

State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 37-22958

Priority: June 15, 2015

Maximum Diversion Volume: 0.3 AF

This is to certify, that THE BARER FAMILY TRUST
C/O STANLEY H & ALTA S BARER TTEES
3048 E LAUREL HURST DR NE
SEATTLE WA 98105

has applied for a permit to appropriate water from:

Source: BIG WOOD RIVER Tributary: MALAD RIVER

and a permit is APPROVED for development of water as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>ANNUAL VOLUME</u>
AESTHETIC STORAGE	01/01 to 12/31	0.3 AF

LOCATION OF POINT(S) OF DIVERSION:

BIG WOOD RIVER	NW1/4NW1/4SE1/4	Sec. 1, Twp 04N, Rge 17E, B.M.
BLAINE County		
BIG WOOD RIVER	NW1/4NW1/4SE1/4	Sec. 1, Twp 04N, Rge 17E, B.M.
BLAINE County		

PLACE OF USE: AESTHETIC STORAGE

Twp Rge Sec	NE				NW				SW				SE				
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
04N 17E 1														X			

CONDITIONS OF APPROVAL

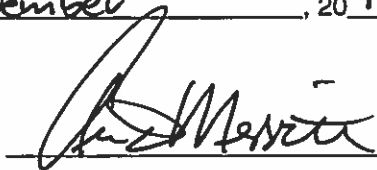
1. Proof of application of water to beneficial use shall be submitted on or before **December 01, 2016**.
2. Subject to all prior water rights.
3. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 37.
4. Point of diversion and place of use are located within Lot 1. Riverwoods Subdivision. The aesthetic storage use authorized by this right is for an excavated pond in a natural side-channel of the Big Wood River. This right does not authorize maintenance of an in-stream flow to the ponds nor does it authorize construction to increase or maintain flow to the ponds.
5. The two (2) ponds established by the storage of water under this right shall not exceed a total capacity of 0.3 acre-feet or a total surface area of 2200 square ft.
6. Use of water under this right shall be non-consumptive.

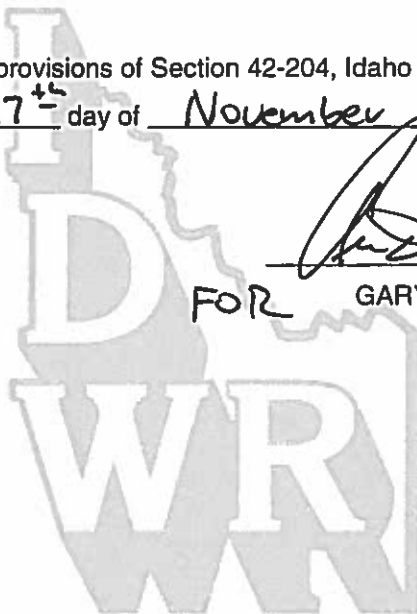
State of Idaho
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NO. 37-22958

7. 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.
8. Use of water pursuant to this right is either non-consumptive or the right holder is required to provide ongoing mitigation to offset the depletion of water resulting from the use of this right. Regulation of this right to satisfy the minimum stream flow water rights in the Snake River at Murphy Gage shall not be required.
9. Right 37-8480 for Domestic, Irrigation and Aesthetic uses from ground water also provides flow to the 2 ponds covered under right.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 27th day of November, 20 15.

FOR


GARY SPACKMAN, Director



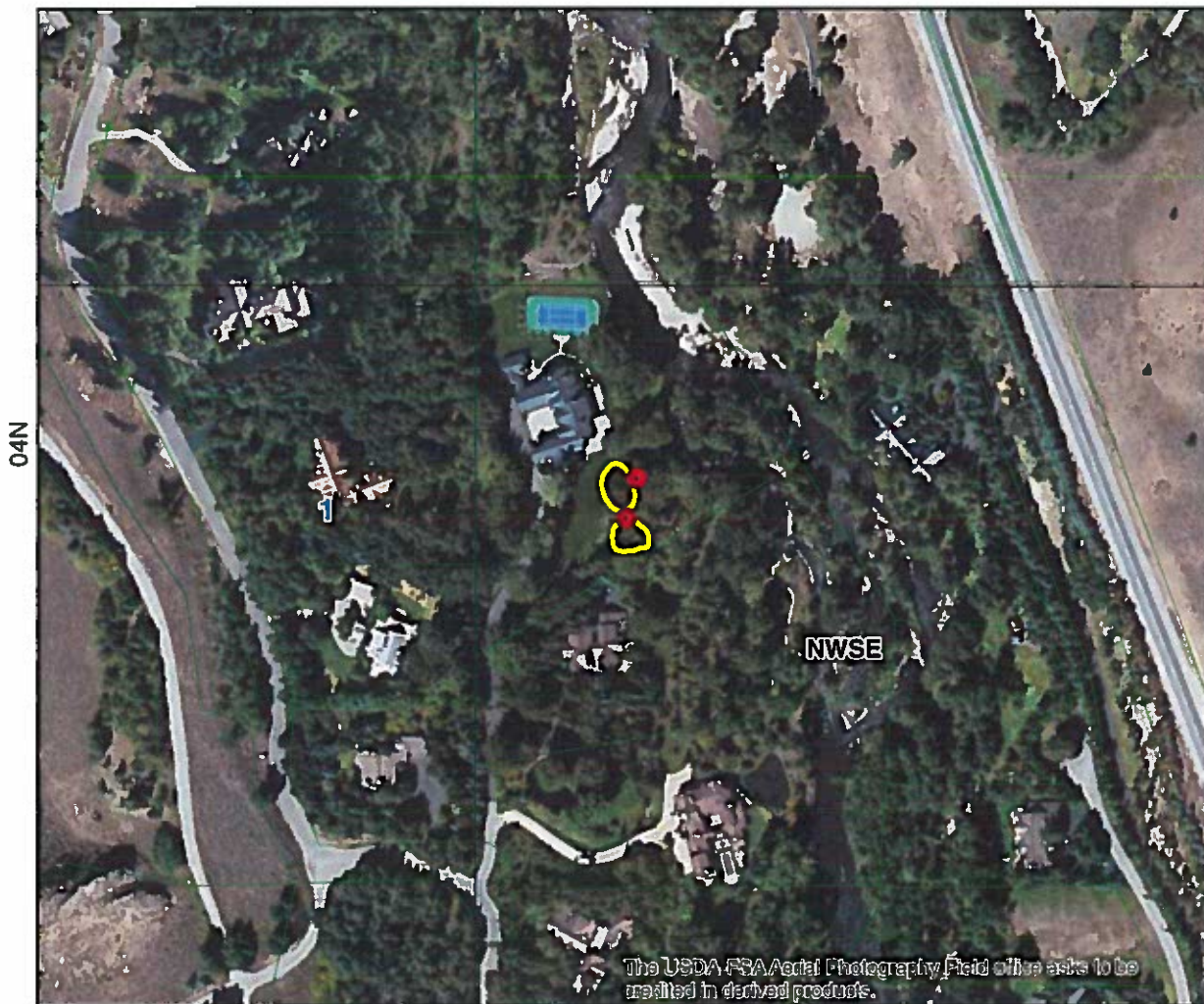
State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

37-22958

This map depicts the AESTHETIC 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.

17E



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

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

November 27, 2015

THE BARER FAMILY TRUST
C/O STANLEY H & ALTA S BARER TTEES
3048 E LAUREL HURST DR NE
SEATTLE WA 98105

RE: Permit No. 37-22958

Permit Approval Notice

Dear Permit Holder:

The Department of Water Resources has issued the enclosed permit authorizing you to establish a new water right. Please be sure to thoroughly review the conditions of approval and remarks listed on your permit.

The permit 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.

Enclosed is a form entitled 'Instructions for Proof of Beneficial Use.' Please read the instructions carefully since you must take further action to develop this permit into a licensed water right. Also enclosed is a form entitled 'Proof of Beneficial Use.' If your project is already completed, you should complete and submit this form immediately.

Please note that a separate stream channel alteration permit must be obtained from the Department prior to any activity in the stream channel other than construction or maintenance of the diversion structure for your water right(s). Applications for stream channel alteration permits must be filed at least sixty days prior to the commencement of work in the stream.

Also, 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,

A handwritten signature in black ink, appearing to read "Allen Merritt". The signature is stylized with a large, sweeping initial "A" and a distinct "M".

Allen Merritt
Southern Region Manager

Enclosure(s)

cc: BROCKWAY ENGINEERING PLLC
KEVIN LAKEY, WATER MASTER

CERTIFICATE OF SERVICE

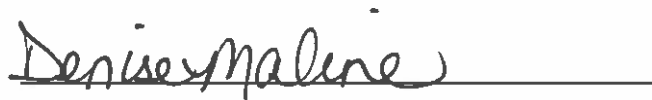
I hereby certify that on November 27, 2015 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (Approved Permit) to the person(s) listed below:

RE: WATER RIGHT NO. 37-22958

**THE BARER FAMILY TRUST
C/O STANLEY H & ALTA S BARER TTEES
3048 E LAUREL HURST DR NE
SEATTLE WA 98105**

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

**KEVIN LAKEY WATERMASTER *Via e-mail*
WATER DISTRICT 37
107 W 1ST ST
SHOSHONE ID 83352**

A handwritten signature in cursive script, reading "Denise Maline", is written over a horizontal line.

**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.

RECEIVED

AFFIDAVIT of PUBLICATION

JUL 10 2015

COPY OF NOTICE

State of Idaho
County of BlainePam MorrisDEPT OF WATER RESOURCES
SOUTHERN REGION

Pam Morris being the first duly sworn, deposes and says that she is the printer (publisher) of the Idaho Mountain Express, a newspaper published every week in Ketchum, County of Blaine, State of Idaho; that said newspaper has been continuously and uninterruptedly published for a period of seventy-eight consecutive weeks prior the first publication of the annexed notice, and is a newspaper qualified to publish legal notices as provided by act of the 1919 session of the legislature of the State of Idaho, known as House Bill 145; that the annexed advertisement was published once

each week for 2 consecutive issues in said newspaper proper and not in a supplement; that the date of the first

publication of said advertisement was on the 1 day of

July, 20 15, and the date of the last publication was on the 8 day of July, 20 15

Subscribed and sworn to before me this 8 day of

July, 20 15.

Connie N. Johnson
NOTARY PUBLIC

RESIDING AT HAILEY, IDAHO
MY COMMISSION EXPIRES ON 7/10/2018

IDAHO MOUNTAIN EXPRESS
P.O. Box 1013
Ketchum, Idaho 83340

COST OF PUBLICATION

Number of Picas per Line 11.5
Number of Lines in Notice 120
Number of Insertions 2

120 Lines tabular at 9.0 cents/pica
120 Lines straight at 110.40 8.0 cents/pica
120 Subsequent lines at 96.40 7.0 cents/pica

TOTAL COST \$207.00

Legal Notice
TITLE OF NOTICE

PLAINTIFF ATTORNEY

DEFENDANT

PLAINTIFF

IDWR

BILL TO

LEGAL NOTICE

The following application(s) have been filed to appropriate the public waters of the State of Idaho: ✓

37-22950

ROBERT COOK

126 WILLOWAY RD

HAILEY, ID 83333

Point of Diversion NESW S8 T03N R18E

BLAINE County Source EAST FORK

WOOD RIVER Tributary BIG WOOD

RIVER

Use: AESTHETIC 01/01 to 12/31 2

CFS

Use: RECREATION 01/01 to 12/31 2

CFS

Use: WILDLIFE 01/01 to 12/31

2 CFS

Total Diversion: 2 CFS

Date Filed: 4/27/2015

Place Of Use: AESTHETIC,

RECREATION, WILDLIFE

T03N R18E S8 NESW NWSW

37-22958 ✓

THE BARER FAMILY TRUST

C/O STANLEY H & ALTA S BARER

TTEES

3048 E LAUREL HURST DR NE

SEATTLE, WA 98105

Point of Diversion NWNWSE S1 T04N

R17E BLAINE County Source BIG

WOOD RIVER Tributary MALAD RIVER

Point of Diversion NWNWSE S1 T04N

R17E BLAINE County Source BIG

WOOD RIVER Tributary MALAD RIVER

Use: AESTHETIC STORAGE 01/01 to

12/31 0.3 AF

Total Diversion: 0.3 AF

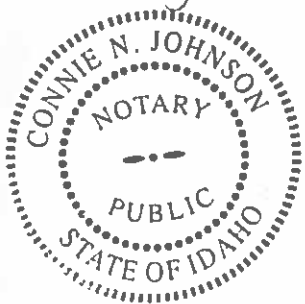
Date Filed: 6/15/2015

Place Of Use: AESTHETIC STORAGE

T04N R17E S1 NWSE

Application for permit seeks to appropriate 0.3 AF from the Big Wood River for aesthetic storage associated with two existing in-stream ponds in a natural side channel on the west side of the Big Wood River located approximately 0.6 miles west and 2.0 miles north of the center of Ketchum.

✓ SK DM
7-17-2015



✓
Extension of Time to Avoid Forfeiture
ROSS SUTTON, PO BOX 3168, HAILEY,
ID 83333 filed five Extensions of Time to
Avoid Forfeiture. The first application is
for Water Right 37-21854, with an 1883
priority from the Big Wood River in the
amount of 0.16 cfs for 10.1 acres. The
second application is for Water Right
37-21871, with an 1884 priority from the
Big Wood River in the amount of 0.01
cfs for 10.1 acres. The third application
is for Water Right 37-21888, with an
1885 priority from the Big Wood River
in the amount of 0.10 cfs for 10.1 acres.
The fourth application is for Water Right
37-21905, with an 1886 priority from the
Big Wood River in the amount of 0.01
cfs for 10.1 acres. The fifth application is
for Water Right 37-21922, with an 1891
priority from the Big Wood River in the
amount of 0.25 cfs for 10.1 acres. All
five water rights were partially decreed
on 9/24/2010. Applicant is currently
not able to divert the water under these
rights for reasons beyond their control,
and is actively pursuing means to rees-
tablish use of these water rights. All
five water rights are appurtenant to 5.0
acres of land located approximately 0.7
miles east and 3.1 miles south of the
city center of Bellevue in the Bellevue
Farms Subdivision. For additional
information, contact Southern Region
at (208) 736-3033, or search under
[www.idwr.idaho.gov/apps/ExtSearch/
WRAJSearch/WRAJSearch.aspx](http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRAJSearch.aspx), for
documents provided under water right
number 37-21854, 37-21871, 37-21888,
37-21905, 37-21922

Permits will be subject to all prior water
rights. For additional information con-
cerning the property location, contact
Southern Region office at (208) 736-3033;
or for a full description of the right(s),
please see [www.idwr.idaho.gov/
WaterManagement/WaterRights/#New
Listings](http://www.idwr.idaho.gov/WaterManagement/WaterRights/#NewListings). Protests may be submitted
based on the criteria of Idaho Code §
42-203A. Any protest against the approv-
al of this application must be filed with
the Director, Dept. of Water Resources,
Southern Region, 650 Addison Ave W, Ste
500, Twin Falls, ID 83301 together with a
protest fee of \$25.00 for each application
on or before July 20, 2015. The protestant
must also send a copy of the protest to the
applicant.

GARY SPACKMAN, Director

PUBLISH
IDAHO MOUNTAIN EXPRESS
JULY 1 & 8, 2015

✓ OK DM 7-17-2015



RECEIVED

JUL 13 2015

DEPT OF WATER RESOURCES
SOUTHERN REGION

IDAHO DEPARTMENT OF FISH AND GAME
MAGIC VALLEY REGION
324 South 417 East, Suite 1
Jerome, Idaho 83338

C.L. "Butch" Otter / Governor
Virgil Moore / Director

July 13, 2015

Allen Merritt, Southern Regional Manager
Idaho Department of Water Resources
650 Addison Avenue West, Suite 500
Twin Falls, ID 83301

RE: Application for Permit No. 37-22958

Dear Mr. Merritt:

Idaho Department of Fish and Game (IDFG) staff has reviewed application 37-22958 from The Barer Family Trust (c/o Stanley H & Alta S Barer, Trustees) for a 0.3 acre-feet aesthetic water right from the Big Wood River in Blaine County. It is our understanding the water right is for an existing in-stream pond on a widened, natural side channel of the Big Wood River. No new diversion will occur as a result of this water right. Evaporative loss related to the pond is already mitigated by an existing water right, 37-8480.

Based on our discussions with Idaho Department of Water Resources staff it appears this application is administrative in nature and does not represent an actual consumptive use change. The application is an attempt to correct an oversight of previous owners. If this is the case, IDFG does not believe there will be additional fish and wildlife habitat effects related to approval of the water right application. If this is not an accurate depiction of the application we would welcome further clarification.

We appreciate the opportunity to provide input. If you have any questions, please contact Mike McDonald, Environmental Staff Biologist, or Doug Megargle, Regional Fish Manager, at this office.

Sincerely,

Toby Boudreau
Magic Valley Regional Supervisor

Cc: Stanley H. & Alta S. Barer (Applicants)
IDFG – Boise (Kiefer/Poole)
Ecc: R4 staff

Keeping Idaho's Wildlife Heritage