

State of Idaho
Department of Water Resources
Permit to Appropriate Water
No. 85-15806

Priority: February 12, 2020

Maximum Diversion Rate: 0.04 CFS

This is to certify that

SCHWEGEL FAMILY TRUST 7527 N RIDGE BLVD CHICAGO IL 60645-1904

has applied for a permit to appropriate water from:

Source : GROUND WATER

and a permit is APPROVED for development of water as follows:

<u>Beneficial Use</u>	<u>Period of Use</u>	<u>Rate of Diversion</u>
DOMESTIC	01/01 to 12/31	0.04 CFS

Location of Point(s) of Diversion

GROUND WATER SE¼ SE¼, Sec. 4, Twp 33N, Rge 04W, B.M. NEZ PERCE County

Place of Use: DOMESTIC

Twp	Rng	Sec	NE				NW				SW				SE				No QQ	Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
33N	04W	4																X		

Conditions of Approval

1. Proof of application of water to beneficial use shall be submitted on or before **June 01, 2025**.
2. Subject to all prior water rights.
3. The following rights are diverted through points of diversion described above: 85-15806, 85-7317A, 85-7317B, 85-15413, 85-15725, 85-15727, and 85-15740.
4. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which the permit holder had no control.
5. Domestic use is for 1 home.
6. The irrigation occurring under this domestic use shall not exceed 1/2 acre.
7. This right does not grant any right-of-way or easement across the land of another.

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

Signed this 18th day of May, 2020.



ADAM FREDERICK
Water Rights Supervisor

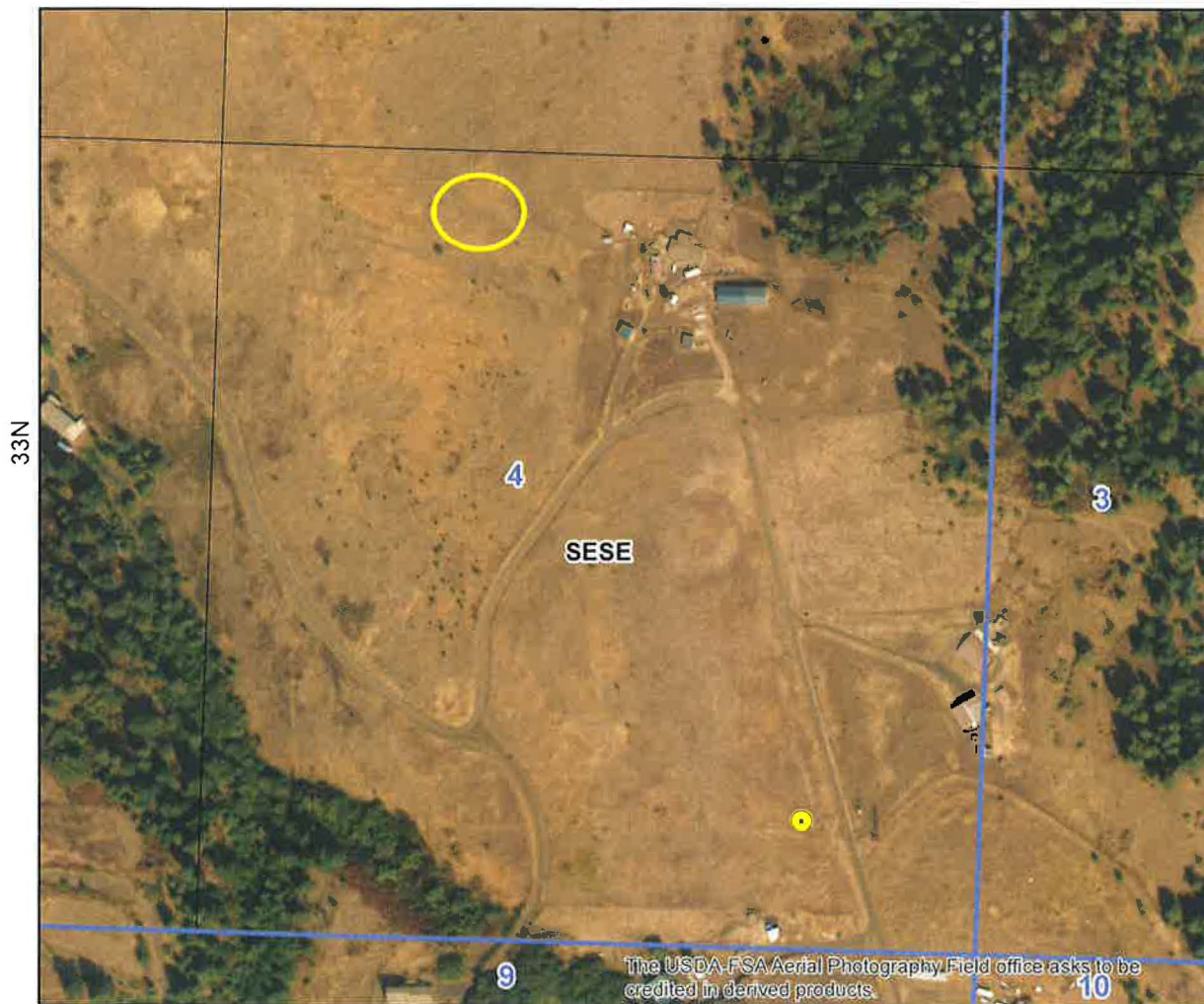
State of Idaho
Department of Water Resources






Attachment to Permit to Appropriate Water

85-15806

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

04W



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

0 0.0375 0.075 0.15 Miles





Brad Little
Governor

State of Idaho

DEPARTMENT OF WATER RESOURCES

Northern Region • 7600 N MINERAL DR STE 100 • COEUR D ALENE, ID 83815-7763
Phone: (208)762-2800 • Fax: (208)769-2819 • Website: www.idwr.idaho.gov

Gary Spackman
Director

May 18, 2020

SCHWEGEL FAMILY TRUST
7527 N RIDGE BLVD
CHICAGO IL 60645-1904

RE: Permit No. 85-15806

Permit Approval Notice

Dear Permit Holder(s):

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

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

The final step in the water right process is issuance of a water right license. To receive a water right license, you must first commence the excavation or construction of your diverting works within one year of the date the permit was issued, and you must proceed diligently until the project is complete. In addition, you must divert and use water to the full extent intended and submit a *Statement of Completion for Submitting Proof of Beneficial Use* by the date shown in condition no. 1 of your permit. The Department will send you a *Proof Due Notice* approximately 60 days prior to the date listed in condition no. 1 of your permit.

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

Also, please note that permit holders are required to report any change of ownership and/or mailing address to the Department within 120 days of the change. Failure to report these changes could result in a \$100 late filing fee. Forms to assign ownership or update your address are available from any office of the Department or on the Department's website.

If you have any questions concerning the enclosed information, please contact the Northern Region Office at (208) 762-2800.

Sincerely,



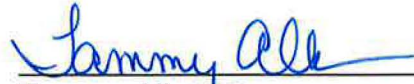
Adam Frederick
Water Rights Supervisor

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on May 18, 2020, I served a true and correct copy of Permit to Appropriate Water No. 85-15806 by U.S. Mail, postage prepaid, to the following:

SCHWEGEL FAMILY TRUST (Current Owner)
7527 N RIDGE BLVD
CHICAGO IL 60645-1904



Tammy Alleman
Administrative Assistant 1

EXPLANATORY INFORMATION TO ACCOMPANY A PRELIMINARY ORDER

(To be used in connection with actions when a hearing was **not** held)

(Required by Rule of Procedure 730.02)

The accompanying order or approved document is a "**Preliminary Order**" issued by the department pursuant to section 67-5243, Idaho Code. **It can and will become a final order without further action of the Department of Water Resources ("department") unless a party petitions for reconsideration, files an exception and brief, or requests a hearing as further described below:**

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the department within fourteen (14) days of the service date of this order. **Note: the petition must be received by the department within this fourteen (14) day period.** The department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3) Idaho Code.

EXCEPTIONS AND BRIEFS

Within fourteen (14) days after: (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding with the Director. Otherwise, this preliminary order will become a final order of the agency.

REQUEST FOR HEARING

Unless a right to a hearing before the Department or the Water Resource Board is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Director and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

ORAL ARGUMENT

If the Director grants a petition to review the preliminary order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with IDAPA Rules 37.01.01302 and 37.01.01303 (Rules of Procedure 302 and 303).

FINAL ORDER

The Director will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Director may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its service date if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

- (a) The petition for reconsideration is disposed of; or
- (b) The petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

MEMORANDUM

To: Water Right Application 85-15806

From: Luke Bates 

Date: 5/15/2020

Re: Application for a Permit to Appropriate Water within the Salmon and Clearwater River Basins.

Re: Regional Analysis and Recommendation in accordance with Water Appropriation Rules (IDAPA 37.03.08.040.05).

Water Supply Information

Ground Water from a shared well not on the applicant's property, but a water use agreement for applicant to share the well is annotated, and the ground water supply should be available.

Good Faith, Delay, or Speculative Information

The applicant plans to divert water for his/her own use on property that he/she owns and there are no known issues with any other party.

Financial Resources Information

There should be no significant resources required, as the water being diverted is from a shared well near the applicant's property.

Local Public Interest

The Idaho Department of Fish & Game (F & G) and the Department of Environmental Quality (DEQ) have been asked to comment by the Idaho Department of Water Resources. DEQ commented that the diversion should not impair existing beneficial uses. F & G did not comment.

Injury to Other Water Rights

None anticipated.

Recommendation

The Northern Region recommends proceeding with the processing of this water right application.

MEMORANDUM

To: Water Right Permit 85-15806

From: Luke Bates 

Date: 5/15/2020

Re: Future field exam required.

An application for permit was received for domestic use in the name of Daniel J. Schwegel – Schwegel Family Trust. During the permitting process, IDWR staff identified this water right was designated to use a shared well as the POD. Research of WR 85-7317A's backfile identified the following memorandum: Summary of water rights diverted from shared well in the SESE of Section 4, T33N, R04W. This memorandum and a prepared map of the water rights identified in said memorandum were added to WR 85-15806's file during permit review.

Based on the number of water rights associated with this shared well, and their dispersed POUs, it is not recommended that this water right not use an IN-OFFICE review. A field exam is required to fully understand the combined system for the shared well and related water right POUs.

Memorandum

Date: May 10, 2012

To: File 85-7317A, 85-7317B, 85-15413, 85-15725, 85-15727, 85-15729 and 85-15740

From: Craig L. Saxton

Re: Summary of water rights diverted from shared well in the SESE of Section 4, T33N, R04W

- The following rights are diverted from a shared well/POD located in the SESE of Section 4, T33N, R04W: 85-7317A, 85-7317B, 85-15413, 85-15725, 85-15727, and 15740.

Originally, permit 85-7317 was issued for development of domestic use for 9 lots to be diverted from one well which was developed in the SESE of Section 4 on what is now Carla Koegen's property (PIN: RP33N04W049100). A field exam was conducted in accordance with permit 85-7317 in 1990 and the examiner reported development of domestic use for 3 homes with a maximum diversion rate of 0.03 cfs. The examiner reported that the water was pumped to 9 lots, but only three were in use. Because of the low diversion rate, license 85-7317 was issued for domestic use for three homes with a diversion rate of 0.03 cfs.

License 85-7317 was eventually divided into three parts:

85-7317A	Stewart	0.01 cfs	PIN: RP33N04W090010	1-30-1983
85-7317B	Gruell (<i>now Benson</i>)	0.01 cfs	PIN: RP33N04W046175	1-30-1983
			RP33N04W049075	
			RP33N04W046160	
85-15413	Koegen	0.01 cfs	PIN: RP33N04W049100	1-30-1983

85-15413 really shouldn't have been given part of that original water right because there was and still is not any domestic use occurring at that parcel. It was mistakenly given a portion of the original license because the well happens to fall on that parcel.

When Mary Carter discovered there was not a water right applicable to her parcel, despite being one of the original three home using water when 85-7317 was licensed, she filed SRBA Claim 85-15725 which was decreed by the SRBA court. 85-15725 was decreed a diversion rate that is the measured capacity of the system.

85-15725	Carter	0.03 cfs	PIN: RP33N04W090003	7-31-1990
----------	--------	----------	---------------------	-----------

Around the time Mary Carter was working with the court to get 85-15725 decreed, the other users that were already hooked up to the delivery system diverting water from the shared well realized that they didn't have water rights from the well so they filed applications for permit. Licenses will be issued with a diversion rate of the capacity of the system:

85-15727	Ridgway	0.03 cfs	PIN: RP33N04W090452 RP33N04W102753 RP33N04W091800 RP33N04W103750	4-29-2010
85-15740	Darrow	0.03 cfs	PIN: RP33N04W049005	11-1-2011

Note: Permit 85-15740 was issued as not to include external use (1/2 acre of irrigation).

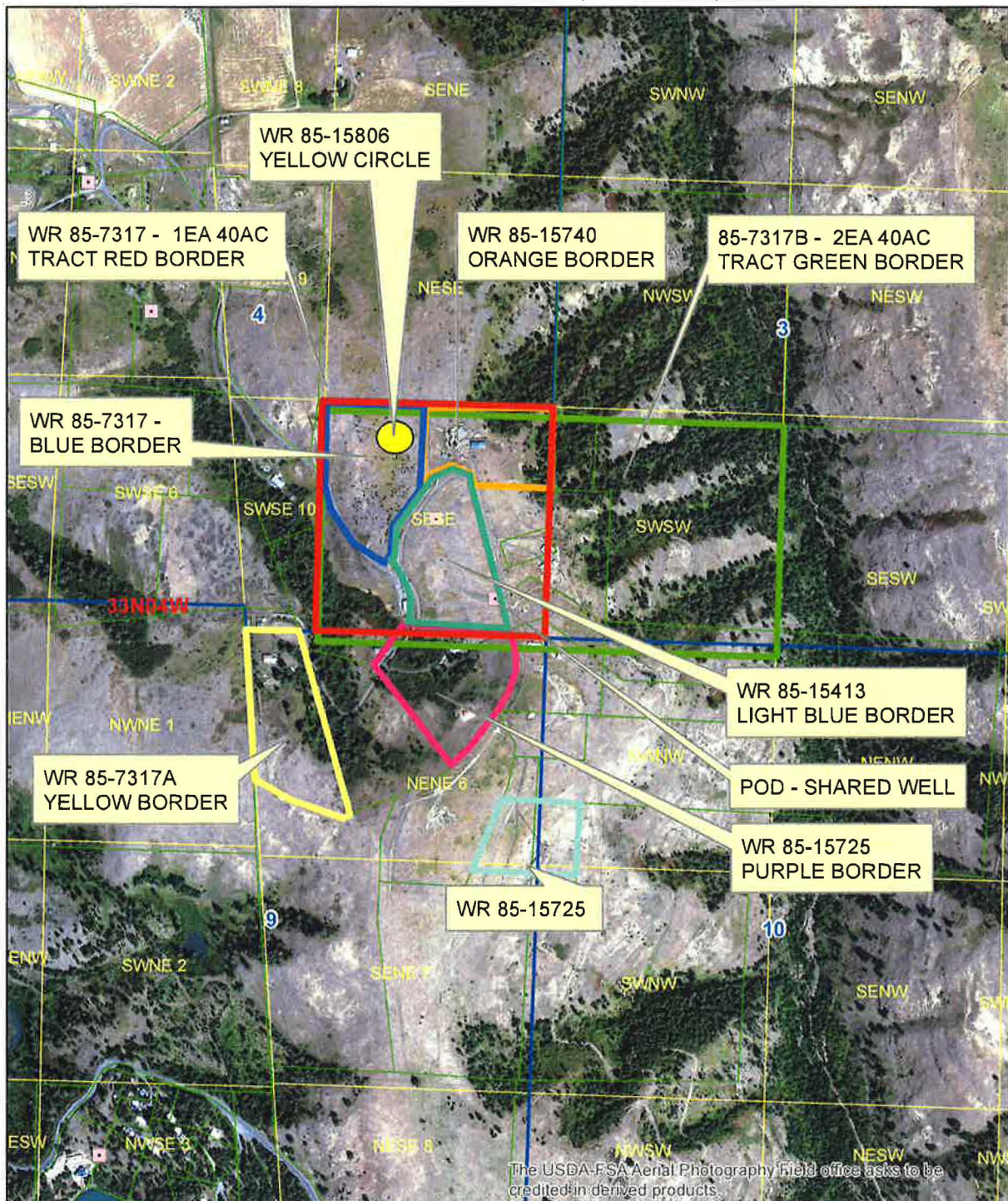
85-15727 and 85-15740 will be issued with a combined use condition limiting their use along with use of all the other rights from the shared well, to the capacity of the system = 0.03 cfs.

To my knowledge there is one other domestic user hooked up to the system and using water from the shared well. Bovil Smith: RP33MN04W102426. There does not appear to be any water right filing for the Smith property at this time.

Finally, permit 85-15729 proposes tapping into the shared well system for domestic and stock water use. At the time the permit was issued, it was not connected to the system. Proof is due in 2015.

I

Summary of WRs diverted from shared well in the SESE of SEC 4, T33N, R04W



Legend

- Parcels
- Township/Range
- Sections
- QQ

0 0.075 0.15 0.3 Miles



TRIBUNE PUBLISHING COMPANY, INC

The Lewiston Tribune
505 C St., P.O.Box 957
Lewiston, Idaho 83501
(208) 743-9411

**LEGAL ADVERTISING
INVOICE**

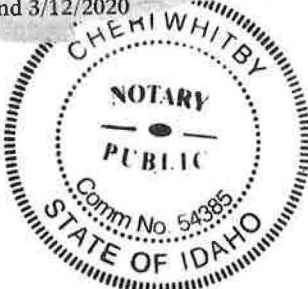
Date:	<u>03/12/2020</u>	INVOICE NO.	<u>157074</u>
Account No.	<u>964750</u>		
Description	<u>157074 The foll</u>		
Times	<u>2</u>	Lines	<u>50</u>
		Tab. lines	
		\$	<u>71.25</u>

Sold To: ID DEPT. OF WATER RESOURCES
7600 MINERAL DR #100
COEUR D ALENE ID 83814

PO# Alleman, Tammy

NOTICE: This is a invoice of Purchase made by you. Statement will be rendered the first of the month
Please Retain This Invoice as Your Statement Will Refer to Invoice by No. Only.

157074
The following application(s)
have been filed to appropriate the public waters of the State of Idaho:
85-15806
SCHWEGEL FAMILY TRUST
7527 N RIDGE BLVD
CHICAGO, IL 60645-1904
Point of Diversion
SESE S4 T33N R04W
NEZ PERCE County
Source GROUND WATER
Use: DOMESTIC
01/01 to 12/31
0.04 CFS
Total Diversion: 0.04 CFS
Date Filed: 02-12-2020
Place Of Use: DOMESTIC
T33N R04W S4 SESE
Permits will be subject to all prior water rights. For additional information concerning the property location, contact the Northern office at (208)762-2800; or for a full description of the right(s), please see <https://idwr.idaho.gov/apps/ExtSearch/WRApplicationResults/>. Protests may be submitted based on the criteria of Idaho Code 42-203A. Any protest against the approval of this application must be filed with the Director, Dept. of Water Resources, Northern Region, 7600 N MINERAL DR STE 100, COEUR D ALENE ID 83815-7763 together with a protest fee of \$25.00 for each application on or before 3/23/2020. The protestant must also send a copy of the protest to the applicant.
GARY SPACKMAN,
Director
Published on 3/5/2020
and 3/12/2020



AFFIDAVIT OF PUBLICATION

Hollie K Posey, being duly sworn, deposes and says, I am the Legal Clerk of the Tribune Publishing Company, a corporation organized and existing under and by virtue of the laws of the State of Idaho and under and by virtue of the laws of the State of Washington, publishers of the Lewiston Tribune, a newspaper of general circulation published at Lewiston, Nez Perce County, Idaho; That the said Lewiston Tribune is an established newspaper and has been published regularly and issued regularly at least once a day for more than 105 consecutive years next immediately preceding the first publication of this notice, and has been so published uninterrupted for said period; that the 157074 The foll attached hereto and which is made a part of this affidavit was published in the said Lewiston Tribune, 2 time(s). Publication being on 03/05, or once a Week for 2 consecutive Week, the first publication thereof being on the 03/05/2020, and the last publication thereof being on the 03/12/2020, and said 157074 The foll was so published in the regular and entire issue of said newspaper and was not in a supplement thereof and was so published in every issue and number of the said paper, during the period and times of publication as set forth above.

Hollie K Posey

State of Idaho
S.S.
County of Nez Perce

On this 12th day of Mar in the year of 2020, before me, a Notary Public, personally appeared Hollie K Posey, known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that he executed the same.

Cheri Whitby
Notary Public in and for the State of Idaho,
residing at Lewiston, therein
Commission Expires 4/17/21

RECEIVED

MAR 16 2020

IDWR / NORTH



STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY

1118 F Street • Lewiston, Idaho 83501 • (208) 799-4370
www.deq.idaho.gov

Governor Brad Little
Director John H. Tippetts

February 28, 2020

Mr. Adam Frederick
Idaho Department of Water Resources
7600 North Mineral Drive, Suite 100
Coeur d'Alene, Idaho 83815

Subject: Water Appropriation, #85-15806

Dear Mr. Frederick:

We received a request for comment along with a copy of an application for a permit to appropriate 0.04 cubic feet per second of water from a well located on private property in Nez Perce County. The applicant will use the water for domestic use connected to a new home.

The spring is located in Township 33N, Range 04W, and Section 4. The appropriated water will be used for domestic use from January 1 through December 31. Assuming all federal, state and local permits have been obtained, regulations met, and reviews completed, we offer the following comments.

Because we assume any water of the State which occurs beneath the surface of the earth in a saturated geological formation of rock or soil to be ground water (Idaho Code 58.01.02.010.45), we assume there to be hydrologic gradient connectivity to surface waters of the State. It is the policy of the State of Idaho Ground Water Management Plan that existing and projected beneficial uses of ground water and interconnected surface water be maintained and protected and degradation that would impair beneficial uses of ground water and interconnected surface water not be allowed.

Thank you for the opportunity to comment on your application. If you have any questions regarding the Idaho Water Quality Standards, please call us at (208) 799-4370, or by email at Sujata.Connell@deq.idaho.gov

Sincerely,

A handwritten signature in cursive script that reads "Sujata Connell".

Sujata Connell
Surface Water Quality Manager

c: Daniel Schwegel, Schwegal Family Trust
EDMS