

State of Idaho
Department of Water Resources
Permit to Appropriate Water
No. 72-16978

Priority: September 30, 2019

Maximum Diversion Rate: 0.20 CFS

This is to certify that

GLORIA BAIRD SCHWARTING
409 RIVER ST
SALMON ID 83467-4162

has applied for a permit to appropriate water from:

Source : PEACH CREEK

Tributary: SALMON RIVER

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>
AESTHETIC	01/01 to 12/31	0.20 CFS

Location of Point(s) of Diversion

PEACH CREEK SE¼ NW¼, Sec. 25, Twp 11N, Rge 15E, B.M. CUSTER County

Place of Use: AESTHETIC

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
11N	15E	25								X									No QQ

Conditions of Approval

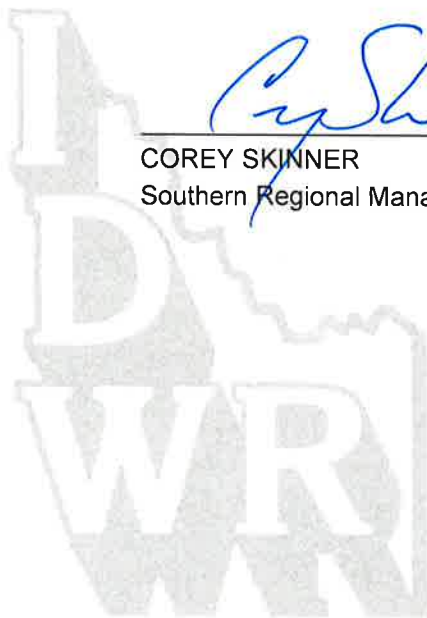
1. Proof of application of water to beneficial use shall be submitted on or before **December 01, 2021**.
2. Subject to all prior water rights.
3. Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No.170.
4. This right does not grant any right-of-way or easement across the land of another.
5. Prior to diversion of water under this right, the right holder shall install a lockable device, subject to the approval of the Department, in a manner that will provide the watermaster suitable control of the diversion.
6. The right holder shall install or construct a straight length of conduit or ditch suitable for installation of a device for measuring the entire flow of water being diverted in connection with this right. If the right holder uses conduit, the straight length of conduit shall be at least fifteen times the diameter of the conduit and shall be above ground or otherwise easily accessible.
7. Upon specific notification by the Department, the right holder shall install and maintain acceptable measuring device(s), including data logger(s), at the authorized point(s) of diversion, in accordance with Department specifications.

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8. When notified by the Department or by a watermaster with regulatory authority over this right, the right holder shall report the amount of water diverted in connection with this right. The report shall be submitted in the manner and frequency specified by the Department or the watermaster.
9. Aesthetic use is for a for a small stream and splash pool near cabin.

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

Signed this 6th day of December, 20 14.





COREY SKINNER
Southern Regional Manager

State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

72-16978

This map depicts the AESTHETIC 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.

15E

11N



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

0 0.035 0.07 0.14 Miles





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

December 6, 2019

GLORIA BAIRD SCHWARTING
409 RIVER ST
SALMON ID 83467-4162

RE: Permit No. 72-16978

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 me at (208) 736-3033.

Sincerely,

A handwritten signature in blue ink, appearing to read "Corey Skinner". The signature is fluid and cursive, with a long horizontal stroke at the end.

Corey Skinner
Southern Regional Manager

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on December 06, 2019, I served a true and correct copy of Permit to Appropriate Water No. 72-16978 by U.S. Mail, postage prepaid, to the following:

GLORIA BAIRD SCHWARTING (Current Owner)
409 RIVER ST
SALMON ID 83467-4162

WATER DISTRICT #170
CINDY YENTER (Watermaster)
102 S WARPATH
SALMON ID 83467



Denise Maline
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.

RECEIVED
NOV 25 2019
DEPT OF WATER RESOURCES
SOUTHERN REGION

Proof of Publication Challis Messenger

RECEIVED
NOV 18 2019
DEPARTMENT OF
WATER RESOURCES

State of Idaho, County of Custer; ss:

I, ~~Dawn Giannini~~ or Collins Crapo, representing the Challis Messenger, a weekly newspaper, published at Challis, Idaho, do solemnly swear that the notice hereto attached and made a part hereof, was published in the regular and entire issue of the Challis Messenger under ad number 174111 for 2 consecutive weeks, commencing with the issue dated Nov 6 2019 and ending with the issue dated Nov 13 2019.

Collins Crapo
Date 11-14-2019

ACCTS. PAYABLE

RECEIVED
NOV 18 2019

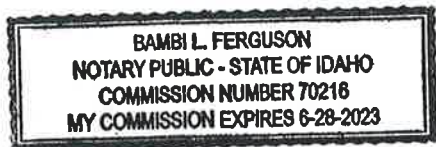
STATE OF IDAHO

ss.

COUNTY OF CUSTER

On this 14th day of November in the year of 2019, before me, a Notary Public, personally appeared ~~Dawn Giannini~~ or Collins Crapo, 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 (s)he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



Bambi L. Ferguson
Notary Public for The Post Company
Residing: Idaho Falls, Idaho
Commission expires:

✓ DM 11/25/2019



3-3-2019
11/2/2019
11/2/2019

The following application(s) have been filed to appropriate the public waters of the State of Idaho:

72-16978

GLORIA BAIRD SCHWARTING
409 RIVER ST

SALMON, ID 83467-4162

Point of Diversion SENW S25 T11N R15E
CUSTER County Source PEACH CREEK Tributary SALMON RIVER

Use: AESTHETIC 01/01 to 12/31 0.2 CFS

Total Diversion: 0.2 CFS

Date Filed: 9/30/2019

Place Of Use: AESTHETIC

T11N R15E S25 SENW

Application for permit proposes diversion of up to 0.20 cfs for Aesthetic purposes from Peach Creek, tributary to the Salmon River. The point of diversion and place of use are located approximately 12.2 miles west and 0.2 miles south of Clayton. This application proposes the diversion and use of water from Peach Creek, tributary to the Salmon River Wild & Scenic River. The decreed minimum stream flow rights for the federal Wild & Scenic Rivers are subordinate to certain categories of water use and to specific amounts of water use established after the minimum stream flow. The water use proposed in this application will benefit from the subordination provision because the diversion rate will be applied to the subordination amounts specified in the decree for the Wild & Scenic River listed above.

Permits will be subject to all prior water rights. For additional information concerning the property location, contact Southern Region office at (208) 736-3033; or for a full description of the right(s), please see research.idwr.idaho.gov. 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, 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 **November 25, 2019**. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Published: November 6th & 13th, 2019

(174111-69498)

✓ dm 11/25/2019



IDAHO DEPARTMENT OF FISH AND GAME
SALMON REGION
99 Highway 93 North
Salmon, Idaho 83467

RECEIVED

NOV 22 2019

DEPARTMENT OF
WATER RESOURCES

Brad Little / Governor
Ed Schriever / Director

November 18, 2019

State of Idaho Department of Water Resources,
ATTN: Jean Hersley, Technical Records Specialist II
322 East Front Street
P.O. Box 83720
Boise, ID 83720

Gloria Schwarting
409 River Street
Salmon, ID 83467

RECEIVED
NOV 27 2019
DEPARTMENT OF WATER RESOURCES
SOUTHERN REGION

State of Idaho Department of Water Resources,
Salmon Field Office
ATTN: Cindy Yenter, Water District 170 Watermaster
102 S. Warpath, Salmon, Idaho 83467

**RE: Water Right Application for Permit No. 72-16978 – Peach Creek,
tributary to the Salmon River**

Dear Jean, Cindy and Gloria:

The Idaho Department of Fish and Game (IDFG) has reviewed the above referenced Application for Permit submitted by Gloria Schwarting (Applicant). The Applicant seeks to appropriate 0.20 cfs of public surface water from Peach Creek for aesthetic purpose and for the construction of a small splash pool near the cabin site from January 1 through December 31.

Based on the detail of the Water Right application and a phone conversation with the Applicant on 11/14/2019, the IDFG has no further environmental, fisheries or wildlife comments relative to this application. If you have any questions, please contact the Region's Environmental Staff Biologist, Jeff Richards at (208) 756-2271.

Sincerely,

Tom Curet
Regional Supervisor

TC: jr

CC: Greg Schoby (IDFG-Salmon)
Mike Demick (IDFG-Salmon)

Keeping Idaho's Wildlife Heritage

Maline, Denise

From: Yenter, Cindy
Sent: Tuesday, November 19, 2019 11:49 AM
To: Maline, Denise; Bitzenburg, James
Subject: watermaster comments 72-16978 Schwarting

WD170 has no objections to this approval.

WD Flag = 170

This non-irrigation diversion is less than 0.24 cfs and will be initially waived from the measurement requirement.. Please use the "after specific notification" condition.

*Cindy Yenter
Watermaster, Water District 170
IDWR Salmon Field Office
102 S Warpath, Salmon ID 83467
cindy.yenter@idwr.idaho.gov
208-742-0655
208-731-0901 cell*

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GARY SPACKMAN, Director

Published: November 6th & 13th, 2019

(174111-69498)

✓ *lm* 11-6-2019

**Proof of legal notice received
from Challis Messenger 11/4/2019**