

State of Idaho
Department of Water Resources
Permit to Appropriate Water
No. 65-24063

Priority: September 01, 2021

Maximum Diversion Rate: 0.02 CFS

This is to certify that

PATRICIA HIGHLEY 655 W BERWICK DR BOISE ID 83706-4717 AND
JERRY HIGHLEY 655 W BERWICK DR BOISE ID 83706-4717

has applied for a permit to appropriate water from:

Source : MIDDLE FORK PAYETTE RIVER

Tributary: PAYETTE 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>
IRRIGATION	03/15 to 10/31	0.01 CFS
FIRE PROTECTION	01/01 to 12/31	0.01 CFS

Location of Point(s) of Diversion

MIDDLE FORK PAYETTE RIVER NW¼ NE¼, Sec. 23, Twp 10N, Rge 04E, B.M. BOISE County

Place of Use: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
10N	04E	23		0.3															0.3

Total Acres: 0.3

Place of Use: FIRE PROTECTION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
10N	04E	23		X															

Conditions of Approval

1. Proof of application of water to beneficial use shall be submitted on or before **January 01, 2025**.
2. Subject to all prior water rights.
3. This right when combined with all other rights shall provide no more than 0.03 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the place of use.
4. Water shall not be diverted under this right when flows in the Payette River are below established minimum flow amounts.
5. Use of water under this right may 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.65.
6. The right holder shall contact the watermaster by June 15 each year for authorization to continue diverting and using water. The right holder shall not divert water after June 15 each year unless the

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watermaster authorizes continued diversion and use of water under this water right. When the watermaster informs the right holder that water is not available to fill this right, the right holder shall cease diversion, shall rent water from the Payette River Rental Pool, or shall otherwise mitigate for the depletion of water caused by this water use. The department may amend the contact date listed in this administrative provision to more closely coincide with the date when water is not available to fill this water right.

7. Prior to diversion of water under this right, the right holder shall install a lockable device, subject to the approval of the Department, in a manner that will provide the watermaster suitable control of the diversion.
8. When notified by the Department, the right holder shall install and maintain a measuring device of a type acceptable to the Department as part of the diverting works.
9. Water shall not be diverted for fire protection use under this right except to fight or repel an existing fire.
10. 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.

This permit is issued pursuant to the provisions of Idaho Code § 42-204.

Signed this 27th day of December, 2021.



NICK MILLER
Western Regional Manager

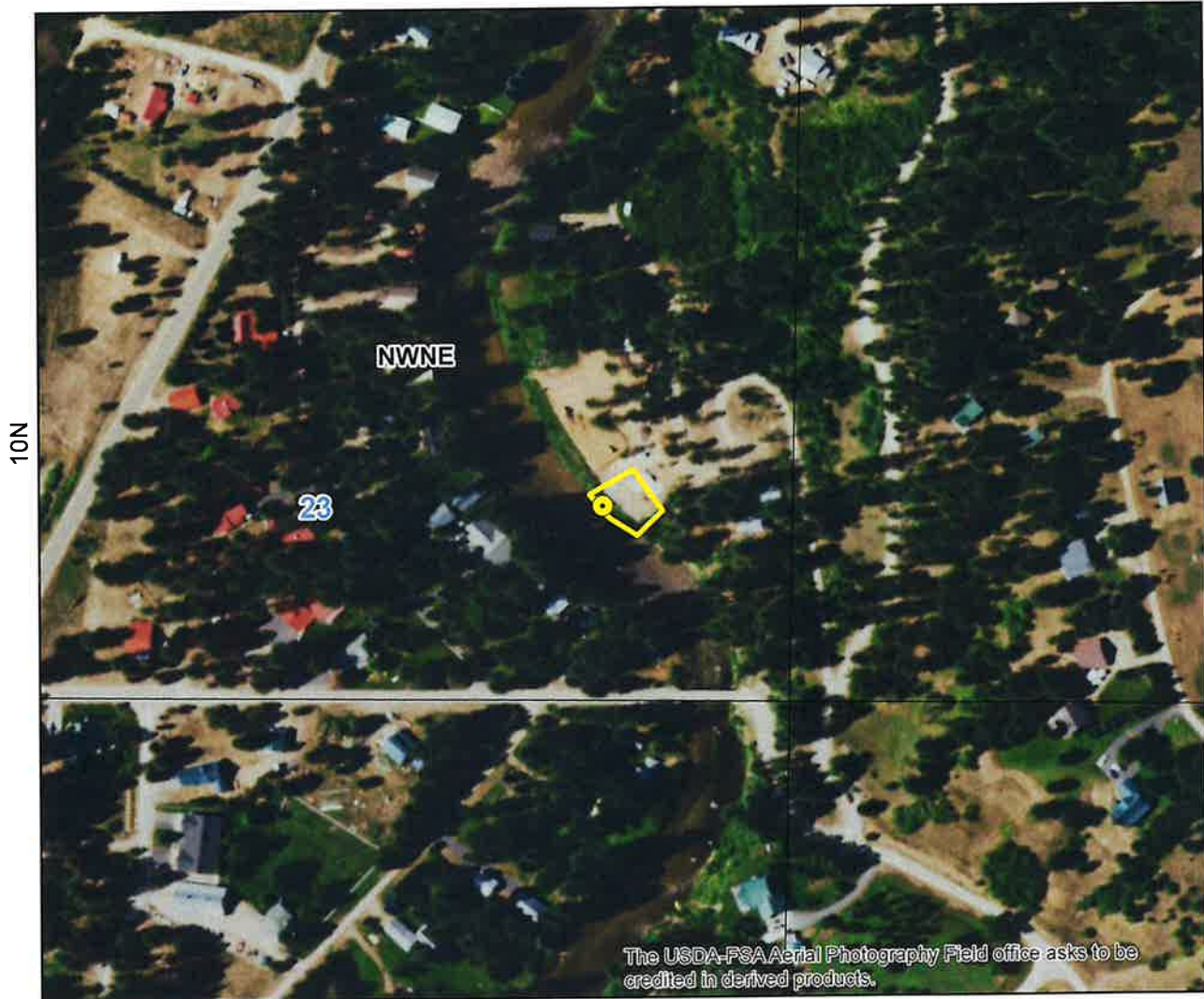
State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

65-24063

This map depicts the IRRIGATION place of use boundary for this water right at the time of this approval and is attached to the approval document solely for illustrative purposes.

04E



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

0 0.035 0.07 0.14 Miles





IDAHO DEPARTMENT OF
WATER RESOURCES

Western Region • 2735 W Airport Way • Boise, ID 83705-5082

Phone: 208-334-2190 • Fax: 208-334-2348 • Email: westerninfo@idwr.idaho.gov • Web: idwr.idaho.gov

Governor Brad Little

Director Gary Spackman

December 27, 2021

PATRICIA HIGHLEY
JERRY HIGHLEY
655 W BERWICK DR
BOISE ID 83706-4717

RE: Permit No. 65-24063

Permit Approval Notice

Dear Permit Holders:

The Department of Water Resources ("Department") has issued the enclosed permit authorizing you to establish a new water right. Please be sure to thoroughly review all the conditions of approval listed on your permit. The conditions include requirements that you must accomplish, such as timely submittal of proof of beneficial use or installation of a measuring device, as well as information about how your water use may be administered, such as regulation by a watermaster in a water district. Failure to comply with the conditions of approval may result in your permit lapsing or being canceled.

The permit is a PRELIMINARY ORDER issued pursuant to Rule 730 of the Department's Rules of Procedure (IDAPA 37.01.01.730). It can and will become a final order without further action by the Department unless a party petitions for reconsideration, files exceptions, or requests a hearing as described in the enclosed information sheet.

The final step in the water right process is issuance of a water right license. To receive a water right license, you must divert and use water to the full extent intended and submit a *Statement of Completion for Submitting Proof of Beneficial Use* by the date shown in condition no. 1 of your permit. The Department will send you a *Proof Due Notice* approximately 60 days prior to the date listed in condition no. 1 of your permit.

You may also require approvals from other Department programs, such as Ground Water Protection, Safety of Dams, or Stream Channel Protection, to accomplish your proposed development. Please call or visit any Department office or see the Department's website at idwr.idaho.gov for more information about these programs.

Please be advised that Idaho Code § 42-248, requires you or the owner of this water permit to maintain current ownership and address records on file with the Department. Forms to file an assignment of permit and/or a change in the address of the permit owner are available from any Department office or at the Department's website at www.idwr.idaho.gov.

If you have any questions concerning the enclosed information, please contact me at (208) 334-2190.

Sincerely,


DENISE LAUERMAN

for Nick Miller
Western Regional Manager

Enclosures

CERTIFICATE OF SERVICE

I hereby certify that on December 27, 2021, I served a true and correct copy of Permit to Appropriate Water No. 65-24063 by U.S. Mail, postage prepaid, to the following:

PATRICIA HIGHLEY (Current Owner)
JERRY HIGHLEY (Current Owner)
655 W BERWICK DR
BOISE ID 83706-4717

WATER DISTRICT #65
RON SHURTLEFF (Watermaster)
102 N MAIN ST
PAYETTE ID 83661



Denise Lauerman
Administrative Assistant

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.

THE IDAHO WORLD

P.O. Box 220
Idaho City, ID 83631
(208) 202-9288

State of Idaho)
)
County of Ada)

Elise Capson, being duly sworn, deposes and says: that she is the Publisher of THE IDAHO WORLD, a weekly newspaper published at Idaho City, in the County of Boise and the State of Idaho; the said paper has been and is in general circulation in the county aforesaid, and in the vicinity of Idaho City; that the advertisement, a copy of which is hereto attached, was published in said newspaper once a week for Two (2) consecutive weeks in the entire and regular issue of every number of said paper during the period and time of publication and was published in the newspaper and not a supplement; that said paper has been established and regularly and continuously published for more than seventy eight weeks past previous to the first publication of this notice. Such notice was published with the issue beginning with Nov 3, 2021 and ending with the issue of November 10, 2021.

Elise Capson

State of Idaho)
)
County of Ada)

On this 15th day of November in the year 2021, before me, a notary public, personally appeared Elise Capson 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 she executed the same.

Ry A

Notary Public for Idaho
Residing at Boise, Idaho
Commission Expires 10/29/2024

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

65-24063

PATRICIA HIGHLEY

JERRY HIGHLEY

655 W BERWICK DR

BOISE, ID 83706-4717

Point of Diversion NWNE

S23 T10N R04E BOISE County

Source MIDDLE FORK PAYETTE

RIVER Tributary PAYETTE

RIVER

Use: IRRIGATION 03/15 to

10/31 0.01 CFS

Use: FIRE PROTECTION 01/01

to 12/31 0.01 CFS

Total Diversion: 0.02 CFS

Date Filed: 09-01-2021

Place Of Use: FIRE PROTEC-

TION, IRRIGATION

T10N R04E S23 NWNE

Permits will be subject to all prior water rights. For additional information concerning the property location, contact the Western office at (208)334-2190; or for a full description of the right(s), please see <https://idwr.idaho.gov/apps/ExtSearch/WRAApplicationResults/>. 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 W AIRPORT WAY, BOISE ID 83705-5082 together with a protest fee of \$25.00 for each application on or before 11/22/2021. The protestant must also send a copy of the protest to the applicant. GARY SPACKMAN, Director

Published in the Idaho World on 11/3/2021 and 11/10/2021.

RECEIVED

NOV 18 2021

WATER RESOURCES
WESTERN REGION

✓ OK
DL
11.19.2021

Lauerman, Denise

From: Pozzanghera, Casey <casey.pozzanghera@idfg.idaho.gov>
Sent: Monday, November 01, 2021 12:47 PM
To: Lauerman, Denise
Subject: RE: Application for Permit No. 65-24063

Hi Denise,

I did not get an attachment with the recommendation form for this one, but IDFG does not intend to file protest on the application and has no additional comments.

Casey Pozzanghera
Staff Biologist, Southwest Region
Idaho Department of Fish and Game
15950 N Gate Blvd
Nampa, ID 83687
(208) 854-8947



<https://idfg.idaho.gov>

From: Lauerman, Denise <Denise.Lauerman@idwr.idaho.gov>
Sent: Wednesday, October 27, 2021 4:17 PM
To: Pozzanghera, Casey <casey.pozzanghera@idfg.idaho.gov>
Cc: Hickey, Clay <clay.hickey@idfg.idaho.gov>
Subject: Application for Permit No. 65-24063

IDFG:

The Idaho Department of Water Resources (IDWR) is seeking written comment and/or recommendations from you regarding the above referenced water right application. You can find a copy of the applications at: <https://idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx>. Please review the applications, then complete the enclosed recommendation form and return it to this office by **11/22/2021**.

If the applications are approved, IDWR will include appropriate standard conditions of approval for a water right located within a water district, such as regulation by the watermaster, lockable controlling works, and/or measuring devices. Any special conditions or other concerns you have related to this application should be specifically addressed in your recommendation.

IDWR can finish reviewing an unprotested application as soon as the protest period has past. Your prompt response to this request will ensure that your recommendation can be considered. If IDWR has not received your written recommendation by **11/22/2021**, IDWR will presume that you do not oppose approval of the applications and that you have no comments for IDWR to consider.

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

Thanks!

Denise

Denise Lauerman

Administrative Assistant | IDWR - Western Region

☎ (208) 334.2190 | <http://idwr.idaho.gov/>



IDAHO DEPARTMENT OF
WATER RESOURCES