

RECEIVED

FORM 202 Rev. 09/10

MAR 06 2017

DEPT OF WATER RESOURCES  
SOUTHERN REGION

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
**APPLICATION FOR PERMIT**  
To appropriate the public waters of the State of Idaho

Ident. No. 71-10972

1. Name of applicant(s) Nirvana Springs LLC c/o Hecht Family Office Phone 805-845-0253  
Name connector (check one):  and  or  and/or  
Mailing address 1114 State St Ste 310 City Santa Barbara  
State CA ZIP 93101 Email \_\_\_\_\_

2. Name of representative, if any Brockway Engineering c/o: Zach Latham Phone 208-736-8543  
Mailing address 2016 Washington St. North Suite #4 City Twin Falls  
State ID ZIP 83301 Email zach.latham@brockwayeng.com

- a.  Send all correspondence for this application to the representative and not to the applicant OR  
 Send original correspondence to the applicant and copies to the representative.
- b.  The representative may submit information for the applicant but is not authorized to sign for the applicant OR  
 The representative is authorized to sign for the applicant. Attach a Power of Attorney or other documentation.

3. Source of water supply Warm Creek which is a tributary of Salmon River

4. Location of point(s) of diversion:

Twp	Rge	Sec	Govt Lot	¼	¼	¼	County	Source	Local name or tag #
8N	14E	27			NW	SE	CUSTER	WARM CREEK	EAST
8N	14E	27			NW	SE	CUSTER	WARM CREEK	WEST

5. Water will be used for the following purposes:

- Amount 0.45 for Diversion to Storage purposes from 01/01 to 12/31 (both dates inclusive)  
(cfs or acre-feet per year)
- Amount 3.54 afa for Aesthetic Storage purposes from 01/01 to 12/31 (both dates inclusive)  
(cfs or acre-feet per year)
- Amount 3.54 afa for Recreation Storage purposes from 01/01 to 12/31 (both dates inclusive)  
(cfs or acre-feet per year)
- Amount 3.54 afa for Wildlife Storage purposes from 01/01 to 12/31 (both dates inclusive)  
(cfs or acre-feet per year)

6. Total quantity to be appropriated is (a) 0.45 cubic feet per second (cfs) and/or (b) 3.54 acre-feet per year (af).

7. Proposed diverting works:

- a. Describe type and size of devices used to divert water from the source. Water will be diverted from Warm Creek for uses described above.
- b. Height of storage dam N/A. feet; active reservoir capacity N/A. acre-feet; total reservoir capacity N/A. acre-feet. If the reservoir will be filled more than once each year, describe the refill plan in item 12. For dams 10 feet or more in height AND having a storage capacity of 50 acre-feet or more, submit a separate Application for Construction or Enlargement of a New or Existing Dam. Application required?  Yes  No
- c. Proposed well diameter is N/A. inches; proposed depth of well is N/A. feet.
- d. Is ground water with a temperature of greater than 85°F being sought?  Yes  No
- e. If well is already drilled, when? N/A.; drilling firm N/A.;  
well was drilled for (well owner) N/A.; Drilling Permit No. N/A.

For Department Use

Received by DM Date 3-6-2017 Time \_\_\_\_\_ Preliminary check by \_\_\_\_\_  
Fee \$ 250 - Received by DM Receipt No. S035977 Date 3-6-2017

8. Description of proposed uses (if irrigation only, go to item 9):
- a. Hydropower; show total feet of head and proposed capacity in kW. N/A.
  - b. Stockwatering; list number and kind of livestock. N/A.
  - c. Municipal; must complete and attach the Municipal Water Right Application Checklist.
  - d. Domestic; show number of households N/A.
  - e. Other; describe fully. Permit seeks year round diversion to and storage in a recreation, aesthetic and wildlife pond. Consumptive use associated with the pond has already been mitigated under 71-2078 and 71-10956.

9. Description of place of use:
- a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
  - b. If water is used for other purposes, place a symbol of the use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
8N	14E	27														WRJ			
8N	14E	27														Ws			
8N	14E	27														Rs			
8N	14E	27														Js			

Total number of acres to be irrigated: \_\_\_\_\_

10. Describe any other water rights used for the same purposes as described above. Include water delivered by a municipality, canal company, or irrigation district. If this application is for domestic purposes, do you intend to use this water, water from another source, or both, to irrigate your lawn, garden, and/or landscaping? 771-2078 and 1-10956.

11. a. Who owns the property at the point of diversion? Applicant.  
 b. Who owns the land to be irrigated or place of use? Applicant.  
 c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: N/A.

12. Describe your proposal in narrative form, and provide additional explanation for any of the items above. Attach additional pages if necessary. Permit seeks year round diversion to and storage in a recreation, aesthetic and wildlife pond. Consumptive use associated with pond has been mitigated under 71-2078 and 71-10956. 71-10955 will be relinquished upon approval of this filing, the proposed pond (same surface area and volume) will now be lined and filled with Warm Creek water as proposed under the application. See attached narrative and map for mitigation areas.

13. Time required for completion of works and application of water to proposed beneficial use is 5 years (minimum 1 year).

14. **MAP OF PROPOSED PROJECT REQUIRED** - Attach an 8½" x 11" map or maps clearly identifying the proposed point of diversion, place of use, section #, township & range. The map scale shall not be less than two (2) inches equal to one (1) mile.

The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval.

Margaret Hecht  
 Signature of Applicant  
Margaret Hecht, owner  
 Print Name (and title, if applicable)

\_\_\_\_\_  
 Signature of Applicant  
 \_\_\_\_\_  
 Print Name (and title, if applicable)

RECEIVED

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DEPT OF WATER RESOURCES  
SOUTHERN REGION

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

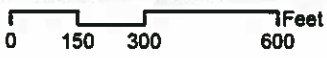
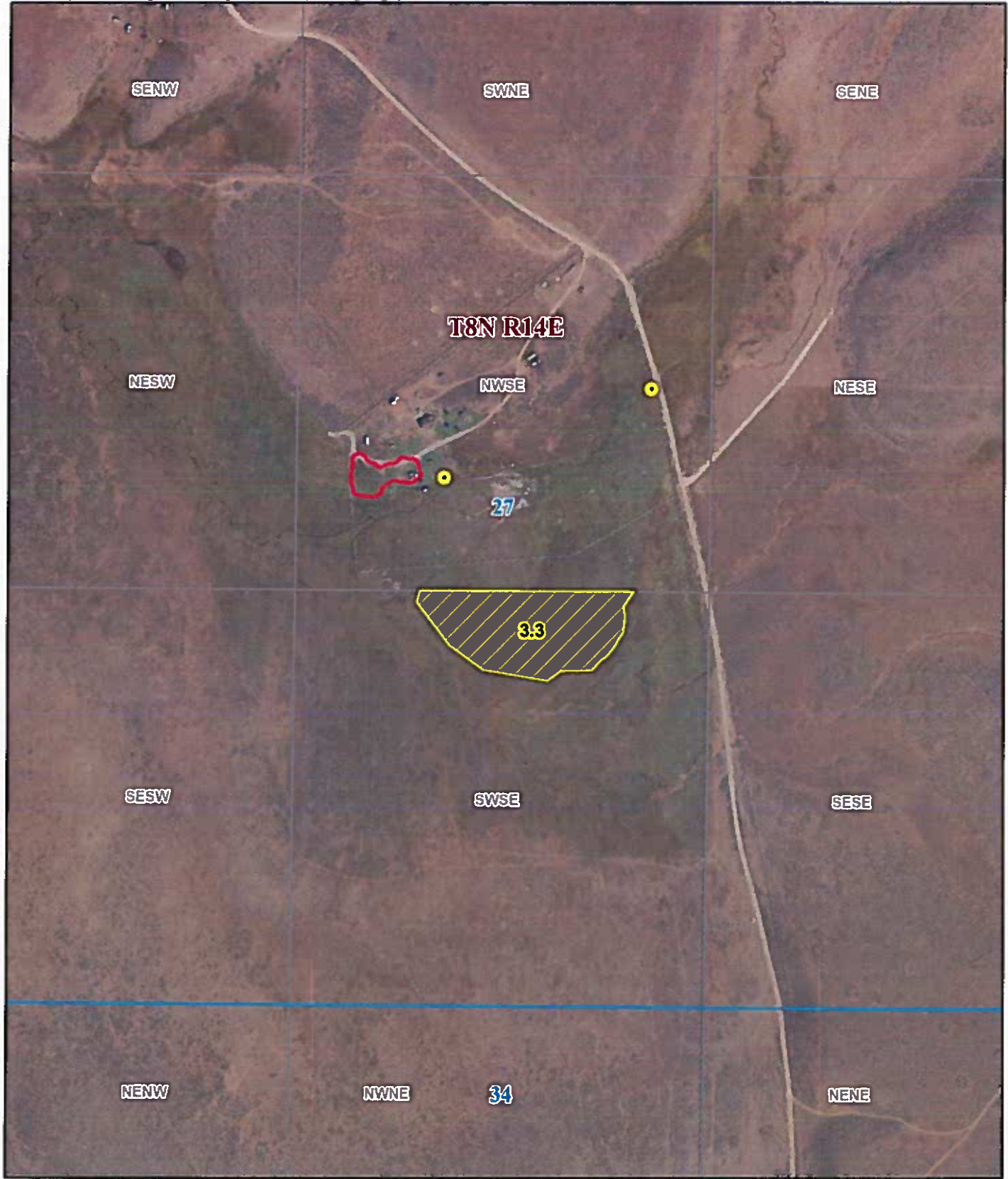
Ident. No. 71-10972

Season of Use/Purpose of Use Supplement




Attachment to:  Application for Permit to Appropriate Water  Adjudication Claim  Beneficial Use Field Report  
 Application for Amendment of Permit  Statutory Claim

Water will be used for the following purposes:

- Amount 0.45 cfs for Recreation purposes from 01/01 to 12/31 (both dates inclusive)  
(cfs or acre-feet per year)
- Amount 0.45 cfs for Aesthetic purposes from 01/01 to 12/31 (both dates inclusive)  
(cfs or acre-feet per year)
- Amount 0.45 cfs for Wildlife purposes from 01/01 to 12/31 (both dates inclusive)  
(cfs or acre-feet per year)
- Amount \_\_\_\_\_ for \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_ (both dates inclusive)  
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(cfs or acre-feet per year)
- Amount \_\_\_\_\_ for \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_ (both dates inclusive)  
(cfs or acre-feet per year)



**NIRVANA SPRINGS LLC**  
APPLICATION FOR PERMIT  
NAIP 2015 AERIAL

-  POD
-  Proposed Pond
-  1st Fill - 3.3 ac.



MAR 06 2017

DEPT OF WATER RESOURCES  
SOUTHERN REGION

## **Narrative in Support of New Water Right Permit Application Nirvana Springs LLC**

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Brockway Engineering, PLLC  
Zach Latham, M.S., Hydrologist

March 2, 2017

### **Overview**

The applicant, Nirvana Springs LLC ("LLC"), is the owner of water rights 71-2078, 71-10020, 71-10954, 71-10955, 71-10956 and 71-10957, appurtenant to property owned by the LLC in T.8N R.14E Sections 27 and 34 in Custer County, ID. Water right permits 71-10954, 71-10955, 71-10956 and 71-10957 were approved in 2016 and 71-2078 was subsequently changed in approved IDWR transfer no. 80786 to account for the new water right permits.

Water right permits 71-10955 and 71-10956 allow the combined physical storage of 3.54 acre-feet year round in a proposed pond with a surface area of 0.44 acres. Under 71-10956, diversion into the pond from Warm Creek is limited to 0.30 cfs from 4/1 through 10/31 annually. Permit 71-10955 authorizes 3.1 acre-feet of physical volume to be supplied by ground water, as the pond was to be unlined at the time of permit submission and approval by IDWR. Additionally, permit 71-10956 authorizes the remaining physical volume of 0.4 acre-feet to be supplied by Warm Creek water as well as diversion to and a flow through rate from the creek (0.30 cfs). Evaporative losses were accounted for in water right transfer no. 8.786 involving irrigation water right 71-2078.

Through the course of project planning, pond construction has changed from an un-lined pond to a lined pond and diversion into the pond is proposed to be extended year round. This necessitates the attached water right permit that seeks to allow all of the physical pond storage (3.54 acre-feet) to originate from Warm Creek for year round diversion and storage within the pond. The surface area of the pond is not changing, nor is the physical storage volume of the pond. Per personal communication with IDWR Southern Region Manager Corey Skinner, and Water Right agent William Mills, water right permit 71-10955 and 71-10956 will be required to be relinquished once the attached water right permit is approved.

### **Water Right Permit**

The new water right permits seeks to authorize year round recreation, aesthetic and wildlife storage associated with the entire 3.54 acre-feet of pond volume to be filled by Warm Creek. The pond, which will also be used for irrigation management, will be lined and will have a surface area of 0.44 acres. A flow through discharge component of 0.45 cfs from Warm Creek is sought under this application.

Per Allen and Robison<sup>1</sup>, the annual  $P_{def}$  value for grass pasture, low management taken from the Stanley NWS weather station is 290 mm or 0.95 ft. The 3.1 acre-feet of pond storage that hasn't been identified under 71-10956, requires a one year, first fill mitigation component. An associated one time, one year acreage dry up based on historic crop consumptive use has not occurred and is therefore required under this application. In order to mitigate for 3.1 acre-feet of the supplemental first fill pond volume, 3.1 acre-feet / 0.95 ft = 3.3 acres of a one-time, one season dry up is required under this permit. This area has been identified on an accompanying map. The first fill dry up area associated with the remaining 0.44 acre-feet has already been identified under 37-10956.

Permitting the physical 3.54 acre foot pond volume with Warm Creek water is consistent with the public interest and will not result in an expansion in consumptive use or injury to any existing water right holders as this same volume has already been approved in 2016 by IDWR.

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<sup>1</sup> Allen, Richard G. and Clarence W. Robison, 2012. *Evapotranspiration and Consumptive Irrigation Water Requirements for Idaho: Supplement updating the Time Series through December 2008*, Research Technical Completion Report, Kimberly Research and Extension Center, University of Idaho, Moscow, ID.

## Mills, William

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**From:** Zach Latham <zach.latham@brockwayeng.com>  
**Sent:** Friday, March 31, 2017 9:57 AM  
**To:** Mills, William  
**Cc:** charles.g.brockway@brockwayeng.com  
**Subject:** Pre-Advertisement Letter for Wild & Scenic Rivers  
**Attachments:** 3.22.17 IDWR Wild and Scenic water right application letter.pdf

Bill-

With regards to your March 22<sup>nd</sup> 2017 letter to Nirvana Springs LLC (attached), please proceed immediately with processing and advertisement of the referenced permit application filed on behalf of Nirvana Springs LLC by Brockway Engineering. Thank you for your time and let me know if you have any further questions or comments.

Zach Latham

Hydrologist  
Brockway Engineering, P.L.L.C.  
2016 Washington Street North, Suite 4  
Twin Falls, ID 83301  
t. 208-736-8543  
c.208-721-2114  
f. 208-736-8506  
[zach.latham@brockwayeng.com](mailto:zach.latham@brockwayeng.com)

*All information, calculations, maps, drawings, or other documents transmitted via e-mail are preliminary unless explicitly stated in the e-mail text or in the documents themselves.*

71-10972



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](http://www.idwr.idaho.gov)

C.L. "BUTCH" OTTER  
Governor

GARY SPACKMAN  
Director

March 30, 2017

NIRVANA SPRINGS LLC  
C/O HECHT FAMILY OFFICE  
1114 STATE ST STE 310  
SANTA BARBARA, CA 93101

RE: Application For Permit No. 71-10972

Dear Applicant(s):

The Department of Water Resources has received your water right application. Please refer to the number referenced above in all future correspondence regarding this application.


A legal notice of the application has been prepared and is scheduled for publication in the **CHALLIS MESSENGER** on **4/6/2017** and **4/13/2017**. Protests to this application may be submitted for a period ending ten (10) days after the second publication. Any protest against this application must be filed with the Department of Water Resources, together with a protest fee of \$25.00 for each application, on or before **April 24, 2017**.

If the application is protested, you will be sent a copy of each protest. All protests must be resolved before the application can be considered for approval. If the protest(s) cannot be resolved voluntarily, the Department will conduct a conference and/or hearing on the matter.

If the application is not protested, the Department will process your application and notify you of any action taken on the application. If your application is approved, the Department will send you a copy of the permit.

Please contact this office if you have any questions regarding the application.

Sincerely,

  
Denise Maline  
Administrative Assistant

cc:

BROCKWAY ENGINEERING PLLC  
C/O ZACH LATHAM  
2016 N WASHINGTON ST STE 4  
TWIN FALLS, ID 83301

**Maline, Denise**

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**From:** Maline, Denise  
**Sent:** Thursday, March 30, 2017 4:49 PM  
**To:** Cindy Yenter  
**Subject:** Comment Letter: 71-10928~~12~~  
**Attachments:** 71-10972.pdf; Comment Letter to WM170 for 71-10972.docx

Hi Cindy,

Attached is a copy of an application for permit within WD170, which is currently being processed. Please review the information and provide any necessary comments within 21 days.

Thank you,

Denise



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](http://www.idwr.idaho.gov)

C.L. "BUTCH" OTTER  
Governor

GARY SPACKMAN  
Director

March 30, 2017

CINDY YENTER  
WATER DISTRICT #170  
102 S WARPATH  
SALMON, ID 83467

*via e-mail*

RE: Application For Permit No. 71-10972

Dear Cindy:

A copy of the above referenced application is enclosed. Please review the application, then complete the enclosed recommendation form as necessary, and return it to this office within 21 days of the date of this letter.

If the application is approved, IDWR will include appropriate standard conditions of approval for a water right located within a water district, such as regulation by the water master, lockable controlling works, and/or measuring devices. Any special conditions or other concerns you have related to this application should be specifically addressed in your recommendation.

IDWR's regional offices can finish reviewing an unprotested application as soon as the protest period has past. Your prompt response to this request will ensure that your recommendation can be considered. If IDWR has not received your written recommendation within 21 days from the date of this letter, IDWR will presume that you do not oppose approval of the application and that you have no comments for IDWR to consider.

Sincerely,

A handwritten signature in black ink that reads "Denise Maline". The signature is written in a cursive, flowing style.

Denise Maline  
Administrative Assistant

Enclosure(s)

## Maline, Denise

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**From:** Maline, Denise  
**Sent:** Thursday, March 30, 2017 4:47 PM  
**To:** Morgan Miller (WD 71)  
**Subject:** Comment Letter: 71-1092872  
**Attachments:** Comment Letter to WM71 for 71-10972.docx; 71-10972.pdf

Hi Morgan,

Attached is a copy of an application for permit within your district, which is currently being processed. Please review the information and provide any necessary comments within 21 days.

Thank you in advance,

Denise @ IDWR

*Denise Maline  
Administrative Assistant I  
Idaho Dept of Water Resources, Southern Region  
650 Addison Ave W, Ste 500  
Twin Falls, ID 83301  
(208) 736-3033  
[denise.maline@idwr.idaho.gov](mailto:denise.maline@idwr.idaho.gov)*



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](http://www.idwr.idaho.gov)

C.L. "BUTCH" OTTER  
Governor

GARY SPACKMAN  
Director

March 30, 2017

WATER DISTRICT #71  
MORGAN MILLER  
3594 HOTSPRINGS RD  
CHALLIS, ID 83226

*via e-mail*

RE: Application For Permit No. 71-10972

Dear Morgan:

A copy of the above referenced application is enclosed. Please review the application, then complete the enclosed recommendation form as necessary, and return it to this office within 21 days of the date of this letter.

If the application is approved, IDWR will include appropriate standard conditions of approval for a water right located within a water district, such as regulation by the watermaster, lockable controlling works, and/or measuring devices. Any special conditions or other concerns you have related to this application should be specifically addressed in your recommendation.

IDWR's regional offices can finish reviewing an unprotested application as soon as the protest period has past. Your prompt response to this request will ensure that your recommendation can be considered. If IDWR has not received your written recommendation within 21 days from the date of this letter, IDWR will presume that you do not oppose approval of the application and that you have no comments for IDWR to consider.

Sincerely,

A handwritten signature in cursive script that reads "Denise Maline".

Denise Maline  
Administrative Assistant

Enclosure(s)

## Maline, Denise

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**From:** Maline, Denise  
**Sent:** Thursday, March 30, 2017 12:52 PM  
**To:** Challis Messenger  
**Subject:** LEGAL NOTICE  
**Attachments:** Challis Messenger cover letter.docx; Challis Messenger Ad.doc

Attached please find (1) legal notice being submitted for publication on April 6<sup>th</sup> & 13<sup>th</sup>, 2017. Please feel free to contact me if you have any questions, or if you are not able to run the ad on the dates requested.

Thank you in advance,

*Denise Maline*

*Administrative Assistant*

*Idaho Dept of Water Resources, Southern Region*

*650 Addison Ave W, Ste 500*

*Twin Falls, ID 83301*

*(208) 736-3033*

*[denise.maline@idwr.idaho.gov](mailto:denise.maline@idwr.idaho.gov)*



State of Idaho

**DEPARTMENT OF WATER RESOURCES**

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C.L. "BUTCH" OTTER  
Governor

GARY SPACKMAN  
Director

March 30, 2017

**LEGAL NOTICE DEPARTMENT**  
CHALLIS MESSENGER  
PO BOX 405  
CHALLIS, ID 83226

RE: Application For Permit No.(s): 71-10972

Dear Legal Notice Department:

Please publish the enclosed legal notice on the dates indicated (once a week for two consecutive weekly issues). If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before April 24, 2017. Your cooperation is appreciated.

Sincerely,

Denise Maline  
Administrative Assistant

Enclosure(s)

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

**71-10972**

NIRVANA SPRINGS LLC  
C/O HECHT FAMILY OFFICE  
1114 STATE ST STE 310  
SANTA BARBARA, CA 93101

Point of Diversion NWSE S27 T08N R14E CUSTER County Source WARM CREEK Tributary SALMON RIVER  
Point of Diversion NWSE S27 T08N R14E CUSTER County Source WARM CREEK Tributary SALMON RIVER

Use: AESTHETIC 01/01 to 12/31 0.45 CFS

Use: AESTHETIC STORAGE 01/01 to 12/31 3.5 AF

Use: DIVERSION TO STORAGE 01/01 to 12/31 0.45 CFS

Use: RECREATION 01/01 to 12/31 0.45 CFS

Use: RECREATION STORAGE 01/01 to 12/31 3.5 AF

Use: WILDLIFE 01/01 to 12/31 0.45 CFS

Use: WILDLIFE STORAGE 01/01 to 12/31 3.5 AF

Total Diversion: 0.45 CFS

Date Filed: 3/6/2017

Place Of Use: AESTHETIC, RECREATION, WILDLIFE, AESTHETIC STORAGE, RECREATION STORAGE,  
WILDLIFE STORAGE

T08N R14E S27 NWSE

Application for permit proposes the appropriation of water from Warm Creek for uses associated with an excavated lined pond for recreation, aesthetic and wildlife uses. Consumptive use(s) associated with this application are proposed to be mitigated by fallowing irrigated acres for a season to account for initial fill and converting irrigation acres to use(s) associated with the pond via approved transfer # 80786 to account for evaporative losses. Proposed point of diversion and place of use are located approximately 15.4 miles south and 6.8 miles east of Stanley.

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 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) 736-3033; or for a full description of the right(s), please see [www.idwr.idaho.gov/WaterManagement/WaterRights/#NewListings](http://www.idwr.idaho.gov/WaterManagement/WaterRights/#NewListings). 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, 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 **April 24, 2017**. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director  
Published on April 6<sup>th</sup> & 13<sup>th</sup>, 2017

## Mills, William

---

**From:** Charles G. Brockway <charles.g.brockway@brockwayeng.com>  
**Sent:** Monday, March 27, 2017 11:16 AM  
**To:** Mills, William  
**Subject:** RE: Nirvana Springs Application for Permit 71-10972

Bill, please proceed with advertising.

Thanks,  
Chuck

---

Charles G. Brockway, Ph.D., P.E.  
Brockway Engineering, PLLC  
2016 Washington St. North, Suite 4  
Twin Falls, ID 83301  
(208) 736-8543  
charles.g.brockway@brockwayeng.com

*All information, calculations, maps, drawings, or other documents transmitted via e-mail are preliminary unless explicitly stated in the e-mail text or in the documents themselves.*

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**From:** Mills, William [mailto:William.Mills@idwr.idaho.gov]  
**Sent:** Monday, March 27, 2017 10:59 AM  
**To:** charles.g.brockway@brockwayeng.com  
**Subject:** Nirvana Springs Application for Permit 71-10972

Chuck,  
Please find attached the copies of the application for permit for Nirvana Springs and the 30 day letter the Department sends to applicants filing applications in Wild & Scenic watersheds. The letter indicates the Department will hold processing of the application for thirty days to allow applicants time to provide additional information or withdraw their application(s). Zach had indicated with the previous Nirvana Springs filings that the applicant intended to move forward and that the Department should proceed with advertising without holding the applications for thirty days. Since this application will be "replacing" permits 71-10955 & 71-10956, should the Department hold the application for 30 days or proceed with advertising?

Thanks  
Bill Mills



State of Idaho

## DEPARTMENT OF WATER RESOURCES

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

C.L. "BUTCH" OTTER  
Governor

GARY SPACKMAN  
Director

March 22, 2017

Nirvana Springs LLC  
C/O Hecht Family Office  
1114 State St STE 310  
Santa Barbara, CA 93101

RE: Application to Appropriate Water in the Upper Salmon River Basin

Dear Water Right Applicant:

The Department of Water Resources' (IDWR) records show you filed an application to establish new uses of water in the upper Salmon River basin. Idaho Code § 42-203A(5) requires IDWR to determine whether each water right application satisfies all the criteria necessary for appropriating water in Idaho. One statutory criterion requires IDWR to determine the local public interest relative to the proposed water use. Idaho Code § 42-202B(3) defines the local public interest as "the interests that the people in the area directly affected by a proposed water use have in the effects of such use on the public water resource." The local public interest has many facets, including the effects of a proposed water use on aquatic habitat for fish and wildlife resources.

The upper Salmon River basin is home to stocks of chinook salmon, sockeye salmon, steelhead trout, and bull trout, all of which are listed as threatened or endangered under the Endangered Species Act (ESA). Since the early 1990s, local water users, conservation districts, and federal and state agencies have cooperated to implement conservation measures intended to protect and restore habitat for ESA-listed species in the upper Salmon River watershed. For example, at the request of local water users the Idaho Legislature directed the Idaho Water Resource Board (IWRB) to establish a minimum stream flow in the lower Lemhi River for fish passage. The minimum stream flow is maintained through a water supply bank and temporary or permanent acquisition of additional water supplies by willing buyers from willing sellers.

Pursuant to the Snake River Water Rights Agreement of 2004, Idaho has been developing a long term conservation plan for the benefit of ESA-listed species in the Lemhi River basin. Improving conditions in flow-limited river reaches and streams is a fundamental component of the Lemhi plan. In addition to IDWR, numerous state agencies, including the Office of Species Conservation, Idaho Department of Fish and Game, Idaho Department of Environmental Quality, Idaho Soil and Water Conservation Commission, and Idaho Department of Lands, have committed and continue to commit significant resources toward this objective under the following programs:

- Columbia Basin Water Transactions Program
- National Marine Fisheries Service Pacific Coastal Salmon Recovery Fund
- U. S. Fish & Wildlife Service Aquatic Species Conservation Fund
- Salmon and Clearwater River Basins Habitat Fund
- 2008 Columbia Basin Fish Accords

Letter to Nirvana Springs LLC RE: Upper Salmon River Basin Water Right Applicants  
March 22, 2017  
Page 2

A myriad of habitat restoration projects are being constructed/implemented in other parts of the upper Salmon River basin. These projects have been coordinated with the local communities and water users through the Upper Salmon River Basin Watershed Program and predecessor programs, including the model watersheds. Furthermore, the Snake River Water Rights Agreement of 2004 contemplates the development of additional conservation plans for other upper Salmon River basin watersheds. Accordingly, the draft Comprehensive State Water Plan under revision by the IWRB contains policies for the Salmon River basin that focus on the protection and restoration of instream habitat for ESA-listed species through voluntary participation in conservation programs.

Because of the ESA-listed species recovery efforts in the upper Salmon River basin, IDWR must determine on a case-by-case basis whether it is in the local public interest to authorize proposed water uses that would further deplete flow-limited stream reaches.

Pursuant to Rule 40.04.c of the Water Appropriation Rules (IDAPA 37.03.08.040.04.c), the applicant has the ultimate burden of persuasion regarding the items that must be evaluated in connection with each water right application. Before proceeding further with your applications, IDWR requests you submit additional information about how your proposal invokes any local public interest concerns for ESA species recovery. Within 30 days, please submit any additional information you believe IDWR may need to evaluate and determine the local public interest in the water you propose to divert and use. If IDWR has not received a response from you within 30 days, IDWR will assume you have no comment regarding the local public interest, and processing of your application will resume with the information currently on file. Processing will include public notice and the potential for formal protests by other interested parties. Applications that are not in the local public interest will be denied. If you wish to withdraw your applications before they are processed, please notify IDWR in writing.

If you have any questions, please call Shelley Keen at 208-287-4947, or email him at [shelley.keen@idwr.idaho.gov](mailto:shelley.keen@idwr.idaho.gov). For applications in administrative basins 73-75, you may also contact IDWR's Eastern Region office in Idaho Falls at 208-525-7161. For applications in administrative basins 71 or 72, you may also contact IDWR's Southern Region office in Twin Falls at 208-736-3033.

Sincerely,



Bill Mills  
Senior Water Resource Agent

Cc: Zach Latham, Brockway Engineering

## Mills, William

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**From:** Mills, William  
**Sent:** Wednesday, March 22, 2017 8:03 AM  
**To:** Clark, Cynthia (Bridge)  
**Subject:** Application for permit in Wild & Scenic Basin 71

Just a heads up, I'm currently processing an application for permit (71-10972) in basin 71 that will be submitted for advertising next week. It should be noted that permits 71-10955 & 71-10956 will be relinquished after approval of this application for permit.

The following will be advertised:

Application for permit proposes the appropriation of water from Warm Creek for uses associated with an excavated lined pond for recreation, aesthetic and wildlife uses. Consumptive use(s) associated with this application are proposed to be mitigated by fallowing irrigated acres for a season to account for initial fill and converting irrigation acres to use(s) associated with the pond via approved transfer # 80786 to account for evaporative losses. Proposed point of diversion and place of use are located approximately 15.4 miles south and 6.8 miles east of Stanley.

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 non-consumptive purposes.

If you have any questions, let me know.

Thanks,  
Bill Mills

## Mills, William

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**From:** Zach Latham <zach.latham@brockwayeng.com>  
**Sent:** Friday, March 10, 2017 8:58 AM  
**To:** Mills, William  
**Subject:** RE: Nirvana Springs Application for Permit #71-10972

Bill,  
Thanks for the email. Please see my answers below in blue and let me know if we need anything else to move this forward to advertisement.

Zach Latham

Hydrologist  
Brockway Engineering, P.L.L.C.  
2016 Washington Street North, Suite 4  
Twin Falls, ID 83301  
t. 208-736-8543  
c.208-721-2114  
f. 208-736-8506

[zach.latham@brockwayeng.com](mailto:zach.latham@brockwayeng.com)

*All information, calculations, maps, drawings, or other documents transmitted via e-mail are preliminary unless explicitly stated in the e-mail text or in the documents themselves.*

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**From:** Mills, William [mailto:William.Mills@idwr.idaho.gov]  
**Sent:** Thursday, March 09, 2017 9:38 AM  
**To:** Zach Latham  
**Subject:** Nirvana Springs Application for Permit #71-10972

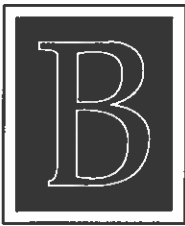
Zach,

In regards to the new application for permit for Nirvana Springs LLC, there are a couple of items that require additional clarification:

1. Line #10 on page 2 lists two numbers, 771-2078 and 1-10956 as water rights used for the same purposes as described in the application. While it appears to be a simple typographical error, could you please indicate in a written response what water right numbers should actually be listed on the application?  
Line #10 should list water right numbers 71-2078 and 71-10956, you are correct, typographical error.
2. On line #12 on page 2 you indicate that permit 71-10955 will be relinquished upon approval of this application for permit, but in both your narrative and cover letter you indicate you that two permits, 71-10955 and 71-10956 will be relinquished upon approval of the current application for permit. Again, please clarify which permit(s) will be relinquished upon approval of the current application for permit (#71-10972).

As you know, the application was signed by the applicant before guidance from IDWR was recommended for filing on the entire volume of the previously permitted pond, hence the omission of 71-10956 in question #12. BOTH permits 71-10955 and 71-10956 will be relinquished upon approval of the pending application.

Thanks,  
Bill



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Hydrology

Water Resources

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MAR 06 2017

DEPT OF WATER RESOURCES  
SOUTHERN REGION

March 2<sup>nd</sup>, 2017

Mr. Bill Mills  
Idaho Department of Water Resources  
650 Addison Ave W, Ste 500  
Twin Falls, ID 83301-3380

RE: Application for Permit- Nirvana Springs LLC

Dear Bill,

Enclosed is one Application for Permit filed on behalf of Nirvana Springs LLC. The permit application seeks to permit 3.54 acre-feet associated with the proposed pond that has been permitted under 71-10955 and 71-10956. A change in the construction method for the pond from un-lined to lined, and year round diversion into the pond has necessitated the attached permit filing. The two permits referenced above will be relinquished when the attached new permit is approved per IDWR's request.

Also enclosed is a check for \$250 to cover the cost of the water right permit application, based on the 0.45 cfs diversion rate. Please copy our office on all correspondence regarding the enclosed water right permit application. Don't hesitate to give me a call should you have any further questions or comments. Thanks for your time and assistance on this matter.

Regards,

Zach Latham, M.S., Hydrologist.

Enclosures: (1) Permit Application, Season of Use/Nature of Use Supplement, POU/POD and 1<sup>st</sup> Fill Dry Up Area Map.  
(1) Brockway Engineering PLLC Check # 13896

Cc: Nirvana Springs LLC c/o Hecht Family Office

CHARLES E.  
BROCKWAY,  
PH.D., P.E.

CHARLES G.  
BROCKWAY,  
PH.D., P.E.

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