

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCESID No. TP-63-322  
**RECEIVED****APR 10 2020****APPLICATION FOR TEMPORARY APPROVAL OF WATER USE**DEPARTMENT OF  
WATER RESOURCES

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

Name of applicant MARION E. Hopson JR Phone (541)-589-4118  
 Mailing address 9945 LANDMARK ST City BOISE  
 State IDAHO Zip 83704 Email mudmangold2@gmail.com

1. Source of water grimes cr. / Big muddy cr. tributary to \_\_\_\_\_  
 2. Location of point(s) of diversion. If more than two, attach a Point of Diversion/Place of Use Supplement. ☐

TWP	RGE	SEC	GOVT LOT	1/4	1/4	1/4	County	Source	Local name or tag #
7N	5E	3					Boise	grimes creek	
7N	5E	3					Boise	Big muddy creek	

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

TWP	RGE	SEC	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
7N	5E	3				✓													
7N	5E	3	✓																

4. Proposed use of water:

- a. ☐ Prevention of flood damage ☐ Ground water recharge ☐ Ground water or surface water remediation  
☐ Other (Limited to a diverted volume of 5 acre-feet.) Describe: Running HighBanker To Test for gold

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

5. Amount of water. Complete all three:

a. Maximum rate of diversion: 0 cfs; or 25 gpm.

b. Maximum daily volume: \_\_\_\_\_ AF; or \_\_\_\_\_ gallons.

c. Maximum volume over the duration of the request: 5 acre ft. AF; or \_\_\_\_\_ gallons.

6. Duration of diversion: from MAY 1, 2020 (month-day) to MAY 1 2021 (month-day).

7. Describe proposed diverting works: Running HighBanker To Test for gold

8. a. Who owns the property at the requested point of diversion? BLM / Public land

b. Who owns the facilities that will convey water to the place of use? \_\_\_\_\_

c. Who owns the land to be irrigated or place of use? \_\_\_\_\_

d. If any of the items above is owned by a person or entity other than the applicant, describe the arrangement allowing access and attach written evidence of the arrangement. \_\_\_\_\_

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

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

Signature of Applicant

Marion E Hopson Jr

Title, if any

Date

APR 4, 2020

Received by

KM

Date

4-10-2020

Time

10:30

\$50.00 fee receipted by

KM

#

C108584

Date

4-10-2020

Watermaster comments received?

YES

Date

4/17/2020

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

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

☐ A. The application for temporary approval should be denied because \_\_\_\_\_

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

This application is therefore hereby:

☐ A. DENIED

- ☒ B. APPROVED, subject to the following conditions:
1. Diversion and use of water under this approval is subject to all valid existing water rights.
  2. The applicant assumes all risk of the use of the water under this approval.
  3. This approval authorizes a maximum diversion volume of 5 AF and a maximum diversion rate of 0.06 cfs.
  4. This approval does not grant a right-of-way across the land of another.
  5. The Department may cancel or reduce the rate of flow or volume authorized by this approval. For example, the Department may cancel or reduce this approval if it concludes the water use is injuring other water rights or adversely affecting fish, wildlife or other public values.
  6. The applicant shall not divert water when downstream minimum flow water rights are not being satisfied.
  7. This approval does not create a continuing right to use water.
  8. A temporary approval for ground water recharge or prevention of flood damage shall be an opportunistic use of surplus water and shall not interfere with the filling of surface water reservoirs.
  9. For a temporary approval authorizing ground water recharge or ground water or surface water remediation, the applicant shall measure and record the weekly quantity of water diverted and report the diversion data to the Department upon request.
  10. This temporary approval is not an authorization for the described water use to be used as mitigation or credit for any other purpose.
  11. Other: SEE ATTACHED
  12. This approval expires on 5/1/2021.

Signed this 30<sup>th</sup> day of APRIL, 2020.

  
For the Department

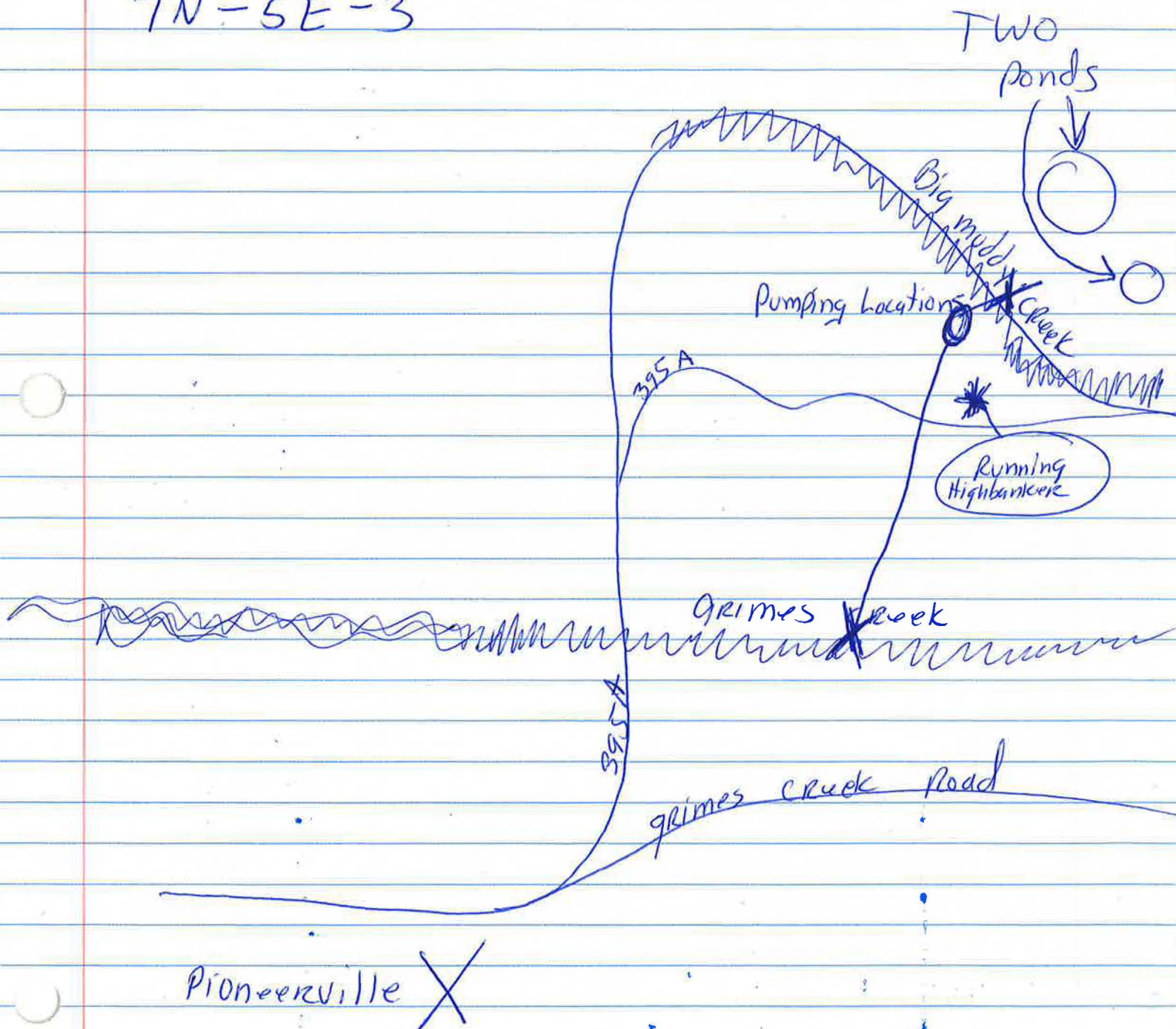
Approval Conditions Attachment for TP-63-322 Marion Hopson

- 12 The temporary approval is subject to the availability of Water District No. 63 Rental Pool water to mitigate water losses and injury to existing water rights. Prior to diversion and use of water the recipient of this temporary approval must contact Water District 63 Watermaster at 208-908-5480.
- 13 This temporary approval may be subject to control of Water District No. 63 Watermaster.
- 14 Prior to the diversion and use of water under this approval, the right holder shall comply with all fish screening and/or fish passage requirements of the Idaho Department of Fish and Game.
- 15 This temporary approval does not authorize the discharge of wastewater or slurry directly into any body of water.
- 16 The holder of this temporary approval shall not divert at a rate or manner that will significantly reduce the flow in the water source or otherwise adversely affect fish, wildlife or other public values.
22. Prior to diversion and use of water under this approval, the right holder shall obtain Bureau of Land Management (BLM) authorization necessary to access the point of diversion or place of use or to convey water across BLM land.



# MAP OF (Claimjumper 1)

7N-5E-3





State of Idaho

DEPARTMENT OF WATER RESOURCES

322 E FRONT ST STE 648 PO BOX 83720 • BOISE, ID 83720-0098

Phone: (208)287-4800 • Fax: (208)287-6700 • Website: [www.idwr.idaho.gov](http://www.idwr.idaho.gov)

Brad Little  
Governor

Gary Spackman  
Director

May 1, 2020

MARION HOPSON  
9945 W LANDMARK ST  
BOISE ID 83704-6512

RE: Application for Temporary Approval of Water Use: TP-63-322

Dear Applicant(s):

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

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

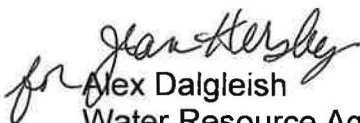
This temporary approval **expires on** May 01, 2021. The expiration date cannot be extended under this temporary approval.

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

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

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

Sincerely,

  
Alex Dalgleish

Water Resource Agent.

Enclosure(s)

cc: REX BARRIE, Water District 63.

## MEMORANDUM

**Date:** April 23, 2020  
**To:** Temporary Application For Water Use Review  
**From:** Alex Dalglish  
**Re:** Temporary Water Use Application TP-63-322

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**Applicant:** The State Office received a temporary approval of water use application from Marion Hopson Jr. on 4/10/2020. The application proposes to divert a total of 5 AF from Grimes Creek and Big Muddy Creek to test for gold using a highbanker. It is worth noting that the application lists Big Muddy Creek while ArcMap, GoogleEarth and other resources show the creek simply as Muddy Creek. A timeframe is requested for 1 year beginning May 1, 2020 and ending May 1, 2021. IMC #216203 is listed on the application and the property at the points of diversion and place of use are owned by the Bureau of Land Management (BLM). Presumably, the BLM has some authority pertaining to IMC 216203.

The proposed points of diversion (POD's) were not clearly described on the application or the included hand-drawn map. An email requesting clarification was sent to the applicant on 4/16/20 and he responded the same day providing a document clarifying the location of the POD's. From this document, the POD on Muddy Creek will be in the SENW QQ and the POD on Grimes Creek will be in the SWNE QQ, both in Sec. 3 Twp. 7N Rge. 5E. Also, the application map shows that the operation will use two settling ponds on the West side of Big Muddy Creek.

**Proper Administration:** This temporary approval for water use is within water district 63. The proposed water use for mining related activities could be administered by the watermaster of district 63 if necessary.

**Public Interest:** Based on the information available, the use appears to be within the public's interest.

**Injury to Public Values:** Based on the information available, the proposed use does not injure public values. Comments were sought from the Idaho Fish and Game (IDFG), Bureau of Land Management (BLM), Department of Environmental Quality (DEQ) on 4/16/2020. No response was received within 14 days, it is assumed there are no concerns.

**Other Sources of Water:** Based on the requested locations of the POD's, there are no alternative sources of water. It is reasonable for the application to request diverting from Muddy Creek and Grimes Creek.

**Injury to Existing Water Rights:** The application proposes diverting 25 gpm (.06 cfs) and 5 AF over the duration of the request. Below the requested diversion location on Muddy Creek, right 63-29087 diverts .02 cfs for stockwater use. This right has 6 POD's, 4 of which are on Muddy Creek. Due to the low

diversion rate of .02 cfs and dispersed POD's, injury to 63-29087 does not seem apparent. Another water right, 63-12377, diverts .04 cfs from Muddy Creek for mining use approximately 0.8 miles downstream from the proposed location. Injury does not seem apparent to this right as it is located far enough downstream.

On Grimes Creek, below the requested POD, right 63-29086 diverts 0.02 cfs for stockwater use at two locations. After the diversion point for right 63-29086, there are no water rights with diversions from Grimes Creek for a substantial distance. Injury to right 63-29086 is not likely due to the low diversion rate of 0.02 cfs and spread out POD's.

The applicant's map indicates the use of settling ponds. Seepage water from the ponds will likely returned to Muddy Creek which is tributary to Grimes Creek so losses from the stream should be minimal. Due to this and the minimal uses of water from the creeks under the above mentioned rights and the far distances to the next closest POD's, no injury is anticipated.

**Department Staff and Watermaster Comments:** Comments were submitted to Western Region and to watermaster Rex Barrie and assistant watermaster Mike Meyers of Water District # 63 on 4/16/2019. Mike responded on 4/17/2020 with the requirement that the applicants rent water from WD # 63 rental pool. No comments were received from the Western office, it is assumed there are no concerns.

From: mikemeyerswd63@gmail.com  
Sent: Friday, April 17, 2020 7:27 AM  
To: Dalglish, Alex  
Cc: waterdistrict63@qwestoffice.net  
Subject: RE: Temporary Approval 63-322

Alex we have no objections and have water available to rent.

From: Dalglish, Alex <Alex.Dalglish@idwr.idaho.gov>  
Sent: Thursday, April 16, 2020 4:13 PM  
To: mikemeyerswd63@gmail.com  
Subject: FW: Temporary Approval 63-322

Hey Mike,

I'm forwarding you the request for comment I just sent to Rex.

Best,

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

From: Dalglish, Alex  
Sent: Thursday, April 16, 2020 4:07 PM  
To: 'WATERDISTRICT63@QWESTOFFICE.NET' <WATERDISTRICT63@QWESTOFFICE.NET>; Miller, Nick  
<Nick.Miller@idwr.idaho.gov>  
Subject: Temporary Approval 63-322

Rex and Nick,

The State Office is seeking comment, regarding an application to temporarily appropriate 5.0 acre-feet of water from Grimes Creek and Big Muddy Creek, for highbank mining, by Marion Hopson Jr.

A copy of the application is attached for your reference. An additional document is attached clarifying the point of diversion locations.

Please submit your comments within 14 days, no later than April 30, 2020. If we do not hear from you by that date, we will assume that no comment from you means you have no objection to, concerns about, or conditions pertaining to the issuance of this temporary approval.



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

Thank you,

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

## Grimm, Angie

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**From:** Dalglish, Alex  
**Sent:** Thursday, April 16, 2020 4:15 PM  
**To:** 'jlsarsen@blm.gov'; 'lance.holloway@deq.idaho.gov'; 'bill.bosworth@idfg.idaho.gov'  
**Subject:** Temporary Approval 63-322 Muddy & Grimes Creeks  
**Attachments:** App Temporary Water Use MHopson JR.pdf; POD Clarification.jpg

Dear Interested Agencies,

The Department of Water Resources is seeking comment, regarding an application to temporarily appropriate 5.0 acre-feet of water collectively from Grimes Creek and Big Muddy Creek, for highbank mining, by Marion Hopson Jr.

A copy of the application is attached for your reference. An additional document is attached clarifying the point of diversion locations.

Please submit your comments within 14 days, no later than April 30, 2020. If we do not hear from you by that date, we will assume that no comment from you means you have no objection to, concerns about, or conditions pertaining to the issuance of this temporary approval.

Comments are preferred to be received by e-mail to [alex.dalglish@idwr.idaho.gov](mailto:alex.dalglish@idwr.idaho.gov).

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

Thank you,

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

## Grimm, Angie

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**From:** Marion Hopson <mudmangold2@gmail.com>  
**Sent:** Thursday, April 16, 2020 12:33 PM  
**To:** Dalglish, Alex  
**Subject:** Re: Temporary Approval of Water Use Application  
**Attachments:** 20200416\_123212.jpg

Is this the info you need

On Thu, Apr 16, 2020, 12:20 PM Marion Hopson <mudmangold2@gmail.com> wrote:

Sir I am responding to your email saying I didn't put sections of diversion.i have provided a map and it is the same map I have used for years.not sure what the problem is.i will be on my claim this weekend and can't do anything with out this permit.please contact me asap if you can.

On Thu, Apr 16, 2020, 10:22 AM Dalglish, Alex <Alex.Dalglish@idwr.idaho.gov> wrote:

Dear Applicant,

The Department of Water Resources (Department) received your temporary application on April 10, 2020 for use on Grimes Creek and Big Muddy Creek for highbank mining. Clarification is needed to continue processing your application.

Upon preliminary review of the application, the Department is unable to confirm the location of the points of diversion (POD's). The application did not specify the quarter-quarter locations of the POD's and likewise, the map does not represent a clear understanding of the POD quarter-quarter locations.

- Please clarify the locations of the POD's. If a POD is in a Government Lot, please also include the lot number with the POD description.
- Also, can you please provide more information regarding the diversion works. It appears from the map that there will be two ponds. For example, will these ponds be settling ponds that wastewater is diverted into?

I have attached a copy of your application and map for reference.

If the requested information is not received within 14 days of this letter, the Department may reject your application. If you have any questions, contact me at 208-287-4913 or email me at [alex.dalglish@idwr.idaho.gov](mailto:alex.dalglish@idwr.idaho.gov) . Thank you for your attention to this matter.

Sincerely,

Alex Dalglish

Water Resource Agent

IDWR State Office



not parts  
NENE = 40 acres



Align  
our

Township (T.) # N or S, Range (R.) # E or W, Section (sec.) #

NENE (40 acres)

T. 3 N., R. 2 E., sec. 21 NENENE, Boise Meridian, Idaho.

T. 3 N., R. 2 E., sec. 21 NENE, Blaine, Idaho.  
I will draw water from either  
① or ② depending which is closer  
to TST H<sub>2</sub>O on CLAIMJUMPER.

ma