

State of Idaho
Department of Water Resources
Water Right License
WATER RIGHT NO. 37-07842

PRIORITY: August 25, 1980

Maximum Diversion Rate: 250.00 CFS
Maximum Diversion Volume: 13,900.0 AF

It is hereby certified that:

STATE OF IDAHO
IDAHO WATER RESOURCE BOARD
322 E FRONT ST
PO BOX 83720
BOISE ID 83720-0098

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated July 02, 1980, and has submitted Proof of Beneficial Use on July 27, 1992. An examination confirms water is diverted from:

SOURCE:
LITTLE WOOD RIVER

TRIBUTARY:
MALAD 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>
GROUND WATER RECHARGE	01/01 to 12/31	250.00 CFS	13,900.0 AF

LOCATION OF POINT(S) OF DIVERSION:

LITTLE WOOD RIVER L4 (SW¼SE¼) Sec. 25, Twp 04S, Rge 19E, B.M. LINCOLN County

PLACE OF USE: GROUND WATER RECHARGE

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04S	19E	35															X L 7	X L 8	
05S	19E	2	X L 1	X L 2															

CONDITIONS OF APPROVAL

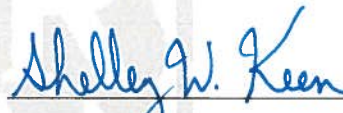
1. The issuance of this right does not grant any right-of-way or easement across the land of another.
2. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 37.
3. 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).
4. The following rights are diverted through point(s) of diversion described above: 37-7842, 37-13043, 37-13112, 37-13113, 37-13114, 37-14264, 37-21401, 37-21402, 37-21403, 37-21404, and 37-21405.

State of Idaho
Department of Water Resources
Water Right License
WATER RIGHT NO. 37-07842

5. Rights 37-7842, 37-13043, 37-13112, 37-13113, 37-13114, 37-14264, 37-21401, 37-21402, 37-21403, 37-21404, and 37-21405 when combined shall not exceed a total diversion rate of 647.38 cfs.
6. Pursuant to Section 42-234(4), Idaho Code, to ensure that other water rights are not injured by the operations of the recharge project authorized by this right, the Director has authority to approve, disapprove, or require alterations in the methods employed to achieve ground water recharge.
7. Pursuant to Section 42-234(3), Idaho Code, the Director may reduce the amount of water that may be diverted for recharge purposes under this right even though there is sufficient water to supply the entire amount authorized for appropriation under this right.
8. Prior to further diversion and use of water in accordance with this water right, the right holder shall obtain Bureau of Land Management authorization necessary to access the point of diversion or place of use or to convey water across federal land.
9. Places of use for groundwater recharge describing federal public lands within the canals and discharges outside of the canals onto federal public land are not authorized, unless specifically authorized in writing by the United States.

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 13th day of July, 2017.



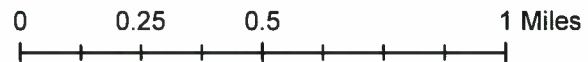
SHELLEY W. KEEN
Water Rights Section Manager

State of Idaho
Department of Water Resources
Attachment to Water Right License
37-7842

This map depicts the GROUND WATER RECHARGE 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



State of Idaho
Department of Water Resources
APPLICATION FOR AMENDMENT
(For Licensing Purposes)
WATER RIGHT NO. 37-07842

PRIORITY: August 25, 1980

Maximum Diversion Rate: 250.00 CFS
Maximum Diversion Volume: 13,900.0 AF

Comes now

STATE OF IDAHO
IDAHO WATER RESOURCE BOARD
322 E FRONT ST
PO BOX 83720
BOISE ID 83720-0098

and represents to the Idaho Department of Water Resources that he is the owner and holder of Permit to Appropriate the Public Waters of the State of Idaho No. 37-07842, and requests that the permit be changed as follows:

SOURCE:
LITTLE WOOD RIVER

TRIBUTARY:
MALAD RIVER

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL DIVERSION VOLUME</u>
GROUND WATER RECHARGE	01/01 to 12/31	250.00 CFS	13,900.0 AF

LOCATION OF POINT(S) OF DIVERSION:

LITTLE WOOD RIVER L4 (SW¼SE¼) Sec. 25, Twp 04S, Rge 19E, B.M. LINCOLN County

PLACE OF USE: GROUND WATER RECHARGE

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04S	19E	35															X L 7	X L 8	
05S	19E	2	X L 1	X L 2															

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 13th day of July, 2017.

(Signature)

State of Idaho
Department of Water Resources
APPLICATION FOR AMENDMENT
(For Licensing Purposes)
WATER RIGHT NO. 37-07842

FOR DEPARTMENT USE ONLY

Preliminary check by SWK Fee = N/A Received by _____ # _____ Date _____

ACTION OF THE DEPARTMENT OF WATER RESOURCES

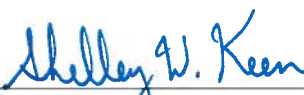
The Idaho Department of Water Resources hereby approves the above Application for Amendment for Permit No. 37-07842 with the following:

CONDITIONS OF APPROVAL

1. The issuance of this right does not grant any right-of-way or easement across the land of another.
2. 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. 37.
3. 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).
4. The following rights are diverted through point(s) of diversion described above: 37-7842, 37-13043, 37-13112, 37-13113, 37-13114, 37-14264, 37-21401, 37-21402, 37-21403, 37-21404, and 37-21405.
5. Rights 37-7842, 37-13043, 37-13112, 37-13113, 37-13114, 37-14264, 37-21401, 37-21402, 37-21403, 37-21404, and 37-21405 when combined shall not exceed a total diversion rate of 647.38 cfs.
6. Pursuant to Section 42-234(4), Idaho Code, to ensure that other water rights are not injured by the operations of the recharge project authorized by this right, the Director has authority to approve, disapprove, or require alterations in the methods employed to achieve ground water recharge.
7. Pursuant to Section 42-234(3), Idaho Code, the Director may reduce the amount of water that may be diverted for recharge purposes under this right even though there is sufficient water to supply the entire amount authorized for appropriation under this right.
8. Prior to further diversion and use of water in accordance with this water right, the right holder shall obtain Bureau of Land Management authorization necessary to access the point of diversion or place of use or to convey water across federal land.
9. Places of use for groundwater recharge describing federal public lands within the canals and discharges outside of the canals onto federal public land are not authorized, unless specifically authorized in writing by the United States.

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

Signed this 13th day of July, 2017.



SHELLEY W. KEEN
Water Rights Section Manager



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

July 14, 2017

STATE OF IDAHO
IDAHO WATER RESOURCE BOARD
322 E FRONT ST
PO BOX 83720
BOISE ID 83720-0098

RE: License No. 37-7842

Issuance of License

Dear Water Right Holder(s):

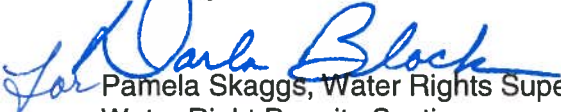
The Department of Water Resources has issued the enclosed Water Right License confirming that a water right has been established in accordance with your permit. Please be sure to thoroughly review the conditions of approval and remarks listed on your license. Also enclosed is a copy of the approved application for amendment.

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,


Pamela Skaggs, Water Rights Supervisor
Water Right Permits Section

Enclosure(s)

c: WATER DISTRICT #37

CERTIFICATE OF SERVICE

I hereby certify that on July 17, 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.

37-7842

**STATE OF IDAHO
IDAHO WATER RESOURCE BOARD
322 E FRONT ST
PO BOX 83720
BOISE ID 83720-0098**

**WATER DISTRICT #37
KEVIN D LAKEY
107 W 1ST
SHOSHONE ID 83352**



**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.

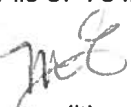
APPEAL OF FINAL ORDER TO DISTRICT COURT

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: July 13, 2017
To: Water Right File 37-7842
From: Michele Edl 
Re: subordination condition

Permit 37-7842 contains the following condition subordinating it to "all prior rights" including privately owned hydropower generation rights on the Snake River:

This water right shall be secondary to all prior water rights including rights held by any privately owned electrical generating company to appropriate waters in the reaches of the Snake River downstream from the Milner diversion for purposes of hydroelectric power generation.

On April 11, 2006, Idaho Power Company, owner of privately held power generation facilities on the Snake River, and the State of Idaho, owner of the permit, signed a stipulation which clarifies the subordination of Permit 37-7842. The stipulation specifically lists Water Right Permit 37-7842 (and sibling Permit 01-7054) as being subject to the Swan Falls Agreement and recognizes that Idaho Power Company's Snake River water rights are subordinated to these two water rights.

Therefore, the permit condition cited in the paragraph above will not be included on the water right license.

As with all licenses, the following "subject to all prior rights" language is included above the signature block:

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.



RECEIVED

APR 14 2017

DEPARTMENT OF
WATER RESOURCES

STATE OF IDAHO

OFFICE OF THE ATTORNEY GENERAL

LAWRENCE G. WASDEN

April 14, 2017

Mr. Shelley Keen
Idaho Department of Water Resources
PO Box 83720
Boise, ID 83720-0098

Re: Licensing of Water Right Permit 37-07842

Dear Mr. Keen,

Please find attached a Memorandum of Intent ("MOI") between the Idaho Water Resource Board ("IWRB") and the United States Bureau of Land Management ("BLM"). The purpose of the MOI is to demonstrate, for purposes of licensing water right permit 37-07842, that the IWRB is seeking permission from BLM for right(s)-of-way for portions of the proposed licensed place of use that cross BLM land. The BLM has agreed that water right permit 37-07842 may proceed to licensing under the terms of the MOI. The IWRB requests that this Memorandums of Intent be placed in the backfile for water right 37-07842 and that the water right proceed to licensing. Originals will be held in the IWRB and BLM files.

Sincerely,

A handwritten signature in blue ink, appearing to read "Ann Vonde".

ANN VONDE

Deputy Attorney General

AV/mb
Attachment
cc: Fred Price

**MEMORANDUM OF INTENT
REGARDING ISSUANCE OF LICENSE 37-07842**

Idaho Water Resource Board ("IWRB") holds permit no. 37-07842 for recharge from the Big Wood River. The Idaho Department of Water Resources ("Department") is ready to issue a license for permit no. 37-07842. The licensing place of use includes some portions of United States Bureau of Land Management ("BLM") federal lands. The BLM was not a protestant to permit no. 37-07842 and there is no administrative proceeding currently pending regarding the licensing of this permit.

The IWRB recognizes that a portion of the place of use proposed for licensing is on BLM land. The IWRB further recognizes that no right(s)-of-way for recharge or recharge conveyance exist for federal lands listed in the licensed place of use. The IWRB agrees to file with BLM application(s) for right(s)-of-way across federal lands for recharge and recharge conveyance that include, at a minimum, the federal lands described in the licensed place of use. The BLM agrees that water right permit no. 37-07842 may proceed to licensing while the application(s) for right(s)-of-way are pending; provided that no water under the license may be used on federal lands until authorized in writing by the BLM Authorized Officer. No representation is made hereby as to the legal necessity for right(s)-of-way across federal land for recharge and recharge conveyance under the license; nor is there any guarantee or promise implied or inferred that right(s)-of-way will ultimately be granted.

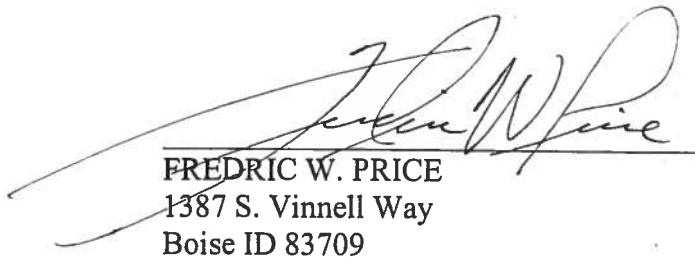
The IWRB and BLM further agree that the following conditions may be placed on the

license:

- A. This right does not grant any right-of-way or easement across the land of another.
- B. Prior to diversion and use of water under this approval, the right holder shall obtain Bureau of Land Management authorization necessary to access the point of diversion or place of use or to convey water across federal land.
- C. Places of use for groundwater recharge describing federal public lands within the canals and discharges outside of the canals onto federal public land are not authorized, unless specifically authorized in writing by the United States.

The IWRB and BLM agree the Department may proceed with licensing permit no. 37-07842 according with this agreement.

For the UNITED STATES BUREAU OF LAND MANAGEMENT



FREDRIC W. PRICE
1387 S. Vinnell Way
Boise ID 83709

Date: 04-05-2017

For the IDAHO WATER RESOURCE BOARD



Roger Chase, Chairman IWRB

Date: 4/14/17