

State of Idaho
Department of Water Resources
Permit to Appropriate Water
No. 85-15797

Priority: March 13, 2019

Maximum Diversion Rate: 0.20 CFS

This is to certify that

MICHAEL ASKER 104 S A ST GRANGEVILLE ID 83530-1400

has applied for a permit to appropriate water from:

Source : UNNAMED STREAM

Tributary: THREE MILE CREEK

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

<u>Beneficial Use</u>	<u>Period of Use</u>	<u>Rate of Diversion</u>	<u>Annual Volume</u>
IRRIGATION STORAGE	01/01 to 12/31		4.5 AF
IRRIGATION FROM STORAGE	04/01 to 10/31		4.5 AF
RECREATION	01/01 to 12/31	0.20 CFS	
RECREATION STORAGE	01/01 to 12/31		0.8 AF
FIRE PROTECTION STORAGE	01/01 to 12/31		0.8 AF
DIVERSION TO STORAGE	01/01 to 12/31	0.20 CFS	

Location of Point(s) of Diversion

UNNAMED STREAM NE¼ SE¼, Sec. 31, Twp 30N, Rge 03E, B.M. IDAHO County

Place of Use: IRRIGATION STORAGE, RECREATION STORAGE, FIRE PROTECTION STORAGE, AND RECREATION

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		
30N	03E	31													X					

Place of Use: IRRIGATION FROM STORAGE

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		
30N	03E	31													1.5					1.5

Total Acres: 1.5

Conditions of Approval

1. Proof of application of water to beneficial use shall be submitted on or before **May 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. 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. Prior to the diversion and use of water under this approval, the right holder shall comply with all private pond fish stocking requirements of the Idaho Department of Fish and Game.

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6. Right 85-7634 and 85-15797 authorize the storage of an annual total of 5.3 acre-feet, comprised of 0.7 acre-feet to be used for the initial filling of the pond, 0.1 acre-feet for the replacement of losses due to seepage and evaporation, and up to 4.5 acre-feet for additional refills for irrigation from storage use.
7. The pond established by the storage of water under this right shall not exceed a total capacity of 0.7 acre-feet or a total surface area of 0.1 acres.
8. Water shall not be diverted from fire protection storage except to fight or repel an existing fire.
9. Water shall not be diverted under this right when flows in the Threemile Creek are below minimum flow amounts as defined by Right 85-15623.
10. 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 13th day of May, 2019.



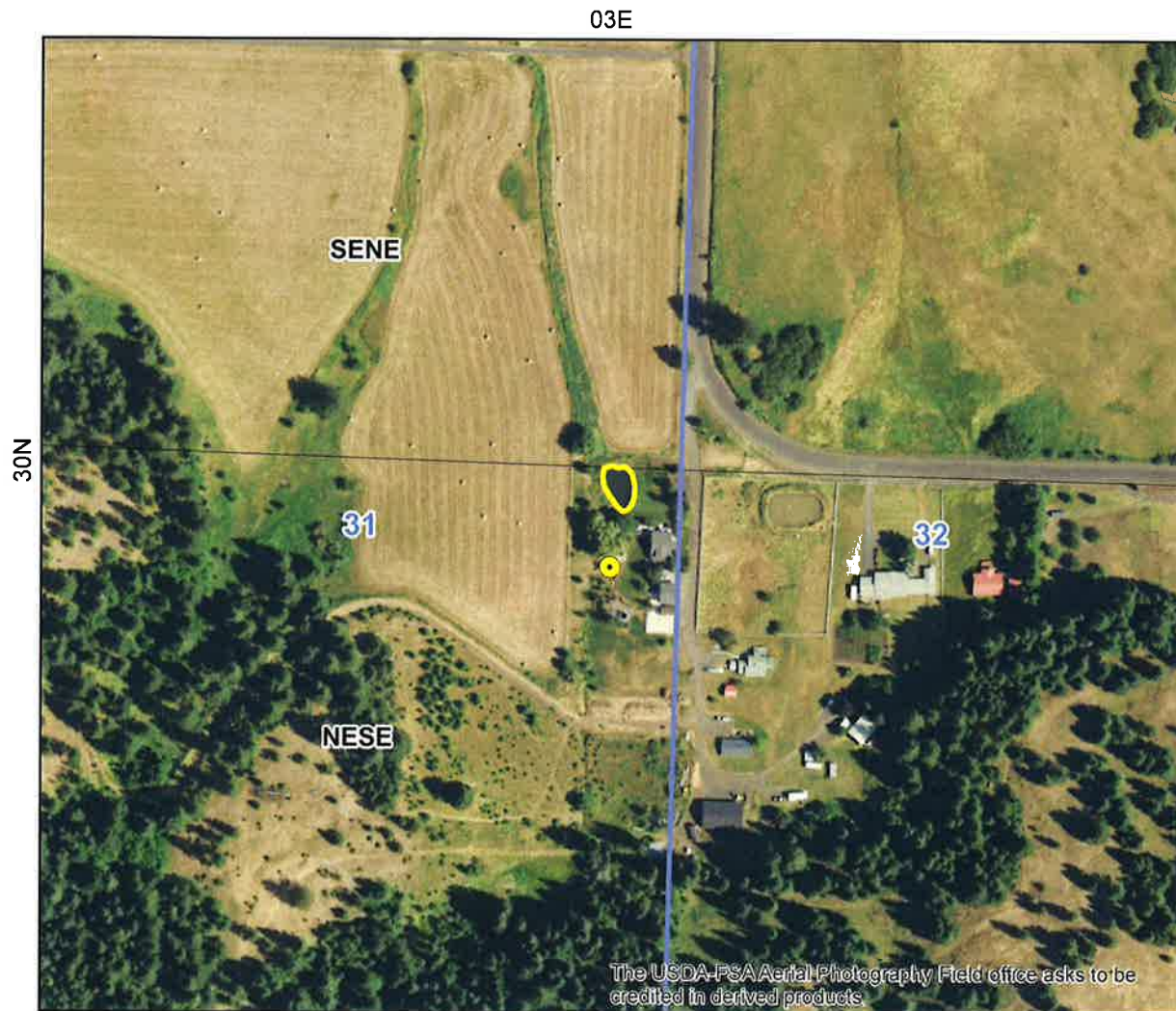
DOUGLAS JONES
Northern Regional Manager

State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

85-15797

This map depicts the FIRE PROTECTION STORAGE, IRRIGATION STORAGE, and RECREATION STORAGE 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

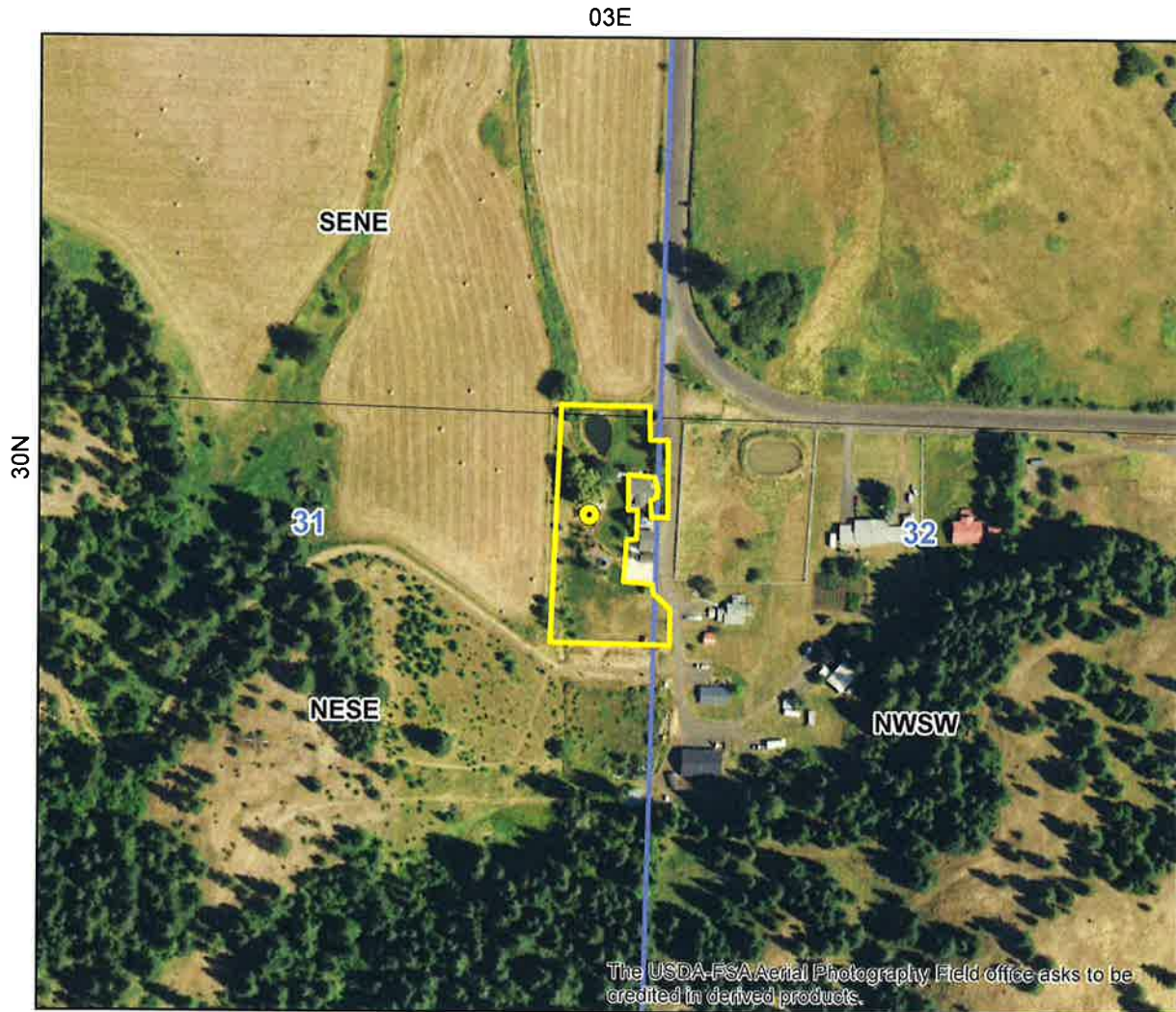


State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

85-15797

This map depicts the IRRIGATION FROM STORAGE 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

May 13, 2019

MICHAEL ASKER
104 S A ST
GRANGEVILLE ID 83530-1400

RE: Permit No. 85-15797

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.

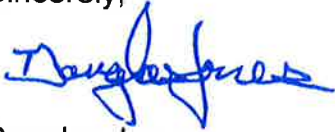
The final step in the water right process is issuance of a water right license. To receive a water right license, you must divert and use water to the full extent intended and submit a *Statement of Completion for Submitting Proof of Beneficial Use* ("Proof") by the date shown in condition no. 1 of your 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,



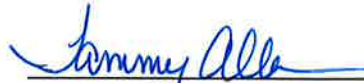
Douglas Jones
Northern Regional Manager

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on May 13, 2019, I served a true and correct copy of Permit to Appropriate Water No. 85-15797 by U.S. Mail, postage prepaid, to the following:

MICHAEL ASKER (Current Owner)
104 S A ST
GRANGEVILLE ID 83530-1400



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 85-15797

From: Adam Frederick Af

Date: 4/24/2019

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 the unnamed stream should be available during times of high flow. However, Threemile Creek is covered under minimum stream flow (MSF) 85-15623 and water should be made available at times when MSF is not met.

Good Faith, Delay, or Speculative Information

The applicant plans to divert water for 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 commented and stated water should only be taken during times of high flow and should not impair existing beneficial uses when stream flow is adequate to sustain existing aquatic life. F & G commented that applicant should have permit for stocking private ponds and that intake and outlet should be screened accordingly. The Idaho Water Resource Board, who owns the MSF was also asked for comment but did not submit any. None of the agencies protested this application.

Injury to Other Water Rights

The pond already exists and the applicant had to apply for more water because license 85-7634 did not cover the full extent of the use. There will be a MSF condition added to the permit to make the applicant aware that a future watermaster could curtail this water.

Recommendation

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

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

84-12297

TIMOTHY M SOKOLOWSKI
COURTNEY SOKOLOWSKI
140 LARRADON DR
KAMIAH, ID 83536-5146

Point of Diversion
L1(NWNW)

S32 T34N R04E

IDAHO County

Source GROUND WATER

Use: DOMESTIC

01/01 to 12/31 0.04 CFS

Total Diversion: 0.04 CFS

Date Filed: 3/15/2019

Place Of Use: DOMESTIC

T34N R04E S32

L1(NWNW)

84-12298

TIMOTHY M SOKOLOWSKI
COURTNEY SOKOLOWSKI
140 LARRADON DR
KAMIAH, ID 83536-5146

Point of Diversion L1(SWN-
WNW)

S32 T34N R04E

IDAHO County

Source SPRING

Tributary

TOM TAHA CREEK

Use: IRRIGATION

03/15 to 11/15 0.11 CFS

Total Diversion: 0.11 CFS

Date Filed: 3/15/2019

Place Of Use: IRRIGATION

T34N R04E S31

NENE SENE

T34N R04E S32

L1(NWNW) SWNW

85-15797

MICHAEL ASKER

104 S A ST

GRANGEVILLE, ID 83530

Point of Diversion NESE

S31 T30N R03E

IDAHO County

Source

UNNAMED STREAM

Tributary

THREE MILE CREEK

Use: DIVERSION TO

STORAGE

01/01 to 12/31 0.2 CFS

Use: FIRE PROTECTION

STORAGE

01/01 to 12/31 0.8 AF

Use: IRRIGATION FROM

STORAGE

04/01 to 10/31 4.5 AF

Use: IRRIGATION STOR-

AGE

01/01 to 12/31 4.5 AF

Use: RECREATION

01/01 to 12/31 0.2 CFS

Use: RECREATION

STORAGE

01/01 to 12/31 0.8 AF

Total Diversion: 0.2 CFS

Date Filed: 3/13/2019

Place Of Use: RECREATION

T30N R03E S31 NESE

Place Of Use: RECREATION

STORAGE

T30N R03E S31 NESE

Place Of Use: FIRE

PROTECTION STORAGE

T30N R03E S31 NESE

Place Of Use: IRRIGATION

STORAGE

T30N R03E S31 NESE

Place Of Use: IRRIGATION

FROM STORAGE

T30N R03E S31 NESE

Permits will be subject to all

prior water rights. For addi-

tional information concerning

the property location, contact

Northern Region office at

(208) 762-2800. Protests may

be submitted based on the cri-

teria of Idaho Code § 42-203A.

Any protest against the ap-

proval 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 applica-

tion on or before 4/22/2019.

The protestant must also send a

copy of the protest to the appli-

cant.

GARY SPACKMAN,

Director

Published on

4/3/2019 and 4/10/2019

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO

County of Idaho - ss.

David P. Rauzi, being first duly sworn, says he is the Editor of the IDAHO COUNTY FREE PRESS, a weekly newspaper published and issued weekly at Grangeville, Idaho County, State of Idaho, and is of general circulation in said county and state, that the said legal notice, of which the one hereto attached is a true copy, was published in said paper for two weeks, being published two times, the first publication being on the 3rd day of April, 2019; and the last publication on the 10th day of April, 2019; and that the said legal notice was published in the newspaper proper and not a supplement; that said newspaper has been continuously and uninterruptedly published in said county during a period of seventy-eight consecutive weeks prior to the publication of said legal notice of advertisement.

STATE OF IDAHO

COUNTY OF IDAHO

On this 10th day of April in the year of 2019, before me a Notary Public personally appeared David P. Rauzi, 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.

Jolene Rupp
Notary Public for Idaho

Residing at Grangeville, ID

My commission expires: 1-24-25



RECEIVED

APR 11 2019

IDWR / NORTH

Alleman, Tammy

From: Swearingen,Zachary <zachary.swearingen@idfg.idaho.gov>
Sent: Tuesday, April 02, 2019 2:52 PM
To: Alleman, Tammy
Subject: RE: Request for Comments 85-15797

Hi Tammy,

The application (85-15797) notes that recreation use of the pond will include fishing. If this application is permitted please inform the applicant, or include as a condition in any water right issued, that a permit is required prior to stocking private ponds with fish per Idaho Code 36-706. Ponds which will be stocked with fish are require to have a screen on their inlet and outlet to prevent fish escapement. The stocking permit is available from Idaho Department of Fish and Game.

Thank you,

Zach Swearingen
Environmental 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: Monday, March 25, 2019 11:08 AM
To: Sujata.Connell@deq.idaho.gov; Swearingen,Zachary <zachary.swearingen@idfg.idaho.gov>; Clark, Cynthia Bridge <Cynthia.Clark@idwr.idaho.gov>; Skoro, Emily <Emily.Skoro@idwr.idaho.gov>; Golden, Kala <Kala.Golden@idwr.idaho.gov>
Subject: Request for Comments 85-15797

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 April 22, 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



STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY

RECEIVED

MAR 27 2019

IDWR / NORTH

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

Governor Brad Little
Director John H. Tippetts

March 26, 2019

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

Subject: Water Right Application #85-15797

Dear Mr. Frederick:

DEQ has received a request for comment on the approval of a water right application to withdraw 0.2 cfs from an unnamed tributary to Threemile Creek. The source is located at Township 30N, Range 03E, and Section 31. The activity will be from January 1 to December 31. The unnamed tributary will provide water for recreation, fire protection, and 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 ID17060305CL010_02 and is protected for the designated beneficial uses of cold water aquatic life, salmonid spawning, and secondary contact recreation beneficial uses. This unnamed tributary section of Threemile Creek is listed in Category 4a of Idaho's 2014 Integrated Report as having a Total Maximum Daily Load (TMDL) allocation for nutrients, water temperature, sediment, and *E. coli* bacteria pollutants. The TMDL is a pollution management plan that calculates the maximum amount of a pollutant allowed in the creek based on the volume or flow of water in the creek. Reduction in flow in Threemile Creek can cause nutrient, water temperature, sediment, and bacteria increases that exceed the total maximum daily load and Idaho water quality standards. DEQ stream monitoring data from this section of Threemile Creek recorded a flow of 0.27 cfs in August, 2013.

Based on the TMDLs and recent flow data, we are concerned that there may not be sufficient flow outside the seasonal high flow period to support the designated beneficial uses, and provide the volume necessary for the TMDL allocations for listed pollutants. Idaho water quality standards require existing aquatic life be protected and maintained when flows are equal to or greater than 1 cfs in intermittent streams. At no time should the stream be allowed to go dry as a result of legally appropriated and allowable water withdrawals.

Mr. Adam Frederick

March 26, 2019

Page 2

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". The signature is fluid and cursive, with a large, stylized initial "D".

Daniel D. Stewart

Water Quality Analyst

c: Mike Asker, Grangeville, ID
Sujata Connell, DEQ