

State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 85-15780

Priority: February 08, 2017

Maximum Diversion Rate: 0.20 CFS

This is to certify, that JANET SHIRA
3429 9TH ST E
LEWISTON ID 83501

has applied for a permit to appropriate water from:

Source: UNNAMED STREAM

Tributary: THREEMILE 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>	<u>ANNUAL VOLUME</u>
DIVERSION TO STORAGE	01/01 to 12/31	0.20 CFS	
RECREATION	01/01 to 12/31	0.20 CFS	
FIRE PROTECTION	01/01 to 12/31		1.4 AF
STORAGE			
RECREATION STORAGE	01/01 to 12/31		1.4 AF

LOCATION OF POINT(S) OF DIVERSION:

UNNAMED STREAM SE1/4SE1/4 Sec. 29, Twp 30N, Rge 03E, B.M. IDAHO County

PLACE OF USE: RECREATION, RECREATION STORAGE, AND FIRE PROTECTION 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	
30N	03E	29																	X

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **April 01, 2018**.
2. Subject to all prior water rights.
3. Prior to the diversion and use of water under this approval, the right holder shall comply with applicable county zoning and use ordinances.
4. Water shall not be diverted from fire protection storage except to fight or repel an existing fire.
5. Recreation storage is for fishing and swimming.
6. Right 85-15780 authorizes a total annual storage volume of 1.4 acre-feet, 1.3 acre-feet to be used for the initial filling of the pond and 0.1 acre-feet for the replacement of losses caused by seepage and evaporation.
7. The pond established by the storage of water under this right shall not exceed a total capacity of 1.3 acre-feet or a total surface area of 0.14 acres.
8. 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 29th day of March, 20 17.


MORGAN CASE, Northern Regional Manager

State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water
85-15780

This map depicts the FIRE PROTECTION STORAGE, RECREATION STORAGE, and RECREATION 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

Northern Region, 7600 Mineral Drive, Suite 100, Coeur d'Alene, Idaho 83815

Phone: (208) 762-2800 FAX: (208) 762-2819 www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

April 3, 2017

JANET SHIRA
3429 9TH ST E
LEWISTON ID 83501

RE: Permit No. 85-15780

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.

Enclosed is a form entitled 'Instructions for Proof of Beneficial Use.' Please read the instructions carefully since you must take further action to develop this permit into a licensed water right. Also enclosed is a form entitled 'Proof of Beneficial Use.' If your project is already completed, you should complete and submit this form immediately.

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 that reads "Morgan Case". The signature is written in a cursive, flowing style.

Morgan Case
Northern Regional Manager

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on April 3, 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.

85-15780

**JANET SHIRA
3429 9TH ST E
LEWISTON ID 83501**



**Dianne L. Ball
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: Water Right Application 85-15780

From: Adam Frederick *AF*

Date: 03/27/2017

Re: Application for a Permit to Appropriate Water within the Salmon and Clearwater River Basins.

Re: Regional Analysis and Recommendation in accordance with Water Appropriation Rules (IDAPA 37.03.08.040.05).

Water Supply Information

Water from the unnamed stream on applicant's property should be available.

Good Faith, Delay, or Speculative Information

The applicant plans to divert water for his/her own use on property that he/she owns and there are no known issues with any other party.

Financial Resources Information

No significant resources required because the pond is already built.

Local Public Interest

The Idaho Department of Fish & Game and the Department of Environmental Quality have been asked to comment by the Idaho Department of Water Resources. Department of Environmental Quality responded by letter that this proposed action should not be allowed when flows are less than 1 cfs. Idaho Department of Fish & Game did not respond.

Injury to Other Water Rights

The proposed diversion is from an unnamed stream tributary to Threemile Creek. The IWRB holds a MSF water right 85-15623 on Threemile Creek. The MSF is subordinated to all DCMI development plus up to 0.2 cfs of non DCMI development. As such, the proposed use will not injure the MSF.

Recommendation

The Northern Region recommends proceeding with the processing of this water right application.

RECEIVED
MAR 13 2017
IDWR / NORTH

AFFIDAVIT OF PUBLICATION

PUBLIC NOTICE

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

85-15780

JANET SHIRA

3429 9TH ST E

LEWISTON, ID 83501

Point of Diversion SESE S29 T30N R03E IDAHO County

Source UNNAMED STREAM tributary THREEMILE CREEK

Use: DIVERSION to Storage 01/01 to 12/31 0.2 CFS

Use: FIRE PROTECTION Storage 01/01 to 12/31 1.4 AF

Use: RECREATION 01/01 to 12/31 0.2 CFS

Use: RECREATION Storage 01/01 to 12/31 1.4 AF

Total Diversion: 0.2 CFS

Date Filed: 2/8/2017

Place of Use: RECREATION T30N R03E S29 SESE

Place of Use: FIRE Protection Storage T30N R03E S29 SESE

Place of Use: RECREATION Storage T30N R03E S29 SESE

Recreation use is for fishing and swimming.

85-15781

JANET SHIRA

3429 9TH ST E

LEWISTON, ID 83501

Point of Diversion SWSE S29 T30N R03E IDAHO County

Source UNNAMED STREAM tributary THREEMILE CREEK

Use: DIVERSION to Storage 01/01 to 12/31 0.2 CFS

Use: FIRE Protection Storage 01/01 to 12/31 2.2 AF

Use: RECREATION 01/01 to 12/31 0.2 CFS

Use: RECREATION Storage 01/01 to 12/31 2.2 AF

Total Diversion: 0.2 CFS

Date Filed: 2/8/2017

Place of Use: RECREATION T30N R03E S29 SWSE SESE

Place of Use: RECREATION Storage T30N R03E S29 SWSE SESE

Place of Use: FIRE Protection Storage T30N R03E S29 SWSE SESE

Recreation use is for fishing and swimming.

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 right(s), please see:

<http://www.idwr.idaho.gov/apps/ExtSearch/WRApplicationResults/>. 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 3/20/2017. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director
Published on 3/1/2017 and 3/8/2017

STATE OF IDAHO
County of Idaho - ss.

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 1st day of March, 2017; and the last publication on the 8th day of March, 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 8th day of March 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.


Notary Public for Idaho
Residing at Grangeville, ID
My commission expires: 1-29-19





STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY

1118 F Street • Lewiston, Idaho 83501 • (208) 799-4370
www.deq.idaho.gov

C.L. "Butch" Otter, Governor
John H. Tippetts, Director

RECEIVED
FEB 21 2017
IDWR/NORTHERN

February 17, 2017

Adam Frederick
Idaho Department of Water Resources
7600 North Mineral Drive, Suite 100
Coeur d'Alene, Idaho 83815

Subject: Applications for Permit to Appropriate Public Waters of the State, Ident. No. 86-15780

Dear Mr. Frederick:

DEQ has received a request for comment on the approval of a water right application to draw 0.2 cfs of water from an unnamed tributary to Threemile Creek, 1.4 acre feet per year for an existing pond for stockwater, recreation, and fire protection. Assuming all federal, state, and local permits have been obtained, regulations met, and reviews completed, we can offer the following comments.

Flow data for the unnamed tributary to Threemile Creek is not included with the request for comment; therefore, DEQ cannot determine if removal of 0.2 cfs will impact existing aquatic life beneficial uses. We are concerned that there may not be sufficient flow outside the seasonal high flow period and recommend that the legally appropriated withdrawal be made during periods of seasonal high flow or at a minimum, flows greater than 1 cfs. At no time should the stream be allowed to go dry as a result of legally appropriated and allowable water withdrawals. In order to protect and maintain aquatic life beneficial uses, stream flow adequate to sustain existing aquatic life needs to be maintained (IDAPA 58.01.02.100.01).

Thank you for the opportunity to comment on your application. If you have any questions regarding the Idaho Water Quality Standards or the conditions listed above, please contact me at (208) 983-0808, or by email at daniel.stewart@deq.idaho.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Daniel D. Stewart".

Daniel D. Stewart
Water Quality Analyst

ec: Janet Shira, Lewiston
Cynthia Barrett, DEQ
TRIM