

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 83665**

This is to certify that: **GLORIA BAIRD SCHWARTING**
409 RIVER ST
SALMON, ID 83467-4162

has requested a change to the water right(s) listed below. This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code. A summary of the changes is also listed below. The authorized change for each affected water right, including conditions of approval, is shown on the following pages of this document.

Summary of Water Rights Before the Proposed Changes

<u>Water Right</u>	<u>Origin/Basis</u>	<u>Priority Date</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>Source</u>
72-4052B	WR/DECREED	6/11/1900	0.150 cfs	N/A	N/A	4.2	PEACH CREEK

Purpose of Transfer (Changes Proposed)

<u>Current Number</u>	<u>Split</u>	<u>POD</u>	<u>POU</u>	<u>Add POD</u>	<u>Period of Use</u>	<u>Nature of Use</u>
72-4052B	NO	YES	NO	NO	NO	NO

Summary Of Water Rights After the Approved Change

<u>Existing Right</u>	<u>New No. (Changed Portion)</u>	<u>Transfer Rate</u>	<u>Transfer Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>New No. (remaining portion)</u>	<u>Remaining Rate</u>	<u>Remaining Volume</u>	<u>Remaining Acre Limit</u>	<u>Remaining Total Acres</u>
72-4052B	72-4052B	0.150 cfs	N/A	N/A	4.2	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		0.150 cfs	N/A	N/A	4.2		N/A	N/A	N/A	N/A

This water right(s) is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources. Detailed Water Right Description(s) attached.

Dated this 25th day of November, 2019.



Southern Region Manager

Transfer No. 83665

WATER RIGHT NO. 72-4052B
As Modified by Transfer No. 83665

In accordance with the approval of Transfer No. 83665, Water Right No. 72-4052B is now described as follows:

Right Holder: GLORIA BAIRD SCHWARTING
 409 RIVER ST
 SALMON, ID 83467-4162

Priority Date: 6/11/1900

Source: PEACH CREEK

Tributary: SALMON RIVER

BENEFICIAL USE
 IRRIGATION

From 4/01 **To** 10/31

Diversion Rate
 0.150 cfs
 0.150 cfs

LOCATION OF POINT(S) OF DIVERSION

PEACH CREEK NENW Sec 25 Twp 11N Rge 15E CUSTER County

PLACE OF USE: IRRIGATION

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
11N	15E	25			1.4					2.6	0.2								4.2

POU Total Acres: 4.2

CONDITIONS OF APPROVAL

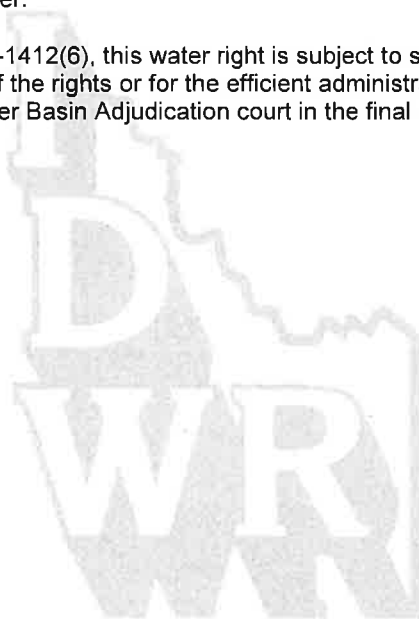
1. Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 170.
2. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
3. 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.
4. Property is located within Homestead Entry No. 136.
5. This right does not grant any right-of-way or easement across the land of another.
6. This right when combined with all other rights shall provide no more than 3.0 afa per acre at the field headgate for irrigation of the place of use.

Transfer No. 83665

WATER RIGHT NO. 72-4052B
As Modified by Transfer No. 83665

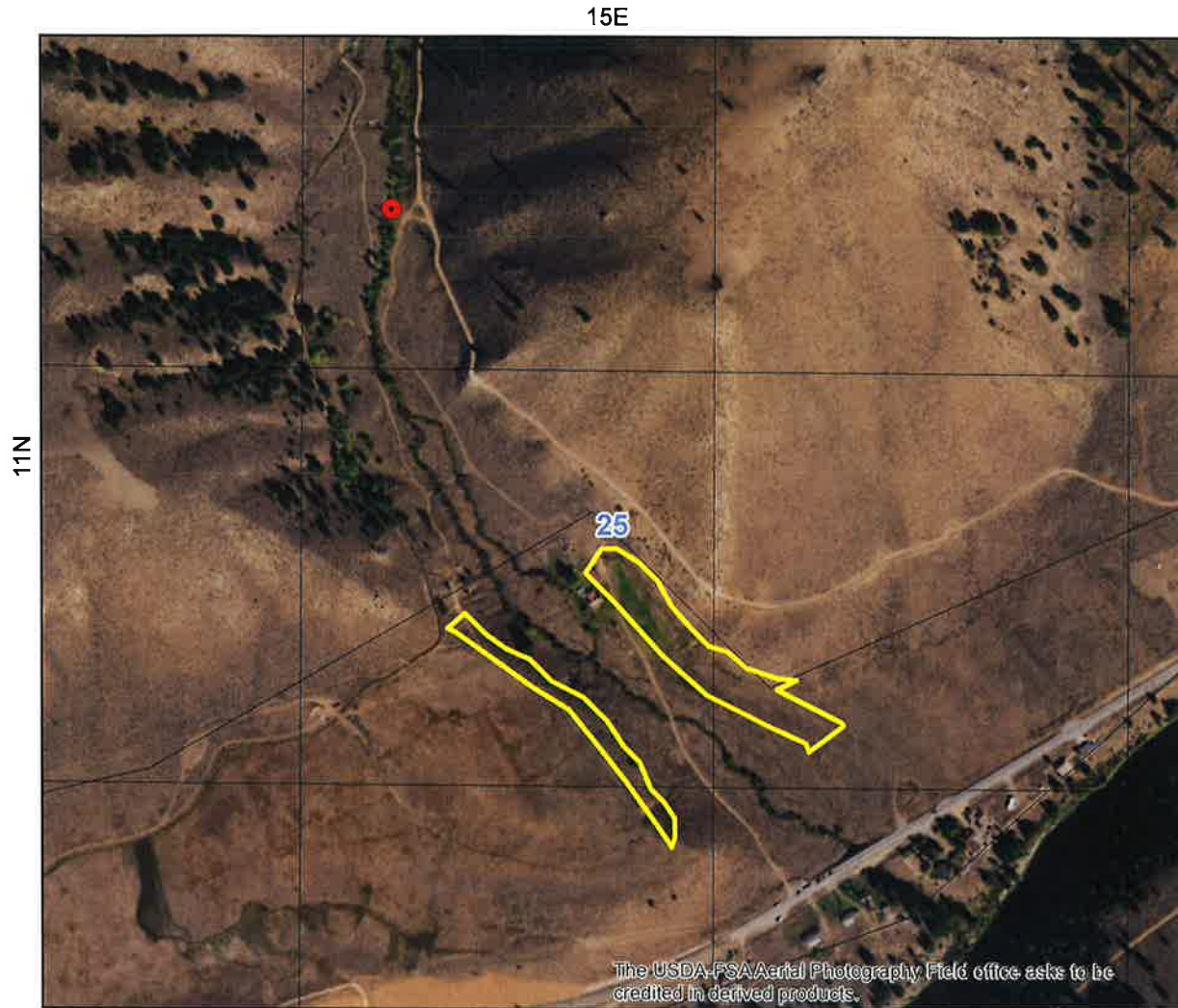
CONDITIONS OF APPROVAL

7. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
8. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
9. Pursuant to Idaho Code § 42-1412(6), this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.



State of Idaho
Department of Water Resources
Attachment to Transfer # 83665
72-4052B

This map depicts the IRRIGATION 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.



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

0 0.05 0.1 0.2 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 • Email: southerninfo@idwr.idaho.gov

BRAD LITTLE
Governor

GARY SPACKMAN
Director

November 26, 2019

GLORIA BAIRD SCHWARTING
409 RIVER ST
SALMON ID 83467-4162

Re: Transfer No: 83665
Water Right No(s): 72-4052B

Transfer Approval Notice

Dear Water Right Holder and other Interested Persons:

The Department of Water Resources has issued the enclosed approved Transfer of Water Right(s). Please be sure to thoroughly review the conditions of approval and remarks listed on the approval document.

The Transfer of Water Right(s) 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 by the Department unless the APPLICANT petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date as described in the enclosed information sheet.

ANY PERSON aggrieved by any decision, determination, order or action 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 Department and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

If the transfer approval includes a condition requiring measuring and recording devices, such devices shall comply with specifications established by the Department. Detailed specifications are available on the Department's home page on the Internet, or you can request a copy by contacting any office of the Department. Please be sure to thoroughly review the specifications to avoid unnecessary costs for reinstallation or modification due to non-conforming or improperly installed devices.

Please note that water right owners are required to report any change of water right 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. Contact any office of the Department or visit the Department's homepage on the Internet to obtain the proper forms and instructions.

If you have any questions, 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 the first name "Corey" being more prominent than the last name "Skinner".

Corey Skinner
Southern Regional Manager

Enclosure

c:

CINDY YENTER
WATER DISTRICT 170
102 S WARPATH
SALMON ID 83467

CERTIFICATE OF SERVICE

I hereby certify that on November 26, 2019 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (Approved Transfer) to the person(s) listed below:

Re: Transfer No.: 83665
Water Right No(s): 72-4052B

GLORIA BAIRD SCHWARTING
409 RIVER ST
SALMON ID 83467-4162

CINDY YENTER
WATER DISTRICT 170
102 S WARPATH
SALMON ID 83467

A handwritten signature in blue ink that reads "Denise Maline". The signature is written in a cursive style and is positioned above a horizontal line.

Denise Maline
Administrative Assistant

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

Date: November 6, 2019
To: Transfer #83665, Gloria Schwarting file
From: Jim Bitzenburg
Re: Evaluation of Sufficiency of Information Submitted

Application for transfer proposes to change the point of diversion (POD) for irrigation water right 72-4052B (0.15 cfs, 4.2 acres) which is currently diverted from two PODs on Peach Creek located approximately 12.2 miles west of Clayton. The proposed POD will also be located on Peach Creek, about midway between the two existing PODs.

The proposed transfer is in Water District 170 and Watermaster comments were solicited; the Watermaster did not oppose the transfer. The transfer was advertised, with no protests filed.

- **Authority to File:**
The application was filed in the name of Gloria Schwarting. Gloria Schwarting signed the transfer.
- **Water Right Validity:**
Water right 72-4052B was decreed in 2005. Recent aerial imagery appears to show limited irrigation and the applicant indicates that a property split has cut off her access to one of the original PODs which has caused the deficiency in irrigation.
- **Injury to Other Water Rights:**
None anticipated or foreseen. The POD will be moving to about the midpoint between the two existing PODs.
- **Enlargement of Use:**
None anticipated. Flow rates, volumes, or irrigated acres will not change. The right will be administered by WD-170.
- **Local Public Interest:**
No issues anticipated. The application was advertised and was not protested.
- **Beneficial Use/Conservation of Water Resources:**
Proposed use is recognized as a beneficial use of water.
- **Effect on the Economy of the Local Area:**
None Anticipated
- **Effect of the Agricultural Base of the Area:**
None Anticipated

Review of the application finds there is no clear inconsistency with criteria set forth in Section 42-222 Idaho Code preventing processing of this application.

Proof of Publication Challis Messenger

RECEIVED

OCT 28 2019

DEPT OF WATER RESOURCES
SOUTHERN REGION

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 171324 for 2 consecutive weeks, commencing with the issue dated Oct 16 2019 and ending with the issue dated Oct 23 2019.

[Signature]
Date 10-24-2019

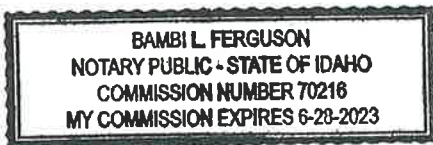
STATE OF IDAHO

ss.

COUNTY OF CUSTER

On this 24th day of October 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.



[Signature]
Notary Public for The Post Company
Residing: Idaho Falls, Idaho
Commission expires:

✓ DM 11-1-2019



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

71-10999

WOOLLEY RANCH LLC

PO BOX 23

STANLEY, ID 83278-0023

Point of Diversion L2(SENW) S35 T11N R13E
CUSTER County Source GROUND WATER
Tributary

Use: IRRIGATION 05/01 to 10/31 0.2 CFS

Total Diversion: 0.2 CFS

Date Filed: 6/13/2019

Place Of Use: IRRIGATION

T11N R13E S35 L2(SENW) L2(NESW) L7
(NWSW)

Total Acres: 10

Application for permit proposes to divert 0.20 cfs of ground water from a shallow well for the irrigation of 10 acres. The point of diversion and the place of use is on property located down river from Lower Stanley approximately 1.5 miles north and 0.9 miles east of the Highway 21 & Highway 75 intersection at Stanley. This application proposes the diversion and use of water from ground water 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 of 0.20 cfs and 10 acres will be applied to the subordination amounts specified in the decree for the Wild & Scenic River listed above.

NOTICE OF PROPOSED CHANGE OF WATER RIGHT

TRANSFER NO. 83665

✓ GLORIA BAIRD SCHWARTING, 409 RIVER ST, SALMON, ID 83467-4162; has filed Application No. 83665 for changes to the following water rights within CUSTER County(s): Right No(s). 72-4052B. The purpose of the transfer is to change a portion of the above rights as follows: Application for transfer proposes to change the point of diversion (POD) for irrigation water right 72-4052B (0.15 cfs, 4.2 acres) which is currently diverted from two PODs on Peach Creek located approximately 12.2 miles west of Clayton. The proposed POD will also be located on Peach Creek, about midway between the two existing PODs.

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 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 **November 4, 2019**. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Published on October 16th & 23rd, 2019

(171324-69104)

✓ OK dm 11-1-2019

State of Idaho
Department of Water Resources

RECOMMENDATION OF WATERMASTER

RECEIVED
OCT 22 2019
DEPT OF WATER RESOURCES
SOUTHERN REGION
E-mail

Application No: 72-4052B
Water Right No: 83665
Applicant Name: Schwarting

Watermaster's Recommendation:

- a) ☒ I do not oppose approval of this application
b) ☐ I do not oppose approval of this application under the following terms:
c) ☐ I oppose approval of this application(s) for the following reasons:
d) ☐ Additional comment:

WD Flag = 170. Measurement not required <5 acres. Use standard W&S conditions
01H, 196, 197, 198.

Dated: October 22, 2019

Water District 170



Cindy Yenter, Watermaster

POST REGISTER
PO BOX 1800
IDAHO FALLS ID 83403
(208)522-1800
Fax (208)522-5790

ORDER CONFIRMATION

Salesperson: TAYLOR WINGER

Printed at 10/10/19 13:32 by dgian-cy

Acct #: 69104

Ad #: 171324

Status: New WHOLD

IDAHO DEPARTMENT OF WATER RESOURCES
650 ADDISON AVE W STE 500
TWIN FALLS ID 83301

Start: 10/16/2019 Stop: 10/23/2019
Times Ord: 2 Times Run: ***
ILEG 1.00 X 76.00 Words: 449
Total ILEG 76.00
Class: 9000 LEGALS
Rate: LEGL Cost: 171.00
Affidavits: 1

Contact: DENISE MALINE
Phone: (208)736-3033

Ad Descript: THE FOLLOWING APPLICATION
Given by: *

Fax#:
Email: denise.maline@idwr.idaho.gov
Agency:

P.O. #:
Created: dgian 10/10/19 13:28
Last Changed: dgian 10/10/19 13:32

PUB ZONE EDT TP RUN DATES
CM A 95 S 10/16,23

AUTHORIZATION

Under this agreement rates are subject to change with 30 days notice. In the event of a cancellation before schedule completion, I understand that the rate charged will be based upon the rate for the number of insertions used.

Denise Maline
Name (print or type)

Denise Maline
Name (signature)

(CONTINUED ON NEXT PAGE)

✓ DM 10.11.2019

**Proof of legal notice received from Post Register
for Challis Messenger 10/10/2019**

POST REGISTER
PO BOX 1800
IDAHO FALLS ID 83403
(208) 522-1800
Fax (208) 522-5790

ORDER CONFIRMATION (CONTINUED)

Salesperson: TAYLOR WINGER

Printed at 10/10/19 13:32 by dgian-cy

Acct #: 69104

Ad #: 171324

Status: New WHOLD WHOI

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PO BOX 23
STANLEY, ID 83278-0023
Point of Diversion L2(SENW) S35 T11N R13E
CUSTER County Source GROUND WATER
Tributary
Use: IRRIGATION 05/01 to 10/31 0.2 CFS
Total Diversion: 0.2 CFS
Date Filed: 6/13/2019
Place Of Use: IRRIGATION
T11N R13E S35 L2(SENW) L2(NESW) L7
(NWSW)
Total Acres: 10

Application for permit proposes to divert 0.20 cfs of ground water from a shallow well for the irrigation of 10 acres. The point of diversion and the place of use is on property located down river from Lower Stanley approximately 1.5 miles north and 0.9 miles east of the Highway 21 & Highway 75 intersection at Stanley. This application proposes the diversion and use of water from ground water 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 of 0.20 cfs and 10 acres will be applied to the subordination amounts specified in the decree for the Wild & Scenic River listed above.

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✓ dm 10/11/2019

GARY SPACKMAN, Director
Published on October 16th & 23rd, 2019
(171324-69104)