

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 74-16016

Priority: July 21, 2014

Maximum Diversion Rate: 0.04 CFS

This is to certify, that THE CLARK FAMILY TRUST
893 LEMHI RD
SALMON ID 83467

has applied for a permit to appropriate water from:

Source: LEMHI RIVER**Tributary:** SALMON 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>	<u>ANNUAL VOLUME</u>
DOMESTIC	03/15 to 11/15	0.04 CFS	

LOCATION OF POINT(S) OF DIVERSION:

LEMHI RIVER NE1/4NW1/4 Sec. 33, Twp 21N, Rge 23E, B.M.
LEMHI County

PLACE OF USE: DOMESTIC

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 33					X												

CONDITIONS OF APPROVAL

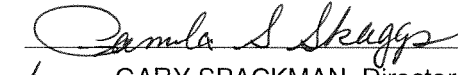
1. Proof of application of water to beneficial use shall be submitted on or before **November 01, 2015**.
2. Subject to all prior water rights.
3. Domestic use is for one home, including irrigation of up to 1/2 acre. When combined with all other domestic water rights for the home, the total use shall not exceed 13,000 gallons per day and irrigation of 1/2 acre.
4. 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. 74.
5. No water shall be diverted under this right after June 15 of each year without prior approval of the watermaster.
6. Diversion of water after June 15 of each year in violation of the conditions of this water right is cause for the director to cancel or revoke this water right.
7. Water shall not be diverted under this right when flows in the Lemhi River are below established minimum flow amounts.

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8. Upon specific notification by the Department, the right holder shall install a lockable device of a type acceptable to the Department in a manner that will provide the watermaster suitable control of the diversion.
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.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 30th day of October, 2014.



for GARY SPACKMAN, Director



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Web Site: www.idwr.idaho.gov

GARY SPACKMAN
Director

C.L. "BUTCH" OTTER
Governor

November 4, 2014

THE CLARK FAMILY TRUST
893 LEMHI RD
SALMON ID 83467

RE: Permit No. 74-16016

Permit Approval Notice

Dear Permit Holder:

The Department of Water Resources has issued the enclosed permit authorizing you to establish a new water right. Please be sure to thoroughly review the conditions of approval and remarks listed on your permit.

The permit 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 by the Department unless a party petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date as described in the enclosed information sheet.

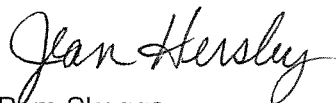
Enclosed is a form entitled 'Instructions for Proof of Beneficial Use.' Please read the instructions carefully since you must take further action to develop this permit into a licensed water right. Also enclosed is a form entitled 'Proof of Beneficial Use.' If your project is already completed, you should complete and submit this form immediately.

Please note that a separate stream channel alteration permit must be obtained from the Department prior to any activity in the stream channel other than construction or maintenance of the diversion structure for your water right(s). Applications for stream channel alteration permits must be filed at least sixty days prior to the commencement of work in the stream.

Also, please note that water right owners are required to report any change of water right 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. Contact any office of the Department or visit the Department's homepage on the Internet to obtain the proper forms and instructions.

If you have any questions, please contact me at 208-287-4951.

Sincerely,


for Pam Skaggs
Water Rights Supervisor
Enclosure(s)

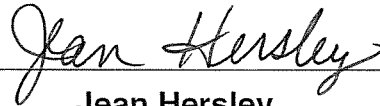
CERTIFICATE OF SERVICE

I hereby certify that on November 5, 2014 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved Permit) to the person(s) listed below:

RE: WATER RIGHT NO.

74-16016

**THE CLARK FAMILY TRUST
893 LEMHI RD
SALMON ID 83467**

A handwritten signature in cursive script, reading "Jean Hersley", is positioned above a horizontal line.

Jean Hersley

Technical Records Specialist II

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.

NOTICE OF APPLICATIONS
TO APPROPRIATE WATER

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

74-16015

USDI BLM
C/O FREDRIC W PRICE
IDAHO STATE OFFICE
1387 S VINNELL WAY
BOISE, ID 83709-1657
Point of Diversion: NWNWNW S17 T18N
R23E LEMHI County Source SPRING
Tributary BULL CREEK
Use: STOCKWATER
01/01 to 12/31
0.03 CFS
Total Diversion:
0.03 CFS
Date Filed: 7/1/2014
Place Of Use: STOCKWATER
T18N R23E S16 SWSW
T18N R23E S17 NWNW SENW
T18N R23E S20 NENE
T18N R23E S21 NWSE

This application proposes the diver-
sion and use of water tributary to a fed-
erally designated Wild & Scenic River.
The decreed minimum stream flow rights
for the federal Wild & Scenic Rivers are
subordinate to certain categories of wa-
ter 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 it is for
stockwater purposes of 0.03 cfs will be
applied to the subordination amounts
specified in the decree for the Salmon
River.

74-16016

THE CLARK FAMILY TRUST
893 LEMHI RD
SALMON, ID 83467
Point of Diversion NENW S33 T21N
R23E LEMHI County Source LEMHI
RIVER Tributary SALMON RIVER
Use: DOMESTIC
03/15 to 11/15
0.04 CFS
Total Diversion:
0.04 CFS
Date Filed: 7/21/2014
Place Of Use: DOMESTIC
T21N R23E S33 NENW

This application proposes the diver-
sion and use of water tributary to a fed-
erally designated Wild & Scenic River.
The decreed minimum stream flow rights
for the federal Wild & Scenic Rivers are
subordinate to certain categories of wa-
ter 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 it is for do-
mestic purposes.

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 [www.idwr.idaho.gov/apps/
ExtSearch/WRFiling.asp](http://www.idwr.idaho.gov/apps/ExtSearch/WRFiling.asp). 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, PO Box
83720, 322 E Front St, Boise ID 83720-
0098 together with a protest fee of
\$25.00 for each application on or before
9/22/2014. The protestant must also
send a copy of the protest to the appli-
cant.

GARY SPACKMAN, Director

Affidavit of Publication

STATE OF IDAHO

County of Lemhi

ss.

OCT 06 2014

ACCTS. PAYABLE

RICKY G. HODGES being first duly sworn, deposes and says he is one of the publishers
(printers) of The Recorder Herald, a newspaper published weekly at Salmon, Lemhi County,
Idaho, and of general circulation therein. That the **APPLICATIONS TO APPROPRIATE
WATER**, 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 **9-4-2014** and ending with the issue dated **9-11-2014**.

STATE OF IDAHO

County of Lemhi

ss.

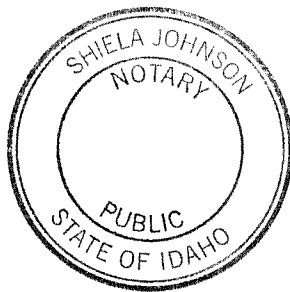
On this **12th day of September** in this year of 2014 before me, A Notary Public, person-
ally appeared RICKY G. HODGES, known or identified to me to be the person whose name
subscribed to the within instrument, and being by me first duly sworn, declared that the
statements therein are true, and acknowledged to me that he executed the same.

Shiela Johnson
Notary Public for Idaho

Residing At Salmon, Idaho

My Commission expires: 01-16-2019

Publication Fee \$189.00



RECEIVED

OCT 06 2014

DEPARTMENT OF
WATER RESOURCES

MEMORANDUM

Date: September 29, 2014
To: Water Right File 74-16016
From: Michele Edl
Re: post publication review & follow-up

The permit has completed the post publication period without protests. However, comments from IDF&G and IWRB prompted review of the conditions on the permit.

The permitted rate is the standard rate for domestic use and is higher than the rate that would be authorized for irrigation. I recommend no change to the authorized rate but limiting the use through conditions.

The proposed domestic use is for irrigation of less than ½ acre. Condition 239 will be amended to limit irrigation to ½ when both surface water and ground water sources are combined.

Both comment letters pointed out that the Lemhi River has a minimum streamflow right (74-14993). I have recognized that concern by adding condition WB9 to the permit.

IDF&G also pointed out that permit 74-15665 (Oeding) has not been issued. That permit is for irrigation use and it is in draft active status. Charles Oeding is the owner-of- record for the property directly south of the Clark Family's property. The Oeding application is being held up in the Eastern Region office for some reason but the two applications do not appear to be related.



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Web Site: www.idwr.idaho.gov

GARY SPACKMAN
Director

C.L. "BUTCH" OTTER
Governor

September 23, 2014

WATER DISTRICT NO. 74
RICK SAGER- WATERMASTER
985 HWY 28
SALMON ID 83467

Application for Permit No. 74-16016

Dear Interested Party:

The Department of Water Resources is seeking written comment and/or recommendations from you regarding the above referenced water right application. A copy of the application is enclosed for your reference.

This office has published notice of the application; therefore, your prompt response to this request is appreciated. The formal protest period ended on September 22, 2014.

Please contact this office if you have any questions regarding the application.

Sincerely,

Jean Hersley
Technical Records Specialist II

Enclosures

Hersley, Jean

From: Bassista, Tom [thomas.bassista@idfg.idaho.gov]
Sent: Thursday, September 18, 2014 1:08 PM
To: Hersley, Jean
Cc: Diluccia, Jeff; Case, Morgan; Curet, Tom
Subject: Application for Permit No. 74-16016-The Clark Family Trust

Dear Jean:

The Idaho Department of Fish and Game has reviewed application 74-16016 submitted by The Clark Family Trust for 0.04 cfs of surface water to irrigate a ½ acre of lawn. We have the following comments:

The applicant claims the reason for wanting to use Lemhi River surface water is because their "ground water well does not provide enough water for ½ acre lawn."

We are concerned about continued use of Lemhi River surface water and potential impacts to aquatic and fishery resources. We would hope that this water right would not impact minimum streamflow water rights on the Lemhi River held by the Idaho Water Resource Board (IWRB) (74-14993). The permit should not allow water use of this right when the IWRB is renting water from users to obtain minimum stream flow in the Lemhi River.

The applicant claims the number of acres to be irrigated is 0.5 acres. We feel the permit should only authorize 0.02 cfs of Lemhi River surface water. The combined use of this proposed water right and their existing domestic water right should not exceed 13,000 gallons per day, as we view Lemhi River water, proposed in this application, to only supplement their ground water supply.

Of particular interest to us concerns water right number 74-15665 adjacent to the Clark property. IDWR records indicate the water right was never granted for 74-15665 but anecdotal information tells us they are using that water right.

I'd be happy to discuss our issues with the appropriate water right agent at their convenience.

Thank you for the opportunity to review Application for Permit No. 74-16016.

Sincerely,

Tom Bassista
Environmental Staff Biologist

Idaho Department of Fish and Game
Upper Snake and Salmon Regions
4279 Commerce Circle
Idaho Falls, ID 83401
208.525.7290

MEMORANDUM

DATE: September 16, 2014

TO: Jean Hersley

FROM: Morgan Case

RE: Application for Permit No. 74-16016

The IDWR Planning Section, on behalf of the Idaho Water Resource Board, would like to submit the following comments for consideration when processing Application No. 74-16016, which proposes the use of 0.04 cfs of water from the Lemhi River for domestic use.

The requested diversion amount exceeds the maximum diversion of 13,000 gallons per day under Idaho Statute Title 42 Chapter 111. Water use for domestic purposes should be limited to a combined (groundwater and surface water) 13,000 gallons per day.

The applicant should be aware that the Idaho Water Resource Board holds a minimum stream flow water right 74-14187 in the same reach or downstream of the applicant's point of diversion. As a junior water right holder, when the minimum stream flow is not being met, the applicant's water will be curtailed.

The Idaho Water Resource Board would also like assurance that the applicant's water right will be actively administered by Water District 74 to protect the Board's minimum stream flow right.