

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 98-07973

Priority: September 28, 2016

Maximum Diversion Volume: 16.1 AF

This is to certify, that JAMES HUNTLEY And/Or
CAROLINE HUNTLEY
PO BOX 1378
MC CALL ID 83638

has applied for a permit to appropriate water from:

Source: UNNAMED STREAM**Tributary:** DEEP CREEK

and a permit is APPROVED for development of water as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>ANNUAL VOLUME</u>
STOCKWATER STORAGE	01/01 to 12/31	7.1 AF
STOCKWATER FROM STORAGE	01/01 to 12/31	0.3 AF
IRRIGATION STORAGE	01/01 to 12/31	15.8 AF
IRRIGATION FROM STORAGE	04/01 to 10/31	9.0 AF
FIRE PROTECTION STORAGE	01/01 to 12/31	6.8 AF
RECREATION STORAGE	01/01 to 12/31	6.8 AF
WILDLIFE STORAGE	01/01 to 12/31	6.8 AF

LOCATION OF POINT(S) OF DIVERSION:

UNNAMED STREAM SW1/4SW1/4 Sec. 33, Twp 60N, Rge 01W, B.M. BOUNDARY County

PLACE OF USE: STOCKWATER STORAGE, IRRIGATION STORAGE, FIRE PROTECTION STORAGE, RECREATION STORAGE, AND WILDLIFE 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	
60N 01W 33											X						

PLACE OF USE: STOCKWATER FROM 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	
60N 01W 33											X						

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PLACE OF USE: IRRIGATION FROM STORAGE

Twp Rge Sec	NE				NW				SW				SE				Totals
60N 01W 33	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	3.0

Total Acres: 3

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **December 01, 2021**.
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. 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.
5. Prior to the diversion and use of water under this approval, the right holder shall comply with applicable county zoning and use ordinances.
6. Water shall not be diverted from fire protection storage except to fight or repel an existing fire.
7. Stockwater is for 20 head of mixed stock.
8. Recreation storage is for fishing, swimming, and boating.
9. This right when combined with all other rights shall provide no more than 3.0 afa per acre at the field headgate for irrigation of the place of use.
10. Right 98-7973 authorizes a total annual storage volume of 16.1 acre-feet to be used for the initial filling of the pond, for the replacement of losses caused by evaporation, and for the storage of water for irrigation, stockwater, fire protection, recreation, and wildlife purposes.
11. The pond established by the storage of water under this right shall not exceed a total capacity of 5.4 acre-feet or a total surface area of 0.9 acres.
12. Rights 98-7921 and 98-7973 when combined shall not exceed the irrigation of 3 acres and stockwater for 20 head of mixed stock.
13. Place of use is located within Lots 38 and 39 Xmas Hills 1st Addition Subdivision.
14. 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 21st day of November, 20 16.

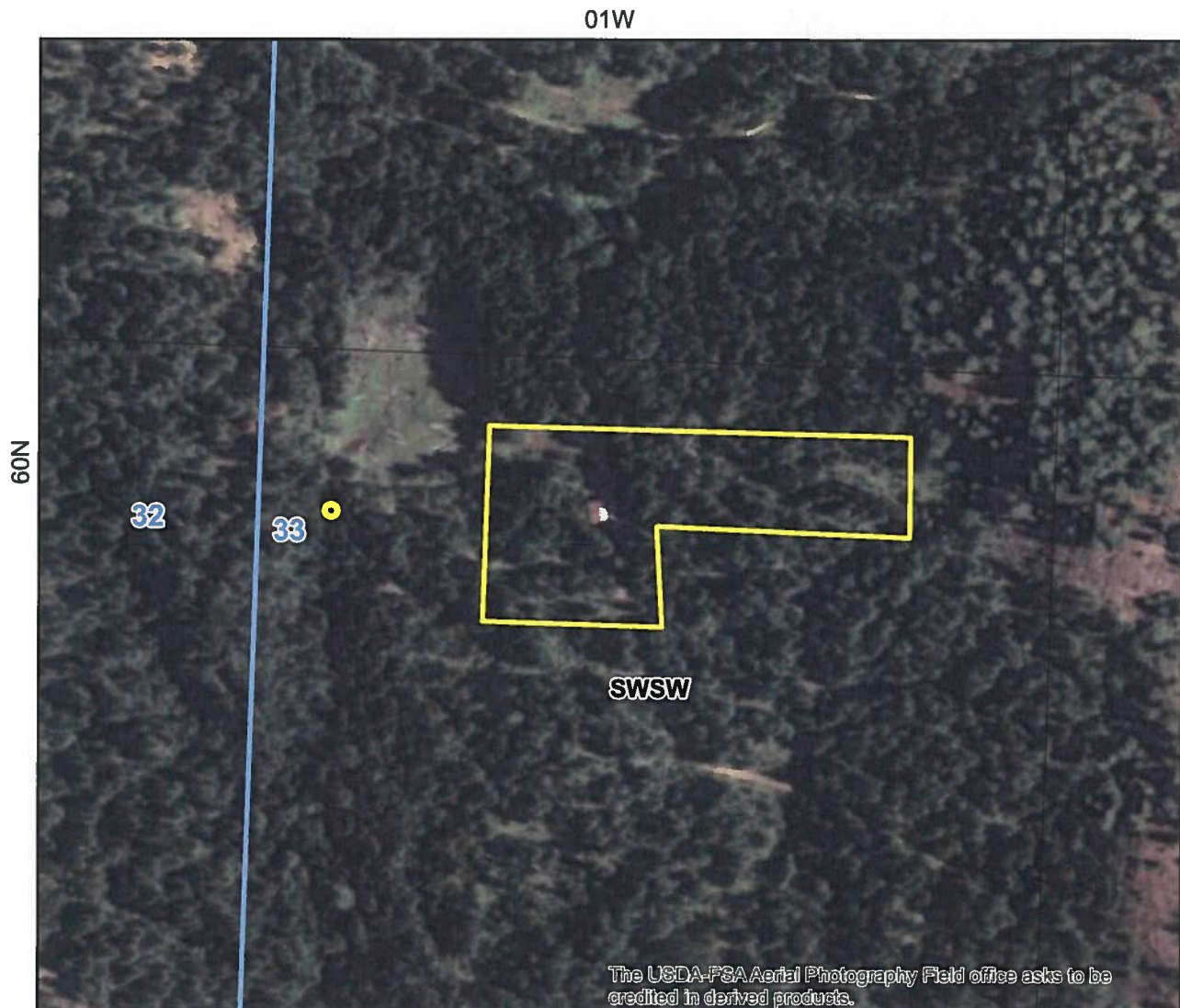
Morgan Case
MORGAN CASE, Northern Regional Manager

State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

98-7973

This map depicts the STOCKWATER FROM STORAGE and IRRIGATION FROM STORAGE 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

Attachment to Permit to Appropriate Water

98-7973

This map depicts the STOCKWATER STORAGE, IRRIGATION STORAGE, FIRE PROTECTION STORAGE, RECREATION STORAGE, and WILDLIFE STORAGE 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

November 23, 2016

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

JAMES HUNTLEY And/Or
CAROLINE HUNTLEY
PO BOX 1378
MC CALL ID 83638

RE: Permit No. 98-7973

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) 762-2800.

Sincerely,



Morgan Case
Northern Regional Manager

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on November 23, 2016 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. 98-7973

**CAROLINE HUNTLEY
PO BOX 1378
MC CALL ID 83638**

**JAMES HUNTLEY
PO BOX 1378
MC CALL ID 83638**



**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.

RECEIVED
NOV 07 2016
IDWR / NORTH

AFFIDAVIT OF PUBLICATION

State of Idaho

ss

County of Boundary, Jinda Johnson
being first duly sworn on oath deposes and says that
he/she is book keeper of the
Bonners Ferry Herald, a newspaper printed and
published at Bonners Ferry, Boundary County, Idaho;
that the said newspaper has been continuously and
uninterruptedly published in said Boundary County during
a period of 12 months prior to the first publication of the
hereto attached notice of publication in the case of:

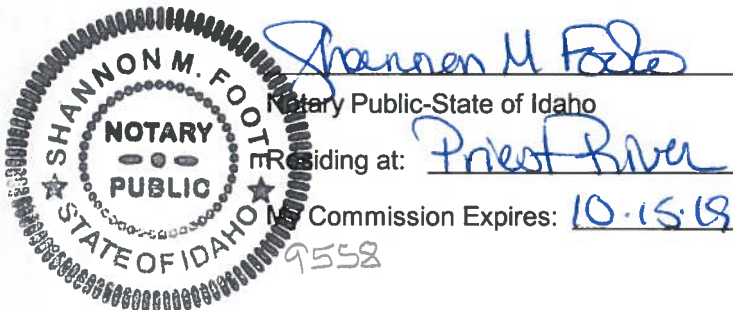
Application for Permit
98-7973

as it was published in the regular and entire issue of the
said paper for a period of 2 consecutive weeks,
commencing on 20th day of Oct, 2016 and
ending on the 27th day of Oct, 2016 and
that said notice was published in said newspaper.

Jinda Johnson

SUBSCRIBED AND SWORN TO before me, this

27th day of Oct, 2016.



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

98-7973

JAMES HUNTLEY
CAROLINE HUNTLEY
PO BOX 1378
MC CALL, ID 83638
Point of Diversion SWSW S33 T60N R01W BOUNDARY CO
Source UNNAMED STREAM tributary DEEP CREEK
Use: FIRE PROTECTION Storage 01/01 to 12/31 6.8 AF
Use: IRRIGATION from Storage 04/01 to 10/31 9 AF
Use: IRRIGATION Storage 01/01 to 12/31 15.8 AF
Use: RECREATION Storage 01/01 to 12/31 6.8 AF
Use: STOCKWATER from Storage 01/01 to 12/31 0.3 AF
Use: STOCKWATER Storage 01/01 to 12/31 7.1 AF
Use: WILDLIFE Storage 01/01 to 12/31 6.8 AF
Total Diversion: 16.1 AF
Date Filed: 9/28/2016
Place of Use: WILDLIFE STORAGE T60N R01W S33 SWSW
ALL OTHER STORAGE USES same as WILDLIFE STORAGE
Total Acres: 3
Stockwater use is for 20 head of mixed stock Recreation use is
for fishing, swimming and boating 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/WRApplcationResult>
s/
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 11/7/2016. The protestant must also
send a copy of the protest to the applicant.
GARY SPACKMAN, Director
BFH Legal #9558
October 20, 27, 2016