

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 96-09658

Priority: May 22, 2017

Maximum Diversion Rate: 0.07 CFS

This is to certify, that JOHN WESLEY HARBUCK And
SUSAN BATES-HARBUCK
4964 COLBURN-CULVER RD
SANDPOINT ID 83864

has applied for a permit to appropriate water from:

Source: SPRING

Tributary: GROUSE CREEK

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>
DOMESTIC	01/01 to 12/31	0.04 CFS
IRRIGATION	04/01 to 10/31	0.03 CFS

LOCATION OF POINT(S) OF DIVERSION:

SPRING SW1/4NW1/4SW1/4 Sec. 2, Twp 58N, Rge 01W, B.M. BONNER County

PLACE OF USE: DOMESTIC

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
58N 01W 2											X						

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	
58N 01W 2											1.0						1.0

Total Acres: 1

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **August 01, 2018**.
2. Subject to all prior water rights.
3. Domestic use is for 1 home. Irrigation of lawn, garden and landscaping associated with the home is authorized under the irrigation component of this right.
4. This right when combined with all other rights shall provide no more than 0.03 cfs per acre nor more than 3.0 afa per acre at the field headgate for irrigation of the place of use.
5. Water shall not be diverted under this right when flows in Grouse Creek are below established minimum flow amounts as established by Water Right No. 96-7980.
6. 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 26 day of July, 2017.


Chad H Goodwin, Acting Regional Manager

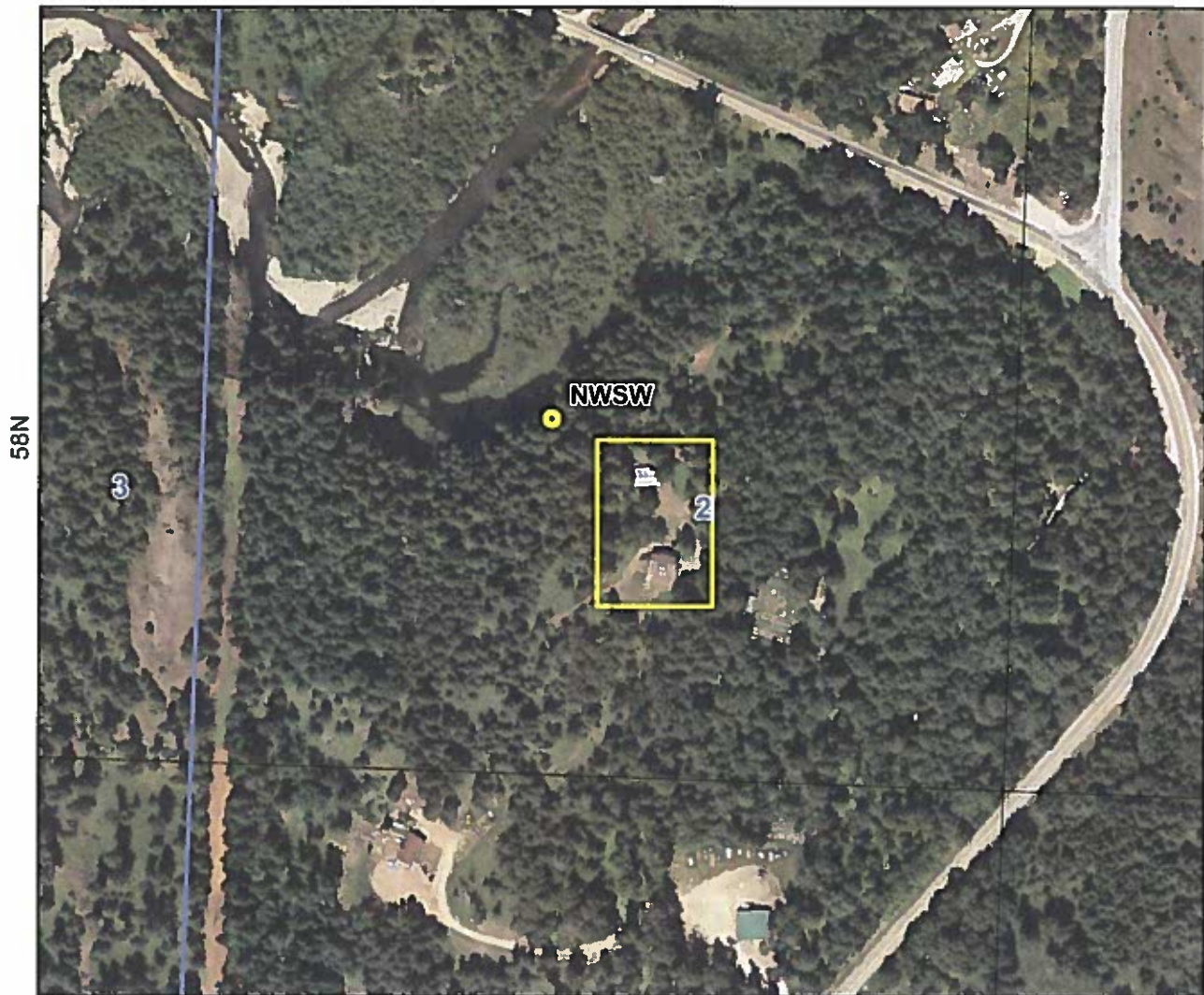
State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

96-9658

This map depicts the DOMESTIC 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.

01W



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

0 0.035 0.07 0.14 Miles



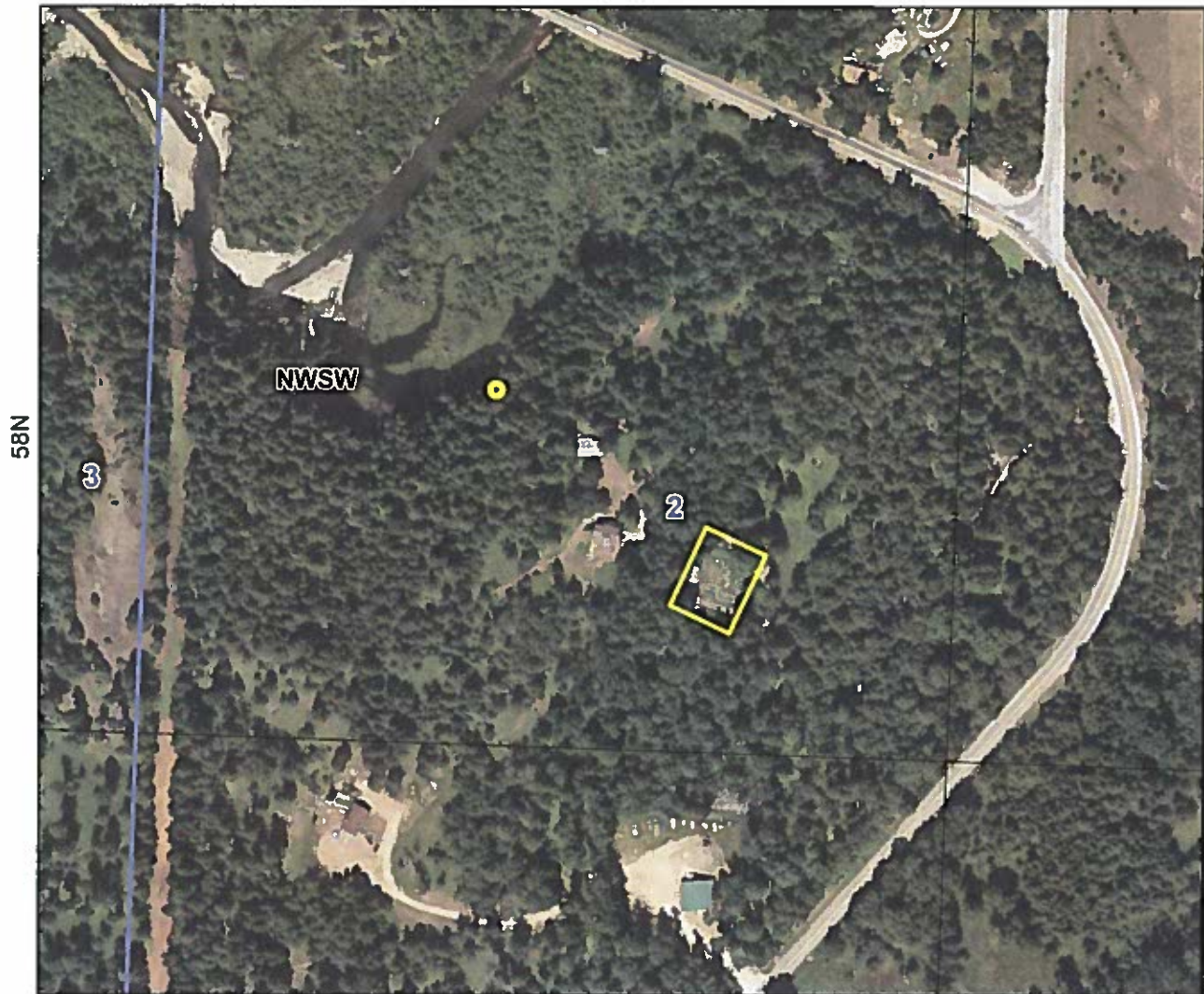
State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

96-9658

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.

01W



-  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

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

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

July 31, 2017

JOHN WESLEY HARBUCK And
SUSAN BATES-HARBUCK
4964 COLBURN-CULVER RD
SANDPOINT ID 83864

RE: Permit No. 96-9658

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.

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 208-762-2800.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Chad H Goodwin', with a stylized flourish at the end.

Chad H Goodwin

Acting Regional Manager

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on July 31, 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.

96-9658

**JOHN WESLEY HARBUCK
4964 COLBURN-CULVER RD
SANDPOINT ID 83864**

**SUSAN BATES-HARBUCK
4964 COLBURN-CULVER RD
SANDPOINT ID 83864**



**Natalie Steading
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.

AFFIDAVIT OF PUBLICATION

RECEIVED

JUL - 6 2017

IDWR/NORTHERN

STATE OF IDAHO)

) ss.

County of Bonner)

Geri Hagler, being first duly sworn on oath, deposes and states:

1. I am a citizen of the United States of America, over the age of 18 years, a resident of Bonner County, Idaho, and am not a party to the proceedings referred to in the attached Legal NOTICE.
My business address is P.O. Box 159, Sandpoint, Idaho.

2. I am the Legal Clerk of the Bonner County Daily Bee, a newspaper of general publication in Bonner County, Idaho;

3. Said newspaper has been continuously and uninterruptedly published in Bonner County, Idaho during a period of 12 months prior to the first publication of said Notice, and thereafter.

4. The attached Notice was published in the regular and entire issue of the Bonner County Daily Bee for a period of 2 consecutive weeks, commencing on the 15 day of June, 2017, and ending on the 22 day of June, 2017.

Geri Hagler

State of Idaho, county of Bonner ss.

On this 22 day of June, in the year of 2017, before me, Katrina George, Notary Public, personally appeared

GERI HAGLER, known or identified to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he (or they) executed the same.

Katrina George
Notary Public

Residing at: Kootenai County
MY COMMISSION EXPIRES 8/29/17

Comm. Exp.: _____



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JUL 06 2017

IDWR / NORTH

The following application(s) have been filed to appropriate the public waters of the State of Idaho:

95-17324

KENNETH BOWMAN

JUDY FORCINO

671 KELSO WOODS DR

ATHOL, ID 83801

Point of Diversion: NENENE S21 T54N R03W BONNER County

Source: SPRING Tributary SINKS

Point of Diversion: NENE S21 T54N R03W BONNER County

Source: UNNAMED STREAM Tributary SINKS

Use: FIRE PROTECTION STORAGE 01/01 to 12/31 2 AF

Use: IRRIGATION FROM STORAGE 04/01 to 10/31 15 AF

Use: IRRIGATION STORAGE 01/01 to 12/31 15 AF

Use: WILDLIFE STORAGE 01/01 to 12/31 2 AF

Total Diversion: 17 AF

Date Filed: 6/5/2017

Place Of Use: FIRE PROTECTION STORAGE T54N R03 S21 NENE

Place Of Use: WILDLIFE STORAGE T54N R03W S21 NENE

Place Of Use: IRRIGATION STORAGE T54N R03W S21 NENE

Place Of Use: IRRIGATION FROM STORAGE T54N R03W S16 SESE

T54N R03W S21 NENE

Total Acres: 5

96-9658

JOHN WESLEY HARBUCK

SUSAN BATES HARBUCK

4964 GOLBURN GULVER RD

SANDPOINT, ID 83864

Point of Diversion: SWNWSW S21 T58N R01W BONNER County

Source: SPRING Tributary GROUSE CREEK

Use: DOMESTIC

Use: IRRIGATION 01/01 to 12/31 0.04 CFS

04/01 to 10/31 0.06 CFS

Total Diversion: 0.1 CFS

Date Filed: 5/22/2017

Place Of Use: DOMESTIC T58N R01W S2 NWSW

Place Of Use: IRRIGATION T58N R01W S2 NWSW

Total Acres: 1

Permits will be subject to all prior water rights. For additional information concerning the property location, contact Northern Region office at (208) 762-2800, or for a full description of the water right please see <https://idwr.idaho.gov/apps/ExtSearch/WRAApplicationResults/>. 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 7/3/2017. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

SNP LEGAL 4849

JUNE 15, 22, 2017



IDAHO DEPARTMENT OF FISH AND GAME

PANHANDLE REGION

2885 West Kathleen Avenue

Coeur d'Alene, Idaho 83815

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JUL 10 2017

IDWR / NORTH

C.L. "Butch" Otter Governor

Virgil Moore Director

July 10, 2017

Mr. Adam Frederick
Idaho Department of Water Resources
7600 Mineral Drive, Ste 100
Coeur d'Alene, ID 83815
adam.frederick@idwr.idaho.gov

Dear Adam,

REFERENCE: 96-9658 Harbuck

We have reviewed the application to appropriate 0.1 cfs from a spring adjacent to Grouse Creek. The purpose of these comments is to assist the decision-making authority by providing technical information addressing potential effects on wildlife and wildlife habitat and how any adverse effects might be mitigated. It is not the purpose of Idaho Department of Fish and Game to support or oppose this proposal.

The spring is located in the floodplain of Grouse Creek, an important stream for bull trout spawning and rearing. This section of stream is federally designated critical habitat and has as a minimum stream flow water right (96-7980) to protect spawning and rearing trout. From aerial imagery, including the map provided in the application, the spring appears to be connected via surface water to Grouse Creek during at least part of the year. If so, ESA listed species entrainment in the diversion system and damage to critical habitat are risks inherent to this application.

Given the connectivity between the spring and Grouse Creek, we recommend you require applicants comply with the conditions of the state minimum flow right 96-7980. The hyporheic flow that connects cold, clean groundwater (spring water) to the stream is what makes Grouse Creek habitat so ideal for bull trout and other native trout species such as westslope cutthroat trout. Any inlets and outlets in the spring box must be screened in anticipation of high water events to prevent entrainment and entrapment of fish. We recommend mesh no wider than 1/4".

In order to protect fish habitat from sedimentation, we recommend the spring box be installed during low water when surface flows do not connect it to the main stream channel. Any excavated material should be moved upland or stabilized.

Keeping Idaho's Wildlife Heritage

Equal Opportunity Employer • 208-769-1414 • Fax 208-769-1418 • Idaho Relay (TDD) Service 1-800-377-3529 • <http://fishandgame.idaho.gov>

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Mr. Adam Frederick – Page 2
July 10, 2017

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While the amount requested is relatively small, the cumulative impacts of diversions on Grouse Creek, the Pack River, and their tributaries may amount to losses in spawning and rearing habitat available for native trout species. The minimum streamflows established for these streams were designed to protect these public trust resources. In the absence of a flow monitoring device (in Grouse Creek), water master, and completed adjudication, caution in this watershed seems particularly warranted.

Sincerely,



AKM/
ARS for C.E.C

Charles E. "Chip" Corsi
Regional Supervisor

CEC:KJS:lat

C: Gary Vecellio, IDFG Idaho Falls
USFWS Spokane Valley

Frederick, Adam

From: Thomson, Lori <lori.thomson@idfg.idaho.gov>
Sent: Monday, July 10, 2017 4:25 PM
To: Frederick, Adam
Subject: 95-17324 Bowman/Forcino Pond and 96-9658 Harbuck
Attachments: 95-17324 Bowman_Forcino Pond.pdf; 96-9658 Harbuck.pdf

Mr. Frederick,

Impact Statements for the above referenced applications are attached.

Thank you,
Lori Thomson
Office Specialist II, Idaho Department of Fish and Game
Panhandle Regional Office
2885 W. Kathleen Ave.
Coeur d'Alene, ID 83815
Phone: (208) 769-1414
Fax: (208) 769-1418



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