

State of Idaho
Department of Water Resources
Permit to Appropriate Water
No. 65-23845

Priority: July 30, 2019

Maximum Diversion Rate: 1.26 CFS

This is to certify that

BLACKHAWK ON THE RIVER LLC PO BOX 10117 BOISE ID 83707-4117

has applied for a permit to appropriate water from:

Source : GROUND WATER

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

Beneficial Use

IRRIGATION

Period of Use

04/15 to 10/31

Rate of Diversion

1.26 CFS

Location of Point(s) of Diversion

GROUND WATER L1 (SE¼ SE¼), Sec. 25, Twp 18N, Rge 02E, B.M. VALLEY County

GROUND WATER L1 (SE¼ SE¼), Sec. 25, Twp 18N, Rge 02E, B.M. VALLEY County

Place of Use: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
18N	02E	25									2.0			9.0	5.0	15.0	19.0	2.0 L1	52.0
18N	02E	36	1.0	1.0 L2			2.0	1.0											5.0
18N	03E	30										4.0	2.0 L11						6.0

Total Acres: 63.0

Conditions of Approval

1. Proof of application of water to beneficial use shall be submitted on or before **November 01, 2024**.
2. Subject to all prior water rights.
3. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.0 afa per acre at the field headgate for irrigation of the place of use.
4. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.
5. 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.
6. Right holder shall comply with the drilling permit requirements of Idaho Code § 42-235 and applicable Well Construction Rules of the Department.

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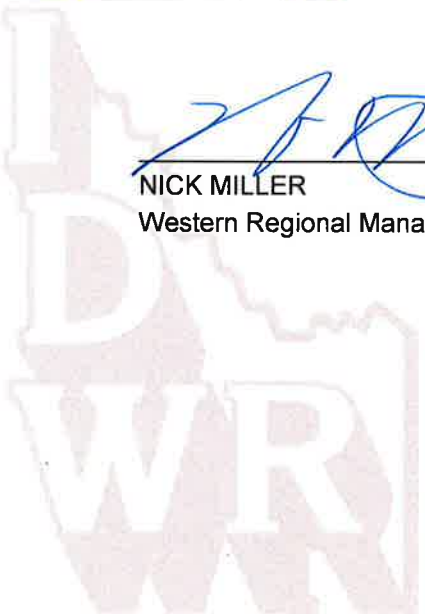
7. The Director retains jurisdiction to require the right holder to provide purchased or leased natural flow or stored water to offset depletion of Lower Snake River flows if needed for salmon migration purposes. The amount of water required to be released into the Snake River or a tributary, if needed 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.

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

Signed this 14th day of November, 2019.


NICK MILLER

Western Regional Manager

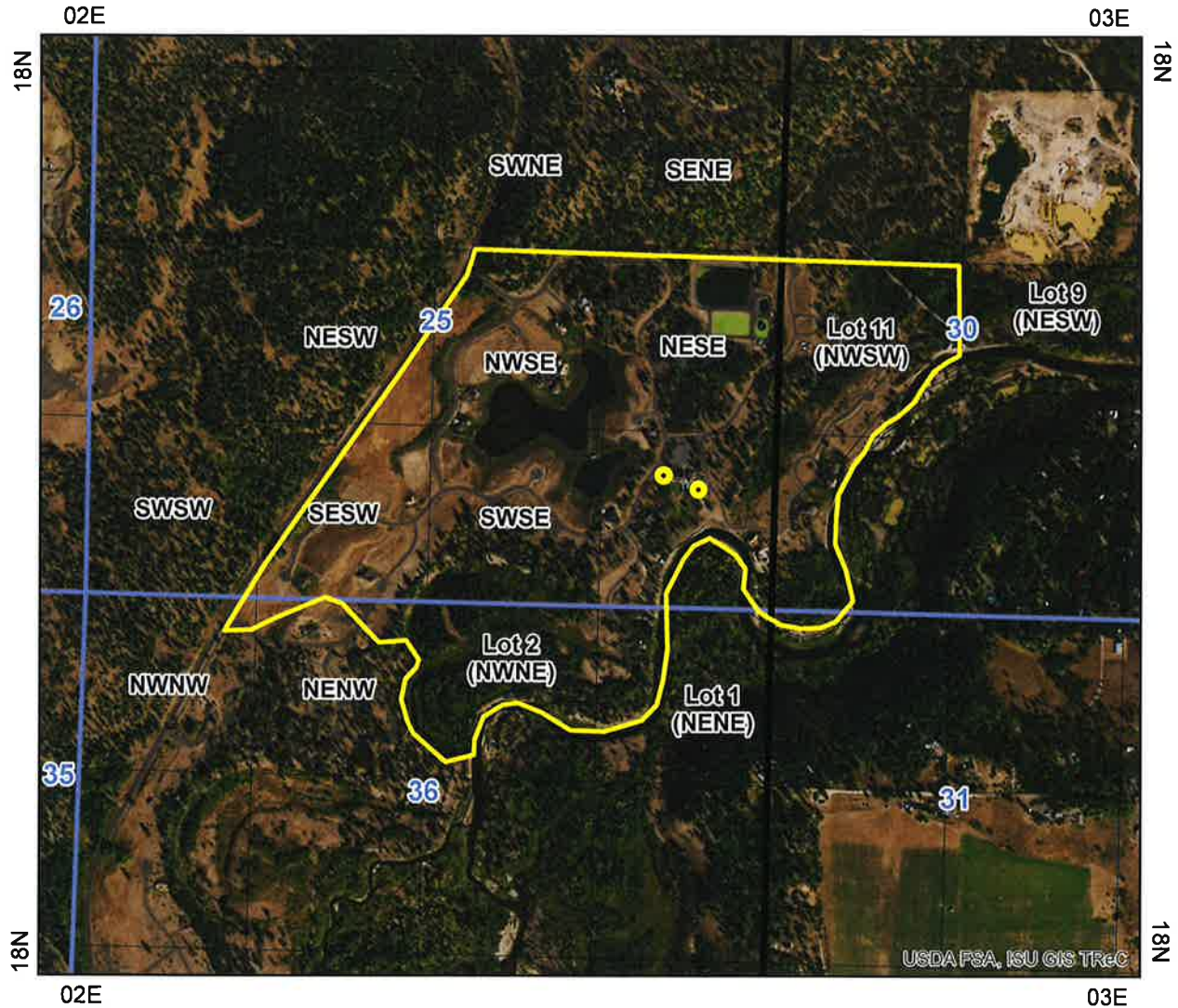


State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

65-23845

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.



- 02E 03E
- Point of Diversion
 - Place Of Use Boundary
 - Townships
 - PLS Sections
 - Quarter Quarters

0 0.15 0.3 0.6 Miles





State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region • 2735 W AIRPORT WAY • BOISE, ID 83705-5082

Phone: (208)334-2190 • Fax: (208)334-2348 • Website: www.idwr.idaho.gov

Brad Little
Governor

Gary Spackman
Director

November 14, 2019

BLACKHAWK ON THE RIVER LLC
PO BOX 10117
BOISE ID 83707-4117

RE: Permit No. 65-23845

Permit Approval Notice

Dear Permit Holder:

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) 334-2190.

Sincerely,



Anna Kaiser

For

Nick Miller

Western Regional Manager

Enclosures

CERTIFICATE OF SERVICE

I hereby certify that on November 14, 2019, I served a true and correct copy of Permit to Appropriate Water No. 65-23845 by U.S. Mail, postage prepaid, to the following:

BLACKHAWK ON THE RIVER LLC (Current Owner)
PO BOX 10117
BOISE ID 83707-4117

SPF WATER ENGINEERING LLC (Representative)
C/O TERRY SCANLAN
300 E MALLARD DR STE 350
BOISE ID 83706-6660



Anna Kaiser
Water Resource Agent

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.

Kelly, Patrick

From: Nelson, Dan
Sent: Friday, November 01, 2019 11:25 AM
To: Kelly, Patrick
Subject: RE: Blackhawk

Patrick,

There are a couple of things that I remember from that file.

First, the subdivision plat submitted with the field report didn't match the subdivision plats they submitted to the County. They claimed that there more lots than what the tax parcel information from the county showed. We had a pretty hard time figuring out how to do the X59 and X60 conditions. I would compare the parcels submitted in their permit application to the county tax parcels to see if they match up. If not I would ask them to provide proof of what really is there. When I was done with reviewing the field exam report, we actually found more connections than what was recommended in the field report prepared by Terry Scanlan. This is not as big of a deal as the domestic use, but it may come into play at licensing.

Another thing that was weird was that they had a 15 hp Pump and a 100 Hp pump in the same well. There is also a 40 Hp pump in a separate well. The 15 Hp and 40 hp were measured together, but Terry did a theoretical on the 100 Hp pump. The 15 Hp and the 40 Hp could provide all the water needed for the domestic needs and the diversion to storage needs for the existing right, so we didn't worry too much about it yet. However, if another field exam is done, all three pumps (2 wells) should be measured while all three pumps are in operation. Terry did a theoretical on the 100 Hp pump, but I just don't feel right about that. I have a feeling they can't run the 15 Hp and the 100 Hp at the same time. With this irrigation right, I really think they will need to run the 100 Hp. I would like to require a measurement device be installed on the 100Hp pump, or at least require a measurement using a standard device be done by a certified water right examiner of all three pumps operating at the same time at the time proof of beneficial use was filed. Unfortunately, due to its location, I don't know if we can make that a condition on the permit.

Lastly, the original permit was in the name of SGI, LLC, and they changed it to Blackhawk on the River. I have a feeling that somewhere down the line, the developer is going to dump this on the homeowner's association. I would see if they would put the right in the name of the homeowner's association now.

Other than these three things, I can't think of anything else that would be an issue. I hope this helps you.

Dan Nelson

From: Kelly, Patrick
Sent: Friday, November 01, 2019 10:53 AM
To: Nelson, Dan <Dan.Nelson@idwr.idaho.gov>
Subject: Blackhawk

Hey Dan!

We are ready to approve this app for permit for additional irrigation use at Blackhawk on the River LLC. I see that you have done some licensing work on 65-22945 and just thought I would reach out to see if you find anything particularly odd that stands out. Much appreciated, hope all is well over there!

Patrick Kelly
Water Rights Supervisor
Emergency Agency Coordinator
2735 Airport Way

Novak, Shilynn

From: Lori Graves <LGraves@spfwater.com>
Sent: Friday, October 4, 2019 11:12 AM
To: Novak, Shilynn
Cc: Terry Scanlan; Marci Pape
Subject: RE: Blackhawk on the River POU

Hi Shilynn,

The place of use is the difference between what was originally proposed on permit 65-22945 and what was actually developed by 2015 and recommended for licensing. Dan Nelson is currently reviewing the BUFE we recently submitted for permit 65-22945. The proposed acres on application 65-23845 have yet to be developed. Do we need to propose a ppu? IDWR has accepted general irrigation boundary areas in the past for **proposed** irrigation development. Then, during the licensing process, the specific acres found **developed** are then identified in the BUFE, for which shape files can be provided.

From: Novak, Shilynn <Shilynn.Novak@idwr.idaho.gov>
Sent: Tuesday, September 17, 2019 8:20 AM
To: Terry Scanlan <TScanlan@spfwater.com>
Subject: Blackhawk on the River POU

Hi Terry,

I am working on the Application for Permit for Blackhawk on the River, LLC (copy attached) and wanted to discuss the place of use (POU). Before we can proceed with the permitting process, we need a new map that better represents the areas to be irrigated within the POU. The map sent with the application was close, but we need an additional map that shows the specific areas to be irrigated. If you can email me a new map (including government lot numbers with the PLSS) that has the boundaries of the acres to be irrigated, we can continue with the permitting process.

I appreciate your help in advance. Please let me know if you have any questions.

Shilynn Novak | Water Resource Agent
Idaho Department of Water Resources
Email: Shilynn.Novak@idwr.idaho.gov
Phone: (208) 334-2190

Publisher's Affidavit of Publication

RECEIVED

SEP 11 2019

WATER RESOURCES
WESTERN REGION

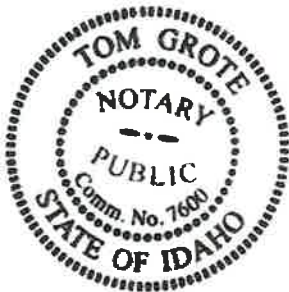
STATE OF IDAHO }
County of Valley } .ss

I, Tricia Warren, being duly sworn and say, I am the office manager of The Star-News, a weekly newspaper published at McCall, in the County of Valley, State of Idaho; that said newspaper is in general circulation in the county of afore said and is a legal newspaper; that the PUBLIC NOTICE, a copy of which is enclosed hereto and is a part hereof, was published in said newspaper once a week for a period of two weeks in the regular and entire issue of every number there of during the period of time of publication, and was published in the newspaper proper and not in a supplement; and that publication of such notice began August 15, 2019 and ended August 22, 2019.

Tricia Warren

Subscribed and sworn before me this the 22nd day of August, 2019.
STATE OF IDAHO
COUNTY OF VALLEY

On this 22nd day of August in the year of 2019, before me, a Notary Public, personally appeared Tricia Warren, 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 she executed the same.



Tom Grote
Tom Grote

Notary Public for Idaho
Residing at McCall, Idaho
Commission Expires 1/19/2024

STATE OF IDAHO DEPARTMENT OF WATER RESOURCES

The following application has been filed to appropriate the public waters of the State of Idaho:
65-23845

BLACKHAWK ON THE RIVER LLC

PO BOX 10117
BOISE, ID 83707-4117
(2) Points of Diversion L1(SESE) S25
T18N R02E VALLEY County Source
GROUND WATER
Use: IRRIGATION 04/15 to 10/13
1.26 CFS

Total Diversion: 1.26 CFS
Date Filed: 7/30/2019
Place Of Use: IRRIGATION
T18N R02E S25 NESW SESW
NESE NWSE SWSE SESE
T18N R02E S36 NENE NWNE
NENW NWNW
T18N R03E S30 NWSW SWSW
Total Acres: 63

Permits will be subject to all prior water rights. For additional information concerning the property location, contact Western Region office at (208) 334-2190; or for a full description of the right(s), please see www.idwr.idaho.gov. Protests may be submitted based on the criteria of Idaho Code § 42-203A. Any protest against the approval of the application(s) must be filed with the Director, Dept. of Water Resources, Western Region, 2735 Airport Way, Boise ID 83705 together with a protest fee of \$25.00 for each application on or before 9/3/2019. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN,
Director
2tc8/22

*Job
AK
9/11/19*