

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 74-16175

Priority: July 23, 2018

Maximum Diversion Rate: 0.80 CFS

This is to certify, that STATE OF IDAHO
IDAHO FISH & GAME COMMISSION
PO BOX 25
BOISE ID 83707-0025

has applied for a permit to appropriate water from:

Source: HAWLEY CREEK**Tributary:** EIGHTEENMILE 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>
FISH PROPAGATION	03/15 to 11/15	0.80 CFS

LOCATION OF POINT(S) OF DIVERSION:

HAWLEY CREEK SE1/4NE1/4 Sec. 3, Twp 15N, Rge 27E, B.M. LEMHI County

PLACE OF USE: FISH PROPAGATION

Twp Rge Sec	NE				NW				SW				SE				
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
15N 27E 3				X													

CONDITIONS OF APPROVAL

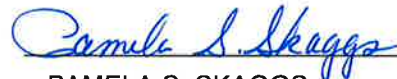
1. Proof of application of water to beneficial use shall be submitted on or before **October 01, 2019**.
2. Subject to all prior water rights.
3. Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 74W.
4. Prior to diversion of water under this right, the right holder shall install a lockable device, subject to the approval of the Department, in a manner that will provide the watermaster suitable control of the diversion.
5. When notified by the Department or by a watermaster with regulatory authority over this right, the right holder shall report the amount of water diverted in connection with this right. The report shall be submitted in the manner and frequency specified by the Department or the watermaster.
6. This right does not grant any right-of-way or easement across the land of another.
7. Use of water under this right shall be non-consumptive.

State of Idaho
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8. Fish propagation use is for fish protection through the installation of a deflection screen and a bypass pipe to provide passage for fish back to Hawley Creek.
9. Point of diversion is also identified by Idaho Fish and Game Commission as LHawC – 02.

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

Signed this 16th day of October, 2018.



A handwritten signature in blue ink, reading "Pamela S. Skaggs", is written over a horizontal line.

PAMELA S. SKAGGS

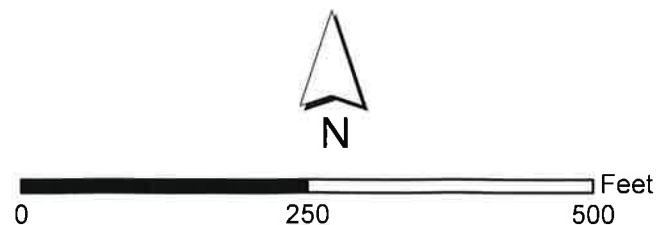
Water Rights Section Manager

State of Idaho
Department of Water Resources
Permit to Appropriate Water
74-16175

This map depicts the FISH PROPAGATION place of use boundary and point of diversion 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





State of Idaho

DEPARTMENT OF WATER RESOURCES

322 E FRONT ST STE 648 PO BOX 83720 • BOISE, ID 83720-0098

Phone: (208)287-4800 • Fax: (208)287-6700 • Website: www.idwr.idaho.gov

C.L. "Butch" Otter
Governor

Gary Spackman
Director

October 18, 2018

STATE OF IDAHO
IDAHO FISH & GAME COMMISSION
PO BOX 25
BOISE ID 83707-0025

RE: Permit Nos. 73-12263, 74-16174, 74-16175 & 74-16176

Permit Approval Notice

Dear Permit Holder(s):

The Department of Water Resources ("Department") has issued the enclosed permits authorizing you to establish new water rights. Please be sure to thoroughly review all the conditions of approval listed on your permits. The conditions include requirements that you must accomplish, such as timely submittal of proofs of beneficial use or installation of measuring devices, 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 permits lapsing or being canceled.

The permits are PRELIMINARY ORDERS issued pursuant to Rule 730 of the Department's Rules of Procedure (IDAPA 37.01.01.730). They can and will become final orders 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.

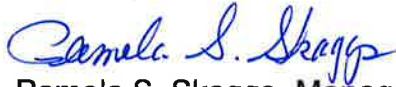
The final step in the water right process is issuance of a water right license. To receive a water right license, you must divert and use water to the full extent intended and submit a *Statement of Completion for Submitting Proof of Beneficial Use* ("Proof") by the date shown in condition no. 1 of your permits. The Department will send you a *Proof Due Notice* approximately 60 days prior to the date listed in condition no. 1 of your permits. If you have already diverted and used water to the full extent intended, you may complete and submit the enclosed Proof forms 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 me at (208) 287-4951.

Sincerely,



Pamela S. Skaggs, Manager
Water Rights Section

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on October 22, 2018, I served true and correct copies of Permits to Appropriate Water Nos. 73-12263, 74-16174, 74-16175 & 74-16176 by U.S. Mail, postage prepaid, to the following:

STATE OF IDAHO (Current Owner)
IDAHO FISH & GAME COMMISSION
PO BOX 25
BOISE ID 83707-0025

WATER DISTRICT #73 → 73-12263
TED O NEAL (Watermaster)
11 O NEAL LN
MAY ID 83253

WATER DISTRICT #74W → 74-16174 thru 74-16176
DEREK PAPATHEORDORE
PO BOX 82
LEADORE ID 83464



Darla Block
Technical Records Specialist I

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.



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Idaho State Office
1387 South Vinnell Way
Boise, Idaho 83709
<http://www.id.blm.gov>



In Reply Refer To:
7250 (933b)

October 5, 2018

Lyle Swank, P. E., Eastern Regional Manager
Idaho Department of Water Resources (IDWR)
Eastern Region
900 North Skyline Drive, Suite A
Idaho Falls, Idaho 83402-1700

RECEIVED

OCT 09 2018

DEPARTMENT OF
WATER RESOURCES

*via email
Oct 9 - 2018*

**RE: Application for Permit 74-16175 f/b State of Idaho, Idaho Fish and Game
Commission
Rule 45 Comment Letter**

Dear Mr. Swank:

Application for Permit 74-16175 ("Application") was filed with IDWR on July 23, 2018 by Idaho Fish and Game Commission, and is currently in advertisement. The Application seeks to establish a Point of Diversion ("POD") and Place of Use ("POU") that entirely describes federal public land administered by the Bureau of Land Management ("BLM") within T15N, R27E, S03, SENE. The applicant is seeking to divert water from a fish screen within a canal via a pipeline that returns water and fish back to the stream (Hawley Creek).

Pursuant to IDAPA 37.03.08.045.01.c.i., the Applicant must have legal access to the POD described above on federal public land and approval granted to convey water across federal land. The applicant has obtained a Right-of-Way (ROW) grant (IDI-038231) for locating and constructing a fish screen on federal land. However, BLM still holds concerns about how water rights are interpreted; therefore, the following standard condition on any approved permit issued in the future would satisfy BLM's concerns:

"This right does not grant any right-of-way or easement across the land of another."

If you have any questions or comments, please contact me at the address above or call me at (208) 373-3828.

Sincerely,



Gary Madenford
Water Rights Senior Specialist

cc: Joni Cain, Realty Specialist, BLM Salmon Field Office, 721 East Main Avenue, Challis,
Idaho 83226-9321
Sandra Thiel, IDWR State Office, Water Rights, 322 East Front Street, P.O. Box 83720,
Boise, Idaho 83720-0098
Mike Demick, Idaho Fish and Game Commission, 97 Highway 93 North, Salmon, Idaho
83467-5292

Thiel, Sandra

From: McCrea, Sandra <smccrea@blm.gov>
Sent: Tuesday, October 09, 2018 11:59 AM
To: Thiel, Sandra; Gary Madenford; Fredric Price
Subject: App. for Permit 74-16175 (Idaho Fish & Game): BLM Rule 45 Letter
Attachments: 74-16175_App-Permit_BLM-Rule-45-Comment-Letter.pdf

Application for Permit 74-16175 (Idaho Fish and Game Commission)

Sandra,

I have attached Bureau of Land Management's (BLM's) Rule 45 Comment Letter (IDAPA 37.03.08.045.01), mailed out Friday 10/5/2018. The application describes a Point of Diversion (POD) and a Place of Use (POU) that entirely describes federal land (T15N, R27E, S03, SENE) (BLM). The BLM sent a Rule 45 Comment letter to ensure that any approved Permit issued by IDWR contains the following standard condition:

"This right does not grant any right-of-way or easement across the land of another."

Thank you,
Sandy McCrea

Sandra McCrea
Bureau of Land Management
Water Rights Specialist (933)
(208) 373-3816
nc

NOTICE OF APPLICATION TO
APPROPRIATE PUBLIC WATERS

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

74-16174

STATE OF IDAHO
IDAHO FISH & GAME COMMISSION
PO BOX 25
BOISE, ID 83707-0025
Point of Diversion SWNE S2 T15N R27E
LEMHI County
Source HAWLEY CREEK Tributary
EIGHTEENMILE CREEK
Use: FISH PROPAGATION
03/15 to 11/15
0.8 CFS
Total Diversion:

0.8 CFS

Date Filed: 7/23/2018

Place Of Use: FISH PROPAGATION
T15N R27E S2 SWNE

74-16175

STATE OF IDAHO
IDAHO FISH & GAME COMMISSION
PO BOX 25
BOISE, ID 83707-0025
Point of Diversion SENE S3 T15N R27E
LEMHI County
Source HAWLEY CREEK Tributary
EIGHTEENMILE CREEK
Use: FISH PROPAGATION

03/15 to 11/15

0.8 CFS

Total Diversion:

0.8 CFS

Date Filed: 7/23/2018

Place Of Use: FISH PROPAGATION
T15N R27E S3 SENE

These applications propose the diversion
and use of water from Hawley Creek
tributary to Eighteenmile Creek a tributary
of the Salmon Wild & Scenic River. The
decreed minimum stream flow rights for
the federal Wild & Scenic Rivers are sub-
ordinate to certain categories of water
use and to specific amounts of water use
established after the minimum stream flow.
The water use proposed in these applica-
tions will benefit from the subordination
provision because it is non-consumptive.

74-16176

STATE OF IDAHO
IDAHO FISH & GAME COMMISSION
PO BOX 25
BOISE, ID 83707-0025
Point of Diversion SENE S34 T16N R26E
LEMHI County
Source EIGHTEENMILE CREEK Tributary

to
gmh
10-16-18

HP

(over)

Affidavit of Publication

STATE OF IDAHO

County of Lemhi

ss.

RICKY G. HODGES being first duly sworn, deposes and says he is one of the publishers (print-
ers) of The Recorder Herald, a newspaper published weekly at Salmon, Lemhi County, Idaho, and
of general circulation therein. That the **APPROPRIATE OF PUBLIC WATER**, a true printed
copy of which is attached to the margin hereof, has been and was correctly printed and published
in the regular and entire issue of every number of said newspaper and not in any supplement
thereof or thereto for **TWO (2)** consecutive issue(s), commencing with the issue dated **9-20-**
2018 and ending with the issue dated **9-27-2018**.

STATE OF IDAHO

County of Lemhi

ss.

On this **27th day of SEPTEMBER** in this year of 2018 before me, A Notary Public, personally
appeared RICKY G. HODGES, 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.

Rebekah Rice

Notary Public for Idaho

Residing At Salmon, Idaho

My Commission expires: 5-30-2022

Publication Fee \$293.40

RECEIVED

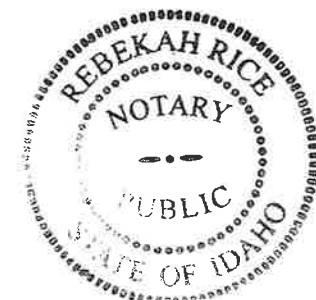
OCT 01 2018

DEPARTMENT OF
WATER RESOURCES

RECEIVED

OCT 01 2018

FISCAL



LEMHI RIVER

Use: FISH PROPAGATION

03/15 to 11/15

0.8 CFS

Total Diversion:

0.8 CFS

Date Filed: 7/23/2018

Place Of Use: FISH PROPAGATION

T16N R26E S34 SENE

This application proposes the diversion and use of water from Eighteen Mile Creek tributary to the Lemhi River a tributary of the Salmon Wild & Scenic River. The decreed minimum stream flow rights for the federal Wild & Scenic Rivers are subordinate to certain categories of water use and to specific amounts of water use established after the minimum stream flow. The water use proposed in this application will benefit from the subordination provision because it is non-consumptive. Permits will be subject to all prior water rights. For additional information concerning the property location, contact the State office at (208) 287-4800; or for a full description of the right(s), please see <https://idwr.idaho.gov/apps/ExtSearch/WRApplicationResults/>. 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, State Office, 322 E Front St, PO Box 83720, Boise, ID 83720 together with a protest fee of \$25.00 for each application on or before 10/09/2018. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director Published on 9/20/2018 and 9/27/2018

NOTICE OF PROPOSED CHANGE OF WATERRIGHT

TRANSFER NO. 82523

ANDREW M KNIGHT and KATHLEEN M KNIGHT, PO BOX 71, LEMHI, ID 83465; has filed Application No. 82523 for changes to the following water rights within LEMHI County(s): Right No(s). 74-15534, 74-15536, 74-1865; The purpose of the transfer is to change a portion of the above rights as follows:

combine 3 rights and sources in a single gravity fed system as an alternative to pump system for pivot irrigation system & stockwater use, changing the place of use & adding or changing points of diversion. The 64.8 acres lie west of State Hwy 28 at Lemhi Rd in Lemhi Co.

For additional information concerning the property location, contact IDWR State office at (208) 287-4800; or for a full description of the transfer, please see <http://www.idwr.idaho.gov/water-rights/transfers/search.html>

Protests may be submitted based on the criteria of Idaho Code Sec. 42-222. Any protest against the proposed change must be filed with the Department of Water Resources, 322 E Front St, PO Box 83720, Boise ID 83720-0098 together with a protest fee of \$25.00 for each application on or before 10/9/2018. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director 9-20-2tc

Hersley, Jean

From: Yenter, Cindy
Sent: Friday, September 21, 2018 3:56 PM
To: Hersley, Jean
Subject: Watermaster comment

For: 74-16174, 74-16175, 74-16176

I have no objections to approval. These are all existing fish screens on administered diversions.

Water District flag on all is correctly set to 74W

*Cindy Yenter
Watermaster, Water District 170
IDWR Salmon Field Office
102 S Warpath, Salmon ID 83467
cindy.yenter@idwr.idaho.gov
208-742-0655
208-731-0901 cell*