

State of Idaho
Department of Water Resources
Water Right License
Water Right No. 91-7790

Priority: May 21, 2014

Maximum Diversion Rate: 0.02 CFS

It is hereby certified that:

US DEPT OF AGRICULTURE FOREST SERVICE
ID PANHANDLE NATIONAL FOREST
3815 SCHREIBER WAY COEUR D ALENE ID 83815

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated May 21, 2014, and has submitted Proof of Beneficial Use on September 03, 2019. An examination confirms water is diverted from:

Source: MIDGET CREEK

Tributary: ST JOE RIVER

<u>Beneficial Use</u>	<u>Period of Use</u>	<u>Rate of Diversion</u>
DOMESTIC	01/01 to 12/31	0.02 CFS

Location of Point(s) of Diversion

MIDGET CREEK NE¼ SW¼, Sec. 31, Twp 44N, Rge 09E, B.M. SHOSHONE County

Place of Use: DOMESTIC

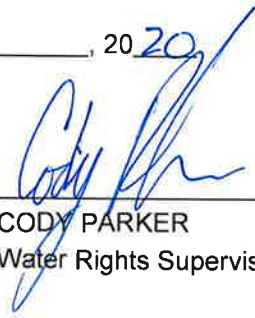
Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
44N	09E	31										X							
												L3							

Conditions of Approval

- Domestic use is for 1 home.
- The irrigation occurring under this domestic use shall not exceed 1/2 acre.
- A fish screen of 1/4 inch or smaller mesh shall be installed and maintained at the point of diversion.
- This right does not grant any right-of-way or easement across the land of another.
- Water shall not be diverted under this right when flows in the St. Joe River are below minimum flow amounts as defined by Right 91-7122.

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 6th day of January, 2020


CODY PARKER
Water Rights Supervisor

State of Idaho
Department of Water Resources
Attachment to Water Right License
91-7790

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.

09E



-  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
Application for Amendment
(For Licensing Purposes)
Water Right No. 91-7790

RECEIVED

NOV 12 2019

DEPARTMENT OF
WATER RESOURCES

Priority: May 21, 2014

Maximum Diversion Rate: 0.02 CFS

The owner and holder of Permit to Appropriate the Public Waters of the State of Idaho No. 91-7790

US DEPT OF AGRICULTURE FOREST SERVICE
ID PANHANDLE NATIONAL FOREST
3815 SCHREIBER WAY COEUR D ALENE ID 83815

requests the permit be changed as follows:

Source : MIDGET CREEK

Tributary: ST JOE RIVER

Beneficial Use

DOMESTIC

Period of Use

01/01 to 12/31

Rate of Diversion

0.02 CFS

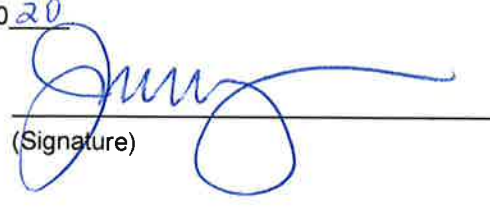
Location of Point(s) of Diversion

MIDGET CREEK NE¼ SW¼, Sec. 31, Twp 44N, Rge 09E, B.M. SHOSHONE County

Place of Use: DOMESTIC

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		
44N	09E	31										X L3								

Permit holder asserts that no one will be injured by such change and that such change will be made at permit holder's own risk.

Signed this 7 day of November, 2020

(Signature)

State of Idaho
Department of Water Resources
Application for Amendment
(For Licensing Purposes)
Water Right No. 91-7790

FOR DEPARTMENT USE ONLY

Preliminary check by SS Fee = \$100 Receipted by DP # 0500 Date 12-23-19

ACTION OF THE DEPARTMENT OF WATER RESOURCES

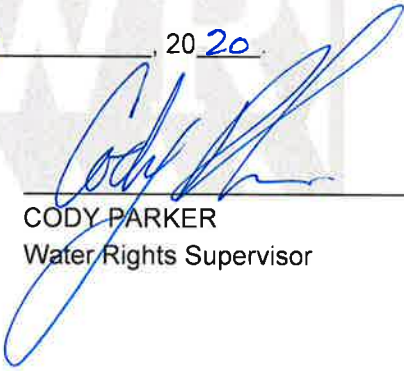
The Idaho Department of Water Resources hereby approves the above Application for Amendment for Permit No. 91-7790 with the following:

Conditions of Approval

1. Domestic use is for 1 home.
2. The irrigation occurring under this domestic use shall not exceed 1/2 acre.
3. A fish screen of 1/4 inch or smaller mesh shall be installed and maintained at the point of diversion.
4. This right does not grant any right-of-way or easement across the land of another.
5. Water shall not be diverted under this right when flows in the St. Joe River are below minimum flow amounts as defined by Right 91-7122.

This amendment is issued pursuant to the provisions of Idaho Code § 42-211.

Signed this 6th day of January, 2020



CODY PARKER
Water Rights Supervisor



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 E FRONT ST STE 648 PO BOX 83720 • BOISE, ID 83720-0098

Phone: (208)287-4800 • Fax: (208)287-6700 • Website: www.idwr.idaho.gov

Brad Little
Governor

Gary Spackman
Director

January 7, 2020

US DEPT OF AGRICULTURE
FOREST SERVICE
ID PANHANDLE NATIONAL FOREST
3815 SCHREIBER WAY
COEUR D ALENE ID 83815

RE: License No. 91-7790

Issuance of License

Dear Water Right Holder:

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.

If you have any questions concerning the enclosed information, please contact me at (208) 287-4800.

Sincerely,



Cody Parker
Water Rights Supervisor

Enclosures

CERTIFICATE OF SERVICE

I hereby certify that on January 7, 2020, I served a true and correct copy of Water Right License No. 91-7790 by U.S. Mail, postage prepaid, to the following:

US DEPT OF AGRICULTURE (Current Owner)
FOREST SERVICE
ID PANHANDLE NATIONAL FOREST
3815 SCHREIBER WAY
COEUR D ALENE ID 83815



Debbi Judd
Technical Records Specialist

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.

Storms, Scott

From: Storms, Scott
Sent: Monday, December 16, 2019 4:00 PM
To: 'Walker,Craig'
Cc: 'conan.chiu@idfg.idaho.gov'
Subject: RE: Midget Ck water right payment

Hello Craig,

The \$50 that was paid back in September was for the proof of beneficial use statement of completion, which essentially states that development is complete and the project is ready for final licensing. Upon reviewing the permit for final licensing, it was determined that the point of diversion was described in the wrong location, and in order to fix the description, a licensing amendment was required. That amendment also comes with a \$100 processing fee. I've completed all the processing and am ready to hand it over to management for final approval, however I cannot move it forward until we receive the \$100. From what I understand, the proof of beneficial use fee was paid through interagency billing, and I believe John Thompson with the Forest Service was hoping you guys would be able to handle this amendment fee the same way. I do not handle the interagency billing directly myself, but from what I understand, it entails someone on your end obtaining a budget transfer authorization to transfer funds from the proper IDFG budget, and a letter is sent to our office with that authorization information. The authorization for the proof fee was probably sent to the IDWR regional office in Coeur d'Alene, however I am working on the final licensing out of the state office in Boise. Whoever handles preparing the authorization, please have them send the letter to the office here at 322 E Front St. PO Box 83702 Boise, ID 83702.

Thanks, and feel free to call if you have any more questions.

Scott

Scott Storms
Senior Water Resource Agent
Idaho Department of Water Resources
208-287-4915
Scott.Storms@idwr.idaho.gov

From: Walker,Craig [mailto:craig.walker@idfg.idaho.gov]
Sent: Monday, December 16, 2019 3:35 PM
To: Storms, Scott <Scott.Storms@idwr.idaho.gov>
Subject: Midget Ck water right payment

Hey Scott, What does IDFG need to do to get this \$100 fee paid for the Midget Ck. Cabin water right?

We already paid \$50, some time ago. Is there an interdepartmental bill?

Our admin contact in Boise would be conan.chiu@idfg.idaho.gov

Thanks,

Craig L. Walker
Regional Conservation Officer, Idaho Department of Fish and Game
Panhandle Region
2885 Kathleen Ave.
Coeur d'Alene, ID 83815
(208)769-1414



<https://idfg.idaho.gov>

Storms, Scott

From: Thompson, John K -FS <john.thompson@usda.gov>
Sent: Monday, December 16, 2019 3:17 PM
To: Walker,Craig
Cc: Storms, Scott
Subject: RE: water rights

Hello Craig,

I've been informed that IDFG has not paid for the updated water right information. Could you please have somebody responsible for paying reach out to Scott Storms at IDWR and facilitate payment so that the water right can be filed? Thanks so much.



John Thompson
Realty Specialist
Forest Service
Idaho Panhandle National Forests

p: 208-765-7385
f: 208-765-7307
john.thompson@usda.gov

3815 Schreiber Way
Coeur d'Alene, ID 83815
www.fs.fed.us



Caring for the land and serving people

From: Thompson, John K -FS
Sent: Monday, November 18, 2019 9:44 AM
To: Walker,Craig <craig.walker@idfg.idaho.gov>
Cc: Storms, Scott <Scott.Storms@idwr.idaho.gov>; Holzinger, Joseph R -FS <joseph.holzinger@usda.gov>
Subject: water rights

Hi Craig,

IDWR reached out to us after we submitted the last form. The legal description and lat/long for what is on the ground doesn't match what was originally submitted, so IDWR asked to amend the water right. I personally found the water system which is being used and verified the correct legal and lat/long. We've done so, but this also comes with a \$100 fee. Scott Storms at IDWR will be reaching out to Merritt Horsmon to initiate that payment. I simply wanted to let you know. Thanks. If you have any questions, please let me know.



John Thompson
Realty Specialist
Forest Service
Idaho Panhandle National Forests

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Caring for the land and serving people

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State of Idaho

DEPARTMENT OF WATER RESOURCES

322 E FRONT ST STE 648 PO BOX 83720 • BOISE, ID 83720-0098

Phone: (208)287-4800 • Fax: (208)287-6700 • Website: www.idwr.idaho.gov

Brad Little
Governor

Gary Spackman
Director

October 18, 2019

US DEPT OF AGRICULTURE
FOREST SERVICE
ID PANHANDLE NATIONAL FOREST
3815 SCHREIBER WAY
COEUR D ALENE ID 83815

RE: Water Right Permit No. 91-7790

Dear Permit Holder(s):

The Department of Water Resources is reviewing the permit(s) referenced above prior to issuing water right license(s). By issuing a license, the Department confirms the extent of development that has been established in compliance with the terms of the permit.

The examiner who verified your water use reported that certain elements of the permit(s) have been developed differently than described on your permit(s). Changes that do not increase the authorized use of water under the permit(s) can be requested and approved in accordance with Idaho Code § 42-211. Before license(s) can be issued, your permit(s) must be amended to depict your water use as it was actually developed.

Based on the examiner's report, the following elements were developed differently than described on your permit(s):

☒ Point(s) of Diversion

☐ Place(s) of Use

☐ Other

The enclosed Application for Amendment form(s) depicts the elements of the water right(s) as they will appear on the license(s) when issued. Please review the amendment form(s) carefully. If you concur with the information presented, please sign and return the form(s) with the filing fee of \$100.00 within fourteen (14) days.

October 18, 2019

Page 2

If you have any questions, please call me at (208) 287-4915.

Sincerely,

A handwritten signature in blue ink, appearing to read "Scott Storms", with a long horizontal flourish extending to the right.

Scott Storms
Water Resource Agent, Senior

Enclosure(s): Application for Amendment

Storms, Scott

From: Holzinger, Joseph R -FS <joseph.holzinger@usda.gov>
Sent: Friday, November 8, 2019 11:33 AM
To: Storms, Scott
Cc: Thompson, John K -FS
Subject: RE: Discrepancies on Water Right 91-7790

Follow Up Flag: Follow up
Flag Status: Flagged

Will go out in the mail Tuesday morning. I'm not sure who John's been working with at IDFG so I'll let him take care of that when he returns on the 18th.

Thanks,



Joe Holzinger
Special Use Program Coordinator

Forest Service
North Idaho Special Use Zone, Idaho Panhandle National Forests

p: 208-765-7279
joseph.holzinger@usda.gov

3815 Schreiber Way
Coeur d'Alene, ID 83815
www.fs.fed.us



Caring for the land and serving people

From: Storms, Scott [mailto:Scott.Storms@idwr.idaho.gov]
Sent: Friday, November 8, 2019 10:05 AM
To: Holzinger, Joseph R -FS <joseph.holzinger@usda.gov>
Cc: Thompson, John K -FS <john.thompson@usda.gov>
Subject: RE: Discrepancies on Water Right 91-7790

Hi Joe,

Thanks for getting this back to me. I do, however, need the original, signed hardcopy of the applications for our records. I can move forward with processing with the scanned copy but can't finalize it until I receive the original. You can send it to me at the State office at the following address. Also, I just spoke to our records specialist about the interagency billing and I guess the way it works is that IDFG sends a letter to us authorizing the interagency transfer. I assume whoever you are working with at IDFG understands the process, however the application was originally handled at the IDWR Northern office, and I am now processing the license at the State office in Boise. If IDFG has not already sent the letter to authorize the funds transfer, can you please ask them to send it to this same address. Thanks

Idaho Department of Water Resources
ATTN: Scott Storms
322 E Front St.
PO Box 83720
Boise, ID 83720

Scott

From: Holzinger, Joseph R -FS [<mailto:joseph.holzinger@usda.gov>]
Sent: Friday, November 8, 2019 10:43 AM
To: Storms, Scott <Scott.Storms@idwr.idaho.gov>
Cc: Thompson, John K -FS <john.thompson@usda.gov>
Subject: RE: Discrepancies on Water Right 91-7790

Hi Scott,

John asked that I get the attached Application for Amendment signed and returned to you while he was on leave. He mentioned that you were already aware of the agreement that the State of Idaho, Department of Fish and Game will be taking care of the \$100 fee described on page two of the application.

Please let me know if you have any questions or need additional information.

Thanks,



Joe Holzinger
Special Use Program Coordinator
Forest Service
North Idaho Special Use Zone, Idaho Panhandle National Forests
p: 208-765-7279
joseph.holzinger@usda.gov
3815 Schreiber Way
Coeur d'Alene, ID 83815
www.fs.fed.us
 USDA, Twitter, and Facebook icons.
Caring for the land and serving people

From: Thompson, John K -FS
Sent: Friday, October 18, 2019 9:17 AM
To: Storms, Scott <Scott.Storms@idwr.idaho.gov>
Cc: Holzinger, Joseph R -FS <joseph.holzinger@usda.gov>
Subject: RE: Discrepancies on Water Right 91-7790

Good morning Scott,

I think we should proceed with an amendment to change the POD for the Midget Creek Cabin. I too was under the impression that the POD was at the coordinates of the application (ID Fish and Game provided me with similar coordinates prior to my inspection). This summer, I walked to the App POD location and literally walked in the creek towards the cabin until I found the POD. The Statement of Completion coordinates are correct for what is on the ground. There is no water system further upstream.

While this cabin is on US Forest Service land and the water right is held by the US government, the cabin is owned by the State of ID Fish and Game and this is their water system, which is authorized under a Special Use Permit. Should we proceed with the amendment, we'll ask them to pay for any corrections.

Let us know how you'd like to proceed and we'll go from there. Thanks.

Storms, Scott

From: Storms, Scott
Sent: Friday, October 18, 2019 12:16 PM
To: 'Thompson, John K -FS'
Subject: RE: Discrepancies on Water Right 91-7790
Attachments: Amend Cover Letter 91-7790.pdf; Application For Amendment 91-7790.pdf

Good morning John,

I drafted up and attached a licensing amendment and cover letter. I will also follow up with a hard copy, but you can go ahead and print and sign the attached copy and return to me. I do need the actual signed copy returned via mail though, not scanned and emailed. It looks like the application and the statement of completion were all signed by the Forest Supervisor, so this will need to be as well.

I also saw that the statement of completion fee was paid via interagency billing between IDWR and IDFG, so I'll touch base with our records specialist and make sure we have all our ducks in a row on our end to make that happen again.

Let me know if you have any more questions

Scott

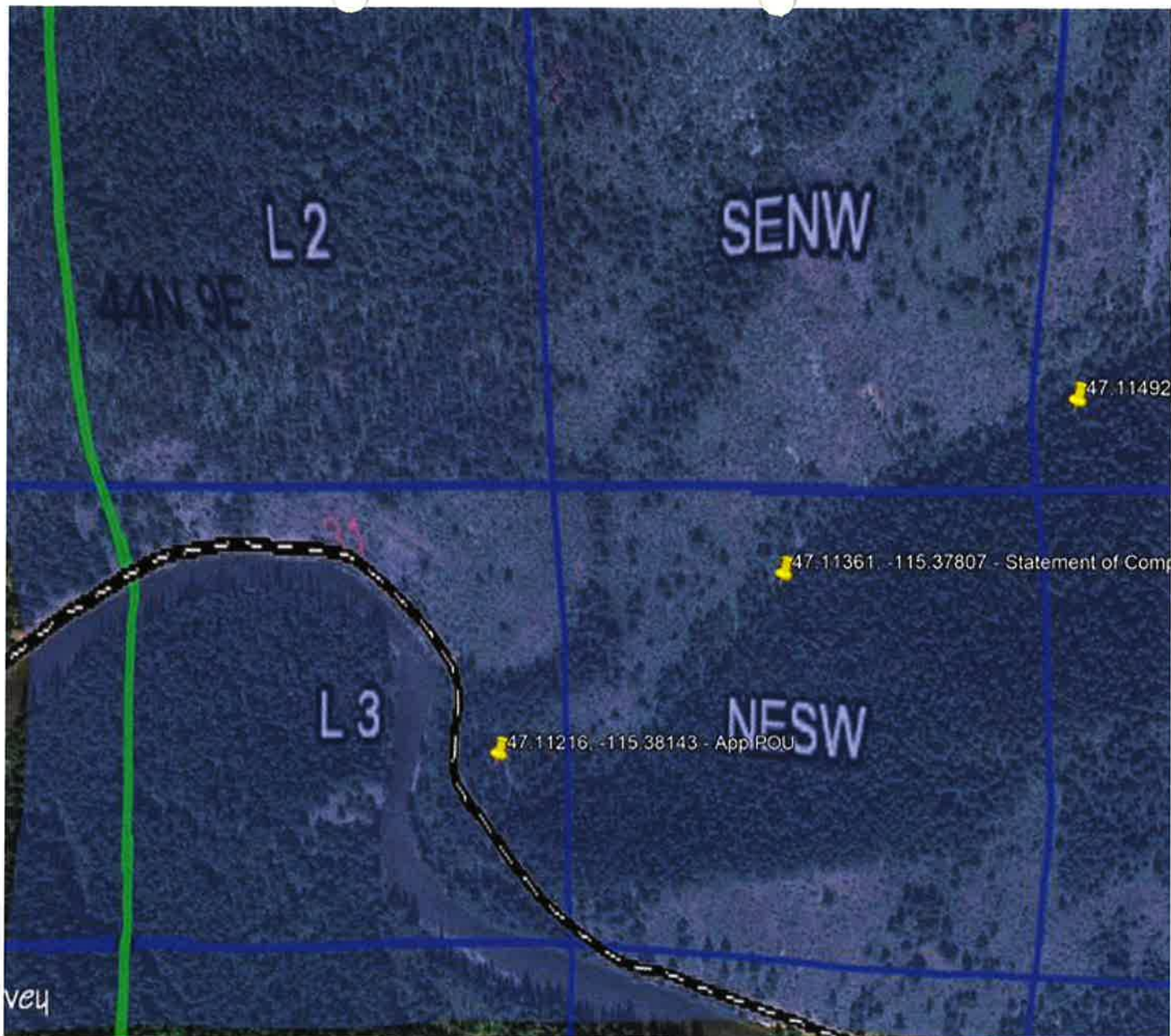
From: Thompson, John K -FS [mailto:john.thompson@usda.gov]
Sent: Friday, October 18, 2019 10:17 AM
To: Storms, Scott <Scott.Storms@idwr.idaho.gov>
Cc: Holzinger, Joseph R -FS <joseph.holzinger@usda.gov>
Subject: RE: Discrepancies on Water Right 91-7790

Good morning Scott,

I think we should proceed with an amendment to change the POD for the Midget Creek Cabin. I too was under the impression that the POD was at the coordinates of the application (ID Fish and Game provided me with similar coordinates prior to my inspection). This summer, I walked to the App POD location and literally walked in the creek towards the cabin until I found the POD. The Statement of Completion coordinates are correct for what is on the ground. There is no water system further upstream.

While this cabin is on US Forest Service land and the water right is held by the US government, the cabin is owned by the State of ID Fish and Game and this is their water system, which is authorized under a Special Use Permit. Should we proceed with the amendment, we'll ask them to pay for any corrections.

Let us know how you'd like to proceed and we'll go from there. Thanks.



John Thompson
Realty Specialist

Forest Service
Idaho Panhandle National Forests

p: 208-765-7385

f: 208-765-7307

john.thompson@usda.gov

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 Coeur d'Alene, ID 83815

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Caring for the land and serving people

From: Storms, Scott [<mailto:Scott.Storms@idwr.idaho.gov>]
Sent: Tuesday, October 15, 2019 9:05 AM
To: Thompson, John K -FS <john.thompson@usda.gov>
Subject: Discrepancies on Water Right 91-7790

Good morning John,

I am conducting a final licensing review of water right permit 91-7790, for domestic use at the Midget Creek Cabin, and I have found a discrepancy between the location of the Point of Diversion (POD) on the permit versus how it was described in the information submitted with the statement of completion. The permit application described the POD as located in the SWNE of Sec. 31, T44N, R09E at a GPS coordinates of Lat 47.11492, Long -115.38143 (section 11 of the application). The photos and subsequent description submitted with the statement of completion stated the POD is located at a coordinates of 47.11361, -115.37807, which would place it in the NESW of Sec. 31, T44N, R09E. The quarter quarter (QQ) description is the official descriptor of the POD location on the water right license, and I therefore need to confirm if the coordinates provided with the Statement of Completion are correct? If so, then because this is located in a different QQ than was described on the permit, we will require an application for licensing amendment in order to change that description for final licensing. This application will also require a \$100 processing fee. I've attached a map I produced using the two different sets of coordinates, along with a copy of the original permit application and map, and the photo page from the statement of completion which described the new coordinates. Please have a look and let me know where you believe the POD is truly located so we can move forward with the final license.

Thank you, and feel free to call or email me if you have any questions.

Scott

Scott Storms
Senior Water Resource Agent
Idaho Department of Water Resources
208-287-4915
Scott.Storms@idwr.idaho.gov

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Storms, Scott

From: Thompson, John K -FS <john.thompson@usda.gov>
Sent: Tuesday, October 15, 2019 3:31 PM
To: Storms, Scott
Subject: RE: Discrepancies on Water Right 91-7790

Hi Scott,

Thanks for the email. I'm in an all-day meeting tomorrow. I'll take a look at this later this week and get back to you. Is it possible if you can confirm if State of ID Fish and Game paid the \$50 processing fee for this? Thanks.



John Thompson
Realty Specialist

Forest Service
Idaho Panhandle National Forests

p: 208-765-7385

f: 208-765-7307

john.thompson@usda.gov

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From: Storms, Scott [<mailto:Scott.Storms@idwr.idaho.gov>]
Sent: Tuesday, October 15, 2019 9:05 AM
To: Thompson, John K -FS <john.thompson@usda.gov>
Subject: Discrepancies on Water Right 91-7790

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Thank you, and feel free to call or email me if you have any questions.

Scott

Scott Storms
Senior Water Resource Agent
Idaho Department of Water Resources
208-287-4915
Scott.Storms@idwr.idaho.gov

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