

State of Idaho  
Department of Water Resources

## Water Right License

Water Right No. 47-8076

**Priority:** January 14, 1988

**Maximum Diversion Rate:** 12.00 CFS

**Maximum Diversion Volume:** 8,687.7 AF

It is hereby certified that:

LEO E RAY AND/OR JUDITH K RAY  
4647D RIVER RD  
BUHL ID 83316

have complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated January 14, 1988, and has submitted Proof of Beneficial Use on November 01, 2002. An examination confirms water is diverted from:

**Source :** UNNAMED STREAM

**Tributary:** DEEP CREEK

**Beneficial Use**

FISH PROPAGATION

**Period of Use**

1/01 to 12/31

**Rate of Diversion**

12.00 CFS

**Annual Volume**

8,687.7 AF

**Location of Point(s) of Diversion**

UNNAMED STREAM NW¼ SE¼, Sec. 8, Twp 10S, Rge 14E, B.M. TWIN FALLS County

UNNAMED STREAM SW¼ SE¼, Sec. 8, Twp 10S, Rge 14E, B.M. TWIN FALLS County

**Place of Use: FISH PROPAGATION**

| Twp | Rng | Sec | NE |    |    |    | NW |    |    |    | SW |    |    |    | SE |    |    |    | No QQ | Totals |
|-----|-----|-----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|-------|--------|
|     |     |     | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE |       |        |
| 10S | 14E | 8   |    |    |    |    |    |    |    |    |    |    |    |    |    | X  |    |    |       |        |

**Conditions of Approval**

1. After specific notification by the department, the right holder shall install a suitable measuring device or shall enter into an agreement with the department to determine the amount of water diverted from power records and shall annually report the information to the department.
2. Use of water under this right shall be non-consumptive.
3. The issuance of this right does not grant any right-of-way or easement across the land of another.
4. The right holder shall not divert water at a rate exceeding what is reasonably necessary for the beneficial use authorized by this right.
5. The point of diversion located in the SWSE of Section 8, T10S, R14E is also known as the Cox Tunnel.

State of Idaho  
Department of Water Resources  
**Water Right License**  
Water Right No. 47-8076

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 20<sup>th</sup> day of June, 20 19.



COREY SKINNER  
Southern Regional Manager



State of Idaho  
Department of Water Resources  
**Attachment to Water Right License**  
47-8076

This map depicts the FISH PROPAGATION 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.

14E

10S



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

0 0.045 0.09 0.18 Miles





State of Idaho

## DEPARTMENT OF WATER RESOURCES

Southern Region • 650 ADDISON AVE W STE 500 • TWIN FALLS, ID 83301-5858

Phone: (208)736-3033 • Fax: (208)736-3037 • Website: [www.idwr.idaho.gov](http://www.idwr.idaho.gov)

Brad Little  
Governor

Gary Spackman  
Director

June 20, 2019

LEO E RAY  
JUDITH K RAY  
4647D RIVER RD  
BUHL ID 83316

RE: License No. 47-8076

### 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 water master in a water district. Also enclosed is a copy of the approved application for amendment.

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. Failure to report these changes could result in a \$100 late filing fee. Water right forms are available from any office of the Department or on the Department's website at [idwr.idaho.gov](http://idwr.idaho.gov)

If you have any questions concerning the enclosed information, please contact me at (208) 736-3033.

Sincerely,

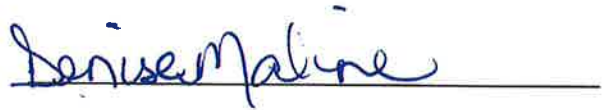
Corey Skinner  
Southern Regional Manager

Enclosure(s)

## CERTIFICATE OF SERVICE

I hereby certify that on June 20, 2019, I served a true and correct copy of Water Right License No. 47-8076 by U.S. Mail, postage prepaid, to the following:

LEO E RAY (Current Owner)  
JUDITH K RAY (Current Owner)  
4647D RIVER RD  
BUHL ID 83316

A handwritten signature in blue ink, reading "Denise Maline", is written over a horizontal line.

Denise Maline  
Administrative Assistant 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.

State of Idaho  
Department of Water Resources  
**Application for Amendment**  
(For Licensing Purposes)  
**Water Right No. 47-8076**

RECEIVED

JUN 13 2019

DEPT OF WATER RESOURCES  
SOUTHERN REGION

Priority: January 14, 1988

Maximum Diversion Rate: 12.00 CFS

Maximum Diversion Volume: 8,687.7 AF

The owner and holder of Permit to appropriate the Public Waters of the State of Idaho No. 47-8076

JUDITH K RAY  
AND/OR  
LEO E RAY  
4647D RIVER RD BUHL ID 83316

requests the permit be changed as follows:

Source : UNNAMED STREAM

Tributary: DEEP CREEK

**Beneficial Use**

FISH PROPAGATION

**Period of Use**

1/01 to 12/31

**Rate of Diversion**

12.00 CFS

**Annual Volume**

8,687.7 AF

**Location of Point(s) of Diversion**

UNNAMED STREAM NW¼ SE¼, Sec. 8, Twp 10S, Rge 14E, B.M. TWIN FALLS County

UNNAMED STREAM SW¼ SE¼, Sec. 8, Twp 10S, Rge 14E, B.M. TWIN FALLS County

**Place of Use:** FISH PROPAGATION

| Twp | Rng | Sec | NE |    |    |    | NW |    |    |    | SW |    |    |    | SE |    |    |    | No QQ | Totals |
|-----|-----|-----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|-------|--------|
|     |     |     | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE |       |        |
| 10S | 14E | 8   |    |    |    |    |    |    |    |    |    |    |    |    |    | X  |    |    |       |        |

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 22<sup>nd</sup> day of June, 20 19.

Leo E Ray  
(Signature)

State of Idaho  
Department of Water Resources  
**Application for Amendment**  
(For Licensing Purposes)  
**Water Right No. 47-8076**

FOR DEPARTMENT USE ONLY

Preliminary check by \_\_\_\_\_ Fee = \$100 Received by DM # 5031379 Date 6-13-2019

**ACTION OF THE DEPARTMENT OF WATER RESOURCES**

The Idaho Department of Water Resources hereby approves the above Application for Amendment for Permit No. 47-8076 with the following:

**Conditions of Approval**

1. After specific notification by the department, the right holder shall install a suitable measuring device or shall enter into an agreement with the department to determine the amount of water diverted from power records and shall annually report the information to the department.
2. Use of water under this right shall be non-consumptive.
3. The issuance of this right does not grant any right-of-way or easement across the land of another.
4. The right holder shall not divert water at a rate exceeding what is reasonably necessary for the beneficial use authorized by this right.
5. The point of diversion located in the SWSE of Section 8, T10S, R14E is also known as the Cox Tunnel.

This amendment is issued pursuant to the provisions of Idaho Code § 42-211.

Signed this 20 day of JUNE, 20 19.



COREY SKINNER  
Southern Regional Manager



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region • 650 ADDISON AVE W STE 500 • TWIN FALLS, ID 83301-5858  
Phone: (208)736-3033 • Fax: (208)736-3037 • Website: [www.idwr.idaho.gov](http://www.idwr.idaho.gov)

Brad Little  
Governor

Gary Spackman  
Director

April 29, 2019

LEO E RAY  
AND/OR  
JUDITH K RAY  
4647D RIVER RD  
BUHL ID 83316

RE: Water Right Permit No. 47-8076

Dear Permit Holder(s):

The Department of Water Resources is reviewing the permit(s) referenced above prior to issuing water right license(s). By issuing a license, the Department confirms the extent of development that has been established in compliance with the terms of the permit.

The examiner who verified your water use reported that certain elements of the permit(s) have been developed differently than described on your permit(s). Changes that do not increase the authorized use of water under the permit(s) can be requested and approved in accordance with Idaho Code § 42-211. Before license(s) can be issued, your permit(s) must be amended to depict your water use as it was actually developed.

Based on the examiner's report, the following elements were developed differently than described on your permit(s):

  X   Point(s) of Diversion

The enclosed Application for Amendment form(s) depicts the elements of the water right(s) as they will appear on the license(s) when issued. Please review the amendment form(s) carefully. If you concur with the information presented, please sign and return the form(s) with the filing fee of \$100.00 within fourteen (14) days.

If you have any questions, please call me at (208) 736-3033.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Jim Bitzenburg'.

Jim Bitzenburg

Senior Water Resource Agent, Southern Region  
Enclosure(s): Application for Amendment