

State of Idaho
Department of Water Resources
Water Right License
WATER RIGHT NO. 65-23073

PRIORITY: March 21, 2006

Maximum Diversion Rate: 0.10 CFS

Maximum Diversion Volume: 12.4 AF

It is hereby certified that:

LYNDA REESE BRADLEY 35 ANDERSON CREEK RD GARDEN VALLEY ID 83622

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated March 21, 2006, and has submitted Proof of Beneficial Use on July 07, 2017. An examination confirms water is diverted from:

SOURCE:
ANDERSON CREEK

TRIBUTARY:
MIDDLE FORK PAYETTE RIVER

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>
IRRIGATION	03/15 to 10/31	0.10 CFS	12.3 AF
STOCKWATER	01/01 to 12/31	0.01 CFS	0.1 AF

LOCATION OF POINT(S) OF DIVERSION:

ANDERSON CREEK NW¼SE¼ Sec. 15, Twp 09N, Rge 04E, B.M. BOISE County

PLACE OF USE: STOCKWATER

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
09N	04E	15														X			

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	
09N	04E	15														3.5			3.5

Total Acres: 3.5

CONDITIONS OF APPROVAL

1. 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. 65.
2. The right holder shall contact the watermaster by June 15 each year for authorization to continue diverting and using water. The right holder shall not divert water after June 15 each year unless the watermaster authorizes continued diversion and use of water under this water right. When the watermaster informs the right holder that water is not available to fill this right, the right holder shall cease diversion, shall rent water from the Payette River Rental Pool, or shall otherwise mitigate for the depletion of water caused by this water use. The department may amend the contact date listed in this administrative provision to more closely coincide with the date when water is not available to fill this water right.

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3. When ordered by the Director, the right holder shall provide mitigation acceptable to the Director to offset depletion of lower Snake River flows needed for migrating anadromous fish. The amount of water required for mitigation, which is to be released into the Snake River or a tributary for this purpose, will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this right. Any order of the Director issued in accordance with this paragraph shall be in conformance with applicable rules allowing the right holder due process as the need for mitigation and the amount of mitigation are determined.
4. This right when combined with all other rights shall provide no more than 0.03 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the lands above.
5. Place of use and point of diversion are located within Lot 2, Blk.1, Youren Division II Subdivision.

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 22nd day of August, 2017.



SHELLEY W. KEEN
Water Rights Section Manager

State of Idaho
Department of Water Resources
Attachment to Water Right License
65-23073

This map depicts the IRRIGATION and STOCKWATER 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.

04E



-  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

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Web Site: www.idwr.idaho.gov

GARY SPACKMAN
Director

C.L. "BUTCH" OTTER
Governor

August 23, 2017

LYNDA REESE BRADLEY
35 ANDERSON CREEK RD
GARDEN VALLEY ID 83622

RE: License No. 65-23073

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 208-287-4951.

Sincerely,

A handwritten signature in blue ink that reads "Pamela Skaggs". The signature is written in a cursive, flowing style.

Pamela Skaggs, Water Rights Supervisor
Water Right Permits Section

Enclosure(s)

c: WATER DISTRICT #65

CERTIFICATE OF SERVICE

I hereby certify that on August 25, 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.

65-23073

**LYNDA REESE BRADLEY
35 ANDERSON CREEK RD
GARDEN VALLEY ID 83622**

**WATER DISTRICT #65
RON SHURTLEFF
102 N MAIN ST
PAYETTE ID 83661**

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

Darla Block

Technical Records Specialist

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.

MEMORANDUM

Date: August 10, 2017
To: Water Right File 65-23073 and 65-23031
From: Michele Edl
Re: overlap right abandoned

I received a call from Lynda Reese Bradley this morning. She had met with the WD 65 watermaster, Ron Shurtleff and both of them agree that it would be difficult for Ms. Bradley to re-establish use of water from Gooseberry Creek. And that the water right from Anderson Creek will most likely be sufficient for her needs. So she will be abandoning the portion of water right 65-23031 that is appurtenant to her property.

I told her that I had sent a letter with the attachments that she would need to use. She had not yet received them. I gave her brief instructions and outlined IDWR reasoning for the map and deed requirements. She stated that she would look for the mailing and would respond promptly.



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GARY SPACKMAN
Director

C.L. "BUTCH" OTTER
Governor

August 7, 2017

LYNDA REESE BRADLEY
35 ANDERSON CREEK RD
GARDEN VALLEY ID 83622

RE: Water Right No. 65-23073

Dear Lynda:

Since our phone conversation on July 31, 2017, I have discussed how to proceed with your water rights processes with the section manager. It is almost unheard of that someone would abandon a water right with a senior priority in favor of keeping a water right with much junior priority. As a result, IDWR needs to clarify the status of the overlapping right from Gooseberry Creek before we issue a license for the use that you have developed out of Anderson Creek.

Based on our conversation of last Monday, July 31, 2017 I understand that you are not currently interested in resuming use of Gooseberry Creek water on your property, but that you would like to consider all your options. I believe that you have at least three options. They are:

- 1) Sell the right to one of your neighbors who has better access to Gooseberry Creek and has a greater need for the water. The right may not have been used since 2007, when it was decreed by the Snake River Basin Adjudication court. So it may be difficult, but not impossible, for someone else to resume use of the water.
- 2) Change the nature-of-use of the right to mitigation by non-use. This option would allow you to continue using your Anderson Creek right when it would otherwise be curtailed. But this option would require that you split the right and change the ownership (\$100) and then apply for a transfer of the right (\$200) to change the nature-of-use. I understood that the state of your finances make this option difficult as well.
- 3) Abandon your portion of the right. You are not currently listed as an owner of right 65-23031. And if I understood your wishes correctly, you do not intend to take ownership of any portion of that right. Don't take ownership of your piece if you intend to abandon it. Abandonment costs nothing; an ownership change and split of the right will cost \$100.

The watermaster of this watershed is Ron Shurtleff. I hope that you and he have connected since last Monday when I spoke with you both. Mr. Shurtleff is an excellent resource and he may know of other options that haven't occurred to me. His office is located at 102 N Main St. in Payette Idaho. His phone number is 208-642-4465.

To help you with your decision, I have included additional documents with this letter.

- First is the form for abandoning your portion of water right 65-23031. The form is titled, Notice of Abandonment of Water Right.
- I have also enclosed a map which shows the patchy places-of-use which are currently authorized for irrigation from the Gooseberry Creek right 65-23031.
- And finally, I have enclosed a copy of a report generated from IDWR's database. The report summarizes the features of right 65-23031.

If you decide to pursue option 3 and abandon your interest in right 65-23031, please complete the notice

of abandonment form and return it to IDWR's state office, which is located at the address in the heading of this letter. There will be no fee for processing the abandonment, but you will need to provide us a map, a copy of the deed showing that you own your property and a reason why you are not interested in the right. I hope that you can use the map of 65-23031 that I'm enclosing. You'll need to outline or otherwise indicate your property on that map.

If you decide **not** to abandon the right, then you will need to file a different form. Either way, I can give you 30 days from the date of this letter to consider your options. If I don't hear from you on or before September 8, 2107, then I will issue the license to your Anderson Creek water right (65-23073) with a condition that assumes other water is available for use on your property.

If you have questions about the processes, please call me at 208-287-4946 or email me at Michele.Edl@idwr.idaho.gov

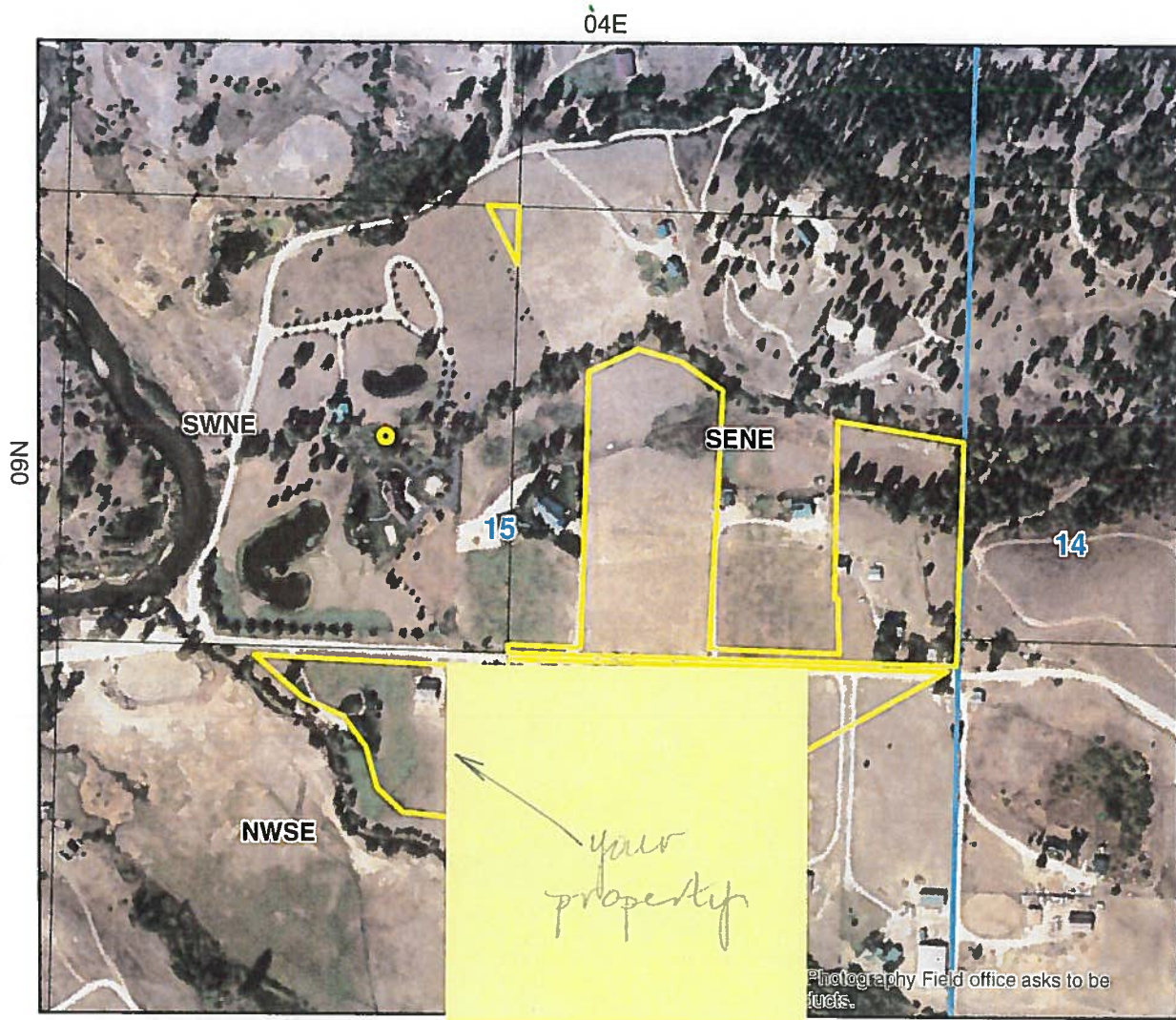
Sincerely,



Michele D. Edl

Enclosure(s)

State of Idaho
Department of Water Resources
SRBA Decreed Water Right
65-23031



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

0 0.05 0.1 0.2 Miles



MEMORANDUM

Date: August 3, 2017
To: 65-23073
From: Michele Edl
Re: Phone conversation logs

Today, 8/3/2017, I spoke to the WD#65 watermaster, Ron Shurtleff and then to the permit holder, Lynda Reese Bradley with respect to this water right and the overlapping water right from Gooseberry Creek 65-23031.

First I spoke to the watermaster, Ron Shurtleff. He was aware of some administrative issues on Anderson Creek and planned to be in the vicinity to inspect a measuring device next Thursday August 10, 2017. He offered to speak with Ms. Bradley about the historical availability of water from Anderson Creek and about options she should consider for the Gooseberry Creek right.

Then I called Lynda ReeseBradley. I briefly explained to Ms. Bradley that she would get a license for the use that she had developed from Anderson Creek, but that I needed to clear up the question of the overlapping right first. I told her that the Gooseberry Creek water could provide her coverage in times when there is a shortage of Anderson Creek water but she didn't need to make a decision today about it today. She admitted to being a novice with respect to water rights and she told me that she didn't have the money for an ownership change and transfer of the right.

I shared with her that the watermaster was scheduled to be in the area soon and that he had offered to assist her. She said she would contact the watermaster and make an appointment to see him.

MEMORANDUM

Date: July 31, 2017
To: Water Right File 65-23073 and 65-23031
From: Michele Edl
Re: POU overlap

Approximately 3 acres of the POU authorized by SRBA decree 65-23031, overlaps the POU for right 65-23073. SRBA Decreed Right 65-23031 is sourced from Gooseberry Creek and is now located across a road almost due north of the POU for 65-23073. Right 65-23073 is much junior and is sourced from Anderson Creek which abuts the POU.

In June 2007, IDWR personnel found the overlap during the pre-permit review for the Anderson Creek right, 65-23073, and attempted contact with John Hanna, the then applicant for the right. John Hanna had died in April 2007 and the estate did not respond to IDWR's request for clarification. Permit 65-23073 was issued with an overlap condition recognizing that another right may cover a portion of the POU. Neither the Hanna estate nor subsequent owners of this property (known as tax parcel RP001150010020 or lot 2, block 1, Youren Division II Subdivision) have requested an ownership change/split of the right. They may have been unaware of its existence.

Right 65-23031 was decreed in 2000 and it may not have been used on all of the authorized areas since the decree was issued. But as of this date, no portion of the right has been declared forfeit.

In a phone conversation today (7/31/2017) related to the licensing of 65-23073, I relayed information about the overlapping right to Ms. Lynda Reese Bradley. She is current owner of lot 2, block 1, Youren Division II Subdivision, but is not currently interested in reconstructing the diversion system that would be required in order to resume use of Right 65-23031 (Gooseberry Creek). She stated that she is happy with the Anderson Creek right and doesn't really need more water. I explained that I would be sending her documents which should assist her. Those documents will include a copy of the proof report and a map of the Gooseberry Creek right, 65-23031 for her to review and consider. I will also send an abandonment form and instructions for completing it.