

State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 37-23000

Priority: March 10, 2016

Maximum Diversion Rate: 0.43 CFS

This is to certify, that CLOVERLY RANCH LLC
50 GREENHORN RD
HAILEY ID 83333

has applied for a permit to appropriate water from:

Source: GROUND WATER

and a permit is APPROVED for development of water as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>
IRRIGATION	04/15 to 10/31	0.43 CFS

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER	SW1/4NE1/4	Sec. 32, Twp 03N, Rge 18E, B.M.
BLAINE County		

PLACE OF USE: IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
03N	18E	32			5.4						5.2						11.0		21.6

Total Acres: 21.6

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **February 01, 2023**.
2. Subject to all prior water rights.
3. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which the permit holder had no control.
4. Rights 37-2640B, 37-2507B and 37-23000 when combined shall not exceed a total diversion rate of 0.43 cfs, a total annual maximum diversion volume of 75.6 af at the field headgate, and the irrigation of 21.6 acres.
5. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the place of use.

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6. 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. The mitigating rights may also include a condition stating that the mitigation by non-use is for the benefit of this right.

Right No.	Priority Date	Use Changed to Mitigation	Mitigation Rate (cfs)	Mitigation Acres
37-20842	6/1/1886	Irrigation	0.13	7.3
37-22601	6/1/1886	Irrigation	0.36	14.3
37-21239	5/4/1889	Irrigation	0.10	7.3
37-22603	5/4/1889	Irrigation	0.32	14.3
37-21241	5/21/1890	Irrigation	0.13	7.3
37-22605	5/21/1890	Irrigation	0.25	14.3
Total:			1.29	21.6

The land that will no longer be irrigated under these rights is located within the SWNE, NESW & NWSE, Section 32, Township 03N, Range 18E, B.M., also known as Lot 2, BLK 1 Chapman's Cloverly Ranch Subd.

If the specified mitigation rights, or portions thereof, are sold, transferred, leased, used on any place of use, or are 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.

7. In order to reflect the mitigation by non-use amounts identified in the condition above, the following condition will be changed on rights 37-20842, 37-21239, and 37-21241 ...

- Rights 37-20842, 37-21239, and 37-21241 when combined shall not exceed the irrigation of 8.4 acres.

In addition the following condition will be changed on rights 37-22601, 37-22603, and 37-22605 to reflect the mitigation by non-use amounts identified in the condition above...

- Rights 37-22601, 37-22603, and 37-22605 when combined shall not exceed the irrigation of 16.4 acres.

In addition the following conditions will be changed on rights 37-20842, 37-21239, 37-21241, 37-22600, 37-22601, 37-22602, 37-22603, 37-22604, and 37-22605 to reflect the mitigation by non-use amounts identified in the condition above...

- Right Nos. 37-20842, 37-21239, 37-21241, 37-22600, 37-22601, 37-22602, 37-22603, 37-22604, and 37-22605 are limited to the irrigation of a combined total of 31.8 acres in a single irrigation season.
- Right Nos. 37-20842, 37-21239, 37-21241, 37-22600, 37-22601, 37-22602, 37-22603, 37-22604, and 37-22605 are limited to a total combined diversion rate of 1.87 cfs.

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8. 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. 37.
9. Prior to diversion of water under this right, the right holder shall install and maintain a measuring device and lockable controlling works of a type acceptable to the Department as part of the diverting works.
10. This right is for the use of trust water, and it is subject to review 5 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.
11. Use of water pursuant to this right is either non-consumptive or the right holder is required to provide ongoing mitigation to offset the depletion of water resulting from the use of this right. Regulation of this right to satisfy the minimum stream flow water rights in the Snake River at Murphy Gage shall not be required.
12. 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.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code.

Signed this 5th day of March, 20 18.


COREY SKINNER, Southern Region Manager

State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

37-23000

This map depicts the IRRIGATION 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.

18E



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

0 0.05 0.1 0.2 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

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

March 6, 2018

CLOVERLY RANCH LLC
50 GREENHORN RD
HAILEY ID 83333

RE: Permit No. 37-23000

Permit Approval Notice

Dear Permit Holder:

The Department of Water Resources has issued the enclosed permit authorizing you to establish a new water right. Please be sure to thoroughly review the conditions of approval and remarks listed on your permit. Please note that pursuant to the approval of 37-23000, the official water right records for 37-20842, 37-22601, 37-21239, 37-22603, 37-21241, and 37-22605 have been updated accordingly to reflect the mitigation components.

The permit 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 by the Department unless a party petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date as described in the enclosed information sheet.

As a permit owner you must commence the excavation or construction of the diverting works within one year of the date the permit was issued, and you must proceed diligently until the project is completed. The date shown under condition no. 1 is the date when the project must be completed.

The Department will send you a 'Proof Due Notice' approximately 60 days prior to the above referenced date requesting you to file either a Proof of Beneficial Use form or a Request for Extension of Time form.

The right to drill a well is not a part of this permit to appropriate water. Beginning in July of 1987, a statute was enacted which requires a drilling permit for new well construction and deepening of existing wells. If the well(s) proposed for use under this water right permit were drilled or deepened after July 1, 1987, a separate drilling permit must be obtained from this Department. Please contact the Ground Water Protection Section located here at this office or our regional office nearest you.

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. Contact any office of the Department or visit the Department's homepage on the Internet to obtain the proper forms and instructions.

If you have any questions, please contact me at 208-736-3033.

Sincerely,

A handwritten signature in blue ink, appearing to read "Corey Skinner". The signature is fluid and cursive, with the first name "Corey" written in a larger, more prominent script than the last name "Skinner".

Corey Skinner
Southern Regional Manager

Enclosure(s)

cc: JAMES P SPECK, ATTORNEY
BROCKWAY ENGINEERING PLLC
KEVIN LAKEY, WATER MASTER

CERTIFICATE OF SERVICE

I hereby certify that on March 6, 2018 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (Approved Permit) to the person(s) listed below:

RE: WATER RIGHT NO. 37-23000

**CLOVERLY RANCH LLC
50 GREENHORN RD
HAILEY ID 83333**

**JAMES P SPECK
SPECK & AANESTAD
PO BOX 987
KETCHUM ID 83340**

**BROCKWAY ENGINEERING PLLC
C/O CHARLES G BROCKWAY
2016 N WASHINGTON ST STE 4
TWIN FALLS ID 83301**

**KEVIN LAKEY, WATER MASTER
WATER DISTRICT 37
107 W 1ST
SHOSHONE ID 83352**

via e-mail



**Denise Maline
Administrative Assistant**

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.

Skinner, Corey

From: James Speck <jim@speckandaanestad.com>
Sent: Monday, February 26, 2018 10:16 AM
To: Skinner, Corey
Cc: 'George Golleher'; Charles G. Brockway (charles.g.brockway@brockwayeng.com); Zach Latham (zach.latham@brockwayeng.com)
Subject: RE: RE: Application for Permit 37-23000 - Cloverly Ranch LLC

Corey,

The draft Permit for 37-23000 looks good to us. Please issue it as soon as you can. Thanks.

Jim

-----Original Message-----

From: Skinner, Corey
Sent: Monday, January 15, 2018 1:17 PM
To: James Speck

Jim,

This one has been awhile. It looks like the one protest was withdrawn without any sort of stipulation. Due to the complexity of the conditions, primarily the conditions relating to the mitigation plan, I thought I would run a draft by you before I issue the permit. I have attached a draft permit for your review. Let me know what you think and if the conditions look appropriate to you.

Thanks,

Corey

-----Original Message-----

From: James Speck [mailto:jim@speckandaanestad.com]
Sent: Tuesday, January 09, 2018 9:04 AM
To: Skinner, Corey <Corey.Skinner@idwr.idaho.gov>
Subject: Application for Permit 37-23000 - Cloverly Ranch LLC

Hi Corey,

Now that the permit for 37-22949 has been issued what is the status of this Permit? Thanks & Happy New Year!

Jim

-----Original Message-----

From: Skinner, Corey
Sent: Monday, November 20, 2017 9:34 AM
To: James Speck

Yes

-----Original Message-----

From: James Speck [mailto:jim@speckandaanestad.com]
Sent: Monday, November 20, 2017 9:34 AM
To: Skinner, Corey <Corey.Skinner@idwr.idaho.gov>
Subject: RE: RE: RE: RE: RE: RE: Application for Permit 37-22949

Corey,

So are you waiting until that one is signed before starting on 37-23000?

Jim

-----Original Message-----

From: Skinner, Corey [mailto:Corey.Skinner@idwr.idaho.gov]
Sent: Monday, November 20, 2017 9:33 AM
To: James Speck
Subject: RE: RE: RE: RE: RE: RE: Application for Permit 37-22949

Jim,

I e-mailed a draft copy of the Woods permit to you, Al Barker, John Simpson, Randy Budge, and Chuck Jr on November 3rd. I have not heard from anyone other than Mr. Budge. I have not yet signed and issued the Woods permit yet.

Corey

-----Original Message-----

From: James Speck [mailto:jim@speckandaanestad.com]
Sent: Monday, November 20, 2017 9:23 AM
To: Skinner, Corey <Corey.Skinner@idwr.idaho.gov>
Cc: 'George Golleher' <ggolleher.bigwoodbread@gmail.com>
Subject: RE: RE: RE: RE: RE: RE: Application for Permit 37-22949

Corey,

Now that the draft permit for Woods has been issued when will we see the draft for Cloverly Ranch LLC's 37-23000?
Thanks.

Jim

-----Original Message-----

From: James Speck
Sent: Wednesday, September 20, 2017 2:37 PM
To: 'Skinner, Corey'

Thanks, Corey.

Jim

-----Original Message-----

From: Skinner, Corey
Sent: Wednesday, September 20, 2017 1:01 PM
To: James Speck

It will come next, after the Woods permit.

-----Original Message-----

From: James Speck [mailto:jim@speckandaanestad.com]
Sent: Wednesday, September 20, 2017 12:43 PM
To: Skinner, Corey <Corey.Skinner@idwr.idaho.gov>
Cc: 'George Golleher' <ggolleher.bigwoodbread@gmail.com>
Subject: RE: RE: RE: RE: Application for Permit 37-22949

Thanks, Corey - what about 37-23000 for Cloverly Ranch LLC??

-----Original Message-----

From: Skinner, Corey [mailto:Corey.Skinner@idwr.idaho.gov]
Sent: Wednesday, September 20, 2017 12:41 PM
To: James Speck
Cc: Ward Woods; Charles G. Brockway (charles.g.brockway@brockwayeng.com)
Subject: RE: RE: RE: RE: Application for Permit 37-22949

The 14 days for the Pabarcus approval is up the end of this week (the 22nd). I am hopeful I can get something out to you the first part of October.

-----Original Message-----

From: James Speck [mailto:jim@speckandaanestad.com]
Sent: Wednesday, September 20, 2017 11:30 AM
To: Skinner, Corey <Corey.Skinner@idwr.idaho.gov>
Cc: Ward Woods <ward@haileyllc.com>; Charles G. Brockway (charles.g.brockway@brockwayeng.com) <charles.g.brockway@brockwayeng.com>
Subject: RE: RE: RE: RE: Application for Permit 37-22949

Corey,

Now that the Pabarcus permit has been issued when can we expect to see a draft of the permit for 37-22949? Thanks.

Jim

-----Original Message-----

From: Skinner, Corey
Sent: Tuesday, August 08, 2017 12:15 PM
To: James Speck

Jim,

I apologize on this one. I have three applications for permit that all involve using portions of the Riverview rights &/or rights associated with the Riverview rights as some form of mitigation. I have been working on an application, 37-22924 in the name of Pabarcus, before diving into the Woods application. My plan is to get the Pabarcus application through (it was filed first), then the Woods application, and then another one in the name of Cloverly Ranch. There have been some issues with some of the records involving the Riverview rights &/or rights associated with the Riverview rights, but I think I have them cleaned up now.

I came in this weekend and got the Pabarcus permit drafted with conditions, but I am needing to review it one last time to make sure it is correct. I will e-mail a draft copy to the parties for their review in the next few days hopefully. I was planning on copying you in the e-mail because the draft approval will impact some of the conditions on the Riverview

rights (I think you are their attorney). Once the Pabarcus permit is finalized (I plan to wait the 14 days after the approval is issued), I will then dive into the Woods application.

Give me a call if you want to discuss further,

Corey

-----Original Message-----

From: James Speck [mailto:jim@speckandaanestad.com]
Sent: Tuesday, August 08, 2017 10:41 AM
To: Skinner, Corey <Corey.Skinner@idwr.idaho.gov>
Subject: RE: RE: RE: Application for Permit 37-22949

Hi Corey,

Just checking in to see when you might issue a draft permit for this application. Thanks.

Jim

-----Original Message-----

From: James Speck
Sent: Monday, July 10, 2017 2:57 PM
To: 'Skinner, Corey'

Hi Corey,

Welcome back! Just a reminder to dig into your pile and find out the status of the draft permit for this one. Thanks.

Jim

-----Original Message-----

From: James Speck
Sent: Thursday, June 22, 2017 11:34 AM
To: 'Skinner, Corey'

OK - enjoy your vacation.

-----Original Message-----

From: Skinner, Corey [mailto:Corey.Skinner@idwr.idaho.gov]
Sent: Thursday, June 22, 2017 11:31 AM
To: James Speck
Subject: Re: Application for Permit 37-22949

I am out of the office until July 10th, so it will still be awhile.

Sent from my iPhone

> On Jun 22, 2017, at 1:29 PM, James Speck <jim@speckandaanestad.com> wrote:

>

> Thanks, Corey. I'll check again in a week or so.

>
> -----Original Message-----
> From: Skinner, Corey [mailto:Corey.Skinner@idwr.idaho.gov]
> Sent: Thursday, June 22, 2017 11:28 AM
> To: James Speck
> Subject: Re: Application for Permit 37-22949
>
> Nothing yet. I believe it is still in the pile in my office.
>
> Sent from my iPhone
>
>> On Jun 22, 2017, at 12:37 PM, James Speck <jim@speckandaanestad.com> wrote:
>>
>> Corey,
>>
>> Attached is a copy of the last communication I have from your office on this Application. Has a draft of the Permit
been prepared for our review? Thanks.
>>
>>
>> Jim
>>
>> James P. Speck
>> SPECK & AANESTAD
>> A Professional Corporation
>> 120 East Avenue North
>> P.O. Box 987
>> Ketchum, ID 83340
>> 208.726.4421
>> 208.726.0752 (fax)
>> jim@speckandaanestad.com
>> _____
>>
>> CONFIDENTIAL COMMUNICATION
>>
>> This email message and any attachments are intended only for the use of the addressee named above and may
contain information that is privileged and confidential. If you are not the intended recipient, any dissemination,
distribution, or copying is strictly prohibited. If you received this email message in error, please immediately notify the
sender by replying to this email message or by telephone. Thank you.
>> <2017.05.15 idwr ltr re protest resolved.pdf>

Attachment(s): DRAFT 37-23000 Permit.rtf