FORM 202 Rev. 09/16

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Ident. No. 74-16176

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name of applicant(s) STATE OF IDAHO, Idaho Fish and Game Commission Phone 208-334-3700
   Name connector (check one): ☐ and ☐ or ☐ and/or
   Mailing address P.O. Box 25 City Boise
   State Idaho ZIP 83707 Email
2. Name of representative, if any Mike Demick, Easement Specialist Phone 208-756-6022
   Mailing address 97 Highway 93 North City Salmon
   State Idaho ZIP 83467 Email mike.demick@idfg.idaho.gov
   a. ☐ Send all correspondence for this application to the representative and not to the applicant OR
   ☑ Send original correspondence to the applicant and copies to the representative.
   b. ☑ The representative may submit information for the applicant but is not authorized to sign for the applicant OR
   ☐ The representative is authorized to sign for the applicant. Attach a Power of Attorney or other documentation.
3. Source of water supply Eighteen Mile Creek which is a tributary of Lemhi River
4. Location of point(s) of diversion:

Twp	Rge	Sec	Govt Lot	¼	¼	¼	County	Source	Local name or tag #
16N	26E	34			SE	NE	Lemhi	Eighteen Mile Creek	LEM - 01

5. Water will be used for the following purposes:
   Amount .80 (cfs or acre-feet per year) for Fish Propagation purposes from Mrch 15 to Nov 15 (both dates inclusive)
   Amount _____ (cfs or acre-feet per year) for _____ purposes from _____ to _____ (both dates inclusive)
   Amount _____ (cfs or acre-feet per year) for _____ purposes from _____ to _____ (both dates inclusive)
   Amount _____ (cfs or acre-feet per year) for _____ purposes from _____ to _____ (both dates inclusive)
6. Total quantity to be appropriated is (a) .80 cubic feet per second (cfs) and/or (b) _____ acre-feet per year (af).
7. Proposed diverting works:
   a. Describe type and size of devices used to divert water from the source. Bottle brush screen, 2-12"x48" drums, covered water wheel with headgate behind that feeds 1-12inch pipe with a 10" fish bypass back to creek.
   b. Height of storage dam NA feet; active reservoir capacity NA acre-feet; total reservoir capacity NA acre-feet. If the reservoir will be filled more than once each year, describe the refill plan in item 12. For dams 10 feet or more in height AND having a storage capacity of 50 acre-feet or more, submit a separate Application for Construction or Enlargement of a New or Existing Dam. Application required? ☐ Yes ☑ No
   c. Proposed well diameter is NA inches; proposed depth of well is NA feet.
   d. Is ground water with a temperature of greater than 85°F being sought? ☐ Yes ☑ No
   e. If well is already drilled, when? NA; drilling firm NA; well was drilled for (well owner) NA; Drilling Permit No. NA.

RECEIVED
JUL 23 2013
DEPARTMENT OF WATER RESOURCES

For Department Use

Received by _____ Date _____ Time _____ Preliminary check by _____
Fee $ _____ Receipted by _____ Receipt No. _____ Date _____

8. Description of proposed uses (if irrigation only, go to item 9):
   a. Hydropower; show total feet of head and proposed capacity in kW. NA
   b. Stockwatering; list number and kind of livestock. NA
   c. Municipal; must complete and attach the Municipal Water Right Application Checklist.
   d. Domestic; show number of households NA
   e. Other; describe fully. This is a non-consumptive use of water that enables fish to return to the stream through a bypass pipe that runs from the fish screen to the stream

9. Description of place of use:
   a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
   b. If water is used for other purposes, place a symbol of the use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
T16N	R26E	34				H													

Total number of acres to be irrigated: 0

10. Describe any other water rights used for the same purposes as described above. Include water delivered by a municipality, canal company, or irrigation district. If this application is for domestic purposes, do you intend to use this water, water from another source, or both, to irrigate your lawn, garden, and/or landscaping? Point of Diversion is shared with other water right holders. This is the only right for the fish screen

11. a. Who owns the property at the point of diversion? Ellsworth Angus Ranch, Carl Ellsworth
    b. Who owns the land to be irrigated or place of use? Ellsworth Angus Ranch, Carl Ellsworth
    c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: IDFG has an easement for ingress and egress to construct and maintain a fish screen on this property.

12. Describe your proposal in narrative form, and provide additional explanation for any of the items above. Attach additional pages if necessary. To record a non-consumptive use of water for an existing fish screen.

13. Time required for completion of works and application of water to proposed beneficial use is 1 years (minimum 1 year).

14. **MAP OF PROPOSED PROJECT REQUIRED** - Attach an 8½" x 11" map or maps clearly identifying the proposed point of diversion, place of use, section #, township & range. The map scale shall not be less than two (2) inches equal to one (1) mile.

The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval.

Signature of Applicant

Signature of Applicant

Tom Curet, Regional Supervisor

Print Name (and title, if applicable)

Print Name (and title, if applicable)

Application for Water Right

7/2/2018 4:34:37 PM

1:4,514

0 0.03 0.06 0.11 mi

0 0.04 0.09 0.17 km

Points

Override 1

Override 2

Counties

Quarter Quarter

Section

Township/Range

Idaho Outline

Idaho Mask

Esri, HERE, Garmin, © OpenStreetMap contributors, Created by NRCS from 1:24,000 scale USGS topographic maps., Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

Idaho Department of Water Resources

USDA FSA, DigitalGlobe, GeoEye | Created by NRCS from 1:24,000 scale USGS topographic maps. | USDA,Natural Resources Conservation Services | Esri, HERE, iPC |

Hersley, Jean

From: Hersley, Jean
Sent: Thursday, September 13, 2018 10:32 AM
To: rhlegals@custertel.net
Subject: Legal Notices for your paper

A COPY WILL BE FAXED TO YOU ALSO. Thank you. Jean 208-756-2222 Page 1
September 13, 2018

Legal Notice Department
Recorder Herald
PO Box 310
Salmon ID 83467

RE: Legal Ad for your paper

Dear LEGAL NOTICE DEPARTMENT:

Enclosed you will find a legal notices which we wish to have published in your newspaper on the dates indicated (once a week for two consecutive weekly issues). If you cannot publish the notice on the proposed dates, please contact us immediately. An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office, PO Box 83720, Boise, Idaho, 83720-0098 before October 09, 2018. Your cooperation is appreciated.

Sincerely

Jean Hersley
Technical Records Specialist II
IDWR State Office
322 E Front St
Boise ID 83720
208-287-4942
jean.hersley@idwr.idaho.gov

****

The following application(s) have been filed to appropriate the 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 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 these applications 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 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 WATER RIGHT
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 Published on 9/20/2018 and 9/27/2018

State of Idaho
DEPARTMENT OF WATER RESOURCES
322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098
Phone: (208) 287-4800 • Fax: (208) 287-6700 • Web Site: www.idwr.idaho.gov

GARY SPACKMAN
Director

C.L. "BUTCH" OTTER
Governor

September 13, 2018

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

Applications For Permit No. 73-12263, 74-16174, 74-16175 & 74-16176

Dear Applicant(s):

The Department of Water Resources has received your water right applications. Please refer to the numbers referenced above in all future correspondence regarding these applications.

A legal notice of the applications has been prepared and is scheduled for publication in the RECORDER HERALD (74-16174, 74-16175 & 74-16176) & CHALLIS MESSENGER (73-12263) on 9/20/2018 and 9/27/2018. Protests to these applications may be submitted for a period ending ten (10) days after the second publication.

If the applications are protested, you will be sent a copy of each protest. All protests must be resolved before the applications can be considered for approval. If the protest(s) cannot be resolved voluntarily, the Department will conduct a conference and/or hearing on the matter.

If the applications are not protested, the Department will process your applications and notify you of any action taken on the applications. If your applications is approved, the Department will send you a copy of the permits.

Please contact this office if you have any questions regarding the applications.

Sincerely,

Jean Hersley

Jean Hersley
Technical Records Specialist

c:State of Idaho-Dept. Fish & Game, Salmon Office

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: idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

September 13, 2018

WATER DISTRICT #74W
DEREK PAPATHEORDORE
102 S WARPATH
PO BOX 82
LEADORE ID 83464

RE: Application for Permit No. 74-16174, 74-16175, 74-16176

Dear Derek:

The Department of Water Resources is seeking written comment and/or recommendations from you regarding the above referenced water right application for permit. You can find a copy of the application at: http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx. Please review the application, then complete the enclosed recommendation form and return it to this office within 21 days of the date of this letter.

If the application is approved, IDWR will include appropriate standard conditions of approval for a water right located within a water district, such as regulation by the water master, lockable controlling works, and/or measuring devices. Any special conditions or other concerns you have related to this application should be specifically addressed in your recommendation.

IDWR's regional offices can finish reviewing an unprotested application as soon as the protest period has past. Your prompt response to this request will ensure that your recommendation can be considered. If IDWR has not received your written recommendation within 21 days from the date of this letter, IDWR will presume that you do not oppose approval of the application and that you have no comments for IDWR to consider.

Sincerely,

Jean Hersley

Jean Hersley
Technical Records Specialist II

Enclosure(s)

State of Idaho
Department of Water Resources
Transfer of Water Right(s)
RECOMMENDATION FORM

Application for Permit No.: 74-16174, 74-16175, 74-16176

Transfer Applicant's Name: STATE OF IDAHO
IDAHO FISH & GAME COMMISSION
PO BOX 25
BOISE ID 83407

Water master's Recommendation:

a) _____ I do not oppose approval of this application.

b) _____ I do not oppose approval of this application if it is conditioned as follows:

c) _____ I oppose approval of this application for the following reasons:

d) _____ Additional comments:

Dated this _____ day of _____, 2018

Water District No. 74W

_____

Water master's Signature

_____

Printed Name

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: idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

September 13, 2018

WATER DISTRICT #170 ***via e-mail***
CINDY YENTER
102 S WARPATH
SALMON ID 83467

RE: Application for Permit No. 73-12263, 74-16174, 74-16175, 74-16176

Dear Cindy:

The Department of Water Resources is seeking written comment and/or recommendations from you regarding the above referenced water right application for permit. You can find a copy of the application at: http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx. Please review the application, then complete the enclosed recommendation form and return it to this office within 21 days of the date of this letter.

If the application is approved, IDWR will include appropriate standard conditions of approval for a water right located within a water district, such as regulation by the water master, lockable controlling works, and/or measuring devices. Any special conditions or other concerns you have related to this application should be specifically addressed in your recommendation.

IDWR's regional offices can finish reviewing an unprotested application as soon as the protest period has past. Your prompt response to this request will ensure that your recommendation can be considered. If IDWR has not received your written recommendation within 21 days from the date of this letter, IDWR will presume that you do not oppose approval of the application and that you have no comments for IDWR to consider.

Sincerely,

Jean Hersley
Technical Records Specialist II

Enclosure(s)

State of Idaho
Department of Water Resources
Transfer of Water Right(s)
RECOMMENDATION FORM

Application for Permit No.: 73-12263, 74-16174, 74-16175, 74-16176

Transfer Applicant's Name: STATE OF IDAHO
IDAHO FISH & GAME COMMISSION
PO BOX 25
BOISE ID 83407

Water master's Recommendation:

a) _____ I do not oppose approval of this application.

b) _____ I do not oppose approval of this application if it is conditioned as follows:

c) _____ I oppose approval of this application for the following reasons:

d) _____ Additional comments:

Dated this _____ day of _____, 2018

Water District No. 170

_____

Water master's Signature

_____

Printed Name

Hersley, Jean

From: Hersley, Jean
Sent: Thursday, September 13, 2018 10:29 AM
To: Yenter, Cindy
Subject: WM Comments for Applications and Transfer
Attachments: Letter via email to watermaster 170.docx; Letter via email to watermaster 170.docx

I have attached letters and recommendation forms for Applications for Permit 73-12263, 74-16174, 74-16175 & 74-16176 and transfer 82523 for your comments and/or recommendations. Please let me know if you have any questions. Documents will be scanned by the end of the day.

Jean Hersley
Idaho Dept Water Resources
Technical Records Specialist II
208-287-4942

Hersley, Jean

From: Hersley, Jean
Sent: Thursday, September 13, 2018 10:26 AM
To: Clark, Cynthia Bridge; Skoro, Emily
Subject: Applications for Permit and Application for transfer

Applications for permit 73-12263, 74-16174, 74-16175 & 74-16176 and Application for Transfer 82523, Water rights 74-1865, 74-15534 & 74-15536 will be advertised on Sept. 20 & 27. The protest end date is October 9. Please let me know if you have any comments or concerns. Documents will be scanned by the end of the day.

Jean Hersley
Idaho Dept Water Resources
Technical Records Specialist II
208-287-4942

RECEIVED
AUG 13 2018
DEPARTMENT OF
WATER RESOURCES

IDAHO DEPARTMENT OF FISH AND GAME
SALMON REGION
99 Highway 93 North
Salmon, Idaho 83467

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

August 7, 2018

State of Idaho Department of Water Resources
ATTN: Pamela Skaggs, Water Right Supervisor
322 East Front Street
P.O. Box 83720
Boise, ID 83720

RE: Application to Appropriate Water in the Upper Salmon River Basin 73-12263, 74-16174, 74-16175 and 74-16176

Dear Pamela:

To answer IDWR request for additional information on how our proposal for the above mentioned Water Rights (WRs) invokes any local public interest concerns for ESA species recovery the Idaho Department of Fish and Game (IDFG) submits the following:

The IDFG Anadromous Fish Screen and Habitat Program has been an integral part of improving conditions to support recovery of ESA-listed fish species Chinook salmon, steelhead, and bull trout in the Upper Salmon Basin. IDFG works collectively with the Upper Salmon River Basin Watershed Technical Team to coordinate and prioritize projects that are implemented in the basin.

Over the past 30 years our program has installed over 265 fish screens to prevent ESA-listed fish species from being entrained in irrigation ditches. In order to safely return the fish from the fish screen back to the river or stream, from which they were diverted; a bypass flow is required.

The application for WRs represents a non-consumptive use. Where the water is diverted at the headgate, travels a short distance downstream to the fish screen (usually less than 100 yards), and is then returned to the river via a bypass pipe. The bypass is designed to transfer the fish back to the river or stream. Without the critical bypass flow the fish would become stranded at the face of the fish screens and would not be reverted to the river. Fish screens and the bypass flows protect irrigators from illegal take of ESA-listed species and provide a benefit to the community by protecting and enhancing ESA-listed species populations for future generations.

If you have any questions or need additional assistance, please contact the Region's Easement Specialist, Mike Demick at 208-756-2271.

Sincerely,

Tom Curet
Regional Supervisor

tc: md

Thiel, Sandra

From: Demick,Mike <mike.demick@idfg.idaho.gov>
Sent: Monday, August 06, 2018 11:22 AM
To: Thiel, Sandra
Subject: RE: applications for permit and easements

Hello Sandra: According to Walt Poole in our HQ office, the applications to hold the water rights is "State of Idaho, Idaho Fish and Game Commission".

I'm very new and would like to visit with you about the whole WR application process (applications, billing, timeline, etc). I just want to make sure you receive what you need from me. When would be a good time to call you?

Mike

From: Thiel, Sandra <Sandra.Thiel@idwr.idaho.gov>
Sent: Monday, August 6, 2018 9:51 AM
To: Demick,Mike <mike.demick@idfg.idaho.gov>
Subject: RE: applications for permit and easements

Good morning, According to the application State of Idaho, Idaho Fish and Game Commission is the applicant. The Commission will hold the right and not Department of Fish and Game?

Sandra Beer Thiel
Idaho Department of Water Resources
322 East Front Street
Boise, Idaho 83720-0098
(208)287-4881
sandra.thiel@idwr.idaho.gov

From: Demick,Mike [mailto:mike.demick@idfg.idaho.gov]
Sent: Friday, July 27, 2018 11:29 AM
To: Thiel, Sandra <Sandra.Thiel@idwr.idaho.gov>
Cc: Skaggs, Pam <Pam.Skaggs@idwr.idaho.gov>
Subject: RE: applications for permit and easements

Hello Sandra: Here are access easements for Hawley 02 & Hawley 03, and Sulphur Creek 01. Someone in our office must have the Eighteen Creek 01 file. I will try and get you the access agreement next week.

Please let me know if you have questions. Thank you.

Mike

From: Thiel, Sandra <Sandra.Thiel@idwr.idaho.gov>
Sent: Thursday, July 26, 2018 5:02 PM
To: Demick,Mike <mike.demick@idfg.idaho.gov>
Subject: applications for permit and easements

MEMORANDUM

Date: August 6, 2018
To: Application for Permit 74-16174
From: Sandra Thiel
Re: Application Review

Applicant
On July 23, 2018, Idaho Fish and Game Commission easement specialist Mike Demick submitted four applications for permit 73-12263, 74-16174, 74-16175 and 74-16176. Region supervisor Tom Curet signed the applications.

Source & Point of Diversion
The proposed point of diversion for this permit from Hawley Creek, tributary to Eighteen Mile Creek, falls in T15N R27E Section 2 SWNE. Both the point of diversion and the proposed place of use are on land owned by Bureau of Land Management (BLM). On July 26 I requested copies of the easements granting Fish and Game access to the point of diversion and place of use. Mike Demmick sent right of way authorization on July 27 Mr Demick responded with Right-of-Way Grant IDI-37508 (see attachment)

Water Use
The beneficial use listed on the application is fish propagation, rate 0.80 cfs. Fish and Game intends to build a double-bay, rotary drum fish screen that will enable fish to return to the stream through a bypass pipe and return to the stream. The use is non-consumptive.

Place of Use
The proposed place of use falls within the same quarter-quarter as the point of diversion.

Place of Use / Point of Diversion overlap analysis
BLM right 74-14372 for stockwater overlaps the place of use. The point of diversion supplies water for McFarland Livestock Co. Inc. irrigation water rights 74-11, 74-12, 74-16, 74-29, and 74-30. This water right is for the fish screen at the point of diversion for existing water rights. The season of use for permit 74-16174 is the same as the existing water rights.

Conditions
Recommend the following conditions:
R05 The point of diversion falls within water district 74W.
027 This right is non-consumptive
004 The Fish and Game Commission does not own the land at the point of diversion or place of use

Wild and Scenic conditions apply to this permit:
01H for water master control
198 addressing possible future reporting of water diverted

Other permits for the same purpose include the following, or similar, fish screen condition:
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.

Fish and Game identified the local name for the point of diversion as LHawC – 03. The permit will include the following condition: *Point of diversion is also identified by Idaho Department of Fish and Game as LHawC – 03.*

United States Department of the Interior
BUREAU OF LAND MANAGEMENT
Salmon Field Office
1206 South Challis Street
Salmon, Idaho 83467

In Reply Refer To:
(ID340) IDI-37508

August 21, 2014

CERTIFIED MAIL 7013 1090 0002 1052 3408
RETURN RECEIPT REQUESTED

DECISION

Idaho Department of Fish and Game	:	Right-of-Way Grant Issued
P.O. Box 1336	:	and Rental Exempt
Salmon, Idaho 83467-1336	:	IDI-37508

Right-of-Way Grant IDI-37508 Issued, and Rental Determined Exempt

Enclosed is your right-of-way (ROW) grant, serial number IDI-37508, which allows the right to operate, maintain, and terminate a fish screen on public land in Lemhi County was approved by the BLM on August 7, 2014. The grant will expire on December 31, 2043.

No monitoring fees are due in accordance with 43 CFR 2804.16(a). This grant it exempt from rent as indicated in 43 CFR 2806.14(a)(2).

This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4 and the enclosed Form 1842-1. If an appeal is taken, your notice of appeal must be filed in this office (at the above address) within 30 days from receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition (request) pursuant to regulation 43 CFR 2801.10 or 43 CFR 2881.10 for a stay (suspension) of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay must also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

(1) The relative harm to the parties if the stay is granted or denied,

(2) The likelihood of the appellant's success on the merits,

(3) The likelihood of immediate and irreparable harm if the stay is not granted, and

(4) Whether the public interest favors granting the stay.

If you have any questions, please contact Joni Cain, Realty Specialist, at (208) 756-5421 or (208) 879-6218.

Sincerely,

Linda R. Price
Field Manager

Enclosures
Form 1842-1 Information on Taking Appeals to the Interior Board of Land Appeals
Grant # IDI 37508

FORM 2800-14
(August 1985)

Issuing Office
Salmon Field Office

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
RIGHT-OF-WAY RENWAL GRANT

SERIAL NUMBER IDI-37508

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1. A right-of-way grant is hereby granted pursuant to Title V of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761).

2. Nature of Interest:

a. By this instrument, the holder:

Idaho Department of Fish and Game
P.O. Box 1336
Salmon, Idaho 83467

receives a right to operate, maintain, and terminate a fish screen located on public lands described as follows:

Boise Meridian, Idaho
T. 15 N., R. 27 E.,
sec. 2, NW1/4SW1/4NE1/4.
This area contains 10 acres in Lemhi County.

b. The right-of-way or permit area reserved herein contains **.24** acre, more or less, and is approximately **400** feet long and **25** feet wide, with an additional space of 20 feet long by 25 feet wide for parking.

c. This instrument shall terminate on **December 31, 2043, 30** years from the effective date of the grant, unless, prior thereto, it is relinquished, abandoned, terminated, or modified pursuant to the terms and conditions of this instrument or of any applicable Federal law or regulation.

d. This instrument may be renewed. If renewed, the right-of-way or permit shall be subject to the regulations existing at the time of renewal and any other terms and conditions that the authorized officer deems necessary to protect the public interest.

e. Notwithstanding the expiration of this instrument or any renewal thereof, early

relinquishment, abandonment, or termination, the provisions of this instrument, to the extent applicable, shall continue in effect and shall be binding on the holder, its successors, or assigns, until they have fully satisfied the obligations and/or liabilities accruing herein before or on account of the expiration, or prior termination, of the grant.

3. Rental: **EXEMPT**

For and in consideration of the rights granted, the holder agrees to pay the Bureau of Land Management fair market value rental as determined by the authorized officer **unless specifically exempted from such payment by regulation**. Provided, however, that the rental may be adjusted by the authorized officer, whenever necessary, to reflect changes in the fair market rental value as determined by the application of sound business management principles, and so far as practicable and feasible, in accordance with the comparable commercial practices.

4. Terms and Conditions:
   a. This grant is issued subject to the holder's compliance with all applicable regulations contained in Title 43 Code of Federal Regulation parts 2800 and 2880.
   b. Upon grant termination by the authorized officer, all improvements shall be removed from the public lands within **90** days, or otherwise disposed of as provided in paragraph (4)(d) or as directed by the authorized officer.
   c. Each grant issued pursuant to the authority of paragraph(1)(a) for a term of 20 years or more shall, at a minimum, be reviewed by the authorized officer at the end of the 20th year and at regular intervals thereafter not to exceed 10 years. Provided, however, that a right-of-way or permit granted herein may be reviewed at any time deemed necessary by the authorized officer.
   d. The stipulations, plans, maps, or designs set forth in, are incorporated into and made part of the grant instrument as fully and effectively as if they were set forth herein in their entirety.
   e. Failure of the holder to comply with applicable law or any provision of this right-of-way grant or permit shall constitute grounds for suspension or termination thereof.
   f. The holder shall perform all operations in a good and workmanlike manner so as to ensure protection of the environment and the health and safety of the public.
   g. The holder shall conduct all activities associated with the construction, operation, and termination of the right-of-way within the authorized limits of the right-of-way.
   h. Holder shall remove only the minimum amount of vegetation necessary for the use and maintenance of the existing road.
   i. Right-of-way shall be maintained in a sanitary condition at all times; waste materials at those sites shall be disposed of promptly at an appropriate waste disposal site. 'Waste' means all discarded matter including, but not limited to, human waste, trash, garbage, refuse, oil drums, petroleum products, ashes, and

equipment.

j. The holder shall be responsible for weed control on disturbed areas within the limits of the right-of-way. The holder is responsible for consultation with the authorized officer and/or local authorities for acceptable weed control methods (within limits imposed in the grant stipulations). Control measures must be done in accordance with the Salmon Field Office Integrated Weed Management Program. Coordination with the Salmon Field Office Weed Specialist shall be completed **before** applying herbicides.

k. The holders of right-of-ways, IDI-37483 and IDI-37508, agree to indemnify the United States against any liability arising from the release of any hazardous substance or hazardous waste (as these terms are defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. 9601, et seq. or the Resource Conservation and Recovery Act of 1976, 42 U.S.C. 6901 et seq.) on the right-of-way (unless the release or threatened release is wholly unrelated to the right-of-way holder's activity on the right-of-way.) This agreement applies without regard to whether a release is caused by the holder, its agent, or unrelated third parties.

l. There is reserved to the Authorized Officer, the right to grant additional rights-of-way or permits for compatible use on, over, under, or adjacent to the land involved in this grant.

m. Any cultural and/or paleontological resource (historic or prehistoric site or object) discovered by the holder, or any person working on his behalf, on public or Federal land shall be immediately reported to the authorized officer. Holder shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the authorized officer. An evaluation of the discovery will be made by the authorized officer to determine appropriate actions to prevent the loss of significant cultural or scientific values. The holder will be responsible for the cost of evaluation and any decision as to proper mitigation measures will be made by the authorized officer after consulting with the holder.

n. Pursuant to 43 CFR 10.4(g), the holder of this authorization must immediately notify the authorized officer by telephone, with written confirmation, upon the discovery of human remains, funerary items, sacred objects, or objects of cultural patrimony. Further, pursuant to 43 CFR 10.4(c) and (d), the holder must stop activities in the vicinity of the discovery and protect it for 30 days or until notified to proceed by the authorized officer.

o. Ninety (90) days prior to termination of the right-of-way, the holder shall contact the authorized officer to arrange a joint inspection of the right-of-way. This inspection will be held to agree to an acceptable termination (and rehabilitation) plan. This plan shall include, but is not limited to, removal of facilities, drainage structures, or surface material, recontouring, topsoiling, or seeding. The authorized officer must approve the plan in writing prior to the holder's commencement of any termination activities.

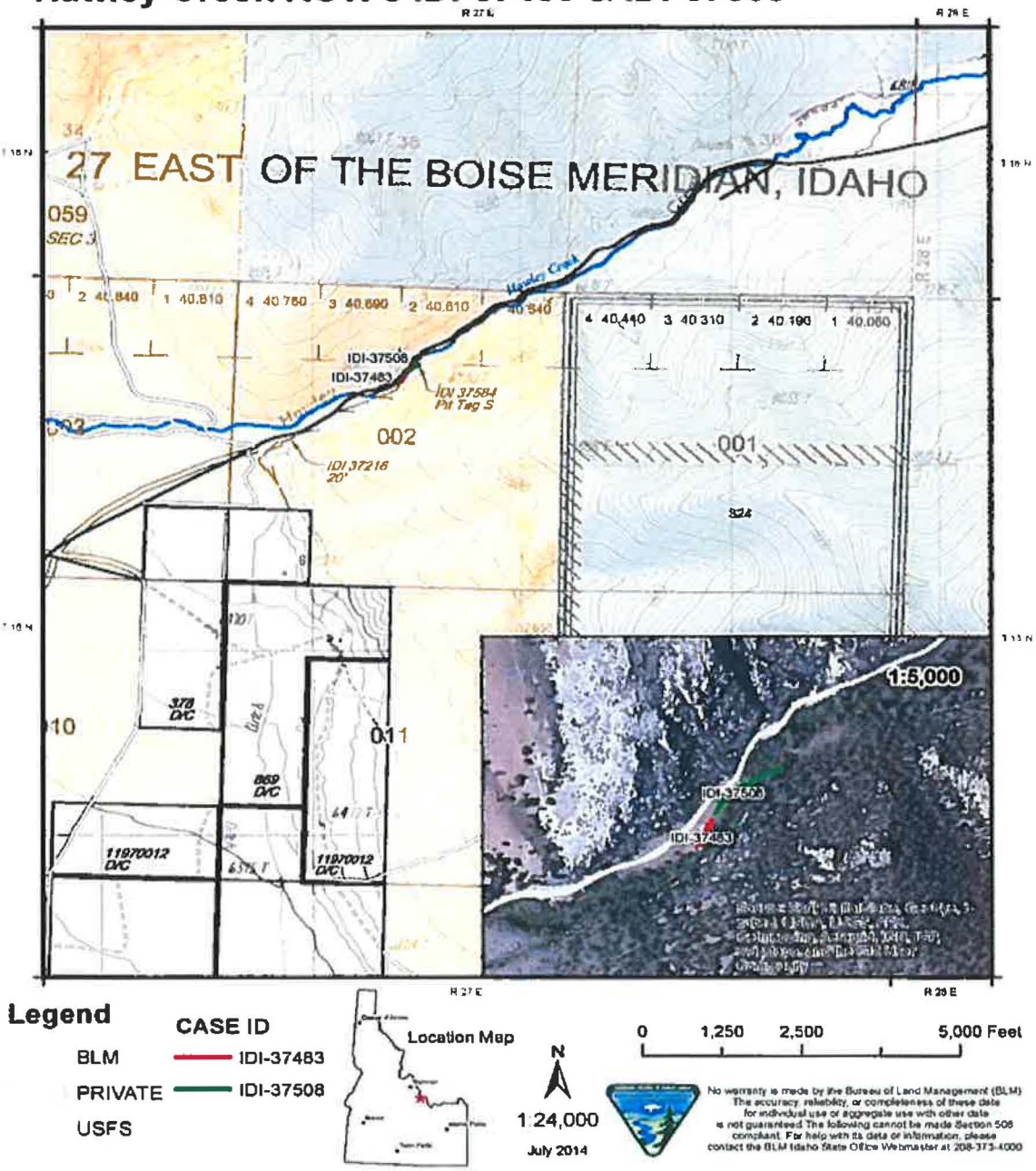
The following best management practices (BMPs) will be in effect during all phases of construction and operations.

1. All construction equipment will be pressured washed before bringing on-site to preclude the transfer of noxious weeds and to inspect equipment for leaks. The project manager will inspect equipment prior to arriving on the site.
2. Access to the project area will be via Forest Road 275.
3. Staging and refueling areas for vehicles, supplies, and equipment will be in the two sites adjacent to Forest Road 275 described in Materials Stockpiling, Equipment Staging, and Refueling Areas, above.
4. Fuel spill containment and cleanup materials will be present and available on site. Waste and hazardous fuels will be removed completely from the project area.
5. Removal of the existing diversion check structure and construction of the new diversion headworks, A-weir, and rock grade control structure will be done in the dewatered channel. Water will be diverted through a temporary bypass system to provide downstream fish passage around the instream work area (see: Channel Dewatering and Fish Bypass System, above).
6. The removal of the existing wood and concrete check structure will require instream work. This work will be done in the dewatered channel. The excavator will work from the left bank facing upstream; no equipment will enter the stream.
7. A channel-spanning, temporary cofferdam (i.e. ecology block, gravel filled bags or equivalent) will be built above the new headworks site to direct water into the bypass system. Once the cofferdam and bypass system are in place, all of the Hawley Creek water will be diverted through the bypass system by gravity flow, without the aid of pumps. The turbidity and sediment transport will be minimized by diverting flow around the construction site.
8. The instream work area will be dewatered gradually to encourage fish to emigrate from the area and decrease the risk of stranding. After initial drawdown, the work area will be dewatered using construction pumps. The water will be pumped using a 3/32-inch diameter screen as per NMFS' specifications (Appendix C). Stranded fish may need to be electrofished, netted, and transported out of the dewatered area by IDFG personnel.
9. The water from the dewatered work area will be pumped into the existing irrigation ditch, or other measures will be used to filter the water before it is returned to the creek.
10. The material excavated during removal of the existing diversion structure, construction of the new diversion and fish screen system will be stockpiled in one of the designated materials stockpile sites described in Materials Stockpiling, Equipment Staging, and Refueling Areas, above. Topsoil and organic matter (if any) will be stockpiled separately from C-horizon soil and rocks to be used for site reclamation. Sediment barriers will be used to contain the stockpiled material. This stockpiled material, material from excavation of the ditch, and off-site material from private land sources will be used to bed and bury the pipeline. The off-site fill material will not be obtained from floodplains or within 300 feet of active channels.

11. Silt fence will be installed on the north side of the ditch where it parallels the stream to prevent excavated and fill material from entering the stream. The excavator will "walk" up the ditch and will not enter the stream. The material excavated from the ditch will be stockpiled at least 100 feet from the stream and used to bury the pipeline. Excess fill that is not needed to bury the pipeline will be disposed of at an upland site on private land.
12. As per the NMFS Level I team members' recommendation, the blasting PPV will be less than 0.5 inches/second and a blasting seismograph will be used to monitor the blast induced ground vibrations and air pressures for each blast.
13. If needed, the willow in the Hawley Creek floodplain will be cut back to facilitate construction of the new diversion structure, or removal of existing diversion structure, but will not be removed. The other streambank vegetation is expected to be undisturbed.
14. The head of the ditch will be plugged with large rock, material excavated from the ditch, and the Douglas-fir rootwads removed during construction. Several willow clumps will be salvaged from the section of the ditch line that does not parallel Hawley Creek and native sedge plugs excavated during construction will be placed into the upstream face of the plug.
15. Erosion controls will be utilized and appropriately installed during the construction period. All erosion controls will be inspected regularly by the IDFG project managers. If inspections show that the erosion controls are ineffective, they will be immediately repaired, replaced, or additional controls installed as necessary. Sediment will be removed from erosion controls once it has reached one third of the exposed height of the control. Erosion controls will remain in place until construction is complete.
16. Prevention measures will be established to avoid construction debris from dropping into the stream. Any construction debris that may disturb the streambed and water quality will be immediately removed whenever possible.
17. The construction area for the new diversion and fish screen system has been previously disturbed. IDFG will reseed the area around the fish screen system with the BLM approved seed mix and seeding rates specified in Appendix C, and treat this area and the parking area for noxious weeds annually.
18. LSWCD will hydro-seed the rest of the disturbed BLM land along the pipeline with the seed mix and seeding rates specified in Appendix C. The buried pipeline on private land will be reseeded with a pasture mix approved by NRCS.
19. Lemhi Cooperative Weed Management Area (LCWMA) crews and BLM staff will treat noxious weeds in all of the other disturbed areas on BLM land for three years, or as long as required following implementation.
20. This project will be implemented in 2014. Construction is expected to take 6-7 weeks. The project duration will be reduced to the shortest time possible to complete project objectives safely and effectively.
21. Project operations will cease under high flow conditions (typically May 20-June 20), except for efforts to avoid or minimize resource damage.

22. All construction that could affect vegetation on the BLM will cease between May 15 and August 1 to protect migratory birds and sage-grouse during the nesting period.
23. In the event there are significant changes in the project plan, BLM Salmon Field Office will be notified prior to any on the ground action.
24. IDFG, LSWCD, McFarland Livestock, and their contractors will comply with all federal, state, and local laws and regulations, and will comply with all permits and safety provisions as documented for this project.

Hawley Creek ROW's IDI-37483 & IDI-37508



IN WITNESS WHEREOF, The undersigned agrees to the terms and conditions of this right-of-way grant.

Tom Curd	
(Signature of Holder)	(Signature of Authorized Officer)
Regional Supervisor	Field Manager
(Title)	(Title)
8/4/2014	8/7/14
(Date)	(Effective Date of Grant)

State of Idaho
DEPARTMENT OF WATER RESOURCES
322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098
Phone: (208) 287-4800 • Fax: (208) 287-6700 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

July 27, 2018

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

RE: Application to Appropriate Water in the Upper Salmon River Basin 73-12263, 74-16174, 74-16175 and 74-16176

Dear Water Right Applicant:

The Department of Water Resources' (IDWR) records show you filed an application to establish a new use of water in the upper Salmon River basin. Idaho Code § 42-203A(5) requires IDWR to determine whether each water right application satisfies all the criteria necessary for appropriating water in Idaho. One statutory criterion requires IDWR to determine the local public interest relative to the proposed water use. Idaho Code § 42-202B(3) defines the local public interest as "the interests that the people in the area directly affected by a proposed water use have in the effects of such use on the public water resource." The local public interest has many facets, including the effects of a proposed water use on aquatic habitat for fish and wildlife resources.

The upper Salmon River basin is home to stocks of chinook salmon, sockeye salmon, steelhead trout, and bull trout, all of which are listed as threatened or endangered under the Endangered Species Act (ESA). Since the early 1990s, local water users, conservation districts, and federal and state agencies have cooperated to implement conservation measures intended to protect and restore habitat for ESA-listed species in the upper Salmon River watershed. For example, at the request of local water users the Idaho Legislature directed the Idaho Water Resource Board (IWRB) to establish a minimum stream flow in the lower Lemhi River for fish passage. The minimum stream flow is maintained through a water supply bank and temporary or permanent acquisition of additional water supplies by willing buyers from willing sellers.

Pursuant to the Snake River Water Rights Agreement of 2004, Idaho has been developing a long term conservation plan for the benefit of ESA-listed species in the Lemhi River basin. Improving conditions in flow-limited river reaches and streams is a fundamental component of the Lemhi plan. In addition to IDWR, numerous state agencies, including the Office of Species Conservation, Idaho Department of Fish and Game, Idaho Department of Environmental Quality, Idaho Soil and Water Conservation Commission, and Idaho Department of Lands, have committed and continue to commit significant resources toward this objective under the following programs:

- Columbia Basin Water Transactions Program
- National Marine Fisheries Service Pacific Coastal Salmon Recovery Fund
- U. S. Fish & Wildlife Service Aquatic Species Conservation Fund
- Salmon and Clearwater River Basins Habitat Fund
- 2008 Columbia Basin Fish Accords

A myriad of habitat restoration projects are being constructed/implemented in other parts of the upper Salmon River basin. These projects have been coordinated with the local communities and water users through the Upper Salmon River Basin Watershed Program and predecessor programs, including the model watersheds. Furthermore, the Snake River Water Rights Agreement of 2004 contemplates the development of additional conservation plans for other upper Salmon River basin watersheds. Accordingly, the Comprehensive State Water Plan revised by the IWRB contains policies for the Salmon River basin that focus on the protection and restoration of instream habitat for ESA-listed species through voluntary participation in conservation programs.

Because of the ESA-listed species recovery efforts in the upper Salmon River basin, IDWR must determine on a case-by-case basis whether it is in the local public interest to authorize proposed water uses that would further deplete flow-limited stream reaches.

Pursuant to Rule 40.04.c of the Water Appropriation Rules (IDAPA 37.03.08.040.04.c), the applicant has the ultimate burden of persuasion regarding the items that must be evaluated in connection with each water right application. Before proceeding further with your application, IDWR requests you submit additional information about how your proposal invokes any local public interest concerns for ESA species recovery.

Within 30 days, please submit any additional information you believe IDWR may need to evaluate and determine the local public interest in the water you propose to divert and use. If IDWR has not received a response from you within 30 days, IDWR will assume you have no comment regarding the local public interest, and processing of your application will resume with the information currently on file. Processing will include public notice and the potential for formal protests by other interested parties. Applications that are not in the local public interest will be denied. If you wish to withdraw your application before it is processed, please notify IDWR in writing.

If you have any questions, please call me at 208-287-4951, or email me at pam.skaggs@idwr.idaho.gov.

Sincerely,

for Sandra Thiel

Pamela Skaggs
Water Rights Supervisor

Hersley, Jean

From: Hersley, Jean
Sent: Tuesday, July 24, 2018 8:19 AM
To: Pline, Treva
Cc: Marston, Sascha
Subject: Interagency billing
Attachments: 20180724081535

Please initiate interagency billing with Fish & Game for the attached Applications for Permit. Please let me know when we receive the funds because I can't advertise these until we have the money. Thank you.

Jean Hersley
Idaho Dept Water Resources
Technical Records Specialist II
208-287-4942

RECEIVED
JUL 23 2018
IDAHO DEPT. OF WATER RESOURCES

IDAHO DEPARTMENT OF FISH AND GAME
SALMON REGION
99 Highway 93 North
Salmon, Idaho 83467

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

July 13, 2018

Idaho Department of Water Resources
P.O. Box 83720
Boise, Idaho 83720-0098

Dear IDWR:

Enclosed please find four (4) "Application for Permit" for new water rights in Basin's 73 and 74. Please initiate the Interagency Billing Process for the $250.00 fee for each of these applications. When processing, use PCA 35746, and code C1NX. Please send the billing documents to IDFG Headquarters Office, Attention: Walt Poole, P.O. Box 25, Boise, ID 83707.

Please send copies of the approved permits to IDFG, Attn: Mike Demick, 97 Hwy 93 N, Salmon, ID 83467. Please call me if you have any questions at 208-756-6022.

Sincerely,

Mike Demick

Mike Demick
Easement Specialist

Enc: Four (4) "Application for Permit" forms