

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 79-14264

Priority: July 15, 2016

Maximum Diversion Rate: 0.16 CFS

This is to certify, that EVELYN DEWITT
220 RIVER ST
WHITE BIRD ID 83554

has applied for a permit to appropriate water from:

Source: SALMON RIVER**Tributary:** SNAKE 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>
IRRIGATION	03/15 to 10/31	0.16 CFS

LOCATION OF POINT(S) OF DIVERSION:

SALMON RIVER L4 (SE ¼ NW ¼) Sec. 27, Twp 28N, Rge 01E, B.M. IDAHO County

PLACE OF USE: IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
28N	01E	27																	8.0
																			L 4

Total Acres: 8

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **August 01, 2022**.
2. Subject to all prior water rights.
3. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the place of use.
4. 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.
5. 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.
6. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which the permit holder had no control.

State of Idaho
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NO. 79-14264

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

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

Signed this 8 day of AUGUST, 20 17.


Angela M. Grimm
Water Rights Supervisor

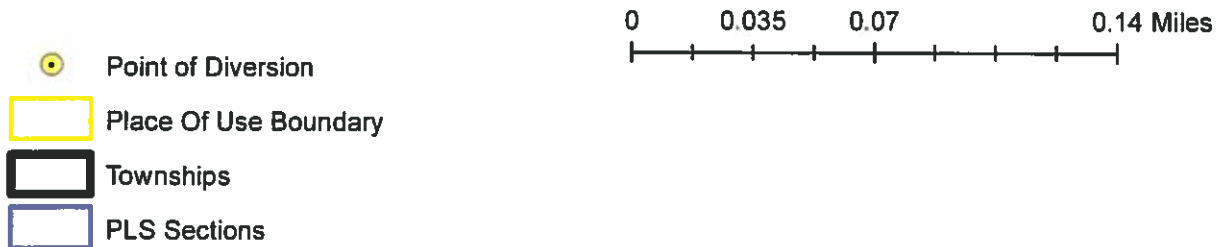
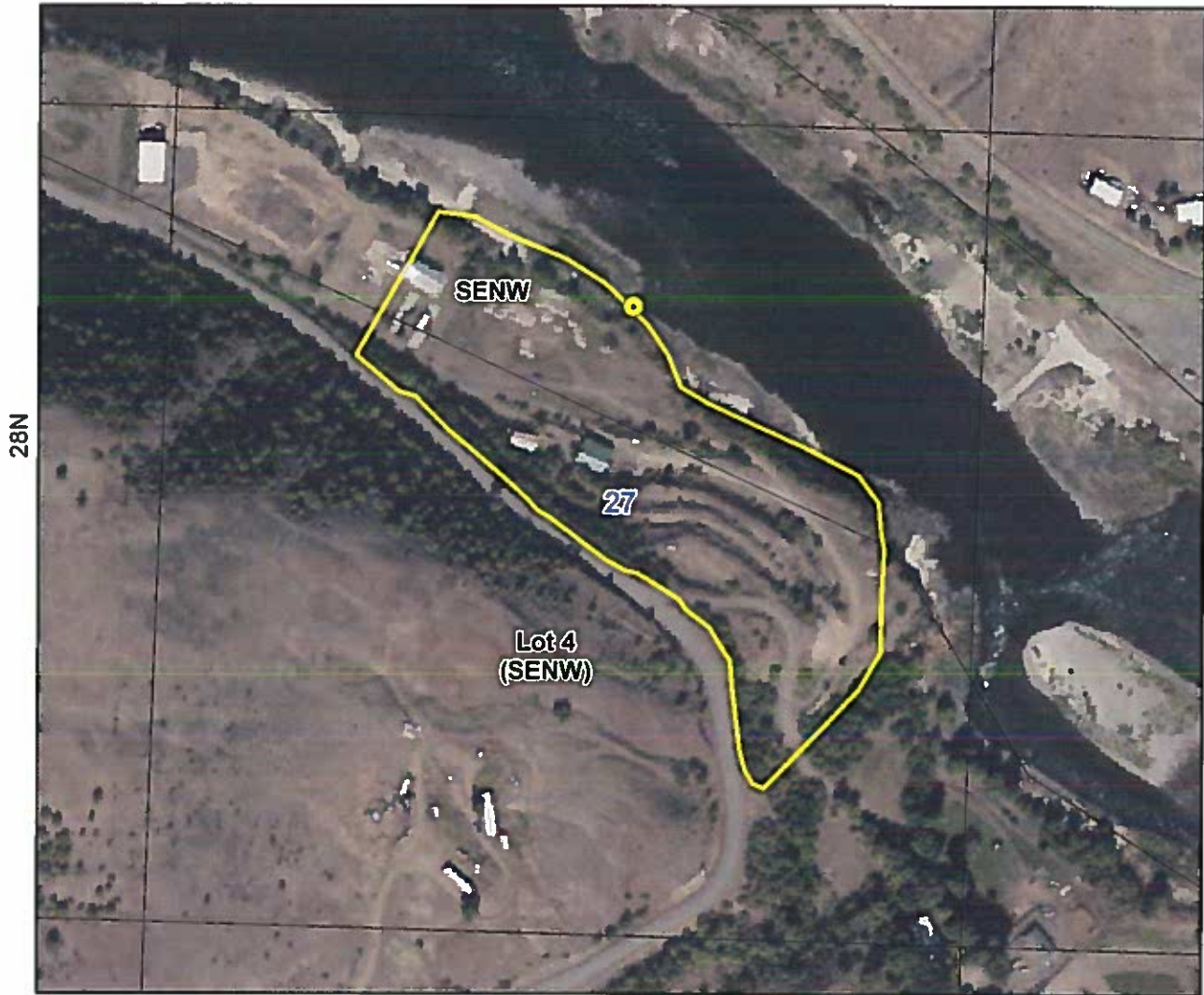
State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

79-14264

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.

01E





State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region • 2735 Airport Way • Boise, Idaho 83705-5082

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

August 8, 2017

EVELYN DEWITT
220 RIVER ST
WHITE BIRD ID 83554

RE: Permit No.79-14264

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)334-2190.

Sincerely,

A handwritten signature in black ink, appearing to read "Nick Miller" with a stylized flourish at the end.

Nick Miller

Western Regional Manager

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on August 8, 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.

79-14264

**EVELYN DEWITT
220 RIVER ST
WHITE BIRD ID 83554**



**Rachel Neely
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.

MEMORANDUM

TO: Application No. 79-14264

FROM: Justin Shearer, Water Resource Agent

DATE: 7/10/2017

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

The application proposes to pump 0.16 cfs of water from the Salmon River for Irrigation purposes.

The site is located on the Salmon River just NW of the Bracket Gulch and Salmon River confluence.

Wild & Scenic River (WSR) Processing

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

Typically WSR issues would be in Bs 77 upstream from Long Tom Bar on the Salmon River, WSR right 77-11941.² This also incorporates the entire Middle Fork Salmon River drainage, MSR right 77-13844.³

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

Specific Information for this Application - WSR processing is not required because the proposed source/diversion are downstream from any WSR rights.

Minimum Streamflow Rights (MSF)

General Information - MSF analysis applies to all surface water upstream⁴ from any MSF rights. Basins 77-79 have various MSF rights that might affect applications. By agreement with SO regarding these basins, specific MSF conditions of approval are not necessary provided the reviewer checks MSF issues and documents the file with the results (7/8/09 telephone conference).

Downstream MSF right 3-8 on the Snake River⁵ is not subordinate to "future dcmi" uses or "future non-dcmi (with cfs limits)" uses. Downstream Salmon River MSF right 79-14119⁶ is subordinated to future dcmi uses but not to future non-dcmi uses.

¹ POD = T23N-R1W-S12.

² POD = T25N-R5E-S31.

³ POD = T23N-R16E-S33.

⁴ Shallow ground water tributary to surface water might involve MSF issues under conjunctive management thinking. Discuss with your supervisor if this comes up.

⁵ POD = T31N-R5W-S10.

⁶ From mouth of river T29N-R4W-S14 upstream thru about Shepp Ranch T24N-R6E-S12.

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

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

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

This leads to the following MSF conclusions for this application:

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

The attached MSF spreadsheet shows the application meets the criteria for MSF rights in the same basin.

Discussion

Financial Resources:

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

Local Public Interest:

Idaho Fish & Game Clearwater Region was contacted for comment and/or recommendation regarding this application. However, because no response was received IDWR should assume the IDFG does not object to this application. Additionally, IDWR Planning Section was contacted for comment, however no response was received in return. Thus, it should be assumed that there are no public interest concerns over Application 79-14264.

Conditions of Approval

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

Per IDWR standard usage description, use the following:

- **029 standard** - 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.

BS 79 MINIMUM STREAMFLOW RIGHTS -- QUERY 12/31/2015 (no change from 2013)

Basin	Sequence	Priority	Source	Subordinate to Future DCMI	Subordinate to Future Non DCMI (CFS Limit)	Non DCMI CFS Approved Since 4/1/2005
79	14054	12/31/1975	BERNARD CREEK	These are federal rights for Hells Canyon Natl. Rec. Area, no conditions for future dcmi or future non-dcml cfs except these msf rights are subordinated to junior de minimus domestic & stock uses meeting rate/volume limits in 42-111. No pending applications in these areas, will deal with future issues when they occur. Other msf rights listed below are typical state rights with dcml etc. factors to evaluate in processing new applications.		
79	14055	12/31/1975	BIG CANYON CREEK			
79	14056	12/31/1975	CORRAL CREEK			
79	14057	12/31/1975	DEEP CREEK			
79	14058	12/31/1975	GRANITE CREEK			
79	14059	12/31/1975	JONES CREEK			
79	14060	12/31/1975	KIRBY CREEK			
79	14061	12/31/1975	KIRKWOOD CREEK			
79	14062	12/31/1975	KLOPTON CREEK			
79	14063	12/31/1975	KURRY CREEK			
79	14064	12/31/1975	OXBOW CREEK			
79	14065	12/31/1975	SHEEP CREEK			
79	14066	12/31/1975	THREE CREEK			
79	14067	12/31/1975	WEST CREEK			
79	14123	4/1/2005	LITTLE SLATE CREEK	YES	1	0
79	14118	4/1/2005	RICE CREEK	YES	0.7	0.2
79	14117	4/1/2005	ROCK CREEK	YES	1.3	0.15
79	14119	4/1/2005	SALMON RIVER	YES	NO	N/A
79	14121	4/1/2005	SKOOKUMCHUCK CREEK	YES	0.4	0
79	14122	4/1/2005	SLATE CREEK	YES	2	0
79	14120	4/1/2005	WHITE BIRD CREEK	YES	1.3	0.1

IF APPLICATION WITHIN ABOVE *ITALICIZED* DRAINAGES FOR HELLS CANYON AREA, CONSULT SUPERVISOR.

OTHERWISE, DCMI APPL OK, NON-DCMI APPL OK WITHIN ALLOWABLE PARAMETERS. SEE "PROCEDURE" BELOW.

PROCEDURE: DCMI APPL ok for all msf rights in Bs 79 as noted in review memo. NON-DCMI CONSUMPTIVE USE APPL: See if within drainage with msf right. For that msf right, if column G (last) is less than column F (2nd to last), ok to process appl. Note in review memo that senior msf right will be subordinate to junior application under the future non-dcml clause. Do not need to repeat for msf rights downstream from the msf right you are actively checking since the downstream future non-dcml rates are higher for those bigger sources. Satisfying the smaller upstream rate test satisfies the larger downstream rate test. For the msf right you are actively checking, if column G (last) is equal to or greater than column F (2nd to last), consult supervisor for next step.

EXAMPLE: Appl 79-98765 for 0.2 cfs irrigation, future non-dcml consumptive use tributary to Rice Creek. Rice Creek msf right with 4/1/2005 priority is subordinate to 0.7 cfs future non-dcml use, only 0.2 cfs approved since 4/1/2005. Process appl and note review memo about this. Salmon River msf right will not be subordinate to application (no future non-dcml clause in that msf right) as noted in review memo. Updates to this spreadsheet will eventually show another 0.2 cfs has been approved for Rice Creek.

Neely, Rachel

From: Neely, Rachel
Sent: Wednesday, May 31, 2017 3:50 PM
To: 'ray.hennekey@idfg.idaho.gov'
Subject: Application for Permit No. 79-14264
Attachments: IDFG Recommendation Form.docx; Application for Permit 79-14264.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

May 31, 2017

STATE OF IDAHO
DEPT OF FISH & GAME
ATTN: RAY HENNEKEY
CLEARWATER REGION

RE: Application for Permit No. 79-14264

Dear Mr. Hennekey:

The Idaho Department of Water Resources (IDWR) is seeking written comment and/or recommendation(s) from your agency regarding the above referenced water right application(s). Copy(s) of the application(s) are enclosed with this email for your reference. Please review the application(s), complete the enclosed recommendation form, and submit your reply, if any, to this office by the protest deadline of June 5, 2017.

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

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

Sincerely,

Rachel Neely

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

RECEIVED

MAY 30 2017

WATER RESOURCES
WESTERN REGION

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO
County of Idaho - ss.

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

79-14264

EVELYN DEWITT

220 RIVER ST

WHITE BIRD, ID 83554

Point of Diversion L4(SENW)

S27 T28N R01E IDAHO

County Source SALMON

RIVER Tributary SNAKE

RIVER

Use: IRRIGATION 03/15 to

10/31 0.16 CFS

Total Diversion: 0.16 CFS

Date Filed: 7/15/2016

Place of Use: IRRIGATION

T28N R01E S27 L4(SENW)

Total Acres: 8

Permits will be subject to all

prior water rights. For addi-

tional information concerning

the property location, contact

Western Region office at (208)

334-2190; or for a full descrip-

tion of the right(s), please see

www.idwr.idaho.gov. Protests

may be submitted based on the

criteria of Idaho Code § 42-

203A. Any protest against the

approval of the application(s)

must be filed with the Director,

Dept. of Water Resources,

Western Region, 2735 Airport

Way, Boise ID 83705 together

with a protest fee of \$25.00 for

each application on or before

6/5/2017. The protestant must

also send a copy of the protest

to the applicant.

GARY SPACKMAN,

Director Published on

5/17/2017 and 5/24/2017

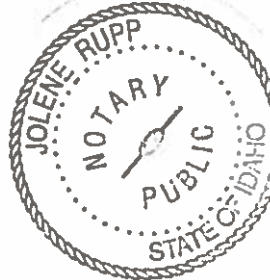
✓ OK RD
6/7/17

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 17th day of May, 2017; and the last publication on the 24th day of May, 2017; 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 24th day of May in the year of 2017, before me a Notary Public personally appeared Sarah S. Klement, known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that she executed the same.



Jolene Rupp
Notary Public for Idaho
Residing at Grangeville, ID
My commission expires: 1-22-19

Neely, Rachel

From: Bassista, Tom <thomas.bassista@idfg.idaho.gov>
Sent: Friday, May 12, 2017 2:51 PM
To: Neely, Rachel
Subject: RE: Applications for Permit Nos. 65-23684, 63-34333, 63-34334, 63-34335, 65-23689, 65-23690, 79-14264, 57-11899, 65-23617, 65-23668, & 67-15170

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Rachel:

I have taken a preliminary look at all of these applications. I will provide a more in-depth analysis on a majority of them.

Application # 79-14264 is outside the purview of the Nampa Regional Office. That review would be handled by our Clearwater Region. A contact is Ray Hennekey ray.hennekey@idfg.idaho.gov

IDFG has no comments concerning Application for Permit No. 57-11899 (Sage Creek, Tributary to the Owyhee River).

IDFG has no comments concerning Application for Permit No. 65-23668 (unnamed tributary of Bacon Creek).

Thanks you for the opportunity to review this myriad of water rights!

Tom Bassista
Environmental Staff Biologist
Southwest Region Office
3101 S. Powerline Rd.
Nampa, ID 83686
(208) 465-8465



<https://idfg.idaho.gov>

From: Neely, Rachel [mailto:Rachel.Neely@idwr.idaho.gov]
Sent: Thursday, May 11, 2017 2:03 PM
To: Bassista, Tom
Subject: Applications for Permit Nos. 65-23684, 63-34333, 63-34334, 63-34335, 65-23689, 65-23690, 79-14264, 57-11899, 65-23617, 65-23668, & 67-15170

May 11, 2017

STATE OF IDAHO

DEPT OF FISH & GAME
ATTN: THOMAS BASSISTA
3101 S POWERLINE RD
NAMPA, ID 83686

RE: Applications for Permit Nos. 65-23684, 63-34333, 63-34334, 63-34335, 65-23689, 65-23690 79-14264, 57-11899, 65-23617, 65-23668, & 67-15170

Dear Mr. Bassista:

The Idaho Department of Water Resources (IDWR) is seeking written comment and/or recommendation(s) from your agency regarding the above referenced water right application(s). Copy(s) of the application(s) are enclosed with this email for your reference. Please review the application(s), complete the enclosed recommendation form, and submit your reply, if any, to this office by the protest deadline of June 5, 2017.

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

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

Sincerely,

Rachel Neely

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