



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

October 17, 2002

PANCHERI INC
C/O JERRY PANCHERI PRES
1494 HWY 22
HOWE ID 83244

RE: Water Right License 33-7087

Dear Water Right Holder:

The Department of Water Resources (IDWR) has issued the enclosed order amending the Water Right License for Water Right 33-7087. The order is a **preliminary order** issued by the Department pursuant to §67-5243, *Idaho Code*. The water right license issued in connection with the order supersedes the license issued on December 29, 1999. **The preliminary order can and will become a final order without further action of the Department unless a party petitions for reconsideration or files an exception and/or brief as further described in the enclosed information sheet.**

If you have questions, please contact me at (208) 327-7946.

Sincerely,

Shelley W. Keen
Water Rights Supervisor

Enclosure

cc: Kent Foster
Roxanne Brown, IDWR Adjudication Bureau

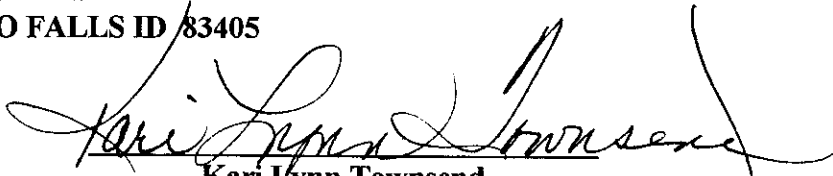
CERTIFICATE OF SERVICE

I hereby certify that on the **17th** day of **October, 2002**, I mailed a true and correct copy, postage prepaid, of the foregoing **PRELIMINARY ORDER (Approved License)** to the person(s) listed below:

Water Right No. 33-7087

**PANCHERI INC
C/O JERRY PANCHERI PRES
1494 HWY 22
HOWE ID 83244**

**KENT W FOSTER
HOLDEN KIDWELL HAHN & CRAPO LLC
PO BOX 50130
IDAHO FALLS ID 83405**


Kari Lynn Townsend
Secretary

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF PETITION TO)
CORRECT WATER RIGHT LICENSE)
NO. 33-7087)
_____)

**PRELIMINARY ORDER
CORRECTING LICENSE**

This matter having come before the Department of Water Resources (Department) as a result of the filing of a petition to correct a water right license, the Department makes the following Findings of Fact, Conclusions of Law, and Order:

FINDINGS OF FACT

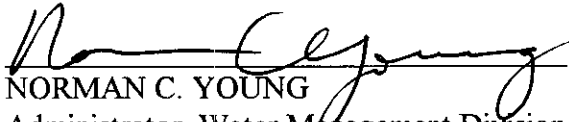
1. On March 17, 1983, the Department issued Permit 33-7087 (permit) to Pancheri, Inc., (right holder) for the diversion of 7.0 cfs from Bell Mountain Creek, Mahogany Creek, Magpie Springs, and other springs, for the purpose of generating power at a facility located within the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 7, Township 10 North, Range 27 East, B. M.
2. On July 15, 1983, the Department received the right holder's proof of beneficial use statement for the permit.
3. On January 15, 1990, the right holder claimed the permit in the Snake River Basin Adjudication (SRBA).
4. On June 3, 1992, a Department field examiner conducted a field examination to verify the beneficial use established in accordance with the permit. The field examiner reported that the power generation use was established in the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 7, Township 10 North, Range 27 East, B. M.
5. On December 29, 1999, the Department issued Water Right License 33-7087 (license) to Pancheri, Inc., with the place of use described as Govt. Lot 4 (SW $\frac{1}{4}$ SW $\frac{1}{4}$), Section 7, Township 10 North, Range 27 East, B. M., as had been permitted and reported by the Department field examiner.
6. On February 1, 2000, the Department submitted a Director's Report to the SRBA court recommending that the place of use for Water Right 33-7087 be decreed as licensed.
7. On April 7, 2000, the United States Department of Interior, Bureau of Land Management, (BLM) submitted an objection to the Director's Report for Water Right 33-7087 to the SRBA

ORDER

IT IS HEREBY ORDERED that the application to amend Permit 33-7087 submitted to the Department on October 15, 2002, is approved.

IT IS FURTHER HEREBY ORDERED that the place of use description for Water Right License 33-7087 is **CORRECTED** as set forth in the Amended Water Right License issued on this date in conjunction with this order.

Dated this 16TH day of OCTOBER, 2002.


NORMAN C. YOUNG
Administrator, Water Management Division

State of Idaho
Department of Water Resources
APPLICATION FOR AMENDMENT
(For Licensing Purposes)
WATER RIGHT NO. 33-07087

RECEIVED

OCT 15 2002

Department of Water Resources

Date of Priority: January 8, 1981

Maximum Diversion Rate: 7.00 CFS

Maximum Diversion Volume: 5,070.0 AF

Comes now PANCHERI INC
C/O JERRY PANCHERI PRES
1494 HWY 22

HOWE ID 83244 and represents to the Director of the Idaho Department
of Water Resources that he is the owner and holder of Permit to Appropriate the Public Waters of the
State of Idaho No. 33-07087, and requests that the permit be changed as follows:

Source: BELL MOUNTAIN CREEK Tributary: SINKS
 MAHOGANY CREEK SINKS
 UNNAMED STREAMs SINKS

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
POWER	1/1 to 12/31	7.00 CFS	5,070.0 AF

LOCATION OF POINT(S) OF DIVERSION:

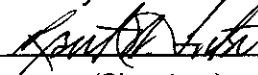
MAHOGANY CREEK	NE $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$	Sec. 30, Twp 11N, Rge 27E, B.M.	BUTTE County
UNNAMED STREAM	L4 (NE $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$)	Sec. 5, Twp 10N, Rge 27E, B.M.	BUTTE County
BELL MOUNTAIN CREEK	SE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$	Sec. 5, Twp 10N, Rge 27E, B.M.	BUTTE County
UNNAMED STREAM	NE $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$	Sec. 31, Twp 11N, Rge 27E, B.M.	BUTTE County
UNNAMED STREAM	SE $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$	Sec. 31, Twp 11N, Rge 27E, B.M.	BUTTE County

PLACE OF USE: POWER

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
10N 27E 18							X										
							L1										

Permit holder asserts that no one will be injured by such change and that such change will be made at
permit holder's own risk. Signed this 11th day of OCTOBER, 2002.

BY KENT W. FOSTER, ATTORNEY FOR
PANCHERI, INC.



(Signature)

State of Idaho
Department of Water Resources
APPLICATION FOR AMENDMENT
(For Licensing Purposes)
WATER RIGHT NO. 33-07087

Preliminary check by _____ Fee = \$ 50.00 FOR DEPARTMENT USE ONLY
Received by JM # 065150 Date 10-15-02

ACTION OF THE DEPARTMENT OF WATER RESOURCES

I, Karl J. Dreher, of the Department of Water Resources hereby approve the
above Application for Amendment for Permit No. 33-07087 with the following:

CONDITIONS OF APPROVAL

1. The rights for the use of water confirmed in this license shall be junior and subordinate to all rights for the use of water other than hydropower, within the State of Idaho that are initiated later in time than the priority of this right and shall not give rise to any right or claim against any future rights for the use of water, other than hydropower, within the State of Idaho initiated later in time than the priority of this right.
2. This right does not constitute Idaho Public Utilities Commission or Federal Energy Regulatory Commission approval that may be required.
3. Use of water under this water right will be regulated by the watermaster of State Water District No. 33.
4. A measuring device of a type approved by this Department shall be maintained as a part of the diverting works.
5. The issuance of this right does not grant any right-of-way or easement across the land of another.
6. Use of water under this right shall be non-consumptive.
7. The diversion and use of water for hydropower purposes under this license is subject to review by the Director on or after March 1, 2013. Upon appropriate findings relative to the interest of the public, the Director may cancel all or any part of the use authorized herein and may revise, delete or add conditions under which the right may be exercised.
8. Rights 33-00065 and 33-07087 when combined shall not exceed a total diversion rate of 7.00 cfs.
9. Right 33-00065 is also diverted through the points of diversion described above.

Witness my hand this 16TH day of OCTOBER, 2002.

Acting for


KARL J. DREHER
Director

State of Idaho
Department of Water Resources

Amended

Water Right License

Amended

WATER RIGHT NO. 33-07087

Priority: January 8, 1981

Maximum Diversion Rate: 7.00 CFS
Maximum Diversion Volume: 5,070.0 AF

It is hereby certified that PANCHERI INC
C/O JERRY PANCHERI PRES
1494 HWY 22
HOWE ID 83244 has complied with the terms and
conditions of the permit, issued pursuant to Application for Permit dated January 8, 1981; and has
submitted Proof of Beneficial Use on July 15, 1983. An examination indicates that the works have a
diversion capacity of 10.1 cfs of water from:

SOURCE

BELL MOUNTAIN CREEK	Tributary:	SINKS
MAHOGANY CREEK		SINKS
UNNAMED STREAM		SINKS

and a water right has been established as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL DIVERSION VOLUME</u>
POWER	1/01 to 12/31	7.00 CFS	5,070.0 AF

LOCATION OF POINT(S) OF DIVERSION:

MAHOGANY CREEK	NE $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$	Sec. 30, Twp 11N, Rge 27E, B.M.	BUTTE County
UNNAMED STREAM	L4 (NE $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$)	Sec. 5, Twp 10N, Rge 27E, B.M.	BUTTE County
BELL MOUNTAIN CREEK	SE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$	Sec. 5, Twp 10N, Rge 27E, B.M.	BUTTE County
UNNAMED STREAM	NE $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$	Sec. 31, Twp 11N, Rge 27E, B.M.	BUTTE County
UNNAMED STREAM	SE $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$	Sec. 31, Twp 11N, Rge 27E, B.M.	BUTTE County

PLACE OF USE: POWER

Twp Rge Sec	NE				NW				SW				SE				
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
10N 27E 18						X											
						L1											

CONDITIONS OF APPROVAL

- The rights for the use of water confirmed in this license shall be junior and subordinate to all rights for the use of water other than hydropower, within the State of Idaho that are initiated later in time than the priority of this right and shall not give rise to any right or claim against any future rights for the use of water, other than hydropower, within the State of Idaho initiated later in time than the priority of this right.

State of Idaho
Department of Water Resources

Amended

Water Right License
WATER RIGHT NO. 33-07087

Amended

CONDITIONS OF APPROVAL continued

2. This right does not constitute Idaho Public Utilities Commission or Federal Energy Regulatory Commission approval that may be required.
3. Use of water under this water right will be regulated by the watermaster of State Water District No. 33.
4. A measuring device of a type approved by this Department shall be maintained as a part of the diverting works.
5. The issuance of this right does not grant any right-of-way or easement across the land of another.
6. Use of water under this right shall be non-consumptive.
7. The diversion and use of water for hydropower purposes under this license is subject to review by the Director on or after March 1, 2013. Upon appropriate findings relative to the interest of the public, the Director may cancel all or any part of the use authorized herein and may revise, delete or add conditions under which the right may be exercised.
8. Rights 33-00065 and 33-07087 when combined shall not exceed a total diversion rate of 7.00 cfs.
9. Right 33-00065 is also diverted through the points of diversion described above.

This license is issued pursuant to the provisions of Section 42-219, Idaho Code. 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 and sealed this 16TH day of OCTOBER, 2002.

Acting for


KARL J. DREHER
Director