

State of Idaho
Department of Water Resources
Permit to Appropriate Water
No. 36-17133

Priority: August 13, 2018

Maximum Diversion Volume: 0.1 AF

This is to certify that

DONALD & BONNIE PICA TRUST
3708 VISTA GRANDE LN
TWIN FALLS ID 83301

has applied for a permit to appropriate water from:

Source : UNNAMED STREAM

Tributary: SINKS

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

<u>Beneficial Use</u>	<u>Period of Use</u>	<u>Annual Volume</u>
AESTHETIC STORAGE	10/31 to 02/01	0.1 AF
WILDLIFE STORAGE	10/31 to 02/01	0.1 AF

Location of Point(s) of Diversion

UNNAMED STREAM	NE¼ NW¼, Sec. 14, Twp 07S, Rge 13E, B.M.	GOODING County
UNNAMED STREAM	NE¼ NW¼, Sec. 14, Twp 07S, Rge 13E, B.M.	GOODING County

Place of Use: AESTHETIC STORAGE

Twp	Rng	Sec	NE				NW				SW				SE				No QQ	Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
07S	13E	14					X													

Place of Use: WILDLIFE STORAGE

Twp	Rng	Sec	NE				NW				SW				SE				No QQ	Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
07S	13E	14					X													

Conditions of Approval

1. Proof of application of water to beneficial use shall be submitted on or before **August 1, 2024**.
2. Subject to all prior water rights.
3. This right authorizes a total annual storage volume of 0.1 acre-feet to be used for the initial filling of one of the two reservoirs described by this right in a single calendar year. The storage of water is authorized through February 1st and stored water must be released and the reservoir returned to the natural stream flow condition by February 2nd. The release of the stored water shall be done in a manner that does not cause damage to downstream property owners.

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Permit to Appropriate Water

No. 36-17133

4. The two (2) reservoirs established by the storage of water under this right shall not exceed a total surface area of 0.1 acre.
5. The right holder shall install and maintain an impermeable liner in the embankment portion along the west side (right side when looking downstream) of the reservoirs to eliminate seepage losses.
6. To mitigate for the depletion of water resulting from the use of water under this right and to prevent injury to senior water right holders, the right holder shall cease diverting and using water as authorized by the following water rights for the purposes and amounts specified below. Moreover, the official record for the following water rights will be changed to show that diversion and use of water is not authorized because the rights, or portion thereof, are being dedicated to mitigation by non-use. The mitigating rights may also include a condition stating that the mitigation by non-use is for the benefit of this right.

Right No.	Use Changed to Mitigation by Non-Use	Mitigation Rate (cfs)	Mitigation Acres
36-66B	Irrigation	0.01	0.1
36-10169	Irrigation	0.01	0.1

The land that will no longer be irrigated under these rights is located within the NWNW, Section 14, Township 07S, Range 13E, B.M.

If a specified mitigation right, or portion thereof, is sold, transferred, leased, used on any place of use, or is not deliverable due to a shortage of water or a priority call, then the amount of water authorized for diversion under this right approval shall be reduced by the same proportion as the reduction to the mitigation rights.

In addition, the following condition will be changed on rights 36-66B, 36-10169, and 36-66A to reflect the mitigation by non-use amounts identified above:

Rights 36-66A, 36-66B, and 36-10169 when combined shall not exceed a total diversion rate of 0.84 cfs, and the irrigation of 28.8 acres.

7. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which the permit holder had no control.
8. 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. 130.
9. This right is for the use of trust water, and it is subject to review 5 years after its initial approval (date of permit approval) to re-evaluate the availability of trust water for the authorized use and to re-evaluate the public interest criteria for reallocating trust water.
10. Use of water pursuant to this right is either nonconsumptive or the right holder is required to provide ongoing mitigation to offset the depletion of water resulting from the use of this right. Regulation of this right to satisfy the minimum stream flow water rights in the Snake River at Murphy Gage shall not be required.

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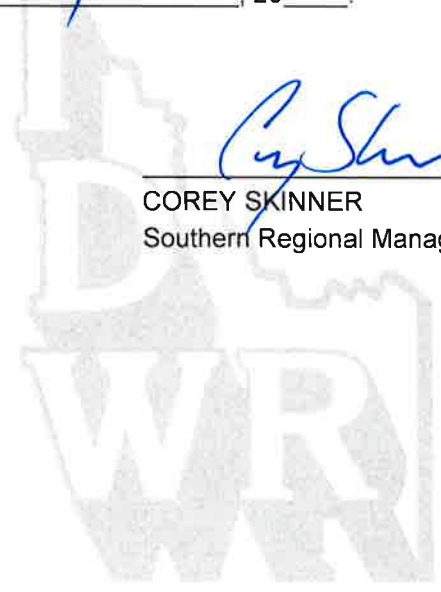
11. The diversion and use of water described in this right may be subject to additional conditions and limitations agreed to by the protestant and the right holder under a separate agreement to which the Department is not a party. Because the Department is not a party, the Department is not responsible 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.

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

Signed this 16th day of July, 20 19.



COREY SKINNER
Southern Regional Manager



State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

36-17133

This map depicts the AESTHETIC & WILDLIFE STORAGE 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.

13E



-  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

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

July 17, 2019

DONALD & BONNIE PICA TRUST
3708 VISTA GRANDE LN
TWIN FALLS ID 83301

RE: Permit No. 36-17133

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 water master in a water district. Failure to comply with the conditions of approval may result in your permit lapsing or being canceled.

The permit is a PRELIMINARY ORDER issued pursuant to Rule 730 of the Department's Rules of Procedure (IDAPA 37.01.01.730). It can and will become a final order without further action by the Department unless a party petitions for reconsideration, files exceptions, or requests a hearing as described in the enclosed information sheet.

The final step in the water right process is issuance of a water right license. To receive a water right license, you must first commence the excavation or construction of your diverting works within one year of the date the permit was issued, and you must proceed diligently until the project is complete. In addition, you must divert and use water to the full extent intended and submit a *Statement of Completion for Submitting Proof of Beneficial Use* by the date shown in condition no. 1 of your permit. The Department will send you a *Proof Due Notice* approximately 60 days prior to the date listed in condition no. 1 of your permit.

You may also require approvals from other Department programs, such as Ground Water Protection, Safety of Dams, or Stream Channel Protection, to accomplish your proposed development. Please call or visit any Department office or see the Department's website at idwr.idaho.gov for more information about these programs.

Please note that pursuant to the approval of 36-17133, the official water right record for 36-66A, 36-66B, and 36-10169 has been changed accordingly to reflect the mitigation components. Computer generated reports are also enclosed, for your reference.

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) 736-3033.

Sincerely,

A handwritten signature in blue ink, appearing to read "Corey Skinner". The signature is fluid and cursive, with the first name "Corey" written in a larger, more prominent script than the last name "Skinner".

Corey Skinner
Southern Regional Manager

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on July 17, 2019, I served a true and correct copy of Permit to Appropriate Water No. 36-17133 by U.S. Mail, postage prepaid, to the following:

DONALD & BONNIE PICA TRUST (Current Owner)
3708 VISTA GRANDE LN
TWIN FALLS ID 83301

TRAVIS L THOMPSON (Attorney)
BARKER ROSHOLT & SIMPSON LLP
163 2ND AVE W
PO BOX 63
TWIN FALLS ID 83303-0063

J U B ENGINEERS INC (Representative)
HATTIE ZOBOTT
115 NORTHSTAR AVE
TWIN FALLS ID 83301

HAGERMAN WINGS FARM LLC (Protestant)
823 E 2700 S
HAGERMAN ID 83332

BROCKWAY ENGINEERING PLLC
ERICK POWELL
2016 N WASHINGTON ST STE 4
TWIN FALLS ID 83301

GARY SLETTE
ROBERTON & SLETTE PLLC
PO BOX 1906
TWIN FALLS ID 83303-1906

WATER DISTRICT #130
NATHAN ERICKSON (Watermaster)
650 ADDISON AVE W STE 500
TWIN FALLS ID 83301



Denise Maline
Administrative Assistant 1

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.

7/17/2019

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right 36-66A

7/17/2019

Combined Use Limits

Rate

0.840

Volume

36-66A ,36-66B ,36-10169

Acres

28.8

SubCase:

N/A

Water Supply Bank:

N/A

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right 36-66B

7/17/2019

Owner Type **Name and Address**
Current Owner DONALD & BONNIE PICA TRUST
3708 VISTA GRANDE LN
TWIN FALLS, ID 83301
(208) 734-5259

Priority Date: 4/1/1885

Basis: Decreed

Status: Active

Source
BILLINGSLEY CREEK

Tributary
SNAKE RIVER

Beneficial Use	From	To	Diversion Rate	Volume
IRRIGATION	02/15	11/30	0.600 CFS	
MITIGATION BY NON-USE	02/15	11/30	0.010 CFS	
Total Diversion			0.610 CFS	

Source and Point(s) of Diversion

BILLINGSLEY CREEK NWSWNE Sec. 11, Twp 07S, Rge 13E, GOODING County

Place Of Use

MITIGATION BY NON-USE within GOODING County

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
07S	13E	14						X											

IRRIGATION within GOODING County

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
07S	13E	14					16.0	8.7	2.2	1.9									28.8

Right Acre Limit: 20.8

POU Total Acres: 28.8

Conditions of Approval:

1. 193 This right mitigates for the depletion of water resulting from the diversion and use of water under Right 36-17133. To prevent injury to other water right holders, the right holder shall cease diverting 0.01 cfs of this right from Billingsley Creek. If the mitigation portion of this right is used for any purpose other than conveyance loss, then water shall not be diverted under Right 36-17133. If the mitigation portion of this right is not deliverable due to a shortage of water or a priority call, then the amount of water authorized for diversion under the uses of Right 36-17133 that are being mitigated shall be reduced by the same proportion as the reduction to this right.
2. 0.06 cfs of this right is limited to use for conveyance losses in delivery of this right.
3. R05 Use of water under this right will 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. 36A.
4. R43 The right holder shall maintain a measuring device and lockable controlling works of a

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right 36-66B

7/17/2019

type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).

5. R60 This right when combined with all other rights shall provide no more than 4.0 afa per acre at the field headgate for irrigation of the place of use.
6. X27 This right is limited to the irrigation of 20.8 acres within the authorized place of use in a single irrigation season.
7. X35 Rights 36-66B, and 36-10169 when combined shall not exceed a total diversion rate of 0.60 cfs, and the irrigation of 20.8 acres.
8. X35 Rights 36-66A, 36-66B, and 36-10169 when combined shall not exceed a total diversion rate of 0.84 cfs, and the irrigation of 28.8 acres.
9. T07 The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
10. T08 Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
11. T19 Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.

Combined Use Limits

<u>Rate</u>	<u>Volume</u>	<u>Acres</u>
0.840		28.8
36-66A ,36-66B ,36-10169		
<u>Rate</u>	<u>Volume</u>	<u>Acres</u>
0.600		20.8
36-66B ,36-10169		

SubCase:

SubCaseNumber: 36-66B

Class: 1

SF5 Filed Date:

Special Master Recom Signed Date:

Attorney Assigned:

Adjudication Agent:

Basis of Claim: Decreed

Date Filed: 4/29/1993

Objection Status: Active

Water Supply Bank:

N/A

7/17/2019

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right 36-10169

7/17/2019

- control of the diversion(s).
4. R60 This right when combined with all other rights shall provide no more than 4.0 afa per acre at the field headgate for irrigation of the place of use.
 5. X27 This right is limited to the irrigation of 3.9 acres within the authorized place of use in a single irrigation season.
 6. X35 Rights 36-66B, and 36-10169 when combined shall not exceed a total diversion rate of 0.60 cfs, and the irrigation of 20.8 acres.
 7. X35 Rights 36-66A, 36-66B, and 36-10169 when combined shall not exceed a total diversion rate of 0.84 cfs, and the irrigation of 28.8 acres.
 8. T07 The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
 9. T08 Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
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Combined Use Limits

<u>Rate</u>	<u>Volume</u>	<u>Acres</u>
0.840		28.8
36-66A ,36-66B ,36-10169		
<u>Rate</u>	<u>Volume</u>	<u>Acres</u>
0.600		20.8
36-66B ,36-10169		

SubCase:

N/A

Water Supply Bank:

N/A