

State of Idaho
Department of Water Resources
Water Right License
Water Right No. 65-23703

Priority: June 01, 2017

Maximum Diversion Volume: 79.0 AF

It is hereby certified that:

BOGUS BASIN RECREATIONAL ASSN INC C/O BRAD WILSON
2600 BOGUS BASIN RD BOISE ID 83702

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated June 01, 2017, and has submitted Proof of Beneficial Use on June 15, 2022. An examination confirms water is diverted from:

Source : BOGUS CREEK

Tributary: SHAFER CREEK

<u>Beneficial Use</u>	<u>Period of Use</u>	<u>Rate of Diversion</u>	<u>Annual Volume</u>
COMMERCIAL STORAGE	01/01 to 12/31		79.0 AF
COMMERCIAL FROM STORAGE	11/01 to 03/31		79.0 AF
FIRE PROTECTION STORAGE	01/01 to 12/31		47.6 AF
AESTHETIC STORAGE	01/01 to 12/31		47.6 AF
RECREATION STORAGE	01/01 to 12/31		47.6 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

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

Place of Use: FIRE PROTECTION STORAGE

Twp	Rng	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: AESTHETIC STORAGE

Twp	Rng	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						

State of Idaho
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Place of Use: RECREATION STORAGE

Twp	Rng	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						

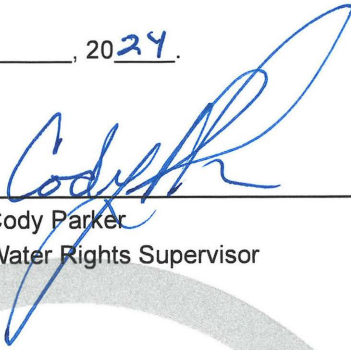
Conditions of Approval

1. Right(s) 65-23703 and 65-13382 authorize the storage of an annual total of 111 acre-feet, comprised of 43.5 acre-feet to be used for the initial filling or carryover storage of the pond, 4.1 acre-feet for the replacement of losses due to evaporation, and up to 63.4 acre-feet for additional refills for commercial from storage use. 32 acre-feet from the pond authorized under Right(s) 65-13382.
2. The one (1) reservoir established by the storage of water under this right shall not exceed a total capacity of 43.5 acre-feet or a total surface area of 2.3 acres.
3. 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.
4. The right holder shall maintain records of 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 for inspection by the Department.
5. A lockable device subject to the approval of the Department shall be maintained on the diverting works in a manner that will provide the watermaster suitable control of the diversion.
6. 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.
7. The right holder shall install and maintain an impermeable liner in the reservoir.
8. Water shall not be diverted from fire protection storage except to fight or repel an existing fire.
9. This right does not grant any right-of-way or easement across the land of another.
10. When ordered by the Director, the right holder shall provide mitigation acceptable to the Director to offset depletion of lower Snake River flows needed for migrating anadromous fish. The amount of water required for mitigation, which is to be released into the Snake River or a tributary for this purpose, will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this right. Any order of the Director issued in accordance with this paragraph shall be in conformance with applicable rules allowing the right holder due process as the need for mitigation and the amount of mitigation are determined.

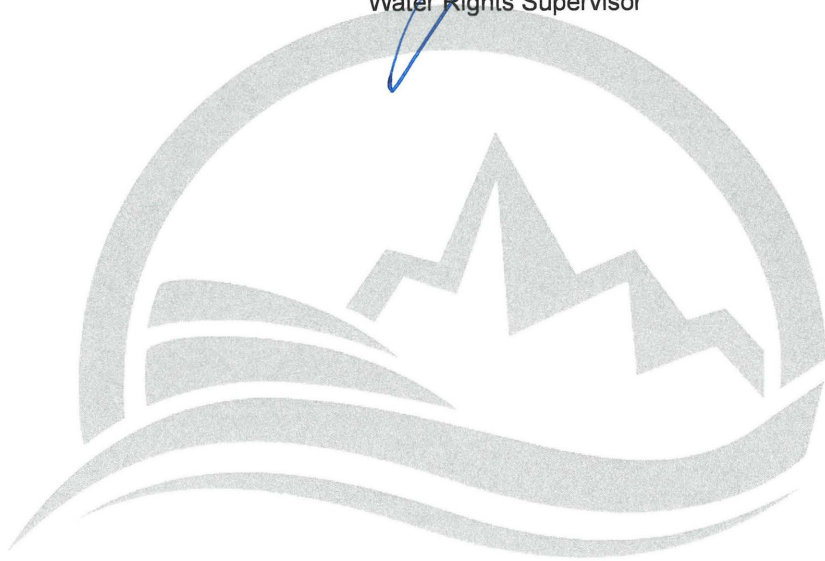
State of Idaho
Department of Water Resources
Water Right License
Water Right No. 65-23703

This license is issued pursuant to the provisions of Idaho Code § 42-219. The water right confirmed by this license is subject to all prior water rights and shall be used in accordance with Idaho law and applicable rules of the Department of Water Resources.

Signed this 16th day of SEPTEMBER, 2024.



Cody Parker
Water Rights Supervisor



State of Idaho
Department of Water Resources
Attachment to Water Right
65-23703

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

03E



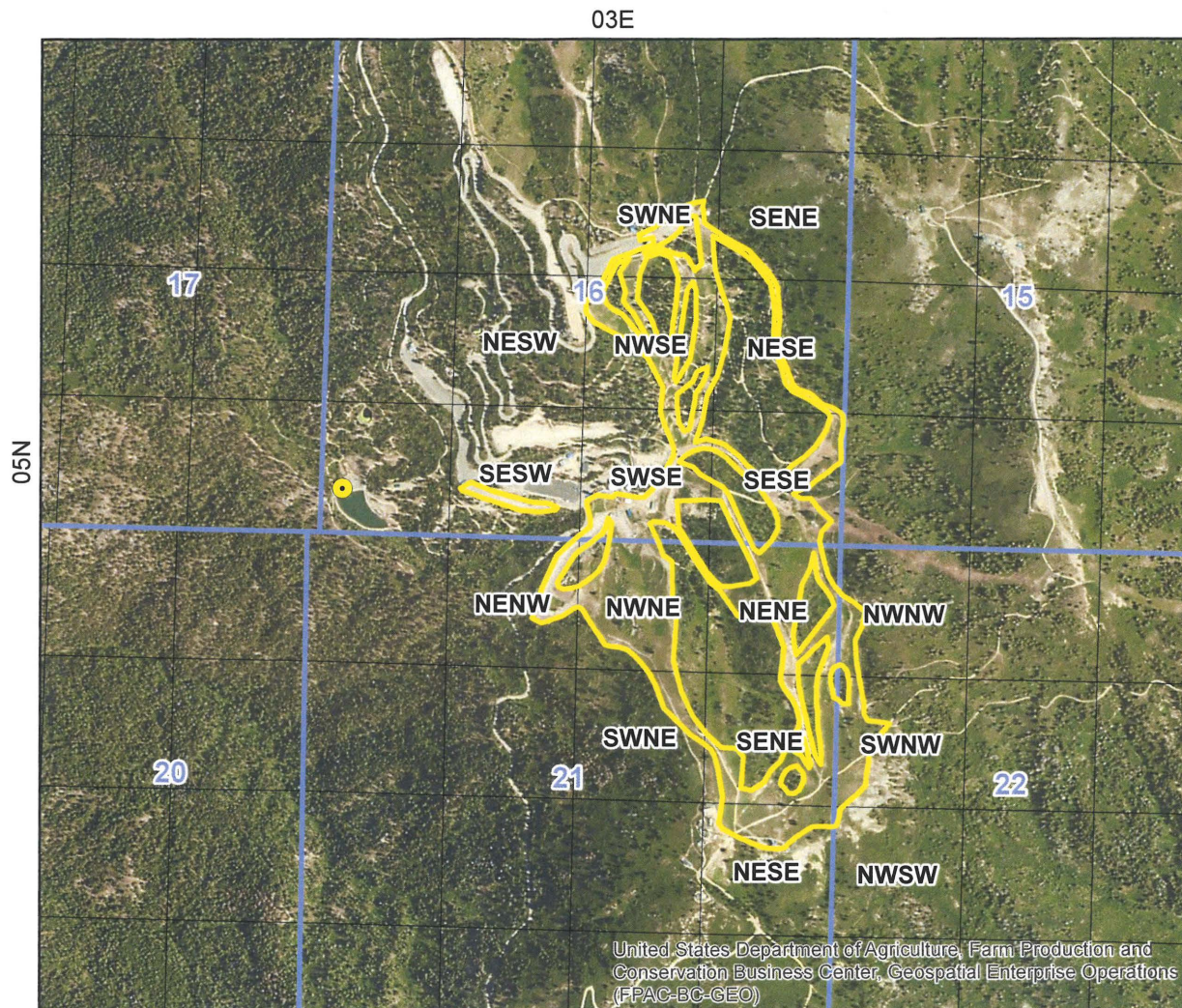
0 0.035 0.07 0.14 Miles

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



State of Idaho
Department of Water Resources
Attachment to Water Right
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.



0 0.225 0.45 0.9 Miles

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





Western Region • 2735 W Airport Way • Boise, ID 83705-5082

Phone: 208-334-2190 • Fax: 208-334-2348 • Email: westerninfo@idwr.idaho.gov • Web: idwr.idaho.gov

Governor Brad Little

Director Mathew Weaver

September 17, 2024

BOGUS BASIN RECREATIONAL ASSN INC
C/O BRAD WILSON
2600 BOGUS BASIN RD
BOISE ID 83702

RE: License No. 65-23703

ISSUANCE OF LICENSE

Dear Water Right Holder(s):

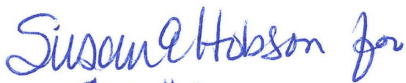
The Department of Water Resources ("Department") has issued the enclosed Water Right License confirming that a water right has been established in accordance with your permit. Please be sure to thoroughly review all the conditions of approval listed on your license. The conditions may include ongoing requirements, such as maintenance of a measuring device or implementation of mitigation, as well as information about how your water use may be administered, such as regulation by a watermaster in a water district.

The license is a PRELIMINARY ORDER issued by the Department 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.

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. Water right forms are available from any office of the Department or on the Department's website at idwr.idaho.gov

If you have any questions concerning the enclosed information, please contact me at 208-605-4629.

Sincerely,


Susy Hobson

Cody Parker
Water Rights Supervisor

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on September 17, 2024, I served a true and correct copy of Water Right License No. 65-23703 by U.S. Mail, postage prepaid, to the following:

BOGUS BASIN RECREATIONAL ASSN INC (Current Owner)
C/O BRAD WILSON
2600 BOGUS BASIN RD
BOISE ID 83702

CHRIS M BROMLEY (Representative)
MCHUGH BROMLEY PLLC
PO BOX 107
BOISE ID 83701-0107

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



Susy Hobson
Technical Records Specialist 1

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.

MEMORANDUM

TO: Water Right 65-23703
FROM: Cody Parker
RE: Licensing Recommendations for Permit 65-23703
DATE: August 8, 2024

Storage Volume

On June 15, 2022 SPF Water Engineering submitted a certified water right examination for water right permit 65-23703. Permit 65-23703 authorizes storage of 80.3 acre-feet of water from Bogus Creek for commercial purposes (snowmaking). 47.3 of the 80.3 acre-foot total are authorized for Fire Protection Storage, Aesthetic Storage, and Recreation Storage.

A condition of the permit limits the storage of water in the pond to the following:

Annual Period	Diversions Limitation
11/16 to 03/14	Normal in-priority diversions
03/15 to 05/31	In-priority diversions of flows above 2.0 cfs in Bogus Creek
06/01 to 11/15	No diversion allowed

Table 1 Annual restrictions on diversions from Bogus Creek into storage.

Overlapping water right 65-13382 authorizes 32 afa for commercial storage and commercial from storage uses within the same reservoir. Permit 65-23703 does not contain any conditions limiting the combined storage volume of the reservoir with other water rights. Therefore, the theoretical storage limit for the reservoir during the development period was 112.3 acre-feet annually.

The permit record and field exam explain the capacity of the reservoir is 43.5 acre-feet. The record is inconsistent with regard to how much water was stored and used for commercial storage during the development period. The field exam narrative suggests that 80.4 acre feet were used for snowmaking during the 2021-2022 snowmaking season. However, a table included in the narrative shows the following for the year 2021:

2021	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Diversion from storage (Af)	16.4	2.9	0.1	0	0	0.1	0	0	0	0	21.8	45.2
Elevation Beginning (ft)	5954.5	5955.5	5964.5	5967	5971	5975	5975	5975	5975	5975	5975 ¹	5970
Elevation Ending (ft)	5955.5	5964.5	5967	5971	5975	5975	5975	5975	5975	5975	5970	5945
Storage Beginning (af)	10.73	11.70	22.85	26.89	34.22	42.64	42.64	42.64	42.64	42.64	42.64	32.27
Storage Ending (af)	11.70	22.85	26.89	34.22	42.64	42.64	42.64	42.64	42.62	42.64	32.27	3.94
Δ storage (af)	+0.97	+11.15	+4.04	+7.33	+8.42	0	0	0	0	0	-10.37	-28.33
Bogus Cr. Div (af)	17.37	14.05	4.14	7.33	8.42	0.1	0	0	0	0	11.43	16.87

Table 2 storage and diversion data from 2021, taken from the field exam report.

The table above shows that 79.71 acre-feet were diverted into the pond for storage during 2021. Adding 10.73 acre-feet of carryover storage gives a value of 90.44 acre-feet of water stored for the year. This calculation does not account for the 4.1 acre-feet of evaporation recovered which brings the total storage to 94.54. The total diversions from storage for commercial purposes for 2021 were 86.5 acre-feet.

Accounting for the 32 acre-feet for commercial storage and commercial from storage authorized by water right 65-13382, I recommend the following values for this license:

Beneficial Use	From	To	Volume
Commercial Storage	01/01	12/31	54.5
Commercial from Storage	11/01	03/31	54.5
Fire Protection Storage	01/01	12/31	47.6
Aesthetic Storage	01/01	12/31	47.6
Total			62.5

Table 3 Beneficial use recommended for license 65-23703

Condition 259 of the license should read:

"Rights 65-23703 and 65-13382 authorize the storage of an annual total of 94.5 acre-feet, comprised of 43.5 acre-feet to be used for the initial filling or carryover storage of the pond, 4.1 acre-feet for the replacement of losses due to evaporation, and up to 46.9 acre-feet for additional refills for commercial from storage use. (32.0 acre-feet from the pond authorized under Right 65-13382.)"

The owner can divert and store a total of 94.5 acre-feet annually in the pond. 86.5 acre-feet can be used for commercial snowmaking purposes. Fire Protection Storage, Recreation Storage, and Aesthetic Storage authorize the capacity of the pond (43.5 afa) and 4.1 acre-feet for the replacement of evaporation.

¹ Values in red are corrected based on an email from Patrick Kelley re: volume data for Bogus Basin Storage dated February 21, 2023

Fifty-Year Weather Conditions

In the field exam narrative, the examiner states:

“For heating and cooling uses, weather conditions during any single season from the fifty (50) years immediately prior to submitting proof will be considered (see Shelley Keen’s Memorandum dated October 30, 2012 under Sun Valley Company’s River Run snowmaking water Right 37-8575A). While IDAPA 37.03.02.035.01.j specifically references heating and cooling uses, snowmaking is similarly dependent on annual and seasonal weather variations. Although the annual combined volume of 111 af...was not actually diverted during the development period, it easily could have and would have been diverted under conditions that have occurred at Bogus over the last 50 years.”

And later:

“A letter from General Manager Brad Wilson explains, but for staffing shortages – shortages experienced by many businesses in the Treasure Valley due to the Covid-19 pandemic – Bogus Basin would have diverted another 30 acre-feet in January and February, for a total of 111 acre-feet”

In the 2012 memo referenced in the statement above, Shelley Keen clarifies the purpose of Beneficial Use Exam Rule 035.01.j is “...to acknowledge that the years prior to submitting proof may not have been the most extreme weather years.” In other words, application of this provision of the rule is appropriate when development of the permit is dependent upon specific weather conditions, and the weather conditions during the development period were the primary factor limiting the development and beneficial use under the permit.

In this case, the field exam appears to identify the factor limiting permit development as the economic condition at the time rather than the weather. A letter from Brad Wilson, Bogus Basin general manager, included as an attachment with the field exam acknowledges:

“With the cold temperature we experienced in January and February, we could have easily made another 30 acre-feet of snow.”

Following the field exam Water Resource Agent Michele Edl requested information regarding the flow available in Bogus Creek². At the end of her email Michele summarizes her concern:

“In summary, I found that the water for snowmaking appears limited by the quantity of water flowing in Bogus Creek that is also within the seasons-of-use authorized for storage and use at that flow”

In essence, Michele’s concern can be expressed as follows. Bogus Creek appears to have water available during spring to fill the empty reservoir. However, during snowmaking

² Email from Michele Edl sent August 21, 2023 re: Bogus Creek data check

season when water is actively diverted from the reservoir Bogus Creek flows are too low to accommodate refills. She concluded 91 acre-feet was available for storage from Bogus Creek during the 2021-2022 season.

Michele's conclusion that 91 acre-feet were available from Bogus Creek during 2021-2022 is similar to the 94.5 acre-feet of storage achieved during 2021 according to **table 2** above. In response to Michele's request, the representatives prepared a memo³ explaining that sufficient flows are likely available in both time and quantity to achieve the full 112.3 (or 111 given less evaporation) acre-feet in some years.

This exercise illustrates that, along with the economic issues discussed above, water supply may have also been a limiting factor in the development of the permit. Water supply is indeed a function of weather conditions. Beneficial Use Exam Rule 35.01.j states that:

“Annual diversion volumes for heating and cooling uses may be adjusted to account for documented weather conditions during any single heating and cooling season from among the fifty (50) years immediately prior to submitting proof of beneficial use for the permit.”

However, the provision should not be taken to mean that documented weather conditions justify a license quantity greater than the amount of water available from the source during the development period. The provision refers to the need for the beneficial use based on weather conditions. The statements from the field examiner and from Brad Wilson cited above demonstrate that weather conditions (i.e. temperatures necessary for snowmaking) experienced during the development period were sufficient to allow full utilization of the permit if not for the economic impact of COVID.

³ Petrich, Shubert, and Kelley, Memo re: *Licensing of Permit 65-23703*, December 13, 2023

Edl, Michele

From: Kelly, Patrick <Patrick.Kelly@hdrinc.com>
Sent: Wednesday, May 24, 2023 2:36 PM
To: Edl, Michele
Subject: Re: extent of water use through 65-13381 and 65-13466

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.

Oh that's a typo. Yes, there is only 1 10,000-gallon tank at the bottom of superior.

Patrick Kelly
Project Hydrologist

300 E Mallard Dr., Suite 350
Boise, ID 83706
📞 +1.208.383.4140 📠 +1.208.954.4805
patrick.kelly@hdrinc.com

From: Edl, Michele <Michele.Edl@idwr.idaho.gov>
Sent: Wednesday, May 24, 2023 2:26:37 PM
To: Kelly, Patrick <Patrick.Kelly@hdrinc.com>
Subject: RE: extent of water use through 65-13381 and 65-13466

CAUTION: [EXTERNAL] This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Thank you Patrick,
One quick clarification about the storage tanks...
Are there two 10,000 gallon storage tanks at the base of Superior Express (chairlift 3)? Your third paragraph below has me puzzled.

I understand that Bogus Basin has:

1. a 12,000 gallon steel storage tank near the only production well developed for 65-13466 and near the bottom of Showcase (chairlift 4)
2. a 10,000 gallon poly storage tank at the base of Pine Creek Express (chairlift 6) (which when filled with snowmaking water is through temporary approvals)
3. a 10,000 gallon poly storage tank at the base of Superior Express (chairlift 3)
4. a 250,000 gallon general storage tank at the top of Morning Star Express (chairlift 2).

I also understand that items 1) and 4) are storage for domestic use and that the domestic rights no longer represent what is actually in place and in use.

But first, let's finish the snowmaking.
Michele

From: Kelly, Patrick <Patrick.Kelly@hdrinc.com>
Sent: Wednesday, May 24, 2023 1:25 PM

Edl, Michele

From: Kelly, Patrick <Patrick.Kelly@hdrinc.com>
Sent: Wednesday, May 24, 2023 1:25 PM
To: Edl, Michele; Chris Bromley
Cc: C Petrich
Subject: RE: extent of water use through 65-13381 and 65-13466

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.

Michele,

We understand your inquiry to not necessarily be about the total commercial use at Bogus Basin, but rather the extent of commercial use for snowmaking purposes under water rights 65-13381, 65-13382, and 65-13466 during the beneficial use period of 65-23703. With that understanding, the following information is intended to help address your questions.

Water right 65-13466 authorizes diversion of ground water for commercial purposes, including snowmaking. In practice, water diverted under this right has primarily been used for commercial purposes within the lodge facilities. The Bogus Basin well has not yielded flows sufficient for Bogus' snow-making requirements (hence the need for permit 65-23703). Diversions under water right 65-13466 were included in the combined use limit group because diversions are co-mingled with water from Bogus Creek as part of the original snow-making system (which includes storage in a 250,000-gallon tank near the top of the Morningstar Lift (aka Lift #2). Today and in the foreseeable future, the well will continue to divert water to this storage tank. The well water diverted to the storage tank and used for general commercial purposes counts toward snowmaking uses under the combined use limits in water rights 65-13381, 65-13382, and 65-13466.

Nate Shake, Director of Mountain Operations stated that since 2017, there has been no snowmaking from the tank at Morningstar (65-13466). All water for snowmaking from the Bogus Creek drainage has come from the pond (65-13382) and the two 10,000-gallon tanks at both the base of Superior (65-13381). Bogus has used the 10,000-gallon tank at the bottom of Superior each season since 2017. This tank system is not equipped with a flow meter or totalizer (neither are required by conditions of the right). Bogus reports that during a snowmaking shift, one gun can draw the tank down in 10-12 hours with all valves open. If we were to assume that each shift used around 10,000 gallons, that would come out to roughly 32 shifts, or about 0.98 af. However, Mr. Shake notes that Bogus does not get 32 productive shifts out of the tank; at best, he believes Bogus gets around 15 shifts. At 15 shifts, Bogus would divert a maximum of 150,000 gallons, or 0.46 af.

During the 2021-2022 season, Bogus Basin diverted 80.36 af from Pond 1 for snowmaking purposes. If 0.46 af was diverted to the Superior tank under 65-13381 and 8.6 af was diverted from the well under 65-13466, then 22.94 af were diverted under water right 65-13382 (32 af - 8.6 af - 0.46 af = 22.94 af). Consequently, of the 80.36 af diverted out of Pond 1, 57.42 af were diverted under permit 65-23703.

However, our letter dated December 1, 2022, demonstrates that Bogus could have beneficially used more water for snowmaking during a severe dry season than was diverted during the licensing period for permit 65-23703. Thus, regardless of the amount of water diverted under the existing rights, Bogus Basin should be granted the full permitted volume under permit 65-23703 based on criteria outlined in the Beneficial Use Examination Rules (IDAPA 37.03.02.035.01.j.).

Bogus Basin appreciates the priority to get this licensed. Please do not hesitate to contact me for additional information.

Sincerely,

Patrick Kelly

Project Hydrologist

D 208.387.7000 **M** 208.954.4805

From: Edl, Michele <Michele.Edl@idwr.idaho.gov>
Sent: Friday, May 19, 2023 10:25 AM
To: Chris Bromley <cbromley@mchughbromley.com>; Kelly, Patrick <Patrick.Kelly@hdrinc.com>
Cc: C Petrich <crpetrich@gmail.com>
Subject: extent of water use through 65-13381 and 65-13466

CAUTION: [EXTERNAL] This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Gentlemen,

The combined limits on other rights held by Bogus Basin Recreational Association, Inc. are complicating my review and delaying recommendations for the license of Right 65-23703.

I have been directed to ask for additional information from you to help me clarify amounts available.

The problematic condition appears the same on three rights for commercial use. It is Condition of Approval 1 on Rights 65-13381, 65-13382 and 65-13466.

The condition states: "Rights 65-13381, 65-13382, and 65-13466 when combined shall not exceed a total diversion rate of 0.34 cfs and a total annual maximum diversion volume of 32.0 af."

Right 65-13381 is for a commercial (snowmaking) use of water diverted from Unnamed Stream tributary to Bogus Creek

Right 65-13382 is for a commercial (snowmaking) use of water now authorized to divert from Bogus Creek at two locations. One location is a diversion at the reservoir constructed under authorization of Permit 65-23703

Right 65-13466 is a diversion from ground water for commercial (non snowmaking) use.

Subsequent to the transfer which acted on Right 65-13382, quantities of water available to Right 65-23703 depend on the water uses attributable to Right 65-13382. And the water uses attributable to Right 65-13382 depends on the extent of water use attributable to Right 65-13381 and Right 65-13466.

At your earliest convenience, **please provide me with information about the extent of water used by Right 65-13381 and Right 65-13466 during the development period of Right 65-23703 (June 1, 2017 to June 15, 2022).**

Right 65-23703 is my highest priority and I'd like to keep the department's attention on it until it is licensed. If data to support the water uses is not readily available, please indicate how much time you will need to retrieve it.

Sincerely,
Michele Edl
208-287-4946

Edl, Michele

From: Leraris, Justin <Justin.Leraris@hdrinc.com>
Sent: Friday, March 03, 2023 12:15 PM
To: Edl, Michele
Cc: Kelly, Patrick; Nate Shake (nate@bogusbasin.org); Brad Wilson; Petrich, Christian
Subject: RE: volume data for Bogus Basin Storage

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.

Michele,

Hopefully I can help clarify your concern with the 5976 reading. I'm having to speculate a bit on what is going on but have several possible explanations.

The illustration you provided is a good reference except we only have one spillway so the retarding pool storage does not apply. But we do have:

- Dead storage – which is the bottom 5' of depth. We want to keep some water over the intake screens and should not pump below this depth. This represents 0.36 AF dead storage volume and would consist of water and sediment accumulation.

	Depth (ft)	Elevation	Volume (AF)	Volume (Gal.)
	3	5930	0.16	50,897
low water	5	5932	0.36	117,549
	5.5	5932.5	0.42	137,808
	6	5933	0.49	159,548
	6.5	5933.5	0.56	182,806

- We have active storage from 5' depth to 47.67' (elevations 5932 to 5974.67) which is equal to 41.54 AF of storage (41.90-0.36 AF dead storage)
- And we have surcharge volume which is variable depending on Bogus Creek inflows and the resulting surcharge over the spillway check boards. Bogus Creek flow rates are highly variable and can range from 0 cfs to over 20 cfs. At 20 cfs, there would be approximately about 0.9' of surcharging over the 9-ft+/- feet of checkboard. This would take the pond depth up to 48.57' or elevation 5975.57', which rounds to what was recorded (5976'). However, I would expect this is May or June when flows are peaking, not in October. Another possibility is that the recording was taking at time when test pumping occurred at the start of the snowmaking season. When the submersible pumps come on it's possible they induce a slightly higher reading from pressure or turbulence. Another possibility is floating debris blocking some flow area at the spillway discharge.
- And we have minimum freeboard from 5975.57 to 5977', but again it is very infrequent that we have much surcharging and freeboard is typically at least 2.33' (5974.67 to 5977)

I hope this helps clear up the 5976' reading and our volume numbers for the licensing. Please reach out if you have further questions.

Thank you,

Justin Leraris, P.E.
Senior Project Manager

We are now HDR | SPF

412 E Parkcenter Blvd. Suite 100

Boise, ID 83706

D +1.208.872.9517 **M** +1.208.340.1859

justin.leraris@hdrinc.com

hdrinc.com/follow-us

spfwater.com

From: Kelly, Patrick <Patrick.Kelly@hdrinc.com>
Sent: Wednesday, February 22, 2023 4:57 PM
To: Leraris, Justin <Justin.Leraris@hdrinc.com>
Subject: FW: volume data for Bogus Basin Storage

Justin,

Here is the chain I have received from Michele. I will be in the office tomorrow afternoon if you are available to chat.

Thanks.

Patrick Kelly

Project Hydrologist

D 208.387.7000 **M** 208.954.4805

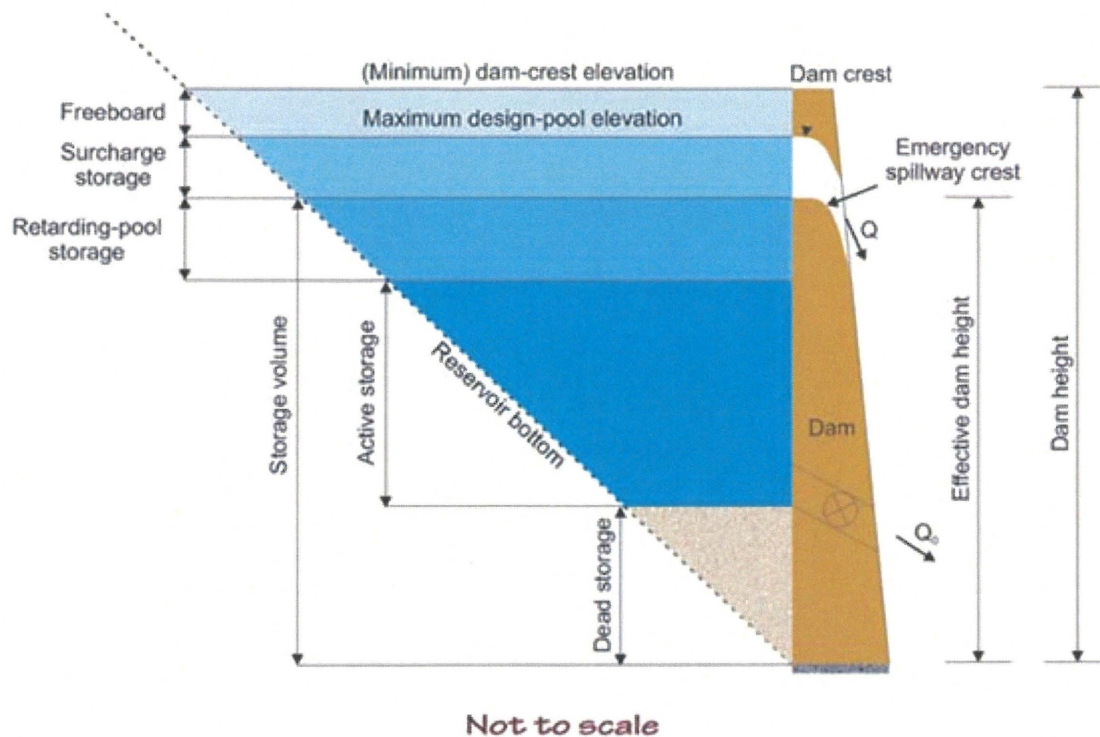
From: Edl, Michele <Michele.Edl@idwr.idaho.gov>
Sent: Wednesday, February 22, 2023 10:59 AM
To: Kelly, Patrick <Patrick.Kelly@hdrinc.com>
Subject: RE: volume data for Bogus Basin Storage

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Sorry Patrick,

If the highest elevation provided to us was 5974.67, I would be fine. I believe that that full pool storage is possible as surcharge storage. But the recorded elevation of the reservoir (5976 ft in Oct 2021) indicates that the operators are actually storing water at the dam crest and would have been endangering the road. I need to be sure about that.

I don't design dams for a living so here's an illustration of my understanding of the storage terms. Are we using the same terms for the same storage levels?



From: Kelly, Patrick <Patrick.Kelly@hdrinc.com>
Sent: Tuesday, February 21, 2023 11:17 AM
To: Edl, Michele <Michele.Edl@idwr.idaho.gov>; crpetrich@gmail.com
Subject: RE: volume data for Bogus Basin Storage

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Michele,
 I forwarded your questions on to Justin Leraris. Justin is our chief engineer designing the ponds and had collected the drone data. The following was his response:

Patrick,

Elevation 5976' is the top of bank/access road elevation and accounts for the original 3-ft of freeboard provided above the spillway elevation at 5974'. We added checkboards to the outlet structure about 3 years ago to add about 1.5 AF storage to bring the full pool elevation to 5974.67. To summarize: 5974.67' to 5976' is freeboard, not effective storage. Hope this helps.

Edl, Michele

From: Kelly, Patrick <Patrick.Kelly@hdrinc.com>
Sent: Tuesday, February 21, 2023 11:17 AM
To: Edl, Michele; crpetrich@gmail.com
Subject: RE: volume data for Bogus Basin Storage

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	46	5973	38.29	12,477,296
	46.5	5973.5	39.35	12,822,975
spillway	47	5974	40.47	13,187,084
	47.5	5974.5	41.53	13,531,543
full pool	47.67	5974.67	41.90	13,654,296
	48	5975	42.64	13,894,497
	48.5	5975.5	43.77	14,263,273
	49	5976	44.92	14,637,903

Note: Storage estimates from Quadrant drone survey of as-built pond dated 9/21/18 and interpolation from best fit polynomial and power equations. Does not account for sediment accumulation.

Patrick Kelly

Project Hydrologist

D 208.387.7000 M 208.954.4805

	46	5973	38.29	12,477,296
	46.5	5973.5	39.35	12,822,975
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	47.5	5974.5	41.53	13,531,543
full pool	47.67	5974.67	41.90	13,654,296
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Patrick Kelly

Project Hydrologist

D 208.387.7000 M 208.954.4805

From: Edl, Michele <Michele.Edl@idwr.idaho.gov>
Sent: Thursday, February 2, 2023 5:48 PM
To: Kelly, Patrick <Patrick.Kelly@hdrinc.com>; crpetrich@gmail.com
Subject: RE: volume data for Bogus Basin Storage

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Christian and Patrick,

I am getting very close to final numbers for 65-23703.

I would like to maximize the licensed volume of water for the right, but I have found another concern about the data.

As the 2021-22 season shows the most use and best compliance with the season-of-use restriction I want use that data as the foundation for my recommendations.

I understand that this reservoir has a dam crest height of 47.67 feet. That height includes the water elevation and storage above the spillway. At that height, the reservoir holds 41.9 AF and is just under the permit authorized volume of 42 AF.

But notice in your data table below that the elevation of the reservoir reached 5976 feet in Oct 2021. The companion volume of water, as it was estimated by the drone survey of the reservoir, is 44.92 AF, and exceeds the storage authorization. Can you help me understand and explain, the excess 3 AF that was apparently held in storage?

- What is the error in the volume estimate?
- Was the transducer location changed?

From: Edl, Michele <Michele.Edl@idwr.idaho.gov>
Sent: Thursday, February 2, 2023 5:48 PM
To: Kelly, Patrick <Patrick.Kelly@hdrinc.com>; crpetrich@gmail.com
Subject: RE: volume data for Bogus Basin Storage

CAUTION: [EXTERNAL] This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

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I would like to maximize the licensed volume of water for the right, but I have found another concern about the data.

As the 2021-22 season shows the most use and best compliance with the season-of-use restriction I want use that data as the foundation for my recommendations.

I understand that this reservoir has a dam crest height of 47.67 feet. That height includes the water elevation and storage above the spillway. At that height, the reservoir holds 41.9 AF and is just under the permit authorized volume of 42 AF.

But notice in your data table below that the elevation of the reservoir reached 5976 feet in Oct 2021. The companion volume of water, as it was estimated by the drone survey of the reservoir, is 44.92 AF, and exceeds the storage authorization. Can you help me understand and explain, the excess 3 AF that was apparently held in storage?

- What is the error in the volume estimate?
- Was the transducer location changed?
- Does the bathymetry of the reservoir still close to the as-built condition or is there a significant sediment accumulation?
- Was there additional freeboard storage found?

Best Regards,
Michele

From: Kelly, Patrick <Patrick.Kelly@hdrinc.com>
Sent: Friday, January 20, 2023 8:45 AM
To: Edl, Michele <Michele.Edl@idwr.idaho.gov>; crpetrich@gmail.com
Subject: RE: volume data for Bogus Basin Storage

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Michele,

I went back and reviewed the data. Below is a table to confirm my findings. When I built the table, I set the Beginning elevation to equal the previous ending elevation assuming they matched. They do not twice. We will get back to you on this. Also, I did enter af to the hundredth in months that it was reported as such, but the table sent to IDWR rounded to the tenth, per IDWR standard. I have expanded my table to include hundredths. In terms of volume however, they are still correct. Is there another issue you might have found?

	Oct-18	Nov-18	Dec-18	Jan-19	Feb-19	Mar-19	Apr-19	May-19
Diversion from Storage (af)	0.00	1.51	14.13	13.07	6.03	0.00	0.00	0.00
Elevation Beginning	5930	5944	5954	5944	5942	5946	5970	5974
Elevation Ending	5944	5954	5935	5942	5946	5970	5974	5974

1/20/2023

	Oct-19	Nov-19	Dec-19	Jan-20	Feb-20	Mar-20	Apr-20	May-20
Diversion from Storage (af)	10.90	18.47	20.80	4.71	3.38	0.00	0.00	0.00
Elevation Beginning	5974	5972	5960	5956	5962	5960	5962	5970
Elevation Ending	5972	5960	5956	5962	5960	5962	5970	5970

	Oct-20	Nov-20	Dec-20	Jan-21	Feb-21	Mar-21	Apr-21	May-21
Diversion from Storage (af)	12.39	48.10	8.89	16.43	2.91	0.12	0.00	0.00
Elevation Beginning	5975	5970	5943	5954.5	5955.5	5964.5	5967	5971
Elevation Ending	5970	5943	5955	5955.5	5964.5	5967	5971	5975

	Oct-21	Nov-21	Dec-21	Jan-22	Feb-22	Mar-22
Diversion from Storage (af)	0.00	21.80	45.20	11.90	1.46	0.00
Elevation Beginning	5975	5976	5970	5945	5945	5968
Elevation Ending	5976	5970	5945	5945	5968	5973.5

Patrick Kelly*Project Hydrologist***D** 208.387.7000 **M** 208.954.4805

RE: volume data for Bogus Basin Storage

1/20/2023



Kelly, Patrick <Patrick.Kelly@hdrinc.com>
To: Edl, Michele; crpetrich@gmail.com

Reply Reply All Forward

Fri 1/20/2023 8:45 AM

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Michele,

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	Oct-18	Nov-18	Dec-18	Jan-19	Feb-19	Mar-19	Apr-19	May-19	Jun-19	Jul-19	Aug-19	Sep-19	Season of Use Volume	Annual Div. Total
Diversion from Storage (af)	0.00	1.51	14.13	13.07	6.03	0.00	0.00	0.00	0.00	0.00	0.00	0.00	34.74	34.74
Elevation Beginning	5930	5944	5954	5944	5942	5946	5970	5974	5974	5974	5974	5974		
Elevation Ending	5944	5954	5935	5942	5946	5970	5974	5974	5974	5974	5974	5974		

	Oct-19	Nov-19	Dec-19	Jan-20	Feb-20	Mar-20	Apr-20	May-20	Jun-20	Jul-20	Aug-20	Sep-20		
Diversion from Storage (af)	10.90	18.47	20.80	4.71	3.38	0.00	0.00	0.00	0.00	0.00	0.09	0.13	47.36	58.48
Elevation Beginning	5974	5972	5960	5956	5962	5960	5962	5970	5970	5974	5974	5975		
Elevation Ending	5972	5960	5956	5962	5960	5962	5970	5970	5970	5974	5975	5975		

	Oct-20	Nov-20	Dec-20	Jan-21	Feb-21	Mar-21	Apr-21	May-21	Jun-21	Jul-21	Aug-21	Sep-21		
Diversion from Storage (af)	12.39	48.10	8.89	16.43	2.91	0.12	0.00	0.00	0.09	0.00	0.00	0.00	76.45	88.93
Elevation Beginning	5975	5970	5943	5954.5	5955.5	5964.5	5967	5971	5975	5975	5975	5975		
Elevation Ending	5970	5943	5955	5955.5	5964.5	5967	5971	5975	5975	5975	5975	5975		

	Oct-21	Nov-21	Dec-21	Jan-22	Feb-22	Mar-22								
Diversion from Storage (af)	0.00	21.80	45.20	11.90	1.46	0.00							80.36	80.36
Elevation Beginning	5975	5976	5970	5945	5945	5968								
Elevation Ending	5976	5970	5945	5945	5968	5973.5								

Patrick Kelly
Project Hydrologist
D 208.387.7000 M 208.954.4805

Edl, Michele

From: Edl, Michele
Sent: Thursday, January 19, 2023 5:38 PM
To: crpetrich@gmail.com; Kelly, Patrick
Subject: volume data for Bogus Basin Storage

Christian and Patrick,

I have a data problem that I hope can be resolved quickly and easily.

Although Permit 65-23703 required quarterly reports of the volume of water put to snowmaking use be provided to Dobson, (with copies provided to IDWR), only 3 of the 14 possible quarterly reports can be found in the water right file.

Of more concern to me is that the data in the 3 reports available to me, doesn't match the data you provided in the table embedded in the narrative of your beneficial use report.

Because the volume recommendations rely on data, I need to understand that data well. Right now, I am not comfortable with your volume recommendation because the data I have doesn't support it.

Did you refer to copies of all of the quarterly reports that were required?

If not, then what data did you use as the basis for your summary table?

Can you help me understand the inconsistencies between your tabled data and the quarterly report data?

I apologize for not seeing this issue sooner.

Thank you for your continued patience with me.

Michele Edl
208-287-4946

Edl, Michele

From: Chris Bromley <cbromley@mchughbromley.com>
Sent: Thursday, January 19, 2023 8:57 PM
To: C Petrich
Cc: Edl, Michele; Kelly, Patrick
Subject: Re: volume data for Bogus Basin Storage

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Michele,

Every quarterly report has been submitted. I count at least 14 in the backfile. As Christian said, we will address data tomorrow.

Thanks,

Chris

On Thu, Jan 19, 2023, 8:50 PM C Petrich <crpetrich@gmail.com> wrote:
Michelle,

I am not at my computer, but as I recall when I recently looked in the 65-23703 back file I saw quite a few more than 3 data submittals. Chris Bromley has been providing quarterly data based on readings by Bogus staff (I've copied Chris on this email).

We will check for data consistency in the morning.

Thanks!

Christian

Sent from my cell phone

On Jan 19, 2023, at 5:37 PM, Edl, Michele <Michele.Edl@idwr.idaho.gov> wrote:

Christian and Patrick,

I have a data problem that I hope can be resolved quickly and easily.

1/19/2023

5:37 PM

Although Permit 65-23703 required quarterly reports of the volume of water put to snowmaking use be provided to Dobson, (with copies provided to IDWR), only 3 of the 14 possible quarterly reports can be found in the water right file.

from Michelle to
Christian & Patrick

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Can you help me understand the inconsistencies between your tabled data and the quarterly report data?

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Thank you for your continued patience with me.

Michele Edl

208-287-4946

Edl, Michele

Subject: Bogus Basin License and Permit App Discussion
Location: Microsoft Teams Meeting

Start: Tue 1/24/2023 11:00 AM
End: Tue 1/24/2023 12:00 PM

Recurrence: (none)

Meeting Status: Accepted

Organizer: Storms, Scott
Required Attendees: Miller, Nick; Shearer, Justin; Edl, Michele; Jones, Cass; Western Conference Room

Hey everyone,

So it seems we need to sort out a few things surrounding the Bogus Basin permit 65-23703 and how it should be licensed, and then subsequently how new application 65-24201 should look. Here are the questions I see that we need to answer. Feel free to add anything else anyone sees as necessary:

1. What is now the official, administered channel? Is it the bypass channel or still the original channel.
2. If it is the bypass channel and the storage is now a diversion to storage, do we have the necessary information to determine and define the diversion to storage rate?
 - a. If we assign a diversion to storage rate, how do we deal with the fact that the bypass can only handle 10 cfs and anything over that will spill into the reservoir. Essentially, no matter what the max diversion to storage rate was during the development period, if they are diverting that max rate into the reservoir, and more than 10 cfs also ends up flowing down the diversion, then that additional will also end up flowing into the reservoir, by design of the diversion structure.
 - b. Once a diversion to storage rate is determined, how do we want to handle a combined limit with existing right 65-13382 (which has existing div. to storage rate of 0.08 cfs).
3. If the original channel is still the administered channel:
 - a. Does the bypass require a right and what is the use? Mitigation?
 - b. For the storage right/permit, is the dam still the POD, or is it the diversion structure at the top, or both?

Microsoft Teams meeting

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Edl, Michele

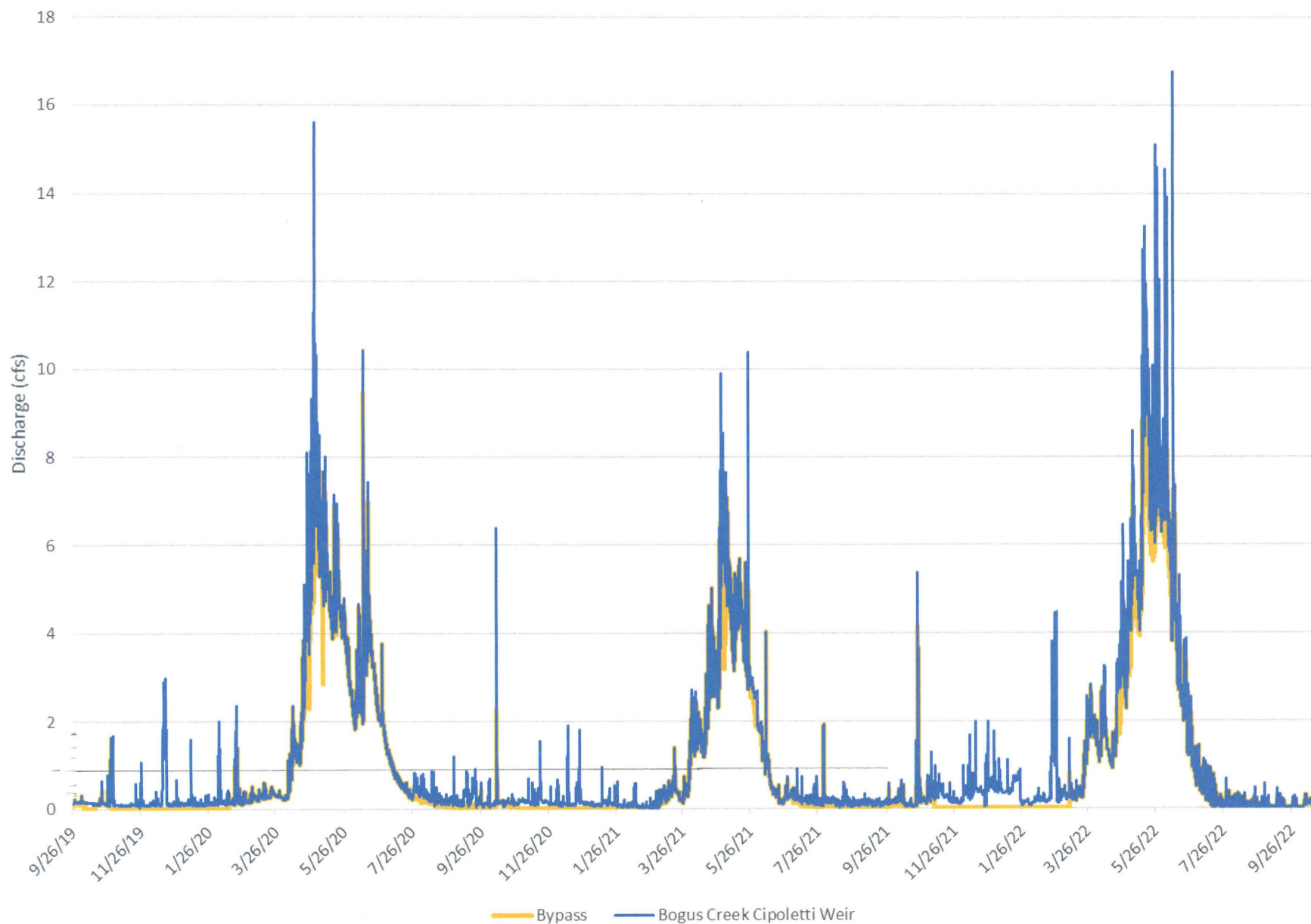
From: Kelly, Patrick <Patrick.Kelly@hdrinc.com>
Sent: Friday, January 20, 2023 2:47 PM
To: Shearer, Justin
Cc: Edl, Michele; crpetrich@gmail.com; Chris Bromley
Subject: Bogus Creek flows

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Justin,

I know you and I spoke earlier today and understand each other's perspective. Here is a chart I thought I would share that represents flow in the bypass channel and Bogus Creek over the last few years. The bypass was never intended or designed to handle the entire natural channel flow. As shown in the chart below, there are times when flows in Bogus Creek exceed the 10 cfs bypass capacity and water flows through the pond overflow outlet. The sole purpose of the bypass was to ensure delivery of 2.00 cfs to Dobson water rights as a result of protest resolution. Hope this may be helpful to your group next week. Have a great weekend!

Bogus Creek Flow Rates



Patrick Kelly
Project Hydrologist

1/20/2023

Edl, Michele

From: Kelly, Patrick <Patrick.Kelly@hdrinc.com>
Sent: Thursday, January 19, 2023 7:34 AM
To: C Petrich
Cc: Edl, Michele; Leraris, Justin
Subject: Re: -Bogus Basin's storage

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Ah yes, thank you Christian. I forgot about the small storage tank. To clarify Michele, there is a small storage tank near the small pump house on bogus creek right before water gets pumped up to the large storage tank on top of chair 2.

I think it is important to share this with Justin over At Western region. Justin is processing the application for permit and I know he has some concerns about on or off stream. I also have an unrelated water right process to discuss with him about another client. I will give him a call this morning.

Patrick Kelly
Project Hydrologist

300 E Mallard Dr., Suite 350
Boise, ID 83706
📞 +1.208.383.4140 📠 +1.208.954.4805
patrick.kelly@hdrinc.com

From: C Petrich <crpetrich@gmail.com>
Sent: Wednesday, January 18, 2023 9:11:31 PM
To: Kelly, Patrick <Patrick.Kelly@hdrinc.com>
Cc: Michele Edl <Michele.Edl@idwr.idaho.gov>; Leraris, Justin <Justin.Leraris@hdrinc.com>
Subject: Re: -Bogus Basin's storage

CAUTION: [EXTERNAL] This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Michele,

To clarify, I've attached a schematic describing the pond and bypass structure. This is definitely an in-stream pond. The bypass is designed to channel water around the pond during times of low flows when Bogus' diversion to storage is out of priority. The bypass is too small to replace the creek.

In answer to your earlier questions (perhaps Patrick has already answered them), the 0.08 cfs diversion to storage is taken from the bypass (item C7 in the figure below). My understanding is that the 10,000 gallon storage tank is still in place.

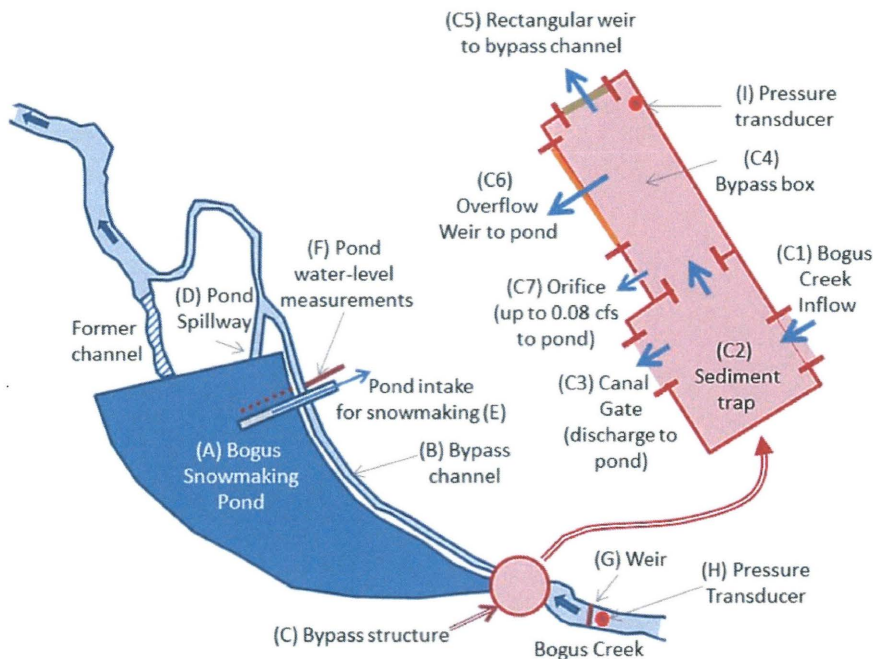
Thanks for your help on this!

Regards,
Christian

1/18/2023
Attach. to
email from
Christian P

On Jan 18, 2023, at 2:55 PM, Kelly, Patrick <Patrick.Kelly@hdrinc.com> wrote:

<S65-20279 Bogus Basin_Snowmaking Storage Pond_Bogus Creek.pdf>



- A. A lined water-storage pond stores up to 42 af of water.
- B. A bypass channel conveys Bogus Creek water around the pond during times that diversions to storage under Permit 65-23703 are not authorized. Bogus Creek water passes through a buried culvert and returns to the source in a non-consumptive manner.
- C. A bypass structure, which conveys flows up to approximately 10 cfs from Bogus Creek into the bypass channel (B). Flows in excess of 10 cfs pass directly from Bogus Creek into the snowmaking pond (A).

The bypass structure consists of an inflow port (C1), sediment trap (C2), canal gate (C3) through which water can be discharged into the pond, a bypass box (C4), a rectangular weir (C5) over which water is conveyed into the bypass channel, an overflow structure (C6) over which water is conveyed during the pond under certain conditions, and an orifice capable of discharging up to 0.08 cfs into the pond (C7).
- D. A pond spillway that conveys flow from the pond into Bogus Creek. The spillway will be constructed with a discharge crest located at a height such that it will be in use only when the pond is full. Any direct discharge from the pond becomes part of Bogus Creek.
- E. A pond intake structure, via which water is pumped from the pond into the snowmaking system.

Edl, Michele

From: Edl, Michele
Sent: Wednesday, January 18, 2023 12:29 PM
To: crpetrich@gmail.com; Kelly, Patrick
Subject: Bogus Basin's storage

Christian and Patrick,

I am confused about the storage reservoir for snowmaking at Bogus Basin Resort, authorized by permit 65-23703, and how it fits with the previous system components licensed under 65-13382.

Background:

The Mitigation agreement required by order issued for contested case of 65-13466 states:

"The rights under Permit No. 65-13466 and 65-13381 and 65-13382 are further cumulatively limited to a total combined diversion rate of 0.34 cfs and an annual volume 32.0 AF."

65-13382 authorizes live flow of 0.34 cfs, and diversion to storage of 0.08 cfs from Bogus Creek and an annual volume of 32.0 AF, all for snow making use which is limited (by transfer 81738) to 32 acres.

(So I also have a conditions problem.)

Questions:

Did this reservoir replace the tank found in use as storage for 65-13382 or is the tank still there?

Is there a pipe feature which handles the 0.08 cfs diversion to storage or has that been eliminated?

Do we need to set aside a time for a telephone meeting to discuss?

Best Regards,

Michele

Edl, Michele

From: Storms, Scott
Sent: Thursday, January 19, 2023 11:59 AM
To: Edl, Michele; Shearer, Justin
Cc: Parker, Cody; Miller, Nick
Subject: RE: reservoir permit 65-23703 and more
Attachments: Stream Channel Alt App.pdf

Hi Michele,

After discussion with Justin and Manuel, and a call to Cass Jones, we basically came to the following conclusions:

Through the approval of the stream channel alteration permit, the bypass channel is now the administered channel. The primary basis for that came from discussion with Cass, where he stated that the location of the administered channel would depend on how it was worded on the approved application. In reviewing stream channel alteration application 65-20279 (attached), on pg. 2 no. 17. DESCRIBE ALTERNATIVES CONSIDERED to AVOID or MEASURES TAKEN to MINIMIZE and/ or COMPENSATE for IMPACTS to WATERS of the UNITED STATES, INCLUDING WETLANDS, the following statement was part of that description: As part of the proposed compensatory mitigation plan, the reach of Bogus Creek that would be affected by the construction of the snowmaking storage pond would be relocated to the mitigation area on the east side of the reservoir and a scrub-shrub wetland would be established along the stream in the mitigation area.

Based on that statement, it was determined that the mitigation or bypass reach is now the administered channel. As such, permit 65-23703 would no longer be considered an onstream storage right. We all agreed that the POD on the license for that permit should be in the same location as you described, at spatial data point 554836, at the top of the "reservoir", where the diversion structure is located.

This of course brings forth the issue that, if the bypass is now the administered channel, then the permit should have included a diversion to storage component, as it is diverting from the administered channel. I believe this was overlooked primarily due to the timing of the approval of the permit (approved April 24, 2018), the stream channel application submittal (submitted February 14, 2018) and subsequent stream channel alteration permit approval (approved July 9, 2018), and just that given the overlapping timelines, it was not recognized at the time of permit approval that the bypass became the administered channel.

In discussing this matter yesterday with Nick and Shelley in our State Office coordination meeting, Nick brought up the fact that there is always an inherent diversion to storage component on an on-stream storage right, we just don't define it on the face of the right because we have no way of assigning a rate. Therefore, if we were to add diversion to storage on this license, we would not be adding a use (which we cannot do) we are just fully defining the diversion to storage component, so long as we have the information through measurement, to determine what that diversion rate was during the development period. Shelley completely agreed with this thought process.

I did not dive deep into the exam submitted by Patrick but I know, as part of protest resolution, and per the conditions on the permit, stream flow and diversion measurement was required, as was regular reporting of that data, and I believe a summery of the data was included in the exam, so we should have all the data we need to determine a diversion to storage rate. So it seems the way this should all be handled is, the point of diversion would indeed be located at the top of the pond/reservoir at spatial data point 554836, a Diversion to Storage use should be "further defined" on the face of the right (and of course described as such in the narrative), with a rate based on the submitted exam data, and per the condition on the permit, the SOU for that diversion to storage set to 11/16 – 5/31. And since the condition puts further restrictions on the SOU based on flows from 3/15 – 5/31, the condition should stay on the license.

Then there still remains the issue of how to deal with the 0.08 cfs diversion to storage on 65-13382 and how it plays into the mix. My thought would be one of 2 ways to deal with this. #1. Determine the max diversion to storage rate during the development period for 65-23703 and subtract the 0.08 cfs from it and declare that the total diversion to storage rate on 65-23703, but further define through a combined limit between the two that totals the full amount. (i.e, if max rate found to be 2 cfs, rate in exam data = $2 - 0.08 = 1.92$ cfs on 65-23703 and comb limit of 2 cfs). #2. Determine max diversion to storage rate on 65-23703 based on the data and define that as the diversion to storage rate on the right and still include the combined limit with 65-13382 for that max defined rate (i.e., if max rate found to be 2 cfs, rate on 65-23703 = 2 cfs and comb limit of 2 cfs).

Does all that make sense to you? Feel free to call me if you want to discuss it more.



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From: Edl, Michele <Michele.Edl@idwr.idaho.gov>

Sent: Tuesday, January 17, 2023 5:33 PM

To: Storms, Scott <Scott.Storms@idwr.idaho.gov>; Shearer, Justin <Justin.Shearer@idwr.idaho.gov>

Cc: Parker, Cody <Cody.Parker@idwr.idaho.gov>

Subject: reservoir permit 65-23703 and more

Hello Scott and Justin,

I pulled the files out of the vault for Bogus Basin Recreational Association Inc's portfolio of water rights (Laserfiche has not been friendly) and took a hard look at them.

The attached pdf is a summary with some comments from me. Maybe it'll help the discussion you proposed on the 9th.

I am troubled by the combined rate limit that I would need to put on the license to capture previous conditions. We've already authorized more than that for the 3 rights.

Let me know if you two have strong feelings about the POD or if you have a plan or preference to set up the next application for success.

Meanwhile, I'll proceed with the licensing review memo and data entry to 65-23703.

Michele