

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 74-16067

Priority: January 17, 2017

Maximum Diversion Rate: 0.04 CFS

This is to certify, that CLIFFORD L ZIELKE
PO BOX 1201
SALMON ID 83467

has applied for a permit to appropriate water from:

Source: WIMPEY CREEK**Tributary:** LEMHI 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>
STOCKWATER	01/01 to 12/31	0.04 CFS

LOCATION OF POINT(S) OF DIVERSION:

WIMPEY CREEK NESW Sec. 35, Twp 21N, Rge 23E, B.M. LEMHI County

WIMPEY CREEK NWSE Sec. 35, Twp 21N, Rge 23E, B.M. LEMHI County

PLACE OF USE: STOCKWATER

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
21N 23E 35			X					X						X			

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **April 01, 2019**.
2. Subject to all prior water rights.
3. 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.
4. Use of water under this right will 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. 74.
5. Upon specific notification by the Department, the right holder shall install a lockable device of a type acceptable to the Department in a manner that will provide the watermaster suitable control of the diversion.
6. 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.
7. The quantity of water under this right for stockwater use shall not exceed 13,000 gallons per day.

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8. Stockwater use is for 12 range cattle and horses.
9. 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 6th day of April, 2017.



PAMELA S. SKAGGS, Water Rights Supervisor

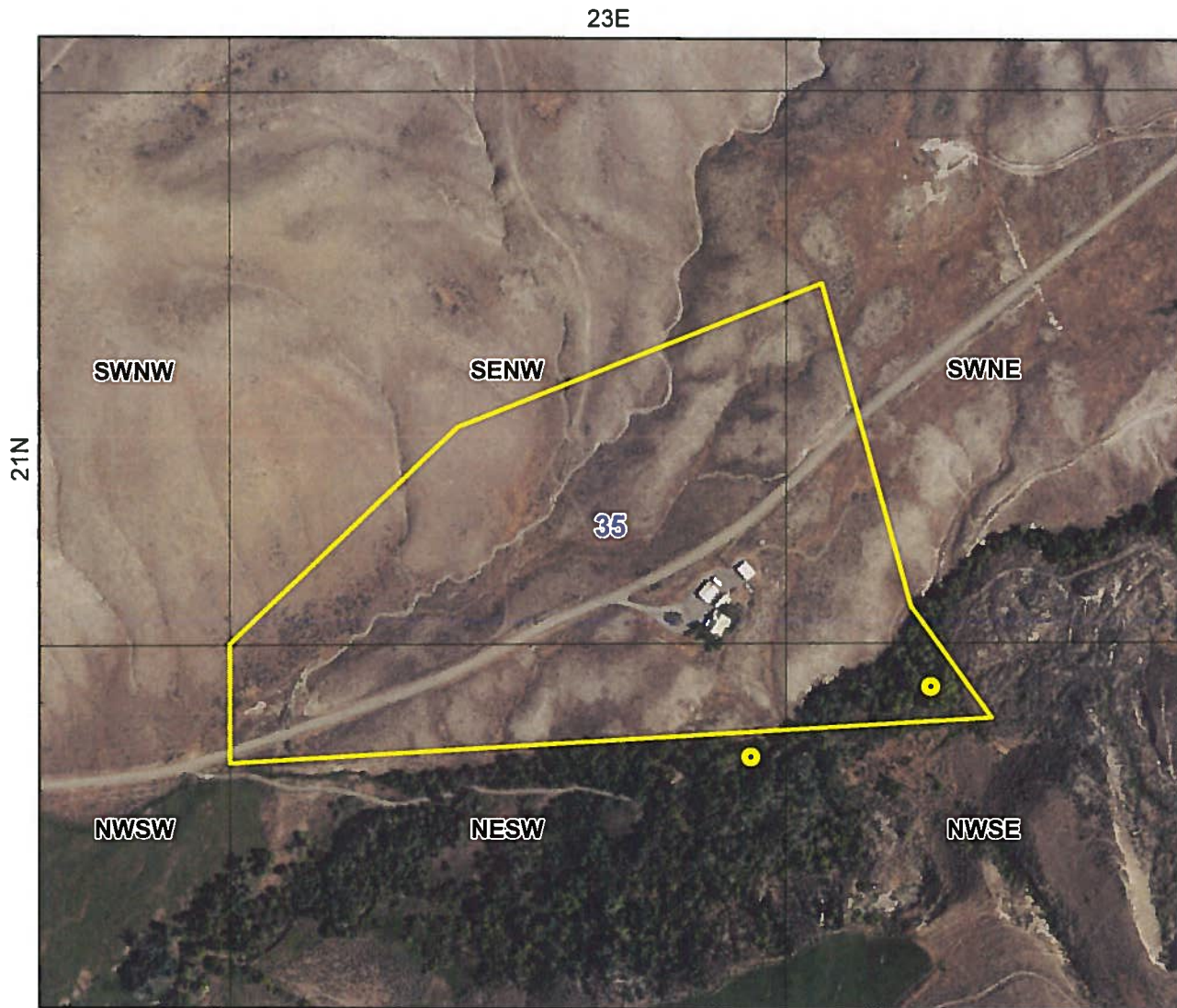


State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

74-16067

This map depicts the STOCKWATER 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 0.05 0.1 0.2 Miles





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

April 6, 2017

CLIFFORD L ZIELKE
PO BOX 1201
SALMON ID 83467

RE: Permit No.74-16067

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 208-287-4951.

Sincerely,



Pamela Skaggs, Water Rights Supervisor
Water Right Permits Section

Enclosure(s)

c: WATER DISTRICT #74

CERTIFICATE OF SERVICE

I hereby certify that on April 7, 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.

74-16067

**CLIFFORD L ZIELKE
PO BOX 1201
SALMON ID 83467**

**WATER DISTRICT #74
RICK SAGER
985 HWY 28
SALMON ID 83467**



**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.



RECEIVED

MAR 31 2017

DEPARTMENT OF
WATER RESOURCES

IDAHO DEPARTMENT OF FISH AND GAME
SALMON REGION
99 Highway 93 North
Salmon, Idaho 83467

C.L. "Butch" Otter / Governor
Virgil Moore / Director

March 29, 2017

State of Idaho Department of Water Resources
ATTN: Jean Hersley, Technical Records Specialist II
322 East Front Street
P.O. Box 83720
Boise, ID 83720

Clifford L. Zielke
PO Box 1201
Salmon, ID 83467

RE: Water Right Application for Permit No. 74-16067

Dear Jean and Clifford:

The IDFG has reviewed the application for permit no. 74-16067 submitted by Clifford L. Zielke (Applicant).

IDFG would like to have condition 029 added to this Water Right, which states that: "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." This will ensure that the pump is properly screened prior to the diversion of water for the proposed stock tanks. Please contact Patrick Murphy at (208) 756-6022 for assistance on the appropriate fish screen for your pump.

Based on the detail of the Water Right application, the IDFG has no further environmental or wildlife comments relative to this application. If you have any questions, please contact the Region's Environmental Staff Biologist, Jeff Richards at (208) 756-2271.

Sincerely,

Tom Curet
Regional Supervisor

TC: jr

Keeping Idaho's Wildlife Heritage

NOTICE OF APPLICATION

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

74-16067

CLIFFORD L ZIELKE

PO BOX 1201

SALMON, ID 83467

Point of Diversion NESW NWSE S35

T21N R23E LEMHI County

Source WIMPEY CREEK Tributary
LEMHI RIVER

Use: STOCKWATER

01/01 to 12/31

0.04 CFS

Total Diversion:

0.04 CFS

Date Filed: 1/17/2017

Place Of Use: STOCKWATER

T21N R23E S35 SWNE SENW NESW
NWSE

This application proposes the diversion and use of water from Wimpey Creek a tributary of the Salmon 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 established after the minimum stream flow. The water use proposed in this application will benefit from the subordination provision because it is for stockwater purposes.

Permits will be subject to all prior water rights. For additional information concerning the property location, contact the State office at (208) 287-4800; or for a full description of the right(s), please see www.idwr.idaho.gov/apps/ExtSearch/WRFiling.asp. 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, State Office, 322 E Front St, PO Box 83720, Boise, ID 83720 together with a protest fee of \$25.00 for each application on or before 4/3/2017. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director Published on 3/16/2017 and 3/23/2017 3-16-2tc

Affidavit of Publication

STATE OF IDAHO

County of Lemhi

ss.

RICKY G. HODGES being first duly sworn, deposes and says he is one of the publishers (printers) of The Recorder Herald, a newspaper published weekly at Salmon, Lemhi County, Idaho, and of general circulation therein. That the **NOTICE OF APPLICATION - 74-16067**, a true printed copy of which is attached to the margin hereof, has been and was correctly printed and published in the regular and entire issue of every number of said newspaper and not in any supplement thereof or thereto for **TWO (2) consecutive issue(s)**, commencing with the issue dated **3-16-2017** and ending with the issue dated **3-23-2017**.

STATE OF IDAHO

County of Lemhi

ss.

On this **23rd day of March** in this year of 2017 before me, A Notary Public, personally appeared RICKY G. HODGES, 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 he executed the same.

H. Dennis Havens
Notary Public for Idaho

Residing At Salmon, Idaho

My Commission expires: 11-30-2018

Doc #

PCA

Tran Code

Subobj

Fund

Subsid

Amount

EXP

230

5790

115.20

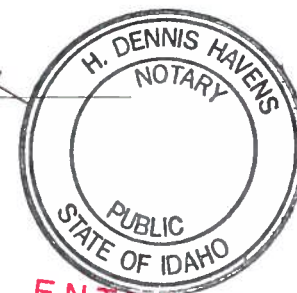
Publication Fee \$115.20

RECEIVED

MAR 27 2017

DEPARTMENT OF
WATER RESOURCES

gmk
3-28-17



ENTERED

MAR 27 2017

FISCAL