

State of Idaho
Department of Water Resources
Permit to Appropriate Water
No. 94-9620

Priority: July 24, 2018

Maximum Diversion Volume: 2,090.0 AF

This is to certify that

STATE OF IDAHO DEPT OF FISH & GAME
2885 WEST KATHLEEN AVE COEUR D ALENE ID 83815

has applied for a permit to appropriate water from:

Source : BLACKROCK GULCH

Tributary: COEUR D ALENE RIVER

Source : BULL RUN CREEK

Tributary: COEUR D ALENE RIVER

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

Beneficial Use

WILDLIFE STORAGE

Period of Use

01/01 to 12/31

Annual Volume

2,090.0 AF

Location of Point(s) of Diversion

BLACKROCK GULCH NE¼ NE¼, Sec. 7, Twp 48N, Rge 01W, B.M. KOOTENAI County
BULL RUN CREEK NE¼ NE¼, Sec. 7, Twp 48N, Rge 01W, B.M. KOOTENAI County

Place of Use: WILDLIFE 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		
48N	01W	5									X		X	X	X	X	X	X		
48N	01W	6													X	X		X		
48N	01W	7	X	X	X	X				X					X	X		X		
48N	01W	8		X			X	X												

Conditions of Approval

1. Proof of application of water to beneficial use shall be submitted on or before **May 01, 2024**.
2. Subject to all prior water rights.
3. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which the permit holder had no control.
4. Right 94-9620 authorizes a total annual storage volume of 2,090.0 acre-feet, 1,630.0 acre-feet to be used for the initial filling of the reservoir and 460.0 acre-feet for the replacement of losses caused by evaporation.
5. The reservoir established by the storage of water under this right shall not exceed a total capacity of 1,630.0 acre-feet or a total surface area of 326 acres.

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6. Water shall not be diverted under this right when flows in the Coeur d'Alene River are below minimum flow amounts as defined by Right 94-7341. The right holder shall be responsible for monitoring the daily flow of the Coeur d'Alene River using real-time data and shall cease diverting water when flows in the Coeur d'Alene River are below established minimum flow amounts. Unless otherwise specified by the Director of the Department of Water Resources, data from the U.S. Geological Survey Cataldo gauging station, No. 12413500, may be used for purposes of determining the daily flow amounts.
7. This right is subordinate to the capture and retention of water in existing on-stream storage reservoirs operated for storage and flood control purposes during and following flood control operations until the date of allocation.
8. 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 17th day of April, 2019.



DOUGLAS JONES

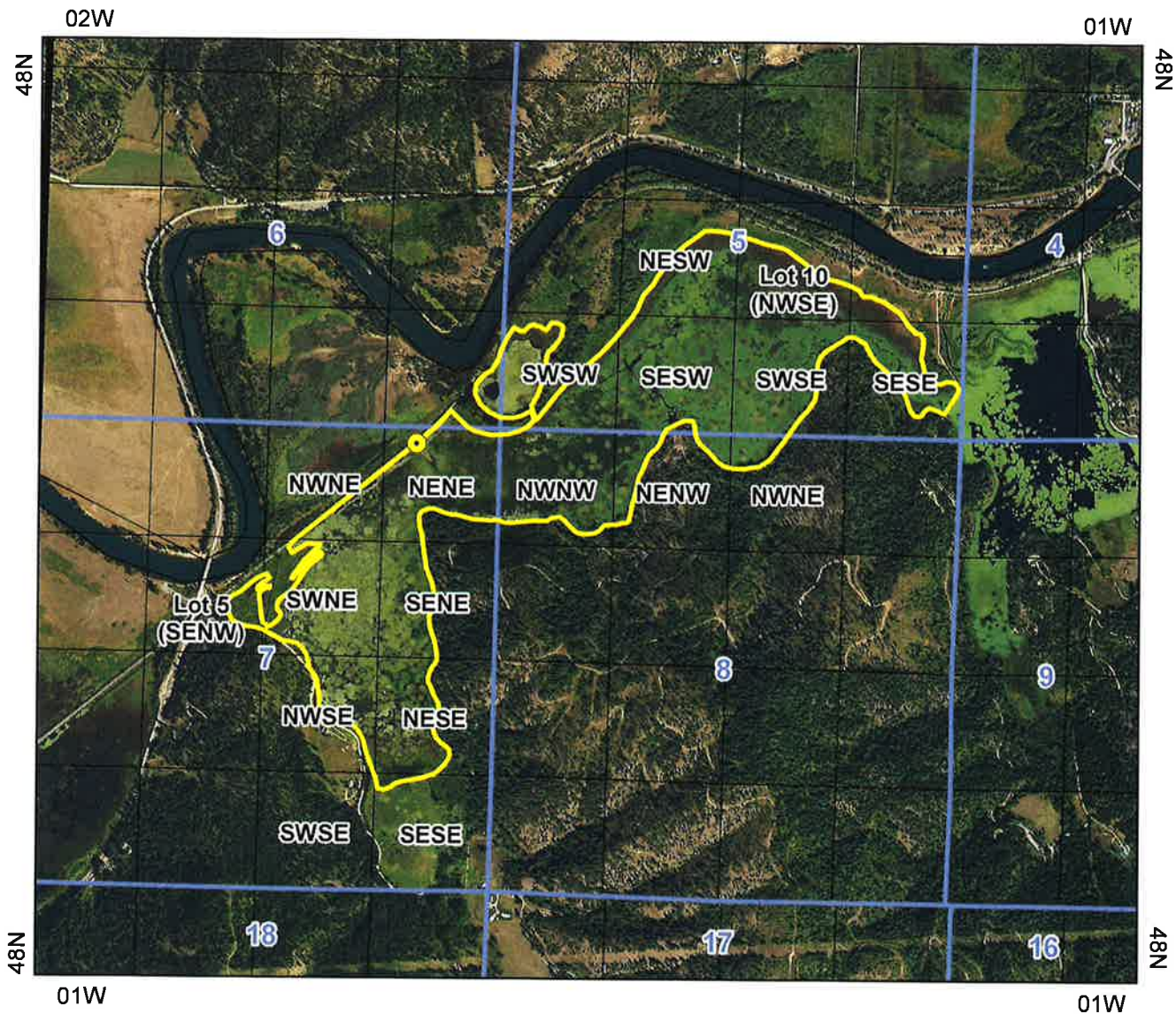
Northern Regional Manager

State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

94-9620

This map depicts the WILDLIFE 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

0 0.225 0.45 0.9 Miles





Brad Little
Governor

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

Gary Spackman
Director

April 17, 2019

STATE OF IDAHO
DEPT OF FISH & GAME
2885 WEST KATHLEEN AVE
COEUR D ALENE ID 83815

RE: Permit No. 94-9620

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.

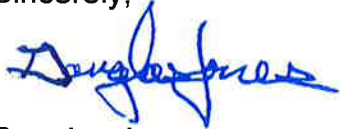
The final step in the water right process is issuance of a water right license. To receive a water right license, you must first commence the excavation or construction of your diverting works within one year of the date the permit was issued, and you must proceed diligently until the project is complete. In addition, you must divert and use water to the full extent intended and submit a *Statement of Completion for Submitting Proof of Beneficial Use* 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.

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 typed name.

Douglas Jones
Northern Regional Manager

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on April 17, 2019, I served a true and correct copy of Permit to Appropriate Water No. 94-9620 by U.S. Mail, postage prepaid, to the following:

STATE OF IDAHO (Current Owner)
DEPT OF FISH & GAME
2885 WEST KATHLEEN AVE
COEUR D ALENE ID 83815



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.

Jones, Doug

From: Van de Riet,David <david.vanderiet@idfg.idaho.gov>
Sent: Wednesday, October 10, 2018 9:05 AM
To: Jones, Doug
Subject: RE: Application for Permit - 94-9620
Attachments: WR_94_9620_Black Rock Slough_METHODOLGY.pdf

Hi Doug,

It was great to meet you and Joe. I appreciate you taking the time to meet us on site at Black Rock Slough. I talked to our engineer and he developed a storage curve and set an elevation for the design (see attached). His storage curve is based on what the structure will control and not uncontrolled storage that occurs at low pool within Black Rock Slough. The uncontrolled storage is where the 670 ac-ft comes from. I wanted to check and see if this is the information IDWR is looking for to qualify the structure as a levee. If not let me know what additional steps need to be taken. Are the final drawings required to finalize the WR application?

Also, how long does IDFG have with the application process before I should write a letter asking to hold the process in abeyance?

Thank you.

Regards,

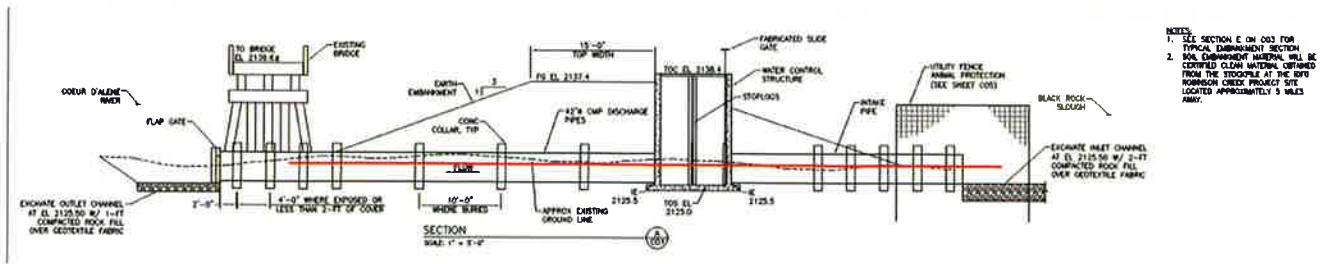
David Van de Riet
Senior Wildlife Technician
Coeur d' Alene River Wildlife Management Area
Panhandle Region
2885 W. Kathleen Ave
Coeur d' Alene, ID 83815
Cell: (208) 818-3695



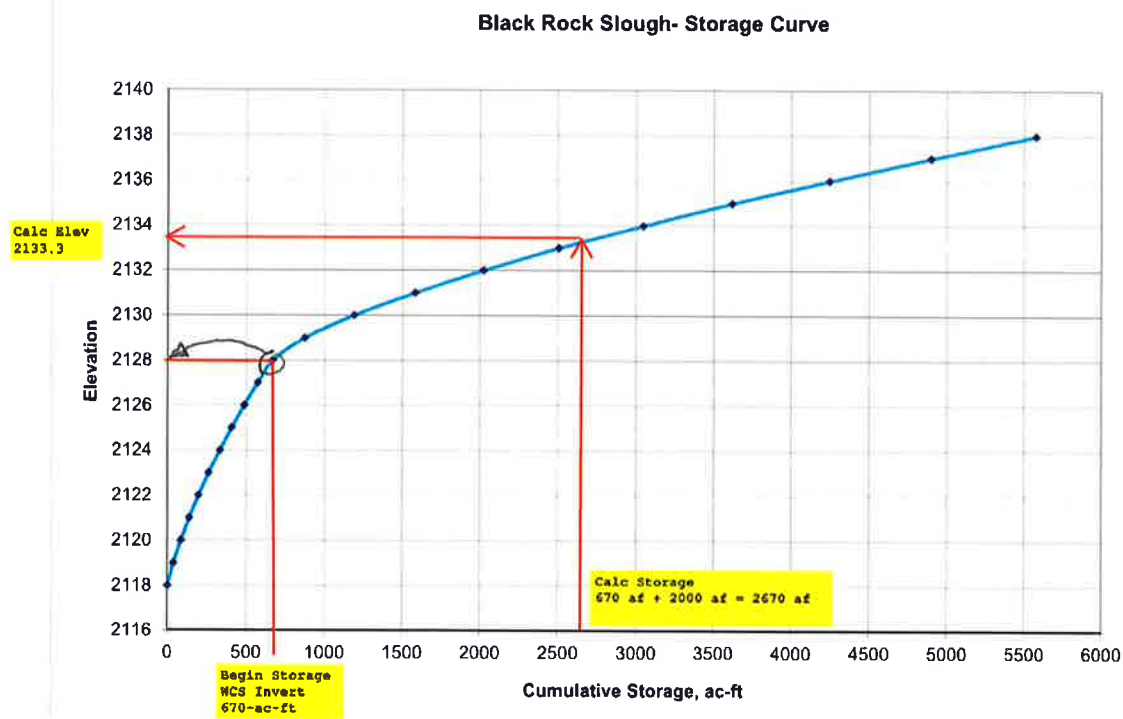
From: Jones, Doug [mailto:Doug.Jones@idwr.idaho.gov]
Sent: Thursday, October 04, 2018 11:07 AM
To: Van de Riet,David
Cc: Carlson, Joseph
Subject: RE: Application for Permit - 94-9620

Dave,

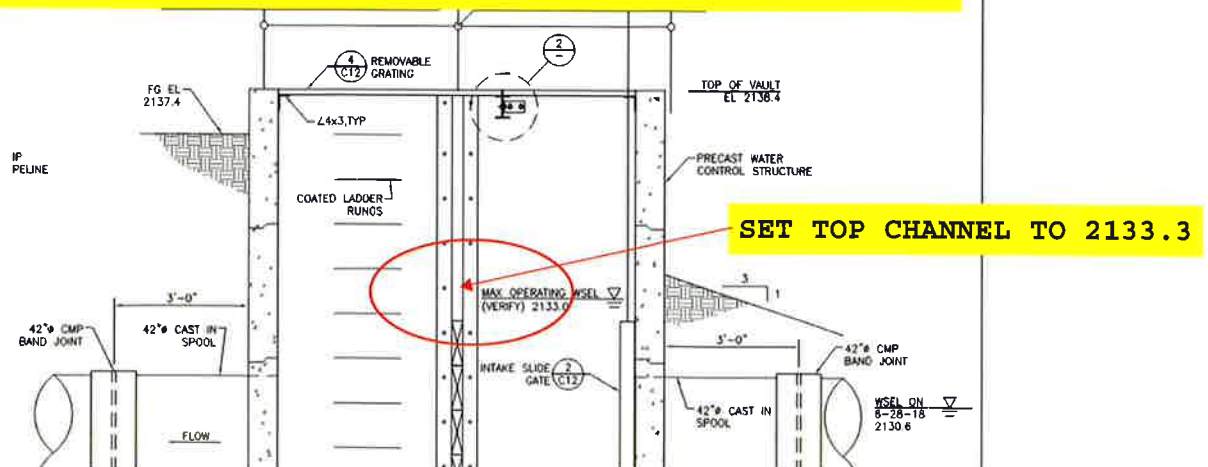
**STEP 1. DETERMINED EXISTING GRADE
THAT IT WILL NOT DRAIN BELOW= 2128**



STEP 2A FROM STORAGE CURVE, DETERMINED EXISTING STORAGE FOR BEGIN ELEV=2128 WHICH IS 670 AC-FT.
STEP 2B. ADDED 2000 AF-FT TO BEGIN STORAGE FOR TOTAL STORAGE =2670 AC-FT
STEP 2C. DETERMINED ENDING ELEVATION



STEP 3. WILL NEED TO MAKE STOPLOG CHANNEL ONLY EXTEND UP TO 2133.3



MEMORANDUM

DATE: September 27, 2018

TO: Tammy Alleman, IDWR

FROM: Emily Skoro, Staff Engineer, Water Projects Section, IDWR

RE: IDWR Application for Permit No. 94-9620

The Idaho Water Resource Board (Board), would like to submit the following comments for consideration when processing the Application for Permit No. 94-9620. The applicant is requesting a water right for a wildlife storage use with a total diversion of 2092.4 acre-feet per year. The water supply source is Blackrock Gulch Creek and Bull Run Creek. Both creeks are tributaries of the Coeur d' Alene River.

The applicant should be aware that the Board holds a minimum stream flow (MSF) water right 94-7341 on the Coeur d' Alene River downstream of the applicant's Point of Diversion (POD). Any water rights with a priority date junior to the Board's water right should be administered in priority and may be curtailed if the MSF is not being met. USGS Gage 12413860 is located downstream of the proposed POD and within the reach of the Board's MSF water right. Historic records show that in low flow years this reach of the Coeur d' Alene River is generally below the MSF most of the year except all or part of February, March, April, May, June, and July. Therefore, flows measured at the referenced gage should be used to verify current Coeur d' Alene River stream flows, and diversions should be limited to times when the Board's MSF water right is met. Please see the attached Proof Report for the diversion rates authorized under the Board's MSF water right 94-7341.

Cynthia Bridge Clark, Water Projects Supervisor with the Idaho Department of Water Resources, representing the Board, spoke with Kiira Siitari, Environmental Staff Biologist with the Idaho Department of Fish and Game (IDFG) on September 26, 2018 to discuss the application. Kiira agreed to contact appropriate staff at IDFG to coordinate project development with the Board to ensure the MSF is not impacted.

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

9/27/2018

Water Right 94-7341

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	STATE OF IDAHO IDAHO WATER RESOURCE BOARD 322 E FRONT ST PO BOX 83720 BOISE, ID 83720-0098 (208) 287-4800

Priority Date: 6/15/1992

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
COEUR D ALENE RIVER	COEUR D ALENE LAKE

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
MINIMUM STREAM FLOW	11/01	6/30	1,018.000 CFS	
MINIMUM STREAM FLOW	7/01	10/31	413.000 CFS	
	<u>Total Diversion</u>		1,018.000 CFS	

Source and Point(s) of Diversion

COEUR D ALENE RIVER	SWNW	Sec. 36, Twp 48N, Rge 04W, KOOTENAI County(E)
COEUR D ALENE RIVER	NENW	Sec. 31, Twp 49N, Rge 02E, SHOSHONE County(B)

Place Of Use

MINIMUM STREAM FLOW

Conditions of Approval:

1. C18 This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.
2. 027 Use of water under this right shall be non-consumptive.
3. This minimum stream flow begins at the confluence of the Coeur d Alene River and the South Fork Coeur d Alene River in the T49N, R02E, S31, NENW, Shoshone County and extends downstream approximately 35 miles to the mouth of the Coeur d Alene River in T48N, R04W, S36, Lots 3 and 4 (SWNW), Kootenai County.
4. This minimum streamflow shall be subject to future municipal and domestic development from the Coeur d Alene River and its tributaries for use in the basin within and upstream of the minimum streamflow reach. The minimum streamflow will not be subject to water rights established in the future for irrigation uses or other large consumptive purposes even though covered under a municipal or domestic use definition.
5. The ending point of diversion for this right is T48N, R04W, S36, Lots 3 and 4 (SWNW), Kootenai County.
6. Specifically because of the generalization of the Tennant method, the Director retains jurisdiction, as described below, to review and amend any and all parameters of this right. The Board, upon receiving a request, or upon its own initiative, may petition the

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

9/27/2018

Director for an amendment to the right. The petition must set forth any significant change in circumstances and evidence of the public interest supporting the proposed amendment. The Director will notify the general public and specific persons or known interested parties of the proposed change, and conduct a hearing for the purpose of determining whether the right should be amended in the public interest. The burden of proof at the hearing shall be upon the persons or parties seeking the amendment to establish that the amendment of the right would be in the public interest.

Use of water under this right shall recognize and allow the continued beneficial diversion of water under any prior existing water right established by diversion and application to beneficial use or by an application, permit, or license on file or issued by the Director under Chapter 2, Title 42, Idaho Code, with a priority of water right date earlier than 06/15/1992.

Upon further finding and order of the Director that gauging stations are required to maintain the approved minimum flows on Coeur d'Alene River, such measuring devices shall be permanently installed and maintained as specified by the Director.

This minimum stream flow is for the protection of fish and wildlife habitat, aquatic life and recreational values.

Comments:

Dates and Other Information

Decreed Date: 2/15/2017
Civil Case Number: 49576
Judicial District: FIFTH
Mitigation Plan: False

Combined Use Limits

N/A

Element Reviewed/Verified Dates:

<u>Element</u>	<u>Last Reviewed Date</u>	<u>Reviewer</u>	<u>Last Verified Date</u>	<u>Verifier</u>	<u>Status</u>
Contacts	5/27/2015	cfritsch			Closed
Priority Date	5/27/2015	cfritsch			Closed
POD	5/27/2015	cfritsch			Closed
Source	5/27/2015	cfritsch			Closed
POU	5/27/2015	cfritsch			Closed
Use	5/27/2015	cfritsch			Closed
Season	5/27/2015	cfritsch			Closed
Quantity	5/27/2015	cfritsch			Closed
Summary	5/27/2015	cfritsch	5/27/2015	cfritsch	Closed

Verification Log

<u>Element</u>	<u>Date</u>	<u>User</u>	<u>Log Text</u>
POD	6/10/2013	mciscell	Bulk Generate Shape From PLS
Contacts	5/27/2015	cfritsch	(No) 1. Do you want to schedule an appointment?

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

9/27/2018

Comment for 1: In office review

General	5/27/2015	cfritsch	(No) 1. Should this water use have been included in a later court decree of the water rights from this source? (Yes) 4. Is the basis of claim decree or license? (Yes) 5. Does the decree or license have a Priority Date? (Yes) 6. Did the Claimant claim the decreed or licensed Priority Date ? (Yes) 15. Is the basis of claim coded correctly? (No) 16. Is a Priority Date remark and/or condition required?
POD	5/27/2015	cfritsch	(Yes) 1. Is the basis of this claim a Decree or License? (Yes) 4. Does the Decree or License have a POD? (Yes) 5. Can the claimed POD be verified using the water right file? (Yes) 10. Is a POD remark and/or condition required?
POD	5/27/2015	cfritsch	Updated Shape
Source	5/27/2015	cfritsch	(Yes) 1. Is the basis of claim Decree or License? (Yes) 4. Does the Decree or License have a source? (Yes) 5. Can the claimed source be verified using the water right file? (No) 11. Is a Source remark and/or condition required?
POU	5/27/2015	cfritsch	(Yes) 1. Is the basis of this claim a Decree or License? (Yes) 2a. Is the POU required? (Yes) 5. Does the Decree or License have a POU? (Yes) 6. Can the claimed POU be verified using the water right file? (Yes) 14. Is a POU remark and/or condition required?
Use	5/27/2015	cfritsch	(Yes) 1. Is the basis of this claim a Decree or License? (Yes) 4. Does the Decree or License have a Purpose of Use? (Yes) 5. Can the claimed Purpose of Use be verified using the water right file? (Yes) 13. Is a Purpose of Use remark and/or condition required?
Season	5/27/2015	cfritsch	(Yes) 1. Is the basis of claim Decree or License? (Yes) 4. Does the Decree or License have a Period of Use? (Yes) 5. Can the claimed Period of Use be verified using the water right file? (No) 14. Is irrigation claimed as a Purpose of Use? (No) 18. Is a Period of Use remark and/or condition required?
Quantity	5/27/2015	cfritsch	(Yes) 1. Is the basis of this claim a Decree or License? (Yes) 4. Does the Decree or License have a diversion rate and/or volume? (Yes) 5. Can the claimed diversion rate and/or volume be verified using the water right file? (No) 8. Does the parent right have an annual diversion volume limit? (No) 9. Is the source Groundwater and does the purpose of use require a diversion volume limit? (No) 11. Has a diversion volume limit been established by a decree, license or transfer for this water use? (No) 12. Is a Quantity remark or condition required?
Summary	5/27/2015	cfritsch	(Yes) 1. Is the basis of this claim a Decree, License, Permit, Application or Posted Notice? (No) 2. Does any evidence indicate a five year period of continuous nonuse occurred that could result in recommending forfeiture or partial forfeiture? (No) 5. Does this right have any combined use limits with other rights? (Yes) 6. Is an additional remark and/or condition required? (Yes) 7. Would you like to view the recommended right? (No) 8. Is this a split or combined right? (No) 9. Do you have documents you would like to attach or link to the file? (Yes) 10. Would you like to set the verification date?

Frederick, Adam

From: Skoro, Emily
Sent: Thursday, September 27, 2018 6:55 AM
To: Alleman, Tammy
Cc: Clark, Cynthia Bridge; Siitari, Kiira; Frederick, Adam
Subject: Application for Permit No. 94-9620 Comment Letter
Attachments: 94-9620 Comment Letter.pdf

Tammy,

Please see the attached comment letter regarding Application for Permit No. 94-9620. Please let me know if you have any questions or concerns.

Thanks,

Emily Skoro, PE

Staff Engineer
Idaho Department of Water Resources
Phone 208.287.4906
Fax 208.287.6700
Emily.Skoro@idwr.idaho.gov