

State of Idaho
Department of Water Resources
Permit to Appropriate Water
No. 74-16207

Priority: December 03, 2018

Maximum Diversion Rate: 1.00 CFS

This is to certify that

BOYD E STOKES 646 LEMHI RD SALMON ID 83467-5145 AND/OR
BARBARA A STOKES 646 LEMHI RD SALMON ID 83467-5145

has applied for a permit to appropriate water from:

Source : WASTE WATER

Tributary: LEMHI RIVER

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

Beneficial Use

IRRIGATION

Period of Use

03/15 to 11/15

Rate of Diversion

1.00 CFS

Location of Point(s) of Diversion

WASTE WATER SW¼ SE¼, Sec. 19, Twp 21N, Rge 23E, B.M. LEMHI 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	
21N	23E	19												8.0		2.0	38	7.0	55.0
21N	23E	30		6.0			2.0												8.0

Total Acres: 63.0

Conditions of Approval

1. Proof of application of water to beneficial use shall be submitted on or before **November 01, 2020**.
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 3.5 afa per acre at the field headgate for irrigation of the place of use.
4. Rights 74-16160, 74-178A, 74-179A, 74-179B, 74-180A, 74-2047D and 74-16207 when combined shall not exceed the irrigation of 260.8 acres.
5. Diversion under this right is limited to the quantity of water entering the L-9 Ditch at a location within the SWSE of Section 19, Township 21N, Range 23E.
6. Prior to the diversion of water under this right, the right holder shall install and maintain a measuring device capable of measuring the water entering the L-9 Ditch at a location within the SWSE of Section 19, Township 21N, Range 23E.
7. Prior to the diversion and use of water under this right, the right holder shall install and maintain acceptable measuring device(s), including data logger(s), at the authorized point(s) of diversion and in accordance with Department specifications, or shall obtain an approved variance from the Department to employ an alternative method to determine and record the amount of water diverted.
8. 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.

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9. 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. 74.
10. 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.
11. The waste water diverted under this right is subject to the right of the original appropriator, in good faith and in compliance with state laws governing changes in use and/or expansion of water rights, to cease wasting water, to change the place of use or manner of wasting it, or to recapture it.
12. The diversion and use of water described in this right may be subject to additional conditions and limitations agreed to by the protestant and the right holder under a separate agreement to which the Department is not a party. Because the Department is not a party, the Department is not responsible for enforcement of any aspect of the agreement not specifically addressed in other conditions herein. Enforcement of those portions of the agreement not specifically addressed in other conditions shall be the responsibility of the protestant and the water right holder.
13. 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.
14. This right does not grant any right-of-way or easement across the land of another.

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

Signed this 21st day of OCTOBER, 2019.



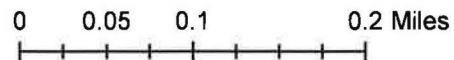
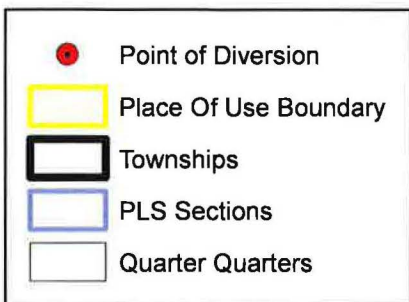
ANGELA GRIMM
Water Rights Section Manager

State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

74-16207

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.





State of Idaho

DEPARTMENT OF WATER RESOURCES

322 E FRONT ST STE 648 PO BOX 83720 • BOISE, ID 83720-0098

Phone: (208)287-4800 • Fax: (208)287-6700 • Website: www.idwr.idaho.gov

Brad Little
Governor

Gary Spackman
Director

October 21, 2019

BOYD E STOKES
BARBARA A STOKES
646 LEMHI RD
SALMON ID 83467-5145

RE: Permit No. 74-16207

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 divert and use water to the full extent intended and submit a *Statement of Completion for Submitting Proof of Beneficial Use* ("Proof") 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. If you have already diverted and used water to the full extent intended, you may complete and submit the enclosed Proof form immediately.

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) 287-4951.

Sincerely,



 Angela Grimm
Water Rights Section Manager

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on October 21, 2019, I served a true and correct copy of Permit to Appropriate Water No. 74-16207 by U.S. Mail, postage prepaid, to the following:

BOYD E STOKES (Current Owner)
646 LEMHI RD
SALMON ID 83467-5145

BARBARA A STOKES (Current Owner)
646 LEMHI RD
SALMON ID 83467-5145

L 9 WATER USERS GROUP (Protestant)
C/O ORIE COCKRELL
182 LEMHI RD
SALMON ID 83467

WATER DISTRICT #74
RICK SAGER (Watermaster)
PO BOX 744
SALMON ID 83467-0744



Jean Hersley
Technical Records Specialist 2

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.



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: idwr.idaho.gov • Email: westerninfo@idwr.idaho.gov

BRAD LITTLE
Governor

GARY SPACKMAN
Director

9/13/2019

BOYD STOKES
BARBARA STOKES
646 LEMHI RD
SALMON ID 83467

Re: Application for Permit No. 74-16207 – Withdrawal of Protest and Draft Permit

Dear Parties:

The Idaho Department of Water Resources (the Department) is working to complete processing the above referenced application proposing diversion of waste water from the L-9 canal for irrigation. On April 24, 2019 the Department received a conditional withdrawal of protest from the L-9 Water Users Group. Similarly on April 24, 2019 and April 29, 2019, the Department received non-conditional protest withdrawals from the Lemhi Irrigation District and the High Bar Ditch Association.

In any conditional withdrawal, the Department must review the agreement to ensure that conditions to be included in the approval are acceptable. Further, the Department may modify the conditions as written to fit the approval format, to improve clarity, and may substitute standard conditions of the Department with essentially the same language and intent.

The enclosed draft permit approval incorporates the Department's standard conditions, as well as other conditions intended to address some of the issues in the withdrawal of protest. The conditions on the draft approval do not address all actions or responsibilities agreed to by the parties as some of these are outside the scope of the Department's authority to impose or enforce. The Department considers these actions and responsibilities part of an agreement between the parties.

Please review the draft approval carefully. If you think the draft approval is not substantially in conformance with your stipulated conditions, contact the Department within 14 days of the date of this letter with your concerns. The application has no remaining protests; therefore, if we do not hear from you, the Department will take the steps necessary to bring the application to final resolution. You may file a petition for reconsideration within 14 days after the preliminary order approving the permit is issued.

Please contact me at 208-287-4913 if you have any questions regarding this matter.

Sincerely,

Alex Dagleish
Water Resource Agent
IDWR State Office

C: High Bar Ditch Assoc., Lemhi Irrigation Dist., L9 Water Users Group c/o Orie Cockrell

Enclosure(s): Draft Permit Approval Application for Permit 74-16207 and Map

Dalgleish, Alex

From: Boyd Stokes <bbstokes11@gmail.com>
Sent: Wednesday, May 29, 2019 6:39 AM
To: Dalgleish, Alex
Subject: Re: Capacity of Pump for Water Permit 74-16207

We will need approximately 30inches of waste water and our existing right from L-9 which is 38 inches.

Sent from my iPad

On May 28, 2019, at 11:44 AM, Dalgleish, Alex <Alex.Dalgleish@idwr.idaho.gov> wrote:

Boyd and/or Barbara Stokes,

I am working to approve your water permit for irrigation of wastewater from the L-9 canal.

As you know, the application was protested. The L-9 Water Users Group withdrew their protest on the basis of a condition being added to the permit. This condition states that between the existing water coming down the L-9 canal combined with the wastewater used for this right (74-16207), there needs to be enough water between the two to run the pump/pivot. I have attached the protest condition from the L9 Water Users Group for reference.

I need to know the quantities of wastewater and L9 water that are needed to run the pump. I am unable to move forward until this condition, satisfying the protest, is added to the permit.

Please get back to me as soon as possible so we can continue moving forward with your water permit.

Don't hesitate to email or call me at (208)-287-4913 with questions/concerns.

Thank you,

Alex Dalgleish
Water Resource Agent
Phone (208) 287-4913
alex.dalgleish@idwr.idaho.gov

<74-16207 (Stokes) Protest Withdrawl Condition.pdf>