

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 83-11989

Priority: March 16, 2018

Maximum Diversion Volume: 17.7 AF

This is to certify, that REX A SUMMERFIELD And / Or TERRI C SUMMERFIELD, 147 WILSON RD, WEIPPE ID 83553 have applied for a permit to appropriate water from:

Source: UNNAMED STREAM

Tributary: CRANBERRY CREEK

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

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>ANNUAL VOLUME</u>
STOCKWATER STORAGE	01/01 to 12/31	17.7 AF
IRRIGATION STORAGE	01/01 to 12/31	15.0 AF
IRRIGATION FROM STORAGE	03/15 to 11/15	15.0 AF
STOCKWATER FROM STORAGE	01/01 to 12/31	0.7 AF
RECREATION STORAGE	01/01 to 12/31	17.6 AF
WILDLIFE STORAGE	01/01 to 12/31	17.6 AF

LOCATION OF POINT(S) OF DIVERSION:

UNNAMED STREAM NE1/4, SW1/4, Sec. 24, Twp 38N, Rge 02E, B.M., CLEARWATER County

UNNAMED STREAM NE1/4, SW1/4, Sec. 24, Twp 38N, Rge 02E, B.M., CLEARWATER County

UNNAMED STREAM SE1/4, SW1/4, Sec. 24, Twp 38N, Rge 02E, B.M., CLEARWATER County

PLACE OF USE: IRRIGATION STORAGE, RECREATION STORAGE, WILDLIFE STORAGE

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
38N	02E	24									X	X		X					

PLACE OF USE: STOCKWATER STORAGE, STOCKWATER FROM STORAGE

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
38N	02E	24									X	X		X					

PLACE OF USE: IRRIGATION FROM STORAGE

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
38N	02E	24									1.0			4.0					5.0

Total Acres:5

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **October 01, 2022**.
2. Subject to all prior water rights.
3. This right does not grant any right-of-way or easement across the land of another.
4. Stockwater use is for 50 head Mixed Stock.
5. This right when combined with all other rights shall provide no more than 0.03 cfs per acre nor more than 3.0 afa per acre at the field headgate for irrigation of the place of use.
6. A fish screen of 1/4 inch or smaller mesh shall be installed and maintained at the point of diversion.
7. Right 83-11989 authorizes the storage of an annual total of 17.7 Acre Feet (AF), 1.5 AF for the initial filing or carryover storage of the ponds, 1.3 AF for the replacement of losses due to seepage and evaporation, and up to 14.9 AF for additional refills for Irrigation From Storage & Stockwater From Storage use.
8. The three ponds established by the storage of water under this right shall not exceed a total capacity of 1.5 AF or a total surface area of .3 acres.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code.

Signed, this 9th day of November, 20 18.


DOUGLAS JONES, P.E., Northern Regional Manager

State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

83-11989

This map depicts the IRRIGATION STORAGE, RECREATION STORAGE, STOCKWATER STORAGE, & 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
-  PLS Sections
-  Taxlots

0 0.05 0.1 0.2 Miles



Tax parcel information provided by Clearwater County.

State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

83-11989

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.

02E



-  Point of Diversion
-  Place Of Use Boundary
-  PLS Sections
-  Taxlots

0 0.05 0.1 0.2 Miles



Tax parcel information provided by Clearwater County.

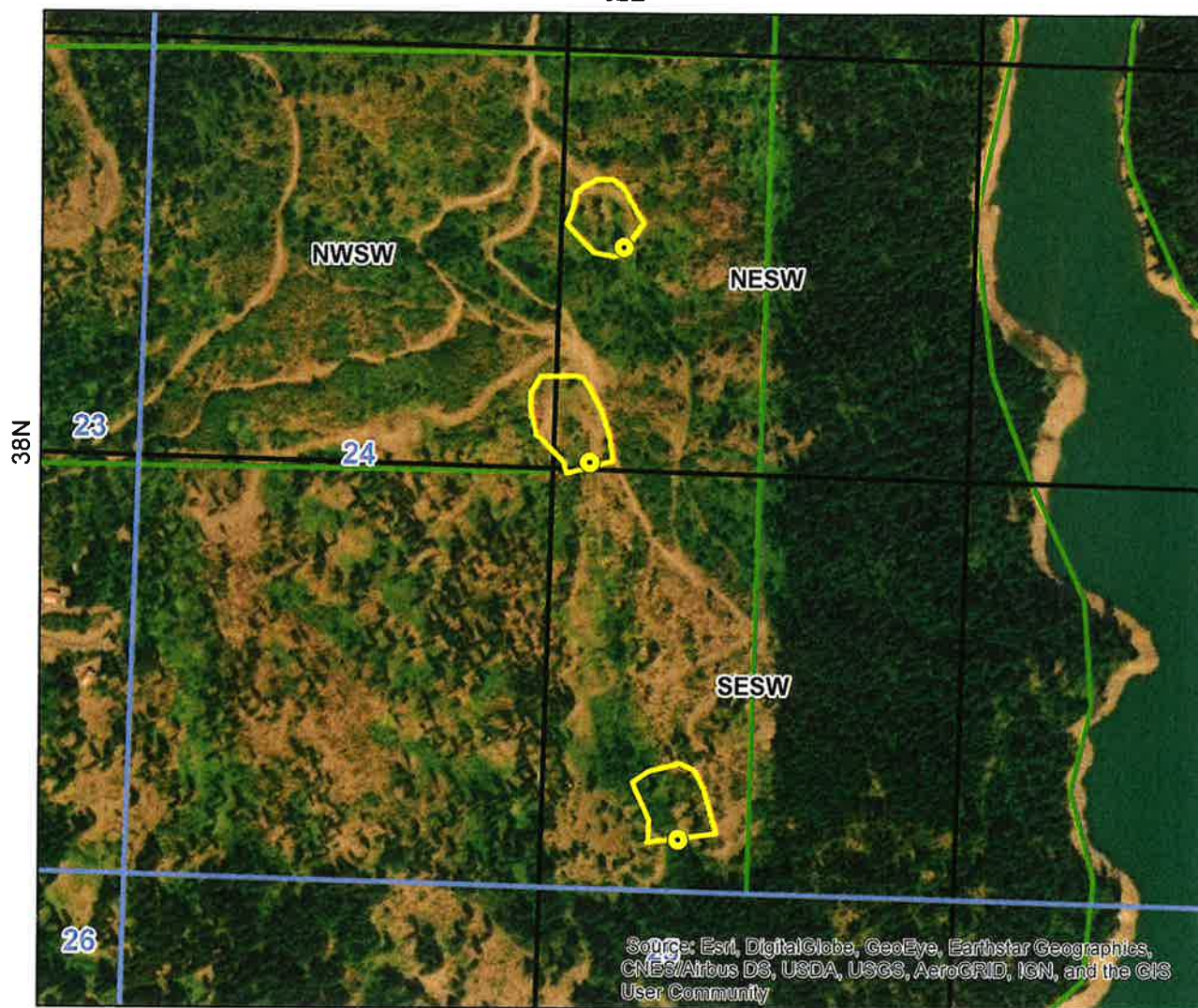
State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

83-11989

This map depicts the STOCKWATER 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.

02E



-  Point of Diversion
-  Place Of Use Boundary
-  PLS Sections
-  Taxlots

0 0.05 0.1 0.2 Miles



Tax parcel information provided by Clearwater County.



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

C.L. "Butch" Otter
Governor

Gary Spackman
Director

November 13, 2018

TERRI C SUMMERFIELD
147 WILSON RD
WEIPPE ID 83553

REX A SUMMERFIELD
147 WILSON RD
WEIPPE ID 83553

RE: Permit No. 83-11989

Permit Approval Notice

Dear Permit Holders:

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.

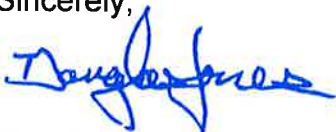
The final step in the water right process is issuance of a water right license. To receive a water right license, you must first commence the excavation or construction of your diverting works within one year of the date the permit was issued, and you must proceed diligently until the project is complete. 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,



Douglas Jones, P.E.
Northern Region Manager

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on November 13, 2018, I served a true and correct copy of Permit to Appropriate Water No. 83-11989 by U.S. Mail, postage prepaid, to the following:

TERRI C SUMMERFIELD (Current Owner)
147 WILSON RD
WEIPPE ID 83553

REX A SUMMERFIELD (Current Owner)
147 WILSON RD
WEIPPE ID 83553



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

DATE: September 21, 2018
TO: Tammy Alleman
FROM: Emily Skoro
RE: IDWR Application for Permit No. 83-11989

The Idaho Water Resource Board (Board), would like to submit the following comments for consideration when processing the Application for Permit No. 83-11989. The applicant is requesting a water right which includes an irrigation, stockwater, irrigation from storage, and irrigation storage use (0.05 cfs and 18.3 acre-feet per year). The water supply source is from an unnamed stream which is a tributary of Cranberry Creek.

The applicant should be aware that the Board holds two minimum stream flow (MSF) water rights (83-11966 and 86-7318) on the Clearwater River downstream of the applicant's 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 13341050 (Clearwater River Near Peck ID) is located along the Board's MSF water right. Historic records show that this reach of the Clearwater River is generally below the MSF most of the year except parts of April, May, and June during minimum flow years. Therefore, flows measured at the referenced gage should be used to verify current Clearwater River stream flows, and diversions should be limited to times when the Board's MSF water right is met. Please see the attached Proof Reports for the diversion rates authorized under the Board's MSF water rights 83-11966 and 86-7318.

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

9/21/2018

Water Right 83-11966

<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: 4/1/2005

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
NORTH FORK CLEARWATER RIVER	CLEARWATER RIVER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
MINIMUM STREAM FLOW	01/01	01/31	2,108.000 CFS	
MINIMUM STREAM FLOW	02/01	02/28	2,625.000 CFS	
MINIMUM STREAM FLOW	03/01	03/31	4,250.000 CFS	
MINIMUM STREAM FLOW	04/01	04/30	10,560.000 CFS	
MINIMUM STREAM FLOW	05/01	05/31	16,560.000 CFS	
MINIMUM STREAM FLOW	06/01	06/30	9,790.000 CFS	
MINIMUM STREAM FLOW	07/01	07/31	2,730.000 CFS	
MINIMUM STREAM FLOW	08/01	08/31	1,380.000 CFS	
MINIMUM STREAM FLOW	09/01	09/30	1,131.000 CFS	
MINIMUM STREAM FLOW	10/01	10/31	1,404.000 CFS	
MINIMUM STREAM FLOW	11/01	11/30	2,059.000 CFS	
MINIMUM STREAM FLOW	12/01	12/31	2,368.000 CFS	
	<u>Total Diversion</u>		16,560.000 CFS	

Source and Point(s) of Diversion

NORTH FORK CLEARWATER RIVER SWNESW Sec. 34, Twp 37N, Rge 01E, CLEARWATER County(E)

Place Of Use

MINIMUM STREAM FLOW

Conditions of Approval:

1. 149 This water right is subordinated to future non-Domestic-Commercial-Municipal-Industrial ("non-DCMI") development in an amount up to 283 cfs based on 25 percent of the lowest unimpaired median monthly flow or the amount available above a base flow which is equivalent to the unimpaired monthly 80% exceedence flow whichever is less. The unimpaired 80 percent monthly exceedence flows are as follows: January - 1,364 cfs, February - 1,540 cfs, March - 2,550 cfs, April - 6,600 cfs, May - 11,520 cfs, June - 5,500 cfs, July - 1,680 cfs, August - 1,050 cfs, September - 871 cfs, October - 954 cfs, November - 1,305 cfs, and December - 1,480 cfs.

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

9/21/2018

2. 148 The purpose of this instream flow is to preserve fish and wildlife, scenic, and recreational values and to protect and enhance water quality and is equivalent to the unimpaired monthly 50 percent exceedence flows.
3. 150 While the instream flow and the future allocation for non-DCMI uses and base flows are to be decreed in cubic feet per second (cfs), such quantities are intended to reflect the percentages of the unimpaired exceedence flows at the quantification point described in this water right. The unimpaired exceedence flows were estimated using regional regression equations developed by the United States Geological Service. Upon further finding and order of the Director of IDWR that gaging stations are required to maintain the approved minimum flows under this right, such measuring devices shall be permanently installed and maintained as specified by the Director. If actual flow data become available, the quantities in this water right will be adjusted as necessary to give effect to the exceedence assumption stated above. Such adjustments do not result in a material change to the water right and are not subject to the notice and hearing requirements set forth in this partial decree, but shall comply with the notice and consultation requirements of Section 42-1507(4), Idaho Code.
4. 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.
5. 146 The place of use for this water right is the reach above the quantification point.
6. 091 Use of water under this right shall recognize and allow the continued beneficial diversion of water under any prior existing water right established by diversions and application to beneficial use or by an application, permit, or license on file or issued by the Director under the provisions of Chapter 2, Title 42, Idaho Code, with a priority of water right date earlier than the date of priority of this right.
7. 154 When this water right is not capable of being maintained using existing flows, Idaho Code Section 42-1507 authorizes the Idaho Water Resource Board to maintain the flow through operation of the water supply bank authorized by Section 42-1761 through 42-1765, Idaho Code, and by other available methods consistent with Idaho Law.
8. 152 The Idaho Water Resource Board, upon receiving a request, or upon its own initiative, may petition the Director for an amendment to this water right after complying with the notice and consultation procedures of Section 42-1507(4), Idaho Code. 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 notify interested parties of the proposed change, and conduct a hearing for the purpose of determining whether the water right should be amended in the public interest.
9. 144 This water right shall be subordinated to all future DCMI uses.
10. 027 Use of water under this right shall be non-consumptive.
11. 151 There are no diversions associated with this minimum stream flow water right. The quantification point for this instream flow water right is at the above location near the confluence with the mainstem Clearwater River and just above the Highway 7 bridge.
12. This instream flow water right is subordinated to all present and future operations of the Dworshak Project. The term 'operations' as used herein means the timing and rate of discharge, including water storage and release of stored water, from Dworshak Dam.

Comments:

Dates and Other Information

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

9/21/2018

Decreed Date: 5/19/2010
Civil Case Number: 39576
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>
Priority Date	9/22/2009	dshaff			Closed
POD	9/22/2009	dshaff			Closed
Source	9/22/2009	dshaff			Closed
POU	9/22/2009	dshaff			Closed
Use	9/22/2009	dshaff			Closed
Season	9/22/2009	dshaff			Closed
Quantity	9/22/2009	dshaff			Closed
Summary	9/22/2009	dshaff	9/22/2009	dshaff	Closed

Verification Log

<u>Element</u>	<u>Date</u>	<u>User</u>	<u>Log Text</u>
General	9/22/2009	dshaff	(No) 1. Should this water use have been included in a later court decree of the water rights from this source? (No) 4. Is the basis of claim decree or license? (No) 7. Is the basis of claim a Application or Permit? (No) 8. Is the basis of claim a posted notice? (No) 9. Is the Priority Date of this water use after the date a permit is required for the source and the water use? (Yes) 12. Does the claim file contain sufficient evidence of Priority Date? (Yes) 15. Is the basis of claim coded correctly? Description for Question 12/13 - Uncodified law described in the 2006 Session Laws at Chapter 112.
POD	9/22/2009	dshaff	Updated Shape
POD	9/22/2009	dshaff	(No) 1. Is the basis of this claim a Decree or License? (No) 2. Is the basis of this claim a Application or Permit? (No) 6. Is there evidence that there has been a change in the POD? (Yes) 9. Does the file contain all the necessary information to verify the POD? (No) 10. Is a POD remark and/or condition required?
Source	9/22/2009	dshaff	(No) 1. Is the basis of claim Decree or License? (No) 2. Is the basis of claim an Application or Permit? (No) 6. Is the basis of claim a Posted Notice? (No) 7. Is there evidence that there has been a change in the source? (Yes) 10. Does the file contain all the necessary information to verify the source? (No) 11. Is a Source remark and/or condition required?
POU	9/22/2009	dshaff	(No) 1. Is the basis of this claim a Decree or License? (No) 2b. Is the POU required? (Yes) 14. Is a POU remark and/or condition required?
Use	9/22/2009	dshaff	(No) 1. Is the basis of this claim a Decree or License? (No) 2. Is the basis of this claim a Application or Permit? (No) 6. Is there evidence that there has been a change in the Purpose of

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

9/21/2018

			Use? (Yes) 11. Does the file contain all the necessary information to verify the Water Use? (Yes) 13. Is a Purpose of Use remark and/or condition required? Description for Question 10,11,12 - Law
Season	9/22/2009	dshaff	(No) 1. Is the basis of claim Decree or License? (No) 2. Is the basis of claim a Application or Permit? (No) 6. Is there evidence that there has been a change in the Period of Use? (Yes) 12. Does the file contain all the necessary information to verify the Period of Use? (No) 13. Is the basis of claim a decree, license, or a transferred beneficial use right that has had the Period of Use administratively determined? (No) 15. Is irrigation claimed as a Purpose of Use? (No) 18. Is a Period of Use remark and/or condition required? Description for Question 15 - Law
Quantity	9/22/2009	dshaff	(No) 1. Is the basis of this claim a Decree or License? (No) 2. Is the basis of this claim a Application or Permit? (No) 6. Is the basis of claim a posted notice? (No) 7. Is a flow measurement required? (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? (Yes) 12. Is a Quantity remark or condition required? Description for Question 7 - Law
Summary	9/22/2009	dshaff	(No) 1. Is the basis of this claim a Decree, License, Permit, Application or Posted Notice? (Yes) 3. Is the water being used for all of the purposes claimed and to the extent claimed? (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?

SubCase:
N/A

Water Supply Bank:
N/A

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

9/21/2018

Water Right 86-7318

<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: 7/30/1992

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
CLEARWATER RIVER	SNAKE RIVER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
MINIMUM STREAM FLOW	8/01	10/31	4,350.000 CFS	
MINIMUM STREAM FLOW	11/01	7/31	5,750.000 CFS	
	<u>Total Diversion</u>		5,750.000 CFS	

Source and Point(s) of Diversion

CLEARWATER RIVER	L13(NWSW)	Sec. 7, Twp 36N, Rge 03W, NEZ PERCE County(E)
CLEARWATER RIVER	L8(SESE)	Sec. 33, Twp 37N, Rge 01E, CLEARWATER 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. Approval of this minimum stream flow shall not prevent approval of applications for consumptive uses from ground water if the wells are located and constructed to prevent an immediate impact on the river, as determined by the Director.
4. The approved minimum stream flow shall be subordinate to future domestic, stockwater, municipal, commercial, and industrial development from the Clearwater River and its tributaries, including ground water, for use within the Clearwater River Basin where the domestic and stockwater uses are within the limitations of Section 42-111, Idaho Code.
5. 112 The Idaho Water Resource Board, upon receiving a request, or upon its own initiative, may petition the Director for an amendment to this water 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 notify interested parties of the proposed change, and conduct a hearing for the purpose of determining whether the water right should be amended in the public interest. The burden of proof at the hearing shall be upon the person or

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

9/21/2018

- parties seeking the amendment to establish that the amendment of this water right would be in the public interest.
6. 091 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 the provisions of Chapter 2, Title 42, Idaho Code, with a priority of water right date earlier than the date of priority of this right.
 7. 092 Upon further finding and order of the director that gaging stations are required to maintain the approved minimum flows under this right, such measuring devices shall be permanently installed and maintained as specified by the director.
 8. The reach of this minimum stream flow begins at the confluence of the South Fork Clearwater and the Middle Fork Clearwater River in Lot 7 (SW¼NE¼), Section 5, T32N, R4E, B.M. and extends downstream approximately 34 miles to the confluence with North Fork Clearwater River in Lot 8 (SE¼SE¼), Section 33, T37N, R1E, B.M.
 9. The purpose of this minimum stream flow is for the protection of fish and wildlife habitat, aquatic life, and recreational uses.
 10. 147 The place of use is within the stream reach between the beginning instream point and the ending instream point described for the points of diversion for this right.

Comments:

1. lharris 1/31/2013 Updated Recommendation
Recommendation updated per License issued 1/6/09.

Dates and Other Information

Decreed Date: 5/22/2013
Civil Case Number: 39576
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>
POD	1/31/2013	lharris			Closed
POU	1/31/2013	lharris			Closed
Quantity	1/31/2013	lharris			Closed
Summary	1/31/2013	lharris	1/31/2013	lharris	Closed

Verification Log

<u>Element</u>	<u>Date</u>	<u>User</u>	<u>Log Text</u>
POD	1/31/2013	lharris	(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?
POU	1/31/2013	lharris	(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?

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

9/21/2018

Quantity	1/31/2013	lharris	(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?
Summary	1/31/2013	lharris	(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?
POD	6/10/2013	mciscell	Bulk Generate Shape From PLS

SubCase:

N/A

Water Supply Bank:

N/A

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO)
) ss.
County of Clearwater)

RECEIVED

CLOANN MCNALL

SEP 14 2018

being first duly sworn in, on oath, deposes and says: IDWR / NORTH

That I am and at all times herein mentioned have been a citizen of the United States and of the State of Idaho, over 21 years of age, and that I am not a party to nor interested in the above entitled proceeding; that I am and at all times herein mentioned have been the Editor, Foreman, of THE CLEARWATER TRIBUNE; that said Clearwater Tribune is a newspaper of general circulation, printed and published weekly at Orofino, in the County of Clearwater and State of Idaho; that the Clearwater Tribune has been continuously and uninterruptedly published in Clearwater County, Idaho, during the period of seventy-eight consecutive weeks prior to the first publication of attached copy of:

Idaho Department of Water Resources APPLICATIONS (SUMMERFIELD)

of which the annexed is a full, true and correct printed copy, was published in the regular and entire issue of said newspaper, and not in any supplement thereof, for a period of two consecutive weeks, commencing on the 6th day of September 2018 and ending on the 13th day of September 2018.

CloAnn McNall

STATE OF IDAHO)
)
COUNTY OF CLEARWATER)

On this 13th day of September in the year of 2018, before me, a Notary Public, personally appeared

CloAnn McNall

known or identified to me to be the person whose name subscribed to the within instrument, and being by me duly sworn, declared that the statements therein are true, and acknowledged to me that she executed the same.

Marcie Stanton

Notary Public for Idaho
Resident at Orofino, Idaho
My commission expires: 5-16-20

MARCIE STANTON
NOTARY PUBLIC
STATE OF IDAHO

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

83-11989

REX A SUMMERFIELD
TERRI C SUMMERFIELD
147 WILSON RD
WEIPPE, ID 83553
Point of Diversion NESW
S24 T38N R02E
CLEARWATER County
Source UNNAMED STREAM
Tributary CRANBERRY CREEK
Point of Diversion NESW
S24 T38N R02E
CLEARWATER County
Source UNNAMED STREAM
Tributary CRANBERRY CREEK
Point of Diversion SESW
S24 T38N R02E
CLEARWATER County
Source UNNAMED STREAM
Tributary CRANBERRY CREEK
Use: IRRIGATION FROM STORAGE
03/15 to 11/15 15 AF
Use: IRRIGATION STORAGE
01/01 to 12/31 15 AF
Use: RECREATION STORAGE
01/01 to 12/31 17.6 AF
Use: STOCKWATER FROM STORAGE
01/01 to 12/31 0.7 AF
Use: STOCKWATER STORAGE
01/01 to 12/31 17.7 AF
Use: WILDLIFE STORAGE
01/01 to 12/31 17.6 AF
Total Diversion: 17.7 AF
Date Filed: 3/16/2018
Place Of Use: STOCKWATER STORAGE
T38N R02E S24 NESW NWSW SESW
Place Of Use: IRRIGATION STORAGE
T38N R02E S24 NESW NWSW SESW
Place Of Use: IRRIGATION FROM STORAGE
T38N R02E S24 NESW SESW
Place Of Use: STOCKWATER FROM STORAGE
T38N R02E S24 NESW NWSW SESW
Place Of Use: RECREATION STORAGE
T38N R02E S24 NESW NWSW SESW
Place Of Use: WILDLIFE STORAGE
T38N R02E S24 NESW NWSW SESW
Total Acres: 5
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 9/24/2018. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

9-6,13-18

To: Water Right Application for Permit 83-11989

From: Shaun M. Maxey, Idaho DEPT of Water Resources (IDWR), Northern Region

Date: September 12, 2018

SUBJECT: IDWR Analysis of Local Public Interest

Application Information. The Applicant's (Summerfield, Rex and/or Teri) want to withdraw up to 17.7 Acre Feet (AF) from ponds on an unnamed stream that flows during spring run-off toward part of Cranberry Creek that is submerged year round in Dworshak Reservoir. Storage uses are Recreation Storage, Stockwater Storage, Irrigation Storage, and Wildlife Storage. Non storage use is Irrigation from Storage for one acre and Stockwater from Storage for 50 head Mixed Stock.

The Place of Use (POU) map in the Application shows that the unnamed stream is tributary to Cranberry Creek. Cranberry Creek is tributary to the North Fork Clearwater River. There is no information to indicate that use of water from the unnamed stream, at the level specified in the Application for Permit, will negatively affect groundwater or surface water, minimum stream flows, or beneficial uses of ground or surface water.

Diversion of water from the unnamed stream that is tributary to Cranberry Creek is not expected to adversely affect water supply in the vicinity or any other water rights.

Good Faith, Delay, or Speculative Information. Applicants plan to divert from the unnamed stream as it flows through their property toward Cranberry Creek / Dworshak Reservoir. Property tax records show the Applicants own the Place of Use (POU). IDWR has no information that indicates the Application is not being made in good faith, is intended to delay, or is speculative.

Financial Resources Information. The project scope, and Applicant's four year development period, appears to be achievable. IDWR has no information that indicates the Applicants are financially incapable of completing the project.

Local Public Interest. Idaho Department of Environmental Quality (IDEQ), Idaho Department of Fish and Game (IDFG), and the IDWR Planning Section were notified for comment on recreation, fish, and wildlife resources. The IDWR Planning Section did not comment.

IDEQ's letter states that Cranberry Creek is '...not supporting beneficial uses of cold water aquatic life, salmonid spawning, and secondary contact recreation due to temperature, sediment, and bacteria pollutants...'. IDEQ also stated that withdrawals should be made during '...periods of seasonal high flow, or at a minimum, flows greater than 1CFS.' No records of CFS flow rates for the unnamed stream are in the record. IDWR aerial imagery and the USGS topographic map for the POU do not show a stream on the POU. These facts, and flow of the unnamed stream toward the Reservoir, instead of directly to Cranberry Creek, indicate that IDEQ's concerns do not outweigh benefits to the Applicant from IDWR permit approval.

IDFG's letter states that Wildlife Storage should be removed because '...water storage is not required for wildlife within the application area...' and that to benefit wildlife water must be managed to develop habitat for '...a targeted species...' IDWR review concludes that Wildlife Storage is incidental to the other storage uses. The letter provides no data to enable the Applicants to improve the proposal for targeted species. IDFG's concerns do not outweigh possible benefits to the local public interest and Applicant from IDWR approval of the existing Application.

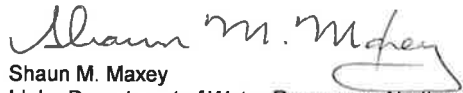
No other comments or protests were received indicating the proposal is controversial or likely to cause damage to the local public interest.

Injury to Other Water Rights:

Diversion of water from the unnamed stream is not expected to adversely affect the downstream Minimum Stream Flow Right (86-07318) that begins at the confluence of the Clearwater River and North Fork Clearwater River. Discharge from the North Fork Clearwater River is controlled by Dworshak Dam which lies below the proposed ponds and POU.

Recommendation

IDWR Northern Region recommends processing of this Application be allowed to continue.

A handwritten signature in cursive script, reading "Shaun M. Maxey". The signature is written in dark ink and is positioned above the printed name and address.

Shaun M. Maxey
Idaho Department of Water Resources, Northern Region
7600 Mineral DR, Ste. 100
Coeur d'Alene, ID 83815

Maxey, Shaun

From: Daniel.Stewart@deq.idaho.gov
Sent: Monday, September 10, 2018 10:43 AM
To: Maxey, Shaun
Subject: permit 83-11989

Shaun, thank you for contacting me relative to the above referenced application. You clarified that the point of entry of the creek is actually under the Dworshak Dam pool. Thanks for letting me know. Daniel



IDAHO DEPARTMENT OF FISH AND GAME

CLEARWATER REGION

3316 16th Street
Lewiston, Idaho 83501

C.L. "Butch" Otter / Governor
Virgil Moore / Director

September 5, 2018

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

RE: IDFG Comments on Application for Permit No. 83-11989

Dear Mr. Fredrick:

Idaho Department of Fish and Game (IDFG) has reviewed the application for permit # 83-11989. The application includes building 3 ponds to collect surface water run off for stock and irrigation purposes. The application includes 0.02 cfs for stockwater, 0.03 cfs for irrigation, 0.03 cfs for irrigation from storage, and 17.6 ac-ft for irrigation storage. The application states the water will be used for the following purposes: stockwater storage, stockwater from storage, recreation storage, and wildlife storage. Recreation uses will consist of swimming and fishing.

The purpose of the following comments is to assist the decision-making authority by providing technical information addressing potential effects on fish, wildlife and their habitat; it is not the purpose of Idaho Department of Fish and Game to support or oppose this proposal. Resident fish and wildlife are property of all Idaho citizens, and IDFG is charged with statutory responsibility to preserve, protect, perpetuate and manage all fish and wildlife in Idaho (Idaho Code 36-103(a)). In fulfillment of our statutory charge and direction provided by the Idaho Legislature, we offer the following comments and suggestions.

The application 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 required to have a screen on their inlet and outlet to prevent fish escapement. In addition, unless the fish to be stocked are delivered by an approved commercial hatchery (required for trout), the applicant must acquire a fish transport permit to bring fish to the pond. Both permits are available from Idaho Department of Fish and Game.

The application also notes wildlife storage as an intended purpose for the water right. It is our opinion that to be beneficial to wildlife, diverted or impounded water must be managed with the primary purpose of developing habitat that corresponds to the range of characteristics required by a targeted species. IDFG contends that in order to benefit wildlife, diverted or stored water should primarily be managed to enhance the stability or growth of the targeted wildlife population(s). As written, the application only mention wildlife storage and does not describe

Keeping Idaho's Wildlife Heritage

which wildlife it is intended to benefit or management actions necessary to create habitat that would increase survival or productivity rates of the targeted population(s). IDFG contends that water storage is not required for wildlife within the application area, due to the areas close proximity to Dworshak reservoir and Cranberry Creek. We recommend wildlife storage be removed as a purpose for the water appropriation.

Thank you for the opportunity to comment. Please Contact Zach Swearingen, Environmental Staff Biologist at 208-799-5010 if you have any questions regarding our comments.

Sincerely,



Jim Teare
Clearwater Regional Supervisor

ECC: Gary Vecellio, IDFG
M: Drive



STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY

RECEIVED
SEP 06 2018
IDWR / NORTH

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

C.L. "Butch" Otter, Governor
John H. Tippetts, Director

September 4, 2018

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

Subject: Water Right Application #83-11989

Dear Mr. Frederick:

DEQ has received a request for comment on the approval of a water right application to draw 0.05 cfs for a total of 18.3 acre feet from an unnamed tributary to Cranberry Creek. The source is located at Township 38N, Range 02E, and Section 24. The activity will be from January 1 to December 31. The unnamed tributary would be a water source for three proposed excavated ponds for stock water, recreation, wildlife, and irrigation.

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

Cranberry Creek (AU17060308CL029_02) is listed in Category 4a and 4c of Idaho's 2014 Integrated Report as not supporting the beneficial uses of cold water aquatic life, salmonid spawning, and secondary contact recreation due to temperature, sediment, and bacteria. Cranberry Creek has a Total Maximum Daily Load (TMDL) allocation for 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 this unnamed tributary could cause pollutant increases that exceed the total maximum daily load and Idaho water quality standards.

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. We recommend that the withdrawal be made during periods of seasonal high flow or at a minimum, flows greater than 1 cfs. At no time should the stream be allowed to go dry as a result of legally appropriated and allowable water withdrawals.

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

Mr. Adam Frederick
September 4, 2018
Page 2

the proposed action be allowed to impair existing beneficial uses when stream flow is adequate to sustain existing aquatic life.

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 initial "D" and "S".

Daniel D. Stewart
Water Quality Analyst

c: Rex and Terri Summerfield, Weippe, ID
Sujata Connell, DEQ