

State of Idaho
Department of Water Resources
Water Right License

WATER RIGHT NO. 36-07757

Priority: October 27, 1977

Maximum Diversion Rate: 184.55 CFS
Maximum Diversion Volume: 133,610.0 AF

It is hereby certified that STATE OF IDAHO
IDAHO WATER RESOURCE BOARD
322 E FRONT ST
PO BOX 83720
BOISE ID 83720-0098 has complied with the terms and conditions of the
permit, issued pursuant to Application for Permit dated October 27, 1977; and has submitted Proof of
Beneficial Use on August 15, 2001. An examination confirms water is diverted from:

SOURCE

WASTE WATER

Tributary: WARM CREEK

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	01/01 to 12/31	184.55 CFS	133,610.0 AF

LOCATION OF POINT(S) OF DIVERSION:

WASTE WATER L14 (SW1/4NE1/4) Sec. 29, Twp 09S, Rge 17E, B.M. JEROME County

WASTE WATER L12 (SW1/4NE1/4) Sec. 29, Twp 09S, Rge 17E, B.M. JEROME County
(Injection)WASTE WATER L10 (NW1/4NW1/4) Sec. 29, Twp 09S, Rge 17E, B.M. JEROME County
(Rediversion)WASTE WATER L10 (NW1/4NW1/4) Sec. 29, Twp 09S, Rge 17E, B.M. JEROME County
(Rediversion)**PLACE OF USE:** FISH PROPAGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
09S 17E 20											X L 4						
09S 17E 29			X L 14			X L 10											
09S 17E 30	X L 8																

CONDITIONS OF APPROVAL

1. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 130.
2. This water right authorizes the diversion of effluent tail water from the existing Blue Lakes Trout fish propagation facility. It does not authorize diversion of water directly from Alpheus Creek, and does not authorize diversion or re-use of water emitting from the canyon wall north of the project or diversion or re-use of water flowing in Warm Creek.

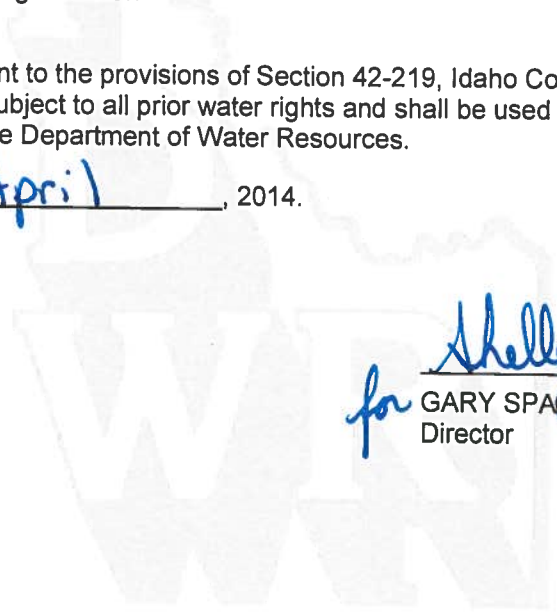
State of Idaho
Department of Water Resources
Water Right License

WATER RIGHT NO. 36-07757

3. The source of water originates mainly as wastewater and drainage from Blue Lakes Trout Farm and is subject to availability. The source is subject to the right of the original appropriator to cease wasting water, to change the place of use or manner of wasting it, or to recapture it. This right is also subject to future management and development of the Snake River Plain aquifer, possibly necessitating changes in the diversion facilities.
4. Water may only be consumed or lost through delivery seepage or evaporation.
5. The diversion and use of water described in right 36-7757 may be subject to additional conditions and limitations agreed to by the protestant and the right holder under a separate agreement described in a letter dated March 4, 1991 to which the Department is not a party. Because the Department is not a party, the Department is not responsible for enforcement of any aspect of the agreement not specifically addressed in other conditions herein. Enforcement of those portions of the agreement not specifically addressed in other conditions shall be the responsibility of the protestant and the water right holder.

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 25th day of April, 2014.


Shelley W. Keen
for GARY SPACKMAN
Director

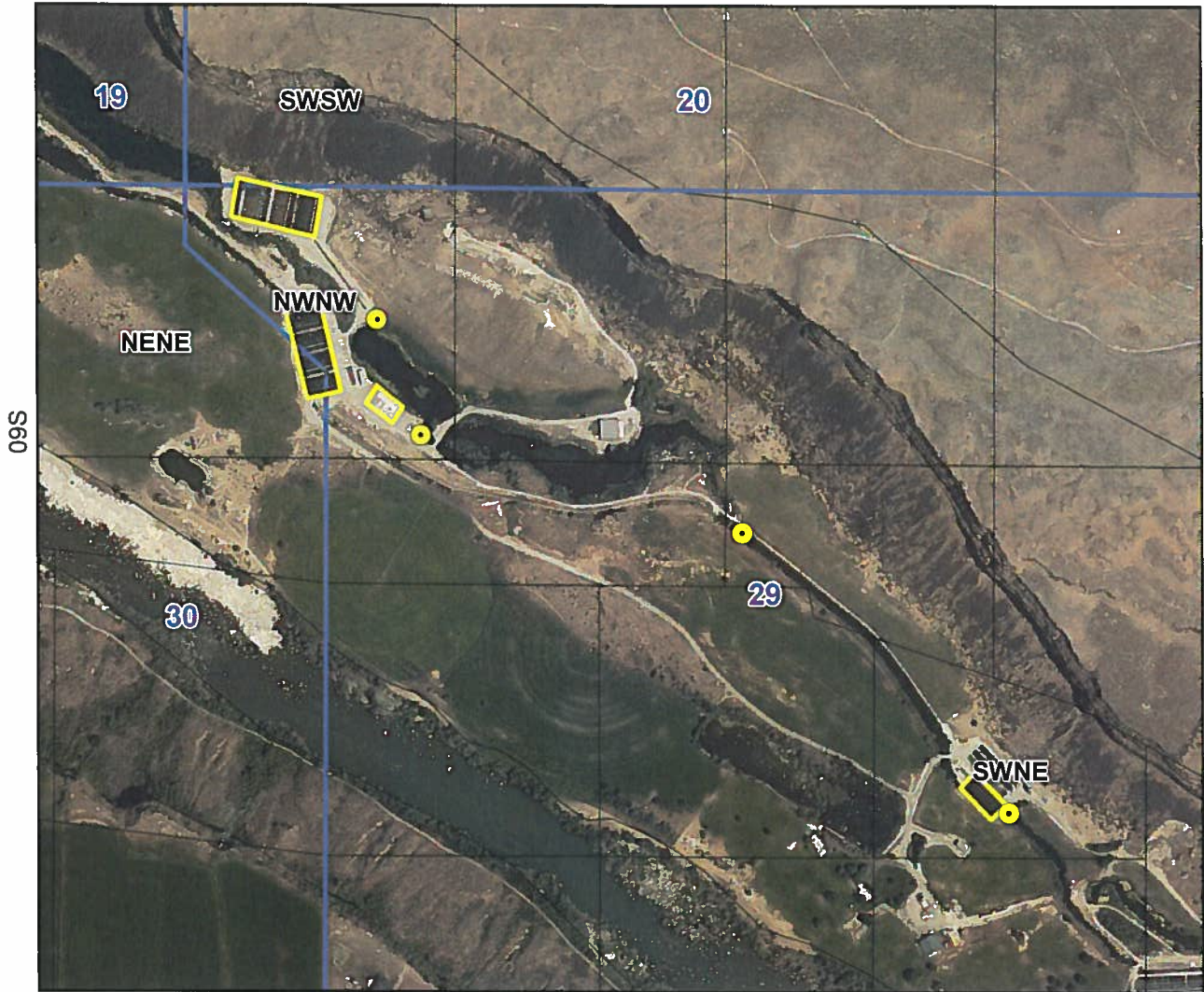
State of Idaho
Department of Water Resources

Attachment To Water Right License

36-7757

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.

17E



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

0 0.1 0.2 0.4 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

April 30, 2014

STATE OF IDAHO
IDAHO WATER RESOURCE BOARD
322 E FRONT ST
PO BOX 83720
BOISE ID 83720-0098

RE: License Nos. 36-7757, 36-8094 & 36-8573

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. Also enclosed are copies of the approved applications for amendment.

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,

Craig L. Saxton
Water Rights Supervisor

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on April 30, 2014, I hand delivered true and correct copies of the foregoing PRELIMINARY ORDERS (**Approved Licenses**) to the person(s) listed below:

RE: WATER RIGHT NOS. **36-7757, 36-8094 & 36-8573**

**STATE OF IDAHO
IDAHO WATER RESOURCE BOARD
322 E FRONT ST
PO BOX 83720
BOISE ID 83720-0098**



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.

State of Idaho
Department of Water Resources
APPLICATION FOR AMENDMENT

(For Licensing Purposes)

WATER RIGHT NO. 36-07757

Date of Priority: October 27, 1977

Maximum Diversion Rate: 184.55 CFS

Maximum Diversion Volume: 133,610.0 AF

Comes now IDAHO WATER RESOURCE BOARD

PO BOX 83720

BOISE ID 83720-0098

and represents to the Director of the Idaho Department of Water Resources that he is the owner and holder of Permit to Appropriate the Public Waters of the State of Idaho No. 36-07757, and requests that the permit be changed as follows:

Source: WASTE WATER

Tributary: WARM CREEK

BENEFICIAL USE

PERIOD OF USE

RATE OF DIVERSION

ANNUAL VOLUME

FISH PROPAGATION

01/01 to 12/31

184.55 CFS

133,610.0 AF

LOCATION OF POINT(S) OF DIVERSION:

WASTE WATER L12 (SW $\frac{1}{4}$ NE $\frac{1}{4}$) Sec. 29, Twp 09S, Rge 17E, B.M. JEROME County (Injection)

WASTE WATER L10 (NW $\frac{1}{4}$ NW $\frac{1}{4}$) Sec. 29, Twp 09S, Rge 17E, B.M. JEROME County (Rediversion)

WASTE WATER L10 (NW $\frac{1}{4}$ NW $\frac{1}{4}$) Sec. 29, Twp 09S, Rge 17E, B.M. JEROME County (Rediversion)

WASTE WATER L14 (SW $\frac{1}{4}$ NE $\frac{1}{4}$) Sec. 29, Twp 09S, Rge 17E, B.M. JEROME County

PLACE OF USE: FISH PROPAGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
09S 17E 20											X						
											L 4						
09S 17E 29			X			X											
			L 14			L 10											
09S 17E 30	X																
	L 8																

Permit holder asserts that no one will be injured by such change and that such change will be made at permit holder's own risk. Signed this 27th day of MARCH, 2014.



(Signature)

FOR THE IDAHO
WATER RESOURCE BOARD

State of Idaho
Department of Water Resources
APPLICATION FOR AMENDMENT
(For Licensing Purposes)
WATER RIGHT NO. 36-07757

FOR DEPARTMENT USE ONLY

Preliminary check by SNK Fee = N/A Received by _____ # _____ Date 4-25-2014

ACTION OF THE DEPARTMENT OF WATER RESOURCES

I, GARY SPACKMAN, of the Department of Water Resources hereby approve the above Application for Amendment for Permit No. 36-07757 with the following:

CONDITIONS OF APPROVAL

1. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 130.
2. This water right authorizes the diversion of effluent tail water from the existing Blue Lakes Trout fish propagation facility. It does not authorize diversion of water directly from Alpheus Creek, and does not authorize diversion or re-use of water emitting from the canyon wall north of the project or diversion or re-use of water flowing in Warm Creek.
3. The source of water originates mainly as wastewater and drainage from Blue Lakes Trout Farm and is subject to availability. The source is subject to the right of the original appropriator to cease wasting water, to change the place of use or manner of wasting it, or to recapture it. This right is also subject to future management and development of the Snake River Plain aquifer, possibly necessitating changes in the diversion facilities.
4. Water may only be consumed or lost through delivery seepage or evaporation.
5. The diversion and use of water described in right 36-7757 may be subject to additional conditions and limitations agreed to by the protestant and the right holder under a separate agreement described in a letter dated March 4, 1991 to which the Department is not a party. Because the Department is not a party, the Department is not responsible for enforcement of any aspect of the agreement not specifically addressed in other conditions herein. Enforcement of those portions of the agreement not specifically addressed in other conditions shall be the responsibility of the protestant and the water right holder.

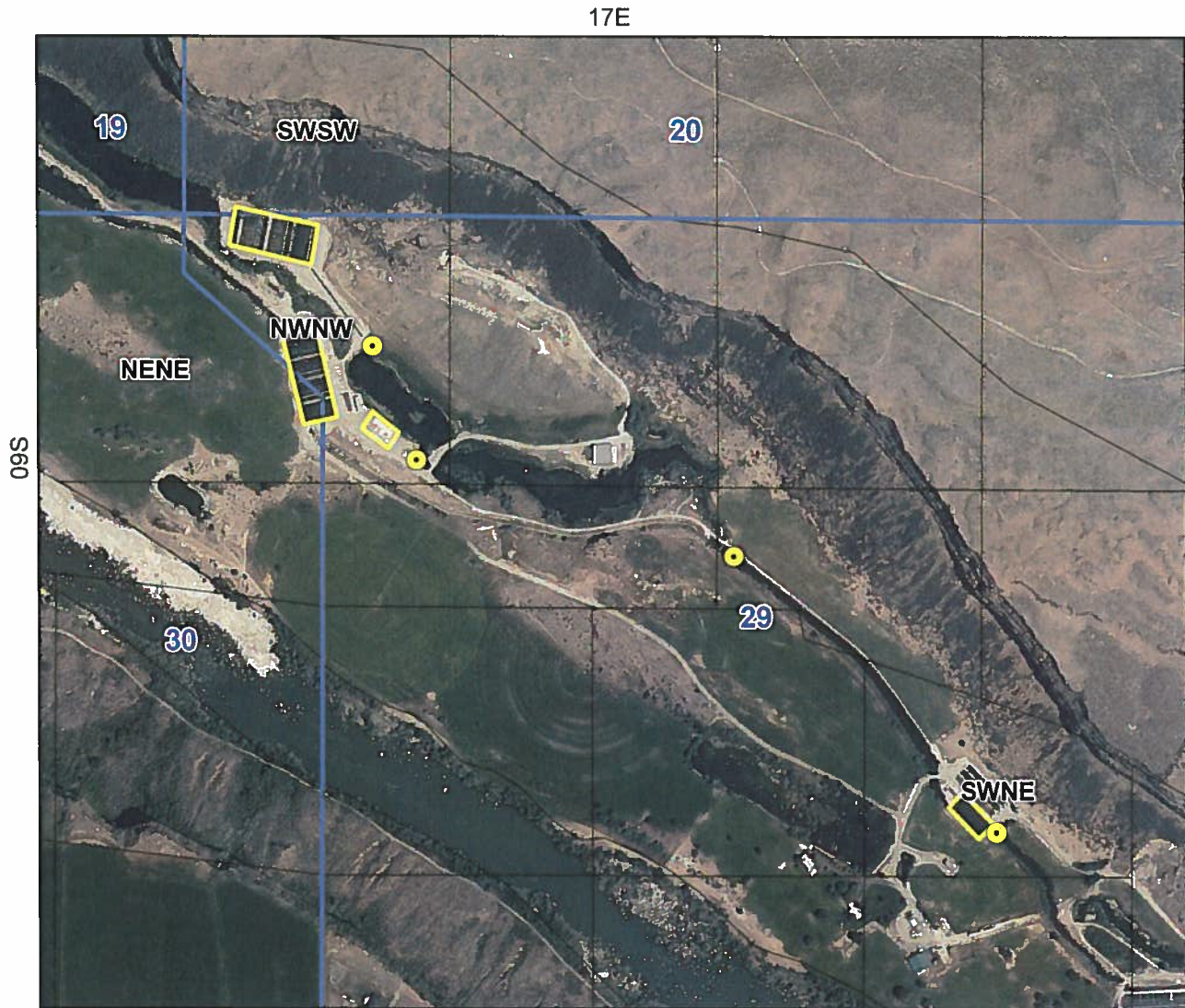
Witness my hand this 25th day of April, 2014.


for GARY SPACKMAN
Director

Attachment For Amendment To Water Right License

36-7757

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.



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

0 0.1 0.2 0.4 Miles



MEMORANDUM

TO: File 36-7757

FROM: Daniel Nelson – Staff Hydrologist

DATE: March 24, 2014

SUBJECT: Licensing Review for water right 36-7757

This permit was filed for 2 points of diversion from Alpheus Creek for Fish Propagation. However, when reviewing the conditions, it was clear that the water diverted for this permit was clearly waste water from the Blue Lakes Hatchery.

Cindy Yenter performed the field examination, and determined that there is one point of diversion for this right that diverts water from the channel from the Blue Lakes Hatchery into the uppermost fish facility in the Lot 14, SWNE of Section 20.

This water then runs through a manmade ditch to a point where it is injected back into Warm Springs Creek in the Lot 12, SWNE of Section 20. Cindy described the point of injection as the NWNE of Section 20 due to an inaccurate description in the Department's Mapping program. We will use the correct description of the Lot 12, SWNE of Section 20.

The wastewater is then re-diverted at two other points further downstream. Both of these re-diversion points are located in the Lot 10 NWNW of Section 20.

Cindy listed the point of injection and the point of re-diversion as having the source of Warm Springs Creek. I spoke with Craig, and we both agree that all of the sources should be wastewater. Therefore, I recommend that we change the source of water right 36-7757 to wastewater tributary to Warm Creek for the point of diversion, point of injection, and 2 points of re-diversion. Cindy and Craig have agreed with this method, and it should resolve the Warm Creek issues.

A volume for this permit was not calculated by the field examiner. I have attached two spreadsheets that addresses the volumes. The first spreadsheet calculates the overall volume needed based on the trout minus the Tilapia hatchery using the maximum diversion rate for the entire facility including the existing water rights. The second sheet shows the Tilapia hatchery analysis. At the bottom of the first spreadsheet, I discuss the entire facility and found that the owner's are operating at or slightly above the standard for a hatchery of this size.

Therefore, I am recommending the entire volume capacity for this permit for two reasons. First the wastewater for this permit is the main water supply for the hatchery, and the other sources are not as steady as the wastewater source. Second, this hatchery operates using the wastewater from the upstream hatchery, which would provide a lower quality of water for this facility. Therefore, it is reasonable to maintain the maximum amount of flow rate possible to ensure that poorer quality of water doesn't cause issues with the fish production of this facility.

This permit had several custom conditions. The first condition regarding the NPDES permit was removed, because that had to be attained prior to diversion of water. The second condition was combined with the fifth condition that describes the water that could be diverted under this water right. Condition 3 was retained and condition 4 was removed. Condition 6 was changed to X19, and Conditions 7 and 8 were removed. Condition 9 was reworded to meet current standards. We also added the R05 condition stating that this water right was in Water District 130.

Fish Propagation Worksheet

Determination of Density Index = Weight of Fish Produced in pounds/ (Fish length in inches X Facility Volume in ft³)		
Fish Weight	1,544,554.00	
Length	13.50	
Volume	293,652.00	
Density Index	0.39	
Under Ideal Conditions, Density Index should be between 0.4 and 1		

Determination of Flow Index = Weight in Pounds/ (Fish Length X Diversion Rate in gpm).		
Fish Weight	1,544,554.00	
Length	13.50	
Diversion Rate	94,921.20	
Flow Index	1.21	
Under Ideal Conditions, Flow Index should be between 0.83 and 2.7		

Determination of facility exchange = Diversion Rate in cfs X 3600/ Facility Volume in ft³		
Diversion Rate	211.50	
Facility Volume	293,652.00	
Exchanges per Hour	2.59	
Under Ideal Conditions, Exchanges per Day should be 2.5 for Trout.		

Adjusted Density Index if the Facility was a Standard Facility is as follows: Adjusted Density Index = (Actual Density Index X Standard Exchange of 2.5 per Hour)/ Actual Exchanges per Hours=.		
Actual Density Index	0.39	
Actual Exchanges Per Hour	2.59	
Adjusted Density Index	0.38	
If the Adjusted Density Index is between 0.4 and 1 then the density Index was Lowered to handle a lower diversion rate, so the annual volume should equal diversion capacity.		

Diversion Capacity Calculation = Diversion Rate in cfs X 1.9835 X 356 days		
Diversion Rate	211.5	
Total Volume	153,121	

<---- Use This Volume if Adjusted Density Index falls Within Standards.

Diversion rate for 36-7757 =	184.55
Diversion Volume for 36-7757 =	133,610

Trout Facility Fish Calculations for 36-7757
By Dan Nelson

This facility has a very low density of fish, but the flow index and the exchange rate are very close. With those numbers, I am recommending that the full capacity volume be recommended for this permit. The Tilapia hatchery needs the full volume and the trout need very close to the full volume. There is some fresh water being diverted into these facilities from other sources, but the main source of water is the wastewater being addressed in this permit. This being the case, I have to recommend the full volume based on the diversion rate of 184.55 cfs being diverted non-stop all year long for a diversion volume of 133,610 af.

Please Note: The diversion rate used for the facility calculations were for the measured flow, which included the facilities other water rights. The volume for this permit was calculated using the flow allowed by this permit alone.

**Determination of hot water to cold water mixture to ensure minimum temperature to raise
Tilapia**

Target temp (deg F)	Temp1(deg F)	Temp2(deg F)	Q1(cfs)	Q2(cfs)
75	109	45	4	4.5

Source	Maximum CFS Rate Available	Maximum annual Volume in af
Hot Well	4	2895.9
Cold Water	4.5	3257.9
Total	8.5	6153.8

Determination of facility exchange = Diversion Rate		
Diversion Rate	8.50	
Facility Volume	172,440.00	
Exchanges per Hour	0.18	
Under Ideal Conditions, Exchanges per Day should be 2.5 for Trout. We have no data on the optimum turnover rate for Tilapia		

Volume Analysis for Talapia Hatchery
Permit 36-75-7577
By Dan Nelson

In the analysis of the annual volume for the Tilapia hatchery, we were unable to use the standard method of determining volume based on fish numbers and size since we don't know what the Density Index and the Flow Index is for Tilapia farms. We did find that the minimum temperature that Tiliapia can be raised in is 75 degrees. With that number, we used a simple mixing equation to determine the amount of cold water that wwould be required to mix with the 109 degree hot water that is diverted at 4.00 cfs. Using this number, we determined that maximum diversion rate for the Tilapia facility is only 8.5 cfs. At this rate, the facility only turns water over 0.18 times per hour, or the water is replaced in this facility once every 14 hours. We are not sure what the exchange rate is for Tilapia, but we know that the exchange rate for trout is 2.5 times per hour. Taking this into account, I believe that the facility is limited by the diversion rate of 8.5 cfs and the maximum vlume at that rate should be used. Therefore, the cold water volume that should be recommended for permit 36-7757 for the Tilapia hatcher should be limited to 3,258 acre feet.