

State of Idaho
Department of Water Resources
Water Right License
WATER RIGHT NO. 37-22779

PRIORITY: August 29, 2012

Maximum Diversion Rate: 0.22 CFS
Maximum Diversion Volume: 38.7 AF

It is hereby certified that:

ROBERT G STEVENS PO BOX 308 KETCHUM ID 83340 And/Or
CAROL F STEVENS PO BOX 308 KETCHUM ID 83340

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated August 29, 2012, and has submitted Proof of Beneficial Use on July 25, 2016. An examination confirms water is diverted from:

SOURCE:
GROUND WATER

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	04/15 to 10/31	0.22 CFS	38.7 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER SW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 14, Twp 05N, Rge 17E, 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	
05N	17E	14															12.9		12.9

Total Acres: 12.9

CONDITIONS OF APPROVAL

- Place of use is located in a portion of HES 129 and projected to be within SWSE Section 14, T05N R17E.
- Point of diversion is located in a portion of HES 129 and projected to be within SWSE Section 14, T05N R17E.
- 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. Use of water shall also be regulated by Eagle Creek Irrigation Company. Regulation of this right shall be coordinated between State Water District No. 37 and the Eagle Creek Irrigation Company.
- Lockable devices and measuring devices subject to the approval of the Department shall be maintained on the diverting works in a manner that will provide the watermaster suitable control of the diversion. Control works and measuring devices shall be maintained on the authorized point of diversion, on the High Ditch and on the outflow of the Eagle Creek System being directed to the Big Wood River.

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5. When notified by the Department or by a watermaster with regulatory authority over this right, the right holder shall report the amount of water diverted in connection with this right. The report shall be submitted in the manner and frequency specified by the Department or the watermaster.
6. The following rights are diverted through the point of diversion described above: 37-22779 and 37-21427.
7. Rights 37-22779 and 37-21427 when combined shall not exceed a total diversion rate of 0.22 cfs nor the diversion volume of 38.7 af.
8. Rights 37-22779, 37-21427, and the irrigation component of domestic right 37-11320 are limited to the irrigation of 12.9 acres.
9. 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.
10. 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 right for the purposes and amounts specified below. Moreover, the official record for the following water right will be changed to show that diversion and use of water is not authorized because the right, or portion thereof, is being dedicated to mitigation by non-use. The mitigating right may also include a condition stating that the mitigation by non-use is for the benefit of this right.

Right No.	Use Changed to Mitigation by Non-Use	Mitigation Rate (cfs)	Mitigation Volume (AF)	Mitigation Acres
37-863E	Irrigation	0.34	Not Stated	12.9

The land that will no longer be irrigated under this right is located within the SWSE, Section 14, Township 05N, Range 17E, B.M. which is the same land to be irrigated under Right 37-22779.

If the specified mitigation right, or portion thereof, is sold, transferred, leased, used on any place of use, or is not deliverable due to a shortage of water or a priority call, then the amount of water authorized for diversion under this right shall be reduced by the same proportion as the reduction to the mitigation rights.

11. To prevent injury to other water right holders within the Eagle Creek Irrigation System, the Watermaster or ditch rider shall deliver 0.08 cfs of the mitigation portion of Right 37-863E into the High Ditch of the Eagle Creek Irrigation Company, where it shall remain undiverted but provide for conveyance loss in the canal. The remainder of the mitigation flow (0.26 cfs) shall remain in the channel of Eagle Creek and be delivered past the last diversion of the Eagle Creek Irrigation Company on Eagle Creek to mitigate any injury caused by the pumping of Right 37-22779 on right holders in the Big Wood River.
12. The water right holder shall maintain ownership of 14 irrigation shares from Eagle Creek Irrigation Company for mitigation purposes.
13. 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.

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14. 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.

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 29th day of September, 2016.



Shelley W. Keen

SHELLEY W. KEEN
Water Rights Section Manager

State of Idaho
Department of Water Resources
Attachment to Water Right License
37-22779

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.



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

0 0.03 0.06 0.12 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 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

September 30, 2016

ROBERT G STEVENS
CAROL F STEVENS
PO BOX 308
KETCHUM ID 83340

RE: License No. 37-22779

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,

Pamela Skaggs
Water Rights Supervisor

Enclosure(s)

cc: BROCKWAY ENGINEERING PLLC
WATER DISTRICT #37

CERTIFICATE OF SERVICE

I hereby certify that on October 3, 2016, 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.

37-22779

**CAROL F STEVENS
PO BOX 308
KETCHUM ID 83340**

**ROBERT G STEVENS
PO BOX 308
KETCHUM ID 83340**

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

**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.