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RECEIVED
SEP 30 2019

FORM 202 Rev. 09/16

STATE OF IDAHO DEPT OF WATER RESOURCES SOUTHERN REGION
DEPARTMENT OF WATER RESOURCES
Ident. No. 72-16978
APPLICATION FOR PERMIT
To appropriate the public waters of the State of Idaho

1. Name of applicant(s) Gloria Schwarting Phone 208-940-0131
Name connector (check one): ☐ and ☐ or ☐ and/or
Mailing address 409 River St City Salmon
State ID _____ ZIP 83467 Email gloriasch1948@gmail.com
2. Name of representative, if any _____ Phone _____
Mailing address _____ City _____
State _____ ZIP _____ Email _____
- a. ☐ Send all correspondence for this application to the representative and not to the applicant OR
☐ Send original correspondence to the applicant and copies to the representative.
- b. ☐ The representative may submit information for the applicant but is not authorized to sign for the applicant OR
☐ The representative is authorized to sign for the applicant. Attach a Power of Attorney or other documentation.
3. Source of water supply Peach Creek which is a tributary of Salmon River
4. Location of point(s) of diversion:

Twp	Rge	Sec	Govt Lot	1/4	1/4	1/4	County	Source	Local name or tag #
11N	15E	25			SE	NW	Custer	Peach Creek	PEC1

5. Water will be used for the following purposes:
- Amount 0.20 for Aesthetic purposes from 01/01 to 12/31 (both dates inclusive)
(cfs or acre-feet per year)
- Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per year)
- Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per year)
- Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per year)
6. Total quantity to be appropriated is (a) 0.20 cubic feet per second (cfs) and/or (b) _____ acre-feet per year (af).
7. Proposed diverting works:
- a. Describe type and size of devices used to divert water from the source. Small ditch carries water from creek past cabin and back to creek.
- b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet. If the reservoir will be filled more than once each year, describe the refill plan in item 12. For dams 10 feet or more in height AND having a storage capacity of 50 acre-feet or more, submit a separate [Application for Construction or Enlargement of a New or Existing Dam](#). Application required? ☐ Yes ☐ No
- c. Proposed well diameter is _____ inches; proposed depth of well is _____ feet.
- d. Is ground water with a temperature of greater than 85°F being sought? ☐ Yes ☐ No
- e. If well is already drilled, when? _____; drilling firm _____;
well was drilled for (well owner) _____; Drilling Permit No. _____

For Department Use
Received by SG Date 9-30-2019 Time _____ Preliminary check by _____
Fee \$ 100.00 Received by SG Receipt No. 5037562 Date 9/30/19

8. Description of proposed uses (if irrigation only, go to item 9):
- Hydropower; show total feet of head and proposed capacity in kW. _____
 - Stockwatering; list number and kind of livestock. _____
 - Municipal; must complete and attach the [Municipal Water Right Application Checklist](#).
 - Domestic; show number of households _____
 - Other; describe fully. Aesthetic use in small stream and splash pool near cabin site.
9. Description of place of use:
- If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
 - If water is used for other purposes, place a symbol of the use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RGE	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									

Total number of acres to be irrigated: _____

10. Describe any other water rights used for the same purposes as described above. Include water delivered by a municipality, canal company, or irrigation district. If this application is for domestic purposes, do you intend to use this water, water from another source, or both, to irrigate your lawn, garden, and/or landscaping? Irrigation right 72-4052B. The diversion for irrigation is being moved up the creek. This diversion will be for aesthetic use only.
11. a. Who owns the property at the point of diversion? applicant USFS *per 10/7/19 email from Gloria Schwartz*
b. Who owns the land to be irrigated or place of use? USFS Applicant
c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: have applied for a special use permit
12. Describe your proposal in narrative form, and provide additional explanation for any of the items above. Attach additional pages if necessary. This right will use the old irrigation diversion. A culvert and headgate will be installed and a measuring device will be included if required.
13. Time required for completion of works and application of water to proposed beneficial use is 2 years (minimum 1 year).
14. **MAP OF PROPOSED PROJECT REQUIRED** - Attach an 8½" x 11" map or maps clearly identifying the proposed point of diversion, place of use, section #, township & range. The map scale shall not be less than two (2) inches equal to one (1) mile.

The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval.

Gloria Schwartz
Signature of Applicant
GLORIA SCHWARTZ
Print Name (and title, if applicable)

Signature of Applicant

Print Name (and title, if applicable)



POD • PEC1

11N15E

25

Peach Creek

Peach Creek Rd

PLACE OF USE

return to Peach Creek

72-16978

The USDA-PSA Aerial Photography Field office asks to be credited in derived products.

APPLICATION FOR TRANSPORTATION AND
UTILITY SYSTEMS AND FACILITIES
ON FEDERAL LANDS

FORM APPROVED
OMB NO. 0596-0082
APR 13 2009

FOR AGENCY USE ONLY

NOTE: Before completing and filing the application, the applicant should completely review this package and schedule a preapplication meeting with representatives of the agency responsible for processing the application. Each agency may have specific and unique requirements to be met in preparing and processing the application. Many times, with the help of the agency representative, the application can be completed at the preapplication meeting.

Application Number

Date Filed

1. Name and address of applicant (include zip code)

GLORIA SCHWARTING
409 RIVER ST.
SALMON IDAHO 83447
GLORIASCH1948@gmail.com

2. Name, title, and address of authorized agent if different from item 1 (include zip code)

landline @ Peach Creek
208 838 2281

3. Telephone (area code)

208-940-0131

Applicant

Authorized Agent

4. As applicant are you? (check one)

- a. ☒ Individual
b. ☐ Corporation*
c. ☐ Partnership/Association*
d. ☐ State Government/State Agency
e. ☐ Local Government
f. ☐ Federal Agency

5. Specify what application is for: (check one)

- a. ☐ New authorization
b. ☒ Renewing existing authorization No.
c. ☐ Amend existing authorization No.
d. ☐ Assign existing authorization No.
e. ☐ Existing use for which no authorization has been received *
f. ☐ Other*

* If checked, complete supplemental page

* If checked, provide details under item 7

6. If an individual, or partnership are you a citizen(s) of the United States? ☒ Yes ☐ No

7. Project description (describe in detail): (a) Type of system or facility, (e.g., canal, pipeline, road); (b) related structures and facilities; (c) physical specifications (Length, width, grading, etc.); (d) term of years needed; (e) time of year of use or operation; (f) Volume or amount of product to be transported; (g) duration and timing of construction; and (h) temporary work areas needed for construction (Attach additional sheets, if additional space is needed.)

a. Irrigation ditch - existing
b. water measuring device
c.
d. perpetuity
e. May thru October
f. .15 cfs
g. N/A
h. n/a

8. Attach a map covering area and show location of project proposal

9. State or Local government approval: ☒ Attached ☐ Applied for ☐ Not Required

10. Nonreturnable application fee: ☐ Attached ☐ Not required

11. Does project cross international boundary or affect international waterways? ☐ Yes ☒ No (if "yes," indicate on map)

water right

12. Give statement of your technical and financial capability to construct, operate, maintain, and terminate system for which authorization is being requested.

13a. Describe other reasonable alternative routes and modes considered.

b. Why were these alternatives not selected?

c. Give explanation as to why it is necessary to cross Federal Lands.

diversion is on Federal Land.

14. List authorizations and pending applications filed for similar projects which may provide information to the authorizing agency. (Specify number, date, code, or name)

n/a

15. Provide statement of need for project, including the economic feasibility and items such as: (a) cost of proposal (construction, operation, and maintenance); (b) estimated cost of next best alternative; and (c) expected public benefits.

n/a

16. Describe probable effects on the population in the area, including the social and economic aspects, and the rural lifestyles.

None

17. Describe likely environmental effects that the proposed project will have on: (a) air quality; (b) visual impact; (c) surface and ground water quality and quantity; (d) the control or structural change on any stream or other body of water; (e) existing noise levels; and (f) the surface of the land, including vegetation, permafrost, soil, and soil stability.

none

18. Describe the probable effects that the proposed project will have on (a) populations of fish, plantlife, wildlife, and marine life, including threatened and endangered species; and (b) marine mammals, including hunting, capturing, collecting, or killing these animals.

none

19. State whether any hazardous material, as defined in this paragraph, will be used, produced, transported or stored on or within the right-of-way or any of the right-of-way facilities, or used in the construction, operation, maintenance or termination of the right-of-way or any of its facilities. "Hazardous material" means any substance, pollutant or contaminant that is listed as hazardous under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. 9601 et seq., and its regulations. The definition of hazardous substances under CERCLA includes any "hazardous waste" as defined in the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 U.S.C. 6901 et seq., and its regulations. The term hazardous materials also includes any nuclear

or byproduct material as defined by the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2011 et seq. The term does not include petroleum, including crude oil or any fraction thereof that is not otherwise specifically listed or designated as a hazardous substance under CERCLA Section 101(14), 42 U.S.C. 9601(14), nor does the term include natural gas.

none

20. Name all the Department(s)/Agency(ies) where this application is being filed.

I HEREBY CERTIFY, That I am of legal age and authorized to do business in the State and that I have personally examined the information contained in the application and believe that the information submitted is correct to the best of my knowledge.

Signature of Applicant

Debra Schwarting

Date

4/15/19

Title 18, U.S.C. Section 1001, makes it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious, or fraudulent statements or representations as to any matter within its jurisdiction.

GENERAL INFORMATION
ALASKA NATIONAL INTEREST LANDS

This application will be used when applying for a right-of-way, permit, license, lease, or certificate for the use of Federal lands which lie within conservation system units and National Recreation or Conservation Areas as defined in the Alaska National Interest Lands Conservation Act. Conservation system units include the National Park System, National Wildlife Refuge System, National Wild and Scenic Rivers System, National Trails System, National Wilderness Preservation System, and National Forest Monuments.

Transportation and utility systems and facility uses for which the application may be used are:

1. Canals, ditches, flumes, laterals, pipes, pipelines, tunnels, and other systems for the transportation of water.
2. Pipelines and other systems for the transportation of liquids other than water, including oil, natural gas, synthetic liquid and gaseous fuels, and any refined product produced therefrom.
3. Pipelines, slurry and emulsion systems, and conveyor belts for transportation of solid materials.
4. Systems for the transmission and distribution of electric energy.
5. Systems for transmission or reception of radio, television, telephone, telegraph, and other electronic signals, and other means of communications.
6. Improved right-of-way for snow machines, air cushion vehicles, and all-terrain vehicles.
7. Roads, highways, railroads, tunnels, tramways, airports, landing strips, docks, and other systems of general transportation.

This application must be filed simultaneously with each Federal department or agency requiring authorization to establish and operate your proposal.

In Alaska, the following agencies will help the applicant file an application and identify the other agencies the applicant should contact and possibly file with:

Department of Agriculture
Regional Forester, Forest Service (USFS)
Federal Office Building,
P.O. Box 21628
Juneau, Alaska 99802-1628
Telephone: (907) 586-7847 (or a local Forest Service Office)

Department of the Interior
Bureau of Indian Affairs (BIA)
Juneau Area Office
Federal Building Annex
9109 Mendenhall Mall Road, Suite 5
Juneau, Alaska 99802
Telephone: (907) 586-7177

Department of the Interior
Bureau of Land Management
222 West 7th Avenue
P.O. Box 13
Anchorage, Alaska 99513-7599
Telephone: (907) 271-5477 (or a local BLM Office)

U.S. Fish & Wildlife Service (FWS) Office of the Regional Director 1011 East Tudor Road Anchorage, Alaska 99503 Telephone: (907) 786-3440	National Park Service (NPA) Alaska Regional Office, 2225 Gambell St., Rm. 107 Anchorage, Alaska 99502-2892 Telephone: (907) 786-3440
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Note - Filings with any Interior agency may be filed with any office noted above or with the Office of the Secretary of the Interior, Regional Environmental Office, P.O. Box 120, 1675 C Street, Anchorage, Alaska 9513.

Department of Transportation
Federal Aviation Administration
Alaska Region AAL-4, 222 West 7th Ave., Box 14
Anchorage, Alaska 99513-7587
Telephone: (907) 271-5285

NOTE - The Department of Transportation has established the above central filing point for agencies within that Department. Affected agencies are: Federal Aviation Administration (FAA), Coast Guard (USCG), Federal Highway Administration (FHWA), Federal Railroad Administration (FRA).

OTHER THAN ALASKA NATIONAL INTEREST LANDS

Use of this form is not limited to National Interest Conservation Lands of Alaska.

Individual department/agencies may authorize the use of this form by applicants for transportation and utility systems and facilities on other Federal lands outside those areas described above.

For proposals located outside of Alaska, applications will be filed at the local agency office or at a location specified by the responsible Federal agency.

SPECIFIC INSTRUCTIONS

(Items not listed are self-explanatory)

7. Attach preliminary site and facility construction plans. The responsible agency will provide instructions whenever specific plans are required.
8. Generally, the map must show the section(s), township(s), and range(s) within which the project is to be located. Show the proposed location of the project on the map as accurately as possible. Some agencies require detailed survey maps. The responsible agency will provide additional instructions.
- 9, 10, and 12. The responsible agency will provide additional instructions.
13. Providing information on alternate routes and modes in as much detail as possible, discussing why certain routes or modes were rejected and why it is necessary to cross Federal lands will assist the agency(ies) in processing your application and reaching a final decision. Include only reasonable alternate routes and modes as related to current technology and economics.
14. The responsible agency will provide instructions.
15. Generally, a simple statement of the purpose of the proposal will be sufficient. However, major proposals located in critical or sensitive areas may require a full analysis with additional specific information. The responsible agency will provide additional instructions.
- 16 through 19. Providing this information in as much detail as possible will assist the Federal agency(ies) in processing the application and reaching a decision. When completing these items, you should use a sound judgment in furnishing relevant information. For example, if the project is not near a stream or other body of water, do not address this subject. The responsible agency will provide additional instructions.

Application must be signed by the applicant or applicant's authorized representative.

EFFECT OF NOT PROVIDING INFORMATION: Disclosure of the information is voluntary. If all the information is not provided, the application may be rejected.

DATA COLLECTION STATEMENT

The Federal agencies collect this information from applicants requesting right-of-way, permit, license, lease, or certification for the use of Federal lands. The Federal agencies use this information to evaluate the applicant's proposal. The public is obligated to submit this form if they wish to obtain permission to use Federal lands.

Maline, Denise

From: Maline, Denise
Sent: Friday, November 01, 2019 11:08 AM
To: Cindy Yenter
Subject: Comment Letter 72-16978 Schwarting
Attachments: 72-16978 Schwarting.pdf

Hi Cindy,

Attached is an application for permit currently being processed within your District. Please review the information and provide any necessary comments.

This application is being advertised on November 6 & 13, with a protest deadline of Monday, November 25, 2019.

Thank you,

Denise

Denise Maline
Administrative Assistant I
Idaho Dept of Water Resources, Southern Region
650 Addison Ave W, Ste 500
Twin Falls, ID 83301
(208) 293-9908
denise.maline@idwr.idaho.gov



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

November 1, 2019

WATER DISTRICT #170 *via e-mail*
CINDY YENTER
102 S WARPATH
SALMON ID 83467

RE: Application for Permit No. 72-16978

Dear Cindy:

A copy of the above referenced application is enclosed. Please review the application, then complete the enclosed recommendation form as necessary, and return it to this office within 21 days of the date of this letter.

If the application is approved, IDWR will include appropriate standard conditions of approval for a water right located within a water district, such as regulation by the water master, lockable controlling works, and/or measuring devices. Any special conditions or other concerns you have related to this application should be specifically addressed in your recommendation.

IDWR's regional offices can finish reviewing an unprotested application as soon as the protest period has past. Your prompt response to this request will ensure that your recommendation can be considered. If IDWR has not received your written recommendation within 21 days from the date of this letter, IDWR will presume that you do not oppose approval of the application and that you have no comments for IDWR to consider.

Sincerely,

Denise Maline
Administrative Assistant

Enclosure(s)

Maline, Denise

From: Maline, Denise
Sent: Friday, November 01, 2019 11:10 AM
To: Jeff Richards
Subject: Comment Letter for Application for Permit 72-16978 Gloria Schwarting
Attachments: 72-16978 Schwarting.pdf; Comment letter to F&G for 72-16978.docx

Good morning,

Attached is an application for permit which is currently being processed by the Department. Please review the information and provide any necessary comments within 21 days.

Feel free to contact our office if you have any questions regarding this application.

Thank you in advance,

Denise Maline, IDWR Twin Falls

Denise Maline
Administrative Assistant I
Idaho Dept of Water Resources, Southern Region
650 Addison Ave W, Ste 500
Twin Falls, ID 83301
(208) 293-9908
denise.maline@idwr.idaho.gov



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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 1, 2019

IDAHO DEPT OF FISH & GAME *via e-mail*
JEFF RICHARDS
99 HWY 93 N
SALMON ID 83467

RE: Application for Permit No. 72-16978

Dear Fish & Game:

The Department of Water Resources is seeking written comment and/or recommendations from your agency regarding the above referenced water right application. A copy of the application is enclosed for your reference. Please review the application, complete the enclosed recommendation form, and submit it to this office within 21 days. In addition, detailed information regarding this application(s) can be found on our website at www.idwr.idaho.gov.

The Department can publish notice of the application as soon as the initial review is completed. Therefore, your prompt response to this request is appreciated. If your agency desires to formally protest the approval of this application, you may do so after the notice is published by filing a written protest along with a \$25.00 filing fee within 10 days after final publication (**on or before November 25, 2019**).

Please contact this office if you have any questions regarding the application.

Sincerely,

A handwritten signature in blue ink that reads "Denise Maline". The signature is written in a cursive, flowing style.

Denise Maline
Administrative Assistant

Enclosure(s)



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

October 31, 2019

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

Re: Application For Permit No. 72-16978

Dear Applicant(s):

The Department of Water Resources has received your water right application. Please refer to the number referenced above in all future correspondence regarding this application.

A legal notice of the application has been prepared and is scheduled for publication in the **CHALLIS MESSENGER** on **11/6/2019** and **11/13/2019**. Protests to this application may be submitted for a period ending ten (10) days after the second publication. Any protest against this application must be filed with the Department of Water Resources, together with a protest fee of \$25.00 for each application, on or before **November 25, 2019**.

If the application is protested, you will be sent a copy of each protest. All protests must be resolved before the application can be considered for approval. If the protest(s) cannot be resolved voluntarily, the Department will conduct a conference and/or hearing on the matter.

If the application is not protested, the Department will process your application and notify you of any action taken on the application. If your application is approved, the Department will send you a copy of the permit.

Please contact this office if you have any questions regarding the application.

Sincerely,


Denise Maline
Administrative Assistant

c: Salmon Challis National Forest

Maline, Denise

From: Maline, Denise
Sent: Thursday, October 31, 2019 1:59 PM
To: Challis Messenger
Subject: LEGAL NOTICE
Attachments: Challis Messenger cover letter.docx; Challis Messenger ad.doc

Attached please find **(1)** legal notice being submitted for publication on November 6th & 13th, 2019. Please let me know if there are any questions or if you are not able to run the ad on the dates requested.

Thank you in advance,

Denise @ IDWR Twin Falls

Denise Maline
Administrative Assistant I
Idaho Dept of Water Resources, Southern Region
650 Addison Ave W, Ste 500
Twin Falls, ID 83301
(208) 293-9908
denise.maline@idwr.idaho.gov



State of Idaho

DEPARTMENT OF WATER RESOURCES

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BRAD LITTLE
Governor

GARY SPACKMAN
Director

October 31, 2019

LEGAL NOTICE DEPARTMENT
CHALLIS MESSENGER
PO BOX 405
CHALLIS, ID 83226

RE: Application For Permit No.(s): 72-16978

Dear Legal Notice Department:

Please publish the enclosed legal notice on the dates indicated (once a week for two consecutive weekly issues). If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before November 25, 2019. Your cooperation is appreciated.

Sincerely,

Denise Maline
Administrative Assistant

Enclosure(s)

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 on November 6th & 13th, 2019

Bitzenburg, James

From: Bitzenburg, James
Sent: Tuesday, October 15, 2019 2:44 PM
To: Clark, Cynthia Bridge
Subject: Application for Permit 72-16978

Cynthia-

We are sending a new Application for Permit, 72-16978, into advertising soon. Here is the informational portion of the legal notice:

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.

The file will be scanned and available to view in a few days. Let me know if you need any more information.

Jim

Jim Bitzenburg
Water Resource Agent
Idaho Department of Water Resources
Southern Regional Office
Phone (208)-736-3033
Fax (208)-736-3037
james.bitzenburg@idwr.idaho.gov

Bitzenburg, James

From: Gloria Schwarting <gloriasch1948@gmail.com>
Sent: Monday, October 14, 2019 2:51 PM
To: Bitzenburg, James
Subject: Re: Application to Divert Water from Peach Creek

I received your letter and you can proceed with my application Thank you.

On Mon, Oct 7, 2019, 11:59 AM Gloria Schwarting <gloriasch1948@gmail.com> wrote:
You are correct it was transposed---Thanks

On Mon, Oct 7, 2019, 11:23 AM Bitzenburg, James <James.Bitzenburg@idwr.idaho.gov> wrote:

Gloria-

I am processing the Application for Permit (see attachment) to divert water from Peach Creek along the Salmon River which you recently submitted to our office. I am doing the initial review and it appears that on page 2 of the application, #11, a., *Who owns the property at the point of diversion?*, should be 'USFS', and b., *Who owns the land to be irrigated or place of use?*, should be 'applicant'. It looks like you just got the two transposed, but let me know what you think.

Thanks for your help. So far, everything looks fine.

Jim

Jim Bitzenburg

Water Resource Agent

Idaho Department of Water Resources

Southern Regional Office

Phone (208)-736-3033

Fax (208)-736-3037

james.bitzenburg@idwr.idaho.gov



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region • 650 Addison Ave W, Suite 500 • Twin Falls ID 83301-5858

Phone: (208) 736-3033 • Fax: (208) 736-3037

Website: idwr.idaho.gov • Email: southerninfo@idwr.idaho.gov

BRAD LITTLE
Governor

GARY SPACKMAN
Director

October 8, 2019

GLORIA SCHWARTING
409 RIVER ST
SALMON ID 83467

RE: Application to Appropriate Water in the Upper Salmon River Basin 72-16978

Dear Water Right Applicant:

The Department of Water Resources' (IDWR) records show you filed an application to establish a new use of water in the upper Salmon River basin. Idaho Code § 42-203A(5) requires IDWR to determine whether each water right application satisfies all the criteria necessary for appropriating water in Idaho. One statutory criterion requires IDWR to determine the local public interest relative to the proposed water use. Idaho Code § 42-202B(3) defines the local public interest as "the interests that the people in the area directly affected by a proposed water use have in the effects of such use on the public water resource." The local public interest has many facets, including the effects of a proposed water use on aquatic habitat for fish and wildlife resources.

The upper Salmon River basin is home to stocks of chinook salmon, sockeye salmon, steelhead trout, and bull trout, all of which are listed as threatened or endangered under the Endangered Species Act (ESA). Since the early 1990s, local water users, conservation districts, and federal and state agencies have cooperated to implement conservation measures intended to protect and restore habitat for ESA-listed species in the upper Salmon River watershed. For example, at the request of local water users the Idaho Legislature directed the Idaho Water Resource Board (IWRB) to establish a minimum stream flow in the lower Lemhi River for fish passage. The minimum stream flow is maintained through a water supply bank and temporary or permanent acquisition of additional water supplies by willing buyers from willing sellers.

Pursuant to the Snake River Water Rights Agreement of 2004, Idaho has been developing a long term conservation plan for the benefit of ESA-listed species in the Lemhi River basin. Improving conditions in flow-limited river reaches and streams is a fundamental component of the Lemhi plan. In addition to IDWR, numerous state agencies, including the Office of Species Conservation, Idaho Department of Fish and Game, Idaho Department of Environmental Quality, Idaho Soil and Water Conservation Commission, and Idaho Department of Lands, have committed and continue to commit significant resources toward this objective under the following programs:

- Columbia Basin Water Transactions Program
- National Marine Fisheries Service Pacific Coastal Salmon Recovery Fund
- U. S. Fish & Wildlife Service Aquatic Species Conservation Fund
- Salmon and Clearwater River Basins Habitat Fund
- 2008 Columbia Basin Fish Accords

A myriad of habitat restoration projects are being constructed/implemented in other parts of the upper Salmon River basin. These projects have been coordinated with the local communities and water users through the Upper Salmon River Basin Watershed Program and predecessor programs, including the model watersheds. Furthermore, the Snake River Water Rights Agreement of 2004 contemplates the development of additional conservation plans for other upper Salmon River basin watersheds. Accordingly, the draft Comprehensive State Water Plan under revision by the IWRB contains policies for the Salmon River basin that focus on the protection and restoration of instream habitat for ESA-listed species through voluntary participation in conservation programs.

Because of the ESA-listed species recovery efforts in the upper Salmon River basin, IDWR must determine on a case-by-case basis whether it is in the local public interest to authorize proposed water uses that would further deplete flow-limited stream reaches.

Pursuant to Rule 40.04.c of the Water Appropriation Rules (IDAPA 37.03.08.040.04.c), the applicant has the ultimate burden of persuasion regarding the items that must be evaluated in connection with each water right application. Before proceeding further with your application, IDWR requests you submit additional information about how your proposal invokes any local public interest concerns for ESA species recovery. Within 30 days, please submit any additional information you believe IDWR may need to evaluate and determine the local public interest in the water you propose to divert and use. If IDWR has not received a response from you within 30 days, IDWR will assume you have no comment regarding the local public interest, and processing of your application will resume with the information currently on file. Processing will include public notice and the potential for formal protests by other interested parties. Applications that are not in the local public interest will be denied. If you wish to withdraw your application before it is processed, please notify IDWR in writing.

If you have any questions, please call Angie Grimm at 208-287-4951, or email her at angie.grimm@idwr.idaho.gov. For applications in administrative basins 71 or 72, you may also contact IDWR's Southern Region office in Twin Falls at 208-736-3033.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Bitzenburg", written over a horizontal line.

Jim Bitzenburg
Water Resource Agent

Bitzenburg, James

From: Gloria Schwarting <gloriasch1948@gmail.com>
Sent: Monday, October 07, 2019 12:00 PM
To: Bitzenburg, James
Subject: Re: Application to Divert Water from Peach Creek

You are correct it was transposed---Thanks

On Mon, Oct 7, 2019, 11:23 AM Bitzenburg, James <James.Bitzenburg@idwr.idaho.gov> wrote:

Gloria-

I am processing the Application for Permit (see attachment) to divert water from Peach Creek along the Salmon River which you recently submitted to our office. I am doing the initial review and it appears that on page 2 of the application, #11, a., *Who owns the property at the point of diversion?*, should be 'USFS', and b., *Who owns the land to be irrigated or place of use?*, should be 'applicant'. It looks like you just got the two transposed, but let me know what you think.

Thanks for your help. So far, everything looks fine.

Jim

Jim Bitzenburg

Water Resource Agent

Idaho Department of Water Resources

Southern Regional Office

Phone (208)-736-3033

Fax (208)-736-3037

james.bitzenburg@idwr.idaho.gov

Maline, Denise

From: Yenter, Cindy
Sent: Tuesday, September 24, 2019 4:15 PM
To: Bitzenburg, James
Cc: Maline, Denise
Subject: FW: Peach Creek Diversion
Attachments: Peach Creek Schwarting SUP application.pdf

Jim, the region should be receiving an application for permit and application for transfer from Gloria Schwarting of Salmon, for her Peach Creek property in B72. I expect you will process them....? If not, I've copied Denise. The water applications are associated with a pending Special Use Permit from USFS. The application for SUP is attached. Gloria didn't have a copy so I requested it from the Forest. This should enable you to proceed with processing. The apps are described below.

I'll save this in case it goes missing again. I'm hoping Gloria will have those apps in the mail today or tomorrow.

From: Kuentz, Karen -FS [mailto:karen.kuentz@usda.gov]
Sent: Tuesday, September 24, 2019 3:14 PM
To: Yenter, Cindy <Cindy.Yenter@idwr.idaho.gov>
Subject: RE: Peach Creek Diversion

Hi Cindy – here is the application for a FS special use permit. I handed a copy to Gloria this morning.

Gloria said she would be mailing the applications as soon as possible.

We'll be in touch! Karen



Karen Kuentz
Realty Specialist (detail)
Forest Service
Salmon-Challis National Forest

p: 208-756-5128
karen.kuentz@usda.gov

1206 S. Challis Street
Salmon, ID 83467

www.fs.fed.us



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From: Yenter, Cindy <Cindy.Yenter@idwr.idaho.gov>
Sent: Monday, September 23, 2019 5:19 PM
To: Kuentz, Karen -FS <karen.kuentz@usda.gov>
Cc: Baer, Gail -FS <gail.baer@usda.gov>
Subject: RE: Peach Creek Diversion

Hi Karen –I got busy after Gloria's visit and didn't get you called. This will probably pass your voice message in cyberspace.....We prepared the attached applications which Gloria will be mailing to our Twin Falls regional office for processing.

The Application for Transfer moves the irrigation point of diversion under 72-4052B to the pipeline at the middle diversion, which I have named Peach Ck 1A. The original PODs will be removed from the right.

The Application for Permit seeks to appropriate a new water right at the lower diversion, Peach Ck 1, which will not be closed. The new diversion will be for aesthetic purposes and would allow a small stream of water to flow past the cabin and back into the creek.

Do you have a copy of Gloria's application for SUP? She'll need that for her water right applications and she indicated she did not keep one. If you can send me a scanned copy I'll be happy to forward it to the correct hands.

Both diversions will be required by IDWR to have a lockable controllable diverting works. There is an existing valve on the irrigation pipeline. Gloria indicates she'll install a culvert and headgate at the lower ditch. Both diversions will be waived from measurement requirements under the terms of the 2008 Water District 170 measurement order. They will still be operated under jurisdiction of the water district and certain use data could be collected or required to be submitted if that helps satisfy the terms of the SUP. Let's talk about that....

FYI, the lower diversion is also an authorized diversion for 72-4052C in the name of Wood River Land Trust. This right is under conservation easement and has been placed in the state water supply bank through 2020. I don't expect that irrigation will resume any time in the near future. Gloria intends to block the lower ditch just past her place.

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

From: Kuentz, Karen -FS [<mailto:karen.kuentz@usda.gov>]
Sent: Monday, September 23, 2019 9:21 AM
To: Yenter, Cindy <Cindy.Yenter@idwr.idaho.gov>
Cc: Baer, Gail -FS <gail.baer@usda.gov>
Subject: RE: Peach Creek Diversion

Hi Cindy – I am using Gail's phone number.



Karen Kuentz
Realty Specialist (detail)
Forest Service
Salmon-Challis National Forest
p: 208-756-5128
karen.kuentz@usda.gov
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Salmon, ID 83467



From: Yenter, Cindy <Cindy.Yenter@idwr.idaho.gov>

Sent: Monday, September 23, 2019 8:15 AM

To: Baer, Gail -FS <gail.baer@usda.gov>; Stewart, Christine T -FS <christine.stewart@usda.gov>; Pindel, Kurt - FS <kurt.pindel@usda.gov>; Kuentz, Karen -FS <karen.kuentz@usda.gov>; Krieger, Karryl -FS <karryl.krieger@usda.gov>

Subject: RE: Peach Creek Diversion

And if I do see Gloria today I'll call or email Karen. I don't have Karen's phone number. Karen will you or someone please send it to me?

From: Baer, Gail -FS [<mailto:gail.baer@usda.gov>]

Sent: Sunday, September 22, 2019 1:58 PM

To: Yenter, Cindy <Cindy.Yenter@idwr.idaho.gov>; Stewart, Christine T -FS <christine.stewart@usda.gov>; Pindel, Kurt - FS <kurt.pindel@usda.gov>; Kuentz, Karen -FS <karen.kuentz@usda.gov>; Krieger, Karryl -FS <karryl.krieger@usda.gov>

Subject: RE: Peach Creek Diversion

Hi All,

I contacted Gloria today to let her know that Cindy was under the impression that she was not going to move her POD to the middle diversion (pipe and screen).

She stated that she would go visit Cindy at her office on Monday and then contact Karen to let her know if the field trip to the diversion should still occur on Tuesday. I feel that it may be premature for Karen to visit the diversion until Gloria has decided which POD she will utilize. Which really means, that until she files to move her POD, the only valid POD and water right she has is the lower one.

Karen, I'll talk to you about this on Tuesday, and I'm hoping that Gloria will call you tomorrow to try and sort it out.

Thanks, Gail



**Gail Baer, Natural Resource Specialist
Diversion Coordinator, Non-recreation Special Uses Permit
Administrator**

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From: Yenter, Cindy [<mailto:Cindy.Yenter@idwr.idaho.gov>]

Sent: Tuesday, September 17, 2019 3:45 PM

To: Baer, Gail -FS <gail.baer@usda.gov>; Stewart, Christine T -FS <christine.stewart@usda.gov>; Pindel, Kurt - FS <kurt.pindel@usda.gov>; Kuentz, Karen -FS <karen.kuentz@usda.gov>; Krieger, Karryl -FS <karryl.krieger@usda.gov>

Subject: RE: Peach Creek Diversion

If Gloria needs an additional water right to authorize diversions for aesthetic uses, shouldn't that also be filed prior to the SUP processing so both rights can be included?

I'm not sure Gloria fully understands the necessary changes to the water rights. Christine and I met her son Jason and I think he had a better understanding of what needed to happen. So please fill me in after your meeting then ask Gloria to make an appointment with me ASAP so we can get started on the water right work. Thanks!

From: Baer, Gail -FS [<mailto:gail.baer@usda.gov>]

Sent: Tuesday, September 17, 2019 2:39 PM

To: Yenter, Cindy <Cindy.Yenter@idwr.idaho.gov>; Stewart, Christine T -FS <christine.stewart@usda.gov>; Pindel, Kurt - FS <kurt.pindel@usda.gov>; Kuentz, Karen -FS <karen.kuentz@usda.gov>; Krieger, Karryl -FS <karryl.krieger@usda.gov>

Subject: RE: Peach Creek Diversion

I planned a field date out at Peach Creek for next Tuesday (Sept 24) to familiarize Karen with the area and diversions. Gloria said she'll meet us out there. I'll see if she sticks with the story I thought I'd heard yesterday and then let Karen take it from there...

Thanks for the info Cindy, it's helpful, albeit, confusing!

Gail



Gail Baer, Natural Resource Specialist
Diversion Coordinator, Non-recreation Special Uses Permit
Administrator

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From: Yenter, Cindy [<mailto:Cindy.Yenter@idwr.idaho.gov>]

Sent: Tuesday, September 17, 2019 8:29 AM

To: Baer, Gail -FS <gail.baer@usda.gov>; Stewart, Christine T -FS <christine.stewart@usda.gov>; Pindel, Kurt - FS <kurt.pindel@usda.gov>; Kuentz, Karen -FS <karen.kuentz@usda.gov>; Krieger, Karryl -FS <karryl.krieger@usda.gov>

Subject: RE: Peach Creek Diversion

Hi Karen. This is a bit of a deviation from what Gloria indicated to Christine and I last month. I recall at the time she wanted to use both the middle and lower diversions. The lower diversion is used only for aesthetic purposes, but I told them it would also need to be controlled and measured, and closed in the winter. This is where the largest unauthorized

diversion is occurring. Perhaps they've reconsidered that idea. The pipeline can be discharged into the aesthetic ditch at the house, so a single diversion is possible.

To authorize the aesthetic use, Gloria is going to have to file a slightly more complex transfer, and possibly a new water right for additional aesthetic flow. She did not come in here yesterday.

Cindy Yenter
Watermaster, Water District 170
IDWR Salmon Field Office
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208-731-0901 cell

From: Baer, Gail -FS [<mailto:gail.baer@usda.gov>]
Sent: Monday, September 16, 2019 12:33 PM
To: Stewart, Christine T -FS <christine.stewart@usda.gov>; Pindel, Kurt - FS <kurt.pindel@usda.gov>; Baer, Gail -FS <gail.baer@usda.gov>; Kuentz, Karen -FS <karen.kuentz@usda.gov>; Yenter, Cindy <Cindy.Yenter@idwr.idaho.gov>; Krieger, Karryl -FS <karryl.krieger@usda.gov>
Subject: Peach Creek Diversion

Hi All, I just spoke with Gloria Schwarting, the owner of the Peach Creek #1 and #2 diversions.

She said she met with Christine and Cindy about a month ago at the diversion and had decided to move her official point of diversion and water right to the #2 location where the screened pipe is located. She has not officially applied to move the pod as yet but was probably going to go visit Cindy today to discuss it.

I had thought we could start to move forward with issuing the SUP, but not until she at least applies to move the POD.

If you have any updates on this, please contact Karen Kuentz, my replacement through December.

Thanks, Gail



**Gail Baer, Natural Resource Specialist
Diversion Coordinator, Non-recreation Special Uses Permit
Administrator**

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