

State of Idaho
Department of Water Resources
Water Right License
WATER RIGHT NO. 78-7379

PRIORITY: August 31, 1995

Maximum Diversion Volume: 2.0 AF

It is hereby certified that:

JOHNSON ROEHLER TRUST C/O W D FAIRFIELD TRUSTEE
290 MAPLE CT STE 200 VENTURA CA 93003

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated August 31, 1995, and has submitted Proof of Beneficial Use on April 19, 2000. An examination confirms water is diverted from:

SOURCE:
THRUSH CREEK

TRIBUTARY:
BIG CREEK

and a water right has been established as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>ANNUAL DIVERSION VOLUME</u>
FIRE PROTECTION FROM STORAGE	1/01 to 12/31	2.0 AF
WILDLIFE STORAGE	1/01 to 12/31	2.0 AF
FIRE PROTECTION STORAGE	1/01 to 12/31	2.0 AF

LOCATION OF POINT(S) OF DIVERSION:

THRUSH CREEK NE¼SW¼ Sec. 8, Twp 18N, Rge 02E, B.M. ADAMS County

PLACE OF USE: FIRE PROTECTION FROM STORAGE, FIRE PROTECTION STORAGE and WILDLIFE STORAGE

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
18N	02E	8									X								

CONDITIONS OF APPROVAL

- Right 78-7379 authorizes a total annual storage volume of 2.0 acre-feet, 0.8 acre-feet to be used for the initial filling or carryover storage of the pond and 1.2 acre-feet for the replacement of losses caused by seepage and evaporation.
- The pond established by the storage of water under this right shall not exceed a total capacity of 0.8 acre-feet or a total surface area of 0.2 acre.
- The right holder shall cause all water entering the reservoir from July 1 through March 31 to pass through the reservoir and exit to the natural stream channel.
- When notified by the department, the right holder shall install and maintain a low level outlet works on the impoundment structure in order to release stored water as directed by the watermaster.
- The diversion and use of water described in this right may be subject to additional conditions and limitations agreed to by the protestant and the right holder under a separate agreement to which the

State of Idaho
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Water Right License
WATER RIGHT NO. 78-7379

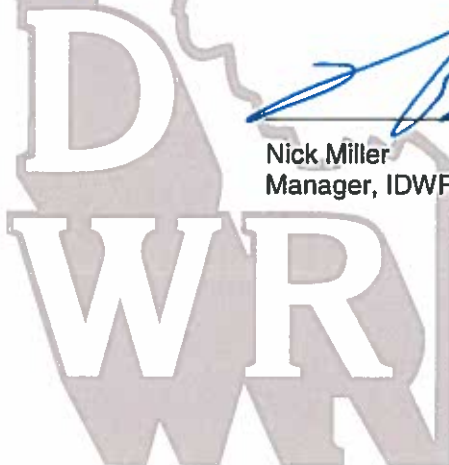
Department is not a party. Because the Department is not a party, the Department is not responsible for enforcement of any aspect of the agreement not specifically addressed in other conditions herein. Enforcement of those portions of the agreement not specifically addressed in other conditions shall be the responsibility of the protestant and the water right holder.

6. 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. 78A.
7. Water shall not be diverted from fire protection storage except to fight or repel an existing fire.

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 1st day of February, 2017.



Nick Miller
Manager, IDWR Western Region

State of Idaho
Department of Water Resources
Attachment to Water Right License
78-7379

This map depicts the FIRE PROTECTION STORAGE and WILDLIFE 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.

02E



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

0 0.035 0.07 0.14 Miles

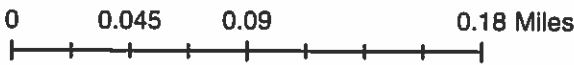


State of Idaho
Department of Water Resources
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78-7379

This map depicts the FIRE PROTECTION 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





State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way • Boise, Idaho 83705-5082

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

February 1, 2017

JOHNSON ROEHLER TRUST
C/O W D FAIRFIELD TRUSTEE
290 MAPLE CT STE 200
VENTURA CA 93003

RE: License No. 78-7379

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)334-2190.

Sincerely,



Nick Miller
Western Regional Manager

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on February 1, 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. 78-7379

**JOHNSON ROEHLER TRUST
C/O W D FAIRFIELD TRUSTEE
290 MAPLE CT STE 200
VENTURA CA 93003**

**ED RANEY
WATERMASTER OF DISTRICT 78A
3498 RANEY RD
NEW MEADOWS ID**



**Rachel Neely
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

Western Region, 2735 Airport Way • Boise, Idaho 83705-5082

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Web Site: www.idwr.idaho.gov

January 19, 2016

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

COPY

WILLIAM D FAIRFIELD
199 S FIGUEROA ST
VENTURA CA 93001

RE: Water Appropriation Permit No. 78-7379

Notice of Pending Order to Void Permit

Dear Mr. Fairfield:

On August 31, 1995, Department of Water Resources (IDWR) received an Application for Permit for four (4) ponds and five (5) diversions identified under 78-7377, 78-7378, 78-7379, 78-7380 and 78-7381 in the name of Johnson-Roehler Trust. At the time the applications were filed, the Salmon River Moratorium was in place which withheld processing of most new water applications diverting surface water in the Salmon drainage. On December 2, 2004, IDWR sent a letter requesting the intentions of application 78-7378. A deadline of January 15, 2005 was given to respond by, and no response was received. On January 25, 2005, an Order was issued voiding Application for Permit 78-7378.

Application for Permit 78-7379 was exempt from such moratorium given the size of diversion proposed was less than half an acre pond surface area. This pond was proposed to be an on-stream pond on Thrush Creek, tributary to Big Creek. On June 23, 2014, IDWR staff conducted a field exam for 78-7379 and found a beneficial use established from a Diversion to Storage use off Big Creek, tributary to Little Salmon River. Evidence from the field exam suggests that development authorized under 79-7379 did not occur, and that a larger Fire Protection and Wildlife Storage system was illegally developed as proposed under voided application 79-7378.

The final step in the water appropriation process is the issuance of a Water Right License. By issuing a license, IDWR recognizes that you have met the requirements for establishing a water right. A water appropriation permit authorizes development of a water right within a specific time frame. Under Permit 78-7379, development was to have been completed by May 4, 1998. No water right has been established, and no license can be issued if you have not developed a beneficial use of water within the time period authorized by your permit.

In regards to the pond developed on your property, a new Application for Permit must be received. The Salmon River Moratorium has since been lifted and defined by boundaries outside of your property. For your convenience, I have partially completed an application for you to complete and submit. Issuance of a license may be expedited given a field exam by Department staff has already been conducted.

Please submit the requested information for the application to be processed. You may seek additional time to provide the information by making a written request to interrupt processing for up to six months.

Unless you supply information within thirty days demonstrating that you have developed a beneficial use of water under Permit 78-7379, I will take action to void your permit. You can shorten the voiding process by signing and returning the enclosed relinquishment form.

IDWR forms and other information are available on the Internet at www.idwr.idaho.gov . Please contact me at 208-334-2190 if you need more information. Thank you for your attention to these matters.

Respectfully,



Patrick Kelly
Senior Water Resource Agent
Idaho Department of Water Resources
2735 Airport Way
Boise, Idaho 83705
p: 208.334.2190
f: 208.334.2348
patrick.kelly@idwr.idaho.gov

Enclosures: Application for Permit
 Topo map of proposed ponds with original applications
 Relinquishment of Permit

cc: Whitney Ranch Lot Owners Assn Inc
 Bill Fairfield, Ventura CA

RECEIVED

JUN 22 2015

WATER RESOURCES
WESTERN REGION

Edgar Raney, District 78A Watermaster
3498 Raney Road
New Meadows, ID 83654

State of Idaho
Department of Water Resources
Attn: Patrick Kelly
2735 Airport Way
Boise, ID 83705-5082

Re: Water Right Permit Nos. 78-7379 & 78-7380

Dear Mr. Kelly:

In response to letters to me of December 10, 2014 and July 30, 2014 concerning the above matters as District 78A Watermaster, I request a waiver of any condition requiring the right holder (i.e., William D. Fairfield/Whitney Ranches) to install and maintain a low level outlet for each of the above described storage ponds. For your information, the only time these ponds contain water is after snow melt and/or severe rain runoff. Pond 78-7379 is adjacent to the old railroad right of way between McCall and New Meadows. It is currently used by me and my staff to get access to water ditches and the headgate.

If you need me to sign any further documents, please send them to my attention with a copy of same to William D. Fairfield. Thank you for your assistance in connection with this matter.

Sincerely.

Edgar Raney Watermaster

Edgar Raney, District 78A Watermaster



State of Idaho

DEPARTMENT OF WATER RESOURCES

WESTERN REGION, 2735 Airport Way, Boise, Idaho 83705-5082

Phone: (208) 334-2190 FAX: (208) 334-2348 www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

December 10, 2014

Ed Raney
District 78A Watermaster
3498 Raney Road
New Meadows, ID 83654

Re: Water Right Permit No. 78-7379
Condition of Approval Waiver Request

Dear Ed:

In June, I conducted a field exam for Water Right Permit No. 78-7379. The beneficial use for the permit is wildlife storage and fire protection storage for the Whitney Ranch Lot Owners Association.

One of the conditions of approval is for the right holder to install and maintain a low level outlet works on the impoundment structure in order to release water as directed by the watermaster. The beneficial use for this permit is for fire protection and wildlife storage, not irrigation. Instead of releasing stored water in the storage pond back to Big Creek, the watermaster has the authority to lock the headgate on Big Creek to prevent diversion of water to the storage pond.

With the watermaster's authority to lock the headgate on Big Creek, the condition to install a low level outlet for the storage pond does not appear warranted for this water right permit. Therefore, I am requesting a waiver to the condition requiring the right holder to install and maintain a low level outlet for the storage pond.

If you have any questions, you can contact me at (208) 334-2190.

Sincerely,

A handwritten signature in black ink that reads "Rick Collingwood". The signature is written in a cursive, flowing style.

Rick Collingwood, P.E.
Staff Engineer