

State of Idaho
Department of Water Resources
Water Right License

WATER RIGHT NO. 67-7952

Priority: January 27, 1994

Maximum Diversion Rate: 0.01 CFS

It is hereby certified that JERROLD D PIPER
2575 BATTERSHELL LN
PO BOX 203
MIDVALE ID 83645 has complied with the terms and conditions of the
permit, issued pursuant to Application for Permit dated January 27, 1994; and has submitted Proof of
Beneficial Use on April 21, 1994. An examination confirms water is diverted from:

SOURCE

SPRING

Tributary: DEEP CREEK

and a water right has been established as follows:

BENEFICIAL USE

STOCKWATER

PERIOD OF USE

01/01 to 12/31

DIVERSION RATE

0.01 CFS

LOCATION OF POINT OF DIVERSION:

SPRING NE1/4SW1/4NE1/4 Sec. 5, Twp 12N, Rge 03W, B.M., WASHINGTON County

PLACE OF USE: STOCKWATER

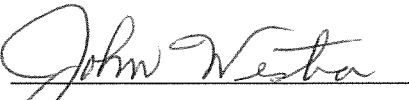
Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
12N	03W	5				X													

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. 67.

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 15th day of September, 2014.


JOHN WESTRA
Western Regional Manager

RECEIVED

SEP 02 2014

WATER RESOURCES
WESTERN REGION

State of Idaho
Department of Water Resources
APPLICATION FOR AMENDMENT

(For Licensing Purposes)

WATER RIGHT NO. 67-7952

Date of Priority: January 27, 1994

Maximum Diversion Rate: 0.01 CFS

Comes now JERROLD D PIPER

~~2288 STEPHEN AVE~~

midvale

BOISE ID 83706

P.O. Box 203 / 2575 Battershell LN
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. 67-7952, and requests that the permit be changed as follows:

Source: SPRING

Tributary: DEEP CREEK

BENEFICIAL USE

PERIOD OF USE

RATE OF DIVERSION

STOCKWATER

01/01 to 12/31

0.01 CFS

LOCATION OF POINT OF DIVERSION:

SPRING NE1/4SW1/4NE1/4 Sec. 5, Twp 12N, Rge 03W, B.M., WASHINGTON County

PLACE OF USE: STOCKWATER

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
12N	03W	5			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 28th day of August, 2014.


(Signature)

State of Idaho
Department of Water Resources
APPLICATION FOR AMENDMENT
(For Licensing Purposes)
WATER RIGHT NO. 67-7952

FOR DEPARTMENT USE ONLY

Preliminary check by JCW Fee = 100.00 Received by BB # W042487 Date 9/2/14

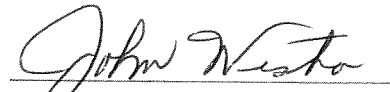
ACTION OF THE DEPARTMENT OF WATER RESOURCES

I, JOHN WESTRA, of the Department of Water Resources hereby approve the
above Application for Amendment for Permit No. 67-7952 with the following:

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. 67.

Witness my hand this 15th day of September, 2014.


JOHN WESTRA
Western Regional Manager



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way • Boise, Idaho 83705-5082

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

September 16, 2014

JERROLD D PIPER
2575 BATTERSHELL LN
PO BOX 203
MIDVALE ID 83645

RE: License No. 67-7952

Issuance of License

Dear Water Right Holder:

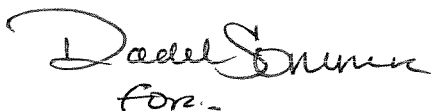
The Department of Water Resources has issued the enclosed Water Right License confirming that a water right has been established in accordance with your permit. Please be sure to thoroughly review the conditions of approval and remarks listed on your license.

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)334-2190.

Sincerely,



for.

John Westra
Western Regional Manager

Enclosures

CERTIFICATE OF SERVICE

I hereby certify that on September 16, 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.

67-7952

**JERROLD D PIPER
2575 BATTERSHELL LN
PO BOX 203
MIDVALE ID 83645**

**BRANDI S HORTON
WATER MASTER
2297 SNAPP LN
MIDVALE ID 83645**

A handwritten signature in black ink, reading "Rachel Sommer", is written over a horizontal line.

**Rachel Sommer
Administrative Assistant I**

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.

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF LICENSE)
NO. 67-7952 IN THE NAME)
OF JERROLD D. PIPER)
_____)

**ORDER GRANTING PETITION
FOR RECONSIDERATION**

This matter having come before the Department of Water Resources (Department) as a petition to reconsider the issuance of a water right license, the Department makes the following Findings of Fact, Conclusions of Law, and Order:

FINDINGS OF FACT

1. On March 21, 1994, the Department of Water Resources issued Permit No. 67-7952 (permit) to F. Paul Sutton (permit holder) authorizing appropriation of 0.01 cubic feet per second from a spring tributary to Deep Creek, to be used for stockwater purposes within the NW¼SE¼, Sec. 5, Township 12 North, Range 3 West, B.M., Washington County.
2. On April 21, 1994, the Department received Proof of Beneficial Use for the permit.
3. On November 9, 1994, the Department received an Assignment of Permit to Jerrold D. Piper.
4. On May 5, 1994, the Department conducted a field examination and found that the permit holder had developed the spring at a different legal description than authorized by the permit.
5. On May 6, 2014, the Department sent notice to the permit holder stating that the permit had to be amended before the Department can issue a water right license including the point of diversion developed at a different legal description than authorized by the permit. An Application for Amendment form was enclosed with the notice.
6. On May 30, 2014, the Department sent a second notice to the permit holder stating that the permit has to be amended before the Department can issue a water right license.
7. The Department did not receive the Application for Amendment of the permit by August 1, 2014.
8. Idaho Code § 42-219(8) provides in pertinent part as follows:

In the event that the Department shall find that the applicant has not fully complied with the law and the conditions of the permit, it may issue a

license for that portion of use which is in accordance with the permit, or may refuse issuance of a license and void the permit.

9. On August 8, 2014, the Department mailed the right holder a preliminary order (order) voiding Permit No. 67-7952 in the name of the right holder.
10. On August 18, 2014, the permit holder contacted the Department by telephone and e-mail requesting reconsideration of the preliminary order.
11. On September 2, 2014, the right holder submitted the filing fee and the Amendment of Permit with the Department.

CONCLUSIONS OF LAW

1. Section 67-5243(3) , *Idaho Code*, provides in pertinent part as follows:

Unless otherwise provided by statute or rule, any party may file a motion for reconsideration of a recommended order or a preliminary order within fourteen (14) days of the issuance of that order. The presiding officer shall render a written order disposing of the petition.

2. The petition was requested with fourteen days of the service date of the order.
3. The Department should conditionally grant the petition for reconsideration of the order pursuant to Section 67-5243(3), *Idaho Code*, to give the right holder an opportunity to submit the Application for Amendment of the permit.

ORDER

IT IS HEREBY ORDERED that the petition is **GRANTED** pursuant to Section 67-5243(3), *Idaho Code*, to allow the right holder to submit the Application for Amendment of the permit and cause the Department to issue a License of Right 67-7952 that contains the point of diversion identified by the field examiner.

Dated this 15th day of September, 2014.



John Westra
Western Regional Manager



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way • Boise, Idaho 83705-5082

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

September 16, 2014

JEROLD D PIPER
2575 BATTERSHELL LN
PO BOX 203
MIDVALE ID 83645

**RE: Order Granting Petition for Reconsideration
Application for Permit No. 67-7952**

Dear Applicant:

The accompanying order is an "**Order Granting Petition for Reconsideration**" 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 unless a party petitions for reconsideration within fourteen (14) days after issuance as described in the enclosed yellow information sheet.

If you have any questions regarding this matter, please call me at 208-334-2190.

Sincerely,

John Westra, Manager
Western Regional Office

Enclosures

CERTIFICATE OF SERVICE

I hereby certify that on September 16, 2014 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (Granting Petition for Reconsideration) to the person(s) listed below:

RE: WATER RIGHT NO. 67-7952

**JERROLD D PIPER
2575 BATTERSHELL LN
PO BOX 203
MIDVALE ID 83645**

A handwritten signature in cursive script, reading "Rachel Sommer", is positioned above a horizontal line.

**Rachel Sommer
Administrative Assistant I**

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)

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