



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

3/12/2018

BOGUS BASIN RECREATIONAL ASSOCIATION
C/O CHRIS BROMELY
MC HUGH BROMLEY PLLC
380 S 4TH ST STE 103
BOISE ID 83702

DOBSON LIVESTOCK LLC
C/O WILLIAM D COLLINS
WESTBERG MCCABE & COLLINS CTD
1520 W WASHINGTON ST
PO BOX 2836
BOISE ID 83701-2836

Re: Withdrawal of Protest against Application for Permit No. 65-23703 (Bogus Basin)

Dear Parties:

The Department of Water Resources acknowledges receipt of your January 26th, 2018 *Agreement in Resolution of Protest* ("agreement") regarding the above referenced application. The parties have agreed to the protestant's withdrawal if approval of the permit application is conditioned substantially as provided in the stipulation.

In any conditional withdrawal, the Department must review the agreement to ensure that conditions to be included in an approval are acceptable. The agreement included components that are to be addressed by the Department as conditions on the face of an approval and may have components that are the responsibility of the parties to accomplish and enforce. The attached draft approval contains the conditions stipulated by the parties as well as other conditions required by the Department.

Please review the draft approval carefully. If you think the draft approval is not substantially in conformance with your stipulated conditions, please contact the Department within 14 days of the date of this letter with your concerns. The application has no remaining protests; therefore, if we do not hear from you, the Department will take the steps necessary to bring the application to final resolution. As always, you may file a petition for reconsideration within 14 days after the preliminary order approving the permit is issued.

Please feel free to contact this office if you have any questions regarding this procedure.

Sincerely,

A handwritten signature in black ink, appearing to read 'Nick Miller'.

Nick Miller
Regional Manager

Enclosure

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 65-23703

DRAFT

Priority: June 01, 2017

Maximum Diversion Volume: 80.3 AF

This is to certify, that BOGUS BASIN RECREATIONAL ASSN INC
C/O BRAD WILSON
2600 BOGUS BASIN RD
BOISE ID 83702

has applied for a permit to appropriate water from:

Source: BOGUS CREEK**Tributary:** SHAFER CREEK

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

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>ANNUAL VOLUME</u>
COMMERCIAL STORAGE	01/01 to 12/31	80.3 AF
COMMERCIAL FROM STORAGE	11/01 to 03/31	80.3 AF
FIRE PROTECTION STORAGE	01/01 to 12/31	47.3 AF
AESTHETIC STORAGE	01/01 to 12/31	47.3 AF
RECREATION STORAGE	01/01 to 12/31	47.3 AF

LOCATION OF POINT(S) OF DIVERSION:

BOGUS CREEK SW¼ SW¼ Sec. 16, Twp 05N, Rge 03E, B.M. BOISE County

PLACE OF USE: COMMERCIAL STORAGE, FIRE PROTECTION STORAGE, AESTHETIC STORAGE and RECREATION STORAGE

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
05N 03E 16											X						

PLACE OF USE: COMMERCIAL FROM STORAGE

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
05N 03E 15									X	X							
05N 03E 16			X	X					X			X	X	X	X	X	
05N 03E 21	X	X	X	X	X								X	X			
05N 03E 22						X	X		X								

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **April 01, 2023**.
2. Subject to all prior water rights.
3. Right 65-23703 authorizes the storage of an annual total of 80.3 acre-feet, comprised of 42.0 acre-feet to be used for the initial filling or carryover storage of the reservoir, 5.3 acre-feet for the replacement of losses due to evaporation, and up to 33.0 acre-feet for additional refills for commercial from storage use.

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DRAFT

4. The one (1) reservoir established by the storage of water under this right shall not exceed a total capacity of 42 acre-feet or a total surface area of 3.0 acres.
5. Prior to diversion of water under this right, the right holder shall provide a means acceptable to the department to measure the amount of water entering the reservoir and the amount of water released from the reservoir.
6. Water may be diverted into storage under this right from November 16 through March 14 each year. Further, from March 15 through May 31, water may be diverted into storage under this right only to the extent that the remaining flow in Bogus Creek at the point of diversion is not reduced below 2.0 cfs. No water may be diverted into storage under this right from June 1 through November 15 each year.
7. The permit holder shall record the volume of water diverted from the pond using a totalizing flowmeter on a monthly basis and shall record the starting and ending pond level for the same period, and report quarterly to the protestant with a copy to the Idaho Department of Water Resources (Department) for the first five (5) years that storage occurs under this right. Thereafter, the permit holder will continue measuring and maintaining records for inspection by the Department.
8. 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.
9. 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.
10. The right holder shall install and maintain an impermeable liner in the reservoir to eliminate seepage losses.
11. Commercial storage use and commercial from storage use is for snowmaking purposes at Bogus Basin Ski Resort.
12. Water shall not be diverted from fire protection storage except to fight or repel an existing fire.
13. Prior to diversion and use of water under this approval, the right holder shall obtain Forest Service authorization necessary to access the point of diversion or place of use or to convey water across federal land.
14. This right does not grant any right-of-way or easement across the land of another.
15. 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.
16. 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 Section 42-204, Idaho Code.

Signed this _____ day of _____, 2018.

DRAFT

Nick Miller
Manager, IDWR Western Region

State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

65-23703

This map depicts the COMMERCIAL STORAGE, FIRE PROTECTION STORAGE, RECREATION STORAGE and AESTHETIC 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.



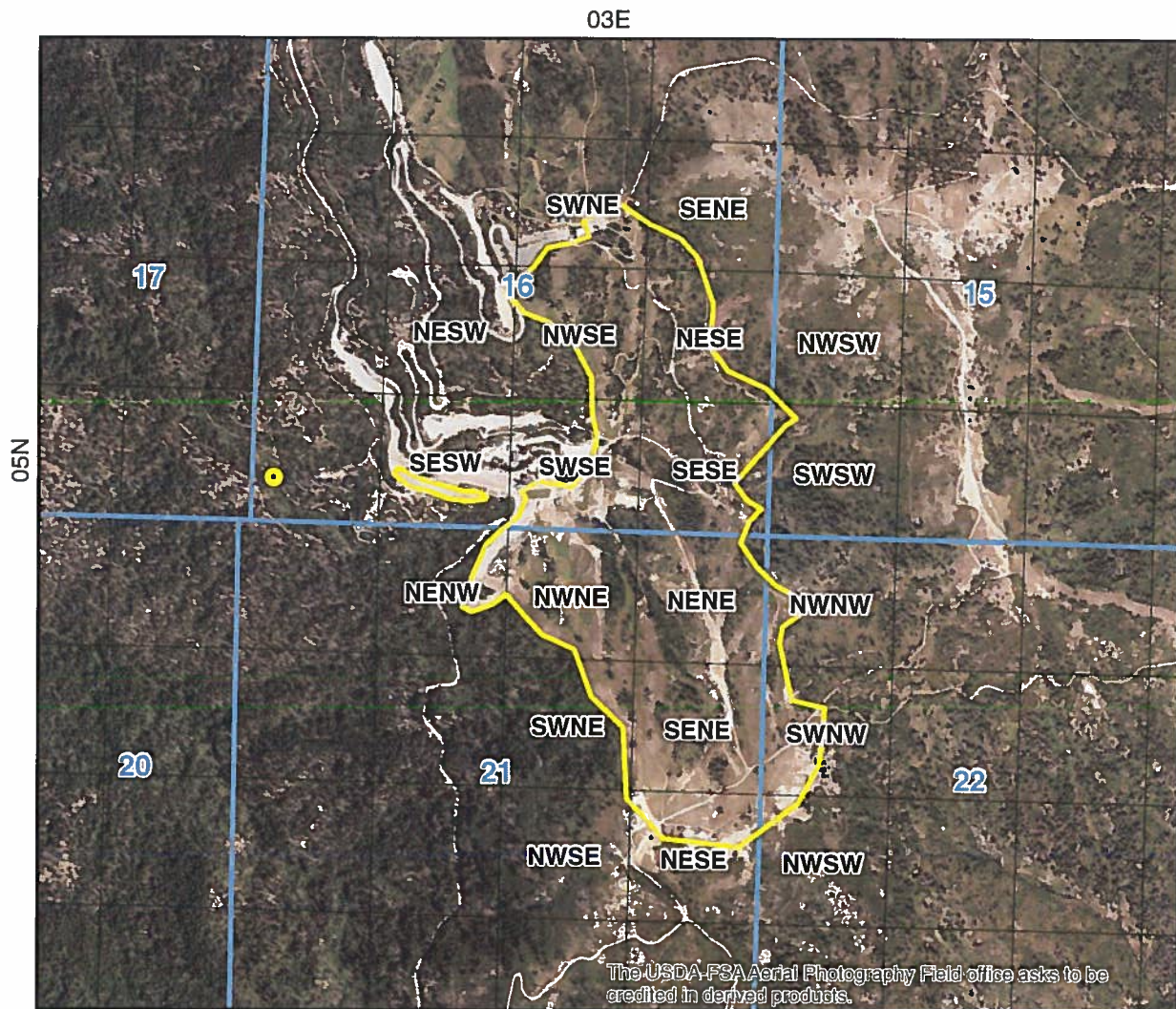
-  Point of Diversion
-  Place Of Use Boundary
-  Townships
-  PLS Sections

0 0.035 0.07 0.14 Miles



State of Idaho
Department of Water Resources
Attachment to Permit to Appropriate Water
65-23703

This map depicts the COMMERCIAL FROM 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.



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

0 0.225 0.45 0.9 Miles

