

State of Idaho
Department of Water Resources
Water Right License

WATER RIGHT NO. **85-07659**

Priority: June 29, 1999

Maximum Diversion Rate: 5.10 CFS
Maximum Diversion Volume: 435.0 AF

It is hereby certified that UNITED STATES OF AMERICA ACTING THROUGH
DOE-BONNEVILLE POWER ADMIN
LAND MGT SEC MMLC
PO BOX 3621
PORTLAND OR 97208-3621 has complied with the terms and conditions
of the permit, issued pursuant to Application for Permit dated June 29, 1999; and has submitted Proof of
Beneficial Use on February 11, 2005. An examination confirms water is diverted from:

SOURCE

LAPWAI CREEK

Tributary: CLEARWATER RIVER

and a water right has been established as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL DIVERSION VOLUME</u>
FISH PROPAGATION	04/01 to 06/15		0.6 AF
STORAGE			
FISH PROPAGATION	04/01 to 06/15	5.10 CFS	434.4 AF
DIVERSION TO STORAGE	04/01 to 06/15	5.10 CFS	

LOCATION OF POINT(S) OF DIVERSION:

LAPWAI CREEK L13 (SE1/4SE1/4) Sec. 22, Twp 36N, Rge 04W, B.M. NEZ PERCE County

PLACE OF USE: FISH PROPAGATION AND FISH PROPAGATION STORAGE

Twp Rge Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
36N 04W 22	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
																	X L 13

CONDITIONS OF APPROVAL

1. Fish propagation is for Clearwater River Subbasin Chinook salmon restoration with the rearing and release of fall Chinook salmon fingerlings or smolts.
2. The right holder shall not divert more than 50 percent or one-half the rate of flow in Lapwai Creek, as measured at the point of diversion under this right.
3. The issuance of this right does not grant any right-of-way or easement across the land of another.
4. Right 85-7659 authorizes the diversion of 0.6 acre-feet to be used for the initial filling of the fish ponds and up to 434.4 acre-feet for fish propagation for a total annual volume of 435 acre-feet.
5. Rights 85-7661 and 85-7659 when combined shall not exceed a total storage volume of 0.6 acre-feet.

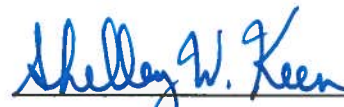
State of Idaho
Department of Water Resources
Water Right License

WATER RIGHT NO. 85-07659

6. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.
7. The right holder shall not divert water at a rate exceeding what is reasonably necessary for the beneficial use authorized by this right.

This license is issued pursuant to the provisions of Section 42-219, Idaho Code. The water right confirmed by this license is subject to all prior water rights and shall be used in accordance with Idaho law and applicable rules of the Department of Water Resources.

Signed this 23rd day of June, 2014.



for GARY SPACKMAN
Director

State of Idaho
Department of Water Resources
Attachment To Water Right License
85-7659

This map depicts the FISH PROPAGATION 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.

04W



- Point of Diversion
- Place Of Use Boundary
- Townships
- PLS Sections
- Quarter Quarters

0 0.0175 0.035 0.07 Miles



State of Idaho
Department of Water Resources
Attachment To Water Right License
85-7659

This map depicts the FISH PROPAGATION 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.

04W



- Point of Diversion
- Place Of Use Boundary
- Townships
- PLS Sections
- Quarter Quarters

0 0.0225 0.045 0.09 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 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

June 23, 2014

UNITED STATES OF AMERICA ACTING THROUGH
DOE-BONNEVILLE POWER ADMIN
LAND MGT SEC MMLC
PO BOX 3621
PORTLAND OR 97208-3621

RE: License Nos. 81-7181, 85-7656, 85-7659, 85-7660, 85-7661, & 85-7664

Issuance of Licenses

Dear Water Right Holder(s):

The Department of Water Resources has issued the enclosed Water Right Licenses confirming that water rights have been established in accordance with your permits. Please be sure to thoroughly review the conditions of approval and remarks listed on your licenses.

The licenses are PRELIMINARY ORDERS issued by the Department pursuant to section 67-5243, Idaho Code. They can and will become final orders 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.

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 208-287-4916.

Sincerely,

Shelley W. Keen

Water Right Section Manager

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on June 24, 2014, I mailed true and correct copies, postage prepaid, of the foregoing PRELIMINARY ORDERS (Approved Licenses) to the person(s) listed below:

RE: WATER RIGHT NOS. 81-7181, 85-7656, 85-7659, 85-7660, 85-7661, & 85-7664

**UNITED STATES OF AMERICA ACTING THROUGH
DOE-BONNEVILLE POWER ADMIN
LAND MGT SEC MMLC
PO BOX 3621
PORTLAND OR 97208-3621**



**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.