State of Idaho
Department of Water Resources

Permit to Appropriate Water

NO. 77-14367

Priority: July 24, 2018 Maximum Diversion Rate: 0.04 CFS

This is to certify, that RICHARD SHEPHERD And/Or
JANET SHEPHERD
2563 DIXIE RD
DIXIE ID 83525

has applied for a permit to appropriate water from:

Source: SPRING **Tributary:** CROOKED CREEK

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

BENEFICIAL USE	PERIOD OF USE	RATE OF DIVERSION
DOMESTIC	01/01 to 12/31	0.04 CFS

LOCATION OF POINT(S) OF DIVERSION:

SPRING SW ¼ NW ¼ NE ¼ Sec. 27, Twp 26N, Rge 08E, B.M. IDAHO County

PLACE OF USE: DOMESTIC

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
26N	08E	27		X															

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **October 01, 2023.**
2. Subject to all prior water rights.
3. Prior to diversion and use of water under this approval, the right holder shall obtain Forest Service authorization necessary to access the point of diversion or place of use or to convey water across federal land.
4. Upon specific notification by the Department, the right holder shall install a lockable device of a type acceptable to the Department in a manner that will provide suitable control of the diversion.
5. The point of diversion and place of use are located in Mineral Survey No. 1416. The quarter-quarter description has been protracted from the adjacent public land survey.
6. Place of use is located within Lot 9, Blk. C, Crooked Creek Addition Subdivision.
7. Domestic use is for 1 home.
8. This right does not grant any right-of-way or easement across the land of another.
9. 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.

State of Idaho
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10. The Director retains jurisdiction to require the right holder to provide purchased or leased natural flow or stored water to offset depletion of Lower Snake River flows if needed for salmon migration purposes. The amount of water required to be released into the Snake River or a tributary, if needed for this purpose, will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this permit.

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

Signed this 19th day of September, 2018.

for Angela M. Grimm
Water Rights Supervisor

State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

77-14367

This map depicts the DOMESTIC 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.

0 0.035 0.07 0.14 Miles

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

N

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region • 2735 W AIRPORT WAY • BOISE, ID 83705-5082
Phone: (208)334-2190 • Fax: (208)334-2348 • Website: www.idwr.idaho.gov

C.L. "Butch" Otter
Governor

Gary Spackman
Director

September 19, 2018

JANET SHEPHERD
RICHARD SHEPHERD
2563 DIXIE RD
DIXIE ID 83525

RE: Permit No. 77-14367

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 me at (208) 334-2190.

Sincerely,

Rachel Neeley for

Nick Miller
Regional Manager

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on September 19, 2018, I served a true and correct copy of Permit to Appropriate Water No. 77-14367 by U.S. Mail, postage prepaid, to the following:

JANET SHEPHERD (Current Owners)
RICHARD SHEPHERD
2563 DIXIE RD
DIXIE ID 83525

Rachel Neely
Administrative Assistant 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.

MEMORANDUM

TO: Application No. 77-14367

FROM: Justin Shearer

DATE: 9/14/2018

RE: Salmon-Clearwater Processing, Basins 77-79 Western Region

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The application proposes to divert water from a spring for domestic purposes to one home.

The site is in Dixie, ID approximately ¾ miles north of the landing strip and just east of Crooked Creek.

Wild & Scenic River (WSR) Processing

General Information - WSR processing applies to portions of Bs 77 and 78 but not to Bs 79. It is rarely expected in Bs 78 since WSR right 78-11961 covers federal land upstream from the Rapid River Fish Hatchery slightly southwest of Riggins.[1]

Typically WSR issues would be in Bs 77 upstream from Long Tom Bar on the Salmon River, WSR right 77-11941.[2] This also incorporates the entire Middle Fork Salmon River drainage, MSR right 77-13844.[3]

WSR processing is required for any source/diversion upstream from any WSR right. This applies to all sources and uses unless the applicant shows the source is not hydraulically connected to any WSR rights.

Specific Information for this Application - WSR processing is required because the proposed source/diversion are upstream from and hydraulically connected to WSR right 77-11941 &/or 77-13844. The WSR spreadsheet was updated, and the WSR legal notice remark was added to the database.

Minimum Streamflow Rights (MSF)

General Information - MSF analysis applies to all surface water upstream[4] from any MSF rights. Basins 77-79 have various MSF rights that might affect applications. By agreement with SO regarding these basins, specific MSF conditions of approval are not necessary provided the reviewer checks MSF issues and documents the file with the results (7/8/09 telephone conference).

Downstream MSF right 3-8 on the Snake River[5] is not subordinate to "future dcmi" uses or "future non-dcmi (with cfs limits)" uses. Downstream Salmon River MSF right 79-14119[6] is subordinated to future dcmi uses but not to future non-dcmi uses.

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[1] POD = T23N-R1W-S12.
[2] POD = T25N-R5E-S31.
[3] POD = T23N-R16E-S33.
[4] Shallow ground water tributary to surface water might involve MSF issues under conjunctive management thinking. Discuss with your supervisor if this comes up.
[5] POD = T31N-R5W-S10.
[6] From mouth of river T29N-R4W-S14 upstream thru about Shepp Ranch T24N-R6E-S12.

All Basin 77-79 MSF rights upstream from the ending point of 79-14119 (mouth of Salmon River) include subordination to future dcmi uses. Most of those upstream MSF rights are also subordinate to various amounts of future non-dcmi uses. None of the future non-dcmi cfs rates have been exceeded yet by new approvals. Further MSF analysis is generally not needed until a specific future non-dcmi cfs rate is exceeded.

Because the review memo extensively covers WSR and MSF issues, SO Planning Bureau comments are not needed yet (prior agreement with SO). Planning will be contacted for comments during the legal notice process as a precaution.

Specific Information for this Application –MSF analysis is required for the proposed source and use upstream from MSF rights 3-8 and 79-14119.

This leads to the following MSF conclusions for this application:

- Senior MSF right 3-8 will not be subordinated to the proposed use.
- Senior MSF right 79-14119 will be subordinated to the proposed dcmi use.

Discussion

Effect on Existing Water Rights: Because the application is proposing minimal DCMI use from a spring it is not anticipated that the approval of this application will have a negative effect on existing water rights.

Sufficiency of Water Supply: There is no concern in sufficiency of water supply for this proposal, so no rule 40 info was requested in regards to this matter.

Good Faith, Delay or Speculative Purposes: There is no concern of good faith, delay, or speculative purposes for this proposal, thus no rule 40 info was requested in regards to this matter.

Financial Resources:
Additional information is unnecessary because the applicant estimated the project will cost less than $5000.

Local Public Interest:
IDEQ, USFS, IDFG, and IDWR Planning Bureau were sought for comment at advertising. IDEQ, IDFG, IDWR Planning Bureau had no concerns, or did not provide comment. USFS requested that the permit be conditioned to state the following: the water right does not establish a ROW or easement across the land of another since the land at the POD is not owned by the applicants, it is National Forest System land; that the POU is on Mineral Survey 1416; that the water right is subject to the terms and conditions of the Forest Service Special Use Permit. Aside from these conditions, the USF does not oppose this water right permit.

Conditions of Approval

In addition to typical standard conditions (004, 121 etc.), use the following standard, modified &/or unique conditions for Basins 77-79.

Per WSR processing, part of Basin 77 & 78, no water district currently planned, use the following: <**choose 1 or more as needed**, standard or modified version, justify modified version in the memo>

42-111 any source – possible lockable device, but no measuring device or data logger requirement.

- **199 standard** - Upon specific notification by the Department, the right holder shall install a lockable device of a type acceptable to the Department in a manner that will provide suitable control of the diversion.

RECEIVED
AUG 20 2018
WATER RESOURCES
WESTERN REGION

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO
County of Idaho - ss.

Sarah S. Klement, being first duly sworn, says she is the Publisher 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 1st day of August, 2018; and the last publication on the 8th day of August, 2018; 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 8th day of August in the year of 2018, before me a Notary Public personally appeared Sarah S. Klement, 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 she executed the same.

JOLENE RUPP NOTARY PUBLIC STATE OF IDAHO

Notary Public for Idaho
Residing at Grangeville, ID
My commission expires: 1-29-19

VOL KW 8/20/18

The following application has been filed to appropriate the public waters of the State of Idaho:
77-14367

RICHARD SHEPHERD
JANET SHEPHERD
2563 DIXIE RD
DIXIE, ID 83525
Point of Diversion SWNWNE S27 T26N R08E IDAHO
County Source SPRING Tributary CROOKED CREEK
Use: DOMESTIC 01/01 to 12/31 0.04 CFS
Total Diversion: 0.04 CFS
Date Filed: 6/26/2018
Place of Use: DOMESTIC T26N R08E S27 NWNE
Domestic use is for 1 home in Lot 9 Block C of Crooked Creek Addition Subdivision.
This application proposes the diversion and use of water tributary to a federally designated 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 for domestic purposes.
Proposed Point of Diversion and Place of Use are within Mineral Survey No. 1416
Permits will be subject to all prior water rights. For additional information concerning the property location, contact Western Region office at (208) 334-2190; or for a full description of the right(s), please see www.idwr.idaho.gov. Protests may be submitted based on the criteria of Idaho Code § 42-203A. Any protest against the approval of the application(s) must be filed with the Director, Dept. of Water Resources, Western Region, 2735 Airport Way, Boise ID 83705 together with a protest fee of $25.00 for each application on or before 8/20/2018. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN,
Director
Published
on 8/1/2018 and 8/8/2018

Shearer, Justin

From: Spencer, Steven M -FS <sspencer@fs.fed.us>
Sent: Wednesday, August 08, 2018 11:07 AM
To: Shearer, Justin
Subject: Application for Permit 77-14367
Attachments: 77-14367 Maps.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Justin,

Thank you for talking with me on the phone earlier this week about application for permit 77-14367. The Forest Service does not oppose this water right and as we discussed will offer some comments and suggestions for the permanent record.

The land at the POD is not owned by the applicants. It is National Forest System land. That is why there is a Forest Service special use permit to the applicants authorizing the diversion and pipeline on NFS land. This is legitimization of a long time existing use.

The attachment includes a plat of Mineral Survey 1416, a part of a USGS Quad, and an image from the IDWR map maker. On each image I have marked the location of the POU as closely as possible. It is evident that the POU is o MS 1416.

Based on this information I'm requesting that the permit and subsequent license include conditions to the effect that:

- The water right does not establish a ROW or easement across the land of another
- The POU is on Mineral Survey 1416
- The water right is subject to the terms and conditions of the Forest Service Special Use Permit

If there are any questions about this matter please contact me.

Thank you,

Steve

Steven M. Spencer
Water Use Specialist
Idaho Water Right Coordinator
Forest Service
Intermountain & Northern Regions
p: 208-365-7055
sspencer@fs.fed.us
1805 Hwy 16 Rm 5
Emmett, ID 83617
www.fs.usda.gov

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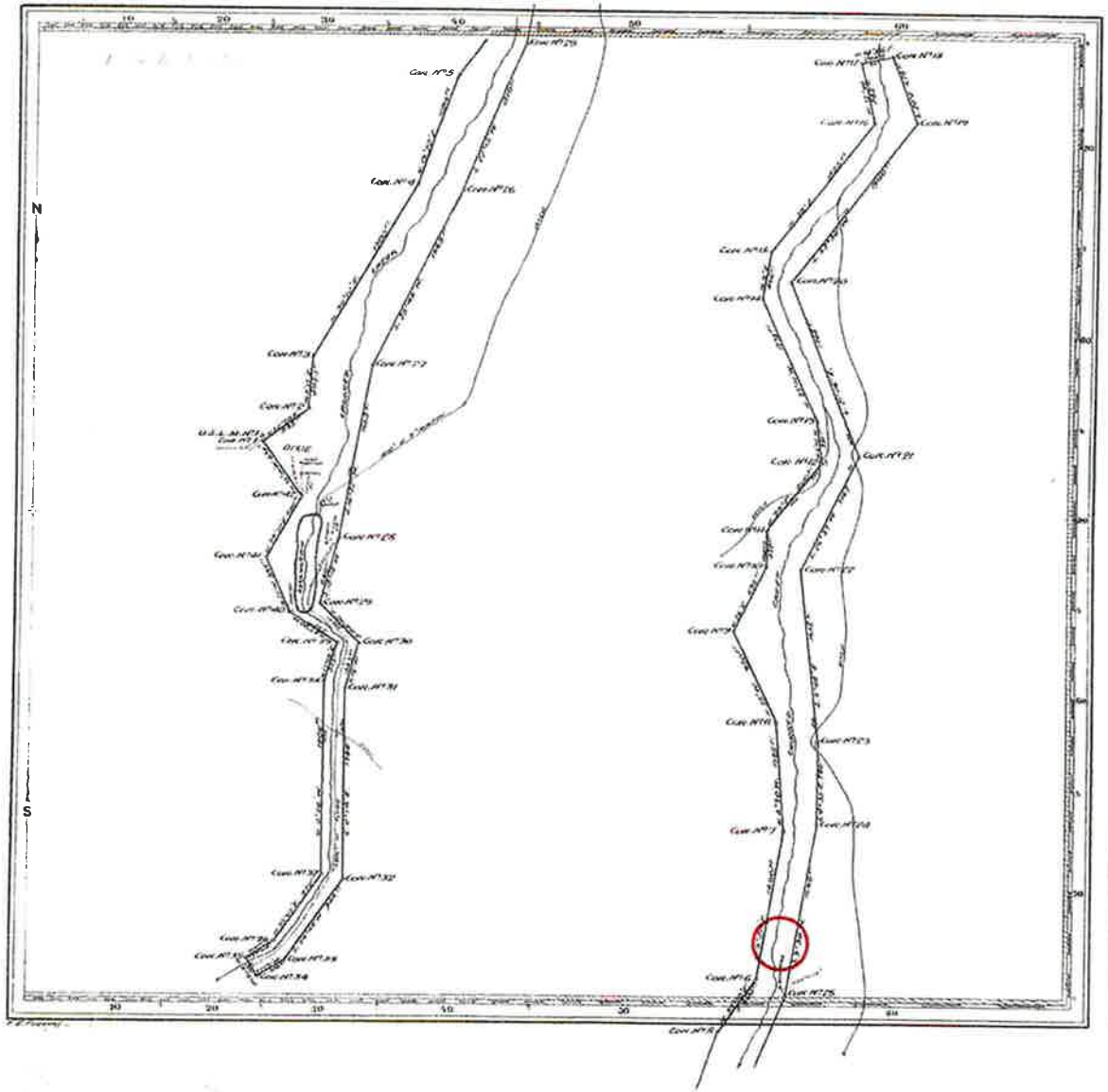
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Neely, Rachel

From: Danie.Merriman@deq.idaho.gov
Sent: Monday, August 06, 2018 9:44 AM
To: Neely, Rachel
Subject: App for permit 77-14367

Follow Up Flag: Follow up
Flag Status: Flagged

Hi Rachel,

Thanks for sending me the information about 77-14367! Was this notice of advertising sent instead of an official request for comment because the source is a spring? Either way, it looks fine to me.

I hope all is going well at Western! Miss you too.

Danie Merriman
Water Quality Analyst

Idaho Department of Environmental Quality
Boise Regional Office
1445 N Orchard St, Boise, ID 83706
(208) 373-0589

Neely, Rachel

From: Skoro, Emily
Sent: Friday, August 03, 2018 2:08 PM
To: Neely, Rachel
Cc: Clark, Cynthia Bridge
Subject: RE: Applications for Permits 65-23762 & 77-14367
Attachments: IDWR WR 65-23762 -IWRB Comment Letter.pdf

Rachel,

The Planning Section, on behalf of the Idaho Water Resource Board, do not have any comments on Application for Permit No. 77-14367.

Please see the attached comment letter regarding Application for Permit No. 65-23762. 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

From: Clark, Cynthia Bridge
Sent: Thursday, July 26, 2018 4:17 PM
To: Neely, Rachel <Rachel.Neely@idwr.idaho.gov>; Skoro, Emily <Emily.Skoro@idwr.idaho.gov>
Subject: Fwd: Applications for Permits 65-23762 & 77-14367

Rachel,

Thank you very much for the new application notifications. In the future, can you also copy Emily Skoro on on these emails? She is now reviewing new applications on behalf of the IWRB. I've copied her on this email for reference.

Again, we appreciate the notice.

Cynthia

Sent from my Verizon, Samsung Galaxy smartphone

-------- Original message --------
From: "Neely, Rachel" <Rachel.Neely@idwr.idaho.gov>
Date: 7/26/18 12:50 PM (GMT-08:00)
To: "Clark, Cynthia Bridge" <Cynthia.Clark@idwr.idaho.gov>
Subject: Applications for Permits 65-23762 & 77-14367

July 26, 2018

IDAHO DEPARTMENT OF WATER RESOURCES
WATER PROJECTS SECTION MANAGER
ATTN: CYNTHIA (BRIDGE) CLARK
322 E FRONT ST
PO BOX 83720
BOISE ID 83720-0098

RE: Applications for Permits 65-23762 & 77-14367

Dear Ms. Clark:

The Idaho Department of Water Resources (IDWR) is seeking written comment and/or recommendation(s) from your agency regarding the above referenced water right application(s). Copy(s) of the application(s) are enclosed with this email for your reference. Please review the application(s), complete the enclosed recommendation form, and submit your reply, if any, to this office by the protest deadline of **August 20, 2018**

If your agency desires to formally protest approval of this application, you may do so by filing a written protest along with a $25.00 filing fee for each protested application by the protest deadline.

IDWR will assume your agency does not object to this application if a timely response is not received. Please contact me if you have any questions regarding the application. Thank you for your help.

Sincerely,

Rachel Neely

Administrative Assistant I
IDWR-Western Region
2735 Airport Way Boise, ID 83705
Rachel.Neely@idwr.idaho.gov