

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 77-14332

Priority: April 16, 2010

Maximum Diversion Rate: 0.04 CFS

This is to certify, that US DEPT OF AGRICULTURE
FOREST SERVICE
SALMON-CHALLIS NATIONAL FOREST
1206 S CHALLIS ST
SALMON ID 83467

has applied for a permit to appropriate water from:

Source: ARCTIC CREEK

Tributary: SALMON RIVER

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

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>
DOMESTIC	01/01 to 12/31	0.04 CFS

LOCATION OF POINT(S) OF DIVERSION:

ARCTIC CREEK NE1/4SW1/4NW1/4 Sec. 21, Twp 25N, Rge 12E, B.M., IDAHO County

PLACE OF USE: DOMESTIC

Twp Rge Sec	NE				NW				SW				SE				
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
25N 12E 21							X										

CONDITIONS OF APPROVAL

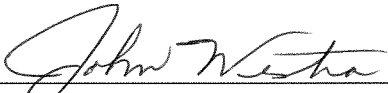
1. Proof of application of water to beneficial use shall be submitted on or before **September 01, 2016**.
2. Subject to all prior water rights.
3. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to 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. This right does not grant any right-of-way or easement across the land of another.
5. 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.
6. The irrigation occurring under this domestic use shall not exceed 1/2 acre.
7. Irrigation use under this right is authorized only in connection with a domestic use.

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8. 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.
9. Upon specific notification by the Department, the right holder shall install a lockable device of a type acceptable to the Department in a manner that will provide suitable control of the diversion.
10. Place of use is located within the Arctic Creek Lodge.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 26th day of August, 20 11.


JOHN WESTRA, Western Regional Manager



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

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

August 29, 2011

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

RE: Permit No. 77-14332

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 208-334-2190.

Sincerely,

for 
John Westra
Western Regional Manager

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on August 29, 2011 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. 77-14332

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



Jean Hersley
Office Specialist II

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

JUL 29 2011

WATER RESOURCES
WESTERN REGION

AFFIDAVIT OF PUBLICATION

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

77-14332

US DEPT OF AGRICULTURE
FOREST SERVICE
SALMON-CHALLIS NATIONAL

FOREST

1206 S CHALLIS ST
SALMON, ID 83467

Point of Diversion: NESWNW S21
T25N R12E IDAHO County
Source ARCTIC CREEK Tributary
SALMON RIVER

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

Total Diversion: 0.04 CFS

Date Filed: 4/9/2010

Place Of use: DOMESTIC
T25N R12E S21 SWNW

This application proposes the diversion and use of water tributary to a federally designated Wild & Scenic River. The decreed minimum stream flow rights for the federal Wild & Scenic Rivers are subordinate to certain categories of water use and to specific amounts of water use established after the minimum stream flow. The water use proposed in this application will benefit from the subordination provision because it is for domestic purposes/the diversion rate will be applied to the subordination amounts specified in the decree for the applicable Wild & Scenic River.

For a full description of the right(s), please see www.idwr.idaho.gov/apps/ExtSearch/WRFiling.asp. Permits will be subject to all prior water rights. 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, Western Region, 2735 Airport Way, Boise, ID 83705, together with a protest fee of \$25 for each application on or before August 8, 2011. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Interim Director

Jy20-27

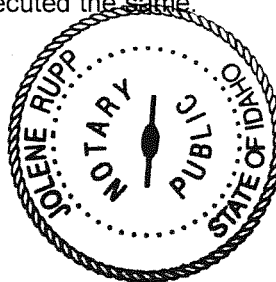
STATE OF IDAHO
County of Idaho - ss.

Andrew J. McNab, being first duly sworn, says he is the Publisher of the IDAHO COUNTY FREE PRESS, a weekly newspaper published and issued weekly at Grangeville, Idaho County, State of Idaho, and is of general circulation in said county and state, that the said legal notice, of which the one hereto attached is a true copy, was published in said paper for two weeks, being published two times, the first publication being on the 20th day of July, 2011; and the last publication on the 27th day of July, 2011; and that the said legal notice was published in the newspaper proper and not a supplement; that said newspaper has been continuously and uninterruptedly published in said county during a period of seventy-eight consecutive weeks prior to the publication of said legal notice of advertisement.

Anna Donaldson for Andrew J. McNab

STATE OF IDAHO)
COUNTY OF IDAHO)

On this 27th day of July in the year of 2011, before me a Notary Public personally appeared Andrew J. McNab, known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that he executed the same.



Jolene Rupp
Notary Public for Idaho
Residing at Grangeville, ID
My commission expires: 9-28-13

✓ OK DB 8/10/2011

MEMORANDUM

RECEIVED

JUL 29 2011

WATER RESOURCES
WESTERN REGION

Via E-mail

DATE: July 29, 2011
TO: Denise Buffington
FROM: Sandy Thiel
RE: Application for Permit No. 77-14332

The IDWR Planning Section does not wish to raise any public interest concerns over Application No. 77-14332 which proposes the diversion of a total of 0.04 cfs, of surface water from Arctic Creek. The water will be diverted for domestic use to supply water for a lodge and bunkhouse.

The applicant should be aware that the Idaho Water Resource Board holds minimum stream flow water right 79-14119 downstream of the applicant's point of diversion. As a junior water right holder, when the minimum stream flow is not being met, the applicant's water may be curtailed.

MEMORANDUM

TO: Application No. 77-14332

FROM: Vicky Music

DATE: January 24, 2011

RE: Salmon-Clearwater Processing, Basins 77-79 Western Region

The application proposes a de minimus domestic use from Arctic Creek tributary to the mainstem of the Salmon River. The use is for a lodge and a bunkhouse for an outfitter under a special use permit from the USFS. The applicant is the USDA Forest Service. The application refers to the place of use as the Arctic Creek Lodge.

The site is located in the Salmon River Wild and Scenic area of the Bitterroot National Forest.

Contact person for the applicant is Steve Spencer, USFS.

Wild & Scenic River (WSR) Processing

General Information - WSR processing applies to portions of Bs 77 and 78 but not to Bs 79 WSR processing will rarely be required in Bs 78 since WSR right 78-11961 covers federal land upstream from the Rapid River Fish Hatchery slightly southwest of Riggins.¹

Typically WSR issues would be in Bs 77 upstream from Long Tom Bar on the Salmon River, WSR right 77-11941.² This also incorporates the entire Middle Fork Salmon River drainage, MSR right 77-13844.³

WSR processing is required for any source/diversion upstream from any WSR right. This applies to all sources and uses unless the applicant shows the source is not hydraulically connected to any WSR rights.

Specific Information for this Application - WSR processing is required because the proposed source/diversion are upstream from and hydraulically connected to WSR right 77-11941. Workflow/Wild & Scenic was updated, and the WSR legal notice remark was added to the database.

Minimum Streamflow Rights (MSF)

General Information - MSF analysis applies to all surface water upstream⁴ from any MSF rights. Basins 77-79 have various MSF rights that might affect applications. By agreement with SO regarding these basins, specific MSF conditions of approval are not necessary provided the reviewer checks MSF issues and documents the file with the results (7/8/09 telephone conference).

¹ POD = T23N-R1W-S12.

² POD = T25N-R5E-S31.

³ POD = T23N-R16E-S33.

⁴ Shallow ground water tributary to surface water might involve MSF issues under conjunctive management thinking. Discuss with your supervisor if this comes up.

Downstream MSF right 3-8 on the Snake River⁵ is not subordinate to “future dcmi” uses or “future non-dcmi (with cfs limits)” uses. Downstream Salmon River MSF right 79-14119⁶ is subordinated to future dcmi uses but not to future non-dcmi uses.

All Basin 77-79 MSF rights upstream from the ending point of 79-14119 (mouth of Salmon River) include subordination to future dcmi uses. Most of those upstream MSF rights are also subordinate to various amounts of future non-dcmi uses. None of the future non-dcmi cfs rates have been exceeded yet by new approvals. Further MSF analysis is generally not needed until a specific future non-dcmi cfs rate is exceeded.

Because the review memo extensively covers WSR and MSF issues, SO Planning Bureau comments are not needed yet (prior agreement with SO). Planning will be contacted for comments during the legal notice process as a precaution.

Specific Information for this Application –MSF analysis is required for the proposed source (unnamed stream) and the proposed domestic use upstream from MSF rights 3-8 and 79-14119. There are no other MSF rights pertinent to this application.

This leads to the following MSF conclusions for this application:

- Senior MSF right 3-8 will not be subordinated to the proposed use.
- Senior MSF right 79-14119 will be subordinated to the proposed dcmi use.

The attached MSF spreadsheet shows the application meets the criteria for MSF rights in the same basin.

Discussion

Effect on Existing Water Rights: Due to the location of this site in a primitive area and the de minimus quantity, there should be no effect on existing rights.

Sufficiency of Water Supply: The USFS is very familiar with this area and has determined that the source of water, an unnamed stream, is sufficient for the de minimus quantity proposed in this application.

Good Faith, Delay or Speculative Purposes: The application was filed in good faith. There is already some development at the proposed location and no evidence of delay or speculation.

Financial Resources: This information is not needed for this de minimus domestic use.

Local Public Interest: There are no apparent public interest issues.

Conditions of Approval

In addition to typical standard conditions (004, 112, x01, 187, 041), use the following standard, modified &/or unique conditions for Basins 77-79.

⁵ POD = T31N-R5W-S10.

⁶ From mouth of river T29N-R4W-S14 upstream thru about Shepp Ranch T24N-R6E-S12.

Use the following:

- **029 standard** - 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.

Per WSR processing, part of Basin 77 & 78, no water district currently planned, use the following:

42-111 any source

199 standard - Upon specific notification by the Department, the right holder shall install a lockable device of a type acceptable to the Department in a manner that will provide suitable control of the diversion.

BS 77 MINIMUM STREAMFLOW RIGHTS -- QUERY 12/1/2009

Basin	Sequence	Priority	Source	Subordinate to Future DCMI	Subordinate to Future Non DCMI (CFS Limit)	Non DCMI CFS Approved Since 4/1/2005
77	14167	4/1/2005	BARGAMIN CREEK	YES	1.2	0
77	14209	4/1/2005	BEAR VALLEY CREEK	YES	4.7	0
77	14178	4/1/2005	BIG CREEK - downstream	YES	12.8	0
77	14182	4/1/2005	BIG CREEK - upstream	YES	0.5	0
77	14202	4/1/2005	BLACKMARE CREEK	YES	0.4	0
77	14191	4/1/2005	BRUSH CREEK	YES	0.6	0
77	14195	4/1/2005	BUCKHORN CREEK	YES	1	0
77	14204	4/1/2005	BURNTLOG CREEK	YES	0.7	0
77	14198	4/1/2005	CAMAS CREEK	YES	9	0
77	14171	4/1/2005	CHAMBERLAIN CREEK	YES	4.8	0
77	14170	4/1/2005	CHAMBERLAIN CREEK WEST FK	YES	0.3	0
77	14199	4/1/2005	DYNAMITE CREEK	YES	0.4	0
77	14211	4/1/2005	ELK CREEK	YES	1.9	0
77	14188	4/1/2005	FITSUM CREEK	YES	0.5	0
77	14173	4/1/2005	FRENCH CREEK	YES	2.3	0
77	14172	4/1/2005	HORSE CREEK	YES	3.6	0
77	14200	4/1/2005	INDIAN CREEK	YES	1.9	0
77	14194	4/1/2005	JOHNSON CREEK	YES	4.1	0
77	14212	4/1/2005	LAKE CREEK	YES	0.4	0
77	14183	4/1/2005	LICK CREEK	YES	0.6	0
77	14180	4/1/2005	LOGAN CREEK	YES	0.4	0
77	14203	4/1/2005	LOON CREEK	YES	8.1	0
77	14201	4/1/2005	MARBLE CREEK	YES	2.8	0
77	14210	4/1/2005	MARSH CREEK	YES	3.5	0
77	14179	4/1/2005	MONUMENTAL CREEK	YES	2.1	0
77	14205	4/1/2005	PISTOL CREEK	YES	2.6	0
77	14176	4/1/2005	PORPHYRY CREEK	YES	0.6	0
77	14187	4/1/2005	PROFILE CREEK	YES	0.4	0
77	14186	4/1/2005	QUARTZ CREEK	YES	0.3	0
77	14207	4/1/2005	RAPID RIVER	YES	2.5	0
77	14184	4/1/2005	RUSH CREEK	YES	1.5	0
77	14190	4/1/2005	SALMON RIVER EAST FK SOUTH FK	YES	8.2	0
77	14174	4/1/2005	SALMON RIVER SOUTH FK - downstream	YES	20.6	0
77	14192	4/1/2005	SALMON RIVER SOUTH FK - upstream	YES	7.7	0
77	14175	4/1/2005	SECESH RIVER - upstream	YES	2.3	0
77	14181	4/1/2005	SECESH RIVER - downstream	YES	4	0
77	14168	4/1/2005	SHEEP CREEK - trib Salmon R.	YES	0.8	0
77	14185	4/1/2005	SHEEP CREEK - trib South FK Salmon R.	YES	0.9	0
77	14197	4/1/2005	SHEEP CREEK - trib Middle FK Salmon R.	YES	0.5	0
77	14196	4/1/2005	SILVER CREEK	YES	1.1	0
77	14177	4/1/2005	SMITH CREEK	YES	0.4	0
77	14193	4/1/2005	SUGAR CREEK	YES	0.3	0
77	14208	4/1/2005	SULPHUR CREEK	YES	1.2	0
77	14189	4/1/2005	TAMARACK CREEK	YES	0.3	0
77	14206	4/1/2005	WARM LAKE CREEK	YES	0.4	0
77	14169	4/1/2005	WIND RIVER	YES	0.9	0

DCMI APPL OK, NON-DCMI APPL OK WITHIN ALLOWABLE PARAMETERS. SEE "PROCEDURE" BELOW.

PROCEDURE: DCMI APPL ok for all msf rights in Bs 77 as noted in review memo. NON-DCMI CONSUMPTIVE USE APPL: See if within drainage with msf right. For that msf right, if column G (last) is less than column F (2nd to last), ok to process appl. Note in review memo that senior msf right will be subordinate to junior application under the future non-dcmi clause. Do not need to repeat for msf rights downstream from the msf right you are actively checking since the downstream future non-dcmi rates are higher for those bigger sources. Satisfying the smaller upstream rate test satisfies the larger downstream rate test. For the msf right you are actively checking, if column G (last) is equal to or greater than column F (2nd to last), consult supervisor for next step.

EXAMPLE: Appl 77-14234 for 0.14 cfs irrigation, future non-dcmi consumptive use, unnamed streams trib to Johnson Creek. Johnson Creek msf right with 4/1/2005 priority is subordinate to 4.1 cfs future non-dcmi use, zero approved since 4/1/2005. Process appl and note review memo that senior msf rights will be subordinated to this junior application. Updates to this spreadsheet will eventually show 0.14 of the 4.1 future non-dcmi cfs has been approved for Johnson Creek.