

State of Idaho
Department of Water Resources
Water Right License

WATER RIGHT NO. 37-07891/01-7086

Priority: March 23, 1981

Maximum Diversion Rate: 54.00 CFS
Maximum Diversion Volume: 22,520.0 AF

It is hereby certified that FAULKNER BROTHERS HYDRO
1997 S 1875 E
GOODING ID 83330 has complied with the terms and conditions of the
permit, issued pursuant to Application for Permit dated May 6, 1985; and has submitted Proof of
Beneficial Use on March 28, 1990. An examination confirms water is diverted from:

SOURCE

BIG WOOD RIVER
SNAKE RIVER

Tributary: MALAD RIVER
COLUMBIA RIVER

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>
POWER	11/01 to 03/31	10.00 CFS	2,120.0 AF
POWER	04/01 to 10/31	54.00 CFS	20,400.0 AF

LOCATION OF POINT(S) OF DIVERSION:

SNAKE RIVER L5 (SW1/4NW1/4) Sec. 28, Twp 10S, Rge 21E, B.M.
BIG WOOD RIVER SE1/4SW1/4 Sec. 22, Twp 05S, Rge 14E, B.M.

JEROME County
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
05S 12E 34						X											

CONDITIONS OF APPROVAL

1. This right does not convey any authority to require or demand the diversion of water into the North Side Canal, Milner Gooding Canal, PA Lateral or the Y Canal and only authorizes an additional use of water which has been diverted into those canals under other existing water rights.
2. The rights for the use of water confirmed in this license shall be junior and subordinate to all 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 right or 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 right.

SUPPORT DATA

IN FILE # 37-7891

SCANNED
DEC 24 2014

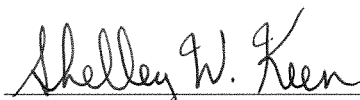
State of Idaho
Department of Water Resources
Water Right License

WATER RIGHT NO. 37-07891/01-7086

3. This right does not constitute Idaho Public Utilities Commission or Federal Energy Regulatory Commission approval that may be required.
4. The term of this water right license shall run concurrently with energy sales agreement Case Number U-1006-286, Order Number 20986 approved by the Idaho Public Utilities Commission, which expires on December 11, 2021. Prior to the expiration of the term, the Director may issue an order canceling all or any part of the use authorized herein, may establish a new term, or may revise, delete, or add conditions under which the water right license may be exercised. The order shall take effect on the date the current term expires. If the Director does not issue such an order, the term shall automatically extend to a length equal to the prior term and any prior conditions on the water right license shall remain in effect.
5. 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 Nos. 37 and 01.
6. 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).
7. This right is subject to the agreement dated August 20, 1984 between the right holder and protestant(s) to the extent such agreement covers matters within the jurisdiction of the Idaho Department of Water Resources.
8. This right does not grant any right-of-way or easement across the land of another.
9. Use of water under this right shall be non-consumptive.
10. Right 37-7891 is also recorded as Right 01-7086 to identify the diversion from the Snake River. These duplicate rights represent a single use of water as described on either right.

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 22nd day of December, 2014.


for GARY SPACKMAN
Director



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

December 22, 2014

FAULKNER BROTHERS HYDRO
1997 S 1875 E
GOODING ID 83330

RE: License No. 37-7891/01-7086

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. Also enclosed is a copy of the approved application for amendment.

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: WATER DISTRICT NOS. 37 & 01

CERTIFICATE OF SERVICE

I hereby certify that on December 23, 2014, 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. 37-7891/01-7086

FAULKNER BROTHERS HYDRO
1997 S 1875 E
GOODING ID 83330

WATER DISTRICT NO. 01
C/O WATERMASTER LYLE SWANK
900 N SKYLINE DR STE A
IDAHO FALLS ID 83402

WATER DISTRICT NO. 37
C/O WATERMASTER KEVIN D LAKEY
107 W 1ST
SHOSHONE ID 83352

A handwritten signature in cursive script, reading "Darla Block", written over a horizontal line.

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.

State of Idaho
Department of Water Resources
APPLICATION FOR AMENDMENT
(For Licensing Purposes)
WATER RIGHT NO. 37-07891/01-7086

RECEIVED**MAY 12 2011****DEPARTMENT OF
WATER RESOURCES****Date of Priority:** March 23, 1981

Maximum Diversion Rate: 54.00 CFS
Maximum Diversion Volume: 22,520.0 AF

Comes now FAULKNER BROTHERS HYDRO
1997 S 1875 E

GOODING ID 83330 and represents to the Director of the Idaho Department of Water Resources that he is the owner and holder of Permit to Appropriate the Public Waters of the State of Idaho No. 37-07891/01-7086, and requests that the permit be changed as follows:

Source: BIG WOOD RIVER
SNAKE RIVER

Tributary: MALAD RIVER
COLUMBIA RIVER

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
POWER	11/01 to 03/31	10.00 CFS	2,120.0 AF
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LOCATION OF POINT(S) OF DIVERSION:

SNAKE RIVER L5 (SW1/4NW1/4) Sec. 28, Twp 10S, Rge 21E, B.M.

JEROME County

BIG WOOD RIVER SE1/4SW1/4 Sec. 22, Twp 05S, Rge 14E, B.M.

GOODING County

PLACE OF USE: POWER

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
05S 12E 34						X											

Permit holder asserts that no one will be injured by such change and that such change will be made at permit holder's own risk. Signed this 10th day of MAY, 2011.


(Signature)

State of Idaho
Department of Water Resources
APPLICATION FOR AMENDMENT
(For Licensing Purposes)
WATER RIGHT NO. 37-07891/01-7086

FOR DEPARTMENT USE ONLY
Preliminary check by [Signature] Fee = \$ 50 Received by SRF # C093054 Date 5/12/2011

ACTION OF THE DEPARTMENT OF WATER RESOURCES

I, GARY SPACKMAN, of the Department of Water Resources hereby approve the above Application for Amendment for Permit No. 37-07891 with the following:

CONDITIONS OF APPROVAL

1. This right does not convey any authority to require or demand the diversion of water into the North Side Canal, Milner Gooding Canal, PA Lateral or the Y Canal and only authorizes an additional use of water which has been diverted into those canals under other existing water rights.
2. The rights for the use of water confirmed in this license shall be junior and subordinate to all 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 right or 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 right.
3. This right does not constitute Idaho Public Utilities Commission or Federal Energy Regulatory Commission approval that may be required.
4. The term of this water right license shall run concurrently with energy sales agreement Case Number U-1006-286, Order Number 20986 approved by the Idaho Public Utilities Commission, which expires on December 11, 2021. Prior to the expiration of the term, the Director may issue an order canceling all or any part of the use authorized herein, may establish a new term, or may revise, delete, or add conditions under which the water right license may be exercised. The order shall take effect on the date the current term expires. If the Director does not issue such an order, the term shall automatically extend to a length equal to the prior term and any prior conditions on the water right license shall remain in effect.
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6. 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).
7. This right is subject to the agreement dated August 20, 1984 between the right holder and protestant(s) to the extent such agreement covers matters within the jurisdiction of the Idaho Department of Water Resources.
8. This right does not grant any right-of-way or easement across the land of another.

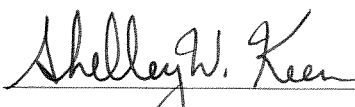
State of Idaho
Department of Water Resources
APPLICATION FOR AMENDMENT

(For Licensing Purposes)

WATER RIGHT NO. 37-07891/01-7086

9. Use of water under this right shall be non-consumptive.
10. Right 37-7891 is also recorded as Right 01-7086 to identify the diversion from the Snake River. These duplicate rights represent a single use of water as described on either right.

Witness my hand this 22nd day of December, 2014.


for GARY SPACKMAN
Director