

State of Idaho
Department of Water Resources
Water Right License
Water Right No. 74-15989

Priority: October 22, 2012

Maximum Diversion Rate: 0.04 CFS
Maximum Diversion Volume: 20.5 AF

It is hereby certified that:

UNITED STATES OF AMERICA ACTING THROUGH USDI BUREAU OF LAND MANAGEMENT
IDAHO STATE OFFICE
ATTN FRED PRICE
1387 S VINNELL WAY BOISE ID 83709-1657

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated October 22, 2012, and has submitted Proof of Beneficial Use on December 17, 2013. An examination confirms water is diverted from:

Source : GROUND WATER

<u>Beneficial Use</u>	<u>Period of Use</u>	<u>Rate of Diversion</u>	<u>Annual Volume</u>
RECREATION	01/01 to 12/31	0.04 CFS	20.5 AF

Location of Point(s) of Diversion

GROUND WATER L1 (NE $\frac{1}{4}$ NE $\frac{1}{4}$), Sec. 4, Twp 19N, Rge 24E, B.M. LEMHI County

Place of Use: RECREATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
19N	24E	4	X L1																

Conditions of Approval

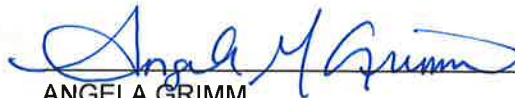
1. Rights 74-7396 and 74-15989 when combined shall not exceed a total diversion rate of 0.04 cfs and a total annual maximum diversion volume of 20.5 af at the field headgate.
2. Use of water under this right shall be non-consumptive.
3. Water is discharged into Warm Spring Creek.
4. Recreation use is for cooling public hot pools.
5. 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. 74.
6. Upon specific notification by the Department, the right holder shall install and maintain acceptable measuring device(s), including data logger(s), at the authorized point(s) of diversion, in accordance with Department specifications.

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Department of Water Resources
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Water Right No. 74-15989

7. 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.

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 18th day of JUNE, 2019.



ANGELA GRIMM

Water Rights Section Manager

State of Idaho
Department of Water Resources
Water Right License
74-15989



-  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

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

June 21, 2019

UNITED STATES OF AMERICA ACTING THROUGH
USDI BUREAU OF LAND MANAGEMENT
IDAHO STATE OFFICE
ATTN FRED PRICE
1387 S VINNELL WAY
BOISE ID 83709-1657

RE: License No. 74-15989

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

If you have any questions concerning the enclosed information, please contact me at (208) 287-4951.

Sincerely,

Angela Grimm
Water Rights Section Manager

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on June ²⁴, 2019, I served a true and correct copy of Water Right License No. 74-15989 by U.S. Mail, postage prepaid, to the following:

UNITED STATES OF AMERICA ACTING THROUGH (Current Owner)
USDI BUREAU OF LAND MANAGEMENT
IDAHO STATE OFFICE
ATTN FRED PRICE
1387 S VINNELL WAY
BOISE ID 83709-1657

WATER DISTRICT #74
RICK SAGER (Watermaster)
PO BOX 744
SALMON ID 83467-0744

MIKE WHITSON
USDI-BLM SALMON FIELD OFFICE
1206 S CHALLIS ST
SALMON ID 83467



Darla Block
Technical Records Specialist 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.

Grimm, Angie

From: Whitson, Michael <mwhitson@blm.gov>
Sent: Tuesday, June 04, 2019 9:12 AM
To: Grimm, Angie
Cc: Whitney, Rob
Subject: Re: [EXTERNAL] Field Exam for permit no. 74-7396

Thanks Angie. I appreciate your help with all this. Cindy and I will find a time to head out there, and hopefully we can get this wrapped up soon.

I concur that moving forward with licensing 74-15989 is the best path for that right at this time.

Mike

Mike Whitson, P.G.

Geologist

USDI-BLM Salmon Field Office
1206 S. Challis St., Salmon ID 83467
mwhitson@blm.gov

Office: [208.756.5495](tel:208.756.5495)

Fax: [208.756.5447](tel:208.756.5447)

On Mon, Jun 3, 2019 at 10:16 AM Grimm, Angie <Angie.Grimm@idwr.idaho.gov> wrote:

Mike,

Good morning, again! I just spoke with the examiner, Rob Whitney, who conducted the beneficial use field exam back in 2012. He recalls there being two diversions in the creek, but at this point, it has been too long ago to be sure. He will ask Cindy Yenter, of IDWR's Salmon Office, to reach out to you to set up a time to re-investigate the points of diversion so we can have more assurance regarding which diversions should go on 74-7396 and which ones should perhaps go on another right or a new permit application. I will continue waiting to license permit 74-7396 until this investigation is concluded.

On another note, IDWR was waiting to license permit 74-15989, which is the permit for the cold water well. The plan was to issue both licenses once the amendment for permit 74-7396 was received. I see no reason to continue waiting to license 74-15989. I will pursue finalizing that license as soon as possible.

I appreciate your desire to make sure the water right records accurately reflect the systems in place. I hope we will be able to license 74-7396 in a reasonable timeframe once the points of diversion are confirmed by another site visit. Please let me know if you have any additional questions in the meantime.

Regards,

Angie

Angela M. Grimm, P.G.,

Water Rights Section Manager

IDWR - State Office

322 E Front St Ste 648

Boise, ID 83702-7371

(208) 287-4951 phone

(208) 287-6700 fax

From: Grimm, Angie

Sent: Monday, June 03, 2019 7:53 AM

To: 'Whitson, Michael' <mwhitson@blm.gov>

Subject: RE: [EXTERNAL] Field Exam for permit no. 74-7396

Mike,

Good morning! The beneficial use exam mentioned the springs for 74-7394 are "hot water". The documents associated with water rights can be found via the Water Right Research tool here: <https://idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx>. If you choose the second criteria 'Adjudication, Water Right & Basin or Transfer' button, select the Claim/Water Right/Basin box, enter the Basin # 74 and sequence # 7394, hit Save Search Parameter, then hit Start Search the record will appear at the bottom. If you hit More Options then documents, it will show you all the scanned documents for this water right. The Beneficial Use Field Report document is where I found an indication that the springs source for 74-7394 are hot. Hope this helps. Please let me know if you have any trouble finding the documents online. I hope to have an answer for you on your other question by the end of this week...

Thanks,

Angie

Angela M. Grimm, P.G.,

Water Rights Section Manager

IDWR - State Office

322 E Front St Ste 648

Boise, ID 83702-7371

(208) 287-4951 phone

(208) 287-6700 fax

From: Whitson, Michael [<mailto:mwhitson@blm.gov>]
Sent: Friday, May 31, 2019 9:41 AM
To: Grimm, Angie <Angie.Grimm@idwr.idaho.gov>
Subject: Re: [EXTERNAL] Field Exam for permit no. 74-7396

Ok, thanks for touching base. I suggested 7394 as it was the right that was for springs but not specifically Sharkey Hot Spring, so I made the assumption it was a cold water source. There is one of those midway down, and I thought that this was it. Is there some way you can tell from the WR info that this is a hot spring vs. cold? I was uncertain, but that was my logic...

We'll get it figured out, and I appreciate your help here.

MDW

Mike Whitson, P.G.

Geologist

USDI-BLM Salmon Field Office

1206 S. Challis St., Salmon ID 83467

mwhitson@blm.gov

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Fax: [208.756.5447](tel:208.756.5447)

On Fri, May 31, 2019 at 8:52 AM Grimm, Angie <Angie.Grimm@idwr.idaho.gov> wrote:

Mike,

Good morning! I wanted to send you a quick email to let you know I'm working on a response to your last email. I need to talk with the examiner and potentially my supervisor to get proper direction on the best option here. However, I can say, I do not think amending right 74-7394 would be a proper course of action simply because that right diverts hot water and the spring in question is cold. I will talk with a few folks here and get back to you by the end of next week. I appreciate the additional information you provided and your responsiveness. More to come...

Regards,

Angie

Angela M. Grimm, P.G.

Water Rights Section Manager

IDWR - State Office

322 E Front St Ste 648

Boise, ID 83702-7371

(208) 287-4951 phone

(208) 287-6700 fax

From: Whitson, Michael [mailto:mwhitson@blm.gov]

Sent: Friday, May 24, 2019 2:23 PM

To: Grimm, Angie <Angie.Grimm@idwr.idaho.gov>

Subject: Re: [EXTERNAL] Field Exam for permit no. 74-7396

Hi Angie-

Just wanted to touch base with you regarding this permit before I send in the amendment. I have confirmed the locations of the two PODs as described during the examination, but the source for one of the PODs isn't Warm Springs Creek. There are two PODs that source cold water and are comingled in a pipe to the hot springs mixing boxes. Both are spring cans that have been buried for collection of water. One is located in the bottom of an intermittent reach of Warm Springs Creek which is clearly a diversion of Warm Springs Creek. The other is a spring can that is located on the hillslope above the creek that is capturing a small hillside seep and then routing it with the Warm Springs water to the mixing box.

Would the Department prefer that we add this as another POD to 74-7396? Perhaps we should add it as another POD for one of the water rights we have for the recreation site that have a source listed as "springs" since this particular POD is clearly not capturing surface water but rather a spring source (I think 74-7394 would be the best option) Maybe it's not critical, and I'm not trying to split hairs here, but since we clearly need to make an amendment I want to make sure we do it the right way.

I've attached a map showing the POD locations for your reference. Please feel free to give me a call if you'd like.

Thanks,

Mike

Mike Whitson, P.G.

Geologist

USDI-BLM Salmon Field Office

1206 S. Challis St., Salmon ID 83467

mwhitson@blm.gov

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Fax: [208.756.5447](tel:208.756.5447)

On Wed, May 15, 2019 at 1:56 PM Grimm, Angie <Angie.Grimm@idwr.idaho.gov> wrote:

Mike,

Good afternoon! Attached is a scanned copy of the field examination conducted for Warm Spring Creek permit no. 74-7396. The field examiner recognized two points of diversion from Warm Spring Creek during the field examination with Bob Berasi (BLM Project Manager). The licensing amendment would add the second point of diversion. Hopefully the field examination helps with your verification process. Please let me know if I can provide any additional information. IDWR will wait an additional 14 days (until June 1) to receive a licensing amendment before moving forward with licensing of this permit and permit no. 74-15989 (ground water well permit).

Regards,

Angie

Angela M. Grimm, P.G.

Water Rights Section Manager

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