

State of Idaho
Department of Water Resources
Water Right License

WATER RIGHT NO. 74-15622

Priority: May 24, 2005

Maximum Diversion Rate: 0.02 CFS

It is hereby certified that US DEPT OF AGRICULTURE
FOREST SERVICE
SALMON-CHALLIS NATIONAL FOREST
1206 S CHALLIS ST
SALMON ID 83467 has complied with the terms and conditions of the
permit, issued pursuant to Application for Permit dated May 24, 2005; and has submitted Proof of
Beneficial Use on August 24, 2007. An examination confirms water is diverted from:

SOURCE

SPRING

Tributary: MILK CREEK

and a water right has been established as follows:

BENEFICIAL USE

STOCKWATER

PERIOD OF USE

06/01 to 10/31

DIVERSION RATE

0.02 CFS

LOCATION OF POINT(S) OF DIVERSION:

SPRING NW1/4SW1/4NE1/4 Sec. 28, Twp 15N, Rge 25E, B.M. LEMHI County

PLACE OF USE: STOCKWATER

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
15N	25E	28			X														

CONDITIONS OF APPROVAL

1. This right, when considered with all other rights common to the same grazing allotment, is limited to the quantity of water beneficially used by the number of stock within the allotment.
2. This right authorizes the diversion of water to a trough from the same spring that is the source of water for Water Right 74-1251.
3. The quantity of water under this right for stockwater use shall not exceed 13,000 gallons per day.
4. The right holder shall comply with all fish screening and/or fish passage requirements of the Idaho Department of Fish and Game.

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 31ST day of March, 2014.


for GARY SPACKMAN
Director

State of Idaho
Department of Water Resources
Attachment To Water Right License
74-15622

This map depicts the STOCKWATER 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.

25E



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

0 0.02 0.04 0.08 Miles



State of Idaho
Department of Water Resources
APPLICATION FOR AMENDMENT

(For Licensing Purposes)

WATER RIGHT NO. 74-15622

RECEIVED
MAR 21 2014
DEPARTMENT OF
WATER RESOURCES

Date of Priority: May 24, 2005

Maximum Diversion Rate: 0.02 CFS

Comes now US DEPT OF AGRICULTURE
FOREST SERVICE
SALMON-CHALLIS NATIONAL FOREST
1206 S CHALLIS ST

SALMON ID 83467 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. 74-15622 and requests that the permit be changed as follows:

Source: SPRING

Tributary: MILK CREEK

BENEFICIAL USE

PERIOD OF USE

RATE OF DIVERSION

STOCKWATER

06/01 to 10/31

0.02 CFS

LOCATION OF POINT(S) OF DIVERSION:

SPRING NW1/4SW1/4NE1/4 Sec. 28, Twp 15N, Rge 25E, B.M.

LEMHI County

PLACE OF USE: STOCKWATER

Twp Rge Sec	NE				NW				SW				SE				Totals
15N 25E 28	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
			X														

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 17th day of March, 2014

Charles A. Mark

(Signature)

State of Idaho
Department of Water Resources
APPLICATION FOR AMENDMENT

(For Licensing Purposes)
WATER RIGHT NO. 74-15622

FOR DEPARTMENT USE ONLY

Preliminary check by _____ Fee = \$300 Received by CS # C098535 Date 3/21/14

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. 74-15622 with the following:

CONDITIONS OF APPROVAL

1. This right, when considered with all other rights common to the same grazing allotment, is limited to the quantity of water beneficially used by the number of stock within the allotment.
2. This right authorizes the diversion of water to a trough from the same spring that is the source of water for Water Right 74-1251.
3. The quantity of water under this right for stockwater use shall not exceed 13,000 gallons per day.
4. The right holder shall comply with all fish screening and/or fish passage requirements of the Idaho Department of Fish and Game.

Witness my hand this 31st day of March, 2014.

Shelley W. Keen
for GARY SPACKMAN
Director

State of Idaho
Department of Water Resources

Attachment For Amendment To Water Right License 74-15622

This map depicts the STOCKWATER 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.

25E



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

0 0.015 0.03 0.06 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 3, 2014

US DEPT OF AGRICULTURE
FOREST SERVICE
SALMON-CHALLIS NATIONAL FOREST
1206 S CHALLIS ST
SALMON ID 83467

RE: License Nos. 74-15622 74-15696 & 75-7583

Issuance of Licenses

Dear Water Right Holder(s):

The Department of Water Resources has issued the enclosed Water Right License confirming that the 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,

A handwritten signature in black ink, appearing to read 'Craig L. Saxton', is written over a horizontal line.

Craig L. Saxton

Water Rights Supervisor

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on April 4, 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. 74-15622 74-15696 & 75-7583

**US DEPT OF AGRICULTURE
FOREST SERVICE
SALMON-CHALLIS NATIONAL FOREST
1206 S CHALLIS ST
SALMON ID 83467**



**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.



United States
Department of
Agriculture

Forest
Service

Salmon-Challis
National Forest
Supervisor's Office

1206 S. Challis
Salmon, ID 83467
208 756-5100

File Code: 2540

Date: March 17, 2014

Danielle Favreau
Idaho Department of Water Resources
PO Box 83720
Boise, ID 83720-0098

RECEIVED
MAR 21 2014
DEPARTMENT OF
WATER RESOURCES

Dear Danielle,

Enclosed are water right permit amendment applications for the following three water developments on the Salmon-Challis National Forest:

74-15622 (Water Development near Milk Creek)
74-15696 (Water Development near Lake Creek)
75-07583 (Twelvemile Bottoms Water Development)

A check for \$300 is enclosed to cover the filing fees for these three amendments. If you have any questions about the amendment applications, please contact Steve Spencer at (208)365-7055 or Bill MacFarlane at (208)756-5108.

Sincerely,

Charles A. Mark

CHARLES A. MARK
Forest Supervisor



Nelson, Dan

From: Nelson, Dan
Sent: Friday, February 07, 2014 9:23 AM
To: Favreau, Danielle; 'Spencer, Steven M -FS'
Subject: Fish Screens for water right 74-15622

Hello Steve,

Danielle asked me to review your email concerning the fish screen requirement for water right 74-15622. In your email, you discuss a spring diversion that consists of a buried spring box with no direct interaction with free flowing surface water entering the spring box. As long as no free flowing surface water can enter the spring box, the screen conditions have been met. We don't know at the time of permitting and licensing for in-house exams if the spring box interacts with free flowing surface water. As long as there is no way that a fish can get into the spring box from the free flowing surface water, you have met the screening conditions placed on the water right. We just need a description of the system that show that no free flowing surface water can enter the spring box. If free flowing surface water can enter the spring box, then we need to know that the spring box has the proper screening on the inflow.

This condition is placed on all surface water rights including water rights with a spring as a source in certain areas throughout the state. The requirement of this condition is the result of negotiations of the Nez Perce Agreement and negotiations with the Fish and Game to allow certain water rights to be processed in areas of concern for different fish species. Without the condition, we can process or approve water rights in areas where endangered species of fish are listed to be in that water source or drainage.

We will proceed with processing water right 74-15622 for licensing. Your email has satisfied the fish screen requirements. If you have any other questions, please don't hesitate to contact me.

Thank you

Dan Nelson

Favreau, Danielle

From: Spencer, Steven M -FS [sspencer@fs.fed.us]
Sent: Thursday, February 06, 2014 3:58 PM
To: Favreau, Danielle
Subject: RE: 74-15622

Danielle,

We were pondering the fish screen requirements with respect to an essentially subsurface headbox and buried pipeline from a spring to a trough with no apparent direct connection to a flowing stream except during spring runoff. As I understand fish screens they are designed to prevent fish from becoming entrained in a diversion. The standard used by the ID F&G is 3/32 of an inch mesh or comparable in surface water diversions to keep fish from entering the water system. I would appear that including the fish screen requirement may not be appropriate or applicable in this buried headbox type of situation. Or thinking in a different light, the earthen backfill around the headbox with lid would appear to be a porous restriction with interspaces much smaller than 3/32 of an inch thereby being an effective 'screening' medium meeting the intent of the fish screen standard. I really don't know how else to respond to the requirement. As shown in the photos provided previously there are certainly no fish entering the headbox and thereby being at risk of entrainment in the headbox, pipe or trough.

I've reviewed the information pertaining to 74-1251 and 74-15622 as exchanged with Cody a couple of years ago. Yes, 74-1251 is for the immediate 'pre-trough' spring area and 74-15622 is for the water piped to the trough. The spring area still has surface water and is used by livestock as is the trough.

I hope this information meets your needs. If you have additional questions about this one please contact me.

Thank you,

Steve

	Steven M. Spencer Water Use Specialist USDA Forest Service 1805 Hwy 16 Rm 5 Emmett, ID 83617 sspencer@fs.fed.us (208) 365-7055	
<i>The only source of knowledge is experience. - Albert Einstein</i>		

From: Favreau, Danielle [<mailto:Danielle.Favreau@idwr.idaho.gov>]
Sent: Thursday, February 06, 2014 1:19 PM
To: Spencer, Steven M -FS
Subject: RE: 74-15622

Hi Steve,

I was working on the amendment for 74-15622 and I have a few questions:

1) How was the Fish Screening condition met?

- a. Permit Condition: "Prior to diversion and use of water under this approval, the right holder shall comply with all fish screening requirements of the Idaho Dept. of Fish and Game."

2) Per emails between you and Cody dating Feb. 2012, I just want to confirm that 74-1251 is for the same spring as 74-15622. 74-15622 is for the trough.

Please let me know if you have any questions.

Danielle

Danielle Bruno-Favreau, GISP
GIS Analyst
Idaho Dept. of Water Resources
322 East Front St.
PO Box 83720
Boise, ID 83720-0098

From: Spencer, Steven M -FS [<mailto:sspencer@fs.fed.us>]
Sent: Monday, January 27, 2014 5:52 PM
To: Favreau, Danielle
Subject: 74-15622

Danielle,

The field verification form with photos and POD/POU coordinates for 74-15622 is attached. It appears like the POD needs to be changed from the SESWNE to the NWSWNE. After you are able to look at the information let me know if that is how you also see it and/or if there is anything else that might need to be done. If an amendment is needed please send it to me and I'll get it taken care of.

Thank you,

Steve

	Steven M. Spencer Water Use Specialist USDA Forest Service 1805 Hwy 16 Rm 5 Emmett, ID 83617 sspencer@fs.fed.us (208) 365-7055	
<i>The only source of knowledge is experience. - Albert Einstein</i>		

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