

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 78-12421

Priority: April 29, 2015

Maximum Diversion Volume: 7.2 AF

This is to certify, that JOHN WALLACE Or
MARGOT WALLACE
9881 CARROLL CENTRE RD
SAN DIEGO CA 92126

has applied for a permit to appropriate water from:

Source: UNNAMED STREAM

Tributary: ROUND VALLEY 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>
RECREATION STORAGE	01/01 to 12/31	7.2 AF
AESTHETIC STORAGE	01/01 to 12/31	7.2 AF

LOCATION OF POINT(S) OF DIVERSION:

UNNAMED STREAM SW¼SE¼ Sec. 33, Twp 21N, Rge 01E, B.M. ADAMS County

PLACE OF USE: RECREATION STORAGE

Twp	Rge	Sec	NE	NW	SW	SE	Totals
21N	01E	33	NE	NW	SW	SE	X

PLACE OF USE: AESTHETIC STORAGE

Twp	Rge	Sec	NE	NW	SW	SE	Totals
21N	01E	33	NE	NW	SW	SE	X

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before June 01, 2017.
2. Subject to all prior water rights.
3. Rights 78-7395 and 78-12421 authorize a total annual storage volume of 7.9 acre-feet, 3.5 acre-feet to be used for the initial filling or carryover storage of the pond and 4.4 acre-feet for the replacement of losses caused by seepage and evaporation.
4. The pond established by the storage of water under this right shall not exceed a total capacity of 3.5 acre-feet or a total surface area of 0.5 acres.
5. 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.
6. This right does not grant any right-of-way or easement across the land of another.

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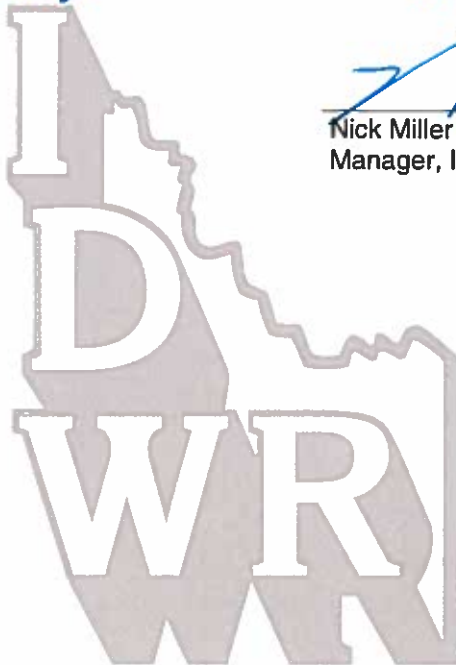
7. The Director retains jurisdiction to require the right holder to provide purchased or leased natural flow or stored water to offset depletion of Lower Snake River flows if needed for salmon migration purposes. The amount of water required to be released into the Snake River or a tributary, if needed for this purpose, will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this permit.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code.

Signed this 17th day of May, 2016.



Nick Miller
Manager, IDWR Western Region

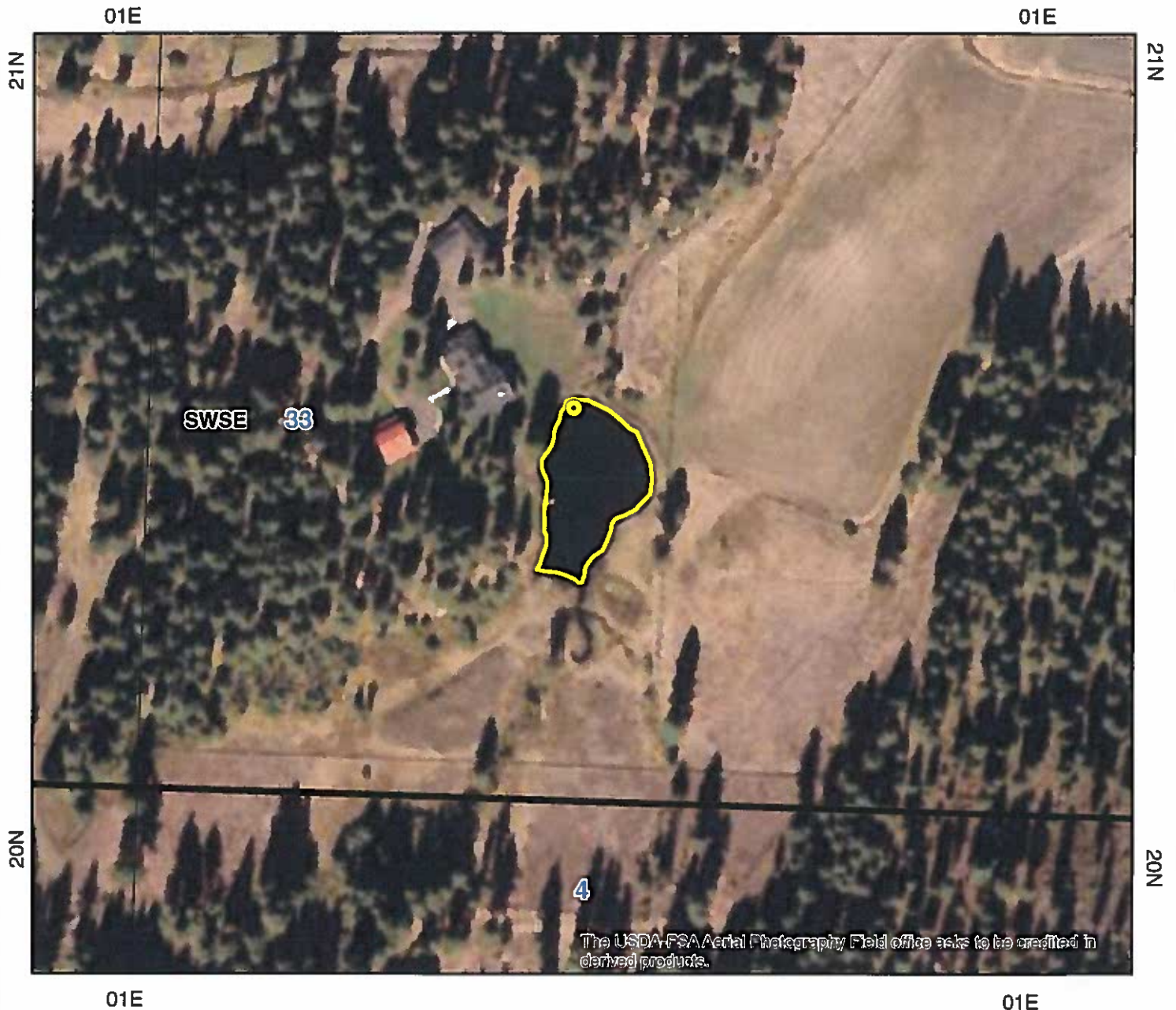


State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

78-12421

This map depicts the RECREATION STORAGE and AESTHETIC 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 0.0225 0.045 0.09 Miles





State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way • Boise, Idaho 83705-5082

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Web Site: www.idwr.idaho.gov

May 18, 2016

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

JOHN WALLACE
MARGOT WALLACE
9881 CARROLL CENTRE RD
SAN DIEGO CA 92126

RE: Permit No.78-12421

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)334-2190.

Sincerely,

A handwritten signature in black ink that reads "Rachel Neely for:". The signature is written in a cursive, flowing style.

Nick Miller
Western Regional Manager

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on May 18, 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. 78-12421

**JOHN WALLACE
MARGOT WALLACE
9881 CARROLL CENTRE RD
SAN DIEGO CA 92126**



**Rachel Neely
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.

Merriman, Danielle

From: Merriman, Danielle
Sent: Tuesday, May 10, 2016 9:07 AM
To: 'Josh.Schultz@deq.idaho.gov'; johnw@jwffloors.com
Cc: Douglas.Conde@deq.idaho.gov
Subject: RE: water right application 78-12421

Hi Josh,

Thank you for copying me on this and for sending in the comments from DEQ. I will add the remarks to Mr. Wallace's file and proceed with processing the application.

Sincerely,

Danie Merriman

Water Resource Agent, Senior

Idaho Department of Water Resources

Phone: (208) 334-2190

Fax: (208) 334-2348

Email: danie.merriman@idwr.idaho.gov

From: Josh.Schultz@deq.idaho.gov [<mailto:Josh.Schultz@deq.idaho.gov>]
Sent: Monday, May 09, 2016 12:48 PM
To: johnw@jwffloors.com; Merriman, Danielle
Cc: Douglas.Conde@deq.idaho.gov
Subject: water right application 78-12421

Hi John, DEQ has reviewed your application for a recreational water right on an unnamed tributary of Round Valley Creek in Adams County, Idaho. Beneficial uses on this waterbody are fully supporting and it is not anticipated that this water right will impact beneficial uses.

Please find attached a copy of our comment letter.

Feel free to contact me if you need further assistance regarding DEQ comments on this application.

Sincerely,

Josh

Joshua Schultz • Senior Watershed Analyst • Idaho Department of Environmental Quality • 1445 N Orchard St. • Boise, Idaho 83706 • (208) 373-0264



STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY

1445 North Orchard • Boise, Idaho 83706 • (208) 373-0550
www.deq.idaho.gov

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

May 9, 2016

John and Margot Wallace
9881 Carrol Centre Rd.
San Diego, CA 92126

RE: Water right application 78-12421

Dear John and Margot Wallace:

The Idaho Department of Environmental Quality (DEQ) reviewed your water right application, in relation to water quality data near your proposed project site identified in Application 78-12421 for recreational storage of 7.2 acre-feet.

The point of use is on an unnamed tributary (ID17060210SL006_02) of Round Valley Creek in Adams County, Idaho. The assessment unit (AU) (ID17060210SL006_02) comprises all 1st and 2nd order tributaries of the waterbody ID SL006. Representative waterbodies (Round Valley Creek North Branch and Round Valley Creek) of this AU were monitored in 1994. The waterbodies had BURP scores of 2.5 and 3.0 respectively. The unnamed tributary of Round Valley Creek is fully supporting its presumed beneficial uses of cold water aquatic life (COLD) and secondary contact recreation (SCR).

DEQ does not anticipate that this water right use will impair beneficial uses. DEQ believes this letter is sufficient to allow the Department of Water Resources to complete their review of your water rights application. Thank you for the opportunity to review your application.

Please do not hesitate to contact me at 208.373.0264 for any additional information we may be able to provide.

Sincerely,

A handwritten signature in black ink, appearing to read "Josh Schultz", is written over the word "Sincerely,".

Josh Schultz
Senior Watershed Coordinator, Boise Regional Office
Danielle Merriman, IDWR
Doug Conde, Deputy Attorney General

Merriman, Danielle

From: Merriman, Danielle
Sent: Tuesday, May 03, 2016 4:30 PM
To: 'josh.schultz@deq.idaho.gov'
Subject: Application for Permit 78-12421
Attachments: Application for Permit No. 78-12421.pdf

Hi Josh,

Thank you for speaking with me on the phone earlier today. The Idaho Department of Water Resources (IDWR) is seeking written comment and/or recommendation(s) from your agency regarding the above referenced water right application. This application proposes to use surface water in the Wild and Scenic area and DEQ comments are required to proceed with processing. A copy of the application is enclosed with this email for your reference. Please review the application and submit your reply at your earliest convenience.

Please contact me if you have any questions regarding the application. Thank you for your help!

Sincerely,

Danie Merriman

Water Resource Agent

Idaho Department of Water Resources

Phone: (208) 334-2190

Fax: (208) 334-2348

Email: danie.merriman@idwr.idaho.gov

RECEIVED

APR 22 2016

WATER RESOURCES
WESTERN REGION

STATE OF IDAHO)
) SS
COUNTY OF ADAMS)

Chelsea L Coon being duly sworn, deposes and says that she is the Principle Clerk of the Adams County Record, a weekly newspaper printed and published at Council, Adams County, State of Idaho and having a general circulation therein and which said newspaper has been published continuously and uninterrupted in said County for a period of twelve (12) months prior to the first publication of the advertisement, a copy of which is attached thereto: that advertisement was published in the regular edition of The Adams County Record for two (2) insertions beginning with the Issue of April 06, 2016 and ending with the Issue of April 13, 2016.

Chelsea Coon

On this 19th day of April, 2016, before me, a Notary Public, personally appeared Chelsea L Coon, known or identified to me to be the person whose name subscribed to the written instrument, and being by me first and duly sworn, declared that the statements therein are true and acknowledged to me that she executed the same.

ASHLEY SCOTT
Notary Public
State of Idaho

Ashley Scott
Notary Public of Idaho

Residing at Council, ID

My Commission Expires 11/24/2020

To: IDWR

Subject: APPLICATION OF PERMIT

LEGAL NOTICE

The following applications have been filed to appropriate the public waters of the State of Idaho:

78-12431

JOHN WALLACE
MARGOT WALLACE

9881 CARROLL CENTRE RD
SAN DIEGO, CA 92126

Point of Diversion SWSE S33 T21N R01E ADAMS County Source UNNAMED STREAM Tributary
ROUND VALLEY CREEK

Use: AESTHETIC STORAGE 01/01 to 12/31 7.2 AF

Use: RECREATION STORAGE 01/01 to 12/31 7.2 AF

Total Diversion: 7.2 AF

Date Filed: 11/10/2014

Places of Use: RECREATION STORAGE, AESTHETIC STORAGE

T21N R01E S33 SWSE

78-12432

BRANDON M BECKER
STEPHENY F VOS

3919 CEMETERY RD
NEW MEADOWS, ID 83654

Point of Diversion NWNE S35 T20N R01E ADAMS County Source GROUND WATER

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

Use: IRRIGATION 04/01 to 10/31 0.04 CF

Total Diversion: 0.04 CFS

Date Filed: 8/6/2015

Places of Use: DOMESTIC, IRRIGATION

T20N R01E S35 NWNE

Total Acres: 1.3

78-12433

WILLIAM FAIRFIELD

199 FIGUEROA ST
VENTURA, CA 93001

Point of Diversion NESW S8 T18N R02E ADAMS County Source BIG CREEK Tributary LITTLE SALMON
RIVER

Use: DIVERSION TO STORAGE 01/01 to 12/31 1 CFS

Use: FIRE PROTECTION FROM STORAGE 01/01 to 12/31 5.1 AF

Use: FIRE PROTECTION STORAGE 01/01 to 12/31 5.1 AF

Use: RECREATION STORAGE 01/01 to 12/31 5.1 AF

Total Diversion: 1 CFS 5.1 AF

Date Filed: 2/8/2016

Places of Use: RECREATION STORAGE, FIRE PROTECTION STORAGE

T18N R02E S8 NESW

Place of Use: FIRE PROTECTION FROM STORAGE

T18N R02E S5 L2(NWNE) SWNE L3(NENW) SENW NESW SESW NWSE SWSE

T18N R02E S7 NENE SENE NESE SESE

T18N R02E S8 NW(ALL) SW(ALL)

Permits will be subject to all prior water rights. For additional information concerning the property location, contact Western Region office at (208) 334-2190; or for a full description of the right(s), please see www.idwr.idaho.gov/WaterManagement/WaterRights. Protests may be submitted based on the criteria of Idaho Code § 42-203A. Any protest against the approval of the application(s) must be filed with the Director, Dept. of Water Resources, Western Region, 2735 Airport Way, Boise ID 83705 together with a protest fee of \$25.00 for each application on or before 4/25/2016. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Published in the Adams County Record on April 06, 2016 • April 13, 2016

Legals Continued on next page