

State of Idaho
Department of Water Resources
Permit to Appropriate Water
No. 75-14955

Priority: July 29, 2019

Maximum Diversion Rate: 0.04 CFS

This is to certify that

ALICIA M SCHWARZ PO BOX 480 BIG TIMBER MT 59011-0480 AND/OR
ROBERT K SCHWARZ PO BOX 480 BIG TIMBER MT 59011-0480

has applied for a permit to appropriate water from:

Source : EAST FORK TOWER CREEK

Tributary: TOWER CREEK

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

Beneficial Use

DOMESTIC

Period of Use

01/01 to 12/31

Rate of Diversion

0.04 CFS

Location of Point(s) of Diversion

EAST FORK TOWER CREEK NE¼ SW¼, Sec. 3, Twp 23N, Rge 22E, B.M. LEMHI County

Place of Use: DOMESTIC

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
23N	22E	3														X			

Conditions of Approval

1. Proof of application of water to beneficial use shall be submitted on or before **October 01, 2020**.
2. Subject to all prior water rights.
3. The quantity of water under this right shall not exceed 13,000 gallons per day.
4. Upon specific notification by the Department, the right holder shall install a lockable device of a type acceptable to the Department in a manner that will provide the watermaster suitable control of the diversion.
5. The irrigation occurring under this domestic use shall not exceed 1/2 acre.
6. 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.

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

Signed this 26th day of SEPTEMBER, 2019.


ANGELA GRIMM

Water Rights Section Manager

State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

75-14955

This map depicts the DOMESTIC 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.

22E



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

0 0.035 0.07 0.14 Miles





State of Idaho

DEPARTMENT OF WATER RESOURCES

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 03, 2019

ROBERT K SCHWARZ
ALICIA M SCHWARZ
PO BOX 480
BIG TIMBER MT 59011-0480

RE: Permit No. 75-14955

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,



for Angela Grimm
Water Rights Section Manager

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on October 03, 2019, I served a true and correct copy of Permit to Appropriate Water No. 75-14955 by U.S. Mail, postage prepaid, to the following:

ROBERT K SCHWARZ (Current Owner)
PO BOX 480
BIG TIMBER MT 59011-0480

ALICIA M SCHWARZ (Current Owner)
PO BOX 480
BIG TIMBER MT 59011-0480



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.

**NOTICE OF FILE TO APPROPRIATE
PUBLIC WATERS**

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

75-14955

ALICIA M SCHWARZ

ROBERT K SCHWARZ

PO BOX 480

BIG TIMBER, MT 59011-0480

Point of Diversion NESW S3 T23N R22E

LEMHI County

Source EAST FORK TOWER CREEK

Tributary TOWER CREEK

Use: DOMESTIC

01/01 to 12/31

0.04 CFS

Total Diversion:

0.04 CFS

Date Filed: 7/29/2019

Place Of Use: DOMESTIC

T23N R22E S3 NWSE

This application proposes the diver-
sion and use of water from a tributary of
the Salmon Wild & Scenic River. The de-
creed minimum stream flow rights for the
federal Wild & Scenic Rivers are subordi-
nate 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 applica-
tion will benefit from the subordination
provision because it is for domestic pur-
poses as defined by Idaho Code §42-
111(1)(a).

Permits will be subject to all prior wa-
ter rights. For additional information con-
cerning the property location, contact the
State office at (208) 287-4800; or for a full
description of the right(s), please see
"[https://idwr.idaho.gov/apps/ExtSearch/
WRAApplicationResults/](https://idwr.idaho.gov/apps/ExtSearch/WRAApplicationResults/)" [https://
idwr.idaho.gov/apps/ExtSearch/
WRAApplicationResults/](https://idwr.idaho.gov/apps/ExtSearch/WRAApplicationResults/). 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 Re-
sources, State Office, 322 E Front St, PO
Box 83720, Boise, ID 83720 together with
a protest fee of \$25.00 for each applica-
tion on or before 9/3/2019. The protestant
must also send a copy of the protest to
the applicant.

GARY SPACKMAN, Director

8-15-2tc

Affidavit of Publication

RECEIVED

AUG 26 2019

DEPARTMENT OF
WATER RESOURCES

STATE OF IDAHO }

ss.

County of Lemhi }

RICKY G. HODGES being first duly sworn, deposes and says he is one of the publishers
(printers) of The Recorder Herald, a newspaper published weekly at Salmon, Lemhi County,
Idaho, and of general circulation therein. That the **NOTICE OF FILE TO APPROPRIATE
PUBLIC WATERS**, to the margin hereof, has been and was correctly printed and published in
the regular and entire issue of every number of said newspaper and not in any supplement
thereof or thereto for **TWO(2)** consecutive issue(s), commencing with the issue dated **08-
15-2019** and ending with the issue dated **08-22-2019**

STATE OF IDAHO }

ss.

County of Lemhi }

On this **22ND day of AUGUST** in this year of 2019 before me, A Notary Public, personally
appeared RICKY G. HODGES, 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 he executed the same.

Stephanie D. Taylor
Notary Public for Idaho

Residing At Salmon, Idaho

Publication Fee \$122.40

