

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 71-10973

Priority: May 04, 2017

Maximum Diversion Rate: 1.50 CFS

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

has applied for a permit to appropriate water from:

Source: REDFISH LAKE CREEK **Tributary:** SALMON RIVER

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

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>
FISH PROPAGATION	01/01 to 12/31	1.50 CFS

LOCATION OF POINT(S) OF DIVERSION:

REDFISH LAKE CREEK NW1/4SW1/4 Sec. 35, Twp 10N, Rge 13E, B.M.
CUSTER County

PLACE OF USE: 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	
10N 13E 35											X						

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **August 01, 2019**.
2. Subject to all prior water rights.
3. Fish propagation use provides up to 1.5 cfs of non-consumptive pass through water for use in a concrete holding tank constructed adjacent to Redfish Lake Creek that will be used to retain returning adult sockeye salmon for research and spawning activities.
4. Prior to the diversion and use of water under this approval, the right holder shall comply with applicable permitting requirements of other agencies.
5. 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.
6. This right does not grant any right-of-way or easement across the land of another.
7. Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 71.

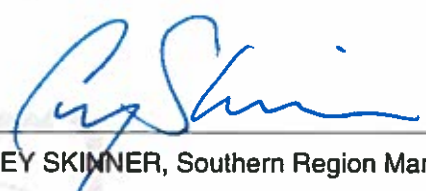
State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 71-10973

8. Prior to diversion of water under this right, the right holder shall install a lockable device, subject to the approval of the Department, in a manner that will provide the watermaster suitable control of the diversion.
9. Prior to the diversion and use of water under this right, the right holder shall install and maintain acceptable measuring device(s), including data logger(s), at the authorized point(s) of diversion and in accordance with Department specifications, or shall obtain an approved variance from the Department to employ an alternative method to determine and record the amount of water diverted.
10. 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.
11. Use of water under this right shall be non-consumptive.

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

Signed this 27TH day of July, 20 17.


COREY SKINNER, Southern Region Manager

State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

71-10973

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.



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

0 0.035 0.07 0.14 Miles





State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region • 650 Addison Ave W, Suite 500 • Twin Falls, Idaho 83301-5858

Phone: (208) 736-3033 • Fax: (208) 736-3037 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

August 2, 2017

STATE OF IDAHO
DEPT OF FISH & GAME
PO BOX 25
BOISE ID 83707

RE: Permit No. 71-10973

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.

As a permit owner you must commence the excavation or construction of the diverting works within one year of the date the permit was issued, and you must proceed diligently until the project is completed. The date shown under condition no. 1 is the date when the project must be completed.

The Department will send you a 'Proof Due Notice' approximately 60 days prior to the above referenced date requesting you to file either a Proof of Beneficial Use form or a Request for Extension of Time form.

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 me at 208-736-3033.

Sincerely,

A handwritten signature in black ink, appearing to read "Corey Skinner". The signature is fluid and cursive, with the first name "Corey" written in a larger, more prominent script than the last name "Skinner".

Corey Skinner
Southern Regional Manager

Enclosure(s)

cc:

CINDY YENTER, WATER DISTRICT 170
MORGAN MILLER, WATER DISTRICT 71

CERTIFICATE OF SERVICE

I hereby certify that on August 2, 2017 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. 71-10973

**STATE OF IDAHO
DEPT OF FISH & GAME
PO BOX 25
BOISE ID 83707**

**CINDY YENTER WATER MASTER
WATER DISTRICT 170
102 S WARPATH
SALMON ID 83467**

via e-mail

**MORGAN MILLER WATER MASTER
WATER DISTRICT 71
3594 HOTSPRINGS RD
CHALLIS ID 83226**

via e-mail



**Denise Maline
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.

Mills, William

From: Kirk, Zach <zach.kirk@idfg.idaho.gov>
Sent: Tuesday, June 20, 2017 3:54 PM
To: Mills, William
Subject: Redfish Collection Facility Clarification

Hello William,

I am writing to confirm/clarify that the adult holding pond referenced in the water right application is adjacent to the creek.

Thanks,

Zach Kirk, P.E.
Staff Engineer
Idaho Dept. of Fish and Game
Headquarters Office
P.O. Box 25
600 South Walnut
Boise, Idaho 83707
(208)287-2842



AFFIDAVIT OF PUBLICATION

State of Idaho, County of Custer, ss:

I, Anna Means, representing the Challis Messenger, a weekly newspaper, published at Challis, Idaho, do solemnly swear that the notice hereto attached and made a part hereof, was published in the regular and entire issue of the Challis Messenger for 2 consecutive weeks, commencing with the issue dated June 1st 2017 and ending with the issue dated June 8th 2017

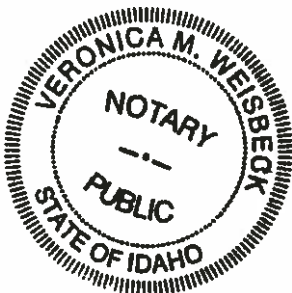
Anna Means

STATE OF IDAHO

COUNTY OF CUSTER

On this 8th day of June in the year of 2017, before me, a Notary Public, personally appeared Anna Means, 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 (s)he executed the same.

Veronica M. Weisbeck
Notary Public of Idaho
Residing at Challis, Idaho
My commission expires 11/9/21



Via E-mail
RECEIVED

JUN 15 2017

DEPT OF WATER RESOURCES
SOUTHERN REGION

PAGE 10 - THE CHALLIS MESSENGER - THURSDAY, JUNE 8, 2017



PUBLIC Notices

The People's Right to Know

The following application(s) have been filed to appropriate the public waters of the State of Idaho:
71-10973
IDAHO DEPT OF FISH & GAME

PO BOX 25
BOISE, ID 83707
Point of Diversion NWSW S35
T10N R13E CUSTER County
Source REDFISH LAKE CREEK
Tributary SALMON RIVER
Use: FISH PROPAGATION
01/01 to 12/31 1.5 CFS
Total Diversion: 1.5 CFS
Date Filed: 4/5/2017
Place Of Use: FISH PROPAGATION

**STUFF IT.
BURN IT.
PACK IT.
READ IT.**

But whatever
you do,
don't miss it.

Subscribe to:
The Challis Messenger
310 N. Main • 879-4445

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 non-consumptive purposes.

Permits will be subject to all prior water rights. For additional information concerning the property location, contact Southern Region office at (208) 736-9033; or for a full description of the right(s), please see www.idwr.idaho.gov/WaterManagement/WaterRights/#NewListings.
Protests may be submitted based on the criteria of Idaho Code 84-203A. Any protest against the approval of this application must be filed with the Director, Dept. of Water Resources, Southern Region, 650 Addison Ave W, Ste 500, Twin Falls, ID 83301 together with a protest fee of \$25.00 for each application on or before June 19, 2017. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director
Published: June 1 and 8, 2017

Maline, Denise

From: Yenter, Cindy
Sent: Wednesday, June 07, 2017 4:06 PM
To: Maline, Denise
Subject: RE: Comment Letter for 71-10973

Denise – I have no issues with approval of this application. Non-deminimus diversions in the Stanley Basin require measurement , including non consumptive uses such as this. The permit should contain the applicable Wild and Scenic measurement conditions but allow for approved variance of the logger requirement as necessary.

The design plans were not real clear regarding the inclusion of a standard measuring device. I have spoken with the IDFG design engineer about this and we will proceed separately with figuring this out and/or approving a waiver for use of a non-standard device. This should not hold up the approval process.

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

From: Maline, Denise
Sent: Thursday, May 25, 2017 5:03 PM
To: Yenter, Cindy <Cindy.Yenter@idwr.idaho.gov>
Subject: Comment Letter for 71-10973

Hi Cindy,

Attached is an application for permit within your district, currently being processed. Please review the information and provide any necessary comments within 21 days. Hope all is well up North!!

Thank you,

Denise