

State of Idaho
Department of Water Resources
Permit to Appropriate Water
No. 74-16206

Priority: November 29, 2018

Maximum Diversion Rate: 0.20 CFS

This is to certify that RUBY MILLER AND/OR
JOHN W MILLER
176 RED ROCK STAGE RD
SALMON, ID 83467-5201

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

0.20 CFS

Location of Point(s) of Diversion

WASTE WATER SE¼ SE¼, Sec. 10, Twp 20N, Rge 23E, B.M. LEMHI County

Place of Use: IRRIGATION

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		
20N	23E	10													0.2			9.4		9.6
20N	23E	15	0.4																	0.4

Total Acres: 10.0

Conditions of Approval

1. Proof of application of water to beneficial use shall be submitted on or before **April 01, 2020**.
2. Subject to all prior water rights.
3. 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.
4. 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.
5. The right holder shall install or construct a straight length of conduit or ditch suitable for installation of a device for measuring the entire flow of water being diverted in connection with this right. If the right holder uses conduit, the straight length of conduit shall be at least fifteen times the diameter of the conduit and shall be above ground or otherwise easily accessible.
6. Upon specific notification by the Department, the right holder shall install and maintain acceptable measuring device(s), including data logger(s), at the authorized point(s) of diversion, in accordance with Department specifications.
7. 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.
8. 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.

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9. 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.
10. 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.

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

Signed this 8th day of APRIL, 2019.



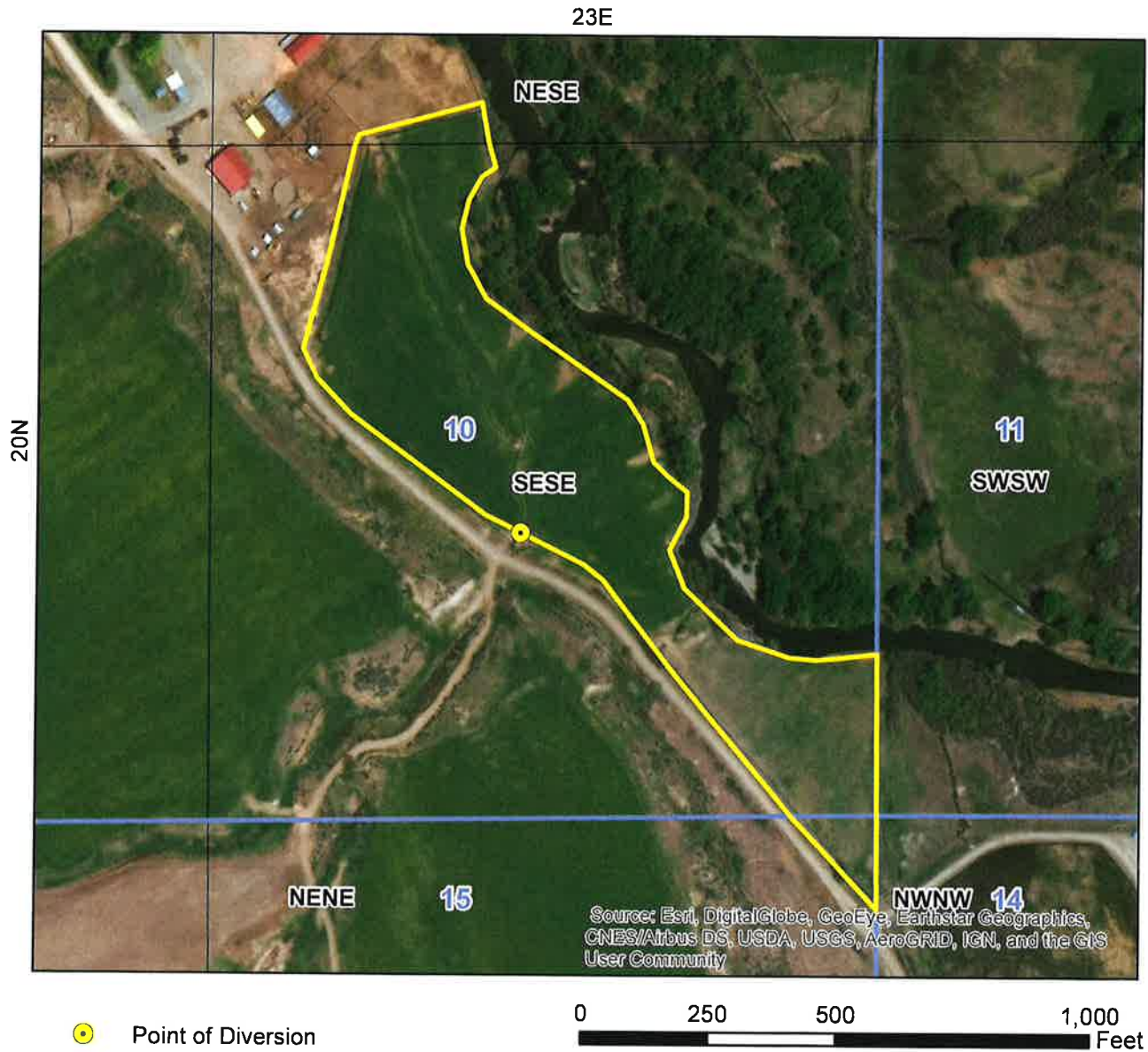
ANGELA GRIMM
Water Rights Section Manager

State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

74-16206

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.



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





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

April 08, 2019

RUBY MILLER
JOHN W MILLER
176 RED ROCK STAGE RD
SALMON ID 83467-5201

RE: Permit No. 74-16206

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) 287-4910.

Sincerely,



Clay Webster
Water Rights Supervisor

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on April 09, 2019, I served a true and correct copy of Permit to Appropriate Water No. 74-16206 by U.S. Mail, postage prepaid, to the following:

RUBY MILLER (Current Owner)
176 RED ROCK STAGE RD
SALMON ID 83467-5201

JOHN W MILLER (Current Owner)
176 RED ROCK STAGE RD
SALMON ID 83467-5201

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



Darla Block
Technical Records Specialist 1

EXPLANATORY INFORMATION TO ACCOMPANY A FINAL ORDER

(To be used in connection with actions when a hearing was **not** held)

(Required by Rule of Procedure 740.02)

The accompanying order is a "Final Order" issued by the department pursuant to section 67-5246, Idaho Code.

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a final order within fourteen (14) days of the service date of this order as shown on the certificate of service. **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 67-5246(4), Idaho Code.

REQUEST FOR HEARING

Unless the right to a hearing before the director or the water resource board is otherwise provided by statute, any person who is aggrieved by the action of the director, and who has not previously been afforded an opportunity for a hearing on the matter shall be entitled to a hearing before the director to contest the action. The person shall file with the director, within fifteen (15) days after receipt of written notice of the action issued by the director, or receipt of actual notice, a written petition stating the grounds for contesting the action by the director and requesting a hearing. See section 42-1701A(3), Idaho Code. **Note: The request must be received by the Department within this fifteen (15) day period.**

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, any party aggrieved by a final order or orders previously issued in a matter before the department may appeal the final order and all previously issued orders in the matter 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: a) the service date of the final order, b) the service date of an order denying petition for reconsideration, or c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration, whichever is later. See section 67-5273, Idaho Code. The filing of an appeal to district court does not in itself stay the effectiveness or enforcement of the order under appeal.

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.

MEMORANDUM

Date: February 19, 2019
To: Water Right File 74-16206
From: Ashley Ritter
Re: Application Review Update

The acres proposed in permit 74-16206 are currently irrigated under Water Right 74-15604 (with a different POD), owned by the applicants John and Ruby Miller, and that right is proposed to be transferred, but will still include the POU for the above mentioned permit. Transfer 82857 includes water rights 74-662 and 74-15604 (Lemhi water). If Lemhi water is ran to the new permitted area (74-16206) then a combined limit condition should be applied to license. If the Lemhi water and permit 74-16206 are developed as separate primary rights then a combined condition will not be needed during licensing.

NOTICE APPLICATION OF WATER
APPROPRIATION

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

74-16206

RUBY MILLER

JOHN W MILLER

176 RED ROCK STAGE RD

SALMON, ID 83467-5201

Point of Diversion SESE S10 T20N R23E

LEMHI County

Source WASTE WATER Tributary

LEMHI RIVER

Use: IRRIGATION

03/15 to 11/15

0.2 CFS

Total Diversion:

0.2 CFS

Date Filed: 11/29/2018

Place Of Use: IRRIGATION

T20N R23E S10 NESE SESE

T20N R23E S15 NENE

Total Acres: 10

This application proposes the diver-
sion and use of water tributary to a feder-
ally designated 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 sub-
ordination provision because the diver-

sion rate and acres will be applied to the
subordination amounts specified in the de-
cree for the applicable Wild & Scenic River.

75-14887

GREGORY A FLANDERS

PO BOX 2012

BUCKLEY, WA 98321

Point of Diversion NENW S21 T24N R21E

LEMHI County

Source SALMON RIVER Tributary

SNAKE RIVER

Use: IRRIGATION

04/01 to 10/31

0.1 CFS

Total Diversion:

0.1 CFS

Date Filed: 12/4/2017

Place Of Use: IRRIGATION

T24N R21E S21 NWNE NENW

Total Acres: 5

Affidavit of Publication

STATE OF IDAHO

County of Lemhi

ss.

RICKY G. HODGES being first duly sworn, deposes and says he is one of the publishers (print-
ers) of The Recorder Herald, a newspaper published weekly at Salmon, Lemhi County, Idaho, and
of general circulation therein. That the **NOTICE OF WATER APPROPRIATION** a true printed
copy of which is attached 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 **01-17-**
2019 and ending with the issue dated **01-24-2019**

STATE OF IDAHO

County of Lemhi

ss.

On this **24th day of JANUARY** 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 sub-
scribed 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 \$266.40



RECEIVED

JAN 28 2019

DEPARTMENT OF
WATER RESOURCES

RECEIVED

JAN 28 2019

FISCAL

Jan 28 1-30-19

AW

This application proposes the diversion and use of water from 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 the diversion rate and acres will be applied to the subordination amounts specified in the decree for the Wild & Scenic River listed above.

75-14929

RICHARD HELTSLEY

PO BOX 4

NORTH FORK, ID 83466-0004

Point of Diversion SENW S14 T25N R21E

LEMHI County

Source SHEEP CREEK Tributary

SALMON RIVER

Use: IRRIGATION

04/01 to 10/31

0.04 CFS

Total Diversion:

0.04 CFS

Date Filed: 11/9/2018

Place Of Use: IRRIGATION

T25N R21E S14 SWNE SENW

Total Acres: 3

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 the diversion rate and acres 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 the State office at (208) 287-4800; or for a full description of the right(s), please see HYPERLINK "<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 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 2/04/2019. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director 1-17-2tc

State of Idaho
Department of Water Resources

RECEIVED

JAN 23 2019

DEPT OF WATER RESOURCES

RECOMMENDATION OF WATERMASTER

Application No: 74-16206
Water Right No:
Applicant Name: John and Ruby Miller

Watermaster's Recommendation:

- a) ☒ I do not oppose approval of this application
b) ☐ I do not oppose approval of this application under the following terms:
c) ☐ I oppose approval of this application(s) for the following reasons:
d) ☒ Additional comment:

This application overlaps Lemhi right 74-15604. There was a companion transfer 82857 filed which proposes to relocate the POU under the above right prior to the approval of this application. **THE TRANSFER MUST BE APPROVED PRIOR TO APPROVAL OF THIS APPLICATION IN ORDER TO AVOID STACKING THE RIGHTS.**

Dated: January 23, 2019

Water District 170



Cindy Yenter, Watermaster

Webster, Clay

From: Webster, Clay
Sent: Thursday, January 17, 2019 12:41 PM
To: Yenter, Cindy
Subject: RE: Miller transfer 82857

Cindy,

This is in my in box to review, the permit was reviewed by Pam prior to her departure. I'll keep an eye out for this permit to not approve until transfer is approved. Thanks for the head's up.

Clay

From: Yenter, Cindy
Sent: Thursday, January 17, 2019 12:29 PM
To: Webster, Clay <Clay.Webster@idwr.idaho.gov>
Subject: Miller transfer 82857

Clay, do you know what happened to this transfer? It was filed with an accompanying waste water application 74-16206. The application is in advertising, but the transfer is not, and the transfer needed to be processed first to avoid stacking the rights. So long as you are aware of this and don't approve the permit ahead of the transfer it will be ok, but advertising the permit first is creating a bit of confusion and doesn't portray the entire proposal.

*Cindy Yenter
Idaho Dept of Water Resources
Salmon Field Office
102 S Warpath, Salmon ID 83467
cindy.yenter@idwr.idaho.gov
208-742-0655
208-731-0901 cell*

State of Idaho
Department of Water Resources
Transfer of Water Right(s)
RECOMMENDATION FORM

RECEIVED

JAN 16 2019

DEPT OF WATER RESOURCES
SALMON OFFICE

Application for Permit No.: 74-16206

Applicant's Name: JOHN MILLER
RUBY MILLER
176 RED ROCK STAGE RD
SALMON ID 83467

Water master's Recommendation:

- a) *X* I do not oppose approval of this application.
- b) I do not oppose approval of this application if it is conditioned as follows:
- c) I oppose approval of this application for the following reasons:
- d) Additional comments:

Dated this 16 day of January , 2019

Water District No. 74

 Rick Seger

Water master's Signature

 RICK SAGER

Printed Name