

RECEIVED

APR 24 2020
FORM 202 Rev. 09/16
DEPT OF WATER RESOURCES
SOUTHERN REGION

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT
To appropriate the public waters of the State of Idaho

Ident. No. 47-17716

1. Name of applicant(s) The Amalgamated Sugar Company Phone 208-383-6500
Name connector (check one): ☐ and ☐ or ☐ and/or
Mailing address Ian Kihara, PO Box 127 City Twin Falls
State ID _____ ZIP 83303 Email cmchugh@mchughbromley.com
2. Name of representative, if any Candice McHugh, McHugh Bromley, PLLC Phone 208-287-0991
Mailing address 380 S 4th St., Ste. 103 City Boise
State ID _____ ZIP 83702 Email cmchugh@mchughbromley.com
- a. ☒ Send all correspondence for this application to the representative and not to the applicant OR
☐ Send original correspondence to the applicant and copies to the representative.
- b. ☒ The representative may submit information for the applicant but is not authorized to sign for the applicant OR
☐ The representative is authorized to sign for the applicant. Attach a Power of Attorney or other documentation.
3. Source of water supply Tunnel Drain which is a tributary of Rock Creek
4. Location of point(s) of diversion:

Twp	Rge	Sec	Govt Lot	1/4	1/4	1/4	County	Source	Local name or tag #
10S	17E	26		SW	SE	NW	Twin Falls County	Tunnel Drain	

5. Water will be used for the following purposes:
- Amount 7.4 for Industrial purposes from 6/2 to 9/14 (both dates inclusive)
(cfs or acre-feet per year)
- Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per year)
- Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per year)
- Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per year)
6. Total quantity to be appropriated is (a) 7.4 cubic feet per second (cfs) and/or (b) _____ acre-feet per year (af).
7. Proposed diverting works:
- a. Describe type and size of devices used to divert water from the source. Collect water in concrete box and pipe via gravity, ~ 2000 feet to existing equal head orifice intake at pumphouse near Rock Creek, pump and pipe to factory
- b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet. If the reservoir will be filled more than once each year, describe the refill plan in item 12. For dams 10 feet or more in height AND having a storage capacity of 50 acre-feet or more, submit a separate Application for Construction or Enlargement of a New or Existing Dam. Application required? ☐ Yes ☐ No
- c. Proposed well diameter is _____ inches; proposed depth of well is _____ feet.
- d. Is ground water with a temperature of greater than 85°F being sought? ☐ Yes ☐ No
- e. If well is already drilled, when? _____; drilling firm _____; well was drilled for (well owner) _____; Drilling Permit No. _____

Received by DM Date 4-24-2020 Time 4:50pm Preliminary check by _____
Fee \$ \$530- Receipted by DM Receipt No. 3037898 Date 4-24-2020

8. Description of proposed uses (if irrigation only, go to item 9):
- Hydropower; show total feet of head and proposed capacity in kW. _____
 - Stockwatering; list number and kind of livestock. _____
 - Municipal; must complete and attach the [Municipal Water Right Application Checklist](#).
 - Domestic; show number of households _____
 - Other; describe fully. Industrial use for cooling, non-contact cooling and other non-consumptive industrial uses associated with processing of sugar beets.
9. Description of place of use:
- If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
 - If water is used for other purposes, place a symbol of the use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
10S	17E	26		X			I												

Total number of acres to be irrigated: _____

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? Water right number 47-8086 is also used during the summer months. This water right in addition to that water right. Filed along with this Application is also an Application from Rock Creek. These two applications should include a combined use limit of 7.4 cfs for the two sources
11. a. Who owns the property at the point of diversion? Applicant
- b. Who owns the land to be irrigated or place of use? Applicant
- c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: N/A
12. Describe your proposal in narrative form, and provide additional explanation for any of the items above. Attach additional pages if necessary. Water from both the Tunnel Drain and Rock Creek will be used during the summer months for non-consumptive industrial purposes. The amount of water from these sources for this purpose will not exceed 7.4 cfs. Water from the Tunnel Drain under this water right, will be in addition to the water diverted under water right 47-8086.
13. Time required for completion of works and application of water to proposed beneficial use is 5 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

Ian Kihara, Plant Manager

Print Name (and title, if applicable)

Signature of Applicant

Print Name (and title, if applicable)



Source: Esri, DigitalGlobe, GeoEye, i-cubed, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AEX, Getmapping, Aerogrid, IGN (I), swisstopo, and the GIS User Community



0003707864

**STATE OF IDAHO***Office of the secretary of state, Lawrence Denney***ANNUAL REPORT**

Idaho Secretary of State
PO Box 83720
Boise, ID 83720-0080
(208) 334-2301
Filing Fee: \$0.00

*For Office Use Only***-FILED-**

File #: 0003707864

Date Filed: 12/12/2019 10:32:07 AM

Entity Name and Mailing Address:

AMALGAMATED SUGAR COMPANY LLC (THE)

The file number of this entity on the records of the Idaho Secretary
of State is: 0000021080

Address 1951 S SATURN WAY
STE 100
BOISE, ID 83709-2924

Entity Details:

Entity Status Active-Existing

This entity is organized under the laws of: DELAWARE

If applicable, the old file number of this entity on the records of the
Idaho Secretary of State was: W3361

The registered agent on record is:

Registered Agent C T CORPORATION SYSTEM
Commercial Registered Agent
Physical Address
921 S ORCHARD ST STE G
BOISE, ID 83705
Mailing Address
921 S ORCHARD ST STE G
BOISE, ID 83705

Agent or Address Change

☐ Select if you are appointing a new agent.

Limited Liability Company Managers and Members

Name	Title	Business Address
SNAKE RIVER SUGAR COMPANY	Member	1951 S SATURN WAY SUITE 100 BOISE, ID 83709

The annual report must be signed by an authorized signer of the entity.

Joseph Feider

Sign Here

12/12/2019

Date

Signer's Title: Authorized Agent

B0431-5452 12/12/2019 10:32 AM Received by ID Secretary of State Lawrence Denney

Customer Ad Proof

60002276 ID DEPARTMENT OF WATER RESOURCES

Order Nbr 102182

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	294.18
City St Zip	TWIN FALLS ID 83301	Amount Paid	0.00
Phone	2087363033	Amount Due	294.18
Fax			
Section	Legals	Start/End Dates	06/04/2020 - 06/11/2020
SubSection		Insertions	2
Category	50 Legal	Size	196
Ad Key	102182-1	Salesperson(s)	Ruby Aufderheide
Keywords	36-17169, 47-17716, 47-17717 Transfer 83908	Taken By	Ruby Aufderheide
Notes			

Ad Proof 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(SVNW)
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 SWSENE 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 NESENE S26 T10S R17E TWIN FALLS
County Source ROCK CREEK Tributary SNAKE RIVER
Use: INDUSTRIAL

Proof of legal notice
received from Times News
5/28/2020 (2 pgs)

DM

Customer Ad Proof

60002276 ID DEPARTMENT OF WATER RESOURCES

Order Nbr 102182

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.

**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





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

May 28, 2020

AMALGAMATED SUGAR COMPANY
PO BOX 127
TWIN FALLS, ID 83303-0127

RE: Application for Permit No. 47-17716 & 47-17717

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.

Further review of your Application for Permit which proposes diversion of 5.0 cfs or more reveals that additional information is required to be made part of the application file pursuant to Idaho Code provisions and the department's Rules and Regulations for Water Appropriation. The attached sheets give details regarding the information which is requested.

Failure to supply the requested information within 30 days from the date of this letter could result in a regional recommendation that the application be declared void, null, and of no further consideration by the Department.

A legal notice of the application has been prepared and is scheduled for publication in the **TIMES NEWS on 6/4/2020 and 6/11/2020**. 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 **June 22, 2020**.

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

c: Candice Mc Hugh, attorney

Rule 40.05 Additional Information Requirements

Information relative to the effect on existing water rights, Section 42-203A(5)(a), Idaho Code, shall be submitted as follows:

- i. For applications appropriating springs or surface streams with five (5) or fewer existing users, either the identification number, or the name and address of the user, and the location of the point of diversion and nature of use for each existing water right shall be submitted.
- ii. For applications appropriating groundwater, a plat shall be submitted locating the proposed well relative to all existing wells and springs and permitted wells within a one-half mile radius of the proposed well.
- iii. Information shall be submitted concerning any design, construction, or operation techniques which will be employed to eliminate or reduce the impact on other water rights.

Information relative to sufficiency of water supply, Section 42-203A(5)(b), Idaho Code, shall be submitted as follows:

- i. Information shall be submitted on the water requirements of the proposed project, including, but not limited to, the required diversion rate during the peak use period and the average use period, the volume to be diverted per year, the period of year that water is required, and the volume of water that will be consumptively used per year.
- ii. Information shall be submitted on the quantity of water available from the source applied for, including, but not limited to, information concerning flow rates for surface water sources available during periods of peak and average project water demand, information concerning the properties of the aquifers that water is to be taken from for groundwater sources, and information on other sources of supply that may be used to supplement the applied for water source.

Information relative to good faith, delay, or speculative purposes of the applicant, Section 42-203A(5)(c), Idaho Code, shall be submitted as follows:

- i. The applicant shall submit copies of deeds, leases, easements or applications for rights-of-way from federal or state agencies documenting a possessory interest in the lands necessary for all project facilities and the place of use or if such interest can be obtained by eminent domain proceedings the applicant must show that appropriate actions are being taken to obtain the interest. Applicants for hydropower uses shall also submit information required to demonstrate compliance with Sections 42-205 and 42-206, Idaho Code.
- ii. The applicant shall submit copies of applications for other needed permits, licenses and approvals, and must keep the department apprised of the status of the applications and any subsequent approvals or denials.

Information Relative to Financial Resources, Section 42-203A(5)(d), Idaho Code, shall be submitted as follows:

- i. The applicant shall submit a current financial statement certified to show the accuracy of the information contained therein, or a financial commitment letter along with the financial statement of the lender or other evidence to show that it is reasonably probable that financing will be available to appropriate the water and apply it to the beneficial use proposed.
- ii. The applicant shall submit plans and specifications along with estimated construction costs for the project works. The plans shall be definite enough to allow for determination of project impacts and implications.

Information Relative to Conflict with the Local Public Interest, Section 42-203A(5)(e), Idaho Code, shall be submitted as follows:

The applicant shall seek comment and shall submit all letters of comment on the effects of the construction and operation of the proposed project from the governing body of the city and/or county and tribal reservation within which the point of diversion and place of use are located, the Idaho Department of Fish and Game, the Idaho Department of Environmental Quality, and any irrigation district or canal company within which the proposed project is located and from other entities as determined by the Director.



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 • Email: southerninfo@idwr.idaho.gov

BRAD LITTLE
Governor

GARY SPACKMAN
Director

May 28, 2020

TWIN FALLS CANAL COMPANY
PO BOX 326
TWIN FALLS ID 83303-0326

RE: Application for Permit No(s): 47-17716 (Amalgamated Sugar Company)

Dear Interested Party:

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 copy of the application 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 June 22, 2020*).

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

Sincerely,

Denise Maline

Denise Maline
Administrative Assistant

Enclosure(s)

c: Barker Rosholt & Simpson LLP, Twin Falls

Maline, Denise

From: Maline, Denise
Sent: Thursday, May 28, 2020 4:31 PM
To: Keats Conley
Subject: Comment Letters for Amalgamated Sugar Company
Attachments: Comment Letter to F&G for 47-17716 & 47-17717.docx; 47-17717 (Amalgamated Sugar).pdf; 47-17716 (Amalgamated Sugar).pdf

Good afternoon Keats,

Attached are (2) applications for permit currently being processed by Dept of Water Resources. Please review the applications, complete the attached recommendation forms, and submit it to this office within 21 days. In addition, detailed information regarding this application(s) can also be found on our website.

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

Thank you,

Denise Maline, IDWR Twin Falls

Denise Maline

Administrative Assistant I

Idaho Dept of Water Resources, Southern Region

650 Addison Ave W, Ste 500

Twin Falls, ID 83301

(208) 293-9908

denise.maline@idwr.idaho.gov



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

May 28, 2020

IDAHO DEPT OF FISH & GAME *via e-mail*
KEATS CONLEY
324 S 417 E STE 1
JEROME ID 83338

RE: Application(s) for Permit: 47-17716 & 47-17717 (Amalgamated Sugar Company)

Dear Keats:

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 June 22, 2020**).

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

Sincerely,

Denise Maline

Denise Maline
Administrative Assistant 1

Enclosure(s)

Maline, Denise

From: Maline, Denise
Sent: Thursday, May 28, 2020 10:56 AM
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 June 4th & 11th, 2020. 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 I
Idaho Dept of Water Resources, Southern Region
650 Addison Ave W, Ste 500
Twin Falls, ID 83301
(208) 293-9908
denise.maline@idwr.idaho.gov



State of Idaho

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

Brad Little
Governor

Gary Spackman
Director

May 28, 2020

LEGAL NOTICE DEPARTMENT

TIMES NEWS

PO BOX 548

TWIN FALLS, ID 83303-0548

RE: Application for Permit No. 36-17169, 47-17716, 47-17717

RE: Transfer No. 83908

Water Right No(s). 72-10302A, 72-10303, 72-10304, 72-16779

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 June 22, 2020. 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:

36-17169

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 SWSENE 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 NESENE 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.

**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 TRUSTEE HC 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

Bitzenburg, James

From: Bitzenburg, James
Sent: Thursday, May 21, 2020 12:10 PM
To: 'C McHugh'
Cc: 'Ryan Gustafson'
Subject: RE: Applications 47-17716 and 17717 - Amalgamated

Ms. McHugh-

Thank you for your response; we will continue processing the applications and they will be submitted for advertising next week.

Jim

Jim Bitzenburg
Water Resource Agent
Idaho Department of Water Resources
Southern Regional Office
Phone (208)-736-3033
james.bitzenburg@idwr.idaho.gov

From: C McHugh [mailto:cmchugh@mchughbromley.com]
Sent: Thursday, May 21, 2020 12:06 PM
To: Bitzenburg, James <James.Bitzenburg@idwr.idaho.gov>
Cc: Ryan Gustafson <RGustafson@amalsugar.com>
Subject: Applications 47-17716 and 17717 - Amalgamated

Mr. Bitzenburg,

I received in the mail today letters on the above applications regarding the fact that they are "trust water." We understand that and would like the Department to continue with processing them as soon as possible.

Thank you.

Candice M. McHugh

MCHUGH•BROMLEY
380 S. 4th, Ste. 103
Boise, ID 83702
(208) 287-0991 – office
(208) 287-0864 – facsimile
cmchugh@mchughbromley.com
<http://www.mchughbromley.com>

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FEE MEMORANDUM

Date: May 20, 2020
To: Amalgamated Sugar Company, Application for Permit 47-17716 File (Drain Tunnel)
From: Jim Bitzenburg
Re: Receipting/disposition of fees paid

This application was filed on April 24, 2020 with a flow rate of 7.4 cfs, which equates to a fee of \$530.00 from the IDWR *Application for Permit Fee Schedule*. The fee was paid at the time of filing with check #2703256 from The Amalgamated Sugar Company, LLC, IDWR receipt #S037898.



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

May 19, 2020

AMALGAMATED SUGAR COMPANY
PO BOX 127
TWIN FALLS ID 83303-0127

RE: Application for Permit to Appropriate Trust Water – No. 47-17716 (Drain Tunnel)

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").¹ 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 Law² 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

¹ 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/>.

² 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.³ 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,



Jim Bitzenburg
Senior Water Resource Agent

Enclosure: Withdrawal of Application form

CC: Candice McHugh, McHugh Bromley, PLLC

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

Skinner, Corey

From: C McHugh <cmchugh@mchughbromley.com>
Sent: Thursday, May 07, 2020 12:23 PM
To: Skinner, Corey
Subject: RE: Water rights 47-8086 and 47-2116

Corey,

To confirm our conversation of Tuesday.

The map with the applications is the correct place of use. We agree with your table below.

Thanks!

Candice M. McHugh

MCHUGH BROMLEY
380 S. 4th, Ste. 103
Boise, ID 83702
(208) 287-0991 – office
(208) 287-0864 – facsimile
cmchugh@mchughbromley.com
<http://www.mchughbromley.com>

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From: Skinner, Corey [mailto:Corey.Skinner@idwr.idaho.gov]
Sent: Thursday, April 30, 2020 5:06 PM
To: Ryan Gustafson <RGustafson@amalsugar.com>
Cc: Bitzenburg, James <James.Bitzenburg@idwr.idaho.gov>; Candice McHugh <cmchugh@mchughbromley.com>; Ian Kihara <IKihara@amalsugar.com>; Dalton Zeigler <DZeigler@amalsugar.com>; Gary Lowe <GLowe@amalsugar.com>; Dean Delorey <DDelorey@amalsugar.com>; Shamika Klemetsen <SKlemetsen@amalsugar.com>
Subject: RE: Water rights 47-8086 and 47-2116

Ryan,

We have received the applications and Jim and I have looked them over and had a couple of items we wanted clarified/addressed before we get too far into processing the applications...

It looks to us that each new application is for 7.4 cfs and the applications propose a combined limit of 7.4 cfs total. Each application proposes to divert up to this amount from June 2 – September 14. We were kind of curious where the 7.4 cfs number comes from. (The existing Rock Creek decree, 47-2116, allows for diversion of up to 10.0 cfs and the recent drain tunnel license, 47-8086, allows for diversion of up to 1.0 cfs, but Jim measured a diversion of 5.7 cfs of drain tunnel water last summer).

If the 7.4 cfs and 6/2 - 9/14 seasons are correct, then assuming the applications are approved Amalgamated Sugar Co would end up with the following allowed diversions for industrial &/or commercial uses...

Time Period	Rock Creek Right 47-2116	New Rock Creek Application	Total Rock Creek Diversion	Drain Tunnel Right 47-8086	New Drain Tunnel Application	Total Drain Tunnel Diversion	Total Allowed Diversion (both sources)
1/1 – 6/1	10.0 cfs	none	10.0 cfs	1.0 cfs	none	1.0 cfs	11.0 cfs
6/2 – 9/14	none	7.4 cfs	7.4 cfs	1.0 cfs	7.4 cfs	8.4 cfs	8.4 cfs
9/15 – 12/31	10.0 cfs	none	10.0 cfs	1.0 cfs	none	1.0 cfs	11.0 cfs

- Are we interpreting the two new applications correctly when combined with the existing rights/sources?

Both of the applications identify a place of use (item 9 on application) of the NWNE quarter-quarter and the NENW quarter-quarter of Section 26. However, both of the maps included with the applications only identify the NENW quarter-quarter as the place of use. The NENW quarter-quarter is what was licensed on the most recent license (47-8086) and appears to be the primary location of the sugar factory. We are not sure if there is actually non consumptive water use in the NWNE quarter- quarter.

- We need clarification on whether the application or the map identify the actual proposed place of use (which is correct).

Let us know if we are correct in our understating of the amount(s) of water and time periods being applied for, and which is the correct intended place of use. I am available at (208)736-3033 if you want to discuss any further.

Thanks,

Corey

From: Ryan Gustafson [<mailto:RGustafson@amalsugar.com>]

Sent: Monday, April 27, 2020 10:05 AM

To: Skinner, Corey <Corey.Skinner@idwr.idaho.gov>

Cc: Bitzenburg, James <James.Bitzenburg@idwr.idaho.gov>; Candice McHugh <cmchugh@mchughbromley.com>; Ian Kihara <IKihara@amalsugar.com>; Dalton Zeigler <DZeigler@amalsugar.com>; Gary Lowe <GLowe@amalsugar.com>; Dean Delorey <DDelorey@amalsugar.com>; Shamika Klemetsen <SKlemetsen@amalsugar.com>

Subject: Water rights 47-8086 and 47-2116

Mr. Skinner,

Attached please find the applications consistent with the Agency's findings in the final paragraph below; I placed the paper originals with pen signatures in the mailbox at the Agency on Friday.

I hope this email finds you and the IDWR staff in excellent health and spirits in these strange days.

Thanks,

Ryan Gustafson
District Environmental Manager – Twin Falls
The Amalgamated Sugar Company LLC
Office: (208) 735-5471
Mobile: (208) 536-0360

From: Skinner, Corey <Corey.Skinner@idwr.idaho.gov>
Sent: Friday, October 25, 2019 2:06 PM
To: Ryan Gustafson <RGustafson@amalsugar.com>
Cc: Bitzenburg, James <James.Bitzenburg@idwr.idaho.gov>
Subject: Water rights 47-8086 and 47-2116

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Ryan,

As we discussed, IDWR recently issued license 47-8086 for diversion of 1.0 cfs of water from a drain tunnel for year round industrial use. The water right does not necessarily limit the right to consumptive or non-consumptive use. Condition #4 relates to how the right as a Trust Water right could be administered in the event that minimum stream flow rights in the Snake River at the Murphy Gage are not met. If a right is a Trust Water right, then one of two conditions is placed on the right....

When the minimum stream flow water rights in the Snake River at Murphy Gage are not being satisfied, the right holder shall cease diverting water for the consumptive uses authorized by this right. The minimum stream flow water rights are for 3,900 cfs from April 1 through October 31 and 5,600 cfs from November 1 through March 31. See IDAPA 37.03.08.030.

Or

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.

The first condition (not used on 47-8086) indicates that the right will just be curtailed (shut off) and the second condition (the one used on 47-8086) indicates that it will not be curtailed (shut off).

As we also discussed, right 47-2116 (from Rock Creek) only allows for diversion from 9/15 to 6/01, so from 6/2 – 9/14 only right 47-8086 (from the Drain Tunnel) can be diverted. Right 47-8086 only allows for a diversion of 1.0 cfs (448.83 gallons per minute). Over a 24 hour period, this only provides 646,315 gallons of water. Data you provided indicates that from June 2 – September 14, diversions exceed this amount. It appears that Amalgamated Sugar may need to pursue another water source/right during this time of the year.

Let us know if you have any other questions,

Corey Skinner, PE

McHUGH BROMLEY

ATTORNEYS AT LAW, PLLC

Candice M. McHugh
cmchugh@mchughbromley.com

380 S. 4th Street, Ste. 103
Boise, Idaho 83702
(208) 287-0991

Chris M. Bromley
cbromley@mchughbromley.com

RECEIVED

APR 24 2020

DEPT OF WATER RESOURCES
SOUTHERN REGION

April 23, 2020

IDWR
Southern Regional Office
Corey Skinner
650 Addison Ave., W Ste. 500
Twin Falls, ID 83301-5858

Re: Applications for Permit – Amalgamated Sugar, Twin Falls

Dear Corey:

In response to your October 25, 2019 email, please find enclosed two applications for permit: one from Rock Creek and one from the Tunnel drain to cover the company's non-consumptive use of water during the summer months. Also enclosed is a check for \$1,060 to cover the filing fee.

If you have any questions, please contact me.

Sincerely,


Candice McHugh