

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
**AMENDED APPLICATION FOR PERMIT**  
To appropriate the public waters of the State of Idaho  
No. 47-17751

**RECEIVED**  
**FEB 17 2022**  
DEPT. OF WATER RESOURCES  
SOUTHERN REGION

**1. Applicant(s)**

BRIAN TUBBS  
3469 E 3100 N  
KIMBERLY ID 83341-5251  
208-420-9152, tubbslivestock@aol.com

OR

MICHELLE TUBBS  
3469 E 3100 N  
KIMBERLY ID 83341-5251  
208-420-9152, tubbslivestock@aol.com

**2. Representative(s) N/A****3. Source of Water Supply:**

Source : SPRING

Tributary:

COTTONWOOD CREEK

**4. Location of Point(s) of Diversion:**

| Heading                          | Point of Diversion # 1 | Point of Diversion # 2         |
|----------------------------------|------------------------|--------------------------------|
| Source                           | SPRING                 | SPRING                         |
| Tributary of                     | COTTONWOOD CREEK       | COTTONWOOD CREEK               |
| Township                         | 11S                    | 11S                            |
| Range                            | 18E                    | 18E                            |
| Section                          | 29                     | 29                             |
| Govt. Lot                        |                        |                                |
| QQQ/QQ/Quarter                   | NW¼NW¼NE¼              | NW¼NW¼NE¼                      |
| County                           | TWIN FALLS             | TWIN FALLS                     |
| Diversion Type                   |                        |                                |
| Local name or Tag#               |                        |                                |
| Type and size of devices         | Excavated Pond         | Pump, sprinkler system, trough |
| Height of storage dam            |                        |                                |
| Active/ Total Reservoir capacity |                        |                                |
| Dam Application required?        | No                     | No                             |
| Proposed well diameter/ depth    |                        |                                |
| Water Temp > 85°F?               |                        |                                |
| Drilled Date                     |                        |                                |
| Drilling firm                    |                        |                                |
| Property Owner                   | Applicant              | Applicant                      |
| Access Arrangement Description   | N/A                    | N/A                            |

**5. Water will be used for the following purposes:**

| Purposes         | Season         | Rate     | Volume | Description |
|------------------|----------------|----------|--------|-------------|
| DOMESTIC         | 01/01 to 12/31 | 0.02 CFS |        | N/A Home(s) |
| DOMESTIC STORAGE | 01/01 to 12/31 |          | 0.1 AF |             |

**6. Total quantity to be appropriated is (a) 0.02 cubic feet per second (cfs) and/or (b) Not Stated acre-feet / year (af).**

**7. Proposed diverting works:**

a. If an existing well, who was the well drilled for? Drilling Permit No.

**8. Describe other proposed water uses : N/A**

For Department Use

Received by A. SKINNER Date 2/17/2022 Time 3:12 PM Preliminary check by \_\_\_\_\_  
Fee \$ 100.00 Receipted by SG Receipt No. 5039004 Date 12/28/2021

**9. Description of place of use:****Place of Use: DOMESTIC**

| Twp | Rng | Sec | NE |    |    |    | NW |    |    |    | SW |    |    |    | SE |    |    |    | No QQ | Totals |
|-----|-----|-----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|-------|--------|
|     |     |     | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE |       |        |
| 11S | 18E | 29  |    | X  |    |    |    |    |    |    |    |    |    |    |    |    |    |    |       |        |

**Place of Use: DOMESTIC STORAGE**

| Twp | Rng | Sec | NE |    |    |    | NW |    |    |    | SW |    |    |    | SE |    |    |    | No QQ | Totals |
|-----|-----|-----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|-------|--------|
|     |     |     | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE |       |        |
| 11S | 18E | 29  |    | X  |    |    |    |    |    |    |    |    |    |    |    |    |    |    |       |        |

- 10. Describe any other water rights used for the same purposes as described above. Include water delivered by a municipality, canal company, or irrigation district. If this application is for domestic purposes, do you intend to use this water, water from another source, or both, to irrigate your lawn, garden, and/or landscaping?**

Domestic water right 47-14823. Potentially we will use this source and/or 47-14823 to irrigate up to ½ acre in connection with our home.

**11.**

- Who owns the land to be irrigated or place of use?** Applicant.
- If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing:**

- 12. Describe your proposal in narrative form, and provide additional explanation for any of the items above. Attach additional pages if necessary.**

Application is for a domestic/stockwater use from a spring located on the property. Domestic storage of 0.1 acre-feet is for a small pond (approximately 30' X 15' X 3') constructed in a springy area on our property. Domestic diversion rate of 0.02 cfs is for a small pump to be placed in the pond to divert water for irrigation of up to ½ acre in connection with the home located on the property/parcel. Livestock may drink from the pumped water or directly from the constructed pond. All uses will fall within the 13,000 gallon per day domestic allowance.

- 13. Time required for completion of works and application of water to proposed beneficial use is 2 years (minimum 1 year).**

- 14. MAP OF PROPOSED PROJECT REQUIRED** - Attach an 8½" x 11" map or maps clearly identifying the proposed point of diversion, place of use, section #, township & range. The map scale shall not be less than two (2) inches equal to one (1) mile.

**The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval.**

Signature of Applicant

BRIAN TUBBS

Signature of Applicant

MICHELLE TUBBS



NESW

NWSE

NESE

SESW

SWSE

20

SESE

Point of  
Diversion

NENW

N1WNE

11S18E

NENE

29

SESW

SWNE

SENE

47-17751

NESW

NWSE

NESE

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
**APPLICATION FOR PERMIT**  
To appropriate the public waters of the State of Idaho  
No. 47-17751

RECEIVED  
DEC 28 2021  
DEPT OF WATER RESOURCES  
SOUTHERN REGION

**1. Applicant(s)**

BRIAN TUBBS  
2086 E 3400 N  
FILER ID 83328-5646  
208-420-9152

OR

MICHELLE TUBBS  
2086 E 3400 N  
FILER ID 83328-5646  
208-420-9152

SUPERSEDED by amended  
app. received  
February 17, 2022

**2. Representative(s) N/A****3. Source of Water Supply:**

Source : SPRING

Tributary: MC MULLEN CREEK

**4. Location of Point(s) of Diversion:**

|                                  |                                |
|----------------------------------|--------------------------------|
| Heading                          | Point of Diversion # 1         |
| Source                           | SPRING                         |
| Tributary of                     | MC MULLEN CREEK                |
| Township                         | 11S                            |
| Range                            | 18E                            |
| Section                          | 29                             |
| Govt. Lot                        |                                |
| QQQ/QQ/Quarter                   | NW¼NW¼NE¼                      |
| County                           | TWIN FALLS                     |
| Diversion Type                   |                                |
| Local name or Tag#               |                                |
| Type and size of devices         | Pump, sprinkler system, trough |
| Height of storage dam            |                                |
| Active/ Total Reservoir capacity |                                |
| Dam Application required?        | No                             |
| Proposed well diameter/ depth    |                                |
| Water Temp > 85°F?               |                                |
| Drilled Date                     |                                |
| Drilling firm                    |                                |
| Property Owner                   | Applicant                      |
| Access Arrangement Description   | N/A                            |

**5. Water will be used for the following purposes:**

| Purposes              | Season         | Rate     | Volume | Description |
|-----------------------|----------------|----------|--------|-------------|
| DOMESTIC FROM STORAGE | 01/01 to 12/31 | 0.02 CFS | 0.1 AF |             |

**6. Total quantity to be appropriated is (a) 0.02 cubic feet per second (cfs) and/or (b) Not Stated acre-feet / year (af).**

**7. Proposed diverting works:**

a. If an existing well, who was the well drilled for? Drilling Permit No.

**8. Describe other proposed water uses : N/A****9. Description of place of use:**

**For Department Use**

Received by SG Date 12/28/21 Time \_\_\_\_\_ Preliminary check by \_\_\_\_\_  
 Fee \$ 100.00 Receipted by SG Receipt No. 5039004 Date 12/28/21

**Place of Use: DOMESTIC FROM STORAGE**

| Twp | Rng | Sec | NE |    |    |    | NW |    |    |    | SW |    |    |    | SE |    |    |    | No QQ | Totals |
|-----|-----|-----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|-------|--------|
|     |     |     | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE |       |        |
| 11S | 18E | 29  |    | X  |    |    |    |    |    |    |    |    |    |    |    |    |    |    |       |        |

- 10. Describe any other water rights used for the same purposes as described above. Include water delivered by a municipality, canal company, or irrigation district. If this application is for domestic purposes, do you intend to use this water, water from another source, or both, to irrigate your lawn, garden, and/or landscaping?**  
Domestic water right 47-14823,
- 11.**
- Who owns the land to be irrigated or place of use?** Applicant.
  - If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing:**
- 12. Describe your proposal in narrative form, and provide additional explanation for any of the items above. Attach additional pages if necessary.**  
Application is for a domestic/stockwater use from a spring located on the property. Domestic storage of 0.1 acre-feet is for a small pond (approximately 30' X 15' X 3' ) constructed in a springy area on our property. Domestic diversion rate of 0.02 cfs is for a small pump to be placed in the pond to divert water for irrigation of up to ½ acre in connection with the home located on the property/parcel. Livestock may drink from the pumped water or directly from the constructed pond. All uses will fall within the 13,000 gallon per day domestic allowance.
- 13. Time required for completion of works and application of water to proposed beneficial use is 2 years (minimum 1 year).**
- 14. MAP OF PROPOSED PROJECT REQUIRED** - Attach an 8½" x 11" map or maps clearly identifying the proposed point of diversion, place of use, section #, township & range. The map scale shall not be less than two (2) inches equal to one (1) mile.

**The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval.**

Signature of Applicant

BRIAN TUBBS

Signature of Applicant

MICHELLE TUBBS

## Maline, Denise

---

**From:** Maline, Denise  
**Sent:** Friday, April 1, 2022 5:11 PM  
**To:** Dawson,Bradley  
**Subject:** Comment Letters for Transfer No. 85686 (Schodde) and Application No. 47-17751 (Tubbs)  
**Attachments:** Comment letter to F&G for 85686 & 47-17751.docx; 47-17751 Brian & Michelle Tubbs.pdf; Transfer No. 85686 Henry Schodde.pdf

Hi Bradley,

Attached are 2 applications that are currently being processed by the department. Please review the application and provide any necessary comments within 21 days.

If you have any questions regarding these applications, please feel free to contact our office.

Thank you in advance,

Denise @ IDWR

**Denise Maline, Administrative Assistant**  
Idaho Dept of Water Resources, Southern Region  
650 Addison Ave W Ste 500  
Twin Falls ID 83301-5858  
(208) 293-9908  
[denise.maline@idwr.idaho.gov](mailto:denise.maline@idwr.idaho.gov)



IDAHO DEPARTMENT OF  
**WATER RESOURCES**

Southern Region • 650 Addison Ave W, Suite 500 • Twin Falls, ID 83301-5858

Phone: 208-736-3033 • Fax: 208-736-3037 • Email: [southerninfo@idwr.idaho.gov](mailto:southerninfo@idwr.idaho.gov) • Web: [idwr.idaho.gov](http://idwr.idaho.gov)

Governor Brad Little

Director Gary Spackman

March 31, 2022

IDAHO DEPT OF FISH & GAME  
BRADLEY DAWSON  
324 S 417 E STE 1  
JEROME ID 83338-6206

RE: Transfer No. 85686 (Henry Lynn Schodde, et al)  
RE: Application for Permit No.: 47-17751 (Brian & Michelle Tubbs)

Dear Mr. Dawson:

The Idaho Department of Water Resources (IDWR) is seeking written comment and/or recommendations from your organization regarding the above referenced water right application. *You can find a complete copy of the application(s) at:* <https://idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx>. Please review the application, complete the enclosed recommendation form, and submit it to this office within 21 days of the date of this letter.

IDWR can finish reviewing an unprotested application as soon as the protest period has past. Therefore, your prompt response to this request is appreciated. If your organization desires to formally protest the approval of this application, you may do so after the notice is published by filing a written protest along with a \$25.00 filing fee within 10 days after final publication (**on or before April 25, 2022**).

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

Sincerely,

*Denise Maline*

Denise Maline  
Administrative Assistant 1

Enclosure(s)

# Customer Ad Proof

60002276 ID DEPARTMENT OF WATER RESOURCES

Order Nbr 126199

|             |                                  |                 |                         |
|-------------|----------------------------------|-----------------|-------------------------|
| Publication | Times News                       |                 |                         |
| Contact     | ID DEPARTMENT OF WATER RESOURCES | PO Number       |                         |
| Address 1   | 650 ADDISON AVE W, STE 500       | Rate            | Legal Notice            |
| Address 2   |                                  | Order Price     | 281.08                  |
| City St Zip | TWIN FALLS ID 83301              | Amount Paid     | 0.00                    |
| Phone       | 2087363033                       | Amount Due      | 281.08                  |
| Fax         |                                  |                 |                         |
| Section     | Legals                           | Start/End Dates | 04/07/2022 - 04/14/2022 |
| SubSection  |                                  | Insertions      | 2                       |
| Category    | 50 Legal                         | Size            | 187                     |
| Ad Key      | 126199-1                         | Salesperson(s)  | Legal Notices           |
| Keywords    | NTC/TRANSFER REQUESTS            | Taken By        | Seana Chapman           |
| Notes       |                                  |                 |                         |

## Ad Proof

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

### 36-17206

JEROME SCHOOL DISTRICT #261  
125 4TH AVE W  
JEROME, ID 83338  
Point of Diversion NESENE S19 T08S R17E JEROME County Source  
GROUND WATER Tributary  
Use: COOLING 01/01 to 12/31 0.37 CFS  
Use: HEATING 01/01 to 12/31 0.37 CFS  
Total Diversion: 0.37 CFS  
Date Filed: 02-23-2022  
Place Of Use: COOLING, HEATING  
T08S R17E S19 SENE  
Application proposes diversion of up to 0.37 cfs for year-round non-consumptive heating and cooling uses associated with a new elementary school located approximately 0.8 mile east and 0.3 mile south of the intersection of Main Street and Lincoln Avenue in Jerome. A new well is proposed and water will be diverted, used, and re-injected into a separate well at the site. This application proposes to appropriate trust water and will be evaluated in compliance with Section 42-203C, Idaho Code, and IDWR's Water Appropriation Rules, IDAPA 37.03.08.

### 47-17751

BRIAN TUBBS  
MICHELLE TUBBS  
3469 E 3100 N  
KIMBERLY, ID 83341-5251  
Point of Diversion NWNWNE S29 T11S R18E TWIN FALLS County  
Source SPRING Tributary COTTONWOOD CREEK  
Point of Diversion NWNWNE S29 T11S R18E TWIN FALLS County  
Source SPRING Tributary COTTONWOOD CREEK  
Use: DOMESTIC 01/01 to 12/31 0.02 CFS  
Use: DOMESTIC STORAGE 01/01 to 12/31 0.1 AF  
Total Diversion: 0.02 CFS  
Date Filed: 12-28-2021  
Place Of Use: DOMESTIC, DOMESTIC STORAGE  
T11S R18E S29 NWNE  
Application proposes to appropriate water from a spring for domestic uses, including a small pond, on property located approximately 6.0 miles south and 0.5 miles west of the center of Kimberly. This application proposes to appropriate trust water and will be evaluated in compliance with Section 42-203C, Idaho Code, and IDWR's Water Appropriation Rules, IDAPA 37.03.08.

### NOTICE OF PROPOSED CHANGE OF WATER RIGHT TRANSFER NO. 85686

HENRY LYNN SCHODDE, 139 LOST TRAIL PL, IDAHO FALLS, ID 83404-8431; SHEILA K CATMULL and MICHAEL H SCHODDE and JON T SCHODDE, C/O HENRY LYNN SCHODDE, 139 LOST TRAIL PL, IDAHO FALLS, ID 83404-8431 has filed Application No. 85686 for changes to the following water rights within MINIDOKA County(s): Right No(s). 1-229. The purpose of the transfer is to change a portion of the above rights as follows: Application for transfer proposes to change the place of use (POU) and add a point of diversion (POD) to a Snake River irrigation water right, with a flow rate of 2.00 cfs. The additional POD will be an existing pump station on the Snake River located approximately 3.9 miles west and 1.0 mile north of the intersection of Main Street and Overland Avenue in Burley. The transfer also proposes to modify the

**Proof of legal notice received  
from Times News 4/1/2022**

( 2 pgs )



# Customer Ad Proof

60002276 ID DEPARTMENT OF WATER RESOURCES

Order Nbr 126199

POU, located adjacent to the proposed additional POD, to reflect changes to the irrigation system.

## TRANSFER NO. 85921

CRESTVIEW CALVES LLC, 756 S 2800 E, HAZELTON, ID 83335-5280 has filed Application No. 85921 for changes to the following water rights within JEROME County(s): Right No(s). 36-17180. The purpose of the transfer is to change a portion of the above rights as follows: Application proposes changing the points of diversion and place of use for a 0.12 cfs, 20 acre-foot portion of a commercial & stockwater groundwater right that is currently diverted from 4 wells at a calf rearing facility located approximately 8.8 to 9.6 miles west and 0.2 to 0.8 miles north of Paul. The application proposes moving the right to a new place of use and diverting it from two existing wells at a CAFO facility located approximately 9.6 to 9.8 miles west and 4.4 to 4.6 miles south of Paul.

## TRANSFER NO. 85949

CITY OF OAKLEY, 200 W MAIN, PO BOX 266, OAKLEY, ID 83346 has filed Application No. 85949 for changes to the following water rights within CASSIA County(s): Right No(s). 45-10802, 45-10803, 45-10804, 45-2659. The purpose of the transfer is to change a portion of the above rights as follows: Application for transfer proposes adding points of diversion to four municipal ground water rights (2.12 cfs total). A new well to be drilled will be added to the four rights and an existing well will be added to one of the rights so that there will be a total of three wells on all four municipal water rights. The two existing wells are located approximately 1.6 miles south and 0.1 mile east of the intersection of Center St. and Main St. in Oakley. The proposed well will be located approximately 0.6 miles south of the intersection of Center St. and Main St. in Oakley.

Permits will be subject to all prior water rights. For additional information concerning the property locations, contact Southern Region office at (208) 736-3033; or for a full description of the rights &/or proposed transfer, please see <https://research.idwr.idaho.gov>. Protests may be submitted based on the criteria of Sec 42-222 and 42-203A, Idaho Code. Any protest against the approval of this application(s) must be filed with the Director, Dept. of Water Resources, Southern Region, 650 ADDISON AVE W, STE 500, TWIN FALLS, ID 83301-5858 together with a protest fee of \$25.00 for each application on or before **April 25, 2022**. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Published on April 7th & 14th, 2022

## **Maline, Denise**

---

**From:** Maline, Denise  
**Sent:** Thursday, March 31, 2022 2:15 PM  
**To:** Times News  
**Subject:** LEGAL NOTICE  
**Attachments:** Times News cover letter.docx; Times News ad.docx

Attached please find **(1)** legal notice being submitted for publication on April 7<sup>th</sup> & 14<sup>th</sup>, 2022. Please let me know if there are any questions or if you are not able to run the ad on the dates requested.

Thank you in advance,

Denise @ IDWR Twin Falls

**Denise Maline, Administrative Assistant**  
**Idaho Dept of Water Resources, Southern Region**  
**650 Addison Ave W Ste 500**  
**Twin Falls ID 83301-5858**  
**(208) 293-9908**  
[denise.maline@idwr.idaho.gov](mailto:denise.maline@idwr.idaho.gov)



IDAHO DEPARTMENT OF  
**WATER RESOURCES**

Southern Region • 650 Addison Ave W, Suite 500 • Twin Falls, ID 83301-5858

Phone: 208-736-3033 • Fax: 208-736-3037 • Email: [southerninfo@idwr.idaho.gov](mailto:southerninfo@idwr.idaho.gov) • Web: [idwr.idaho.gov](http://idwr.idaho.gov)

**Governor Brad Little**

**Director Gary Spackman**

March 31, 2022

BRIAN TUBBS  
MICHELLE TUBBS  
3469 E 3100 N  
KIMBERLY, ID 83341-5251

RE: Application for Permit No. 47-17751

Dear Applicant(s):

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

A legal notice of the application has been prepared and is scheduled for publication in the **TIMES NEWS on 4/7/2022 and 4/14/2022**. Protests to this application may be submitted for a period ending ten (10) days after the second publication. Any protest against this application must be filed with the Department of Water Resources, together with a protest fee of \$25.00 for each application, on or before **April 25, 2022**.

If the application is protested, you will be sent a copy of each protest. All 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, the Department will process your application and notify you of any action taken on the application. If your application is approved, the Department will send you a copy of the permit.

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

Sincerely,

*Denise Maline*

Denise Maline  
Administrative Assistant



IDAHO DEPARTMENT OF  
**WATER RESOURCES**

Southern Region • 650 Addison Ave W, Suite 500 • Twin Falls, ID 83301-5858

Phone: 208-736-3033 • Fax: 208-736-3037 • Email: [southerninfo@idwr.idaho.gov](mailto:southerninfo@idwr.idaho.gov) • Web: [idwr.idaho.gov](http://idwr.idaho.gov)

**Governor Brad Little**

**Director Gary Spackman**

March 31, 2022

**LEGAL NOTICE DEPARTMENT**

TIMES NEWS

PO BOX 548

TWIN FALLS, ID 83303-0548

RE: Application for Permit No. 36-17206, 47-17751

RE: Transfer No. 85686  
Water Right No(s). 1-229

RE: Transfer No. 85921  
Water Right No(s). 36-17180

RE: Transfer No. 85949  
Water Right No(s). 45-10802, 45-10803, 45-10804, 45-2659

Dear Legal Notice Department:

Please publish the enclosed legal notice 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 April 25, 2022. Your cooperation is appreciated.

Sincerely,

*Denise Maline*

Denise Maline  
Administrative Assistant

Enclosure(s)

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

**36-17206**

JEROME SCHOOL DISTRICT #261

125 4TH AVE W

JEROME, ID 83338

Point of Diversion NESENE S19 T08S R17E JEROME County Source GROUND WATER Tributary

Use: COOLING 01/01 to 12/31 0.37 CFS

Use: HEATING 01/01 to 12/31 0.37 CFS

Total Diversion: 0.37 CFS

Date Filed: 02-23-2022

Place Of Use: COOLING, HEATING

T08S R17E S19 SENE

Application proposes diversion of up to 0.37 cfs for year-round non-consumptive heating and cooling uses associated with a new elementary school located approximately 0.8 mile east and 0.3 mile south of the intersection of Main Street and Lincoln Avenue in Jerome. A new well is proposed and water will be diverted, used, and re-injected into a separate well at the site. This application proposes to appropriate trust water and will be evaluated in compliance with Section 42-203C, Idaho Code, and IDWR's Water Appropriation Rules, IDAPA 37.03.08.

**47-17751**

BRIAN TUBBS

MICHELLE TUBBS

3469 E 3100 N

KIMBERLY, ID 83341-5251

Point of Diversion NWNWNE S29 T11S R18E TWIN FALLS County Source SPRING Tributary COTTONWOOD CREEK

Point of Diversion NWNWNE S29 T11S R18E TWIN FALLS County Source SPRING Tributary COTTONWOOD CREEK

Use: DOMESTIC 01/01 to 12/31 0.02 CFS

Use: DOMESTIC STORAGE 01/01 to 12/31 0.1 AF

Total Diversion: 0.02 CFS

Date Filed: 12-28-2021

Place Of Use: DOMESTIC, DOMESTIC STORAGE

T11S R18E S29 NWNE

Application proposes to appropriate water from a spring for domestic uses, including a small pond, on property located approximately 6.0 miles south and 0.5 miles west of the center of Kimberly. This application proposes to appropriate trust water and will be evaluated in compliance with Section 42-203C, Idaho Code, and IDWR's Water Appropriation Rules, IDAPA 37.03.08.

**NOTICE OF PROPOSED CHANGE OF WATER RIGHT**

**TRANSFER NO. 85686**

HENRY LYNN SCHODDE, 139 LOST TRAIL PL, IDAHO FALLS, ID 83404-8431; SHEILA K CATMULL and MICHAEL H SCHODDE and JON T SCHODDE, C/O HENRY LYNN SCHODDE, 139 LOST TRAIL PL, IDAHO FALLS, ID 83404-8431 has filed Application No. 85686 for changes to the following water rights within MINIDOKA County(s): Right No(s). 1-229. The purpose of the transfer is to change a portion of the above rights as follows: Application for transfer proposes to change the place of use (POU) and add a point of diversion (POD) to a Snake River irrigation water right, with a flow rate of 2.00 cfs. The additional POD will be an existing pump station on the Snake River located approximately 3.9 miles west and 1.0 mile north of the intersection of Main Street and Overland Avenue in Burley. The transfer also proposes to modify the POU, located adjacent to the proposed additional POD, to reflect changes to the irrigation system.

**TRANSFER NO. 85921**

CRESTVIEW CALVES LLC, 756 S 2800 E, HAZELTON, ID 83335-5280 has filed Application No. 85921 for changes to the following water rights within JEROME County(s): Right No(s). 36-17180. The purpose of the transfer is to change a portion of the above rights as follows: Application proposes changing the points of diversion and place of use for a 0.12 cfs, 20 acre-foot portion of a commercial & stockwater groundwater right that is currently diverted from 4 wells at a calf rearing facility located approximately 8.8 to 9.6 miles west and 0.2 to 0.8 miles north of Paul. The application proposes moving the right to a new place of use and diverting it from two existing wells at a CAFO facility located approximately 9.6 to 9.8 miles west and 4.4 to 4.6 miles south of Paul.

**TRANSFER NO. 85949**

CITY OF OAKLEY, 200 W MAIN, PO BOX 266, OAKLEY, ID 83346 has filed Application No. 85949 for changes to the following water rights within CASSIA County(s): Right No(s). 45-10802, 45-10803, 45-10804, 45-2659.

The purpose of the transfer is to change a portion of the above rights as follows: Application for transfer proposes adding points of diversion to four municipal ground water rights (2.12 cfs total). A new well to be drilled will be added to the four rights and an existing well will be added to one of the rights so that there will be a total of three wells on all four municipal water rights. The two existing wells are located approximately 1.6 miles south and 0.1 mile east of the intersection of Center St. and Main St. in Oakley. The proposed well will be located approximately 0.6 miles south of the intersection of Center St. and Main St. in Oakley.

Permits will be subject to all prior water rights. For additional information concerning the property locations, contact Southern Region office at (208) 736-3033; or for a full description of the rights &/or proposed transfer, please see <https://research.idwr.idaho.gov>. Protests may be submitted based on the criteria of Sec 42-222 and 42-203A, Idaho Code. Any protest against the approval of this application(s) must be filed with the Director, Dept. of Water Resources, Southern Region, 650 ADDISON AVE W, STE 500, TWIN FALLS, ID 83301-5858 together with a protest fee of \$25.00 for each application on or before **April 25, 2022**. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director  
Published on April 7<sup>th</sup> & 14<sup>th</sup>, 2022



State of Idaho

## DEPARTMENT OF WATER RESOURCES

322 E FRONT ST STE 648 PO BOX 83720 • BOISE, ID 83720-0098

Phone: (208)287-4800 • Fax: (208)287-6700 • Website: [www.idwr.idaho.gov](http://www.idwr.idaho.gov)

December 28, 2021

BRIAN TUBBS  
MICHELLE TUBBS  
2086 E 3400 N  
FILER ID 83328-5646

**RE: Application for Permit to Appropriate Trust Water – No. 47-17751**

Dear Applicant:

The Department of Water Resources ("Department") has received your application for permit to appropriate water and has accepted it for filing. Your application has been assigned the identification number referenced in the subject line of this letter. Please refer to that number in all future correspondence regarding this application.

Your application proposes to appropriate Trust Water as described in this letter. The special nature of the trust affects how the Department will process your application as well as some aspects of the water right that may result. The purpose of this letter is to inform you of three items specific to applications proposing to appropriate Trust Water:

1. Your application will be subject to additional evaluation compared to applications that do not propose the use of Trust Water. This may require you to submit additional information and to demonstrate that your application meets the statutory evaluation criteria for appropriating Trust Water.
2. If a water right is issued to you, it could be subject to curtailment to satisfy senior minimum stream flow water rights on the Snake River at the Murphy Gage.
3. If a water right is issued to you, it will be subject to a periodic term review that may impact the future use of the right.

To understand better these three items and why they apply to your application, it helps to understand what Trust Water is and how it came about.

Trust Water arose from the 1984 Swan Falls Settlement between Idaho Power Company ("IPC") and the State of Idaho ("State").<sup>1</sup> Prior to the Swan Falls Settlement, the Idaho Supreme Court determined IPC held water rights for use at Swan Falls Dam that exceeded the entire flow of the Snake River at times. This limited future upstream development of water resources in the Snake River Basin. The Swan Falls Settlement resulted in changes to Idaho Law<sup>2</sup> and to IPC's water rights. As a result of the Swan Falls Settlement and subsequent legislation and court decrees, IPC's hydropower water rights in excess of the minimum flows at Murphy Gage are held in trust by the State. This change allows future development using water that would have previously

<sup>1</sup> For more information, including a more complete description of the Swan Falls Settlement and resulting legislation, please see the Department's web page: <https://idwr.idaho.gov/legal-actions/settlements/swan-falls/>.

<sup>2</sup> Although several sections of the Idaho Code were affected, the addition of Sections 42-203B and 42-203C, Idaho Code are the changes most relevant to this discussion.

been delivered to satisfy IPC water rights at Swan Falls Dam and, therefore, would have been unavailable for upstream appropriation. The purpose of this trust is defined in Idaho Code § 42-203B as follows:

The purposes of the trust established by ... this section are to assure an adequate supply of water for all future beneficial uses and to clarify and protect the right of a user of water for power purposes ... to continue using the water pending approval of depletionary future beneficial uses.

Your application proposes a use of water that could deplete the rights placed in trust, so the State, through the Department must evaluate your proposal under the laws and rules that came after the Swan Falls Settlement.<sup>3</sup> In addition to the usual statutory process and evaluation criteria, the Department must also evaluate whether your application will deplete Trust Water and, if so, whether your depletion of Trust Water is in the public interest.

In addition, the availability of Trust Water and the public's interest in the use of Trust Water could change over time. The Department will periodically review rights to use Trust Water to determine if Trust Water remains available for use and if the continued use of Trust Water is in the public interest. The periodic review will occur for any right that issues from your application. A future review by the Department could terminate or limit your ability to use the right in the future.

An important aspect of the Swan Falls Settlement is that the State agreed to protect the minimum stream flows in the Snake River at the Murphy Gage. Should the flows at the Murphy Gage fall below these minimums, the water rights that use Trust Water could be curtailed to restore flow to meet those minimums.

The Department will hold your application for 14 days to allow you time to contact us if you have further questions on this topic or if you choose to withdraw your application. If the Department does not hear from you within 14 days, the Department will process your application and prepare it for publication. If you choose to withdraw your application before it is submitted for publication, you will receive a full refund of your filing fee. Refunds are not available if an application is withdrawn after advertising.

Please contact this office if you have questions regarding this matter.

Sincerely,



Tyler Wallace

Enclosure: Withdrawal of Application form

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<sup>3</sup> See Sections 42-203C and the Department's Water Appropriation Rules (IDAPA 37.03.08).