

State of Idaho  
Department of Water Resources

## Permit to Appropriate Water

NO. 81-12013

Priority: November 06, 2017

Maximum Diversion Rate: 0.02 CFS

This is to certify, that LOCHSA HOLDINGS LLC  
11 OLD ELK SUMMIT RD  
LOLO MT 59847

has applied for a permit to appropriate water from:

**Source:** LOCHSA RIVER

**Tributary:** MIDDLE FORK CLEARWATER  
RIVER

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

**BENEFICIAL USE**

IRRIGATION

**PERIOD OF USE**

04/15 to 10/31

**RATE OF DIVERSION**

0.02 CFS

**LOCATION OF POINT(S) OF DIVERSION:**

LOCHSA RIVER SE1/4NE1/4 Sec. 33, Twp 37N, Rge 14E, B.M. IDAHO County

**PLACE OF USE:** IRRIGATION

| Twp Rge Sec | NE |    |    |    | NW |    |    |    | SW |    |    |    | SE |    |    |    | Totals |
|-------------|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|--------|
| 37N 14E 33  | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | 1.0    |

Total Acres: 1

**CONDITIONS OF APPROVAL**

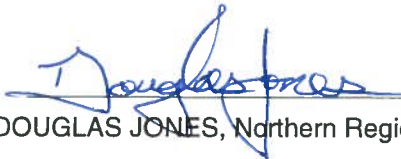
1. Proof of application of water to beneficial use shall be submitted on or before **February 01, 2019**.
2. Subject to all prior water rights.
3. Prior to the diversion and use of water under this approval, the right holder shall comply with all fish screening and/or fish passage requirements of the Idaho Department of Fish and Game.
4. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.0 afa per acre at the field headgate for irrigation of the place of use.
5. 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 suitable control of the diversion.
6. The right holder shall install or construct a straight length of conduit or ditch suitable for installation of a device for measuring the entire flow of water being diverted in connection with this right. If the right holder uses conduit, the straight length of conduit shall be at least fifteen times the diameter of the conduit and shall be above ground or otherwise easily accessible.
7. Upon specific notification by the Department, the right holder shall install and maintain acceptable measuring device(s), including data logger(s), at the authorized point(s) of diversion, in accordance with Department specifications.
8. 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.

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9. Water shall not be diverted under this right when flows in the Lochsa River are below minimum flow amounts as defined by Right 81-10513. The right holder shall be responsible for monitoring the daily flow of the Lochsa River using real-time data and shall cease diverting water when flows in the Lochsa River are below established minimum flow amounts. Unless otherwise specified by the Director of the Department of Water Resources, data from the U.S. Geological Survey Lowell gauging station, No. 13337000, may be used for purposes of determining the daily flow amounts.
10. This right does not grant any right-of-way or easement across the land of another.

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

Signed this 18<sup>th</sup> day of January, 20 18.

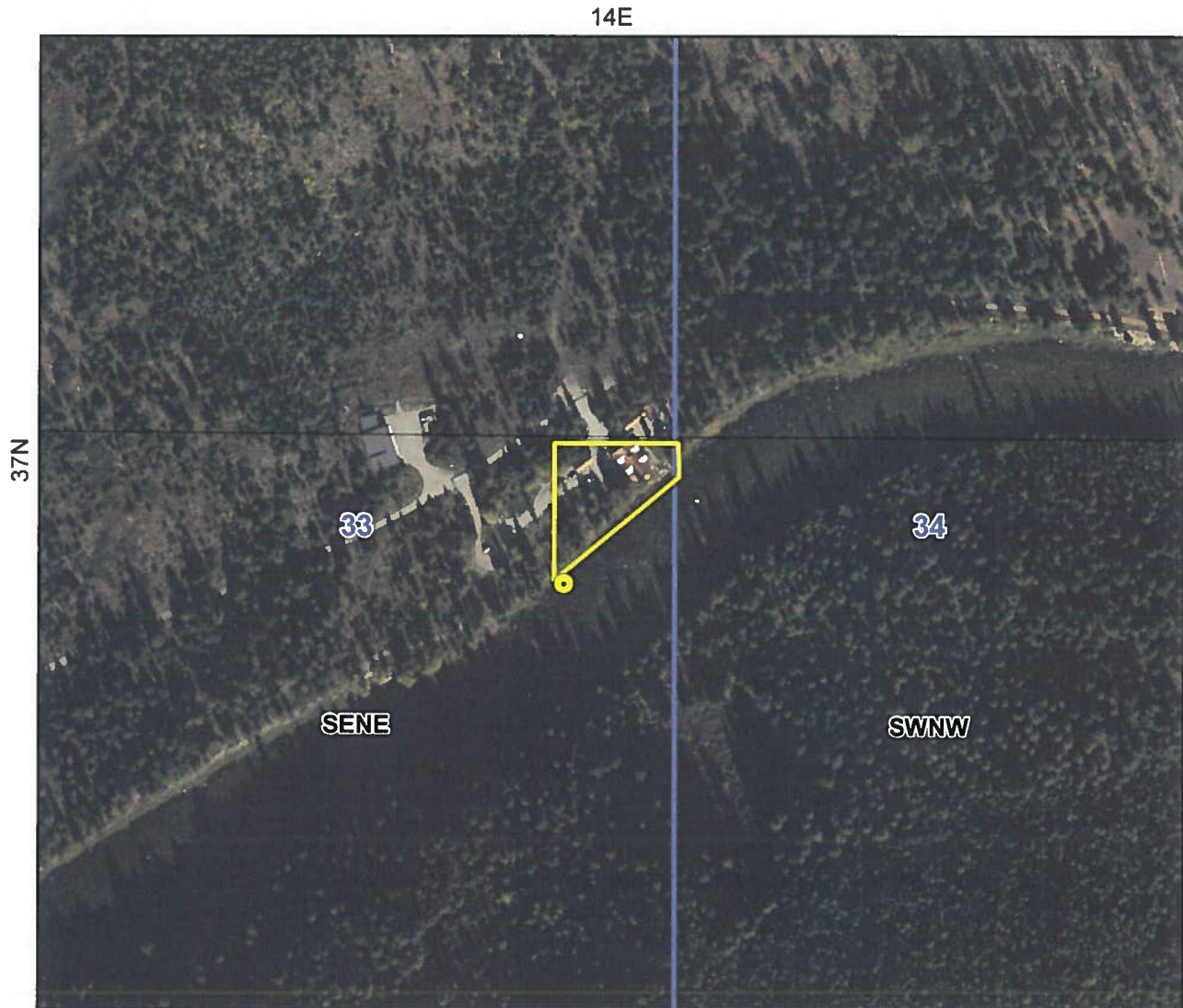
  
DOUGLAS JONES, Northern Regional Manager

State of Idaho  
Department of Water Resources

# Attachment to Permit to Appropriate Water

81-12013

This map depicts the IRRIGATION place of use boundary for this water right at the time of this approval and is attached to the approval document solely for illustrative purposes.



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

0 0.035 0.07 0.14 Miles



# MEMORANDUM

**To:** Water Right Applications 81-12013, 81-12014, and 81-12015

**From:** Adam Frederick AF

**Date:** 1/18/2018

**Re:** Application for a Permit to Appropriate Water within the Salmon and Clearwater River Basins.

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**Re:** Regional Analysis and Recommendation in accordance with Water Appropriation Rules (IDAPA 37.03.08.040.05).

## **Water Supply Information**

Water supply from the Lochsa River should be available at the applicant's property. Future use amounts for the Lochsa River allow for withdrawals of up to 40 cfs and the irrigation of 500 acres. The withdrawals for the 3 applications have been entered into the accounting system and do not exceed those limitations. A minimum stream flow condition will be added to all permits to protect Water Right 81-10513 (Lochsa River MSF).

## **Good Faith, Delay, or Speculative Information**

The applicant plans to divert water for his/her own use on property that he/she owns and there are no known issues with any other party.

## **Financial Resources Information**

No significant resources are anticipated for the proposed irrigation.

## **Local Public Interest**

The Idaho Department of Fish & Game, Department of Environmental Quality, and the Idaho Water Resource Board have been asked for comments on the proposed projects. Idaho Department of Fish & Game and the Idaho Water Resource Board did not respond and Department of Environmental Quality responded that the proposed withdrawals should not be allowed to dry up the Lochsa River.

## **Injury to Other Water Rights**

None anticipated.

## **Recommendation**

The Northern Region recommends proceeding with the processing of this water right application.



STATE OF IDAHO  
DEPARTMENT OF  
ENVIRONMENTAL QUALITY

RECEIVED  
DEC 20 2017  
IDWR / NORTH

1118 F Street • Lewiston, Idaho 83501 • (208) 799-4370  
[www.deq.idaho.gov](http://www.deq.idaho.gov)

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

December 18, 2017

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

Subject: Applications for Permit to Appropriate Public Waters of the State, Ident. No. 81-12013, 81-12014 and 81-12015, Lochsa Holdings, LLC

Dear Mr. Frederick:

DEQ has received a request for comment on the approval of these water right applications to draw 0.02 cfs (for 1 acre), 0.03 cfs (for 1.5 acres), and 0.04 cfs (for 2.07 acres) from three separate locations on the Lochsa River at 37N, R14E, section 33 near Powell, ID. Pumps in the river and piping will supply irrigation water.

The withdrawal location is in assessment unit ID17060303CL020\_05, the Lochsa River. This assessment unit is listed in Category 5 of the Idaho 2014 Integrated Report as not supporting cold water aquatic life due to temperature. Provided all federal, state, and local permits have been obtained, regulations met, and reviews completed, we can offer the following comments.

At no time should the proposed action be allowed to impair existing beneficial uses when stream flow is adequate to sustain existing aquatic life. At no time should the stream be allowed to go dry as a result of legally appropriated and allowable water withdrawals. In order to protect and maintain aquatic life beneficial uses, stream flow adequate to sustain existing aquatic life needs to be maintained (IDAPA 58.01.02.100.01).

Thank you for the opportunity to comment on your application. If you have any questions regarding the Idaho Water Quality Standards or the conditions listed above, please contact me at (208) 983-0808, or by email at [daniel.stewart@deq.idaho.gov](mailto:daniel.stewart@deq.idaho.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Daniel D. Stewart".

Daniel D. Stewart  
Water Quality Analyst

cc: Lochsa Holdings, LLC  
Sujata Connell, DEQ  
TRIM



State of Idaho

## DEPARTMENT OF WATER RESOURCES

Northern Region • 7600 N. Mineral Drive, Suite 100 • Coeur d'Alene, Idaho 83815-7763

Phone: (208) 762-2800 • Fax: (208) 762-2819 • Website: [www.idwr.idaho.gov](http://www.idwr.idaho.gov)

C.L. "BUTCH" OTTER  
Governor

GARY SPACKMAN  
Director

January 19, 2018

LOCHSA HOLDINGS LLC  
11 OLD ELK SUMMIT RD  
LOLO MT 59847

RE: Permit No. 81-12013

### Permit Approval Notice

Dear Permit Holder:

The Department of Water Resources has issued the enclosed permit authorizing you to establish a new water right. Please be sure to thoroughly review the conditions of approval and remarks listed on your permit.

The permit 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 by the Department unless a party petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date as described in the enclosed information sheet.

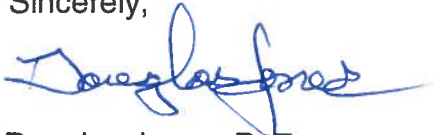
Enclosed is a form entitled 'Instructions for Proof of Beneficial Use.' Please read the instructions carefully since you must take further action to develop this permit into a licensed water right. Also enclosed is a form entitled 'Proof of Beneficial Use.' If your project is already completed, you should complete and submit this form immediately.

Please note that a separate stream channel alteration permit must be obtained from the Department prior to any activity in the stream channel other than construction or maintenance of the diversion structure for your water right(s). Applications for stream channel alteration permits must be filed at least sixty days prior to the commencement of work in the stream.

Also, please note that water right owners are required to report any change of water right 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. Contact any office of the Department or visit the Department's homepage on the Internet to obtain the proper forms and instructions.

If you have any questions, please contact Northern Regional Office at 208-762-2800.

Sincerely,

A handwritten signature in blue ink, appearing to read "Douglas Jones", written over a horizontal line.

Douglas Jones, P. E.

Northern Regional Manager

Enclosure(s)

cc: ALBERT P BARKER

## **CERTIFICATE OF SERVICE**

I hereby certify that on January 19, 2018 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved Permit) to the person(s) listed below:

**RE: WATER RIGHT NO.**

**81-12013**

**ALBERT P BARKER  
BARKER ROSHOLT & SIMPSON LLP  
1010 W JEFFERSON ST STE 102  
PO BOX 2139  
BOISE ID 83701-2139**

**LOCHSA HOLDINGS LLC  
11 OLD ELK SUMMIT RD  
LOLO MT 59847**



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**Tammy Alleman  
Administrative Assistant**

## **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.

The following applications have been filed to appropriate the public waters of the State of Idaho:

**81-12012**  
BLEDSOE-CONNOR HOLDINGS LLC  
11 OLD ELK SUMMIT RD  
LOLO, MT 59847  
Point of Diversion NESW  
S27 T37N R14E  
IDAHO County  
Source GROUND WATER  
Use: COMMERCIAL  
01/01 to 12/31 2 CFS  
Total Diversion: 2 CFS  
Date Filed: 11/6/2017  
Place Of Use: COMMERCIAL

**81-12013**  
LOCHSA HOLDINGS LLC  
11 OLD ELK SUMMIT RD  
LOLO, MT 59847  
Point of Diversion SENE  
S33 T37N R14E  
IDAHO County  
Source LOCHSA RIVER  
Tributary MIDDLE FORK  
CLEARWATER RIVER  
Use: IRRIGATION  
04/15 to 10/31 0.02 CFS  
Total Diversion: 0.02 CFS  
Date Filed: 11/6/2017  
Place Of Use: IRRIGATION  
T37N R14E S33 SENE  
Total Acres: 1

**81-12014**  
LOCHSA HOLDINGS LLC  
11 OLD ELK SUMMIT RD  
LOLO, MT 59847  
Point of Diversion SENE  
S33 T37N R14E  
IDAHO County  
Source LOCHSA RIVER  
Tributary MIDDLE FORK  
CLEARWATER RIVER  
Use: IRRIGATION  
04/15 to 10/31 0.03 CFS  
Total Diversion: 0.03 CFS  
Date Filed: 11/6/2017  
Place Of Use: IRRIGATION  
T37N R14E S33 SENE  
Total Acres: 1.5

**81-12015**  
LOCHSA HOLDINGS LLC  
11 OLD ELK SUMMIT RD  
LOLO, MT 59847  
Point of Diversion SENE  
S33 T37N R14E  
IDAHO County  
Source LOCHSA RIVER  
Tributary MIDDLE FORK  
CLEARWATER RIVER  
Use: IRRIGATION  
04/15 to 10/31 0.04 CFS  
Total Diversion: 0.04 CFS  
Date Filed: 11/6/2017  
Place Of Use: IRRIGATION  
T37N R14E S33 SENE  
Total Acres: 2.1

Applications 81-12012, 81-12013, 81-12014 & 81-12015 propose the diversion and use of water from ground water tributary to Lochsa River, and also directly from the Lochsa River, a 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 estab-

lished after the minimum stream flow. The water use proposed in these applications will benefit from the subordination provision because the diversion rate and acres will be applied to the subordination amounts specified in the decree for the Wild & Scenic River listed above.

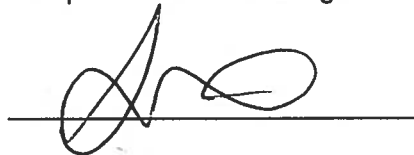
Permits will be subject to all prior water rights. For additional information concerning the property location, contact Northern Region office at (208) 762-2800. Protests may be submitted based on the criteria of Idaho Code § 42-203A. Any protest against the approval of this application must be filed with the Director, Dept. of Water Resources, Northern Region, 7600 Mineral Drive, Suite 100, Coeur D'Alene ID 83815 together with a protest fee of \$25.00 for each application on or before 1/8/2018. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director  
Published on 12/20/2017 and 12/27/2017

## AFFIDAVIT OF PUBLICATION

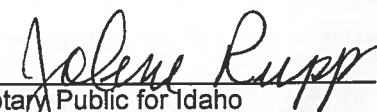
STATE OF IDAHO  
County of Idaho - ss.

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 20th day of December, 2017; and the last publication on the 27th day of December, 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 27th day of December 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.

  
Notary Public for Idaho  
Residing at Grangeville, ID  
My commission expires: 7-28-19



RECEIVED  
JAN 02 2018

ILWR / NORTH