

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

JUL 29 2020

APPLICATION FOR TEMPORARY APPROVAL OF WATER USE

For a use not intended to become an established water right and not to exceed one (1) year in duration in accordance with Idaho Code § 42-202A.

DEPARTMENT OF
WATER RESOURCES

Name of applicant Kari Magness Phone (208) 590-1462
 Mailing address 9216 W Spangler Rd City Hammett
 State Idaho Zip 83427 Email Kradg29@gmail.com

1. Source of water Grimes Creek tributary to Mores Creek
 2. Location of point(s) of diversion. If more than two, attach a Point of Diversion/Place of Use Supplement. ☐

TWP	RGE	SEC	GOVT LOT	1/4	1/4	1/4	County	Source	Local name or tag #
5N	4E	27			NE	NW	Boise	Grimes Creek	
5N	4E	27			NW	NW	Boise	Grimes Creek	

3. Location of place of use. If more rows are needed, attach a Point of Diversion/Place of Use Supplement. ☐

TWP	RGE	SEC	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	

4. Proposed use of water:

a. ☐ Prevention of flood damage ☐ Ground water recharge ☐ Ground water or surface water remediation

☒ Other (Limited to a diverted volume of 5 acre-feet.) Describe: Highbanking

b. Attach a detailed description of how the proposal will accomplish the intended objective, such as prevention of flood damage.

5. Amount of water. Complete all three:

a. Maximum rate of diversion: _____ cfs; or 100 gpm.

b. Maximum daily volume: _____ AF; or 6,000 gallons.

c. Maximum volume over the duration of the request: _____ AF; or 180,000 gallons.

6. Duration of diversion: from 8-7 (month-day) to 10-31 (month-day).

7. Describe proposed diverting works: pumping water from creek to highbanker

8. a. Who owns the property at the requested point of diversion? GPAA
 b. Who owns the facilities that will convey water to the place of use? Michael Magness
 c. Who owns the land to be irrigated or place of use? GPAA
 d. If any of the items above is owned by a person or entity other than the applicant, describe the arrangement allowing access and attach written evidence of the arrangement. GPAA Club member

9. Attach an 8 1/2" x 11" map identifying the water source, point(s) of diversion, place(s) of use and conveyance system.

I hereby acknowledge that I assume all risk of the diversion and use of the water under this approval. I certify this is a temporary use and is not intended to become an established water right.

Signature of Applicant

Title, if any

Date

Received by

Date

Time

\$50.00 fee received by

#

Date

Watermaster comments received?

Date

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

The Idaho Department of Water Resources ("Department") has examined this application for temporary approval to use water under the provisions of Idaho Code § 42-202A and has determined that:

- ☐ A. The application for temporary approval should be denied because _____
- ☒ B. The application for temporary approval should be approved, since
1. The temporary approval can be properly administered.
 2. Other water sources are not readily available.
 3. The approval is in the public interest.
 4. The approval will not injure known public values associated with the water source or any known water rights.
 5. If the temporary approval is within a water district, the Department has sought and considered the recommendations of the watermaster.

This application is therefore hereby:

- ☐ A. DENIED
- ☒ B. APPROVED, subject to the following conditions:
1. Diversion and use of water under this approval is subject to all valid existing water rights.
 2. The applicant assumes all risk of the use of the water under this approval.
 3. This approval authorizes a maximum diversion volume of 0.6 AF and a maximum diversion rate of 0.22 cfs.
 4. This approval does not grant a right-of-way across the land of another.
 5. The Department may cancel or reduce the rate of flow or volume authorized by this approval. For example, the Department may cancel or reduce this approval if it concludes the water use is injuring other water rights or adversely affecting fish, wildlife or other public values.
 6. The applicant shall not divert water when downstream minimum flow water rights are not being satisfied.
 7. This approval does not create a continuing right to use water.
 8. A temporary approval for ground water recharge or prevention of flood damage shall be an opportunistic use of surplus water and shall not interfere with the filling of surface water reservoirs.
 9. For a temporary approval authorizing ground water recharge or ground water or surface water remediation, the applicant shall measure and record the weekly quantity of water diverted and report the diversion data to the Department upon request.
 10. This temporary approval is not an authorization for the described water use to be used as mitigation or credit for any other purpose.
 11. Other: see attached
 12. This approval expires on OCTOBER 31, 2020.

Signed this 14th day of AUGUST, 2020.


For the Department

Approval Conditions Attachment for TP-63-343 Kari Magness

- 12 The temporary approval is subject to the availability of Water District No. 63 Rental Pool water to mitigate water losses and injury to existing water rights. Prior to diversion and use of water the recipient of this temporary approval must contact Water District 63 Watermaster at 208-908-5480.
- 13 This temporary approval may be subject to control of Water District No. 63 Watermaster.
- 14 Prior to the diversion and use of water under this approval, the right holder shall comply with all fish screening and/or fish passage requirements of the Idaho Department of Fish and Game.
- 15 This temporary approval does not authorize the discharge of wastewater or slurry directly into any body of water.
- 16 Prior to diversion and use of water under this approval, the right holder shall obtain United States Forest Service (USFS) authorization necessary to access the point of diversion or place of use or to convey water across USFS land.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Ident. No. TP-63-343

Point of Diversion/Place of Use Supplement

Attachment to: ☐ Application for Permit to Appropriate Water ☐ Application for Transfer** ☐ Adjudication Claim
☐ Application for Amendment of Permit ☐ Beneficial Use Field Report ☐ Statutory Claim

Location of points of diversion (POD):

New POD?	Twp	Rge	Sec	Govt Lot	¼	¼	¼	County	Source	Local name or well/diversion tag #
<input type="checkbox"/> Yes										
<input type="checkbox"/> Yes										
<input type="checkbox"/> Yes										
<input type="checkbox"/> Yes										
<input type="checkbox"/> Yes										
<input type="checkbox"/> Yes										
<input type="checkbox"/> Yes										
<input type="checkbox"/> Yes										
<input type="checkbox"/> Yes										
<input type="checkbox"/> Yes										
<input type="checkbox"/> Yes										

Description of place of use (POU):

- 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.

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
5N	04E	27						x											
								gvt1											
05N	04E	27					x												

- point of diversion 3. place of use





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

Brad Little
Governor

Gary Spackman
Director

August 14, 2020

KARI MAGNESS
9216 W SPANGLER RD
HAMMETT ID 83627-6318

RE: Application for Temporary Approval of Water Use: TP-63-343

Dear Applicant(s):

Your application for temporary water appropriation has been approved and is enclosed. The approval authorizes the temporary use of water and does not grant trespass or other activity on public land or on private property.

Please review the **conditions of approval on page 2 of the Application for Temporary Approval form** to understand the limitations associated with the temporary use of water.

This temporary approval **expires on** October 31, 2020. The expiration date cannot be extended under this temporary approval.

Also note the condition requiring the **purchase of storage water from the Boise River Rental Pool** to mitigate the injury to senior water right holders below the Boise River. A Boise River Rental Pool Lease Agreement form is enclosed for your convenience. Contact Boise River Watermaster, Rex Barrie at 208-908-5480 to complete the lease agreement prior to diverting water under this temporary approval.

If you have any questions, please feel free to contact this office, and any of our agents will be able to assist you.

If you require additional information regarding this matter, please call me at (208) 287-4913 or email me at Alex.Dalgleish@idwr.idaho.gov.

Sincerely,

Alex Dalgleish
Water Resource Agent

Enclosure(s)

cc: REX BARRIE, Water District 63.

MEMORANDUM

Date: August 12, 2020
To: Temporary Application For Water Use Review
From: Alex Dalglish
Re: Temporary Water Use Application TP-63-343

Applicant: The Department received this temporary approval on 7/29/2020 from Kari Magness. She came into the State Office on 7/28 to seek help in filling out the application on behalf of her husband Michael Magness. The application proposes to divert water from Grimes Creek for recreational mining using a highbanker.

Proper Administration: The proposal is within Water District 63. Watemaster Rex Barrie or assistant Watermaster Mike Meyers could administer the use if necessary.

Public Interest: Based on the information available, the proposal is within the public's interest.

Injury to Public Values: Based on the information available, the proposal does not appear to cause injury to public values. On 7/29/2020, comments were requested from the Idaho Fish and Game (IDFG), Department of Environmental Quality (DEQ) and the United States Forest Service (USFS). No comments were received from any of the respective agencies within 2 weeks, by August 12, 2020, so it was presumed there were no concerns.

Other Sources of Water: Based on the POD/POU location, there are no other sources of water. It is reasonable for the applicant to request diversion from Grimes Creek as it appears to be the only source of water flowing though the proposed area.

Injury to Existing Water Rights: Water right 63-24682 overlaps with the proposed place of use and points of diversion. This is a de minimis stockwater right owned by the USDA Forest Service for 0.02 cfs. This right has 2 points of diversion and one is approximately 0.5 miles downstream from the lower point of diversion requested by this temporary approval. Injury to 63-24682 does not seem likely based on the minimal water use under the right and the dispersed use of stockwater nature. The next diversion downstream occurs under right 63-4548. Injury to this right is not apparent since it is located on Grimes Creek far away from the diversion under this temporary approval. Based on the information available, the proposed use would not injure other existing water rights.

The application proposes diverting 100 gpm, maximum daily volume of 6,000 gallons and 180,000 gallons over the duration of the request. 180,000 gallons equates to 0.6 AF which is within the 5.0 AF maximum allowed.

Department Staff and Watermaster Comments: Comments were submitted to Nick Miller at Western Region and to watermasters Rex Barrie and Mike Meyers of Water District # 63 on 7/29/2020. Rex responded on 7/30/2020 with the requirement that the applicant rent water from WD # 63 rental pool. Western did not respond with comments within the requested 2 week timeline so it was presumed there were no concerns.

I also requested comments on 7/30/2020 from the Baumhoff's, who are a family owning large tracts of land along Grimes Creek. In the past, they have experienced issues with trespassing relating to small scale mining activities from the creek. Anna Baumhoff responded the same day with concerns of how the applicant would capture the backflow/wastewater for sediment settling so as not to affect sand and gravel beds in the area for spawning trout and salmon. I sent Anna an email with conditions that the Department typically attaches to temporary approvals relating to fish and sediment transport. I then called the applicant on 7/30 to ask how they would minimize sediment entering the creek after it has been diverted. Michael Magness informed me he would process material at a location away from the river and above the high water mark. Additionally, he stated he may have a bin/tote/large capture bucket to catch material/sediment after it has run through the highbanker. I relayed this information to Anna and although she did not seem completely satisfied with this explanation, she did not provide further comments or concerns.

Dalgleish, Alex

From: annabaumhoff@cableone.net
Sent: Thursday, July 30, 2020 12:32 PM
To: Dalgleish, Alex
Subject: RE: Temporary Approval of Water Use 63-343

Alex - we had some guys that did some of this above our property on Granite Creek last summer - left a terrible mess "above the high water mark" and this spring the water was higher twice and it washed in all the sediment they had piled above - from their "holding/filtering" process - back in over the bed of the creek.. I don't think they really understand what they are doing..

Anna Baumhoff
Baumhoff & Company, LLC
A/P & A/R
5150 Montecito Pl
Boise ID 83704
208-375-3720
Email: baumhoff@cableone.net

From: Dalgleish, Alex <Alex.Dalgleish@idwr.idaho.gov>
Sent: Thursday, July 30, 2020 11:01 AM
To: annabaumhoff@cableone.net
Subject: RE: Temporary Approval of Water Use 63-343

I'm not exactly certain who monitors/regulates the issues with fish spawning. It could be the EPA or Idaho Department of Fish and Game (IDFG). I've submitted a comment request to the IDFG for this temporary approval as well.

I processed another temporary approval last month which was on a reach of Grimes Creek that went through BLM owned land. This is what a fisheries biologist at the BLM commented:

"Grimes Creek is categorized by IDEQ 4A (not supporting beneficial uses due to temperature) and 4C (not supporting due to physical substrate habitat alterations). Grimes Creek is redband trout habitat, so a filter/screen needs to be in place to prevent capture of fish in the piping of water from the creek".

Additionally, if approved, temporary water use applications are subject to many conditions. Among them, the following fish/aquatic life related conditions are common :

- "Prior to the diversion and use of water under this approval, the right holder shall comply with all fish screening and/or fish passage requirements of the Idaho Department of Fish and Game".
- "The Idaho Department of Fish and Game requires a fish screen to be installed and maintained at the point(s) of diversion".

- “This temporary approval does not authorize the discharge of wastewater or slurry directly into any body of water”.

This last condition directly relates to your expressed concerns. Either way, I called and left a voicemail with the applicant regarding their operation as to how the wastewater will be dealt with/captured.

From: annabaumhoff@cableone.net [<mailto:annabaumhoff@cableone.net>]
Sent: Thursday, July 30, 2020 10:41 AM
To: Dalglish, Alex <Alex.Dalglish@idwr.idaho.gov>
Subject: RE: Temporary Approval of Water Use 63-343

This is the year that the salmon will be spawning in Grimes Creek and we've seen the disturbance that high bankers with bigger pumps can make – they also disturb the plants that results in de-stabilizing the banks that can result in bank collapse during high water flows in the spring. Who monitors this activity.. is that the EPA

Anna Baumhoff
Baumhoff & Company, LLC
A/P & A/R
5150 Montecito Pl
Boise ID 83704
208-375-3720
Email: baumhoff@cableone.net

From: Dalglish, Alex <Alex.Dalglish@idwr.idaho.gov>
Sent: Thursday, July 30, 2020 10:09 AM
To: annabaumhoff@cableone.net
Subject: RE: Temporary Approval of Water Use 63-343

Anna,

The applicant has not specified how they will treat water after it has run through the highbanker. I will contact them and inquire about it.

-Alex

From: annabaumhoff@cableone.net [<mailto:annabaumhoff@cableone.net>]
Sent: Thursday, July 30, 2020 10:03 AM
To: Dalglish, Alex <Alex.Dalglish@idwr.idaho.gov>
Subject: RE: Temporary Approval of Water Use 63-343

Alex - At this time we do not have any concerns for this non-consumptive use other than how they will be capturing the back flow for sediment settling so as to not affect the sand and gravel beds in that area for spawning trout and salmon this late summer into fall..

Anna Baumhoff
Baumhoff & Company, LLC
A/P & A/R
5150 Montecito Pl
Boise ID 83704
208-375-3720
Email: baumhoff@cableone.net

From: Dalglish, Alex <Alex.Dalglish@idwr.idaho.gov>
Sent: Thursday, July 30, 2020 9:45 AM
To: Baumhoff@cableone.net
Subject: FW: Temporary Approval of Water Use 63-343

To whom it may concern,

The Department of Water Resources is seeking comment from your you, regarding an application to temporarily appropriate 0.6 acre-feet of water from the Grimes Creek, for recreational mining, by Kari Magness. A copy of the application is attached for your reference.

Please submit comments/concerns by August 12, 2020.

If you have any questions, don't hesitate to contact me at the State Office at (208) 287-4913.

Alex Dalglish
Water Resource Agent
Phone (208) 287-4913
alex.dalglish@idwr.idaho.gov

Dalgleish, Alex

From: waterdistrict63@qwestoffice.net
Sent: Thursday, July 30, 2020 8:08 AM
To: Dalgleish, Alex; mikemeyerswd63@gmail.com
Subject: RE: Temporary Approval 63-343 Grimes Creek

Alex,

No objections as long as they rent water.

Rex R. Barrie
Boise River Watermaster

From: Dalgleish, Alex <Alex.Dalgleish@idwr.idaho.gov>
Sent: Wednesday, July 29, 2020 4:23 PM
To: WATERDISTRICT63@QWESTOFFICE.NET; mikemeyerswd63@gmail.com
Subject: FW: Temporary Approval 63-343 Grimes Creek

Watermasters of District 63,

The Idaho Department of Water Resources State Office is seeking comment Western Region, regarding an application to temporarily appropriate 0.6 acre-feet of water from Grimes Creek, for recreational mining, by Kari Magness. A copy of the application and supporting documents are attached for your reference.

Please submit your comments within 14 days, no later than August 12, 2020. If I do not hear from you by that date, we will assume that no comment from you means you have no objection to, concerns about, or conditions pertaining to the issuance of this temporary approval.

Comments are preferred to be received by e-mail to alex.dalgleish@idwr.idaho.gov.

If you have any questions, don't hesitate to contact me at the State Office at (208) 287-4913.

Thank you,

Alex Dalgleish
Water Resource Agent
Phone (208) 287-4913
alex.dalgleish@idwr.idaho.gov

Dalgleish, Alex

From: Dalgleish, Alex
Sent: Wednesday, July 29, 2020 4:20 PM
To: 'lance.holloway@deq.idaho.gov'; 'bill.bosworth@idfg.idaho.gov'; 'Whitman, Travis - FS'; 'ricky.wells@usda.gov'
Subject: Temporary Approval 63-343 Grimes Creek
Attachments: 63-343 Kari Magness.pdf

Dear interested agencies,

The Department of Water Resources is seeking comment from your agency, regarding an application to temporarily appropriate 0.6 acre-feet of water from Grimes Creek, for recreational mining, by Kari Magness. A copy of the application and supporting documents are attached for your reference.

Please submit your comments within 14 days, no later than August 12, 2020. If I do not hear from you by that date, we will assume that no comment from you means you have no objection to, concerns about, or conditions pertaining to the issuance of this temporary approval.

Comments are preferred to be received by e-mail to alex.dalgleish@idwr.idaho.gov.

If you have any questions, don't hesitate to contact me at the State Office at (208) 287-4913.

Thank you,

Alex Dalgleish
Water Resource Agent
Phone (208) 287-4913
alex.dalgleish@idwr.idaho.gov

Dalgleish, Alex

From: Dalgleish, Alex
Sent: Wednesday, July 29, 2020 4:21 PM
To: Miller, Nick
Subject: FW: Temporary Approval 63-343 Grimes Creek
Attachments: 63-343 Kari Magness.pdf

Nick,

The State Office is seeking comment Western Region, regarding an application to temporarily appropriate 0.6 acre-feet of water from Grimes Creek, for recreational mining, by Kari Magness. A copy of the application and supporting documents are attached for your reference.

Please submit your comments within 14 days, no later than August 12, 2020. If I do not hear from you by that date, we will assume that no comment from you means you have no objection to, concerns about, or conditions pertaining to the issuance of this temporary approval.

Comments are preferred to be received by e-mail to alex.dalgleish@idwr.idaho.gov.

If you have any questions, don't hesitate to contact me at the State Office at (208) 287-4913.

Thank you,

Alex Dalgleish
Water Resource Agent
Phone (208) 287-4913
alex.dalgleish@idwr.idaho.gov

Alex Dalglish
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Phone (208) 287-4913
alex.dalglish@idwr.idaho.gov