

State of Idaho
Department of Water Resources
Permit to Appropriate Water
No. 65-23808

Priority: September 28, 2018

Maximum Diversion Rate: 0.03 CFS

This is to certify that

ARCHER HEIGHTS LLC 291 E SHORE DR STE 210 EAGLE ID 83616

has applied for a permit to appropriate water from:

Source : ANDERSON CREEK

Tributary: PAYETTE RIVER

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

<u>Beneficial Use</u>	<u>Period of Use</u>	<u>Rate of Diversion</u>
IRRIGATION	03/15 to 10/31	0.03 CFS
DOMESTIC	01/01 to 12/31	0.02 CFS

Location of Point(s) of Diversion

ANDERSON CREEK SW¼ NW¼, Sec. 24, Twp 09N, Rge 04E, B.M. BOISE 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	
09N	04E	23				0.5													0.5
09N	04E	24							0.5										0.5

Total Acres: 1.0

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	
09N	04E	24							X										

Conditions of Approval

1. Proof of application of water to beneficial use shall be submitted on or before **March 01, 2022**.
2. Subject to all prior water rights.
3. This right when combined with all other rights shall provide no more than 0.03 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the place of use.
4. 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. 65.
5. The right holder shall contact the watermaster by June 15 each year for authorization to continue diverting and using water. The right holder shall not divert water after June 15 each year unless the watermaster authorizes continued diversion and use of water under this water right. When the watermaster informs the right holder that water is not available to fill this right, the right holder shall cease diversion, shall rent water from the Payette River Rental Pool, or shall otherwise mitigate for

State of Idaho
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Permit to Appropriate Water
No. 65-23808

the depletion of water caused by this water use. The department may amend the contact date listed in this administrative provision to more closely coincide with the date when water is not available to fill this water right.

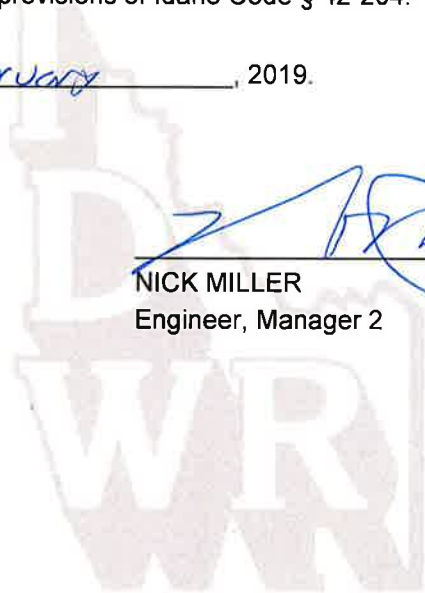
6. Domestic use is for 1 home and does not include lawn, garden, landscape, or other types of irrigation.
7. The Director retains jurisdiction to require the right holder to provide purchased or leased natural flow or stored water to offset depletion of Lower Snake River flows if needed for salmon migration purposes. The amount of water required to be released into the Snake River or a tributary, if needed for this purpose, will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this permit.

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

Signed this 20th day of February, 2019.



NICK MILLER
Engineer, Manager 2

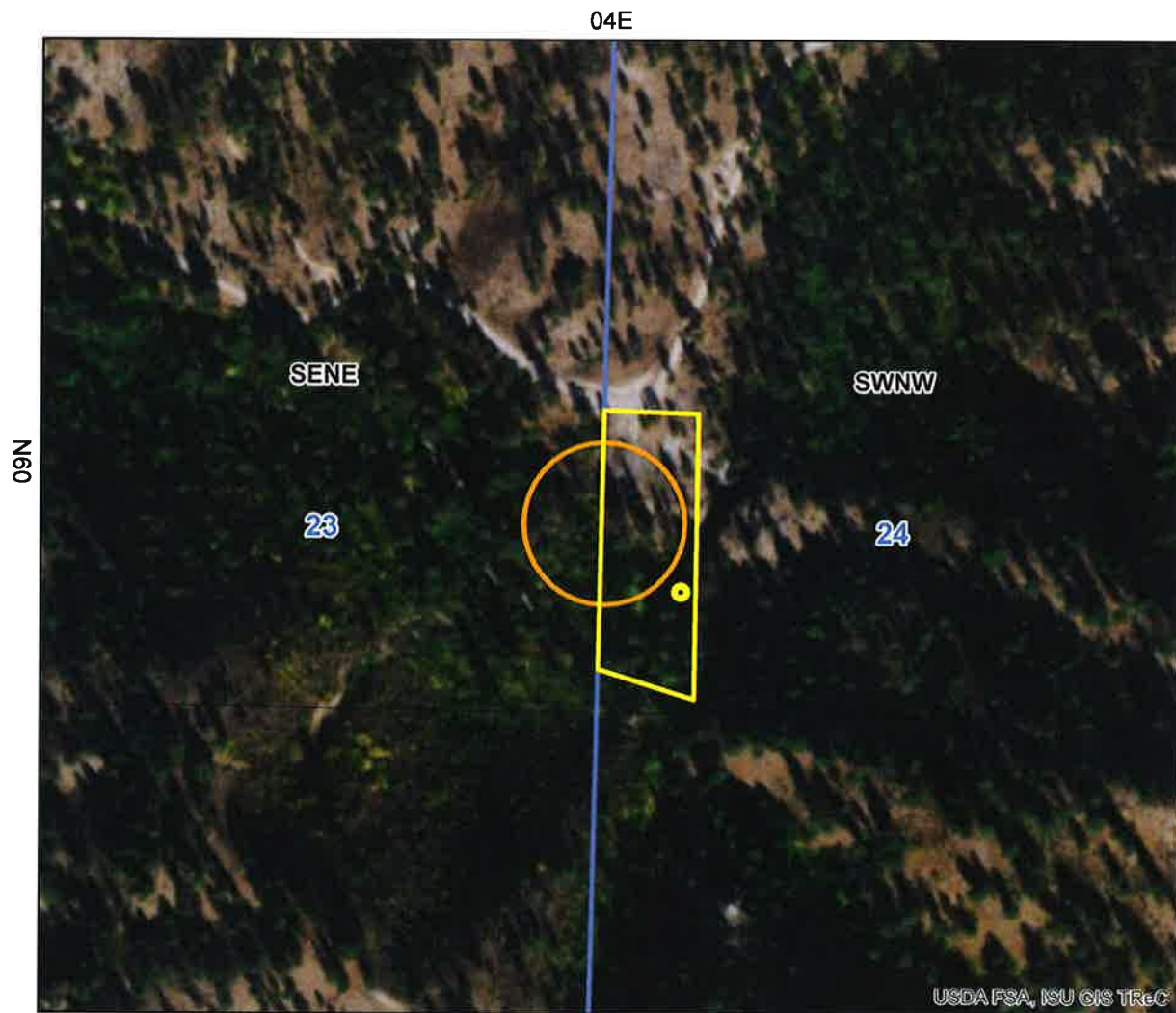


State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

65-23808

This map depicts the 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

0 0.035 0.07 0.14 Miles

Water Permit POU

- Domestic
- Irrigation
- Townships
- PLS Sections
- Quarter Quarters





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: www.idwr.idaho.gov

Brad Little
Governor

Gary Spackman
Director

February 20, 2019

ARCHER HEIGHTS LLC
291 E SHORE DR STE 210
EAGLE ID 83616

RE: Permit No. 65-23808

Permit Approval Notice

Dear Permit Holder:

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 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.

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) 334-2190.

Sincerely,


Anna Kaizer

For

Nick Miller
Engineer, Manager 2

Enclosures

CERTIFICATE OF SERVICE

I hereby certify that on February 20, 2019, I served a true and correct copy of Permit to Appropriate Water No. 65-23808 by U.S. Mail, postage prepaid, to the following:

ARCHER HEIGHTS LLC (Current Owner)
291 E SHORE DR STE 210
EAGLE ID 83616

TIMOTHY MOORE (Representative)
870 S MACE RANCH WAY
EAGLE ID 83616

WATER DISTRICT #65
RON SHURTLEFF (Watermaster)
102 N MAIN ST
PAYETTE ID 83661



Anna Kaiser
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.

Kelly, Patrick

From: Tim Moore <tim.moore@hotmail.com>
Sent: Wednesday, January 30, 2019 3:55 PM
To: Kelly, Patrick; Tim Moore
Subject: Re: Rule 40 request

Archer Heights LLC
Timothy Moore- Partner
870 S Mace Ranch Way
Eagle ID 83616

Dear Mr. Patrick Kelly,

Thank you for talking to me yesterday in regards to my application-permit #65-23808.

To clarify our water needs and expected impact on existing water rights involving Anderson Creek near Garden Valley Idaho I will return by mail a shaded picture of the intended area that will be periodically irrigated.

We anticipate utilizing a 1 hp submersible water pump in conjunction with water hoses to water fruit trees as well as establish grass and a small area around our camping spot. I do not intend to irrigate more than an acre of grass and trees in total. Most likely we will get them established and then the watering needs will decrease over time. In addition to that we will use limited water for household/recreational use. I will have a small RV/tiny home present there and will need water for occasional shower/toilet/dishwasher use. We will likely only be using the facility on weekends and holidays. Our permanent residence is in Eagle. Our total water needs will be relatively low and should not impact the existing water rights pulling from Anderson Creek. We estimate that are peak use during summer weekend days will be less than 1500 gallons/day.

Thank you,

Timothy R. Moore, MD

From: Kelly, Patrick <Patrick.Kelly@idwr.idaho.gov>
Sent: Tuesday, January 29, 2019 3:55 PM
To: tim.moore@hotmail.com; michael@colbynipper.com
Subject: Rule 40 request

Tim,
Thank you for the phone call today regarding your application for permit 65-23808. I have attached the map that was submitted with your application as well as a new map that you may use to mark up and return to me. If amendments need to be made to the application to better describe the proposal I can assist you with that once additional information is submitted. The attachment to the letter sent to you dated January 8, 2019 can be used to fulfill the information request. I have added it again to this email. Please collect as much information that you can regarding the request and submit it to my office.
Sincerely,

Patrick Kelly



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region • 2735 Airport Way • Boise, Idaho 83705-5082

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

January 8, 2019

COPY

ARCHER HEIGHTS LLC
291 EAST SHORE DR
EAGLE ID 83616

Re: Application for Permit No. 65-23808 Rule 40 Additional Information Request

Dear Applicant:

The Idaho Department of Water Resources ("IDWR") is processing Application for Permit No. 65-23808. IDWR requests additional information required by the Water Appropriation Rules¹. This requirement includes the following items discussed in Water Appropriation Rule 40, Rule Subsections 040.05c through 040.05g (copy enclosed):

1. effect on existing water rights
2. sufficiency of water supply
3. good faith, delay or speculative purposes
4. financial resources
5. local public interest

For your application for permit, only the following items need to be addressed: effect on existing water rights and sufficiency of water supply.

Please submit the requested information for application processing to continue. **Your written response is required within the next thirty (30) days.** You may seek additional time to provide the information if necessary. The application will be voided without a timely written reply. Refunds are not available for voided applications.

IDWR rules, forms and other information are available on the Internet at www.idwr.idaho.gov. Please contact me at 208-334-2190 if you need more information. Thank you for your attention to these matters.

Sincerely,

Patrick Kelly
Water Resource Agent, Sr.

Enclosure: IDAPA 37.03.08.040.05.c-g

¹ IDAPA 37.03.08 – Water Appropriation Rules

The Idaho World

P.O. Box 220
Idaho City, ID 83631
(208) 202-9288

RECEIVED

NOV 27 2018

WATER RESOURCES
WESTERN REGION

State of Idaho)
County of Boise)

Eileen Capson, being duly sworn, deposes and says: that she is the Publisher of THE IDAHO WORLD, a weekly newspaper published at Idaho City, in the County of Boise and the State of Idaho; the said paper has been and is in general circulation in the county aforesaid, and in the vicinity of Idaho City; that the advertisement, a copy of which is hereto attached, was published in said newspaper once a week for two (2) consecutive weeks in the entire and regular issue of every number of said paper during the period and time of publication and was published in the newspaper and not a supplement; that said paper has been established and regularly and continuously published for more than seventy eight weeks past previous to the first publication of this notice. Such notice was published with the issue beginning with Nov. 7, 2018 and ending with the issue of Nov. 14, 2018.

Eileen K. Capson

State of Idaho)
County of Boise)

On this 26th day of November in the year 2018, before me, a notary public, personally appeared Eileen Capson 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 she executed the same.

Christi Coffelt

Notary Public for Idaho
Residing at Idaho City, Idaho
Commission Expires 6/4/21

The following application has been filed to appropriate the public waters of the State of Idaho:

65-23808
ARCHER HEIGHTS LLC
291 E SHORE DR STE 210
EAGLE, ID 83616
Point of Diversion SWNW S24
T09N R04E BOISE County Source
ANDERSON CREEK Tributary PAY-
ETTE RIVER
Use: DOMESTIC 01/01 to 12/31
0.06 CFS
Use: IRRIGATION 03/15 to 10/31
0.12 CFS
Total Diversion: 0.12 CFS

Date Filed: 9/28/2018

Place of Use: IRRIGA-
TION
T09N R04E S23 SENE
T09N R04E S24 SWNW
Place of Use: DOMESTIC
T09N R04E S24 SWNW

Total Acres: 4

Permits will be subject to all prior water rights. For additional information concerning the property location, contact Western Region office at (208) 334-2190; or for a full description of the right(s), please see www.idwr.idaho.gov. Protests may be submitted based on the criteria of Idaho Code § 42-203A. Any protest against the approval of the application(s) must be filed with the Director, Dept. of Water Resources, Western Region, 2735 Airport Way, Boise ID 83705 together with a protest fee of \$25.00 for each application on or before 11/26/2018. The protestant must also send a copy of the protest to the applicant.
GARY SPACKMAN, Director
Published in the Idaho World on 11/7/2018 and 11/14/2018.

JOE AL 12/6/18

