

State of Idaho
Department of Water Resources
Water Right License
WATER RIGHT NO. 85-07642

PRIORITY: November 17, 1997

Maximum Diversion Rate: 0.50 CFS
Maximum Diversion Volume: 362.0 AF

It is hereby certified that:

SWEETWATER AQUACULTURE INC GREGORY J DILLON PRES
29977 SWEETWATER LN LAPWAI ID 83540-6135

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated November 17, 1997, and has submitted Proof of Beneficial Use on December 24, 1998. An examination confirms water is diverted from:

SOURCE:
SPRINGS
GROUND WATER

TRIBUTARY:
SWEETWATER CREEK

and a water right has been established as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL DIVERSION VOLUME</u>
FISH PROPAGATION STORAGE	01/01 to 12/31		7.8 AF
DIVERSION TO STORAGE	01/01 to 12/31	0.50 CFS	
FISH PROPAGATION	01/01 to 12/31	0.50 CFS	354.0 AF

LOCATION OF POINT(S) OF DIVERSION:

SPRINGS	L30 (SW¼SW¼SE¼)	Sec. 22, Twp 35N, Rge 04W, B.M. NEZ PERCE County
GROUND WATER	L30 (SW¼SE¼)	Sec. 22, Twp 35N, Rge 04W, B.M. NEZ PERCE County
GROUND WATER	L30 (SW¼SE¼)	Sec. 22, Twp 35N, Rge 04W, B.M. NEZ PERCE County
GROUND WATER	L30 (SW¼SE¼)	Sec. 22, Twp 35N, Rge 04W, B.M. NEZ PERCE County
GROUND WATER	L31 (SE¼SE¼)	Sec. 22, Twp 35N, Rge 04W, B.M. NEZ PERCE County
SPRINGS	L31 (SW¼SE¼SE¼)	Sec. 22, Twp 35N, Rge 04W, B.M. NEZ PERCE County

PLACE OF USE: FISH PROPAGATION AND FISH PROPAGATION STORAGE

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
35N	04W	22															X L 30	X L 31	

CONDITIONS OF APPROVAL

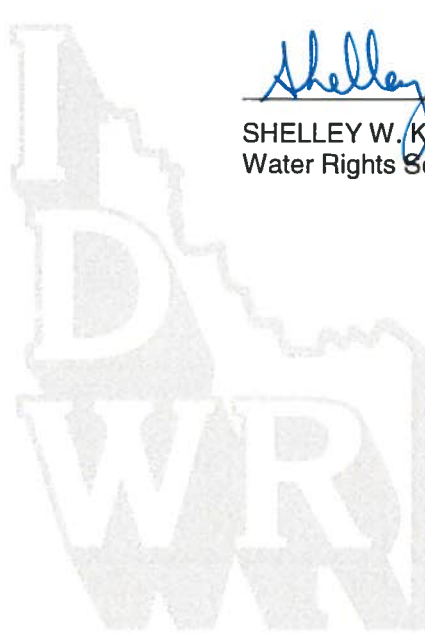
1. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.
2. The issuance of this right does not grant any right-of-way or easement across the land of another.
3. The right holder shall not divert water at a rate exceeding what is reasonably necessary for the beneficial use authorized by this right.

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Water Right License
WATER RIGHT NO. 85-07642

4. Right 85-7642 authorizes the storage of an annual total of 7.8 acre-feet, 6.9 acre-feet to be used for the initial filling of the 7 ponds, and .9 acre-feet for the replacement of losses due to seepage and evaporation.

This license is issued pursuant to the provisions of Section 42-219, Idaho Code. The water right confirmed by this license is subject to all prior water rights and shall be used in accordance with Idaho law and applicable rules of the Department of Water Resources.

Signed this 8th day of September, 2017.

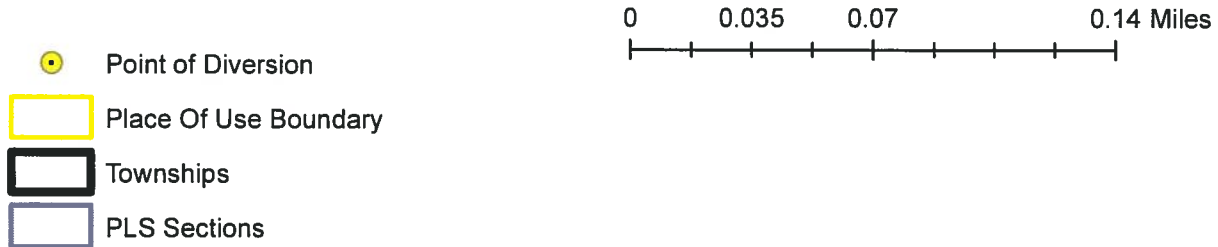
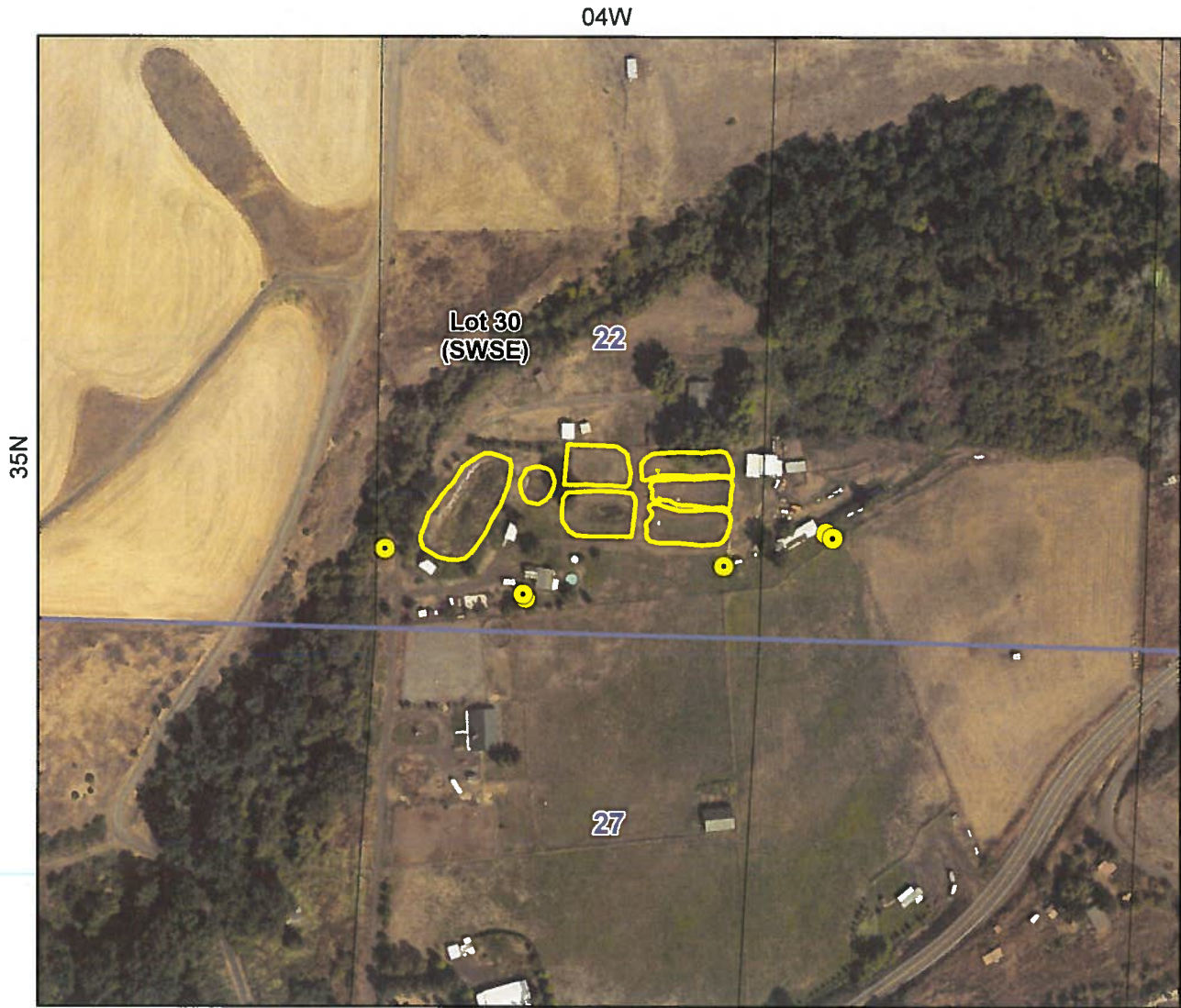


Shelley W. Keen

SHELLEY W. KEEN
Water Rights Section Manager

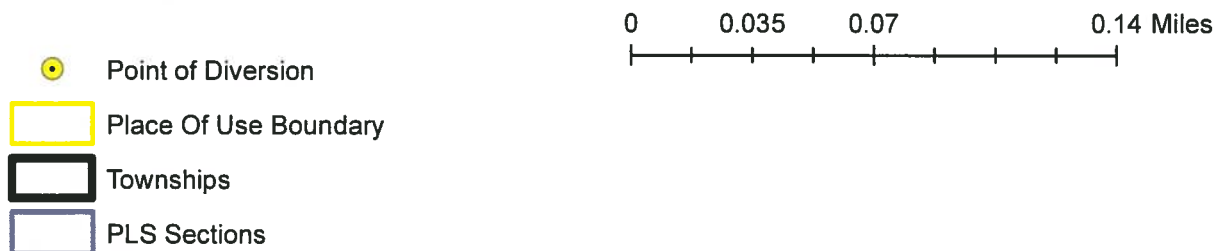
State of Idaho
Department of Water Resources
Attachment to Water Right License
85-7642

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



State of Idaho
Department of Water Resources
Attachment to Water Right License
85-7642

This map depicts the FISH PROPAGATION 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.





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, 2017

SWEETWATER AQUACULTURE INC
GREGORY J DILLON PRES
29977 SWEETWATER LN
LAPWAI ID 83540-6135

RE: License No. 85-7642

Issuance of License

Dear Water Right Holder(s):

The Department of Water Resources has issued the enclosed Water Right License confirming that a water right has been established in accordance with your permit. Please be sure to thoroughly review the conditions of approval and remarks listed on your license. Also enclosed is a copy of the approved application for amendment.

The license 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.

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 me at 208-287-4951.

Sincerely,

Pamela Skaggs, Water Rights Supervisor
Water Right Permits Section

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on September 14, 2017 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (**Approved License**) to the person(s) listed below:

RE: WATER RIGHT NO.

85-7642

**SWEETWATER AQUACULTURE INC
GREGORY J DILLON PRES
29977 SWEETWATER LN
LAPWAI ID 83540-6135**



Darla Block
Technical Records Specialist

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.

State of Idaho
Department of Water Resources
APPLICATION FOR AMENDMENT
(For Licensing Purposes)
WATER RIGHT NO. 85-07642

RECEIVED

SEP 07 2017

DEPARTMENT OF
WATER RESOURCES

PRIORITY: November 17, 1997

Maximum Diversion Rate: 0.50 CFS
Maximum Diversion Volume: 362.0 AF

Comes now

SWEETWATER AQUACULTURE INC GREGORY J DILLON PRES
29977 SWEETWATER LN LAPWAI ID 83540-6135

and represents to the Idaho Department of Water Resources that he is the owner and holder of Permit to Appropriate the Public Waters of the State of Idaho No. 85-07642, and requests that the permit be changed as follows:

SOURCE:
SPRINGS
GROUND WATER

TRIBUTARY:
SWEETWATER CREEK

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL DIVERSION VOLUME</u>
FISH PROPAGATION STORAGE	01/01 to 12/31		7.8 AF
DIVERSION TO STORAGE	01/01 to 12/31	0.50 CFS	
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LOCATION OF POINT(S) OF DIVERSION:

SPRINGS	L30 (SW¼SW¼SE¼) Sec. 22, Twp 35N, Rge 04W, B.M. NEZ PERCE County
GROUND WATER	L30 (SW¼SE¼) Sec. 22, Twp 35N, Rge 04W, B.M. NEZ PERCE County
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GROUND WATER	L31 (SE¼SE¼) Sec. 22, Twp 35N, Rge 04W, B.M. NEZ PERCE County
SPRINGS	L31 (SW¼SE¼SE¼) Sec. 22, Twp 35N, Rge 04W, B.M. NEZ PERCE County

PLACE OF USE: FISH PROPAGATION STORAGE and FISH PROPAGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
35N	04W	22															X L 30	X L 31	

Permit holder asserts that no one will be injured by such change and that such change will be made at permit holder's own risk. Signed this 31ST day of AUGUST, 2017.


(Signature)

State of Idaho
Department of Water Resources
APPLICATION FOR AMENDMENT
(For Licensing Purposes)
WATER RIGHT NO. 85-07642

FOR DEPARTMENT USE ONLY

Preliminary check by _____ Fee = _____ Receipted by _____ # _____ Date _____

ACTION OF THE DEPARTMENT OF WATER RESOURCES

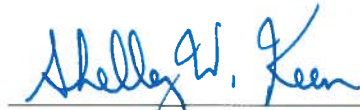
The Idaho Department of Water Resources hereby approves the above Application for Amendment for Permit No. 85-07642 with the following:

CONDITIONS OF APPROVAL

1. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.
2. The issuance of this right does not grant any right-of-way or easement across the land of another.
3. The right holder shall not divert water at a rate exceeding what is reasonably necessary for the beneficial use authorized by this right.
4. Right 85-7642 authorizes the storage of an annual total of 7.8 acre-feet, 6.9 acre-feet to be used for the initial filling of the 7 ponds, and .9 acre-feet for the replacement of losses due to seepage and evaporation.

This amendment is issued pursuant to the provisions of Section 42-211, Idaho Code.

Signed this 8th day of September, 2017.



SHELLEY W. KEEN
Water Rights Section Manager



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

September 1, 2017

SWEETWATER AQUACULTURE INC
ATTN GREGORY DILLON
29977 SWEETWATER LN
LAPWAI ID 83540-6135

RE: Amendment of Permit for Water Right 85-7642

Dear Mr. Dillon:

The Department of Water Resources sent you an Application for Amendment form on August 10, 2017, for the above referenced Permit. The amendment is required because the field examiner who verified the water use established that you drilled a 4th well and are currently using it as part of your fish rearing facility. The above permit did not authorize the use of Well #4 as part of the water right permit. As of this date the Department has not received a response.

If I do not receive the amendment within fourteen (14) days or by September 15, 2017, I will assume you are no longer interested in adding Well #4 to your fish propagation facility, and I will license the permit for only the original 3 wells and the springs. I must warn you that if you do not return this form with the \$100.00 fee there will be no legal authorization allowing you to use Well #4 for this fish rearing facility until a new water right permit or water right transfer is issued that allows you to use the well for your operation. In case the amendment form I sent you has been misplaced, a new one is enclosed.

If you have any questions, please contact me as soon as possible.

Sincerely,



Daniel Nelson
Staff Hydrologist
Idaho Department of Water Resources
Telephone (208) 287-4856
Fax (208) 287-6700 (attn: Dan Nelson)

Enclosures

Nelson, Dan

From: Nelson, Dan
Sent: Thursday, August 31, 2017 2:36 PM
To: 'usminicattle@yahoo.com'
Subject: Final Chance to Amend 85-7642
Attachments: 2nd chance amendment letter.pdf

Dear Mr. Dillion,

Attached is a final attempt to contact you to amend water right permit 85-7642 before licensing. I have mailed a copy of this letter along with a copy of the amendment. If you have any questions, please don't hesitate to contact me.

Respectfully,

Daniel Nelson
Water Right Analyst 3
Idaho Department of Water Resources
Telephone (208) 287-4856
Fax (208) 287-6700 (attn: Dan Nelson)



State of Idaho

DEPARTMENT OF WATER RESOURCES

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C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

August 10, 2017

SWEETWATER AQUACULTURE INC
ATTN GREGORY DILLON
29977 SWEETWATER LN LAPWAI ID 83540-6135

RE: Amendment of Permit for Water Right 85-7642

Dear Mr. Dillon:

The Idaho Department of Water Resources (Department) is reviewing the permit referenced above prior to issuing a water right license. By issuing a license, the Department confirms the extent of development that has been established in compliance with the terms of the permit.

The examiner who verified your water use reported that certain elements of the permit has been developed differently than described on your permit. Changes that do not increase the authorized use of water under the permit can be requested and approved in accordance with Section 42-211, Idaho Code. Before a license can be issued, your permit must be amended to depict your water use as it was actually developed.

The application for permit you submitted and the permit approved by the Department allowed the development of diversion to storage, fish propagation and fish propagation storage from 3 wells and 2 springs in Government Lots 30 (SWSE) and 31 (SESE) of Section 22, Township 35 North, Range 4 West in Nez Perce County.

Based on the examiner's report and my re-examination of the permit, 4 wells and 2 springs were actually developed to supply the fish rearing facility. Unfortunately, Well # 4 was developed after you submitted proof of beneficial use for the permit, and the diversion rate produced by this well cannot be used to enhance the diversion rate developed during the authorized development time for this permit.

During my re-examination, I spoke to you about filing this amendment to include Well # 4 in the Government Lot 31 (SESE) to this permit, which would allow you to continue to divert water from well # 4. This amendment will not give you the additional diversion rate or volume produced by Well # 4, but since you are not using Well #1 and Well # 2 in the fish rearing facility, this amendment will allow you to continue to divert water from Well # 4 for the fish rearing facility as long as you stay under the 0.50 cfs diversion rate legally developed from the 2 springs and 3 original wells allowed by this permit.

We then discussed the possibility of filing a new application for permit to include the diversion rate and volume produced from Well # 4, and increasing the diversion rate and volume from your other 3 wells to ensure you had adequate water flow to supply your fish rearing facility. I also discovered that you may want to increase the volume of fish propagation storage to cover the seepage and evaporation losses from your fish storage ponds. I discovered that you actually need 12.3 af of water to cover the filling of your fish storage ponds and maintain the pond levels due to pond losses due to evaporation and seepage. This permit is limited to a total volume of 7.8 af, so I cannot recommend more than that amount of volume with this permit. The 7.8 af does allow you to fill all 7 of your ponds, and allows for some minimal seepage and evaporation losses. Unfortunately, there may come a time when you wish to keep the ponds full year round, and wouldn't be able to do so until you have covered the additional losses due to seepage and evaporation. When you file your new application for permit, you will want to include at least an additional 4.5 af of fish propagation storage to cover the year round seepage and evaporation losses from fish propagation storage ponds.

The enclosed document is the amendment of permit to include Well # 4 as a point of diversion for your water right. As we already discussed, this will allow you to use this well for your fish rearing facility, but you will need to file a new application for permit to increase the diversion rate and volume for your facility. The enclosed Application for Amendment form depicts the elements of the water right as they will appear on the license when issued. Please review the amendment form carefully. If you concur with the information presented, please sign and return the form with the \$100.00 filing fee within 14 days or by August 24, 2017.

If you have any questions, please don't hesitate to contact me.

Sincerely,



Daniel A. Nelson

Analyst 3

Water Right Section

Idaho Department of Water Resources

Telephone # (208) 287-4856

Email – dan.nelson@idwr.idaho.gov

Enclosure(s): Application for Amendment with map