

Miller, Nick

From: Vonde, Ann <ann.vonde@ag.idaho.gov>
Sent: Monday, April 13, 2020 3:35 PM
To: Miller, Nick
Cc: 'Michael P. Lawrence'; Kaufmann, Angela; mandersen@idl.idaho.gov
Subject: RE: 65-23750 Tamarack

Hi Nick,

Thanks for forwarding. I took a look at the draft permit and don't see any issues. But could you please c/c Angela and I on correspondence for this one? We'll want to track this going forward as there are still a couple of steps that need to occur under the Stipulation that involve IDL.

Ann Vonde

Deputy Attorney General
Natural Resources Division
Office of Attorney General
P.O. Box 83720
Boise ID 83720-0010
(208) 334-4141
fax (208) 854-8072
ann.vonde@ag.idaho.gov

From: Miller, Nick [mailto:Nick.Miller@idwr.idaho.gov]
Sent: Monday, April 13, 2020 1:46 PM
To: Vonde, Ann <ann.vonde@ag.idaho.gov>
Cc: 'Michael P. Lawrence' <mpl@givenspursley.com>; Kaufmann, Angela <angela.kaufmann@ag.idaho.gov>; mandersen@idl.idaho.gov
Subject: RE: 65-23750 Tamarack

Hi Ann,

I apologize if I missed something. I have been copying Michele Anderson on all of the correspondence and was not aware I should have also been copying you or Angela Kauffman.

I have attached the email string that includes the April 3 document. I have also attached the version I sent on April 1 with mark-up so you can clearly see the changes from the February 21 draft.

I had not heard any objection or other input from IDL, so I had intended to, within the next day or two, issue a preliminary order approving the permit in the name of TMO as described in the stipulation, then process the permit assignment to IDL at a later date as described in the stipulation.

Please let me know if IDL has concerns with this process.

Nick.

From: Vonde, Ann [mailto:ann.vonde@ag.idaho.gov]
Sent: Monday, April 13, 2020 12:58 PM
To: Miller, Nick <Nick.Miller@idwr.idaho.gov>

Cc: 'Michael P. Lawrence' <mpl@givenspursley.com>; Kaufmann, Angela <angela.kaufmann@ag.idaho.gov>
Subject: 65-23750 Tamarack

Hi Nick,

Angela Kauffman forwarded me an email regarding the Tamarack permit 65-23750. It indicated that a draft permit went out April 3rd by email. Neither Angela or I saw that draft. Could we get looped in on what's going on?

Thanks,

Ann Vonde

Deputy Attorney General
Natural Resources Division
Office of Attorney General
P.O. Box 83720
Boise ID 83720-0010
(208) 334-4141
fax (208) 854-8072
ann.vonde@ag.idaho.gov

Miller, Nick

From: Miller, Nick
Sent: Friday, April 03, 2020 11:03 AM
To: 'Albert Barker'; 'Michael Lawrence (MPL@givenspursley.com)'
Cc: 'mandersen@idl.idaho.gov'
Subject: RE: Tamarack - 65-23750 FW: Draft Approval Scan
Attachments: 65-23750_040120_Clean.pdf

Mike called me and asked for a version of the draft I sent out on Wednesday without the markup.

Nick.

From: Miller, Nick
Sent: Wednesday, April 01, 2020 5:04 PM
To: 'Albert Barker' <apb@idahowaters.com>; Michael Lawrence (MPL@givenspursley.com) <MPL@givenspursley.com>
Cc: mandersen@idl.idaho.gov
Subject: RE: Tamarack - 65-23750 FW: Draft Approval Scan

Here you go.

From: Albert Barker [<mailto:apb@idahowaters.com>]
Sent: Wednesday, April 01, 2020 4:38 PM
To: Miller, Nick <Nick.Miller@idwr.idaho.gov>; Michael Lawrence (MPL@givenspursley.com) <MPL@givenspursley.com>
Cc: mandersen@idl.idaho.gov
Subject: RE: Tamarack - 65-23750 FW: Draft Approval Scan

Nick-

Can you send a revised version of the permit in the name of TMO with these same changes

From: Miller, Nick <Nick.Miller@idwr.idaho.gov>
Sent: Monday, March 30, 2020 4:50 PM
To: Michael Lawrence (MPL@givenspursley.com) <MPL@givenspursley.com>; Albert Barker <apb@idahowaters.com>
Cc: mandersen@idl.idaho.gov
Subject: RE: Tamarack - 65-23750 FW: Draft Approval Scan

Following up on phone calls with Mr. Lawrence and Mr. Barker today, I am sending the attached mark-up of the draft permit approval I circulated in February to facilitate a discussion between Mr. Barker and Mr. Lawrence. The changes to the "Diversion to Storage" volume, as well as the proof due date in Condition #1 are necessary changes to meet department standards. The modified language in Condition #6 is included for purposes of discussion between the parties.

From: Miller, Nick
Sent: Friday, February 21, 2020 10:47 AM
To: Michael Lawrence (MPL@givenspursley.com) <MPL@givenspursley.com>; mandersen@idl.idaho.gov
Cc: Albert Barker - Barker Rosholt & Simpson LLP (apb@idahowaters.com) <apb@idahowaters.com>
Subject: Tamarack - 65-23750 FW: Draft Approval Scan

FYI, this draft approval has been placed in the mail today.

Nick.

From: Thorneycroft, Kensie

Sent: Friday, February 21, 2020 10:43 AM

To: Miller, Nick <Nick.Miller@idwr.idaho.gov>

Subject: Draft Approval Scan

Here's the scan for that draft approval sent today for WR No: 65-23750.

Kensie Thorneycroft

Administrative Assistant 1

Idaho Dept. of Water Resources

208-334-2190

State of Idaho
Department of Water Resources
Permit to Appropriate Water
No. 65-23750

DRAFT

Priority: December 29, 2017

Maximum Diversion Rate: 4.30 CFS
Maximum Diversion Volume: 1,248.0 AF

This is to certify that

TAMARACK MOUNTAIN OPERATIONS, LLC
8211 WEST BROWARD BLVD. STE 230
PLANTATION, FL 33324

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>	<u>Annual Volume</u>
MUNICIPAL	01/01 to 12/31	4.30 CFS	1,248.0 AF
DIVERSION TO STORAGE	01/01 to 12/31	4.30 CFS	
MUNICIPAL FROM STORAGE	01/01 to 12/31		500.0 AF
MUNICIPAL STORAGE	01/01 to 12/31		500.0 AF

Location of Point(s) of Diversion

GROUND WATER	NE $\frac{1}{4}$ SW $\frac{1}{4}$,	Sec. 32, Twp 16N, Rge 03E, B.M.	VALLEY County
GROUND WATER	NE $\frac{1}{4}$ SE $\frac{1}{4}$,	Sec. 5, Twp 15N, Rge 03E, B.M.	VALLEY County
GROUND WATER	SE $\frac{1}{4}$ NE $\frac{1}{4}$,	Sec. 8, Twp 15N, Rge 03E, B.M.	VALLEY County
GROUND WATER	L1 (NE $\frac{1}{4}$ NE $\frac{1}{4}$),	Sec. 5, Twp 15N, Rge 03E, B.M.	VALLEY County
GROUND WATER	SW $\frac{1}{4}$ NE $\frac{1}{4}$,	Sec. 5, Twp 15N, Rge 03E, B.M.	VALLEY County
GROUND WATER	L3 (NE $\frac{1}{4}$ NW $\frac{1}{4}$),	Sec. 5, Twp 15N, Rge 03E, B.M.	VALLEY County
GROUND WATER	SE $\frac{1}{4}$ NW $\frac{1}{4}$,	Sec. 5, Twp 15N, Rge 03E, B.M.	VALLEY County
GROUND WATER	NE $\frac{1}{4}$ SW $\frac{1}{4}$,	Sec. 5, Twp 15N, Rge 03E, B.M.	VALLEY County
GROUND WATER	L3 (NE $\frac{1}{4}$ NW $\frac{1}{4}$),	Sec. 5, Twp 15N, Rge 03E, B.M.	VALLEY County
GROUND WATER	NE $\frac{1}{4}$ NW $\frac{1}{4}$,	Sec. 8, Twp 15N, Rge 03E, B.M.	VALLEY County
GROUND WATER	NE $\frac{1}{4}$ NW $\frac{1}{4}$,	Sec. 8, Twp 15N, Rge 03E, B.M.	VALLEY County
GROUND WATER	NE $\frac{1}{4}$ SW $\frac{1}{4}$,	Sec. 8, Twp 15N, Rge 03E, B.M.	VALLEY County
GROUND WATER	SE $\frac{1}{4}$ NE $\frac{1}{4}$,	Sec. 36, Twp 16N, Rge 02E, B.M.	VALLEY County
GROUND WATER	SE $\frac{1}{4}$ NE $\frac{1}{4}$,	Sec. 36, Twp 16N, Rge 02E, B.M.	VALLEY County

Conditions of Approval

1. Proof of application of water to beneficial use shall be submitted on or before **April 01, 2025**.
2. Subject to all prior water rights.
3. Place of use is within the area served by the right holder's public water supply system. The place of use is generally located within Section 36, Township 16 North, Range 02 East, Sections 19, 29, 30, 31, and 32, Township 16 North, Range 03 East, and Sections 5, 7, 8, 17, and 18, Township 15 North, Range 03 East.
4. A map generally depicting the service area for this water right at the time of this approval is attached to this document for illustrative purposes.
5. Rights 65-23811, 65-23812, 65-23813, 65-23814, and 65-23750 when combined shall not exceed a

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Department of Water Resources
Permit to Appropriate Water
No. 65-23750

total diversion rate of 8.6 cfs and a total annual maximum diversion volume of 1248 acre-feet.

6. The volume of the storage ponds shall not exceed 135 acre-feet. Diversions to and from storage in the ponds shall not exceed 500 acre-feet per year.
7. Prior to diversion of water under this right, the right holder shall install and maintain a measuring device and lockable controlling works of a type acceptable to the Department as part of the diverting works.
8. In connection with the proof of beneficial use submitted for this permit, the permit holder shall also submit a report showing the total annual volume, the maximum daily volume, and the maximum instantaneous rate of flow diverted from the point of diversion authorized for this permit during the development period. The report shall also show the maximum instantaneous rate of diversion, either measured or reasonably estimated by a qualified professional engineer, geologist, or certified water rights examiner, for the entire municipal water system. The report shall also describe and explain how water diverted under this permit provides an additional increment of beneficial use of water for the municipal water system as opposed to an alternative point of diversion for prior water rights already held and used by the right holder for its municipal water system.
9. 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.
10. Right holder shall comply with the drilling permit requirements of Idaho Code § 42-235 and applicable Well Construction Rules of the Department.
11. This right does not grant any right-of-way or easement across the land of another.
12. The Director retains jurisdiction to require the right holder to provide purchased or leased natural flow or stored water to offset depletion of Lower Snake River flows if needed for salmon migration purposes. The amount of water required to be released into the Snake River or a tributary, if needed for this purpose, will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this permit.
13. Prior to the diversion and use of water under this approval, the right holder shall comply with applicable water quality monitoring and/or permitting requirements administered by the Department of Environmental Quality or the Department of Agriculture.
14. The diversion and use of water described in this right may be subject to additional conditions and limitations agreed to by the protestant and the right holder under a separate agreement to which the Department is not a party. Because the Department is not a party, the Department is not responsible for enforcement of any aspect of the agreement not specifically addressed in other conditions herein. Enforcement of those portions of the agreement not specifically addressed in other conditions shall be the responsibility of the protestant and the water right holder.

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

Signed this _____ day of _____, 20____.

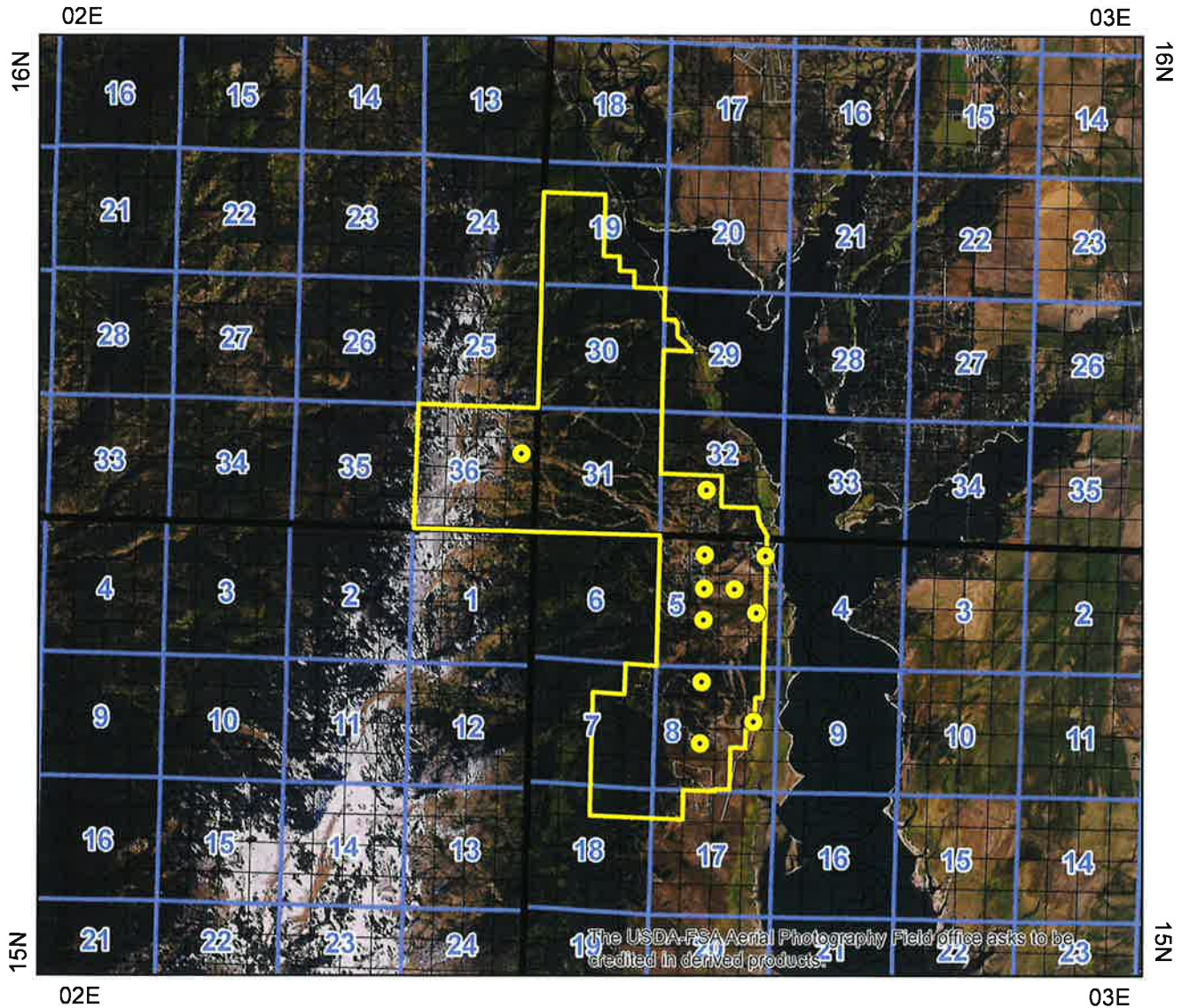
DRAFT

Nick Miller
Manager, IDWR Western Region

Attachment to Permit to Appropriate Water

65-23750

This map depicts the MUNICIPAL, MUNICIPAL STORAGE, and MUNICIPAL FROM STORAGE place of use boundaries for this water right at the time of this approval and is attached to the approval document solely for illustrative purposes.



- Point of Diversion
- Water Service Area Boundary
- Townships
- PLS Sections
- Quarter Quarters

0 0.75 1.5 3 Miles



State of Idaho
Department of Water Resources

Permit to Appropriate Water

No. 65-23750

Priority: December 29, 2017

Maximum Diversion Rate: 4.30 CFS
Maximum Diversion Volume: 1,248.0 AF

This is to certify that ~~TAMARACK HOMEOWNERS ACQUISITION CO LLC~~
~~311 VILLAGE DR~~
~~TAMARACK ID 83615-5014~~

TAMARACK MOUNTAIN OPERATIONS, LLC
8211 WEST BROWARD BLVD. STE 230
PLANTATION, FL 33324

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>	<u>Annual Volume</u>
MUNICIPAL	01/01 to 12/31	4.30 CFS	1,248.0 AF
DIVERSION TO STORAGE	01/01 to 12/31	4.30 CFS	1,248.0 AF
MUNICIPAL FROM STORAGE	01/01 to 12/31		500.0 AF
MUNICIPAL STORAGE	01/01 to 12/31		500.0 AF

Location of Point(s) of Diversion

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GROUND WATER	NE $\frac{1}{4}$ SE $\frac{1}{4}$,	Sec. 5, Twp 15N, Rge 03E, B.M.	VALLEY County
GROUND WATER	SE $\frac{1}{4}$ NE $\frac{1}{4}$,	Sec. 8, Twp 15N, Rge 03E, B.M.	VALLEY County
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GROUND WATER	NE $\frac{1}{4}$ SW $\frac{1}{4}$,	Sec. 5, Twp 15N, Rge 03E, B.M.	VALLEY County
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GROUND WATER	NE $\frac{1}{4}$ NW $\frac{1}{4}$,	Sec. 8, Twp 15N, Rge 03E, B.M.	VALLEY County
GROUND WATER	NE $\frac{1}{4}$ SW $\frac{1}{4}$,	Sec. 8, Twp 15N, Rge 03E, B.M.	VALLEY County
GROUND WATER	SE $\frac{1}{4}$ NE $\frac{1}{4}$,	Sec. 36, Twp 16N, Rge 02E, B.M.	VALLEY County
GROUND WATER	SE $\frac{1}{4}$ NE $\frac{1}{4}$,	Sec. 36, Twp 16N, Rge 02E, B.M.	VALLEY County

Conditions of Approval

1. Proof of application of water to beneficial use shall be submitted on or before ~~March~~ April 01, 2025.
2. Subject to all prior water rights.
3. Place of use is within the area served by the right holder's public water supply system. The place of use is generally located within Section 36, Township 16 North, Range 02 East, Sections 19, 29, 30, 31, and 32, Township 16 North, Range 03 East, and Sections 5, 7, 8, 17, and 18, Township 15 North, Range 03 East.

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No. 65-23750

4. A map generally depicting the service area for this water right at the time of this approval is attached to this document for illustrative purposes.
5. Rights 65-23811, 65-23812, 65-23813, 65-23814, and 65-23750 when combined shall not exceed a total diversion rate of 8.6 cfs and a total annual maximum diversion volume of 1248 acre-feet.
6. The volume of the storage ~~reservoirs-ponds~~ shall not exceed 135 acre-feet. Diversions to and from storage in the ponds shall not exceed 500 acre-feet per year.
7. Prior to diversion of water under this right, the right holder shall install and maintain a measuring device and lockable controlling works of a type acceptable to the Department as part of the diverting works.
8. In connection with the proof of beneficial use submitted for this permit, the permit holder shall also submit a report showing the total annual volume, the maximum daily volume, and the maximum instantaneous rate of flow diverted from the point of diversion authorized for this permit during the development period. The report shall also show the maximum instantaneous rate of diversion, either measured or reasonably estimated by a qualified professional engineer, geologist, or certified water rights examiner, for the entire municipal water system. The report shall also describe and explain how water diverted under this permit provides an additional increment of beneficial use of water for the municipal water system as opposed to an alternative point of diversion for prior water rights already held and used by the right holder for its municipal water system.
9. 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.
10. Right holder shall comply with the drilling permit requirements of Idaho Code § 42-235 and applicable Well Construction Rules of the Department.
11. This right does not grant any right-of-way or easement across the land of another.
12. The Director retains jurisdiction to require the right holder to provide purchased or leased natural flow or stored water to offset depletion of Lower Snake River flows if needed for salmon migration purposes. The amount of water required to be released into the Snake River or a tributary, if needed for this purpose, will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this permit.
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14. The diversion and use of water described in this right may be subject to additional conditions and limitations agreed to by the protestant and the right holder under a separate agreement to which the Department is not a party. Because the Department is not a party, the Department is not responsible for enforcement of any aspect of the agreement not specifically addressed in other conditions herein. Enforcement of those portions of the agreement not specifically addressed in other conditions shall be the responsibility of the protestant and the water right holder.

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

Signed this _____ day of _____, 20_____.

State of Idaho
Department of Water Resources
Permit to Appropriate Water
No. 65-23750

Nick Miller
Manager, IDWR Western Region

Miller, Nick

From: Michael P. Lawrence <mpl@givenspursley.com>
Sent: Wednesday, December 11, 2019 4:57 PM
To: Miller, Nick; mandersen@idl.idaho.gov
Cc: Barker, Albert (IWRB Member)
Subject: RE: Application for Permit 65-23750 - Tamarack [IWOV-GPDMS.FID862212]
Attachments: 112919_TamarackDraft.pdf

Nick,

As you know, Al Barker and I have been in touch with you about your November 29 letter (copy attached).

There are a few issues we have discovered. Two of them are minor: (1) the last "Township" described in condition 3 of the draft permit should be Township "15" instead of "16," and (2) the "56 days" in the penultimate line on page 1 of your cover letter should be "42 days" based on the deadlines in the Department's rules and Idaho APA.

A third issue concerns whether storage should specifically be listed on the draft permit (the application requests 8.6 cfs of "diversion to storage," 520 AF of "municipal storage," and 520 AF of "municipal from storage.") Because this issue is not yet resolved, please allow us more time to respond as to whether the draft permit is acceptable. We hope to resolve this issue within 10 days.

Thanks,
Mike

MICHAEL P. LAWRENCE

GIVENS PURSLEY LLP

601 West Bannock Street, Boise, ID 83702

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fax 208-388-1300

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CONFIDENTIALITY NOTICE: This communication is confidential and may contain privileged information. If you have received it in error, please advise the sender by reply email and immediately delete the message and any attachments without copying or disclosing the contents. Thank you.

From: Miller, Nick <Nick.Miller@idwr.idaho.gov>
Sent: Friday, November 29, 2019 9:58 AM
To: Michael P. Lawrence <mpl@givenspursley.com>; mandersen@idl.idaho.gov
Cc: Barker, Albert (IWRB Member) <apb@idahowaters.com>
Subject: Application for Permit 65-23750 - Tamarack

Dear Parties,

The attached letter and draft approval are being placed in the mail today.

Please let me know if you have any questions.

Nick Miller

