

State of Idaho
Department of Water Resources
Water Right License

WATER RIGHT NO. 37-22838

Priority: August 14, 2013

Maximum Diversion Volume: 0.6 AF

It is hereby certified that 2007 TERENCE J CREIGHTON REVOCABLE TRUST
1177 CALIFORNIA ST #825
SAN FRANCISCO CA 94108 has complied with the terms and
conditions of the permit, issued pursuant to Application for Permit dated August 14, 2013; and has
submitted Proof of Beneficial Use on May 11, 2015. An examination confirms water is diverted from:

SOURCE

BIG WOOD RIVER

Tributary: MALAD RIVER

and a water right has been established as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>ANNUAL DIVERSION VOLUME</u>
AESTHETIC STORAGE	01/01 to 12/31	0.6 AF

LOCATION OF POINT(S) OF DIVERSION:

BIG WOOD RIVER SW1/4SE1/4 Sec. 32, Twp 03N, Rge 18E, B.M., BLAINE County

PLACE OF USE: AESTHETIC STORAGE

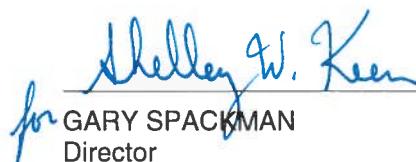
Twp Rge Sec	NE				NW				SW				SE				
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
03N 18E 32															X		

CONDITIONS OF APPROVAL

1. 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.
2. Use of water under this right shall be non-consumptive.
3. The right holder shall maintain a staff gage acceptable to the Department to provide a means to measure the pond level on a constant basis.
4. Right 37-28841 authorizes the diversion of an annual total of 0.3 AF to be used for the replacement of losses caused by evaporation from the pond authorized under this right.
5. 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.
6. This right is for the use of trust water and is subject to review 20 years after the issuance of the permit to determine availability of water and to re-evaluate the public interest.

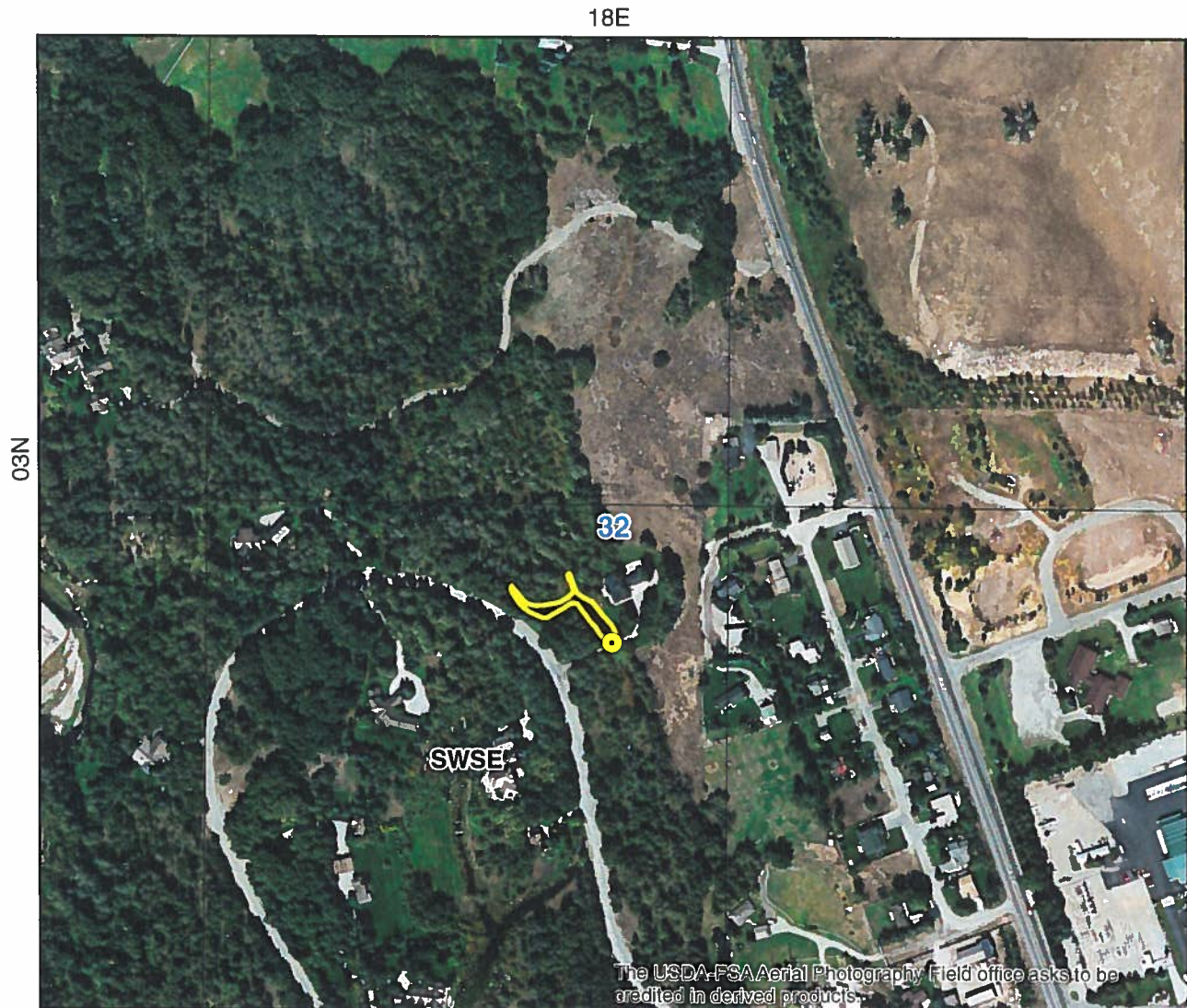
This license is issued pursuant to the provisions of Section 42-219, Idaho Code. The water right confirmed by this license is subject to all prior water rights and shall be used in accordance with Idaho law and applicable rules of the Department of Water Resources.

Signed this 29th day of May, 2015.


for GARY SPACKMAN
Director

State of Idaho
Department of Water Resources
Attachment To Water Right License
37-22838

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.



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

0 0.05 0.1 0.2 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

June 2, 2015

2007 TERENCE J CREIGHTON REVOCABLE TRUST
1177 CALIFORNIA ST #825
SAN FRANCISCO CA 94108

RE: License No. 37-22838

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 June 4, 2015, 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. 37-22838

**2007 TERENCE J CREIGHTON REVOCABLE TRUST
1177 CALIFORNIA ST #825
SAN FRANCISCO CA 94108**

**BROCKWAY ENGINEERING PLLC
C/O ZACH LATHAM
2016 N WASHINGTON ST 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.

MEMORANDUM

TO: Water Right File 37-22838

FROM: Daniel Nelson – Staff Hydrologist

DATE: June 1, 2015

SUBJECT: Licensing Review of Water Right 37-22838

This field exam was performed by Certified Field Examiner Charles G. Brockway of Brockway Engineering. In the field report, Mr. Brockway determined that this permit should be licensed for 0.6 af for aesthetic storage. Below is a review of the field examination report supplied by Brockway:

Consumptive Use:

The consumptive use and mitigation for the consumptive use for this pond is covered under water right 37-22841. This was accomplished through water right transfer 78777. The transfer evaluation memo clearly describes the consumptive use for this pond, and the source description. This permit was filed to cover only the one time fill or the capacity of the pond. The field examiner recommends the same pond capacity as what was permitted. Therefore, there is no need to address the seepage and evaporation losses for this pond.

Source:

The source for this permit is the Big Wood River. The pond is on a channel known locally as Purdum Slough, which has been designated by the Department as being the Big Wood River.

Diversion Rate:

This is an on-stream pond, so no diversion rate is necessary.

Volume:

The volume for this pond was calculated using an actual measurement of the depth and a surface area determined by 2011 aerial photos. I was able to repeat the determination of the surface area using the 2013 aerial photography, so I feel the pond capacity of 0.6 af is reasonable.

Overlap:

This permit is overlapped by water right 37-22841 which is used for mitigation and irrigation of the yard area around the home. Water right 37-22841 does pump water from the pond for irrigation purposes. However, there shouldn't be any combined limitation, since the two uses are additive.

Permit 37-22876 owned by Flying Heart Ranch II Subdivision Owners Association was filed to divert ground water to maintain a flows in the channel where the pond for this permit is located. This permit would also be additive to this permit. This permit would be require the amount diverted into the channel to released from the pond, but these flows are also additive to this permit, and shouldn't require any combined limitations. They are also from different sources of water.

Water right 37-8658 also appears to be an overlap, but review of the file reveals it belongs to the lots inside the horseshoe on the other side of the road.

Conditions:

Conditions 027, 219, and R05 were carried over from the permit to the license. Condition 18C was changed to R43, since the requirement to measure the water flowing into the pond was waived. The only measurement that is required is at the headgate on the dam releasing the water out of the pond. Condition 222 was modified to require the permit holder to maintain the staff gauge that has been installed in the reservoir. Condition 051 was changed to R55 as required.