

State of Idaho
Department of Water Resources
Water Right License
Water Right No. 47-17575

Priority: August 31, 2011

Maximum Diversion Rate: 9.60 CFS

Maximum Diversion Volume: 198.0 AF

It is hereby certified that:

L & S LAND HOLDINGS LLC
2930 S 2300 E
WENDELL ID 83355

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated August 31, 2011, and has submitted Proof of Beneficial Use on June 24, 2013. An examination confirms water is diverted from:

Source : ROCK CREEK

Tributary: SNAKE RIVER

Beneficial Use

IRRIGATION STORAGE

Period of Use
02/01 to 11/15**Rate of Diversion****Annual Volume**
198.0 AF

IRRIGATION FROM STORAGE

03/15 to 11/15

198.0 AF

DIVERSION TO STORAGE

02/01 to 11/15 9.60 CFS

Location of Point(s) of Diversion

ROCK CREEK SW¼ SW¼ SW¼, Sec. 1, Twp 12S, Rge 18E, B.M. TWIN FALLS County

Place of Use: IRRIGATION STORAGE

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		
11S	19E	19																X		
11S	19E	20											X							

Place of Use: IRRIGATION FROM STORAGE

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		
11S	19E	8	40.0	31.0	32.0	40.0														143.0
11S	19E	9									40.0	39.0	39.0	40.0						158.0
11S	19E	16					40.0	39.0	38.0	40.0	40.0	38.0	38.0	40.0						313.0
11S	19E	20	37.0	33.0	39.0	40.0	38.0	36.0	38.0	39.0	38.0	38.0	2.0	38.0	40.0	38.0	39.0	39.0		572.0
11S	19E	29	36.0	37.0	40.0	40.0	31.0	38.0	34.0	38.0	38.0	40.0	37.0	37.0	40.0	40.0	40.0	39.0		605.0
11S	19E	30	38.0		38.0	40.0					39.0			33.0	40.0	40.0	33.0	37.0		338.0

Total Acres: 2,129.0

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Conditions of Approval

1. To mitigate for the depletion of water resulting from the use of water under this right and to prevent injury to senior water right holders, the right holder shall cease diverting and using water as authorized by the following water rights for the purposes and amounts specified below. Moreover, the official record for the following water rights will be changed to show that diversion and use of water is not authorized because the rights, or portion thereof, are being dedicated to mitigation purposes.

Right No.	Use Changed to Mitigation	Mitigation Rate (cfs)	Mitigation Volume (AF)	Mitigation Acres
47-191	Irrigation	0.64	N/A	32.2
47-192	Irrigation	1.60	N/A	80.0
47-14078	Irrigation	0.82	400.7	104.2
47-17340	Irrigation	1.08	N/A	104.2

The land that will no longer be irrigated under these rights is located within the NENE, SENE, and a portion of the NESE of Section 29, Township 11S, Range 19E, B.M. The total allowable acres for irrigation on the above rights will be reduced by 104.2 acres.

Additionally an overlapping acre limit condition will be reduced by these same 104.2 acres on the following rights: 47-171, 47-2519, 47-2518, and 47-14077.

If the specified mitigation right, or portion thereof, is sold, transferred, leased, used on any place of use, or is not deliverable due to a shortage of water or a priority call, then the amount of water authorized for diversion under this right approval shall be reduced by the same proportion as the reduction to the mitigation rights.

2. The two reservoirs established by the storage of water under this right shall not exceed a total capacity of 198.0 acre-feet or a total surface area of 38.0 acres.
3. This right does not grant any right-of-way or easement across the land of another.
4. Use of water under this right will 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. 470.
5. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion.
6. Upon specific notification, the right holder shall permanently install and maintain a staff gage acceptable to the Department to provide a means to measure the level of the reservoirs on a constant basis.

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7. Noncompliance with any condition of this right, including the requirement for mitigation, is cause for the director to issue a notice of violation, cancel or revoke the right, or, if the right is included in a water district, request that the watermaster curtail diversion and use of water.
8. This right is for the use of trust water, and it is subject to review 20 years after its initial approval (date of permit approval) to re-evaluate the availability of trust water for the authorized use and to re-evaluate the public interest criteria for reallocating trust water.
9. The source of the water diverted under this right is "Trust Water", which is identified in the 1984 Swan Falls Settlement and defined as surface and groundwater tributary to the Snake River between Milner Dam and Swan Falls. Diversions under this right shall be subject to curtailment if such diversions would impact the established minimum stream flows of 3,900 cfs from April through October and 5,600 cfs from November through March at the Murphy gage.

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 17th day of May, 20 19.



COREY SKINNER
Southern Regional Manager

State of Idaho
Department of Water Resources

Attachment to Water Right License

47-17575

This map depicts the IRRIGATION 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.



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

0 0.5 1 2 Miles



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Department of Water Resources

Attachment to Water Right License

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This map depicts the IRRIGATION 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.



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

0 1 2 4 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

Brad Little
Governor

Gary Spackman
Director

May 21, 2019

L & S LAND HOLDINGS LLC
2930 S 2300 E
WENDELL ID 83355

RE: License No. 47-17575

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.

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

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 May 21, 2019, I served a true and correct copy of Water Right License No. 47-17575 by U.S. Mail, postage prepaid, to the following:

L & S LAND HOLDINGS LLC (Current Owner)
2930 S 2300 E
WENDELL ID 83355

BROCKWAY ENGINEERING PLLC (Representative)
C/O ERICK POWELL
2016 N WASHINGTON ST STE 4
TWIN FALLS ID 83301

ISE 555 BROADWAY LLC (Present Owner)
PO BOX 267
GALENA MD 21635-0267

WATER DISTRICT #470
AMIE FRANKLIN (Water master)
2754 ROCK CREEK RD
HANSEN ID 83334



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.