

RECEIVED

FORM 202 Rev. 09/16

JUL 29 2019

DEPARTMENT OF
WATER RESOURCESSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCESIdent. No. 75-14955

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name of applicant(s) Robert K Schwarz, Alicia M Schwarz Phone 208-993-1646
 Name connector (check one): ☐ and ☐ or ☒ and/or
 Mailing address PO Box 480 City Big Timber
 State MT ZIP 59011 Email cougarbasin@centurytel.net
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 East Fork Tower Creek which is a tributary of Tower Creek

4. Location of point(s) of diversion: One of last Properties at Head of E. Tower Crk

Twp	Rge	Sec	Govt Lot	1/4	1/4	1/4	County	Source	Local name or tag #
23N	22E	3			NE	SW	Lemhi	E F Tower Creek	

5. Water will be used for the following purposes:
- Amount 0.04 for Domestic 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)

*Only used
3/15 - 11/15 For irrigation
Stock use in winter*

6. Total quantity to be appropriated is (a) 0.04 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. pump from creek into sprinklers
2 HP Pump, 1" to 3/4" Intake Hose To Feed 2 sprinklers at most
- 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. _____

Received by [Signature] Date 7/29/19 Time 11:54 Preliminary check by [Signature]
 Fee \$ 100 Receipted by [Signature] Receipt No. C107293 Date _____

For Department Use

8. Description of proposed uses (if irrigation only, go to item 9):

- a. Hydropower; show total feet of head and proposed capacity in kW. _____
- b. Stockwatering; list number and kind of livestock. _____
- c. Municipal; must complete and attach the Municipal Water Right Application Checklist.
- d. Domestic; show number of households 1
- e. Other; describe fully. _____

9. Description of place of use:

- a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- b. 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	
23N	22E	3														D			

Total number of acres to be irrigated: Approx 1/2 Acre, most likely 1/4 acre

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? No other water rights. There is an unrecorded domestic well. This permit will be used for irrigation.

11. a. Who owns the property at the point of diversion? applicant

b. Who owns the land to be irrigated or place of use? applicant

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: _____

12. Describe your proposal in narrative form, and provide additional explanation for any of the items above. Attach additional pages if necessary. Well is used in a rented cabin but is not productive enough for irrigation.

13. Time required for completion of works and application of water to proposed beneficial use is 1 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.

Signature of Applicant

Robert Schwarze
Print Name (and title, if applicable)

Signature of Applicant

Alicia Schwarz
Print Name (and title, if applicable)



Hersley, Jean

From: Hersley, Jean
Sent: Thursday, August 08, 2019 1:35 PM
To: rhlegals@custertel.net
Subject: Legal Notice for your paper
Attachments: Recorder Herald.doc

Dear LEGAL NOTICE DEPARTMENT:

Enclosed you will find a legal notice which we wish to have published in your newspaper 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 September 3, 2019. Your cooperation is appreciated.

Sincerely

Jean Hersley
Idaho Department of Water Resources
320 E Front St
PO Box 83720
Boise ID 83720-0098
208-287-4942 – telephone
208-287-6700 – Fax
jean.hersley@idwr.idaho.gov

Legal Notice Department

Recorder Herald
PO Box 310
Salmon ID 83467

RE: Legal Ad for your paper

Dear LEGAL NOTICE DEPARTMENT:

Enclosed you will find a legal notices which we wish to have published in your newspaper 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, PO Box 83720, Boise, Idaho, 83720-0098 before July 22, 2019. Your cooperation is appreciated.

Sincerely

Jean Hersley
Technical Records Specialist II
IDWR State Office
322 E Front St
Boise ID 83720
208-287-4942
jean.hersley@idwr.idaho.gov

NOTICE OF PROPOSED CHANGE OF WATER RIGHT

AMENDED TRANSFER NO. 81964

FLYING JOSEPH RANCH LLC, 7299 PERIMETER RD S, SEATTLE, WA 98108-3806; has filed Application No. 81964 for changes to the following water rights within CUSTER, LEMHI County(s): Right No(s). 73-10040, 73-10041, 73-12110, 73-12146, 73-147A, 73-147B, 73-147C, 73-150D, 73-189, 73-259, 73-32; to see a full description of these rights and the proposed transfer, please see www.idwr.idaho.gov/apps/wr/QueryNewTransfers/QueryNewTransfers.aspx. The purpose of the transfer is to change a portion of the above rights as follows:

change nature of use of Pahsimeroi River & Big Creek water rights from irrigation of 73.4 acres to storage uses to enlarge an existing pond, reduce irrigable acres from 2,365.6 to 1,894.0 acresf use for irrigation water rights from Pahsimeroi River, Spring Creek, Goldburg Creek & Big Creek, add a point of redirection from the Pahsimeroi River for delivery of Big Creek water. This area is located East of Pahsimeroi Valley Rd & Bart Lane in Custer & Lemhi Counties.

For additional information concerning the property location, contact IDWR State office at (208) 287-4800; or for a full description of the transfer, please see <http://www.idwr.idaho.gov/water-rights/transfers/search.html>

Protests may be submitted based on the criteria of Idaho Code Sec. 42-222.

Any protest against the proposed change must be filed with the Department of Water Resources, 322 E Front St, PO Box 83720, Boise ID 83720-0098 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

Published on 8/15/2019 and 8/22/2019

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 diversion and use of water from a tributary of the Salmon 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 it is for domestic purposes as defined by Idaho Code §42-111(1)(a).

Permits will be subject to all prior water rights. For additional information concerning 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/WRApplicationResults/>. 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, State Office, 322 E Front St, PO Box 83720, Boise, ID 83720 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

Published on 8/15/2019 and 8/22/2019



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 E Front Street, Suite 648 • PO Box 83720 • Boise ID 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700

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

BRAD LITTLE
Governor

GARY SPACKMAN
Director

August 8, 2019

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

Application For Permit No. 75-14955

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 RECORDER HERALD on 8/15/2019 and 8/22/2019. Protests to this application may be submitted for a period ending ten (10) days after the second publication.

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,

Jean Hersley
Technical Records Specialist

Hersley, Jean

From: Hersley, Jean
Sent: Thursday, August 08, 2019 2:57 PM
To: Yenter, Cindy; Clark, Cynthia Bridge; Golden, Kala; Cassel, Amy
Subject: applications being advertised

Application for Permit No. 73-12266 and 75-14955
Application for Transfer No. 81963, 81964 & 83193

These applications are being published in the next two weeks. Protest end date is September 3, 2019. Please let me know if you have any comments or concerns with the applications. Documents will be available on PC Docs by noon tomorrow. Thank you.

*Jean Hersley
Idaho Dept Water Resources
Technical Records Specialist II
208-287-4942*



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 E Front Street, Suite 648 • PO Box 83720 • Boise ID 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700

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

BRAD LITTLE
Governor

GARY SPACKMAN
Director

August 8, 2019

IDAHO DEPARTMENT OF ENVIRONMENTAL QUALITY
900 NORTH SKYLINE SUITE B
IDAHO FALLS ID 83402

RE: Application for Permit No. 73-12266 and 75-14955
Application for Transfer No. 81963, 81964 & 83193

Dear Interested Party:

The Department of Water Resources is seeking written comment and/or recommendations from your agency regarding the above referenced water right applications. You can find copies of the applications at:

<http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx>.

This office can publish notice of the applications 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 these applications, 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.

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

Sincerely,

A handwritten signature in black ink that reads 'Jean Hersley'. The signature is fluid and cursive, with the first name 'Jean' being more prominent than the last name 'Hersley'.

Jean Hersley
Technical Records Specialist II

Hersley, Jean

From: Hersley, Jean
Sent: Thursday, August 08, 2019 2:50 PM
To: Jeff Richards
Subject: Comments for applications for transfer 81963, 81964 & 83193 and applications for permit 73-12266 & 75-14955

RE: Application for Permit No. 73-12266 and 75-14955
Application for Transfer No. 81963, 81964 & 83193

Dear Interested Party:

The Department of Water Resources is seeking written comment and/or recommendations from your agency regarding the above referenced water right applications. You can find a copy of the application at: <http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx>.

This office can publish notice of the applications 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.

Please note that Application for Transfer No. 81963 & 81964 are being re-published due to amended applications from a Stipulation Agreement between Idaho Department of Fish & Game and the applicant.

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

Sincerely,

Jean Hersley
Idaho Dept Water Resources
Technical Records Specialist II
208-287-4942



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 E Front Street, Suite 648 • PO Box 83720 • Boise ID 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700

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

BRAD LITTLE
Governor

GARY SPACKMAN
Director

August 8, 2019

IDAHO DEPT FISH AND GAME
ATTN: JEFF RICHARDS
99 HWY 93 N
SALMON ID 83467

RE: Application for Permit No. 73-12266 and 75-14955
Application for Transfer No. 81963, 81964 & 83193

Dear Interested Party:

The Department of Water Resources is seeking written comment and/or recommendations from your agency regarding the above referenced water right applications. You can find a copy of the application at:

<http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx>.

This office can publish notice of the applications 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.

Please note that Application for Transfer No. 81963 & 81964 are being re-published due to amended applications from a Stipulation Agreement between Idaho Department of Fish & Game and the applicant.

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

Sincerely,

A handwritten signature in black ink that reads "Jean Hersley". The signature is written in a cursive, flowing style.

Jean Hersley
Technical Records Specialist II

MEMORANDUM

Date: August 8, 2019
To: WR No. 75-14955
From: Scott Storms
Re: Pre-Advertisement Application Review

Applicant

Application for permit 75-14955 was received by the Department of Water Resources (Department) from Robert K and Alicia Swartz on July 29, 2019. The application is for domestic use from East Fork Tower Creek. The application states the applicants own the property at both the place of use (POU) and the point of diversion (POD).

Source & Diversion System

The application shows the POD located on the East Fork Tower Creek, about 2.5 miles upstream of the confluence with Tower Creek. The diversion system is described as a 2 hp pump with a 1" to 3/4" intake hose to feed 2 sprinklers at most. The application also states there is a well located on the property used for household use but is not productive enough for irrigation.

Water Use

The application shows the POU as an area of about a half-acre surrounding and including the home location. There is 1 home on the property, however the application mentions there is a well on the property that services in-home use, and that water for this application for permit will be used for irrigation of a half, most likely a quarter acre of land and for stock use in the winter time. The application also states the water will only be used for irrigation from 3/1 to 11/15. In a phone conversation with the applicant on August 7, 2019, he indicated that he will only be running two or three horses at most on the property. This number of stock is well within the use limits of 13,000 gallons per day as acceptable under domestic use.

Additional Comments

Because the applicants indicated they would be using the water for irrigation and stockwater on the property, I set them an email on July 31, 2019 and asked if they would like to amend their application to include those uses. I explained that they will be receiving a Letter of Public Interest along with a copy of their application and that they could make changes on that copy if they would like to add those uses.

On August 7, 2019 I received a call from Robert Swartz and we discussed the idea of amending the application to include stockwater and irrigation. He determined he would like to continue forward with just the domestic use. He also stated he would only have a couple horses at most on the property for stockwater use and he also responded that he had nothing further to add in regards to the Letter of Public Interest.

Storms, Scott

From: Storms, Scott
Sent: Wednesday, July 31, 2019 2:43 PM
To: 'cougarbasin@centurytel.net'
Subject: Water Right Permit Application 75-14955

Robert and Alicia Schwarz,

I have been assigned the review of your application for a water right permit, No. 75-14955. Upon initial review, there are two things I would like to address. First, it appears you plan on using some of the water you are requesting for irrigation and stockwater use. It appears these uses will be on a small enough scale to fall under the domestic use classification, however I wanted to allow you the opportunity to add irrigation and stockwater as separate beneficial uses on the application in order to better reflect your water uses. This is in no way a requirement given the small scale of your proposal, it would simply provide a more accurate reflection on your final license should the right become licensed.

Second, because you plan to include some Stockwater use, I need to know approximately how many animals you plan on having, in order to be sure the use will stay within the 13,000 gallons per day limitation. I will need to know this information regardless of whether you decide to add Stockwater as a beneficial use to the application or keep it all under the domestic use.

Because you are in an area tributary to the Salmon River, there is a standard letter you will be receiving in a few days explaining the complexities of water appropriation in that area, and allowing you up to 30 days to provide any additional information you may want to add in order to potentially alleviate local public interest concerns and avoid a protest during advertisement. If you do not feel you have anything further to add, you can simply call or email me a response stating this. Enclosed with this letter will be a copy of your original application. If you do wish to add the beneficial uses of Stockwater and Irrigation, you can add it to this copy, initial nest to the changes, and return to the State office Attn: Scott Storms. The irrigation rate for a half acre would be 0.02 cfs, and a standard small Stockwater would also be 0.02 cfs.

Please feel free to call or email me if you have any further questions.

Scott Storms
Senior Water Resource Agent
Idaho Department of Water Resources
208-287-4915
Scott.Storms@idwr.idaho.gov



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 E Front Street, Suite 648 • PO Box 83720 • Boise ID 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700

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

BRAD LITTLE
Governor

GARY SPACKMAN
Director

July 30, 2019

ROBERT AND ALICIA SCHWARZ
P.O. BOX 480
BIG TIMBER, MT 59011

RE: Application to Appropriate Water in the Upper Salmon River Basin 75-14955

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

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 Comprehensive State Water Plan revised 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 me at 208-287-4915, or email me at scott.storms@idwr.idaho.gov.

Sincerely,



Scott Storms
Water Resource Agent, Senior

Enclosure: Copy of Application
Receipt C107293