Diversion on Eighteen Mile Creek



Photo 2: Fish screen/bypass approach



Photo 3: Close-up of fish screen structure



Photo 4: Fish bypass and overflow returning to Eighteen Mile Creek



State of Idaho

DEPARTMENT OF WATER RESOURCES

Eastern Region • 900 N SKYLINE DR STE A • IDAHO FALLS, ID 83402-1718

Phone: (208)525-7161 • Fax: (208)525-7177 • Website: [www.idwr.idaho.gov](http://www.idwr.idaho.gov)

Brad Little  
Governor

Gary Spackman  
Director

March 09, 2020

STATE OF IDAHO  
DEPT OF FISH AND GAME  
PO BOX 25  
BOISE ID 83707-0025

RE: License No. 74-16176

**Issuance of License**

Dear Water Right Holder(s):

The Department of Water Resources ("Department") has issued the enclosed Water Right License confirming that a water right has been established in accordance with your permit. Please be sure to thoroughly review all the conditions of approval listed on your license. The conditions may include ongoing requirements, such as maintenance of a measuring device or implementation of mitigation, as well as information about how your water use may be administered, such as regulation by a watermaster in a water district.

The license is a PRELIMINARY ORDER issued by the Department 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.

Also, please note that water right owners are required to report any change of water right 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. Water right forms are available from any office of the Department or on the Department's website at [idwr.idaho.gov](http://idwr.idaho.gov)

If you have any questions concerning the enclosed information, please contact me at (208) 497-3784.

Sincerely,

James Cefalo  
Eastern Regional Manager

Enclosure(s)

## 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.

## CERTIFICATE OF SERVICE

I hereby certify that on March 09, 2020, I served a true and correct copy of Water Right License No. 74-16176 by U.S. Mail, postage prepaid, to the following:

STATE OF IDAHO  
DEPT OF FISH AND GAME  
PO BOX 25  
BOISE ID 83707-0025

WATER DISTRICT #74W  
DEREK PAPATHEODORE  
PO BOX 82  
LEADORE ID 83464-0082

A handwritten signature in black ink, appearing to read 'CA dh', is written over a horizontal line.

Christina Henman  
Administrative Asst. I