

State of Idaho
Department of Water Resources
Permit to Appropriate Water
No. 36-17169

Priority: May 08, 2020

Maximum Diversion Rate: 0.27 CFS

This is to certify that

IDAHO POWER COMPANY
PO BOX 70
BOISE ID 83707-0070

has applied for a permit to appropriate water from:

Source : GROUND WATER

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 11/15	0.27 CFS

Location of Point(s) of Diversion

GROUND WATER L9 (NE¼ SE¼ NE¼), Sec. 10, Twp 09S, Rge 15E, B.M. GOODING County

Place of Use: IRRIGATION

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		
09S	15E	10	0.1 L1			4.0 L9														4.1
09S	15E	10	0.4 L9																	0.4
09S	15E	11						0.1 L11	2.4 L11											2.5

Right Acre Limit: 4.5

Total Acres: 7.0

Conditions of Approval

1. Proof of application of water to beneficial use shall be submitted on or before **September 01, 2025**.
2. Subject to all prior water rights.
3. Right holder shall comply with the drilling permit requirements of Idaho Code § 42-235 and applicable Well Construction Rules of the Department.
4. This right is limited to the irrigation of 4.5 acres within the authorized place of use in a single irrigation season.
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. 130.
6. Prior to diversion of water under this right, the right holder shall install and maintain a measuring device and lockable controlling works of a type acceptable to the Department as part of the diverting works.

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7. To mitigate for the depletion of water resulting from the use of water under this right and to prevent injury to senior water right holders, the right holder shall cease diverting and using water as authorized by the following water rights for the purposes and amounts specified below. Moreover, the official record for the following water rights will be changed to show that diversion and use of water is not authorized because the rights, or portion thereof, are being dedicated to mitigation by non-use. The mitigating right may also include a condition stating that the mitigation by non-use is for the benefit of this right.

Right No.	Use Changed to Mitigation by Non-Use	Mitigation Rate (cfs)	Mitigation Volume (AF)	Mitigation Acres
36-2704	Irrigation	0.04	8.0	2.0
36-7104	Irrigation	0.30	80.0	20.0

The land that will no longer be irrigated under right 36-2704 is located within L1 (NENE) , L9 (SENE) of Section 10, and L11 (SWNW) of Section 11, Township 09S, Range 15E, B.M.

The land that will no longer be irrigated under right 36-7104 is located within L1 (NWNE) of Section 33, Township 08S, Range 14E, B.M.

If the specified mitigation right, or portion thereof, is sold, transferred, leased, used on any place of use, or is not deliverable due to a shortage of water or a priority call, then the amount of water authorized for diversion under this right approval shall be reduced by the same proportion as the reduction to the mitigation rights.

8. This right is for the use of trust water, and it is subject to review 5 years after its initial approval (date of permit approval) to re-evaluate the availability of trust water for the authorized use and to re-evaluate the public interest criteria for reallocating trust water.
9. Administration of this right to satisfy the minimum stream flow water rights in the Snake River at Murphy Gage shall not be required because use of water pursuant to this right is either non-consumptive or the right holder is required to provide ongoing mitigation to offset the depletion of water resulting from the use of this right.

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

Signed this 18th day of August, 20 20.



COREY SKINNER
Southern Regional Manager

State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

36-17169

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.



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

0 0.04 0.08 0.16 Miles





State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region • 650 ADDISON AVE W STE 500 • TWIN FALLS, ID 83301-5858

Phone: (208)736-3033 • Fax: (208)736-3037 • Website: www.idwr.idaho.gov

Brad Little
Governor

Gary Spackman
Director

August 19, 2020

IDAHO POWER COMPANY
PO BOX 70
BOISE ID 83707-0070

RE: Permit No. 36-17169

Permit Approval Notice

Dear Permit Holder(s):

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 first commence the excavation or construction of your diverting works within one year of the date the permit was issued, and you must proceed diligently until the project is complete. In addition, 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 note that pursuant to the approval of 36-17169, the official water right record(s) for 36-2704 and 36-7104 have been changed accordingly to reflect the mitigation components. Computer generated reports are also enclosed, for your reference.

Also, please note that permit holders are required to report any change of 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. Forms to assign ownership or update your address are available from any office of the Department or on the Department's website.

If you have any questions concerning the enclosed information, please contact me at (208) 736-3033.

Sincerely,

A handwritten signature in blue ink, appearing to read "Corey Skinner", with a stylized flourish at the end.

Corey Skinner
Southern Regional Manager

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on August 19, 2020, I served a true and correct copy of Permit to Appropriate Water No. 36-17169 by U.S. Mail, postage prepaid, to the following:

IDAHO POWER COMPANY (Current Owner)
PO BOX 70
BOISE ID 83707-0070

KRESTA DAVIS BUTTS (Representative)
IDAHO POWER COMPANY
PO BOX 70
BOISE ID 83707-0070

WATER DISTRICT #130
NATHAN ERICKSON (Watermaster)
650 ADDISON AVE W STE 500
TWIN FALLS ID 83301



Denise Maline
Administrative Assistant 1

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.

8/18/2020

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

8/18/2020

FIRE PROTECTION within GOODING County

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
09S	15E	10	X L1			X L9													
09S	15E	11						X L3	X L11										

FISH PROPAGATION within GOODING County

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
09S	15E	10	X L1			X L9													

Conditions of Approval:

1. 193 This right mitigates for the depletion of water resulting from the diversion and use of water under Right 36-17169. To prevent injury to other water right holders, the right holder shall cease diverting 0.04 cfs of this right for irrigation uses from Niagara Springs. If the mitigation portion of this right is used for any purpose other than conveyance loss, then water shall not be diverted under Right 36-17169. If the mitigation portion of this right is not deliverable due to a shortage of water or a priority call, then the amount of water authorized for diversion under the uses of Right 36-17169 that are being mitigated shall be reduced by the same proportion as the reduction to this right.
2. X27 This right is limited to the irrigation of 2.0 acres within the authorized place of use in a single irrigation season.
3. X35 Rights 36-2704, and 36-15221 when combined shall not exceed a total diversion rate of 120 cfs and a total annual maximum diversion volume of 48,180 af.
4. 071 The domestic use authorized under this right shall not exceed 13,000 gallons per day and does not include lawn, garden, landscape, or other types of irrigation.
5. R05 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. 130.
6. R68 This right when combined with all other rights shall provide no more than 0.03 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the place of use.
7. K01 Right No. 36-15221 is an enlargement of this right pursuant to Section 42-1426, Idaho Code.
8. 077 Water shall not be diverted for fire protection use under this right except to fight or repel an existing fire.
9. 106 Prior to the diversion and use of water under this approval, the right holder shall comply with applicable water quality permitting requirements administered by the Department of Environmental Quality or the Department of Agriculture.
10. 122 The right holder shall not divert water at a rate exceeding what is reasonably necessary for the beneficial use authorized by this right.
11. T07 The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
12. T08 Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

8/18/2020

13. T19 Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.
14. 213 Upon specific notification of the Department, the right holder shall install and maintain data loggers to record water usage information at the authorized point(s) of diversion in accordance with Department specifications.
15. 214 Prior to the diversion and use of water under Transfer approval 77695, the right holder shall install and maintain acceptable measuring device(s) at the authorized point(s) of diversion in accordance with Department specifications, or shall obtain an approved variance from the Department to maintain an existing measuring device.
16. Right No. 36-15221 is also diverted from the northernmost of the three points of diversion (aka Niagara Utility Line).
17. Use of this water right shall be subject to the terms and conditions of the Niagara Springs Agreement, dated September 30, 1993, and the Amendment to Niagara Springs Agreement, dated July 24, 2002.

Dates and Other Information

Decreed Date: 10/18/2002
Civil Case Number: 39576
Judicial District: FIFTH
State or Federal: S
Water District Number: 130
Mitigation Plan: False

Combined Use Limits

N/A

SubCase:

SubCaseNumber: 36-2704
Class: 1
SF5 Filed Date:
Special Master Recom Signed Date: 8/28/2002
Attorney Assigned: NICHOLAS B SPENCER
Adjudication Agent:
Basis of Claim: License
Date Filed: 4/30/1993
Objection Status: Active

Water Supply Bank:

N/A

8/18/2020

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

8/18/2020

2. N12 THE QUANTITY OF WATER UNDER THIS RIGHT FOR DOMESTIC USE SHALL NOT EXCEED 13,000 GALLONS PER DAY.
3. DOMESTIC USE IS FOR A YEAR ROUND SCOUT CAMP FACILITY.
4. S40 THE USE OF WATER FOR IRRIGATION UNDER THIS RIGHT MAY CONTINUE TO AS LATE AS NOVEMBER 15, PROVIDED OTHER ELEMENTS OF THE RIGHT ARE NOT EXCEEDED. THE USE OF WATER AFTER OCTOBER 31 UNDER THIS REMARK IS SUBORDINATE TO ALL WATER RIGHTS HAVING NO SUBORDINATED LATE IRRIGATION USE AND A PRIORITY DATE EARLIER THAN THE DATE A PARTIAL DECREE IS ENTERED FOR THIS RIGHT.
5. C18 THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(6), IDAHO CODE.
6. N10 THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR DOMESTIC USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.

Dates and Other Information

Decreed Date: 12/19/2001
Civil Case Number: 39576
Judicial District: FIFTH
State or Federal: S
Water District Number: 130
Mitigation Plan: False

Combined Use Limits

N/A

SubCase:

N/A

Water Supply Bank:

N/A

State of Idaho
Department of Water Resources

RECOMMENDATION OF WATERMASTER

Water Right No: 36-17169
Applicant Name: Idaho Power Company

Watermaster's Recommendation:

- a) ☒ I do not oppose approval of this application
- b) ☐ I do not oppose approval of this application under the following terms:
- c) ☐ I oppose approval of this application(s) for the following reasons:
- d) ☐ Additional comment:

Dated: July 9, 2020

Water District 130


Nathan Erickson, Watermaster

**** Proof of Publication ****

Twin Falls Times-News
132 Fairfield St W, Twin Falls, Idaho 83301

RUBY AUFDERHEIDE, being duly sworn, deposes and says: That she is the Principal Clerk of the Times-News, a daily newspaper printed and published at Twin Falls, Twin Falls County, State of Idaho, and having a general circulation therein, and which said newspaper has been continuously and uninterruptedly published in said County during a period of twelve consecutive months prior to the first publication of the notice, a copy of which is attached hereto: that said notice was published in the Times-News, in conformity with Section 60-108, Idaho Code, as amended, for:

2 Insertions

ID DEPARTMENT OF WATER RESOURCES

650 ADDISON AVE W, STE 500
TWIN FALLS ID 83301

RECEIVED

JUN 17 2020

DEPT OF WATER RESOURCES
SOUTHERN REGION

ORDER NUMBER 102182

Ruby Aufderheide
(Legals Clerk)

STATE OF IDAHO)
SS
COUNTY OF TWIN FALLS)

On this 11th day of June in the year of 2020 before me, a Notary Public, personally appeared before me Ruby Aufderheide known or identified to me to be the person whose name subscribed to the within instrument, and being by first duly sworn, declared that the statements therein are true, and acknowledged to me that she executed the same.

Reba M Davis
Notary Public FOR Idaho
Residing at: Twin Falls, Idaho
My Commission expires: 5/8/2026



Section: Legals

Category: 50 Legal

PUBLISHED ON: 06/04/2020, 06/11/2020

TOTAL AD COST: 294.18

FILED ON: 6/11/2020

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

✓
36-17169
IDAHO POWER COMPANY
PO BOX 70
BOISE, ID 83707-0070
Point of Diversion L9(NESENE) S10 T09S R15E GOODING County Source GROUND WATER Tributary
Use: IRRIGATION 03/15 to 11/15 0.27 CFS
Total Diversion: 0.27 CFS
Date Filed: 05-08-2020
Place Of Use: IRRIGATION
T09S R15E S10 L1(NENE), L9(SENE), L9(NENE)
T09S R15E S11 L11(NWNW), L11(SWNW)
Total Acres: 7
Application for permit proposes diverting up to 0.27 cfs from a proposed well for the irrigation of 4.5 acres within a 7.0 acre permissible place of use. A mitigation plan was submitted proposing to cease irrigation under water right 36-7104 and irrigation under water right 36-2704. Place of use and point of diversion are located approximately 4.2 to 4.5 miles north and 4.3 to 4.5 miles east of Buhl. 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.

✓
47-17716
AMALGAMATED SUGAR COMPANY
PO BOX 127
TWIN FALLS, ID 83303-0127
Point of Diversion SWSNW S26 T10S R17E TWIN FALLS County Source DRAIN TUNNEL Tributary ROCK CREEK
Use: INDUSTRIAL 06/02 to 09/14 7.4 CFS
Total Diversion: 7.4 CFS
Date Filed: 04-24-2020
Place Of Use: INDUSTRIAL
T10S R17E S26 NENW
Application for permit proposes diversion of up to 7.4 cfs from a drain tunnel located approximately 1.5 miles south and 0.3 mile east of the intersection of Eastland Drive and Kimberly Road in Twin Falls. Non-consumptive Industrial use is at an adjacent sugar beet processing plant with a proposed season of use from 6/2 to 9/14. 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.

✓
47-17717
AMALGAMATED SUGAR COMPANY
PO BOX 127
TWIN FALLS, ID 83303-0127
Point of Diversion NESEW S26 T10S R17E TWIN FALLS County Source ROCK CREEK Tributary SNAKE RIVER
Use: INDUSTRIAL
06/02 to 09/14 7.4 CFS
Total Diversion: 7.4 CFS
Date Filed: 04-24-2020
Place Of Use: INDUSTRIAL
T10S R17E S26 NENW
Application for permit proposes diversion of up to 7.4 cfs from Rock Creek at a point located approximately 1.3 miles south and 0.5 mile east of the intersection of Eastland Drive and Kimberly Road in Twin Falls. Non-consumptive Industrial use is at an adjacent sugar beet processing plant with a proposed season of use from 6/2 to 9/14. 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.

✓ OK DM
6-18-2020 →

**NOTICE OF PROPOSED CHANGE OF WATER RIGHT
TRANSFER NO. 83908**

✓
EDDIE BAKER JR; BAKER FAMILY TRUST, C/O EDWIN BAKER JR TRUSTEE; LURA HELAINA BAKER TRUSTEEHC 68 BOX 379, CLAYTON, ID 83227-9601 has filed Application No. 83908 for changes to the following water rights within CUSTER County(s): Right No(s). 72-10302A, 72-10303, 72-10304, 72-16779. The purpose of the transfer is to change a portion of the above rights as follows: Application for transfer proposes to change one of the points of diversion (POD) for a group of four irrigation rights with a combined flow rate of 10.2 cfs from the existing POD located on the East Fork of the Salmon River. The existing POD is located approximately 9.4 miles south and 1.2 miles west of Clayton and the new POD will be located approximately 0.2 mile upstream on the East Fork of the Salmon River. Published in Challis Messenger on June 3rd & 10th & Times News, Idaho Statesman, Post Register & Lewiston Tribune on June 4th & 11th, 2020

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 June 22, 2020. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director
Published on June 4th & 11th, 2020

✓ ok DM 6-18-2020