

State of Idaho
Department of Water Resources
Permit to Appropriate Water
No. 85-15798

Priority: May 14, 2019

Maximum Diversion Rate: 0.04 CFS

This is to certify that

WILLIAM N BONSON 3014 21ST ST CLARKSTON WA 99403-1736

has applied for a permit to appropriate water from:

Source : MIDDLE CREEK

Tributary: SNAKE RIVER

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

MIDDLE CREEK SW¼ SW¼, Sec. 2, Twp 31N, Rge 05W, B.M. NEZ PERCE 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		
31N	05W	3																X L4		

Conditions of Approval

1. Proof of application of water to beneficial use shall be submitted on or before **September 01, 2020**.
2. Subject to all prior water rights.
3. A fish screen of 1/4 inch or smaller mesh shall be installed and maintained at the point of diversion.
4. Domestic use is for 1 home and does not include lawn, garden, landscape, or other types of irrigation.
5. 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 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.
6. 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 18th day of September, 2019.


DOUGLAS JONES
Northern Regional Manager

State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

85-15798

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





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

Brad Little
Governor

Gary Spackman
Director

September 11, 2019

WILLIAM N BONSON
3014 21ST ST
CLARKSTON WA 99403-1736

RE: Permit No. 85-15798

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 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 the Northern Region Office at (208) 762-2800.

Sincerely,

A handwritten signature in blue ink, appearing to read "Douglas Jones", is written over the word "Sincerely,".

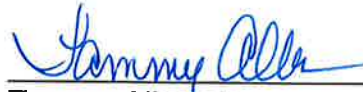
Douglas Jones
Northern Regional Manager

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on September 11, 2019, I served a true and correct copy of Permit to Appropriate Water No. 85-15798 by U.S. Mail, postage prepaid, to the following:

WILLIAM N BONSON (Current Owner)
3014 21ST ST
CLARKSTON WA 99403-1736



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 Application 85-15798

From: Adam Frederick Af

Date: 7/31/2019

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 Middle Creek should be available during the times it is needed for small domestic use in a cabin.

Good Faith, Delay, or Speculative Information

The applicant plans to use water from his/her own property and there are no known issues with any other party.

Financial Resources Information

No significant resources required.

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 and F & G commented that diversion should not be allowed to dry up the creek. The Idaho Water Resource Board was also asked for comment but did not submit any. None of the agencies protested this application.

Injury to Other Water Rights

None anticipated as this use is the last use on creek before it flows into the Snake River. Condition 121 will be added to address any concerns with flows in the Snake River.

Recommendation

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

Alleman, Tammy

From: Swearingen,Zachary <zachary.swearingen@idfg.idaho.gov>
Sent: Thursday, June 20, 2019 1:51 PM
To: Alleman, Tammy
Subject: RE: Request for Comments for WR# 85-15798

Hi Tammy,

I have reviewed application 85-15798.

Middle Creek, is an intermittent small stream with low flows, I recommend the withdrawal not be allowed to take more than 50% of stream flow.

In addition, Idaho Fish and Game is charged with protection of fish (Title 36-906), as such all dams or obstructions in streams are required to allow uninterrupted passage of fish. Currently with my understanding of Middle Creek, I do not believe this to be an issue at this time. However, streams and their use can change. It is important to note that if in the future fish are shown to use Middle Creek and the dam interrupts movement of fish, modifications to the dam which allows passage of fish will be required.

Thank you,

Zach Swearingen
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: Wednesday, May 22, 2019 3:20 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>
Subject: Request for Comments for WR# 85-15798

Dear Interested Agencies:

The Department of Water Resources is seeking written comment and/or recommendations from your agency regarding the above referenced Water Right application. You can find copies of the application attached to the email and also 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, 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 application is June 24, 2019.

Please contact the Northern Region Office at (208) 762-2800 if you have any questions regarding the application.

Thank you,

Tammy

*Tammy Alleman
Administrative Assistant
Idaho Department of Water Resources
7600 North Mineral Drive, Suite 100
Coeur d'Alene, ID 83815
Tammy.Alleman@idwr.idaho.gov
208-762-2800 Phone
208-762-2819 Fax*

TRIBUNE PUBLISHING COMPANY, INC

The Lewiston Tribune
505 C St., P.O.Box 957
Lewiston, Idaho 83501
(208) 743-9411

Date:	06/13/2019	INVOICE NO.	152084
Account No.	964750		
Description	152084 The foll		
Times	2	Lines	30
		Tab. lines	
		\$	87.75

RECEIVED
LEGAL ADVERTISING
INVOICE

JUN 17 2019

IDWR / NORTH

Sold To: ID DEPT. OF WATER RESOURCES
7600 MINERAL DR #100
COEUR D ALENE ID 83814

PO#

NOTICE: This is a invoice of Purchase made by you. Statement will be rendered the first of the month
Please Retain This Invoice as Your Statement Will Refer to Invoice by No. Only.

152084

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

85-15798
WILLIAM N BONSON
3014 21ST ST
CLARKSTON, WA 99403-1736
Point of Diversion SWSW
S2 T31N R05W
NEZ PERCE County
Source MIDDLE CREEK
Tributary SNAKE RIVER
Use: DOMESTIC
01/01 to 12/31 0.04 CFS
Total Diversion: 0.04 CFS
Date Filed: 5/14/2019
Place Of Use: DOMESTIC
T31N R05W S3 L4(SESE)

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 6/24/2019. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Published on 6/6/2019
and 6/13/2019

AFFIDAVIT OF PUBLICATION

Julie L. Winters, being duly sworn, deposes and says, I am the Legal Clerk of the Tribune Publishing Company, a corporation organized and existing under and by virtue of the laws of the State of Idaho and under and by virtue of the laws of the State of Washington, publishers of the Lewiston Tribune, a newspaper of general circulation published at Lewiston, Nez Perce County, Idaho; That the said Lewiston Tribune is an established newspaper and has been published regularly and issued regularly at least once a day for more than 105 consecutive years next immediately preceding the first publication of this notice, and has been so published uninterrupted for said period; that the 152084 The foll attached hereto and which is made a part of this affidavit was published in the said Lewiston Tribune, 2 time(s). Publication being on 06/06, or once a Week Week, for 2 consecutive the first publication thereof being on the 06/06/2019, and the last publication thereof being on the 06/13/2019, and said 152084 The foll was so published in the regular and entire issue of said newspaper and was not in a supplement thereof and was so published in every issue and number of the said paper, during the period and times of publication as set forth above.

Julie L. Winters
State of Idaho

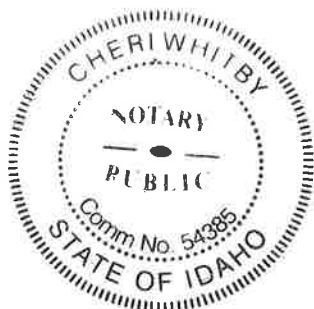
S.S.

County of Nez Perce

On this 13th day of June in the year of 2019, before me, a Notary Public, personally appeared Julie L. Winters, 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.

Cheri W. Rutby

Notary Public in and for the State of Idaho,
residing at Lewiston therein
Commission Expires 4/17/24



RECEIVED

JUN 17 2019

IDWR / NORTH



STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY

RECEIVED

MAY 31 2019

IDWR/NORTHERN

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

Governor Brad Little
Director John H. Tippetts

May 29, 2019

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

Subject: Water Right Application #85-15798

Dear Mr. Frederick:

DEQ has received a request for comment on the approval of a water right application to withdraw 0.04 cubic feet per second from Middle Creek at Township 31N, Range 05W, and Section 2. The applicant has an existing small dam in the creek with gravity flow to the home. The water will be used for domestic use. The withdrawals will occur from January 1 through December 31.

Middle Creek, which is intermittent, is in assessment unit 17060103SL008_02. This assessment unit is listed in Category 3 of Idaho's 2014 Integrated Report as unassessed for the designated beneficial uses of cold water aquatic life and contact recreation. Middle Creek drains directly into the Snake River.

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

We recommend that the legally appropriated withdrawal be made during periods of seasonal high flow or at a minimum, flows greater than 1 cubic feet per second. At no time should the stream be allowed to go dry as a result of legally appropriated and allowable water withdrawals nor should the proposed action be allowed to impair beneficial uses when stream flow is adequate to sustain existing aquatic life (IDAPA 58.01.02.100.01).

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: William Bonson, Clarkston, WA
Sujata Connell, DEQ
EDMS