

RECEIVED

NOV 20 2023

DEPARTMENT OF
WATER RESOURCES

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
STATEMENT OF COMPLETION
FOR SUBMITTING PROOF OF BENEFICIAL USE

FOR OFFICE USE ONLY

Amt. of Fee \$ 125.00
Receipt No. C117376
Received By KM
Date Received 11.20.23

The Idaho Department of Water Resources (Department) considers this form a statement that the permit holder(s) applied water to beneficial use and completed development of a water right to the extent described below. **This form must be accompanied by an examination fee, when necessary, or by a completed Beneficial Use Field Report prepared by a certified water right examiner (CWRE).** Please refer to the instructions and fee schedule for this form. If ownership of the permit has changed, complete a Notice of Change in Water Right Ownership form. If you wish to relinquish your permit because you have not established the authorized water use and are not applying for an extension, please notify the Department in writing.

- Permit No. 65-24118 Name of Permit Holder(s) Colt Brown
Telephone No. 208-315-5267 Email coltbrown@outlook.com
Mailing Address PO Box 606 City Donnelly State ID Zip 83615
- Source of Water Surface Water If Ground Water (well), Date Drilled mo. ____ / yr. ____
Drilling Permit/Tag No. ____ Drilling Company's Name ____
- Extent of use(s) completed as authorized by the water right permit:
Domestic (No. households) 0 Irrigation (No. acres) 90 Stockwater (No. and stock type) ____
Other ____
- Total diversion rate or volume (storage only) for which proof is submitted 1.80 cfs OR ____ af
If the total developed water use is 5 acres of irrigation or less, is stockwater storage of 14.6 acre-feet or less, or has a diversion rate of less than 0.24 cfs, attach a map of the place of use and point of diversion and photographs showing beneficial use.
- Describe the diversion and delivery system from the water source to the use (pump, lift, irrigation method, etc.)
Pumped from Gold Fork to another pump and then pumped through a pivot on to the field
- Permit condition compliance. Refer to the permit approval conditions and check all the items required, then check "Yes" or "No" to indicate whether the required items were established, submitted, and/or installed:
Required? Yes No (If "Yes", attach required data, evidence of compliance, or evidence of installation)

☐	☐	☐	Ground water level data, pumping information, or other diversion data
☐	☐	☐	Mitigation plan
☒	☐	☐	Lockable controlling works
☒	☐	☐	Measuring device
☐	☐	☐	Fish screen
☐	☐	☐	Other requirements of the water right permit
☐	☐	☐	Reasonably Anticipated Future Needs ("RAFN") Municipal use

If RAFN Municipal use, additional increment of beneficial use developed? ☐ Yes (attach CWRE report) ☐ No
- Fee Enclosed \$ 125.00 or ☐ CWRE field report attached or ☐ No fee required
See fee schedule on page 3 of the instructions. Proof statements filed without an appropriate fee are incomplete.
- Person to contact to accompany a Department representative during the field examination of the water system:
Name: Colt Brown Telephone No. 208-315-5267 Email kendra@centralmountaincpa.com
Mailing Address PO Box 606 City Donnelly State ID Zip 83615

The information given on this form is my true statement of the extent to which the above numbered permit has been developed and water has been diverted and applied to beneficial use. I understand that any undeveloped portion of the permit is relinquished to the State of Idaho.

SIGNATURE OF PERMIT HOLDER*

PRINTED NAME AND TITLE

DATE

*Attach power of attorney if completing on behalf of permit holder.

State of Idaho
Department of Water Resources
Permit to Appropriate Water
No. 65-24118

Priority: March 15, 2022

Maximum Diversion Rate: 1.80 CFS

This is to certify that

COLT BROWN PO BOX 606 DONNELLY ID 83615-0606

has applied for a permit to appropriate water from:

Source : GOLD FORK RIVER

Tributary: NORTH FORK PAYETTE
RIVER

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

Beneficial Use

IRRIGATION

Period of Use

4 /15 to 10/31

Rate of Diversion

1.80 CFS

Location of Point(s) of Diversion

GOLD FORK RIVER NW¼ NW¼, Sec. 25, Twp 16N, Rge 03E, B.M. VALLEY 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	
16N	03E	26		11.0			40.0	38.0											89.0

Total Acres: 89.0

Conditions of Approval

1. Proof of application of water to beneficial use shall be submitted on or before **December 01, 2023**.
2. Subject to all prior water rights.
3. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.0 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. This right is subordinate to the capture and retention of water in existing on-stream storage reservoirs operated for storage and flood control purposes during and following flood control operations until the date of allocation.
6. Prior to diversion of water under this right, the right holder shall install and maintain a measuring device and lockable controlling works of a type acceptable to the Department as part of the diverting works.

SCANNED

DEC 01 2022

State of Idaho
Department of Water Resources
Permit to Appropriate Water
No. 65-24118

7. 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 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.
8. This right does not grant any right-of-way or easement across the land of another.
9. 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 23rd day of November, 2022.



SCOTT STORMS
Water Rights Supervisor

SCANNED

DEC 01 2022

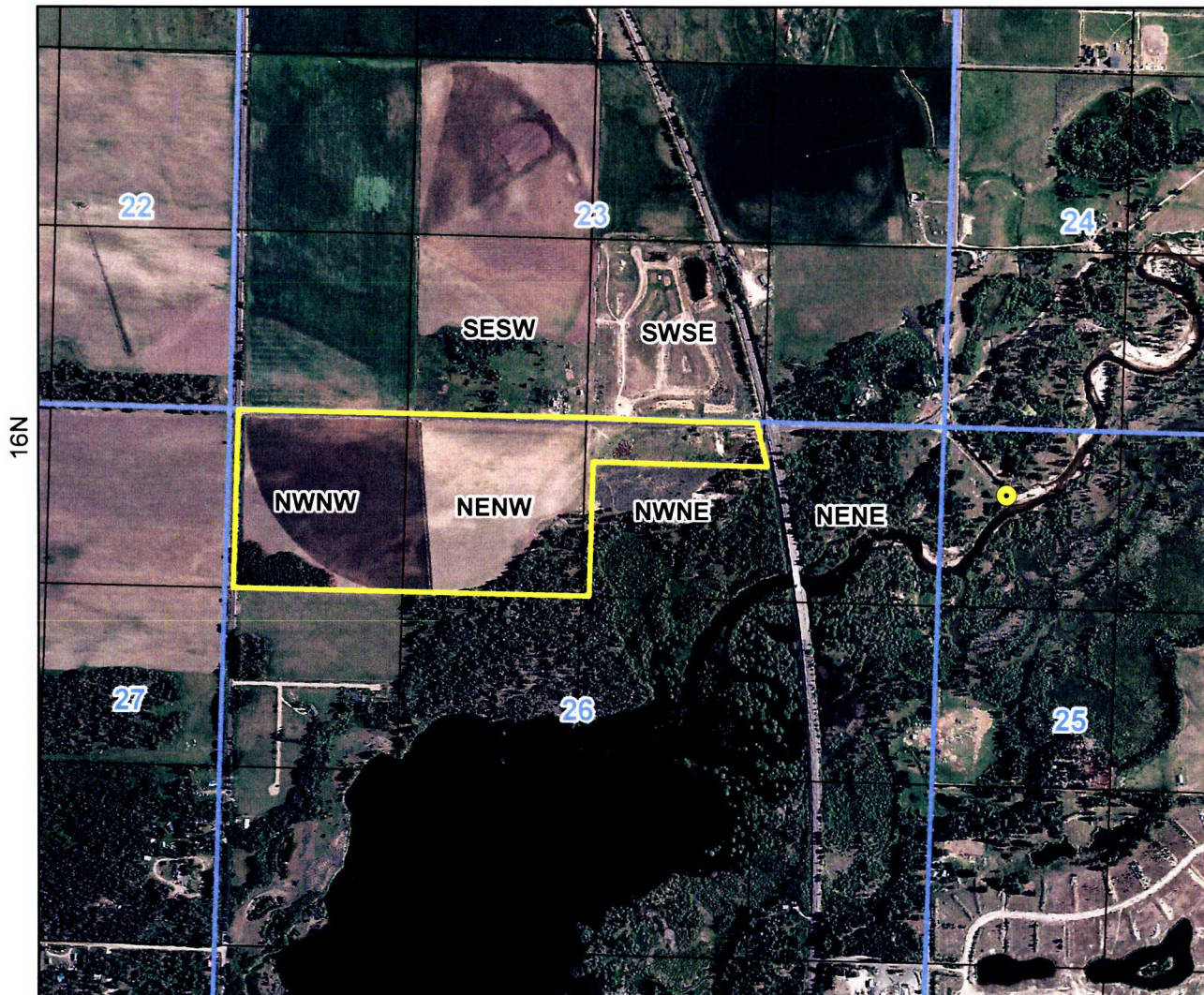
State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

65-24118

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.

03E



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

0 0.15 0.3 0.6 Miles



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DEC 01 2022



IDAHO DEPARTMENT OF
WATER RESOURCES

322 E Front Street, Suite 648, Boise ID 83702 • PO Box 83720, Boise ID 83720-0098
Phone: 208-287-4800 • Fax: 208-287-6700 • Email: idwrinfo@idwr.idaho.gov • Website: idwr.idaho.gov

Governor Brad Little

Director Mathew Weaver

December 07, 2023

COLT BROWN
PO BOX 606
DONNELLY ID 83615-0606

PROOF ACKNOWLEDGEMENT LETTER

RE: Permit No. 65-24118

Dear Permit Holder(s):

The Department acknowledges receipt of the proof of beneficial use form submitted for the above referenced permit. The next step in the process of developing a water right is for the Department to conduct a field examination to determine and confirm the use being made of the water.

Please be advised that Section 42-248, Idaho Code, requires you or the owner of this water right to maintain current ownership and address records on file with the Department. Forms to file a change of ownership of a water right and/or a change in the address of the water right owner are available from any Department office or at the Department's website at www.idwr.idaho.gov.

If you have any questions concerning the field examination, please contact the Western Region Office of the Department located in Coeur d'Alene Twin Falls Idaho Falls Boise at (208) 334-2190.

Sincerely,

Amanda Veibell
Technical Records Specialist

Enclosure(s)

Beneficial Use Proof Evaluation

Permit Number: 65-24118 Reviewer: AVEibell Review Date: 11/28/2023

Acceptability

- 1) Is the contact on the request the current permit holder? Yes
- 2) Does the address of record need to be updated? No
- 3) Proof Submitted Date: 11/20/2023
- 4) Proof Due Date: 12/1/2023
- 5) Days added for weekend due date? 0
- 6) Days added for holiday due date? 0
- 7) Number of days late: -11
- 8) Proof received timely? Yes

Analysis

- 1) Are the water uses correct? Yes
- 2) Are one of the following items required?
 - a. Measuring Device -- Yes
 - b. Lockable Device --Yes
 - c. Fish Screen -- No
- 3) Are the required items installed? Yes
 - a. Measuring Device -- Yes
 - b. Lockable Device --Yes
 - c. Fish Screen -- No
- 4) Is there a request to waive the required items? No
- 5) Drilling Permit Number:
- 6) Is a drilling permit upgrade needed? No
- 7) Was a well drillers report filed? No
- 8) Is proof accepted? Yes

Fees

- 1) Is a licensing exam fee required? Yes
- 2) Was proof submitted with an exam report from a CWE? No
- 3) Filing fee due: \$125.00
- 4) Filing fee submitted: \$125.00
- 5) Remaining fee or (refund): \$0.00

Receipt IDs

T112140

Comments

Proof deemed acceptable. Gave file to water right agent for in-house license review. Water right agent will enter the proof made date in AdHoc at the time of licensing



IDAHO DEPARTMENT OF
WATER RESOURCES

322 E Front Street, Suite 648, Boise ID 83702 • PO Box 83720, Boise ID 83720-0098
Phone: 208-287-4800 • Fax: 208-287-6700 • Email: idwrinfo@idwr.idaho.gov • Website: idwr.idaho.gov

Governor Brad Little

Director Mathew Weaver

September 29, 2023

COLT BROWN
PO BOX 606
DONNELLY ID 83615-0606

NOTICE: STATEMENT OF COMPLETION DUE

RE: Permit No. 65-24118

IMPORTANT: A response from you is required to maintain the active status of the referenced water right permit. If no response is received from you, the permit will lapse and your authorization to develop and/or use this water right will be cancelled.

Dear Permit Holder(s):

One of the conditions of approval of the above referenced water permit was that proof of the extent of your beneficial use must be submitted to this office on or before **December 01, 2023**. Please complete and return the enclosed Statement of Completion for Submitting Proof of Beneficial Use (proof) if you have completed the water project authorized by your permit. The proof statement must be accompanied by either the appropriate license examination fee or a field examination report prepared by a certified water right examiner.

If you have not fully completed your project, and you or a previous owner of this permit have not received a prior extension of time, you may request an extension of time if the delay is for reasonable cause as provided in Section 42-204, Idaho Code. If you have been delayed by a government agency or by litigation that brings title to the water in question, an extension of time may be granted if appropriate documentation is provided at the time of filing. An extension request must be accompanied by a \$50.00 filing fee and signed by the appropriate authorized permit holder(s) or authorized representative with a power of attorney.

Either an acceptable proof or an acceptable extension request must be received by this department on or before the above proof due date. If neither is received, the department will send you a lapse notice and the permit will no longer be of any force or effect.

Sincerely,

Amanda Veibell
Technical Records Specialist

Enclosure(s)

SCANNED

OCT 02 2023



November 28, 2022

COLT BROWN
PO BOX 606
DONNELLY ID 83615-0606

RE: Permit No. 65-24118

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* 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.

Please be advised that Idaho Code § 42-248, requires you or the owner of this water permit to maintain current ownership and address records on file with the

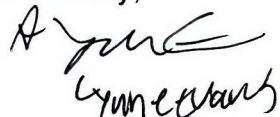
SCANNED

DEC 01 2022

Department. Forms to file an assignment of permit and/or a change in the address of the permit owner are available from any Department office or at the Department's website at www.idwr.idaho.gov.

If you have any questions concerning the enclosed information, please contact me at (208) 605-4624.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott Storms", written over a printed name.

Scott Storms
Water Rights Supervisor

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on November 28, 2022, I served a true and correct copy of Permit to Appropriate Water No. 65-24118 by U.S. Mail, postage prepaid, to the following:

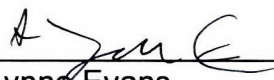
COLT BROWN (Current Owner)
PO BOX 606
DONNELLY ID 83615-0606

EMMETT IRRIGATION DISTRICT (Protestant)
C/O ANDREW GRIGGS
222 E PARK ST
EMMETT ID 83617

BLACK CANYON IRRIGATION DISTRICT (Protestant)
C/O ANDREW J WALDERA
SAWTOOTH LAW OFFICES PLLC
1101 W RIVER ST STE 110
BOISE ID 83702-7067

BLACK CANYON IRRIGATION DIST (Protestant)
PO BOX 226
NOTUS ID 83656

WATER DISTRICT #65
NEIL SHIPPY - WD 65 (Watermaster)
102 N MAIN ST
PAYETTE ID 83661-2522



Lynne Evans
Administrative Assistant I

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.

REVIEW CHECKLIST -- APPLICATION FOR PERMITApplication # 85951 (65-24110) REVIEWER _____ DATE _____**REQUIRED INFORMATION – COMPLETE & ACCURATE – INITIAL DE**

- ☒ Name (corporation or partnership, names & addresses for director, officers, &/or other partners must be included – Rule 35.03.b.i) bus. entity #
- ☒ Address
- ☒ Source * (see USGS quad for source/trib names, comment for local name)
- ☒ P/D (10 acres for spring, lot & block info for subdivisions)
- ☒ County *
- ☒ Quantity (flow & /or storage volume)
- ☒ Period of use * Government Lots
- ☒ Nature of use (list details in app. item 8 if non-irrigation) P/D
- ☒ Municipal Checklist P/U
- ☒ Description of diverting works
- ☒ Time required for beneficial use of water
- ☒ P/U
- ☒ Map (show T, R, Sect, POD & POU)
- ☒ Signature (need title of signatory if applicable)
- ☒ Correct fee paid
- ☒ Fee amount, receipt number, receipt date, WR #, and reviewer initials recorded on app
- ☒ Attach proof report & WR Layout Map
- ☒ AdHoc, Application tab: Status = ACTIVE Draft = NO
- ☒ Log APPSLIST for Initial DE ☒ and Log File Location ☒
- * ☒ tributary, county &/or irrigation season corrected per dept. standards w/o amended appl. per AP Memo #9

PRE-ADVERTISING ANALYSIS

- | YES | NO | |
|-------------------------------------|--------------------------|---|
| ☒ | ☐ | Bs 63 GW? Water bearing zone legal notice remark required |
| ☒ | ☐ | Bs 63 GW Restricted Area (Above Star)? Must appropriate deeper than 200' or mitigate |
| ☒ | ☐ | Bs 63 Surface water above Star & consumptive use? Cannot process unless mitigated |
| ☒ | ☐ | Mitigation plan (consumptive use & POD closed area) – legal notice remark + mitigation checklist |
| ☒ | ☐ | Critical Ground Water Area – send letter if cannot process |
| ☒ | ☐ | Ground Water Mngt. Area – send letter if cannot process |
| ☒ | ☐ | Bs 77, 78, 79 – 42-111 D/S any source or community well, normal process; all others use Salmon/Clearwater Area Processing |
| ☒ | ☐ | W&S Rv – Bs 77 or 78 + legal notice remark, W&S Workflow <u>application</u> record |
| ☒ | ☐ | W&S Rv – Bs 51 or 55, attach Bs 51 - 55 W&S Watersheds checklist |
| ☒ | ☐ | Water Dist. 67 – send Bs 67 June 15 cutoff form letter to confirm BU. possible prior to 6/15 |
| ☒ | ☐ | Waste Water – send form letter |
| ☒ | ☐ | Trust Water – send form letter (AdHoc/Reports tab) + legal notice remark + TW checklist |
| ☒ | ☐ | South Ada Co. GW Area of Concern – send form letter |
| ☒ | ☐ | South Canyon Co. GW Area of Concern – send form letter |
| ☒ | ☐ | US BLM is POD/POU Property Owner, Verify location with Applicant and check w/ BLM |

ADD INFO Requested On: _____ Response Received: Y _____ N _____

Extension Requested On: _____ Response Received: Y _____ N _____

ADVERTISING

- | YES | NO | |
|-------------------------------------|--------------------------|---|
| ☒ | ☐ | STATEWIDE ADVERTISING (> 10 cfs or > 1000 af storage) |
| ☒ | ☐ | Legal Notice Remarks (WB Zone, Wild & Scenic, Subdivision Info, Mitigation, etc.) – See attached proof report |

COMMENT LETTERS

YES NO

- ☒ ☐ Water Dist # 65
- ☐ ☒ IDFG [SW "fish live-in" AP Memo #62, Bs 77-79, other] (☐ reply in file)
- ☐ ☒ IDEQ [Bs 77-79, Land Application, Basin Recharge, Dairy, PWS, other] (☐ reply in file)
- ☐ ☒ Western Dam Safety [Storage Dam (n/a excavated ponds); Complete checklist ☐]
- ☐ ☒ IDWR Planning Bureau [Min. Stream Flow Bs 77-79, Protected Stream, other]
- ☐ ☒ IDL [POD/POU Property Owner, other]
- ☐ ☒ US BLM [POD/POU Property Owner, other]
- ☐ ☒ US Forest Service [POD/POU Property Owner, other]
- ☒ ☐ Irrigation Entity [Overlap GW Irr, Waste water, other]: See attached list
- ☐ ☒ Other [Previous Protestants in Area, ect.] – list here or see attached

COMPLETE TO HERE BEFORE FORWARD FOR ADVERTISING

ADVERTISER COMPLETES

LEGAL NOTICE & PROTEST

Protest Deadline 5-23-22

YES NO

- ☒ ☐ Protested If Yes: Prepare protest checklist and complete
- ☐ ☐ Affidavit received/published correctly? If No, Re-advertise.

Re-Adv Protest Deadline _____

YES NO

- ☐ ☐ Protested
- ☐ ☐ Affidavit received/published correctly If No: ☐ Re-advertised & published correctly

Re-Adv Comment Letters To: _____

POST-ADVERTISING ANALYSIS

YES NO

- ☒ ☐ POD overlap – briefly explain 65-2608, 65-2661, 65-2642, 65-22518, 65-22519 same ditch
- ☒ ☐ POU overlap – briefly explain 65-24020 groundwater for same field
- ☐ ☒ Large diversion > 5 cfs, > 500 af storage or > 200 acres – attach large diversion checklist
- ☐ ☒ Public Land Access – IDL, BLM, USFS owns POD/POU land, Rule 40.05.e info needed
- ☐ ☒ BLM or USFS Stockwater Appl. – consider Joyce Livestock Decision – send form letter
- ☐ ☒ Municipal – Review AP Memo #18 and/or AP Memo #74
- ☐ ☒ Commercial, Heating/Cooling, Industrial, WQL, etc. – Rate request justified in file
- ☐ ☒ Storage Use – AP Memo #76 complete for explanation/justification of volume request in file
- ☐ ☒ Power residency affidavit – send power letter for other factors if needed
- ☐ ☒ DP fee upgrade : ☐ Paid ☐ WR & WC Files Documented ☐ Not Paid = SO follow up

ADD INFO Requested On: _____ Response Received: Y ☐ N ☐

Extension Requested On: _____ Response Received: Y ☐ N ☐

DRAFT PERMIT

YES NO

- ☒ ☒ W&S Rv – Bs 51, 55, 77 or 78 W&S Workflow/spreadsheet update for permit record
- ☒ ☒ Memo To File Re: _____
- ☒ ☒ Draft approval created w/ Map (WRLayouts - 'Print Attachment Page') & saved to backfile

Miller, Nick

To: District Manager; Andy Waldera
Cc: Kendra Brown; Emmett Irrigation
Subject: RE: Colt Brown

From: Miller, Nick
Sent: Tuesday, November 15, 2022 12:47 PM
To: District Manager <emmettirrigationshop@gmail.com>; Andy Waldera <andy@sawtoothlaw.com>
Cc: Kendra Brown <kendra@centralmountaincpa.com>; Emmett Irrigation <emmettirrigationoffice@gmail.com>
Subject: RE: Colt Brown

Thank you all for resolving these protests.

I will place this email string in the file to document the protest withdrawals and the Department's acceptance of the settlements. The Department will continue processing the application and will provide a copy of any decision on the application to both the applicant and the protestants.

Let me know if you have any questions or concerns with this process.

Nick Miller
Manager, IDWR Western Region.

From: District Manager <emmettirrigationshop@gmail.com>
Sent: Tuesday, November 15, 2022 12:36 PM
To: Andy Waldera <andy@sawtoothlaw.com>
Cc: Miller, Nick <Nick.Miller@idwr.idaho.gov>; Kendra Brown <kendra@centralmountaincpa.com>; Emmett Irrigation <emmettirrigationoffice@gmail.com>
Subject: Re: Colt Brown

CAUTION: This email originated outside the State of Idaho network. Verify links and attachments BEFORE you click or open, even if you recognize and/or trust the sender. Contact your agency service desk with any concerns.

Yes that satisfies Emmett Irrigation District.

Thank you

On Tue, Nov 15, 2022, 12:04 PM Andy Waldera <andy@sawtoothlaw.com> wrote:

Yes; confirmed for purposes of BCID. Thanks, Nick.
Andy

Andrew J. Waldera
SAWTOOTH LAW OFFICES, PLLC
andy@sawtoothlaw.com
www.sawtoothlaw.com

Telephone: (208) 629-7447 ext. 216

Facsimile: (208) 629-7559

P.O. Box 7985, Boise, Idaho, 83707

NOTICE: This e-mail, including attachments, constitutes a confidential attorney-client communication. It is not intended for transmission to, or receipt by, any unauthorized persons. If you have received this communication in error, do not read it. Please delete it from your system without copying it, and notify the sender by reply e-mail or by calling (208) 629-7447, so that our address record can be corrected. Thank you.

From: Miller, Nick <Nick.Miller@idwr.idaho.gov>

Sent: Tuesday, November 15, 2022 12:00 PM

To: Kendra Brown <kendra@centralmountaincpa.com>; District Manager <emmettirrigationshop@gmail.com>; Andy Waldera <andy@sawtoothlaw.com>; Emmett Irrigation <emmettirrigationoffice@gmail.com>

Subject: RE: Colt Brown

Thank you, Kendra.

Just so I have something clear that I can put in the file to document that the protests are resolved, I understand that both BCID and EID are willing to withdraw their protests to the application provided any permit issued contains the following condition:

"This right is subordinate to the capture and retention of water in existing on-stream storage reservoirs operated for storage and flood control purposes during and following flood control operations until the date of allocation."

I ask that EID and BCID "reply all" to this email and affirm that my understanding is correct and inclusion of the condition resolves the protest. Once I receive that confirmation, I will place this email thread in the file and return the application to an agent to continue processing.

Thank you,

Nick.

From: Kendra Brown <kendra@centralmountaincpa.com>

Sent: Monday, November 07, 2022 10:46 AM

To: Miller, Nick <Nick.Miller@idwr.idaho.gov>; District Manager <emmettirrigationshop@gmail.com>; Andrew J. Waldera <andy@sawtoothlaw.com>; Emmett Irrigation <emmettirrigationoffice@gmail.com>

Subject: RE: Colt Brown

CAUTION: This email originated outside the State of Idaho network. Verify links and attachments BEFORE you click or open, even if you recognize and/or trust the sender. Contact your agency service desk with any concerns.

Nick –

This is the language that we agreed to (attached). Will you let me know if we need something different than that.

Thanks,

Kendra Brown, CPA

Central Mountain CPA PLLC

PO Box 606

Donnelly, ID 83615

208-315-6789

From: Miller, Nick <Nick.Miller@idwr.idaho.gov>

Sent: Monday, October 31, 2022 9:31 AM

To: District Manager <emmettirrigationshop@gmail.com>; Andrew J. Waldera <andy@sawtoothlaw.com>; kendra@centralmountaincpa.com; Emmett Irrigation <emmettirrigationoffice@gmail.com>

Subject: RE: Colt Brown

Hello all,

It sounds like the parties have or are about to settle on language for conditional withdrawals of protest to this application. I believe we had discussed documenting any agreement and withdrawal via email string. If that is still the plan, we will need to document the language of any condition you are agreeing to.

Please let me know if the parties have agreed to conditional withdrawals and, if so, the specifics of the agreement. As an alternative, you can produce a document and transmit it to the Department via mail or email.

Thanks,

Nick.

From: District Manager <emmettirrigationshop@gmail.com>

Sent: Thursday, October 27, 2022 9:08 AM

To: Miller, Nick <Nick.Miller@idwr.idaho.gov>; Andrew J. Waldera <andy@sawtoothlaw.com>

Subject: Fwd: Colt Brown

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----- Forwarded message -----

From: District Manager <emmettirrigationshop@gmail.com>

Date: Thu, Oct 27, 2022, 9:07 AM

Subject: Re: Colt Brown

To: Kendra Brown < >

Good morning Kendra and Colt. I will forward this to Nick Miller and Andree Waldera. If they have any questions they will reach out to you. Thank you.

On Wed, Oct 26, 2022, 3:58 PM Kendra Brown <kendra@centralmountaincpa.com> wrote:

We read this over and this looks more like what we were expecting. We are good with this going on the water right. Let us know if we need to do anything else.

Thank you for your help!

Kendra Brown, CPA

Central Mountain CPA PLLC

PO Box 606

Donnelly, ID 83615

208-315-6789

From: District Manager <emmettirrigationshop@gmail.com>

Sent: Wednesday, October 26, 2022 11:36 AM

To: kendra@centralmountaincpa.com

Subject: Fwd: Colt Brown

----- Forwarded message -----

From: <emmettirrigationoffice@gmail.com>

Date: Wed, Oct 26, 2022, 11:33 AM

Subject: Colt Brown

To: District Manager <emmettirrigationshop@gmail.com>

Andrea Stephenson

Office Assistant

Emmett Irrigation District

(208) 365-4582

222 E. Park St.
Emmett, Idaho 83617



208-365-4582
Fax 208-365-1324

Serving the Valley Since 1910

October 26, 2022

In regard to Colt Brown State of Idaho Water Rights Application #65-24118

Emmett Irrigation District would conditionally withdraw its protest to the water rights application listed above with condition that the following verbiage be added to the water right.

“This right is subordinate to the capture and retention of water in existing on-stream storage reservoirs operated for storage and flood control purposes during and following flood control operations until the date of allocation.”

If all parties agree, this would solve Emmett Irrigation District protest issue. If you have any questions please contact Andrew Griggs.

Thank you,

**Andrew Griggs
District Manager
Emmett Irrigation District
emmettirrigationshop@gmail.com
Cell : 208-365-8983**

SCANNED

DEC 01 2022

Miller, Nick

From: Miller, Nick
Sent: Monday, September 26, 2022 1:19 PM
To: coltbrown@outlook.com; carl@blackcanyonirrigation.com; Andy Waldera
<andy@sawtoothlaw.com>; Emmett ID
Subject: Settlement Conference Notice for 65-24118 (Colt Brown)
Attachments: ColtBrownNotice.pdf

Dear Parties,

Please see the attached notice regarding the subject protested application.

Please contact me if you have questions about this process.

Sincerely,

Nick Miller
Manager, IDWR Western Region

SCANNED

DEC 01 2022

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN THE MATTER OF APPLICATION) FOR PERMIT NO. 65-24118) IN THE NAME OF) COLT BROWN) _____)	NOTICE OF INFORMAL SETTLEMENT CONFERENCE
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On 3/15/2022, COLT BROWN, filed Application for Water Right Permit No. 65-24118 with the Idaho Department of Water Resources ("Department"). Protest(s) were filed by EMMETT IRRIGATION DISTRICT and BLACK CANYON IRRIGATION DISTRICT.

The Department has scheduled this case for informal settlement conference on Wednesday, October 19, 2022 beginning at 1:30 PM by telephone. The applicant and protestant(s) must attend.

To attend the telephone conference, use the following numbers:

Dial: 1-720-279-0026 or 1-877-820-7831

Participant Code: 126664#

Agenda items for the informal settlement conference will include:

1. Review of the application and protest(s),
2. Additional informational needs,
3. Settlement options,
4. Need for additional informal proceedings or alternative dispute resolution options, and
5. Commencement of formal proceedings.

The Department encourages the applicant and protestant(s) to discuss and resolve the protest(s) before the informal settlement conference. If private discussions are not possible or do not resolve the protest(s), the informal settlement conference provides another opportunity for the applicant and protestant(s) to meet before commencing a formal hearing. Parties often settle their differences at the informal settlement conference.

If informal proceedings are unlikely to resolve this protested case, the Department will initiate formal proceedings by issuing a notice of prehearing conference and identifying a presiding officer. It is important for all parties to make the most of the opportunity to resolve the dispute informally.

The informal settlement conference will be conducted in a facility that satisfies the accessibility requirements of the Americans with Disabilities Act. If you require special

accommodations in order to attend, participate in, or understand the prehearing conference, please notify the Department at least ten (10) days prior to the conference. Inquiries about scheduling, hearing facilities, etc., should be directed to Lynne Evans at 208-334-2190.

Dated this 26th day of September, 2022.



Nick Miller
Western Regional Manager

CERTIFICATE OF SERVICE

I certify that on the 26th day of September 2022, I served or caused to be served the Notice of Informal Settlement Conference to the parties by the following method(s):

COLT BROWN
PO BOX 606
DONNELLY, ID 83615-0606
2083155267
coltbrown@outlook.com
Applicant

- ☐ U.S. Mail, Certified, postage prepaid
- ☐ U.S. Mail, postage prepaid
- ☐ Overnight Mail
- ☒ Email

BLACK CANYON IRRIGATION DIST
PO BOX 226
NOTUS, ID 83656
2084594141
carl@blackcanyonirrigation.com
Protestant

- ☐ U.S. Mail, Certified, postage prepaid
- ☐ U.S. Mail, postage prepaid
- ☐ Overnight Mail
- ☒ Email

BLACK CANYON IRRIGATION
DISTRICT
C/O ANDREW J WALDERA
SAWTOOTH LAW OFFICES PLLC
1101 W RIVER ST STE 110
BOISE, ID 83702-7067
2086297447
andy@sawtoothlaw.com
Protestant

- ☐ U.S. Mail, Certified, postage prepaid
- ☐ U.S. Mail, postage prepaid
- ☐ Overnight Mail
- ☒ Email

EMMETT IRRIGATION DISTRICT
C/O ANDREW GRIGGS
222 E PARK ST
EMMETT, ID 83617
(208) 365-8983
emmettirrigationshop@gmail.com
Protestant

- ☐ U.S. Mail, Certified, postage prepaid
- ☐ U.S. Mail, postage prepaid
- ☐ Overnight Mail
- ☒ Email



Nick Miller
Western Regional Manager

INFORMAL SETTLEMENT CONFERENCE PROCEDURE

APPLICATION FOR PERMIT

ISSUES

Applications to appropriate the water of the state of Idaho are referred to as applications for permit and are for the development of new water rights. Section 42-203A, Idaho Code, requires the Idaho Department of Water Resources (Department) to consider the following issues in connection with an application for permit:

1. Will the proposed appropriation reduce the quantity of water under existing water rights?
2. Is the water supply sufficient for the purpose for which it is sought to be appropriated?
3. Was the application made in good faith or for delay or speculative purposes?
4. Does the applicant have sufficient financial resources with which to complete the proposed project?
5. Will the proposed use conflict with the local public interest, where local public interest is defined as 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?
6. Will the proposed use be contrary to the conservation of water resources within the State of Idaho?
7. Will the proposed use adversely affect the local economy of the watershed or local area within which the source of water for the proposed use originates, in the case where the place of use is outside of the watershed or local area where the source of water originates?

BURDEN OF PROOF

The applicant has the initial burden of proof for issues 1, 2, 3, 4, 6, and 7 above and must provide evidence for the Department to evaluate these criteria.

The initial burden of proof on issue 5 lies with both the applicant and protestant as to factors of which they are most knowledgeable and cognizant. The applicant has the ultimate burden of persuasion, however, for all of these issues.

PROCEDURE

The Department generally conducts an informal settlement conference with the parties to determine the issues and to try to settle a protested matter before the formal hearing process

starts. The formal hearing process commences with a prehearing conference, which may require parties to be represented by an attorney.

INFORMAL SETTLEMENT CONFERENCE

The purpose of an informal settlement conference is to provide the opportunity for the parties and the Department to familiarize themselves with a protested matter and to attempt to resolve the matter. At the conference, the Department and the parties will discuss the application and protests, explore settlement options, discuss additional informational needs, evaluate the need for additional informal proceedings or alternative dispute resolution options such as mediation, and discuss the commencement of formal proceedings. When attending the conference, please bring a calendar with your schedule for the next two–six month period from the date of the informal settlement conference for the purpose of scheduling follow-up conferences, if needed.

HEARING

If the parties do not resolve the matter at the informal settlement conference, a formal hearing process may be commenced according to Sections 42-1701A(1) and (2), Idaho Code and the Department's Rules of Procedure. Copies of Idaho Code and the Department's rules are available upon request or by accessing the Department's website at: www.idwr.idaho.gov. The Department records formal hearings, and copies of a hearing recording are available upon request. There may be a charge for reproducing the recording.

If necessary, the hearing will likely be conducted by a hearing officer appointed by the Director rather than by the Director himself. The hearing officer will be designated in a notice of prehearing conference that commences the formal hearing process.

AMERICANS WITH DISABILITIES ACT

Any scheduled conferences or hearing will be conducted in a facility which meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the hearing, please notify the Department no later than ten (10) days prior to the conference or hearing.

Publisher's Affidavit of Publication

STATE OF IDAHO }
County of Valley } .SS

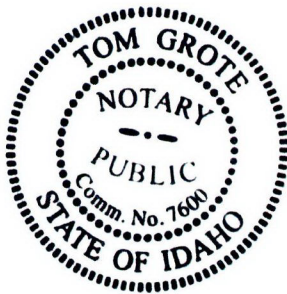
I, Tricia Warren, being duly sworn and say, I am the office manager of The Star-News, a weekly newspaper published at McCall, in the County of Valley, State of Idaho; that said newspaper is in general circulation in the county of afore said and is a legal newspaper; that the PUBLIC NOTICE, a copy of which is enclosed hereto and is a part hereof, was published in said newspaper once a week for a period of two weeks in the regular and entire issue of every number there of during the period of time of publication, and was published in the newspaper proper and not in a supplement; and that publication of such notice began May 5, 2022 and ended May 12, 2022.

Tricia Warren

Subscribed and sworn before me this the 12th day of May, 2022.

STATE OF IDAHO }
COUNTY OF VALLEY }

On this 12th day of May in the year of 2022, before me, a Notary Public, personally appeared Tricia Warren, 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.



Tom Grote
Tom Grote
Notary Public for Idaho
Residing at McCall, Idaho
Commission Expires 1/19/2024

IDAHO DEPARTMENT OF WATER RESOURCES

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

65-24118
COLT BROWN
PO BOX 606
DONNELLY, ID 83615-0606

Point of Diversion NWNW S25
T16N R03E VALLEY County
Source GOLD FORK RIVER Tribu-
tary PAYETTE RIVER
Use: IRRIGATION
4 /15 to 10/31
1.8 CFS

Total Diversion:

1.8 CFS

Date Filed: 03-15-2022

Place Of Use: IRRIGATION

T16N R03E S26
NWNE,NENW,NWNW
Total Acres: 89

Permits will be subject to all prior water rights. For additional information concerning the property location, contact the Western office at (208)334-2190; or for a full description of the right(s), please see <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, Western Region, 2735 W AIRPORT WAY, BOISE ID 83705-5082 together with a protest fee of \$25.00 for each application on or before 5/23/2022. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN,
Director
2tc5/12

RECEIVED
MAY 27 2022

WATER RESOURCES
WESTERN REGION

DEC 01 2022

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