

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 74-15066

Priority: September 22, 2003

Maximum Diversion Rate: 0.80 CFS

This is to certify, that STATE OF IDAHO
IDAHO FISH & GAME COMMISSION
PO BOX 25
BOISE ID 83707-0025

has applied for a permit to appropriate water from:

Source: HAYDEN CREEK **Tributary:** LEMHI 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>
FISH PROPAGATION	04/01 to 11/01	0.80 CFS

LOCATION OF POINT OF DIVERSION:

HAYDEN CREEK SE $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 14, Twp 17N, Rge 23E, B.M., LEMHI County

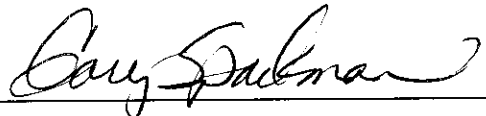
PLACE OF USE: FISH PROPAGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
17N 23E 14												X					

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **April 01, 2005**.
2. Subject to all prior water rights.
3. 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. 74.
4. This right does not grant any right-of-way or easement across the land of another.
5. Use of water under this right shall be non-consumptive.
6. Fish propagation use is for fish protection through the installation of a deflecting screen at a diversion canal entrance and a bypass pipe to flush the fish back to the Lemhi River.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 6th day of April, 2004.


Acting for **KARL J DREHER, Director**

RECEIVED

OCT 13 2003

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

Department of Water Resources

To appropriate the public waters of the State of Idaho

1. Name of Applicant State of Idaho Idaho Fish and Game Commission Phone (208) 334-3700
Mailing address P.O. Box 25 Boise ID 83707

2. Source of water supply Hayden Creek which is a tributary of Lemhi River

3. Location of point of diversion is Township 17N Range 23E Sec. 14, in the SE $\frac{1}{4}$,
SW $\frac{1}{4}$, SW $\frac{1}{4}$, Govt. Lot _____, B.M., Lemhi County;

additional points of diversion if any: _____

4. Water will be used for the following purposes:

Amount .80 for Fish return purposes from 4/1 to 11/1 (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)

5. Total quantity to be appropriated is (a) .80 and/or (b) _____
cubic feet per second acre feet per annum

6. Proposed diverting works:

a. Describe type and size of devices used to divert water from the source Fish screen located downstream of headgate has a 10" bypass pipe with a 4" inlet orifice.

b. Height of storage dam NA feet; active reservoir capacity NA acre-feet; total
reservoir capacity NA acre-feet

c. Proposed well diameter is NA inches; proposed depth of well is NA feet

d. Is ground water with a temperature of greater than 85°F being sought? no

e. If well is already drilled, when? NA; Drilling firm NA;
Well was drilled for (well owner) NA; Drilling Permit No. NA

7. Time required for completion of works and application of water to proposed beneficial use is 1 years (minimum 1 year)

8. Description of proposed uses (if irrigation only, go to item 9):

a. Hydropower; show total feet of head and proposed capacity in kW. NA
b. Stockwatering; list number and kind of livestock. NA
c. Municipal; show name of municipality. NA
d. Domestic; show number of households. NA
e. Other; describe fully. A nonconsumptive use of water that enables fish to return to the river

RECEIVED

OCT 14 2003

Department of Water Resources
Eastern Region

3. Description of place of use:

- a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- b. If water is used for other purposes, place a symbol of the use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
17N	23E	14											H						

Total number of acres to be irrigated NA

10. Describe any other water rights used for the same purposes as described above. 74-1692; 74-1693; 74-1694; 74-1695; 74-1696

11. a. Who owns the property at the point of diversion? Hermits of Mount Carmel Idaho
- b. Who owns the land to be irrigated or place of use? Hermits of Mount Carmel Idaho
- c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: Idaho Fish and Game Commission/IDFG has an easement for ingress and

12. Remarks: egress to construct fish screens on this property

13. **MAP OF PROPOSED PROJECT REQUIRED** - Attach an 8 1/2"x11" map clearly identifying the proposed point of diversion, place of use, section #, township & range. (A photocopy of a USGS 7.5 minute topographic quadrangle map is preferred.)

BE IT KNOWN that the undersigned hereby makes this application for permit to appropriate the public waters of the State of Idaho as herein set forth.

Peter Fuhrman Acting Director/Commission Secretary
Signature of Applicant (and title, if applicable)

Received by SC Date 9/17/03 Time _____ Preliminary check by _____
Fee \$ 250- Received by SC # FD9223 Date 9/22/03
Publication prepared by SC Date 10/22/10/9/03 Published in Recorder Herald
Publication approved SC Date 11/12/03

DEC 1 2003

Landowner LHC-10

EASEMENT AGREEMENT

THIS INDENTURE, made and entered into this 18th day of December, 2003, by and between Carmelites of Idaho or Hermits of Mount Carmel Idaho, hereinafter called Landowners, and the STATE OF IDAHO for the use and benefit of the Idaho Fish and Game Commission, hereinafter called the Commission,

WITNESSETH:

That for and in consideration of the sum of ONE DOLLAR (\$1.00), cash in hand paid by the Commission to the Landowners, receipt whereof is hereby acknowledged, the Landowners have this day bargained and sold and by these presents do hereby grant, bargain, sell, convey, transfer and deliver unto the Commission a permanent easement for the purpose of construction, operation, maintenance, alteration, renewal and removal of a self-cleaning fish screen and fish bypass thereto on, within, and across a canal or ditch known as the Lemhi Hayden Creek - 10, and located in Lemhi County, upon lands of the Landowners at a point within, SW ¼ SW ¼, Section 14, Township 17 North, Range 23 East, B.M. and said fish bypass to run from said fish screen to the adjacent stream course known as Hayden Creek. Together with the right of ingress and egress for personnel of the Commission, the Department of Fish and Game or its authorized agents on and over property of the Landowners for the purposes herein designated, together with rights of way along the canal channel to provide for removal of debris, logs, log jams, mud or gravel bars that may accumulate in the canal channel or ditch immediately above or below the fish screen and which have been caused to accumulate by installation of said fish screen.

In the event of any future alterations in the line or grade of the canal channel, ditch, or stream course necessitating changes in or relocation of the Commission's installations, due to a change in irrigation practices, the Landowners, by these presents, also grant, bargain and sell to the Commission an easement as herein first above granted to relocate its installations in said canal channel or ditch or stream course still located on the lands of the Landowners, their heirs or assigns.

In construction of the fish bypass, the Commission will assume responsibility for the future stability of any dike, ditch, or canal bank, or similar structure penetrated by said bypass, in the immediate area disturbed by the penetration and installation of the bypass pipe.

All such installations placed on, within and across said canal or ditch by the Commission shall remain the property of the Commission and may be removed by the Commission at any time.

Page 1 of 2

Landowner LHC-10

All expenditures to be made by the Commission under the provisions of the agreement shall be subject to appropriations being available for the purpose.

IN WITNESS WHEREOF, the parties have hereunto executed their signature below.

LANDOWNERS

Bro Maurice Mansfield HMC

STATE OF IDAHO

) S.S.

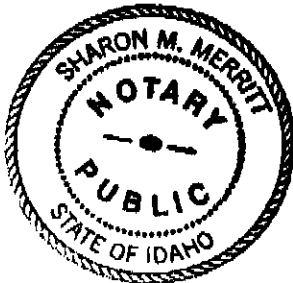
COUNTY OF Lemhi

On this 15th day of December, in the year 2003, before me,

SHARON MERRETT, a notary public, personally appeared,

BROTHER MAURICE MANSFIELD, personally known to me to be the person(s) whose name(s) is (are) subscribed to the within instrument, and acknowledged to me that he(she)(they) executed the same.

S
E
A
L



Sharon M. Merrett
Notary Public

My Commission Expires Feb. 18, 2009

Idaho Fish and Game Commission

Steve Huffaker
Steve Huffaker, Secretary

STATE OF IDAHO

) S.S.

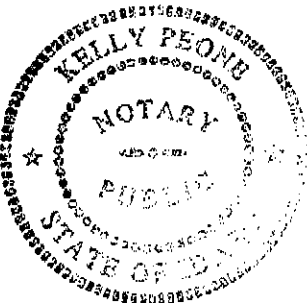
COUNTY OF Ada

On this 24th day of December '03, in the year 2003, before me,

Kelly Peone, a notary public, personally appeared,

Steven Huffaker, personally known to me to be the person(s) whose name(s) is (are) subscribed to the within instrument, and acknowledged to me that he(she)(they) executed the same.

S
E
A
L



Kelly Peone
Notary Public

My Commission Expires May 20, 2009

Ident. No. 74-15066

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name of Applicant State of Idaho Department of Fish & Game Phone (208) 334-3700
Mailing address P.O. Box 25, Boise, ID 83707
2. Source of water supply Hayden creek which is a tributary of Lemhi River
3. Location of point of diversion is Township 17N Range 23E Sec. 14 in the SE $\frac{1}{4}$,
SW $\frac{1}{4}$, SW $\frac{1}{4}$, Govt. Lot _____, B.M., Lemhi County;
additional points of diversion if any: _____
4. Water will be used for the following purposes:
Amount .80 cfs for Fish return purposes from 04/01 to 11/01 (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
5. Total quantity to be appropriated is (a) .80 and/or (b) _____
cubic feet per second acre feet per annum
6. Proposed diverting works:
 - a. Describe type and size of devices used to divert water from the source. The fish screen located down-stream from the headgate has a 10" bypass pipe with a 4" inlet orifice.
 - b. Height of storage dam N/A feet; active reservoir capacity N/A acre-feet; total reservoir capacity N/A acre-feet
 - c. Proposed well diameter is N/A inches; proposed depth of well is N/A feet
 - d. Is ground water with a temperature of greater than 85°F being sought? N/A
 - e. If well is already drilled, when? N/A; Drilling firm N/A;
Well was drilled for (well owner) N/A; Drilling Permit No. N/A
7. Time required for completion of works and application of water to proposed beneficial use is 1 years (minimum 1 year)
8. Description of proposed uses (if irrigation only, go to item 9):
 - a. Hydropower; show total feet of head and proposed capacity in kW. N/A
 - b. Stockwatering; list number and kind of livestock. N/A
 - c. Municipal; show name of municipality. N/A
 - d. Domestic; show number of households. N/A
 - e. Other; describe fully. This is a non-consumptive use of water that enables fish to return to the river.

RECEIVED

SEP 17 2003

Department of Water Resources
Eastern Region

74-15066

9. Description of place of use:

- a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- b. If water is used for other purposes, place a symbol of the use (example: *D* for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
17N	23E	14											H						

Total number of acres to be irrigated N/A10. Describe any other water rights used for the same purposes as described above. 74-1692; 74-1693; 74-1694; 74-1695; 74-1696

11. a. Who owns the property at the point of diversion? Hermits of Mount Carmel Idaho
- b. Who owns the land to be irrigated or place of use? Hermits of Mount Carmel Idaho
- c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: _____

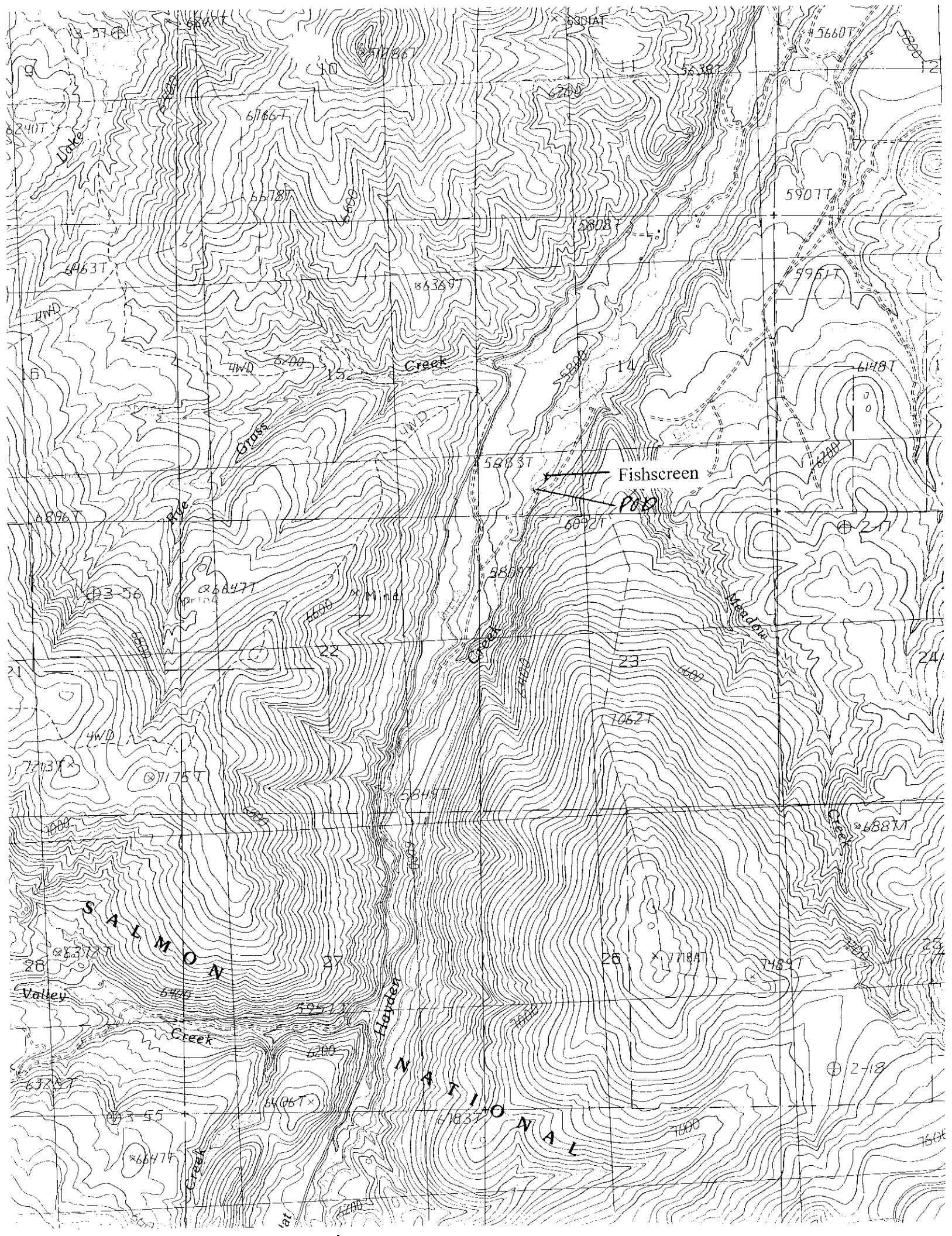
12. Remarks: Idaho Department of Fish and Game has an easement for ingress and egress to construct and maintain fish screens on this property.

13. **MAP OF PROPOSED PROJECT REQUIRED** - Attach an 8½"x11" map clearly identifying the proposed point of diversion, place of use, section #, township & range. (A photocopy of a USGS 7.5 minute topographic quadrangle map is preferred.)

BE IT KNOWN that the undersigned hereby makes this application for permit to appropriate the public waters of the State of Idaho as herein set forth.

James R. Fuhrer
Signature of Applicant (and title, if applicable)

Received by SC Date 9/17/03 Time _____ Preliminary check by _____
 Fee \$ 250- Receipted by SC # 2029223 Date 9/22/03
 Publication prepared by SC Date 10/2 & 10/9/03 Published in Recorder Herald
 Publication approved _____ Date _____



**NOW
STARTING
RIGHT
SIDE OF
FILE**



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

April 7, 2004

STATE OF IDAHO
IDAHO FISH & GAME COMMISSION
PO BOX 25
BOISE ID 83707-0025

RE: Permit No. 74-15066

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 a 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 208-327-7946.

Sincerely,

A handwritten signature in black ink, reading "Shelley W. Keen". The signature is written in a cursive style with a large, stylized "S" and "K".

Shelley W. Keen

Water Rights Supervisor

SWK:klt

Enclosure(s)

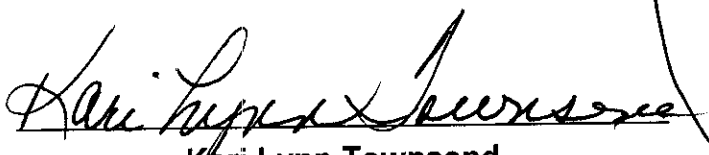
CERTIFICATE OF SERVICE

I hereby certify that on April 7, 2004 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.

74-15066

STATE OF IDAHO
IDAHO FISH & GAME COMMISSION
PO BOX 25
BOISE ID 83707-0025

A handwritten signature in black ink, appearing to read "Kari Lynn Townsend", is written over a horizontal line.

Kari Lynn Townsend
Secretary

**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. 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 issuance 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.

Comment Report

74-15066

1. kwalker 11/25/2003 Permit Review

Comment: In review of this application I found that the easement agreement attached to the application did not agree with the lands shown. I will send letter requesting easement agreement that is for this land. Corrected entry of applicant name, added tributary to source. Hold permit issuance until easement agreement is received.

2. kwalker 4/5/2004 Easement Agreement

Comment: After 2 tries I finally obtained a copy of an easement agreement for the lands identified under this application. Recommend approval.

ENCLOSURE



IDAHO FISH AND GAME/SALMON REGION
P.O. Box 1336/ 97 Highway 93 North
Salmon, Idaho 83467
(208) 756-6022/ Fax: (208) 756-8573

Date: 3/2/04

To: Kag Walker Fax Number: 327-7866

Organization: IDWR Telephone Number: _____

From: Larry Wicke

Subject: Easement Number of pages: 3 Including cover sheet

Comments: _____

(see easement agreement below
application form - kw 4/5/04)



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

March 26, 2004

IDAHO FISH & GAME COMMISSION
SALMON REGION
ATTN: LARRY WEEKS
PO BOX 1336
SALMON ID 83467

RE: Application for Permit No. 74-15066

Dear Mr. Weeks:

I received the Easement Agreement you submitted to provide documentation that Fish and Game has access to the proposed development under the above referenced application for permit. Once again I find that this agreement is for use of land in the SE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 14, Twp. 17N, Rge. 23E. The application is for use of land in **SW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 14, Twp. 17N, Rge. 23E**. Please submit an easement agreement for the land identified on the water right application.

The Department will hold further processing of the above application for 30 days to allow submittal of the required information. Additional time may be granted by the Department upon receipt of a written request and sufficient justification for an extension. After that time, if adequate information is not received, the Department will issue a preliminary order to reject or deny the application.

If you have questions regarding this matter, please feel free to contact me at 327-7944.

Sincerely,


KAY WALKER
Sr. Water Resource Agent

MAR 11 2004

Instrument No. 95945

Department of Water Resources

EASEMENT AGREEMENT

(Land Owner) HC

THIS INDENTURE, Made and entered into this 20th day of October, 1959, by and between A.D. COOK, a single man; EDWIN W. SCHLEHUBER and DOLORES R. SCHLEHUBER, Husband and Wife; and CHARLES F. STOLL & SONS, a partnership, for purposes of access, hereinafter called Grantors, and THE STATE OF IDAHO for the use and benefit of the Department of Fish and Game, hereinafter called Grantee, WITNESSETH:

That for and in consideration of the sum of ONE DOLLAR (\$1.00), cash in hand paid by the Grantee to the Grantors, receipt whereof is hereby acknowledged, the Grantors do hereby grant unto the Grantee an easement for the purposes of construction, operation, maintenance, alteration, renewal and removal of a self-cleaning fish screen and fish bypass thereto on, within, and across a canal or ditch known as Tobias #2 Ditch and located in Lemhi County upon lands of the Grantors at a point within the SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 14, Township 17 North, Range 23 East, Boise Meridian, which point is approximately 925 feet south and 40 feet west of the northeast corner thereof.

said fish bypass to run from said fish screen to the adjacent stream course known as Hayden Creek. Together with the right of ingress and egress for personnel of the Grantee or its authorized agents on and over property of the Grantors for the purposes herein designated, and right of way to provide for removal of debris, logs, log jams, mud or gravel bars that may accumulate in the canal channel or ditch immediately above or below the fish screen and which have been caused to accumulate by installation of said fish screen.

In the event of any future alterations in the line or grade of the canal channel, ditch, or stream course necessitating changes in or relocation of the Grantee's installations, the Grantors, by these presents, also grant to the Grantee an easement as herein first above granted to relocate its installations in said canal channel or ditch as the same ^{may} be located on the lands of the Grantors, their heirs and assigns.

All such installations placed on, within and across said canal or ditch by the Grantee shall be and remain the property of the Grantee and may be removed by the Grantee at any time.

All expenditures to be made by the Grantee under the provisions of this agreement shall be subject to appropriations being available for the purpose.

IN WITNESS WHEREOF, The said Grantors have hereunto set their hands and seals, the day and year first above written.

A.D. Cook (SEAL)
Charles F. Stoll & Sons (SEAL)
by Charles F. Stoll (SEAL)
Edwin W. Schlehuber (SEAL)
Dolores R. Schlehuber

STATE OF IDAHO)
County of Lemhi) ss.

On this 20th day of October in the year 1959, before me, the undersigned, a Notary Public in and for said State, personally appeared A.D. Cook known to me to be the person whose name is subscribed to the within instrument, as Grantors, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

(SEAL) Frederick Hughes Snook
Notary Public for the State of Idaho Residing at Salmon, Idaho

My commission expires Sept. 21, 1963

STATE OF IDAHO)
County of Lemhi) ss.

On this 20th day of August in the year 1961, before me, the undersigned, a Notary Public in and for said State, personally appeared EDWIN W. SCHLEHUBER and DOLORES R. SCHLEHUBER, known to me to be the persons whose names are subscribed to the within instrument, as Grantors, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

(SEAL) Residing at Boise, Idaho

T.D. Biladeau Notary Public for the State of Idaho

My commission expires Nov 21, 1964.

STATE OF IDAHO)
County of Lemhi) ss.

On this 26th day of July, in the year 1961, before me, the undersigned, a Notary Public in and for said State, personally appeared Charles F. Stoll known to me to be one of the partners of the partnership of CHARLES F. STOLL & SONS, and the partner who subscribed said partnership name to the foregoing instrument, and acknowledged to me that he executed the same in said partnership name.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

(SEAL) Residing at Boise, Idaho

T.D. Biladeau Notary Public for the State of Idaho

My commission expires Nov 21, 1964.

State of Idaho)
County of Lemhi) ss.

Recorded at the request of State of Idaho, Dep't. of Fish and Game August 31st 1961 at 25 minutes past 8 o'clock A.M., in Book E of Agreements Page 489 Records of Lemhi County, Idaho

Paul Adams County Recorder

Fees: \$2.20 Paid

By Dona Langenheder
Deputy.



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

November 26, 2003

STATE OF IDAHO
IDAHO FISH & GAME COMMISSION
PO BOX 25
BOISE ID 83707

RE: Applications for Permit Nos. 74-15066 and 74-15069

Gentlemen:

In review of the above referenced applications for permit we find that we need more information. Enclosed, for your convenience, are copies of the applications.

In regard to Application 74-15066: I find that the easement agreement attached to the application does not agree with the application. You have listed "Hermits of Mount Carmel Idaho" as the owners of the point of diversion and place of use. However, the easement agreement submitted is from October 20, 1959 between Schlehuber and Stoll & Sons. This agreement is for use of land in SE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 14, Twp. 17N, Rge. 23E. The application is for use of land in SW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 14, Twp. 17N, Rge. 23E. Please submit an easement agreement for the lands identified on the water right application.

In regard to Application 74-15069: This application describes a use from Eighteenmile Creek but the point of diversion shown on the map accompanying the application shows the diversion on the Lemhi River. Eighteenmile Creek does not appear to flow through the NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 28 as you have applied for. Please double check the source of water you intended to file on and let us know what you find.

The Department will hold further processing of the above applications for 30 days to allow submittal of the required information. Additional time may be granted by the Department upon receipt of a written request and sufficient justification for an extension. After that time, if adequate information is not received, the Department will issue a preliminary order to reject or deny the applications.

If you have questions regarding this matter, please feel free to contact me at 327-7944.

Sincerely,

Kay Walker
KAY WALKER
Sr. Water Resource Agent

Enclosures

12/4/03
208-756-6022
Lacey Weeks of F&H
called - says easement
was established years ago
& Schlehuber's also own
SWSW so agreement is
still valid. Will get
documentation
of that - kw

Instrument No. 95947.

EASEMENT AGREEMENT

(Land Owner) HC-10

THIS INDENTURE, Made and entered into this 20th day of October, 1959, by and between EDWIN W. SCHLEHUBER and DOLORES R. SCHLEHUBER, Husband and Wife; and CHARLES F. STOLL & SONS, a partnership, for purposes of access; and A.D. COOK, a single man, hereinafter called Grantors, and THE STATE OF IDAHO for the use and benefit of the Department of Fish and Game, hereinafter called Grantee, WITNESSETH:

That for and in consideration of the sum of ONE DOLLAR (\$1.00), cash in hand paid by the Grantee to the Grantors, receipt whereof is hereby acknowledged, the Grantors do hereby grant unto the Grantee an easement for the purposes of construction, operation, maintenance, alteration, renewal and removal of a self-cleaning fish screen and fish bypass thereto on, within, and across a canal or ditch known as Stoll #2 Ditch and located in Lemhi County upon lands of the Grantors at a point within the

SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 14, Township 17 North, Range 23 East, Boise Meridian, which point is approximately 80 feet north and 90 feet west of the southeast corner thereof, said fish bypass to run from said fish screen to the adjacent stream course known as Hayden Creek. Together with the right of ingress and egress for personnel of the Grantee or its authorized agents on and over property of the Grantors for the purposes herein designated, and right of way to provide for removal of debris, logs, log jams, mud or gravel bars that may accumulate in the canal channel or ditch immediately above or below the fish screen and which have been caused to accumulate by installation of said fish screen.

In the event of any future alterations in the line or grade of the canal channel, ditch or stream course necessitating changes in or relocation of the Grantee's installations, the Grantors, by these presents, also grant to the Grantee an easement as herein first above granted to relocate its installations in said canal channel or ditch as the same may be located on the lands of the Grantors, their heirs and assigns.

All such installations placed on, within and across said canal or ditch by the Grantee shall be and remain the property of the Grantee and may be removed by the Grantee at any time.

All expenditures to be made by the Grantee under the provisions of this agreement shall be subject to appropriations being available for the purpose.

IN WITNESS WHEREOF, The said Grantors have hereunto set their hands and seals, the day and year first above written.

A.D. Cook (SEAL)
Charles F. Stoll & Sons (SEAL)
by Charles F. Stoll (SEAL)
Edwin W. Schlehuber (SEAL)
Dolores R. Schlehuber

STATE OF IDAHO,)
County of Lemhi) ss.

On this 20th day of October in the year 1959, before me the undersigned, a Notary Public in and for said State, personally appeared A.D. Cook known to me to be the person whose name is subscribed to the within instrument, as Grantors, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

(SEAL)

Frederick Hughes Snook
Notary Public for the State of Idaho
Residing at Salmon, Idaho
My commission expires Sept 21, 1963.

STATE OF IDAHO,)
County of Lemhi) ss.

On this 20th day of August in the year 1961, before me, the undersigned, a Notary Public in and for said State, personally appeared Edwin W. Schlehuber and Dolores Schlehuber Known to me to be the persons whose names are subscribed to the within instrument, as Grantors, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

(SEAL)

T.D. Biladeau Notary Public for the State of Idaho
Residing at Boise, Idaho
My commission expires Nov. 21, 1964

STATE OF IDAHO)
County of Lemhi) ss.

On this 26th day of July, in the year 1961, before me, the undersigned Notary Public in and for said State, personally appeared Charles F. Stoll known to me to be one of the partners in the partnership of Charles F. Stoll & Sons and the partner who subscribed said partnership name to the foregoing instrument, and acknowledged to me that he executed the same in said partnership name.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

(SEAL)

T.D. Biladeau
Notary Public for the State of Idaho
Residing at Boise, Idaho
My commission expires Nov 21, 1964.

State of Idaho)
County of Lemhi) ss.

Recorded at the request of State of Idaho, Dep't. of Fish & Game August 31st 1961 at 27 minutes past 8 o'clock A.M., in Book E of Agreements Page 491 Records of Lemhi County, Idaho

Fees: \$2.40 Paid

Paul Adams County Recorder

By Dona Langenfelder
Deputy.

Instrument No. 95947

EASEMENT AGREEMENT

(Land Owner) HC-10

THIS INDENTURE, Made and entered into this 20th day of October, 1959, by and between EDWIN W. SCHLEHUBER and DOLORES R. SCHLEHUBER, Husband and Wife; and CHARLES F. STOLL & SONS, a partnership, for purposes of access; and A.D. COOK, a single man, hereinafter called Grantors, and THE STATE OF IDAHO for the use and benefit of the Department of Fish and Game, hereinafter called Grantee, WITNESSETH:

That for and in consideration of the sum of ONE DOLLAR (\$1.00), cash in hand paid by the Grantee to the Grantors, receipt whereof is hereby acknowledged, the Grantors do hereby grant unto the Grantee an easement for the purposes of construction, operation, maintenance, alteration, renewal and removal of a self-cleaning fish screen and fish bypass thereto on, within, and across a canal or ditch known as Stoll #2 Ditch and located in Lemhi County upon lands of the Grantors at a point within the

SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 14, Township 17 North, Range 23 East, Boise Meridian, which point is approximately 80 feet north and 90 feet west of the southeast corner thereof, said fish bypass to run from said fish screen to the adjacent stream course known as Hayden Creek. Together with the right of ingress and egress for personnel of the Grantee or its authorized agents on and over property of the Grantors for the purposes herein designated, and right of way to provide for removal of debris, logs, log jams, mud or gravel bars that may accumulate in the canal channel or ditch immediately above or below the fish screen and which have been caused to accumulate by installation of said fish screen.

In the event of any future alterations in the line or grade of the canal channel, ditch or stream course necessitating changes in or relocation of the Grantee's installations, the Grantors, by these presents, also grant to the Grantee an easement as herein first above granted to relocate its installations in said canal channel or ditch as the same may be located on the lands of the Grantors, their heirs and assigns.

All such installations placed on, within and across said canal or ditch by the Grantee shall be and remain the property of the Grantee and may be removed by the Grantee at any time.

All expenditures to be made by the Grantee under the provisions of this agreement shall be subject to appropriations being available for the purpose.

IN WITNESS WHEREOF, The said Grantors have hereunto set their hands and seals, the day and year first above written.

A.D. Cook	(SEAL)
Charles F. Stoll & Sons	(SEAL)
by Charles F. Stoll	(SEAL)
Edwin W. Schlehuber	(SEAL)
Dolores R. Schlehuber	

STATE OF IDAHO,)
County of Lemhi) ss.

On this 20th day of October in the year 1959, before me the undersigned, a Notary Public in and for said State, personally appeared A.D. Cook known to me to be the person whose name is subscribed to the within instrument, as Grantors, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

(SEAL)

Frederick Hughes Snook
Notary Public for the State of Idaho
Residing at Salmon, Idaho
My commission expires Sept 21, 1963.

STATE OF IDAHO,)
County of Lemhi) ss.

On this 20th day of August in the year 1961, before me, the undersigned, a Notary Public in and for said State, personally appeared Edwin W. Schlehuber and Dolores Schlehuber Known to me to be the persons who executed the within instrument as Grantors, and acknowledged to me that they executed

APPLICATION FOR PERMITS

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

STATE OF IDAHO DEPT. OF FISH & GAME, PO BOX 25, BOISE, ID 83707

74-15064: Point(s) of Diversion: NWSNW S11, T20N, R23E, LEMHI County. Source: SANDY CREEK. Use: FISH PROPAGATION. 04/01 TO 11/01 0.8 CFS, Total Diversion: 0.8 CFS. Date Filed: 09/23/2003. Place of Use: FISH PROPAGATION, T20N, R23E S11 SENW. Applicant has an easement for ingress and egress to construct and maintain fish screens on this property.

74-15065: Point(s) of Diversion: NENESE S22 T17N R23E, LEMHI County. Source: HAYDEN CREEK. Use: FISH PROPAGATION. 04/01 to 11/01 0.8 CFS, Total Diversion: 0.8 CFS. Date Filed: 09/23/2003. Place of Use: FISH PROPAGATION T17N R23E S22 SESW. Applicant has an easement for ingress and egress to construct and maintain fish screens on this property.

74-15066: Point(s) of Diversion: SESWSW S14 T17N R23E, LEMHI County. Source: Hayden Creek. Use: FISH PROPAGATION 04/01 to 11/01 0.8 CFS, Total Diversion: 0.8 CFS. Date Filed: 09/23/2003. Place of Use: FISH PROPAGATION T17N R23E S14 SWSW. Applicant has an easement for ingress and egress to construct and maintain fish screens on this property.

Permits will be subject to all prior water rights. Protests may be submitted based on the criteria of Sec. 42-203A, Idaho Code.

Any protest against the approval of this application must be filed with the Director, Dept. of Water Resources, Eastern Region, 900 N. Skyline Drive, Ste. A, Idaho Falls, ID 83402 together with a protest fee of \$25.00 for each application on or before October 20, 2003. The protestant must also send a copy of the protest to the applicant.

KARL J. DREHER, Director
10-2-2tc

Affidavit of Publication

STATE OF IDAHO

County of Lemhi

ss.

RICKY G. HODGES being first duly sworn, deposes and says he is one of the publishers (printers) of The Recorder Herald, a newspaper published weekly at Salmon, Lemhi County, Idaho, and of general circulation therein. That the **NOTICE TO APPROPRIATE WATER**, a true printed copy of which is attached to the margin hereof, has been and was correctly printed and published in the regular and entire issue of every number of said newspaper and not in any supplement thereof or thereto for **TWO (2)** consecutive issue(s), commencing with the issue dated **10-02-2003** and ending with the issue dated **10-09-2003**.

RECEIVED

NOV 12 2003

Department of Water Resources
Eastern Region

STATE OF IDAHO

County of Lemhi

ss.

On this **7th day of November** in this year of 2003 before me, A Notary Public, personally appeared RICKY G. HODGES, 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.

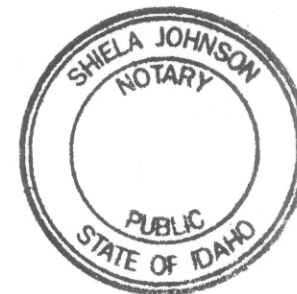
Shiela Johnson

Notary Public for Idaho

Residing At Salmon, Idaho

My Commission expires: 01-02-2007

Publication Fee \$152.88





State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, ID 83402-1718 • Phone: (208) 525-7161 FAX: (208) 525-7177

EASTERN REGION

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

September 24, 2003

RICK SAGER
WATERMASTER
SALMON, ID 83467

RE: Application for Permit No 74-15065, 74-15066, 74-15067. 74-15068. 74-15070

Dear RICK SAGER:

Enclosed is a copy of the above referenced application. Please review the application, complete the enclosed recommendation form, and submit it to this office by October 20, 2003.

Please feel free to contact this office if you have any questions regarding the application.

Sincerely,

W Roger Warner
Water Right Supervisor

Enclosure(s)

WRW:sc



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, ID 83402-1718 • Phone: (208) 525-7161 FAX: (208) 525-7177

EASTERN REGION

September 24, 2003

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

STATE OF IDAHO DEPT OF FISH & GAME
PO BOX 25
BOISE ID 83707

RE: Application for Permit No 74-15064, 74-15065, 74-15066, 74-15067, 74-15068,
74-15070

Dear Applicant(s):

The Department of Water Resources acknowledges receipt of your water right application. Please refer to the above referenced number in all future correspondence regarding this application.

A legal notice of the application has been prepared and is scheduled for publication in the Recorder Herald on October 2 and 9, 2003. Submittal of protests to this application will be allowed for a period ending ten days after the second publication.

If the application is protested you will be sent a copy of the protest(s). If protests must be resolved before the application can be considered for approval. If the protest(s) cannot be resolved voluntarily, the Department will conduct a conference and/or hearing on the matter.

If the application is not protested, it will be forwarded to our State Office in Boise for final processing. The State Office will notify you of any action taken on the application and will send you a copy of the permit if approved.

Please feel free to contact this office if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'W. Roger Warner'.

W Roger Warner
Water Right Supervisor

WRW:sc



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, ID 83402-1718 • Phone: (208) 525-7161 FAX: (208) 525-7177

EASTERN REGION

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

September 24, 2003

Legal Notice Department
RECORDER-HERALD
PO BOX 310
SALMON ID 83467

RE: Application for Permit No. 74-15064, 74-15065, 74-15066, 74-15067, 74-15068, 74-15070

Dear LEGAL NOTICE DEPARTMENT:

Enclosed you will find a legal notice which we wish to have published in your newspaper on the dates indicated (once a week for two consecutive weekly issues). If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before October 20, 2003. Your cooperation is appreciated.

Sincerely

Sharla Cox
Administrative Assistant

*Mailed
9/24/03
SC*

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

STATE OF IDAHO DEPT OF FISH & GAME
PO BOX 25
BOISE ID 83707

74-15064

Point(s) of Diversion: NWSNW S11 T20N R23E, LEMHI County
Source SANDY CREEK

Use: FISH PROPAGATION 04/01 To 11/01 0.8 CFS
Total Diversion: 0.8 CFS

Date Filed: 09/23/2003

Place Of Use: FISH PROPAGATION

T20N R23E S11 SENW

Applicant has an easement for ingress and egress to construct and maintain fish screens on this property.

74-15065

Point(s) of Diversion: NENESE S22 T17N R23E, LEMHI County
Source HAYDEN CREEK

Use: FISH PROPAGATION 04/01 To 11/01 0.8 CFS
Total Diversion: 0.8 CFS

Date Filed: 09/23/2003

Place Of Use: FISH PROPAGATION

T17N R23E S22 SESW

Applicant has an easement for ingress and egress to construct and maintain fish screens on this property.

74-15066

Point(s) of Diversion: SESWSW S14 T17N R23E, LEMHI County
Source HAYDEN CREEK

Use: FISH PROPAGATION 04/01 To 11/01 0.8 CFS
Total Diversion: 0.8 CFS

Date Filed: 09/23/2003

Place Of Use: FISH PROPAGATION

T17N R23E S14 SWSW

Applicant has an easement for ingress and egress to construct and maintain fish screens on this property.

74-15067

Point(s) of Diversion: SWSESE S11 T17N R23E, LEMHI County
Source HAYDEN CREEK

Use: FISH PROPAGATION 04/01 To 11/01 0.8 CFS
Total Diversion: 0.8 CFS

Date Filed: 09/24/2003

Place Of Use: FISH PROPAGATION

T17N R23E S11 SESE

Applicant has an easement for ingress and egress to construct and maintain fish screens on this property.

74-15068

Point(s) of Diversion: NWSESE S11 T17N R23E, LEMHI County
Source HAYDEN CREEK

Use: FISH PROPAGATION 04/01 To 11/01 0.8 CFS
Total Diversion: 0.8 CFS

Date Filed: 09/24/2003

Place Of Use: FISH PROPAGATION

T17N R23E S11 SESE

Applicant has an easement for ingress and egress to construct and maintain fish screens on this property.

74-15070

Point(s) of Diversion: NWNWSE S34 T17N R23E, LEMHI County
Source EAST FORK HAYDEN CREEK

Tributary To HAYDEN CREEK

Use: FISH PROPAGATION 04/01 To 11/01 0.8 CFS
Total Diversion: 0.8 CFS

Date Filed: 09/24/2003

Place Of Use: FISH PROPAGATION

T17N R23E S34 NWSE

Under provisions of CFR 43, Part 251.61, "if the ditch was in existence prior to the establishment of the Forest Service, then the ditch has a permanent right of way, and the ditch owner can also install any device needed."

Permits will be subject to all prior water rights. Protests may be submitted based on the criteria of Sec 42-203A, Idaho Code.

Any protest against the approval of this application must be filed with the Director, Dept. of Water Resource, Eastern Region, 900 N Skyline Dr Ste A, Idaho Falls ID 83402 together with a protest fee of \$25.00 for each application on or before October 20, 2003. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director

Published on October 2 and 9, 2003