

State of Idaho
Department of Water Resources
Water Right License
WATER RIGHT NO. 37-08304

PRIORITY: August 18, 1987

Maximum Diversion Rate: 1.00 CFS
Maximum Diversion Volume: 724.0 AF

It is hereby certified that:

HELIOS DEVELOPMENT LLC
C/O DDRM GREATPLACE
PO BOX 4151
PARK CITY UT 84060

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated August 18, 1987, and has submitted Proof of Beneficial Use on January 25, 1990. An examination confirms water is diverted from:

SOURCE:
WARM SPRINGS CREEK

TRIBUTARY:
BIG WOOD RIVER

and a water right has been established as follows:

BENEFICIAL USE
FISH PROPAGATION

PERIOD OF USE
01/01 to 12/31

DIVERSION RATE
1.00 CFS

ANNUAL DIVERSION VOLUME
724.0 AF

LOCATION OF POINT(S) OF DIVERSION:

WARM SPRINGS CREEK NW¼SW¼SW¼ Sec. 12, Twp 04N, Rge 17E, B.M. BLAINE County

PLACE OF USE: FISH PROPAGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	17E	12											X						

CONDITIONS OF APPROVAL

1. This right does not grant any right-of-way or easement across the land of another.
2. Use of water under this right shall be non-consumptive.
3. The right holder shall not divert water at a rate exceeding what is reasonably necessary for the beneficial use authorized by this right.
4. Rights 37-8304, and 37-4337 when combined shall not exceed a total diversion rate of 6.0 cfs.

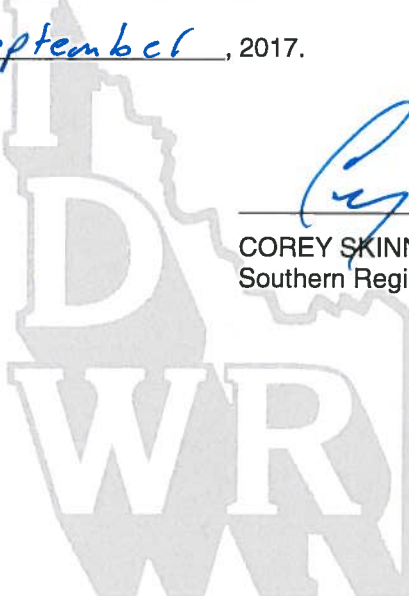
State of Idaho
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Water Right License
WATER RIGHT NO. 37-08304

5. 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.
6. 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(s).

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 this 26th day of September, 2017.



COREY SKINNER
Southern Regional Manager

State of Idaho
Department of Water Resources
Attachment to Water Right License
37-8304

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.

17E



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

0 0.035 0.07 0.14 Miles





State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region • 650 Addison Ave W, Suite 500 • Twin Falls, Idaho 83301-5858

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

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

September 27, 2017

HELIOS DEVELOPMENT LLC
C/O DDRM GREATPLACE
PO BOX 4151
PARK CITY UT 84060

RE: License No. 37-8304

Issuance of License

Dear Water Right Holder(s):

The Department of Water Resources 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 the conditions of approval and remarks listed on your license.

The license 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.

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,

Corey Skinner
Southern Regional Manager

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on September 27, 2017 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (Approved License) to the person(s) listed below:

RE: WATER RIGHT NO. 37-8304

**HELIOS DEVELOPMENT LLC
C/O DDRM GREATPLACE
PO BOX 4151
PARK CITY UT 84060**



**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.



State of Idaho

DEPARTMENT OF WATER RESOURCES

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C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

October 2, 2015

Helios Development LLC
C/O DDRM Greatplace
PO Box 4151
Park City, UT 84060

RE: Water Right Permit, 37-8304

Dear Gentlemen:

The Idaho Department of Water Resources (Department) is in the process of reviewing and licensing of permits. This review revealed permit, 37-8304, filed in 1987 in the name of Patrick E. Simpson. Through various owners, this permit was assigned to Helios Development LLC. This permit is for fish propagation and aesthetic uses from Warm Springs Creek. I have included a copy of the proof report of this permit for your reference.

During my review of the Departments water right records, I found water right 37-4337 (a copy of this proof report included) in the name of Helios Development LLC. This water right was decreed in the Snake River Basin Adjudication in 2010 after permit 37-8304 was applied for and issued. Decreed water right 37-4337 is also for aesthetic use associated with the same property with an earlier priority date than permit 37-8304 and allows for more water than what permit 37-8304 is seeking. I have visited the property where the above mentioned water right and permit are appurtenant and have observed that the system is still in place, though no water is currently being diverted.

Due to no apparent additional beneficial use occurring under permit 37-8304 above and beyond what is already covered by existing water right 37-4337, it appears necessary to proceed with a recommendation to void permit 37-8304. As an alternative, Helios Development LLC may choose to relinquish this permit. If you agree that no beneficial use of water occurred under permit 37-8304 above and beyond water right 37-4337, you can shorten the voiding process by completing the enclosed relinquishment form and returning it to IDWR.

If you have any questions, or wish to discuss this matter further, please feel free to call me at (208) 736-3033.

Sincerely,

Benny Walker
IDWR Agent

Enclosures

Cc: Edward A. Lawson

Gary - 37-8304

1. need to show P/D & P/U on quad map
2. if fish propagation is a recommended use, explain use. Is raising fish a significant use, or just incidental to aesthetic use?
3. Recommended volumes are incorrect. Fish prop. has pond volume, not annual volume. Aesthetics has annual volume based on constant flow (not affected by pond size). Does this system operate all year?