

State of Idaho  
Department of Water Resources

## Permit to Appropriate Water

NO. 37-22926

Priority: March 05, 2015

Maximum Diversion Rate: 5.00 CFS

This is to certify, that BLACK CANYON BLISS LLC  
20511 F ST  
RUPERT ID 83350

has applied for a permit to appropriate water from:

**Source:** UNNAMED STREAM

**Tributary:** SNAKE RIVER

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

| <u>BENEFICIAL USE</u> | <u>PERIOD OF USE</u> | <u>RATE OF DIVERSION</u> |
|-----------------------|----------------------|--------------------------|
| POWER                 | 01/01 to 12/31       | 5.00 CFS                 |

**LOCATION OF POINT(S) OF DIVERSION:**

|                |                 |                                 |
|----------------|-----------------|---------------------------------|
| UNNAMED STREAM | L7 (SE1/4NE1/4) | Sec. 18, Twp 06S, Rge 13E, B.M. |
| GOODING County |                 |                                 |

**PLACE OF USE:** POWER

| Twp | Rge | Sec | NE |    |    |    | NW |    |    |    | SW |    |    |    | SE |    |    |    |        |
|-----|-----|-----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|--------|
|     |     |     | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | Totals |
| 06S | 13E | 18  |    |    |    | X  |    |    |    |    |    |    |    |    |    |    |    |    |        |

### CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **October 01, 2020**.
2. Subject to all prior water rights.
3. Proof of application of water to beneficial use shall be submitted no sooner than April 1, 2020 and received no later than the beneficial use due date of 10/1/2020.
4. Power generation is at the Black Canyon Bliss Power Plant.
5. Use of water under this agreement 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. 130.
6. The quantity of water that may be diverted under this right is limited to the flow rate in the source stream, up to 5.0 cfs, below the lower fish raceways authorized under right 37-7216. Diversion of water into the penstock shall not include any flow rate injected into the stream below the lower raceways from any other source without a water right authorizing diversion and injection of flows from that source.
7. 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).

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8. To facilitate determination of the volume of water beneficially used by this project, the right holder shall provide the Department a copy of the characteristic performance curve for the turbine(s) and a copy of the monthly power generation figures during the development period. These items shall be submitted with the required Proof of Beneficial Use statement. Failure to submit these items shall be cause for the Director to reject the Proof of Beneficial Use statement.
9. The rights for the use of water acquired under this right shall be junior and subordinate to all other rights for the use of water, other than hydropower, within the State of Idaho that are initiated later in time than the priority of this right and shall not give rise to any claim against any future rights for the use of water, other than hydropower, within the State of Idaho initiated later in time than the priority of this permit.
10. The Director retains jurisdiction of this right in order to limit the use of water for hydropower generation purposes to a specific term of years as required by Section 42-203B(7), Idaho Code.
11. Any license issued by IDWR pursuant to the right or portion thereof for the use of trust water is subject to a term review 5 years after the date of this approval to determine availability of water for the use and to re-evaluate the public interest at the end of the term.
12. This right does not constitute Idaho Public Utilities Commission or Federal Energy Regulatory Commission approval that may be required.
13. This right is subject to the provisions of Sections 42-205 through 42-210, Idaho Code, restricting the sale, transfer, assignment, or mortgage of this right. Failure to comply with these provisions is cause for immediate cancellation of this right.
14. If it has not been previously provided, the permit holder shall submit a copy of the FERC exemption order and a copy of the effective energy sales/purchase agreement for this project in conjunction with the Proof of Beneficial Use statement.
15. This right does not grant any right-of-way or easement across the land of another.
16. Use of water under this right shall be non-consumptive.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 16<sup>th</sup> day of September, 2015.

  
FOR GARY SPACKMAN, Director

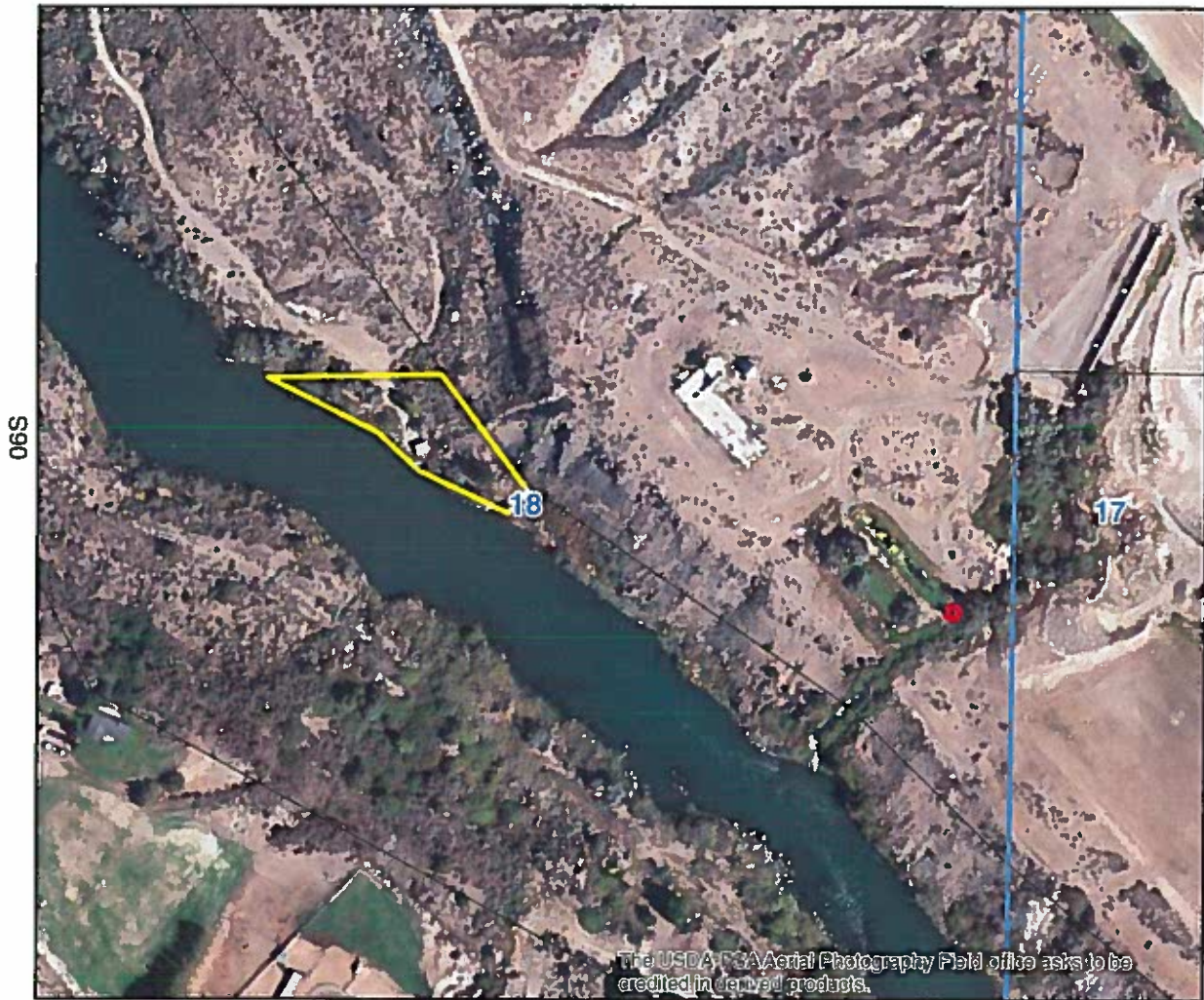
State of Idaho  
Department of Water Resources

# Attachment To Permit to Appropriate Water

37-22926

This map depicts the POWER 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.

13E



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

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](http://www.idwr.idaho.gov)

C.L. "BUTCH" OTTER  
Governor

GARY SPACKMAN  
Director

September 17, 2015

BLACK CANYON BLISS LLC  
20511 F ST  
RUPERT ID 83350

RE: Permit No. 37-22926

**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.

As a permit owner you must commence the excavation or construction of the diverting works within one year of the date the permit was issued, and you must proceed diligently until the project is completed. The date shown under condition no. 1 is the date when the project must be completed.

The Department will send you a 'Proof Due Notice' approximately 60 days prior to the above referenced date requesting you to file either a Proof of Beneficial Use form or a Request for Extension of Time form.

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.

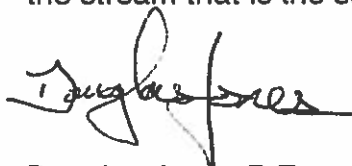
Sincerely,

A handwritten signature in black ink, appearing to read "Allen Merritt". The signature is fluid and cursive, with the first name "Allen" written in a larger, more prominent script than the last name "Merritt".

Allen Merritt  
Southern Region Manager

Enclosure(s)

PS: By way of explanation for the Conditions of Approval: The attached map, dated 9/16/2015, shows the area to establish stream flow measurement as required in Condition #6. Water is not authorized to be diverted from the drainage to the south and injected into the stream that is the subject of this permit. Please also note Conditions #3 and #8.

A handwritten signature in black ink, appearing to read "Douglas Jones". The signature is fluid and cursive, with the first name "Douglas" written in a larger, more prominent script than the last name "Jones".

Douglas Jones P.E.  
Technical Engineer

## **CERTIFICATE OF SERVICE**

I hereby certify that on September 17, 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. 37-22926**

**BLACK CANYON BLISS LLC  
20511 F ST  
RUPERT ID 83350**

**NATHAN ERICKSON WATERMASTER (*Hand-delivered*)  
WATER DISTRICT # 130  
650 ADDISON AVE W, STE 500  
TWIN FALLS ID 83301**

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

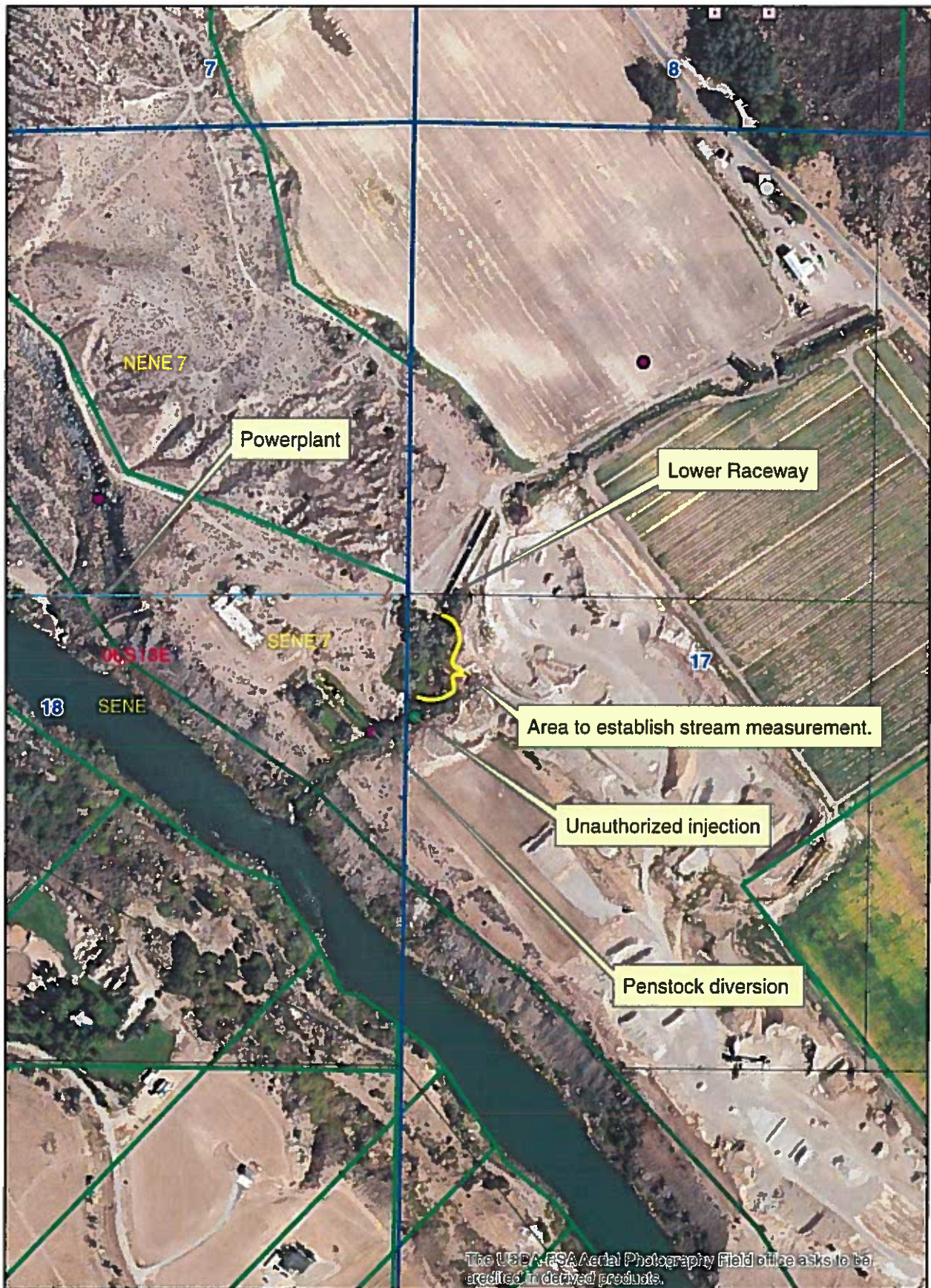
## **APPEAL OF FINAL ORDER TO DISTRICT COURT**

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.

# IDAHO DEPARTMENT OF WATER RESOURCES



Permit 37-22926  
Black Canyon Bliss LLC

*D Jones*  
9/16/2015

State of Idaho  
Department of Water Resources

**RECOMMENDATION OF WATERMASTER**

Application No: Permit  
Water Right No: 37-22926  
Applicant Name: Black Canyon Bliss, LLC

Watermaster's Recommendation:

- a) ☐ I do not oppose approval of this application
- b) ☒ I do not oppose approval of this application under the following terms:

Add a condition to the permit similar to the following:

Water available for use under this permit is limited to the natural flows available in the drainage below the fish hatchery not including any injected flows from other sources.

- c) ☐ I oppose approval of this application(s) for the following reasons:
- d) ☒ Additional comment:

The reason for requesting the above listed condition is to address a concern about water that is piped into the drainage from another source to the southeast (Spring #9). During the permitting process authorization was not given by property owner (Atkinson) at the head of the pipeline for use of this water. There is also no recorded water right for diverting the water for the pipeline and if in the future there is a requirement to no longer allow use of the pipeline this permit will have not granted any use of that water.

**Dated: August 28, 2015**

**Water District 130**

  
Nathan Erickson, Assistant Watermaster

EASTERN SUPERVISORY AREA  
Jerome Field Office  
324 South 417 East, Ste. 2  
Jerome, ID 83338-6206  
Phone (208) 324-2561  
Fax (208) 324-2917  
mlomkin@idl.idaho.gov



STATE BOARD OF LAND COMMISSIONERS  
C. L. "Butch" Otter, Governor  
Lawrence E. Denney, Secretary of State  
Lawrence G. Wasden, Attorney General  
Brandon Woolf, State Controller  
Sherri Ybarra, Sup't of Public Instruction

August 10, 2015

Idaho Department of Water Resources  
650 Addison Ave W., Ste 500  
Twin Falls, ID 83301

RECEIVED

AUG 12 2015

DEPT OF WATER RESOURCES  
SOUTHERN REGION

Subject: Black Canyon Bliss, LLC Disclaimer Application

Dear Idaho Department of Water Resources:

Idaho Department of Lands has received an application and application fee for Disclaimer of Interest from Black Canyon Bliss, LLC for lands adjacent to the Snake River and Government Lots 1 and 2 Section 17 and lands adjacent to the Snake River and Government Lot 7, Section 18, all in Township 6 South, Range 13 East. For your information, I have enclosed a copy of the application.

It will take some time for the applicant and IDL to complete the disclaimer process, but the complete application that they have submitted is the first step. I made a preliminary site inspection in the vicinity of the Black Canyon Bliss, LLC power plant building on July 27, 2015. My preliminary inspection indicated that most, if not all, of the power plant building is located above what the State of Idaho would consider the OHWM. If the building is entirely above the OHWM, the disclaimer process will provide clear title to the property on which the building sits to the adjacent upland land owner (Black Canyon Bliss, LLC).

Black Canyon Bliss, LLC representatives and I have also discussed the potential for authorization from the State of Idaho via submerged land easement or lease if a portion of the building is determined to be below the OHWM. This process would require a separate application from Black Canyon Bliss, LLC but should be a relatively short, straightforward process if it is needed.

Please contact me if you have any questions on the disclaimer process or potential lease/easement process for the site.

Sincerely,

Meribeth Lomkin  
Resource Supervisor – L&W

Encl: Copy Black Canyon Bliss, LLC Disclaimer Application

Cc: Douglas Jones, IDWR, via e-mail [doug.jones@idwr.idaho.gov](mailto:doug.jones@idwr.idaho.gov)  
Bryan Jentzsch, Black Canyon Bliss, LLC, via e-mail [bryan@jfkfarms.com](mailto:bryan@jfkfarms.com)

*"Trusted Stewards of Idaho's Resources, From Main Street to Mountaintop"*



PT. OF LANDS

## GENERAL INFORMATION

## APPLICATION FOR DISCLAIMER OF INTEREST

Disclaimer Number (Bureau use only) \_\_\_\_\_

Project Number (Bureau use only) \_\_\_\_\_

Acquired Easement Number (Bureau use only) \_\_\_\_\_

Acquired Easement Number (Bureau use only) \_\_\_\_\_

The State of Idaho owns the beds and banks of all navigable waters below the Ordinary High Water Mark (OHWM). These sovereign lands were acquired by virtue of the Equal Footing Doctrine and are administered by the Idaho Department of Lands (IDL) for the benefit of the general public in accordance with the Public Trust Doctrine.

If a river or lake has moved through accretion or reliction and the waterbed has become upland, a disclaimer of interest may be granted upon request by the adjacent upland landowner to provide clear title to their land. This means that the state is disclaiming any underlying interest in this portion of former state owned waterbed.

## PROCEDURE

The procedure for acquiring a disclaimer of interest is as follows:

1. Contact the appropriate IDL Supervisory Area Office to determine if the subject property qualifies for issuance of a disclaimer.
2. If the property does qualify, a completed and signed application for Disclaimer of Interest and a \$300 application fee will be required prior to any extensive consultations or surveys. The exact name(s) and address you wish to appear on the disclaimer should be on the form.
3. The subject property will require a legal land survey. An IDL representative will visit the site with the applicant's land surveyor to establish the OHWM. The applicant may also be present.
4. In cases where the present river has moved onto lands outside the General Land Office (GLO) meander lines, the IDL will require the requesting party to disclaim to the State that portion of the present riverbed.
5. The applicant is responsible for coordinating with adjoining land owners who could have a competing claim to the same property. Quit claim deeds from neighbors may be required.
6. IDL will require the applicant to grant a 25-foot public use right-of-way easement along and adjacent to the existing OHWM of rivers. This serves to protect the public trust values associated with rivers and the disclaimed lands by providing river access to the public.
7. The surveyor will submit a record of survey and legal descriptions which show: 1) areas to be disclaimed from the state to the property owner; 2) areas to be disclaimed from the property owner to the state; and 3) the 25-foot public use right of way easement. The record of survey must show the present OHWM, as identified by IDL, in relation to the original GLO meander line. The survey must be tied to at least one, and preferably two, PLSS corner(s).

## APPLICATION

Application For Disclaimer of Interest

February, 2010

Page 1 of 2

When the record of survey has been completed, submit the following documents to the Department of Lands Supervisory Area Office:

- 1) A full size copy of the record of survey and a copy of the legal descriptions. A digital copy of each will also need to be provided, the legal descriptions as an MS Word file, and the record of survey as a PDF file.
- 2) Tax payment history.
- 3) Proof of ownership of the upland property adjacent to the area to be disclaimed. A copy of the property deed is preferable. The applicant must be the legal owner.
- 4) Any additional documentation needed to prove ownership and/or legal authorization to sign the disclaimer application and related documents (e.g. quit claim deeds from neighbors).

This is not to be considered an exhaustive list of all the information the Idaho Department of Lands may require. Additional information may be required as needed on a case by case basis.

The final fee for the disclaimer is the actual cost of the field inspection and preparation of the required documents minus the \$300 application fee, but not less than \$300. The applicant will be billed for the remainder following approval by the State Board of Land Commissioners and before the final documents are issued.

#### APPLICATION INFORMATION

1. NAME: Black Canyon Bliss LLC d/b/a: \_\_\_\_\_
2. ADDRESS: 20511 F ST  
CITY, STATE, ZIP CODE: RUPERT, ID 83350
3. TELEPHONE: 208-431-4254
4. LEGAL DESCRIPTION (Section, Township, and Range) TO THE QUARTER-QUARTER SECTION: Gov LOT 1 and Gov LOT 2, Section 17, T6S, R13E  
Gov LOT 7 Section 18, T6S, R13E
5. RIVER/LAKE: SNAKE RIVER
6. COUNTY(ies): Gooding

I HEREBY REQUEST A DISCLAIMER OF INTEREST FROM THE STATE OF IDAHO AND ACKNOWLEDGE THAT I UNDERSTAND MY OBLIGATIONS DESCRIBED HEREIN, INCLUDING THE GRANTING OF A TWENTY-FIVE (25.00) FOOT WIDE PUBLIC USE ACCESS EASEMENT IF THE DISCLAIMER IS FOR FORMER RIVERBED.

Black Canyon Bliss LLC BY:

APPLICANT(S) SIGNATURE: Bryan Sanford DATE: 8-5-15



Department Of  
Water Resources



**Enter Diversion Data**  
[View Annual Summary](#)  
[Print & Export Data](#)  
[Reset User Preferences](#)  
[Change User Password](#)  
[Log Off](#)

**Year Type:**  
 Irrigation Year ▾

**Year Period:**  
 11/01/2012 - 10/31/2013 ▾

**Water District:**  
 130 Thousand Springs ▾

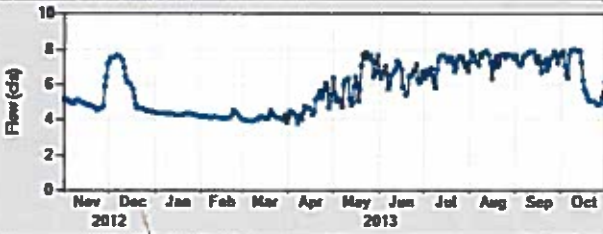
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Publish Date: 7/21/2015  
(Ver. 2.0.0.1)

### Data Entry

☐ Move to next Point of Diversion upon saving

Point of Diversion: 370410258 - D - BLACK CANYON BLISS RIVER RD HATCHERY ▾



**Legend**

- Calculated
- Estimated
- Measured
- Interpolated
- Today's Data

|                      | Diversion Date | Flow (cfs) | Measurement Type | Gage Height | Gage Shift | Evaporation | Precipitation |
|----------------------|----------------|------------|------------------|-------------|------------|-------------|---------------|
| Beginning:           | 10/31/2013     |            | Measured ▾       |             |            |             |               |
| Ending:              |                |            | Measured ▾       |             |            |             |               |
| <a href="#">Save</a> |                |            |                  |             |            |             |               |

|                                             | Diversion Date | Flow (cfs) | Measurement Type | Gage Height | Gage Shift | Evaporation | Precipitation |
|---------------------------------------------|----------------|------------|------------------|-------------|------------|-------------|---------------|
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| <a href="#">Edit</a> <a href="#">Delete</a> | 10/26/2013     | 4.89       | Measured         |             |            |             |               |
| <a href="#">Edit</a> <a href="#">Delete</a> | 10/25/2013     | 5.01       | Measured         |             |            |             |               |
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37-22926



Department Of  
Water Resources



**Enter Diversion Data**  
[View Annual Summary](#)  
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[Change User Password](#)  
[Log Off](#)

**Year Type:**  
 Irrigation Year ▾

**Year Period:**  
 11/01/2013 - 10/31/2014 ▾

**Water District:**  
 130 Thousand Springs ▾

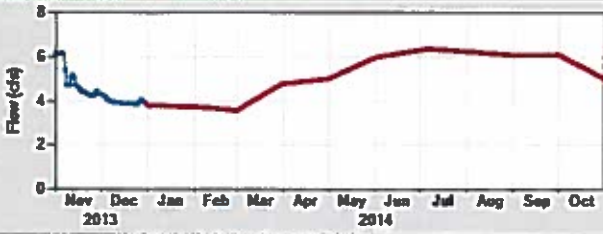
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Publish Date: 7/21/2015  
(Ver. 2.0.0.1)

## Data Entry

☐ Move to next Point of Diversion upon saving

Point of Diversion: 370410258 - D - BLACK CANYON BLISS RIVER RD HATCHERY ▾



**Legend**

- Calculated
- Estimated
- Measured
- Interpolated
- Today's Data

|            | Diversion Date | Flow (cfs) | Measurement Type | Gage Height | Gage Shift | Evaporation | Precipitation                       |
|------------|----------------|------------|------------------|-------------|------------|-------------|-------------------------------------|
| Beginning: | 10/31/2014     |            | --None-- ▾       |             |            |             |                                     |
| Ending:    |                |            | --None-- ▾       |             |            |             | <input type="button" value="Save"/> |

|                                             | Diversion Date | Flow (cfs) | Measurement Type | Gage Height | Gage Shift | Evaporation | Precipitation |
|---------------------------------------------|----------------|------------|------------------|-------------|------------|-------------|---------------|
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| <a href="#">Edit</a> <a href="#">Delete</a> | 10/28/2014     | 5.15       | Interpolated     |             |            |             |               |
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| <a href="#">Edit</a> <a href="#">Delete</a> | 10/25/2014     | 5.26       | Interpolated     |             |            |             |               |
| <a href="#">Edit</a> <a href="#">Delete</a> | 10/24/2014     | 5.30       | Interpolated     |             |            |             |               |
| <a href="#">Edit</a> <a href="#">Delete</a> | 10/23/2014     | 5.33       | Interpolated     |             |            |             |               |



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37-22926

**Jones, Doug**

---

**From:** Jones, Doug  
**Sent:** Wednesday, July 15, 2015 4:13 PM  
**To:** 'Caroline Cortens'  
**Subject:** RE: Black Canyon Bliss (BCB) water right application No. 37-22926  
**Attachments:** BCB-37-22926.pdf

Dear Ms Cortens,

I have located the file and it is pending water master comment which should be complete by the end of the week or early next week. I looked into the file a little further and found that all is in order EXCEPT an adequate response to the request for documentation of the ownership or easement of the land at the power plant along the river. The following is a summary of the circumstances as we (IDWR agent staff) perceive them: See the attached map and deed.

- 1) Land was surveyed and given to the State of Idaho for development under Carey Act process.
  - 2) The survey established Township-Range-Section and Quarter-Quarter tracts except where the survey established the Meander Lines. Those areas of the sections that intersected the meander line were divided into Government Lots, in this case Govt Lot 7. On the map, in the vicinity of Black Canyon Bliss, the part of Sec 18 north of the river, the taxlot line (heavy green line) is coincident to the meander line (thinner black line).
  - 3) The 2006 Assignment of Water Rights deed from Black Canyon Farms Inc to Black Canyon Bliss LLC contains the Exhibit describing the land conveyed and on page 1 of 3 it describes Lot 7 with some exceptions. The area owned by BCB within Lot 7 is 28.1 acres more or less.
  - 4) The area between the meander line and the river is not contained in the deed and therefore is still administered by the State of Idaho Land Board.
  - 5) Statutes and Administrative Rules direct IDWR to confirm authority to develop a water right on the lands of another entity, and not in trespass.
- 
- 6) In response to our earlier request for this information BCB provided a record of survey by Engebritson Land Surveys (Instrument #214778). We do not believe that this survey in itself is sufficient to document the ownership.
  - 7) We ask BCB to provide a real property conveyance, easement or special use permit showing authority to have the development on that land.
  - 8) In many areas along the Snake River meander line adjacent private property owners have successfully petitioned the Idaho Land Board for quit claim. A pending application to them for this relief may be sufficient to allow IDWR to approve the permit. We would entertain other means/documentation to fulfill this request as well.

Thank you for your attention to these matters. Let me know if there any questions.

Douglas Jones

**From:** Caroline Cortens [<mailto:ccortens@maybrowning.com>]  
**Sent:** Friday, July 10, 2015 12:22 PM  
**To:** Jones, Doug  
**Subject:** Black Canyon Bliss water right application No. 37-22926

Dear Mr. Jones,

Regarding the above-referenced application for water permit, the protest period expired on July 6, 2015, and we were wondering if you could give us an indication as to when we might expect approval of the water right.

\*\*\* Proof of Publication \*\*\*

RECEIVED

JUL 02 2015

DEPT OF WATER RESOURCES  
SOUTHERN REGION

Twin Falls Times-News  
132 Fairfield St W, Twin Falls, Idaho 83301

RUBY AUFDERHEIDE, being duly sworn, deposes and says: That she is the Principal Clerk of the Times-News, a daily newspaper printed and published at Twin Falls, Twin Falls County, State of Idaho, and having a general circulation therein, and which said newspaper has been continuously and uninterruptedly published in said County during a period of twelve consecutive months prior to the first publication of the notice, a copy of which is attached hereto: that said notice was published in the Times-News, in conformity with Section 60-108, Idaho Code, as amended, for:

2 Insertions

ID DEPARTMENT OF WATER RESOURCES  
650 ADDISON AVE W, STE 500  
TWIN FALLS, ID 83301

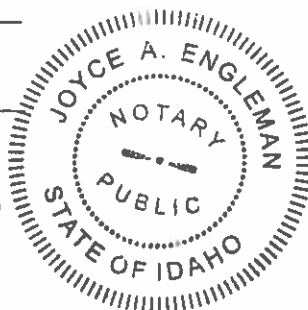
ORDER NUMBER 1982

Ruby Aufderheide  
(Legals Clerk)

STATE OF IDAHO )  
                          SS  
COUNTY OF TWIN FALLS )

On this 25th day of June in the year of 2015 before me, a Notary Public, personally appeared before me Ruby Aufderheide known or identified to me to be the person whose name subscribed to the within instrument, and being by first duly sworn, declared that the statements therein are true, and acknowledged to me that she executed the same.

Joyce A. Engleman  
Notary Public FOR Idaho  
Residing at: Twin Falls, Idaho  
My Commission expires: 6/8/19



PUBLISHED ON: 06/18/2015, 06/25/2015

TOTAL AD COST: 471.69

FILED ON: 6/25/2015

✓ OK DM 7/6/2015

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

1-10631

FAULKNER BROTHERS HYDRO INC 1997 S 1875 E GOODING, ID 83330 Point of Diversion L5(SWNW) S28 T10S R21E JEROME County Source SNAKE RIVER Tributary COLUMBIA RIVER

Use: POWER

04/01 to 10/31 50 CFS

Total Diversion: 50 CFS

Date Filed: 1/12/2015

Place Of Use: POWER

T05S R12E S34 NWNW

Application authorizes existing hydroelectric generating capacity and does not propose increase or modification of existing system of diversion, conveyance or use under terms of present agreements. Published in Times News, Idaho Statesman, Post Register & Lewiston Tribune.

37-22920

FAULKNER BROTHERS HYDRO INC 1997 S 1875 E GOODING, ID 83330

Point of Diversion SESW S22 T05S R14E GOODING County

Source BIG WOOD RIVER Tributary MALAD RIVER

Point of Diversion SWNE S6 T06S R15E GOODING County

Source LITTLE WOOD RIVER Tributary MALAD RIVER

Point of Diversion L5(SWNW) S28 T10S R21E JEROME County

Source SNAKE RIVER Tributary COLUMBIA RIVER

Use: POWER 04/01 to 10/31 50 CFS

Use: POWER 11/01 to 03/31 35 CFS

Total Diversion: 50 CFS

Date Filed: 1/12/2015

Place Of Use: POWER

T05S R12E S34 NWNW

Application authorizes existing hydroelectric generating capacity and does not propose increase or modification of existing system of diversion, conveyance or use under terms of present agreements. Published in Times News, Idaho Statesman, Post Register & Lewiston Tribune.

37-22926

BLACK CANYON BLISS LLC

615 E 300 N RUPERT, ID 83350

Point of Diversion L7(ENE) S18 T06S R13E GOODING County

Source UNNAMED STREAM Tributary SNAKE RIVER

Use: POWER 01/01 to 12/31 5 CFS

Total Diversion: 5 CFS

Date Filed: 3/5/2015

Place Of Use: POWER

T06S R13E S18 L7(NENE) L7(NWNE)

Application is for an existing small power generating facility

✓ 45-14470

**ALBION HERITAGE GROUP LLC**

214 WATER TOWER CIR ALBION, ID 83311

Point of Diversion SWNWNE S12 T12S R24E CASSIA County

Source MARSH CREEK Tributary SNAKE RIVER

Use: DIVERSION TO STORAGE 11/01 to 03/31 2 CFS

Use: GROUND WATER RECHARGE FROM STORAGE 01/01 to 12/31 200 AF

Use: GROUND WATER RECHARGE STORAGE 01/01 to 12/31 200 AF

Total Diversion: 2 CFS

Date Filed: 5/18/2015

Place Of Use: GROUND WATER RECHARGE STORAGE, GROUND WATER RECHARGE FROM STORAGE

T12S R25E S6 L4(NWNW)

Application filed to divert up to 2.0 cfs of water from Marsh Creek from 11/1 to 3/31 at a point located approximately 1.0 mile south and 0.8 mile west of Albion for Groundwater Recharge Storage and Groundwater Recharge from Storage Uses associated with two ponds to be excavated near the northwest edge of Albion.

✓ 47-17637

**JEFF HINES**

1926 TEAL LN BOISE, ID 83706

Point of Diversion SWNWSE S30 T08S R14E TWIN FALLS County Source SALMON FALLS CREEK Tributary SNAKE RIVER

Use: DOMESTIC 01/01 to 12/31 0.12 CFS

Total Diversion: 0.12 CFS

Date Filed: 6/4/2015

Place Of Use: DOMESTIC

T08S R14E S30 NWSE

Application for permit proposes the diversion of 0.12 cfs from Salmon Falls Creek for domestic use to allow for domestic irrigation on three separate parcels to augment current domestic water right 45-7520 which provides each parcel domestic in-house use only. Point of Diversion and place of use are located approximately 2 miles east and 7.8 miles south of the city center of Hagerman.

**NOTICE OF PROPOSED CHANGE OF WATER RIGHT**

**TRANSFER NO. 80092**

✓ **FED AGRIBUSINESS LLC and TUGAW RANCHES LLC, 568**

W 1650 S, OAKLEY, ID 83346, has filed Application No. 80092 for changes to the following water rights within CASSIA, TWIN FALLS County(s): Right No(s): 45-10158, 45-10164, 45-12757, 45-2057, 45-2283, 45-2321, 45-2322, 45-2338, 45-2374, 45-2380, 45-2381, 45-2384, 45-2575, 45-2589, 45-2596, 45-2626, 45-2715, 45-4212, 45-4239, 45-7156, 45-7201, 45-7456. The purpose of the transfer is to change a portion of the above rights as follows: Application proposes changing the authorized point of diversion locations for three ground water irrigation rights that authorize the total diversion of 4.24 cfs from two wells on a farm located approximately 8.5 to 9.0 miles north and 7.0 to 8.0 miles west of Oakley. The transfer will identify three existing wells on a nearby farm located approximately 9.0 to 10.0 miles north and 8.85 to 9.3 miles west of Oakley as authorized points of diversion for the three ground water irrigation rights. The transfer will also change the place of use of 22 rights by creating a 3,101 acre permissible place of use consisting of lands owned by Fed Agribusiness LLC and Tugaw Ranches LLC. In total, the 22 rights will divert up to 44.58 cfs from groundwater, Mountain Meadow Creek, Robber Gulch Creek, and Buckhorn Creek sources for irrigation of up to 3,101 acres.

✓ **NOTICE OF PROPOSED CHANGE OF WATER RIGHT**

**TRANSFER NO. 80116**

✓ **PKD PROPERTIES LC and TLD PROPERTIES LLC, 1404 E 500 N, JACKSON, ID 83350;** has filed Application No. 80116 for changes to the following water rights within CASSIA County(s): Right No(s): 45-7182. The purpose of the transfer is to change a portion of the above rights as follows: Application proposes to change a 317 acre portion of the place of use of a groundwater irrigation right from a farm located approximately 10.0 to 10.5 miles north and 7.5 to 8.5 miles west of Oakley to a farm located approximately 8.5 to 9.0 miles north and 7.0 to 8.0 miles west of Oakley. The application proposes to continue to use an existing well located approximately 8.0 miles north and 8.0 miles west of Oakley and to add another existing well located approximately 8.75 miles north and 7.5 miles west of Oakley to divert up to 6.4 cfs for irrigation use.

✓ **NOTICE OF PROPOSED CHANGE OF WATER RIGHT**

**TRANSFER NO. 80137**

✓ **EVARD LLC, 872 E PEBBLE DR, BURLEY, ID 83318;** has filed Application No. 80137 for changes to the following water rights within CASSIA County(s): Right No(s): 43-13741. The purpose of the transfer is to change a portion of the above rights as follows: Application proposes adding a new well to be drilled as an authorized point of diversion for an irrigation groundwater right appurtenant to a farm located approximately 17.75 to 19.5 miles north and 7.9 to 9.9 miles east of Malta. Three existing irrigation wells and the new well to be drilled (all located on the farm) will be utilized to divert up to 17.02 cfs for the irrigation of 1437.0 acres on the farm. Published in Times News, Idaho Statesman, Post Register & Lewiston Tribune.

Permits will be subject to all prior water rights. For additional information concerning the property locations, contact Southern Region office at (208) 736-3033; or for a full description of the rights &/or proposed transfer, please see [www.idwr.idaho.gov/apps/wr/QueryNewTransfers/QueryNewTransfers.aspx](http://www.idwr.idaho.gov/apps/wr/QueryNewTransfers/QueryNewTransfers.aspx). For additional information on new permits, please see [www.idwr.idaho.gov/WaterManagement/WaterRights/#NewListings](http://www.idwr.idaho.gov/WaterManagement/WaterRights/#NewListings). Protests may be submitted based on the criteria of Sec 42-222 and 42-203A, Idaho Code. Any protest against the approval of this application(s) 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 6, 2015. The protestant must also send a copy of the protest to the applicant. GARY SPACKMAN, Director

Published on June 18th & 25th, 2015

✓ OK DM 7/6/2015

**Jones, Doug**

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**From:** Jones, Doug  
**Sent:** Thursday, April 02, 2015 9:44 AM  
**To:** 'chris.auxilium@gmail.com'; 'davecoats3@gmail.com'  
**Cc:** Yenter, Cindy  
**Subject:** Suggested Application for Permit Amendments  
**Attachments:** amendmentdetails.pdf; map.pdf; idapa40.05..pdf

Dear Chris and Dave at BCB,

First, we appreciate your taking the time to work with Cindy for the early field check on the proposal. The effort you made to reflect the original license on the first edition of the application was excellent, but the higher level of scrutiny these days and the stakes involved have refined our perceptions of the application detail requirements and various permissions required. It may seem a difficult and slow process to iron everything as wrinkle-free as possible, but it is worth it in the end we believe.

Attached are annotated application pages showing what we think are the appropriate edits needed for the Amended Application for Permit to Appropriate Water, and a map showing Cindy's findings. Please fill out a new application with the amendments and all the relevant information. Although the various springs are a significant source of the water in the system it was felt that where you divert and take control of the water is more properly described as the Unnamed Streams. These streams may also collect other water sources or runoffs above your diversions and therefore you wouldn't necessarily be limited to the flows available at the springs. The headgate and injection locations are described.

The description for the power plant location is more challenging. Our office consensus is that the plant is situated outside of Gov't Lot 7 in "unsurveyed" territory. Our experience is that this strip of land is actually deeded to the State of Idaho from the Federal domain at Statehood and is under the auspices of the Dept of Lands.

Our Water Appropriation Rule 37.03.08.40.05 (copy attached) requires applicants for more than 5.0 cfs to provide additional documentation. Please review the information required and provide documentation at your earliest opportunity. I would particularly point out the requirement in section 05.e. regarding leases, easements and rights-of-way with respect to your diversion on Atkinson's and for the power plant.

Please let us know if you have any questions.

Douglas Jones P.E.  
736-3033

