



IDAHO DEPARTMENT OF
WATER RESOURCES

Eastern Region • 900 N Skyline Drive, Suite A • Idaho Falls, ID 83402-1718

Phone: 208-525-7161 • Fax: 208-525-7177 • Email: easterninfo@idwr.idaho.gov • Web: idwr.idaho.gov

Governor Brad Little

Director Mathew Weaver

July 11, 2024

L JEAN PROUTY REVOCABLE LIVING TRUST
22901 N LAS VEGAS DR
SUN CITY WEST, AZ 85375-2619

RE: Application for Permit No. 34-14939

Dear Applicant:

On June 25, 2024, you were sent a letter with information regarding how your application proposes to use trust water. A corrected legal notice of the application has been prepared and is scheduled for publication in the CHALLIS MESSENGER on 7/18/2024 and 7/25/2024. 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,

Christina Henman
Administrative Assistant

Henman, Christina

From: Henman, Christina
Sent: Thursday, July 11, 2024 3:19 PM
To: legalnotices@postregister.com
Subject: Legal Notice for Challis Messenger
Attachments: 34-14939 Challis Messenger Readvertise.docx

LEGAL NOTICE DEPARTMENT
CHALLIS MESSENGER
PO BOX 405
CHALLIS, ID 83226-0405

RE: Application for Permit No. 34-14939

Dear Legal Notice Department:

Please publish the enclosed legal notice 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. *This is in addition to another notice that I sent earlier.*

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before 8/5/2024. Your cooperation is appreciated.

Thank You,



Christina Henman
Administrative Assistant
IDWR, Eastern Region
900 N Skyline Ste. A
Idaho Falls, ID 83402
Phone: (208) 525-7161

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

34-14939

L JEAN PROUTY REVOCABLE LIVING TRUST, 22901 N LAS VEGAS DR, SUN CITY WEST, AZ 85375-2619

Point Of Diversion SENW S17 T08N R22E CUSTER County

Source GROUND WATER Tributary

Use: DOMESTIC

01/01 to 12/31

0.04 CFS

Total Diversion:

0.04 CFS

Date Filed: 07-11-2022

Place Of Use: DOMESTIC

T08N R22E S17

SENV

This application proposes to appropriate trust water and will be evaluated in compliance with Section 42-203C, Idaho Code, and IDWR's Water Appropriation Rules, IDAPA 37.03.08.

Permits will be subject to all prior water rights. For additional information concerning the property location, contact the Eastern office at (208)525-7161; 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, Eastern Region, 900 N SKYLINE DR STE A, IDAHO FALLS ID 83402-1718 together with a protest fee of \$25.00 for each application on or before 8/5/2024. The protestant must also send a copy of the protest to the applicant.

MATHEW WEAVER, Director

Published on 7/18/2024 and 7/25/2024



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Governor Brad Little

Director Mathew Weaver

June 25, 2024

L JEAN PROUTY REVOCABLE LIVING TRUST
22901 N LAS VEGAS DR
SUN CITY WEST AZ 85375-2619

RE: Application for Permit to Appropriate Trust Water – No. 34-14939

Dear Applicant:

The Department of Water Resources (“Department”) has received your application for permit to appropriate water and has accepted it for filing. Your application has been assigned the identification number referenced in the subject line of this letter. Please refer to that number in all future correspondence regarding this application.

Your application proposes to appropriate Trust Water as described in this letter. The special nature of the trust affects how the Department will process your application as well as some aspects of the water right that may result. The purpose of this letter is to inform you of three items specific to applications proposing to appropriate Trust Water:

1. Your application will be subject to additional evaluation compared to applications that do not propose the use of Trust Water. This may require you to submit additional information and to demonstrate that your application meets the statutory evaluation criteria for appropriating Trust Water.
2. If a water right is issued to you, it could be subject to curtailment to satisfy senior minimum stream flow water rights on the Snake River at the Murphy Gage.
3. If a water right is issued to you, it will be subject to a periodic term review that may impact the future use of the right.

To understand better these three items and why they apply to your application, it helps to understand what Trust Water is and how it came about.

Trust Water arose from the 1984 Swan Falls Settlement between Idaho Power Company (“IPC”) and the State of Idaho (“State”).¹ Prior to the Swan Falls Settlement, the Idaho Supreme Court determined IPC held water rights for use at Swan Falls Dam that exceeded the entire flow of the Snake River at times. This limited future upstream development of water resources in the Snake River Basin. The Swan Falls Settlement resulted in changes

¹ For more information, including a more complete description of the Swan Falls Settlement and resulting legislation, please see the Department’s web page: <https://idwr.idaho.gov/legal-actions/settlements/swan-falls/>.

to Idaho Law² and to IPC's water rights. As a result of the Swan Falls Settlement and subsequent legislation and court decrees, IPC's hydropower water rights in excess of the minimum flows at Murphy Gage are held in trust by the State. This change allows future development using water that would have previously been delivered to satisfy IPC water rights at Swan Falls Dam and, therefore, would have been unavailable for upstream appropriation. The purpose of this trust is defined in Idaho Code § 42-203B as follows:

The purposes of the trust established by ... this section are to assure an adequate supply of water for all future beneficial uses and to clarify and protect the right of a user of water for power purposes ... to continue using the water pending approval of depletionary future beneficial uses.

Your application proposes a use of water that could deplete the rights placed in trust, so the State, through the Department must evaluate your proposal under the laws and rules that came after the Swan Falls Settlement.³ In addition to the usual statutory process and evaluation criteria, the Department must also evaluate whether your application will deplete Trust Water and, if so, whether your depletion of Trust Water is in the public interest.

In addition, the availability of Trust Water and the public's interest in the use of Trust Water could change over time. The Department will periodically review rights to use Trust Water to determine if Trust Water remains available for use and if the continued use of Trust Water is in the public interest. The periodic review will occur for any right that issues from your application. A future review by the Department could terminate or limit your ability to use the right in the future.

An important aspect of the Swan Falls Settlement is that the State agreed to protect the minimum stream flows in the Snake River at the Murphy Gage. Should the flows at the Murphy Gage fall below these minimums, the water rights that use Trust Water could be curtailed to restore flow to meet those minimums.

The Department will hold your application for 14 days to allow you time to contact us if you have further questions on this topic or if you choose to withdraw your application. If the Department does not hear from you within 14 days, the Department will process your application and prepare it for publication. If you choose to withdraw your application before it is submitted for publication, you will receive a full refund of your filing fee. Refunds are not available if an application is withdrawn after advertising.

Please contact this office if you have questions regarding this matter.

Sincerely,

Christina Henman

Enclosure: Withdrawal of Application form

² Although several sections of the Idaho Code were affected, the addition of Sections 42-203B and 42-203C, Idaho Code are the changes most relevant to this discussion.

³ See Sections 42-203C and the Department's Water Appropriation Rules (IDAPA 37.03.08).