

RECEIVED

FORM 202- Rev. 09/16

DEC 03 2018

DEPARTMENT OF
WATER RESOURCESSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Ident. No.

74-16207

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name of applicant(s) Boyd E Stokes, Barbara A Stokes Phone 208-756-3923
 Name connector (check one): ☐ and ☐ or ☒ and/or
 Mailing address 646 Lemhi Rd City Salmon
 State ID ZIP 83467 Email bbstokes11@gmail.com
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 Waste Water which is a tributary of Lemhi River

4. Location of point(s) of diversion:

Twp	Rge	Sec	Govt Lot	1/4	1/4	1/4	County	Source	Local name or tag #
21N	23E	19			SW	SE	LEMHI	WASTE WATER	POD
21N	23E	19			SW	SE	LEMHI	WASTE WATER	INJECTION
21N	23E	19			SW	SE	LEMHI	WASTE WATER	REDIVERSION

5. Water will be used for the following purposes:

Amount 1.0 for IRRIGATION purposes from 3/15 to 11/15 (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)

6. Total quantity to be appropriated is (a) 1.0 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. 30 hp pump in L-9 lateral to pivot and handlines
- 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. _____

For Department Use

Received by AW Date 12.3.18 Time 2:30 Preliminary check by _____
 Fee \$ 250 Receipted by AW Receipt No. C105932 Date 12.3.18

8. Description of proposed uses (if irrigation only, go to item 9):
- Hydropower; show total feet of head and proposed capacity in kW. _____
 - Stockwatering; list number and kind of livestock. _____
 - Municipal; must complete and attach the Municipal Water Right Application Checklist.
 - Domestic; show number of households _____
 - Other; describe fully. _____
9. Description of place of use:
- If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
 - 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	
21N	23E	19												8		2	38	7	55
~~21N~~	~~23E~~	30		6			2												8

Total number of acres to be irrigated: 63

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? 74-179A, 74-16160, 74-2047D, 74-180A, 74-178A, 74-179B irrigation from Lemhi R and Bohannon Ck; 74-15988 stock water from same waste water source
11. a. Who owns the property at the point of diversion? Mildred H Jolley Unified Trust
 b. Who owns the land to be irrigated or place of use? Mildred H Jolley Unified Trust
 c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: applicants hold 1/2 interest in trust, are in process of acquiring lands, see consent from trust, attached
12. Describe your proposal in narrative form, and provide additional explanation for any of the items above. Attach additional pages if necessary. This represents a late season water diversion to augment Lemhi River water diverted in the L-9 lateral (74-2047D) when all other rights have been curtailed. Water is injected into the L-9 approx 100 yds downstream from pump station which is drawing from the lateral. Water will only be pumped when waste water is entering the lateral and waste water will be measured prior to injection.
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.

Boyd E. Stokes
 Signature of Applicant
BOYD E. STOKES
 Print Name (and title, if applicable)

Barbara A Stokes
 Signature of Applicant
Barbara A Stokes
 Print Name (and title, if applicable)

NESW

NWSE

NESE

19

POU - 63 ac

SESE

SESW

SWSE

POD &
point of injection

point of
rediversion (pump)

21N23E

Lehigh

Geartson Creek

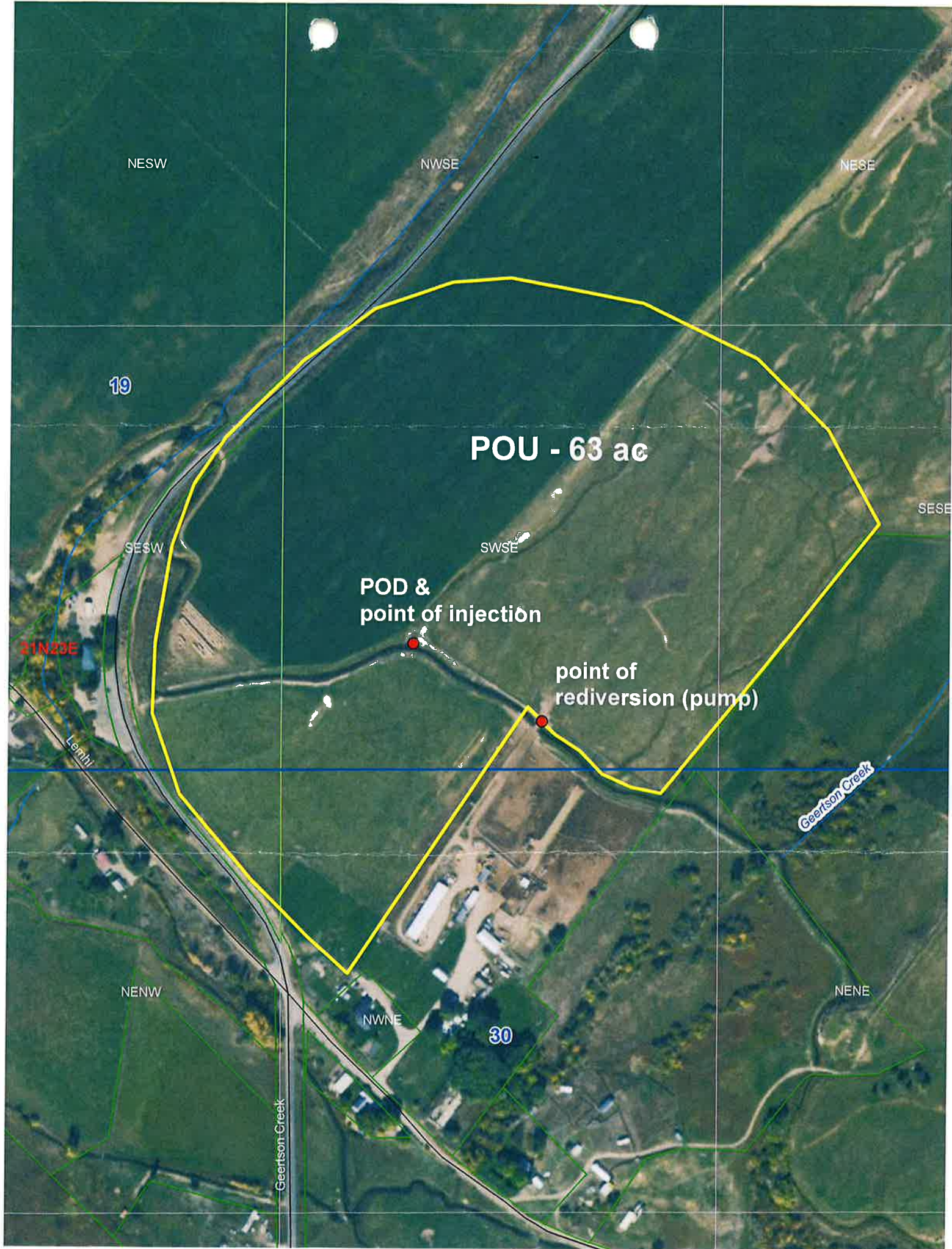
NENW

NWNE

30

NENE

Geartson Creek



COPY

FILED ON

JUN 11 2018

LEMHI COUNTY MAGISTRATE

Stephen D. Hall, Esq., ISB # 2444
PETERSEN MOSS HALL & OLSEN
485 "E" Street
Idaho Falls, Idaho 83402
(208) 523-4650 (phone)
(208) 524-3391 (fax)
sdhlaw485@gmail.com

Attorneys for Applicant, Barbara Stokes

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LEMHI

In the Matter of the Estate of

ELDON DALE JOLLEY,

Deceased.

Case No. CV-2018- 141

LETTERS TESTAMENTARY

1. Barbara Stokes was duly appointed and qualified on the 11th day of June, 2018, as general Personal Representative of the Estate of Eldon Dale Jolley, deceased, by the Magistrate acting as registrar with all authority pertaining thereto.

2. Administration of the Estate is unsupervised.

These letters are issued to evidence the appointment, qualification, and authority of said Personal Representative.

WITNESSETH, my signature and the seal of this Court, this 11th day of June, 2018.

STATE OF IDAHO
COUNTY OF LEMHI
I, TERRY J. MORTON, CLERK OF THE DISTRICT COURT
OF THE SEVENTH JUDICIAL DISTRICT OF THE STATE OF
IDAHO, IN AND FOR THE COUNTY OF LEMHI DOE HEREBY
CERTIFY THAT THE PROCEEDING IS A TRUE AND CORRECT
COPY OF THE ORIGINAL ON FILE IN THIS OFFICE.
IN WITNESS WHEREOF I HAVE HERE UNTO SET MY HAND
AND AFFIXED MY OFFICIAL SEAL THIS 11th DAY
OF June YEAR 2018
BY Terry J. Morton DEPUTY

Stephen D. Hall
Magistrate

November 26, 2018

Dear Idaho Department of Water Resources,

On June 11, 2018 I, Barbara Stokes, was duly appointed and qualified as general Personal Representative of the estate of my deceased father, Eldon Dale Jolley.

I give my consent on behalf of this estate to allow myself and my husband, Boyd Stokes to file for this water right.

Barbara Stokes

RECEIVED

DEC 03 2018

DEPARTMENT OF
WATER RESOURCES

Hersley, Jean

From: Hersley, Jean
Sent: Thursday, December 27, 2018 10:56 AM
To: rhlegals@custertel.net
Subject: Legal Notice

A COPY WILL BE FAXED TO YOU ALSO. Thank you. Jean
December 27, 2018

208-756-2222 Page 1

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 **January 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

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

74-16186
JERRY A FOSTER
PO BOX 46
LEADORE, ID 83464
Point of Diversion SENE S5 T15N R26E LEMHI County
Source BIG TIMBER CREEK Tributary LEMHI RIVER
Use: IRRIGATION
03/15 to 11/15
0.68 CFS
Total Diversion:
0.68 CFS
Date Filed: 10/12/2018
Place Of Use: IRRIGATION
T16N R26E S33 SWNE
Total Acres: 34

This application proposes the diversion and use of water from a tributary of the Salmon River 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.

74-16187
KURT W BIRD
JANET E BIRD
56 LOWER TEXAS CREEK RD
LEADORE, ID 83464

Point of Diversion NWNW S20 T15N R26E LEMHI County
Source BIG TIMBER CREEK Tributary LEMHI RIVER
Use: IRRIGATION
03/15 to 11/15
6.4 CFS

Total Diversion:

6.4 CFS

Date Filed: 10/12/2018

Place Of Use: IRRIGATION

T15N R26E S8 SWSE SESE

T15N R26E S9 NESW NWSW SWSW SESW

T15N R26E S17 NENE NWNE

Total Acres: 320

This application proposes the diversion and use of water from a tributary of the Salmon River 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.

74-16207

BOYD E STOKES

BARBARA A STOKES

646 LEMHI RD

SALMON, ID 83467

Point of Diversion SWSE S19 T21N R23E LEMHI County

Source WASTE WATER Tributary LEMHI RIVER

Point of Diversion SWSE S19 T21N R23E LEMHI County (Injection)

Source WASTE WATER Tributary LEMHI RIVER

Point of Diversion SWSE S19 T21N R23E LEMHI County (rediversion)

Source WASTE WATER Tributary LEMHI RIVER

Use: IRRIGATION

03/15 to 11/15

1 CFS

Total Diversion:

1 CFS

Date Filed: 12/3/2018

Place Of Use: IRRIGATION

T21N R23E S19 SESW NWSE SESE

T21N R23E S30 NWNE NENW

Total Acres: 63

This application proposes the diversion and use of water tributary to a federally designated Wild & Scenic River. The decreed minimum stream flow rights for the federal Salmon 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 acre will be applied to the subordination amounts specified in the decree for the applicable Wild & Scenic River.

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 1/22/2019. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Published on 1/3/2019 and 1/10/2019



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: idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

December 27, 2018

BOYD E STOKES
BARBARA A STOKES
646 LEMHI RD
SALMON, ID 83467

Application For Permit No. 74-16207

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 1/3/2019 and 1/10/2019. 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,

A handwritten signature in cursive script that reads "Jean Hersley".

Jean Hersley
Technical Records Specialist



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: idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

December 28, 2018

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

RE: Applications for Permit No. 74-16186, 74-16187 & 74-16207

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 application.

Sincerely,

Jean Hersley
Technical Records Specialist II

Hersley, Jean

From: Hersley, Jean
Sent: Thursday, December 27, 2018 10:59 AM
To: Jeff Richards
Subject: Applications for Permit No. 74-16186, 74-16187 & 74-16207

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 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

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



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: idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

December 28, 2018

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

RE: Application for Permit No. 74-16186, 74-16187 & 74-16207

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 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,

Jean Hersley
Technical Records Specialist II

Hersley, Jean

From: Hersley, Jean
Sent: Thursday, December 27, 2018 11:15 AM
To: Yenter, Cindy
Subject: Comment Letter to Watermaster 170
Attachments: Comment Letter to Watermaster170.docx

For applications for permit 74-16186, 74-16187 & 74-16207.

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



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: idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

December 28, 2018

WATER DISTRICT #74A
ROCKIE L WALKER
569 HWY 28
SALMON ID 83467

RE: Applications for Permit: 74-16207

Dear Watermaster:

The Department of Water Resources is seeking written comment and/or recommendations from you regarding the above referenced water right application for permit. You can find a copy of the application at: <http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx>. Please review the application, then complete the enclosed recommendation form and return it to this office within 21 days of the date of this letter by USPS or email to: jean.hersley@idwr.idaho.gov.

If the application is approved, IDWR will include appropriate standard conditions of approval for a water right located within a water district, such as regulation by the watermaster, lockable controlling works, and/or measuring devices. Any special conditions or other concerns you have related to this application should be specifically addressed in your recommendation.

IDWR's offices can finish reviewing an unprotested application as soon as the protest period has past. Your prompt response to this request will ensure that your recommendation can be considered. If IDWR has not received your written recommendation within 21 days from the date of this letter, IDWR will presume that you do not oppose approval of the application and that you have no comments for IDWR to consider.

Sincerely,

Jean Hersley
Technical Records Specialist

Enclosure(s)

State of Idaho
Department of Water Resources
Application for Permit

RECOMMENDATION FORM

Application No.: 74-16207

Applicant's Name: BOYD E STOKES
BARBARA A STOKES

Watermaster's Recommendation:

- a) _____ 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 _____ day of _____, 2018

Water District No. 74A

Watermaster's Signature _____

Printed Name: _____

Hersley, Jean

From: Hersley, Jean
Sent: Thursday, December 27, 2018 11:38 AM
To: Clark, Cynthia Bridge; Skoro, Emily
Subject: Applications for Permit 74-16186, 74-16187 & 74-16207

These applications will be advertised on January 3rd and 10th. The protest end date is January 22, 2019. Please let me know if you have any comments or concerns. Documents will be scanned by the end of the day.

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



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: idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

December 20, 2018

BOYD E. STOKES
BARBARA A. STOKES
646 LEMHI RD
SALMON, ID 83467

RE: Condition to Permit 74-16207

Dear Applicant(s):

On December 03, 2018, the Department received your Application for Permit proposing irrigation from waste water in the L-9 lateral. The map you submitted with your application raised questions about the points of diversion. You listed the two points of diversion; one as a point of diversion and injection (POD #1), and one as a point of redirection with a pump (POD #2).

I spoke with you on December 18, 2019 to clarify your intent regarding the proposed diversion of the waste water. You explained that POD #1 was at the confluence of the L-9 lateral with an unnamed stream including spring water and irrigation waste water from your neighbor Verdell Olson's property. Furthermore, you also stated that a weir will be installed at this point for measurement of the amount of water that enters the L-9. You explained that you propose to limit the quantity of water diverted by your pump to the quantity of water entering L-9 downstream. This is to eliminate concerns of diverting other users water delivered through the L-9 lateral from the Lemhi River or other sources past your proposed diversion.

The actual point of diversion is where you divert water from the L-9 at POD #2. The description of POD #1 will not be included on the proposed permit since you don't physically divert or inject the water, but rather water runs into the L-9 naturally. The proposed permit will identify a single point of diversion where the pump is located at POD #2. A condition of the proposed permit will require a measuring device must be installed at POD #1 and maintained to determine the amount of water that may be diverted from your pump at POD #2 as you proposed and discussed with the watermaster

If you have any questions concerning this letter please contact me at (208) 287-4913.

Sincerely,

Alex Dalgleish
Water Resource Agent

Enclosures: Receipt, Map

State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

74-16207

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.

23E



○ Point of Measurement

⊙ Point of Diversion

□ Place Of Use Boundary

□ Townships

□ PLS Sections

□ Quarter Quarters

0 0.075 0.15 0.3 Miles



Skaggs, Pam

From: Boyd Stokes <bbstokes11@gmail.com>
Sent: Monday, December 17, 2018 12:33 PM
To: Skaggs, Pam
Subject: Boyd Stokes water right to 74-16207
Attachments: Scan0097.pdf

Dear Pam,

Attached is the information you requested and if there is anything else feel free to call

Boyd

646 Lemhi Road
Salmon ID 83467
December 15, 2018

Idaho Department of Water Resources
322 E Front Street STE 648
PO Box 83720
Boise ID 83720-0098

Dear Pamela Skaggs,

I received your letter of December 10, 2018 and at your request and will provide any other information you need to continue with our application.

First. The water source of this water that I am applying for, comes from a spring that runs year-round and I am assuming is supplied by summer time flood irrigation from my neighbor, who by the way has no issues or opposes this application in any way. Since this water comes from a spring, there are no fish issues and no harm done according to ESA ruling.

Second, As far as maintaining minimum stream flow in the Lemhi River, this spring water that I am applying for, eventually runs into the L-9 ditch which never gets to the Lemhi River in the summer. The L-9 ditch comes from the Lemhi River, (which is screened) and provides water for other irrigators and any water in that ditch never returns to the Lemhi, thus having no impact on the minimum water stream flow and no impact on water supplied for the water bank.

I feel that this application follows all of the rulings you referred to and in no way will harm or interfere with others irrigation practices and water rights. The neighbors that I have talked to have no objections and would not protest the application. If I can be of any more help please feel free to contact me.

Sincerely,

Boyd Stokes



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: idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

December 10th 2018

BOYD E STOKES
BARBARA A STOKES
646 LEMHI RD
SALMON, ID 83467

RE: Application to Appropriate Water in the Upper Salmon River Basin 74-16207

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
- 2008 Columbia Basin Fish Accords

Letter to Upper Salmon River Basin Water Right Applicants

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 208-287-4951, or email me at pam.skaggs@idwr.idaho.gov.

Sincerely,

Pamela Skaggs
Water Rights Supervisor