

RECEIVED

MAY 08 2020

DEPT OF WATER RESOURCES
SOUTHERN REGION

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

Ident. No. 36-17169**APPLICATION FOR PERMIT**

To appropriate the public waters of the State of Idaho

1. Name of applicant(s) Idaho Power Phone (208) 388-2602
 Name connector (check one): ☐ and ☐ or ☐ and/or
 Mailing address PO Box 70 City Boise
 State ID ZIP 83707 Email KDavis-Butts@idahopower.com
2. Name of representative, if any Kresta Davis-Butts Phone (208) 388-2602
 Mailing address PO Box 70 City Boise
 State ID ZIP 83707 Email KDavis-Butts@idahopower.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 Ground Water which is a tributary of Snake River
4. Location of point(s) of diversion:

Twp	Rge	Sec	Govt Lot	1/4	1/4	1/4	County	Source	Local name or tag #
09S	15E	10	9	NE	SE	NE	Gooding	Ground Water	

5. Water will be used for the following purposes:
- Amount 18.0 acre-feet for Irrigation purposes from 3/15 to 11/15 * (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) 0.27 cubic feet per second (cfs) and/or (b) 18.0 acre-feet per year (af).
7. Proposed diverting works:
- a. Describe type and size of devices used to divert water from the source. Water will be pumped from a new well.
Estimated pump size is 3 hp. Water will be delivered to individual sprinkler heads through buried pipelines.
- b. Height of storage dam N/A feet; active reservoir capacity N/A acre-feet; total reservoir capacity N/A 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 8 inches; proposed depth of well is 85 feet.
- d. Is ground water with a temperature of greater than 85°F being sought? ☐ Yes ☒ No
- e. If well is already drilled, when? N/A; drilling firm _____; well was drilled for (well owner) _____; Drilling Permit No. _____

Received by CH Date 5-8-2020 Time 12:20 PM Preliminary check by _____
 Fee \$ 250- Receipted by dm Receipt No. 5037917 Date 5-8-2020

* Per 5/13/2020 e-mail P.S.

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MAY 13 2020

DEPT OF WATER RESOURCES
SOUTHERN REGION

8. Description of proposed uses (if irrigation only, go to item 9):

- a. Hydropower; show total feet of head and proposed capacity in kW: _____
- b. Stockwatering; list number and kind of livestock: _____
- c. Municipal; must complete and attach the Municipal Water Right Application Checklist
- d. Domestic; show number of households: _____
- e. Other; describe fully: _____

9. Description of place of use:

- 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. See instructions for standard symbols.

Amended Place of Use KDB 5/13/2020

TWP	RGE	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	0.1			4.0													4.1
			GL 1			GL 9													
09S	15E	10	0.4																0.4
			GL 9																
09S	15E	11					0.1	2.4											2.5
							L 11	L 11											

Total number of acres to be irrigated: 7.0

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? This 7.0 acre PPU includes the PPU for irrigation under water right 36-2704 which will be idled as part of a proposed mitigation plan. Annual irrigation will be limited to 4.5 acres of irrigation.

11. a. Who owns the property at the point of diversion? Idaho Power
- b. Who owns the land to be irrigated or place of use? Idaho Power
- c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: _____

12. Describe your proposal in narrative form, and provide additional explanation for any of the items above. Attach additional pages if necessary. See Attached Narrative and Mitigation Plan

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.

Krista Davis Butts
Signature of Applicant

Signature of Applicant

Krista Davis Butts, Water Resources Policy, Sr Manager
Print Name (and title, if applicable)

Print Name (and title, if applicable)

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. _____

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	
09S	15E	10	0.1			4.4													4.5
09S	15E	11										2.5							2.5

Total number of acres to be irrigated: 7.0

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? This 7.0 acre PPU includes the PPU for irrigation under water right 36-2704 which will be idled as part of a proposed mitigation plan. Annual irrigation will be limited to 4.5 acres of irrigation.

- Who owns the property at the point of diversion? Idaho Power
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- If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: _____

12. Describe your proposal in narrative form, and provide additional explanation for any of the items above. Attach additional pages if necessary. See Attached Narrative and Mitigation Plan

13. Time required for completion of works and application of water to proposed beneficial use is 5 years (minimum 1 year).

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Krista Davis Butts
Signature of Applicant

Krista Davis Butts, Water Resources Policy, Sr Manager
Print Name (and title, if applicable)

Signature of Applicant

Print Name (and title, if applicable)

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MAY 08 2020

DEPT OF WATER RESOURCES
SOUTHERN REGION

Idaho Power
Application for Permit
Niagara Springs Hatchery – Irrigation

Idaho Power will be renovating and reconfiguring hatchery operations at their Niagara Springs Hatchery. Idaho Power is making this application to conform with current irrigation practices at the hatchery. Idaho Power is seeking to add 2.5 acres of additional irrigation from ground water resources at the facility. Idaho Power currently has rights to irrigate up to 2.0 acres of land under water right 36-2704. The final configuration of the hatchery will allow for the irrigation of up to 4.5 acres. This proposed water right will have a PPU of approximately 7 acres with no more than 4.5 total irrigated acres. The rationale for a larger PPU is to allow for future reconfiguration of the hatchery facility without requiring a transfer to move small amounts of irrigated acres. Idaho Power can provide an accounting of acres to be irrigated if requested by the Idaho Department of Water Resources when the hatchery renovation is complete.

Idaho Power is seeking a higher diversion rate to allow for shorter set times. The irrigation system is comprised of buried underground lines and pop up sprinkler heads. To facilitate night time irrigation, an eight (8) hour set time is assumed allowing for a diversion rate of up to 0.06 cfs/acre. The total demand will not exceed 0.27 cfs or 121.5 gpm.

Idaho Power intends to mitigate for the depletions to the Snake River by idling water right 36-7104 and the consumptive irrigation portion of water right 36-2704. (see attached mitigation plan)

Idaho Power
Mitigation Plan for a Proposed Irrigation Right at the Niagara Springs Hatchery

Submitted by: Idaho Power
Representative: Kresta Davis-Butts
Address: PO Box 70, Boise, Idaho 83707
Phone: (208) 388-2602

General Project Description

Idaho Power is applying for a new consumptive use irrigation right at its Niagara Springs Hatchery. The new right proposes irrigation on 4.5 acres with a total consumptive use of 18 acre-feet/year. The source water for this proposed right shall be from a ground water well located approximately 400 feet from the Snake River. Idaho Power owns an existing domestic well (water right 36-8761) at the Niagara Springs Hatchery that is located approximately 1,050 feet from river. The existing well sits at an elevation of approximately 3020 feet and the river is at an elevation of approximately 2990 feet. According to the well log, water was first encountered in the borehole between 39 feet and 52 feet below ground surface. This provides general information that the existing well may be in contact with surface water in Snake River. Given the proximity of the proposed new well, to the Snake River, it is assumed that it will be in hydraulic connection with Snake River.

Water Right 36-7104

Idaho Power owns Water Right 36-7104 for irrigation of land near Banbury Springs. The right allows for the irrigation of up to 20 acres. A partial decree for the right was issued on December 19, 2001. The water is sourced from springs that when not diverted for irrigation discharge into Morgan Lake and then into the Snake River. Morgan Lake is fed by numerous springs and seeps and the outlet of the lake is directly into the Snake River. The right has been used in the past to help establish and promote native vegetation plantings. Water is not in short supply at the site and there is adequate flow to maintain irrigation on 20 acres. Idaho Power plans to cease irrigation on the entire 20 acres that are decreed in the right.

Water Right 36-2704

Idaho Power owns water right 36-2704, sourced from Niagara Springs which includes irrigation on up to 2 acres of land at the Niagara Springs Hatchery, as well as a non-consumptive use for fish propagation and consumptive domestic uses. This right has been exercised every year since the late 1960s.

Proposed Mitigation

To mitigate for the proposed consumptive use, Idaho Power proposes to cease irrigation under water right 36-7104. All water will be allowed to discharge into Morgan Lake and then into the Snake River. Evaporative losses from the lake would be difficult to parse out amongst all sources discharging into the lake. Seven discharge measurements taken at the lake from 2014 to 2017 showed discharge varied from 63.1 cfs to 91.6 cfs with an average discharge of 76.2 cfs. The evaporative losses from lake surface attributable to irrigation diversions under 36-7104 are small given the total discharge from the lake. Any seepage loss from the lake would eventually discharge to the Snake River. Idaho Power will also cease the consumptive irrigation portion of water right 36-2704 and allow that water to be delivered to the Snake River. This application and associated mitigation plan are not intended to affect water right 36-8761 or the non-consumptive and domestic uses associated with 36-2704.



December 12, 2019

Remington Buyer
Idaho Department of Water Resources
322 E Front Street, Ste 648
Boise, Idaho 83720-0098

Subject: Idaho Power Company Representation

Dear Mr. Buyer:

Kresta Davis-Butts, as representative of Idaho Power in matters associated with the company's water rights and water rentals and leases, has authorization to sign forms, applications and requests on behalf of the company. Please let me know if you have any questions or concerns.

Sincerely,



Tess Park

Vice President of Power Supply

1221 W. Idaho St. (83702)
P.O. Box 70
Boise, ID 83707



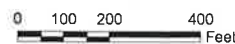
LEGEND

-  POINT OF DIVERSION
-  PERMISSABLE PLACE OF USE

**IDAHO POWER APPLICATION FOR PERMIT
NIAGARA SPRINGS HATCHERY
IRRIGATION**



1 inch = 400 feet



Date: 4/28/2020

36-17169

Document Path: C:\Projects\Blew_NiagaraSpr\WRM\Oa\NiagaraSpr_WR_Transfer_R.mxd

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

IDAHO POWER COMPANY
ATTN: KRESTA DAVIS BUTTS
PO BOX 70
BOISE, ID 83707-0070

RE: Application for Permit No. 36-17169

Dear Applicant(s):

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

A legal notice of the application has been prepared and is scheduled for publication in the **TIMES NEWS on 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



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

WATER DISTRICT 130
NATHAN ERICKSON
650 ADDISON AVE W STE 500
TWIN FALLS, ID 83301-5858

RE: Application for Permit No. 36-17169 (Idaho Power Company)

Dear Nathan:

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 application at:
<https://idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx>. Please review the application, then complete the enclosed recommendation form and return it to this office within 21 days of the date of this letter.

If the application is 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 within 21 days from the date of this letter, IDWR will presume that you do not oppose approval of the application and that you have no comments for IDWR to consider.

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

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

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 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 NESENW 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

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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



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 13, 2020

IDAHO POWER CO
C/O KRESTA DAVIS-BUTTS
PO BOX 70
BOISE ID 83707

RE: Application for Permit to Appropriate Trust Water – No. 36-17169

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 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.

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.

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

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,

A handwritten signature in cursive script that reads "Bill Mills".

Bill Mills
Senior Water Resource Agent

Enclosure: Withdrawal of Application form

Mills, Bill

From: Davis-Butts, Kresta <KDavis-Butts@idahopower.com>
Sent: Wednesday, May 13, 2020 4:26 PM
To: Mills, Bill
Subject: RE: Application for Permit at Niagara Springs Hatchery

Bill,

Yes, please modify the irrigation season for the company's Niagara Springs Hatchery application to align with the allowed season of 3/15 to 11/15.

Thanks,
Kresta

Kresta Davis-Butts

WATER RESOURCES AND POLICY SENIOR MANAGER

Idaho Power | Water Resources and Policy
208-388-2602

Email kdavisbutts@idahopower.com

From: Mills, Bill <William.Mills@idwr.idaho.gov>
Sent: Wednesday, May 13, 2020 4:05 PM
To: Davis-Butts, Kresta <KDavis-Butts@idahopower.com>
Subject: [EXTERNAL]RE: Application for Permit at Niagara Springs Hatchery

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Kresta,

There is one other question. The application indicates the irrigation is to occur from 4/1 to 10/31, however the allowed season of use for irrigation in that area is 3/15 to 11/15. Would you like to keep the irrigation period from 4/1 to 10/31 or would you like to change it to match the allowed period of use? An email clarification should be sufficient to make the change.

Thanks,
Bill

From: Davis-Butts, Kresta [<mailto:KDavis-Butts@idahopower.com>]
Sent: Wednesday, May 13, 2020 12:20 PM
To: Mills, Bill <William.Mills@idwr.idaho.gov>
Subject: RE: Application for Permit at Niagara Springs Hatchery

Bill,

Thank you for your email regarding Idaho Power's application for permit at the company's Niagara Springs Hatchery. I have amended page 2 of our application to reflect the corrections you described in your email regarding the proposed place of use, and have attached the amended page to this email.

I also wanted to provide clarification on the company's mitigation plan. The intent is to cease all irrigation under water right 36-7104 as part of our mitigation plan. The entirety of water right 36-7104 will be used to mitigate for this new water right.

If you have any additional questions, please feel free to contact me.

Kresta

Kresta Davis-Butts

WATER RESOURCES AND POLICY SENIOR MANAGER

Idaho Power | Water Resources and Policy

208-388-2602

Email kdavisbutts@idahopower.com

From: Mills, Bill <William.Mills@idwr.idaho.gov>

Sent: Monday, May 11, 2020 3:23 PM

To: Davis-Butts, Kresta <KDavis-Butts@idahopower.com>

Subject: [EXTERNAL]Application for Permit at Niagara Springs Hatchery

KEEP IDAHO POWER SECURE! External emails may request information or contain malicious links or attachments. Verify the sender before proceeding, and check for additional warning messages below.

Kresta,

Hi, I'm working on processing Idaho Power's Application for Permit for 4.5 acres of irrigation from ground water within a 7.0 acre permissible place of use at the Niagara Springs hatchery and there are a couple items that require clarification.

First of all, the application requires corrections as it lists 2.5 acres of irrigation in the NWSW of 09S 15E Sec. 11, but the map indicates that they are actually in the SWNW (and NWNW) of 09S 15E Sec. 11. Additionally, your map indicates the Government Lots, but doesn't show the PLS projection. I've made a map with a 7.0 acre place of use that represents the same acre distribution as the application's map and is layered over the PLS projection for your convenience. I've also included a PLS grid that lists how I believe the acres are likely distributed based on the PLS projection within the Government Lots. Please submit either a corrected page 2 or an amended application that corresponds with the acre distribution of the map submitted with the application for permit.

The second item is more of a clarification. The mitigation plan seems to indicate that all of water right 36-7104 will be used for mitigation. Is this correct?

Sincerely,

Bill Mills

Senior Water Resource Agent
Idaho Dept. of Water Resources
Southern Region

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Mills, Bill

From: Davis-Butts, Kresta <KDavis-Butts@idahopower.com>
Sent: Wednesday, May 13, 2020 12:20 PM
To: Mills, Bill
Subject: RE: Application for Permit at Niagara Springs Hatchery
Attachments: IPC_Amended_Page2.pdf

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Kresta

Kresta Davis-Butts
WATER RESOURCES AND POLICY SENIOR MANAGER
Idaho Power | Water Resources and Policy
208-388-2602

Email kdavisbutts@idahopower.com

From: Mills, Bill <William.Mills@idwr.idaho.gov>
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To: Davis-Butts, Kresta <KDavis-Butts@idahopower.com>
Subject: [EXTERNAL]Application for Permit at Niagara Springs Hatchery

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Bill Mills

Senior Water Resource Agent
Idaho Dept. of Water Resources
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