

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 37-22779

Priority: August 29, 2012

Maximum Diversion Rate: 0.26 CFS

This is to certify, that ROBERT G STEVENS
PO BOX 308
KETCHUM ID 83340

And/Or

CAROL F STEVENS
PO BOX 308
KETCHUM ID 83340

has applied for a permit to appropriate water from:

Source: GROUND WATER

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>
IRRIGATION	04/15 to 10/31	0.26 CFS

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER NW1/4NE1/4 Sec. 23, Twp 05N, Rge 17E, B.M.
BLAINE County

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals	
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
05N 17E 14																	12.9	12.9

Total Acres: 12.9

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **August 01, 2016**.
2. Subject to all prior water rights.
3. Rights 37-22779 and 37-21427 when combined shall not exceed a total diversion rate of 0.26 cfs, a total annual maximum diversion volume of 38.7 af at the field headgate, and the irrigation of 12.9 acres.

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 37-22779

4. To mitigate for the depletion of water resulting from the use of water under Right 37-22779 and to prevent injury to senior water right holders, Eagle Creek Irrigation Company shall cease diverting and using for irrigation purpose a proportionate share of water based on the 14 shares in the company, owned by the right holder of Right 37-22779, relative to the current operating shares. At the time of the issuance of this permit, Eagle Creek Irrigation Company diverts 4.56 cfs, as authorized under Right 37-863E, and has 186.9 operating shares. Based on the 14 shares owned by the right holder of Right 37-22779 and the current operating shares (186.9), the total flow to be dedicated to mitigation purposes is 0.34 cfs. To prevent injury to other water right holders within the Eagle Creek Irrigation System, the Watermaster or ditch rider shall deliver 0.08 cfs of the mitigation portion of Right 37-863E into the High Ditch of the Eagle Creek Irrigation Company, where it shall remain undiverted but provide for conveyance loss in the canal. The remainder of the mitigation flow (0.26 cfs) shall remain in the channel of Eagle Creek and be delivered past the last diversion of the Eagle Creek Irrigation Company on Eagle Creek to mitigate any injury caused by the pumping of Right 37-22779 on right holders in the Big Wood River.
5. If the specified mitigation right, or portion thereof, is sold, transferred, leased, used on any place of use, or is not deliverable due to a shortage of water or a priority call, then the amount of water authorized for diversion under Right 37-22779 approval shall be reduced by the same proportion as the reduction to the mitigation right.
6. The land that will no longer be irrigated (12.9 acres) under the portion of Right 37-863E being dedicated to mitigation is located within the SW1/4SE1/4, Section 14, Township 05N, Range 17E, B.M. which is the same land to be irrigated under Right 37-22779.
7. 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. Use of water shall also be regulated by Eagle Creek Irrigation Company. Regulation of this right shall be coordinated between State Water District No. 37 and the Eagle Creek Irrigation Company.
8. Prior to diversion of water under this right, the right holder shall install a lockable control works and measuring devices, subject to the approval of the Department, in a manner that will provide the watermaster and/or ditch rider suitable control of the diversions. Control works and measuring devices shall be installed and maintained on the well, on the High Ditch and on the outflow of the Eagle Creek System being directed to the Big Wood River.
9. When notified by the Department or by a watermaster with regulatory authority over this right, the right holder shall report the amount of water diverted in connection with this right. The report shall be submitted in the manner and frequency specified by the Department or the watermaster.
10. Noncompliance with any condition of this right, including the requirement for mitigation, is cause for the director to issue a notice of violation, cancel or revoke the right, or, if the right is included in a water district, request that the watermaster curtail diversion and use of water.
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 of 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.

State of Idaho
Department of Water Resources
Permit to Appropriate Water

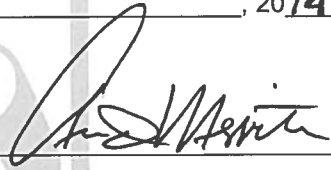
NO. 37-22779

12. To implement the mitigation requirement of this right, the official record of Right 37-863E has been changed to show that diversion and use of water is not authorized because a portion thereof (0.34 cfs and 12.9 acres of irrigation), is being dedicated to mitigation purposes for the diversion of water under Right 37-22779. The land that will no longer be irrigated (12.9 acres) under Right 37-863E being dedicated to mitigation is located within the SW1/4SE1/4, Section 14, Township 05N, Range 17E, B.M. In addition, the following condition has been added to Right 37-863E:

To mitigate for the depletion of water resulting from the use of Right 37-22779 and to prevent injury to senior water right holders, Eagle Creek Irrigation Company shall cease diverting and using for irrigation purpose a proportionate share of water based on the 14 shares in the company, owned by the right holder of Right 37-22779, relative to the current operating shares. At the time of the issuance of Right 37-22779, Eagle Creek Irrigation Company diverts 4.56 cfs, as authorized under Right 37-863E, and has 186.9 operating shares. To prevent injury to other water right holders within the Eagle Creek Irrigation System, the Watermaster or ditch rider shall deliver 0.08 cfs for mitigation purpose of Right 37-863E into the High Ditch of the Eagle Creek Irrigation Company, where it shall remain undiverted but provide for conveyance loss in the canal. The remainder of the flow dedicated for mitigation purpose (0.26 cfs) shall remain in the channel of Eagle Creek and be delivered past the last diversion of Eagle Creek Irrigation Company on Eagle Creek to mitigate any injury caused by the pumping of Right 37-22779 on right holders in the Big Wood River.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 14th day of July, 2014.

FOR

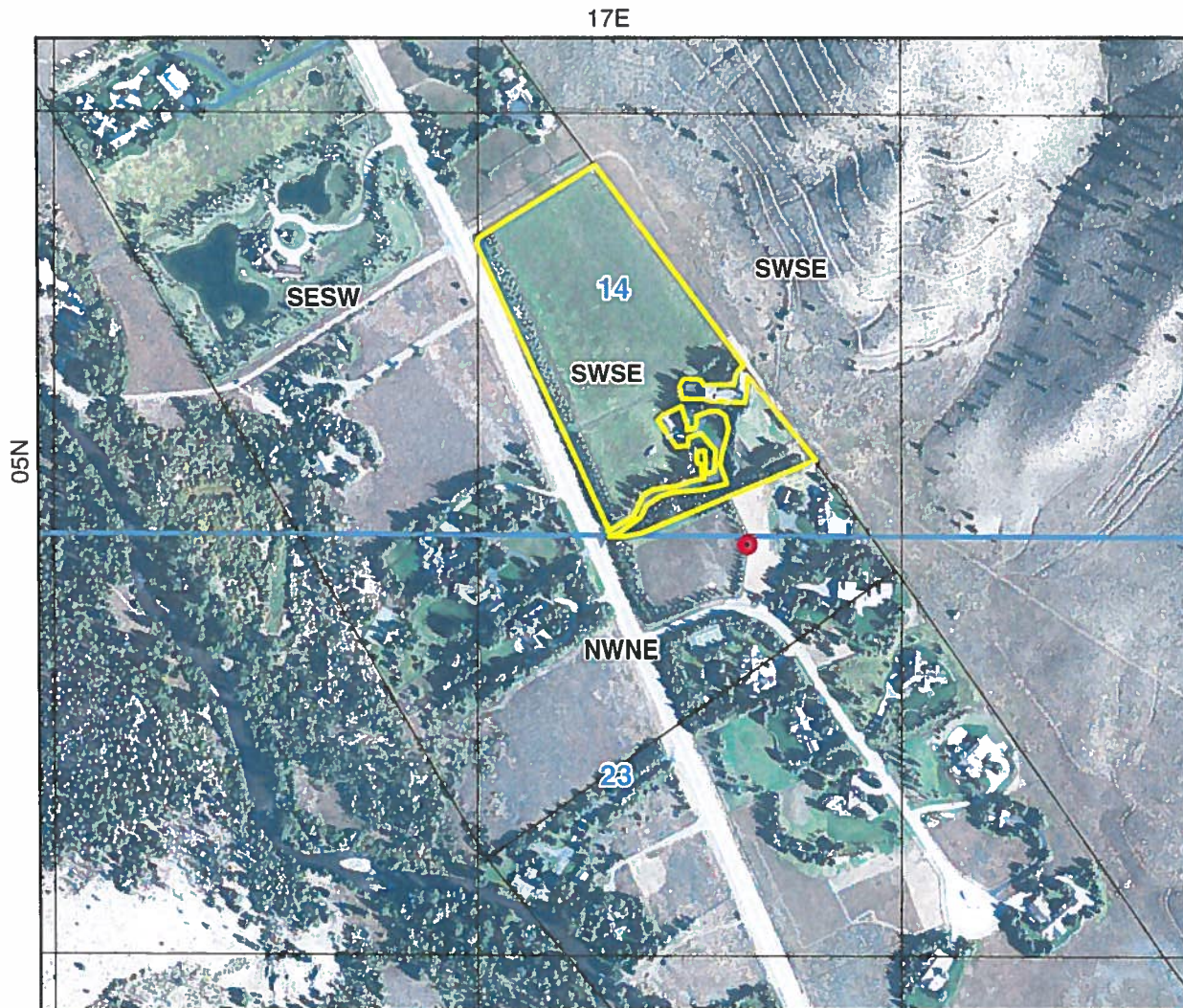

GARY SPACKMAN, Director

State of Idaho
Department of Water Resources

Attachment To Permit to Appropriate Water

37-22779

This map depicts the IRRIGATION 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

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

July 15, 2014

ROBERT G STEVENS
CAROL F STEVENS
PO BOX 308
KETCHUM ID 83340

RE: Permit No. 37-22779

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. Also, water right no. 37-863E has been modified accordingly, to reflect the mitigation plan. A copy is enclosed for your records.

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.

The right to drill a well is not a part of this permit to appropriate water. Beginning in July of 1987, a statute was enacted which requires a drilling permit for new well construction and deepening of existing wells. If the well(s) proposed for use under this water right permit were drilled or deepened after July 1, 1987, a separate drilling permit must be obtained from this Department. Please contact the Ground Water Protection Section located here at this office or our regional office nearest you.

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 a large initial "A" and "M".

Allen Merritt
Southern Region Manager

Enclosure(s)

cc: BROCKWAY ENGINEERING PLLC
KEVIN LAKEY, WATERMASTER
EAGLE CREEK IRRIGATION CO

CERTIFICATE OF SERVICE

I hereby certify that on July 15, 2014 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (Approved Permit) to the person(s) listed below:

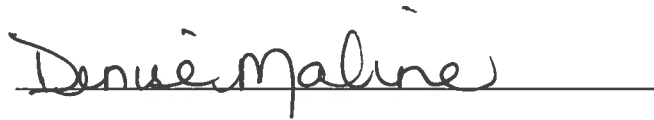
RE: WATER RIGHT NO. 37-22779

**ROBERT G STEVENS
CAROL F STEVENS
PO BOX 308
KETCHUM ID 83340**

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

**KEVIN LAKEY
WATER DISTRICT 37
107 W 1ST
SHOSHONE ID 83352**

**EAGLE CREEK IRRIGATION CO
C/O EVERETT DAVIS
PO BOX 1965
SUN VALLEY ID 83353**

A handwritten signature in black ink, 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.

7/14/2014

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right 37-863E

7/14/2014

- the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.
2. 135 The boundary encompassing the place of use for this water right is described with a digital boundary as defined by I.C. Section 42-202B(2) and authorized pursuant to I.C. Section 42-1411(2)(h). The data comprising the digital boundary are incorporated herein by reference and are stored on a CD-ROM disk issued in duplicate originals on file with the SRBA District Court and the Idaho Department of Water Resources. A map depicting the place of use is attached hereto to illustrate the place of use described by the digital boundary.
3. 188 This right is limited to the irrigation of 131 acres within the boundary of the Eagle Creek Irrigation Company which is comprised of portions of HES 129 and HES 329.
4. U42 Place of use does not include federal public lands.
5. To implement the mitigation requirement of Right 37-22779, the official record of Right 37-863E has been changed to show that diversion and use of water is not authorized because a portion thereof (0.34 cfs and 12.9 acres of irrigation), is being dedicated to mitigation purposes for the diversion of water under Right 37-22779. The land that will no longer be irrigated (12.9 acres) under Right 37-863E being dedicated to mitigation is located within the SW1/4SE1/4, Section 14, Township 05N, Range 17E, B.M.

To mitigate for the depletion of water resulting from the use of Right 37-22779 and to prevent injury to senior water right holders, Eagle Creek Irrigation Company shall cease diverting and using for irrigation purpose a proportionate share of water based on the 14 shares in the company, owned by the right holder of Right 37-22779, relative to the current operating shares. At the time of the issuance of Right 37-22779, Eagle Creek Irrigation Company diverts 4.56 cfs, as authorized under Right 37-863E, and has 186.9 operating shares. To prevent injury to other water right holders within the Eagle Creek Irrigation System, the Watermaster or ditch rider shall deliver 0.08 cfs for mitigation purpose of Right 37-863E into the High Ditch of the Eagle Creek Irrigation Company, where it shall remain undiverted but provide for conveyance loss in the canal. The remainder of the flow dedicated for mitigation purpose (0.26 cfs) shall remain in the channel of Eagle Creek and be delivered past the last diversion of Eagle Creek Irrigation Company on Eagle Creek to mitigate any injury caused by the pumping of Right 37-22779 on right holders in the Big Wood River.

Comments:

1. cfrisch 4/15/2011 Large POU Updated
The digital boundary for the service area was updated to resolve the objection.
2. chahn 5/19/2011 SF5
Updated Per SF5-removed per oral agreement of the record on 4-20-2011
3. ameritt 7/14/2014 Mitigation
Converted 12.9 acres irrigation to mitigation pursuant to right 37-22779 approval.
Also updated PLS of POU for irrigation due to GCDB shift.
4. ameritt 7/14/2014 POU
Updated Shape
5. ameritt 7/14/2014 POU
Updated PLS

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right 37-863E

7/14/2014

Dates and Other Information

Decreed Date: 7/29/2011
Civil Case Number: 39576
Judicial District: FIFTH
Owner Name Connector: And/Or
Mitigation Plan: False

Combined Use Limits

N/A

Element Reviewed/Verified Dates:

<u>Element</u>	<u>Last Reviewed Date</u>	<u>Reviewer</u>	<u>Last Verified Date</u>	<u>Verifier</u>	<u>Status</u>
Summary	8/27/2009	djones	8/27/2009	djones	Closed
POU	8/27/2009	djones			Closed
POU	9/29/2009	djones			Closed
Summary	9/29/2009	djones	9/29/2009	djones	Closed

Verification Log

<u>Element</u>	<u>Date</u>	<u>User</u>	<u>Log Text</u>
POD	8/27/2009	djones	Updated Shape
POU	8/27/2009	djones	Updated Shape
Summary	8/27/2009	djones	(Yes) 1. Is the basis of this claim a Decree, License, Permit, Application or Posted Notice? (Yes) 2. Does any evidence indicate a five year period of continuous nonuse occurred that could result in recommending forfeiture or partial forfeiture? (Yes) 4. Is any portion of the claim be recommended? (No) 5. Does this right have any combined use limits with other rights? (No) 6. Is an additional remark and/or condition required? (Yes) 7. Would you like to view the recommended right? (No) 8. Is this a split or combined right? (No) 9. Do you have documents you would like to attach or link to the file? (Yes) 10. Would you like to set the verification date?
POU	8/27/2009	djones	(Yes) 1. Is the basis of this claim a Decree or License? (No) 2a. Is the POU required?
POU	9/29/2009	djones	Updated PLS
POU	9/29/2009	djones	Updated Shape
POU	9/29/2009	djones	(Yes) 1. Is the basis of this claim a Decree or License? (No) 2a. Is the POU required?
Summary	9/29/2009	djones	(Yes) 1. Is the basis of this claim a Decree, License, Permit, Application or Posted Notice? (No) 2. Does any evidence indicate a five year period of continuous nonuse occurred that could result in recommending forfeiture or partial forfeiture? (No) 5. Does this right have any combined use limits with other rights? (No) 6. Is an additional remark and/or condition required? (Yes) 7. Would you like to view the recommended right? (No) 8. Is this a split or combined right? (No) 9. Do you have documents you would like to attach or link to the file?

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right 37-863E

7/14/2014

(Yes) 10. Would you like to set the verification date?

POU	6/22/2010	djones	Updated Shape
POU	4/15/2011	cfritsch	Updated Shape
POU	4/15/2011	cfritsch	Updated PLS

SubCase:

SubCaseNumber: 37-863E

Class: 1

SF5 Filed Date:

Special Master Recom Signed Date:

Attorney Assigned:

Adjudication Agent: Matthew Anders

Basis of Claim: Decreed

Date Filed: 1/15/2008

Objection Status: Active

Water Supply Bank:

N/A

Eagle Creek Irrigation Co

Water Right 37-863E MITIGATION Place of Use



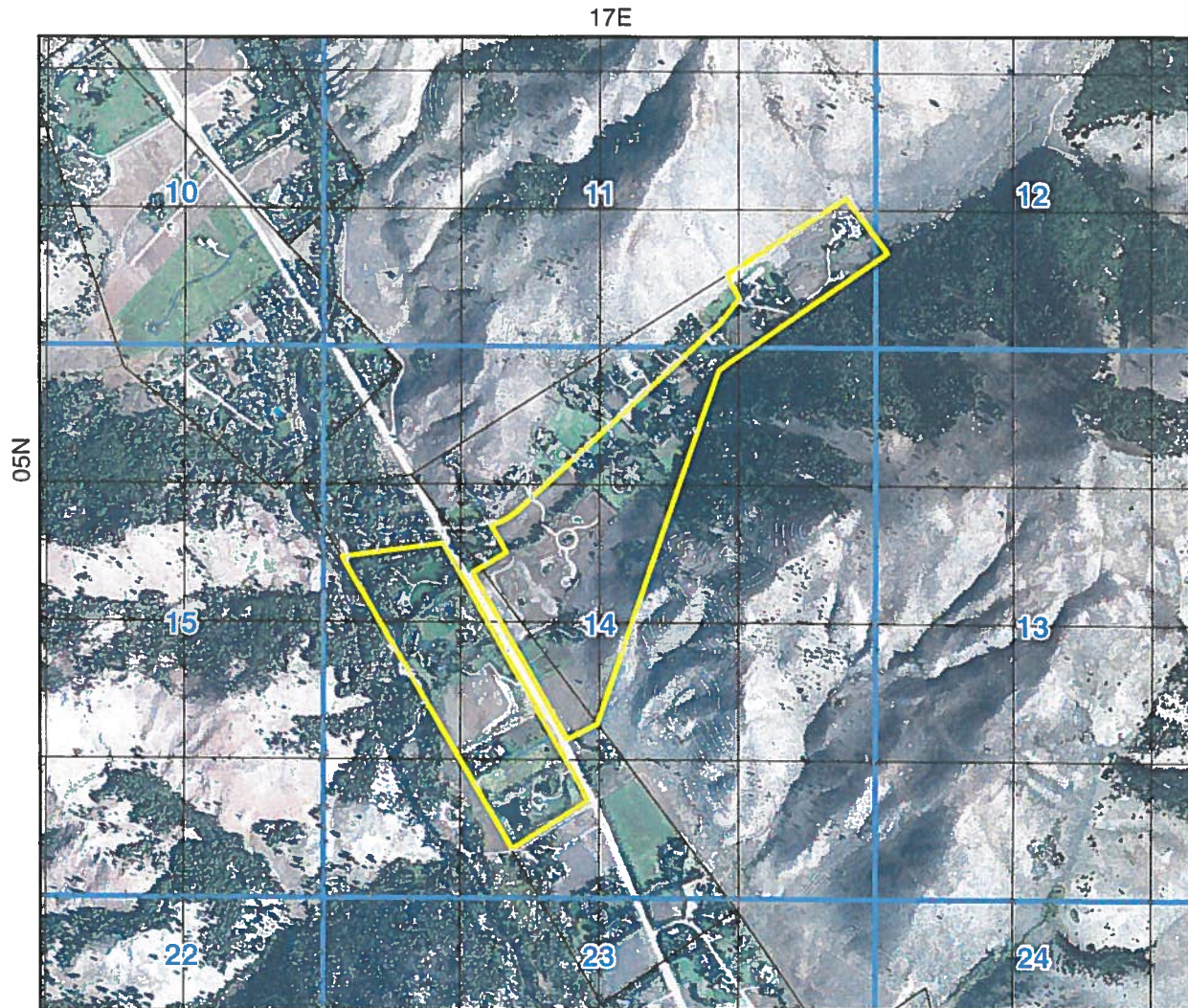
-  Place Of Use Boundary
-  Townships
-  PLS Sections
-  Quarter Quarters

0 0.2 0.4 0.8 Miles



Eagle Creek Irrigation Co

Water Right 37-863E IRRIGATION SERVICE AREA
Limited to 131 acres
(Originally 143.9 acres but 12.9 acres converted to MITIGATION)



-  Place Of Use Boundary
-  Townships
-  PLS Sections
-  Quarter Quarters

0 0.2 0.4 0.8 Miles



Merritt, Allen

From: Kevin Lakey [watermanager@cableone.net]
Sent: Tuesday, July 08, 2014 2:59 PM
To: Merritt, Allen; charles.g.brockway@brockwayeng.com
Cc: Keen, Shelley; Cooper, Jeff
Subject: RE: Draft for Stevens permit for groundwater near Eagle Creek.

Allen,

That looks good to me, but I am a rookie at this permitting language. Why do #4 and # 7 read so much alike?
Kevin Lakey

From: Merritt, Allen [mailto:Allen.Merritt@idwr.idaho.gov]
Sent: Tuesday, July 08, 2014 10:36 AM
To: watermanager@cableone.net; charles.g.brockway@brockwayeng.com
Cc: Keen, Shelley; Cooper, Jeff
Subject: Draft for Stevens permit for groundwater near Eagle Creek.

Here is my draft. Let me know if the conditions are ok. Any suggestions let me know.

RECEIVED

MAY 05 2014

DEPT. OF WATER RESOURCES
SOUTHERN REGION

Mr Jeffrey S. Cooper, Senior Water Resource Agent,
Idaho Department of Water Resources, Southern Region
650 Addition Ave W, suite 500
Twin Falls, ID 83301-3380

Subject: Water Right Application for Permit 37-22779, and Eagle Creek Irrigation Company
Water Right 37-863E

Dear Mr. Cooper

I am writing in response to your April 21, 2014 letter to provide additional information on the Eagle Creek Irrigation Company (Company) shares relative to water right 37- 863E from Eagle Creek.

The Company owns water right 37-863E in trust for the members of the Company. At this time there are a total of 186.9 active operating shares issued by the Company. In addition, there are up to 15 shares which are now the subject of litigation with a subdivision lot owner for a total of 201.9 shares which may have to be issued. We do not have any idea what the outcome of the litigation may be or when the lawsuit may be decided.

Carol Stevens and Robert Stevens, who are lot owners, have a valid share certificate for 14 shares of the Company which are being offered as mitigation for the ground water permit being sought, 37-22779. They are , therefore, entitled to delivery of a proportionate discharge through the High Ditch based on the shares. However, the High Ditch is in operable due to th construction of a house north of the Steven's property. The company attempts to deliver water on the basis of proportionate operating shares and not necessarily as percentages of total acres irrigated. On this basis, then, Mr. Stevens is entitled to 0.34 cfs of the water right discharge of 4.56 cfs under water right 37-863E based on the 186.9 current active operating shares ($14/189.9 \times 4.56 = 0.34$ cfs). Depending on the outcome of the lawsuit, there could possibly be a total of 201.9 shares issued and the Stevens' proportionate share would be 0.32 cfs ($14/201.6 \times 4.56 = .32$ cfs).

The Company has no plan to issue more shares than will be required after the settlement of the pending lawsuit. However, we have no idea how many of the 15 shares involved in the lawsuit will have to be issued.

Sincerely,



Everett Davis, President
Eagle Creek Irrigation Company



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region • 650 Addison Ave W, Suite 500 • Twin Falls, Idaho 83301-3380

Phone: (208) 736-3033 • Fax: (208) 736-3037 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

April 21, 2014

EAGLE CREEK IRRIGATION CO
C/O EVERETT DAVIS
PO BOX 1965
SUN VALLEY, ID 83353

RE: APPLICATION FOR PERMIT 37-22779

Dear Mr. Davis,

On October 13, 2013, an application for permit (37-22779) was filed by Robert & Carol Stevens for irrigation of 12.9 acres. Because the proposed use is considered consumptive within a moratorium area, the applicant provided a mitigation plan that involved leaving 14 shares of Eagle Creek Irrigation Company in Eagle Creek, in lieu of diverting that water into the High Canal, which apparently has historically taken water to the Stevens' residence.

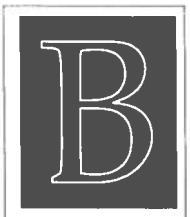
As we have been reviewing the mitigation plan, there is some confusion as to the worth of a share with the irrigation company. The Capital Stock certificate supplied with the application, issued by Eagle Creek Irrigation Company, indicates that Robert G. Stevens owns 14 of 207 shares within the company. Based on the authorized flow rate for Eagle Creek Irrigation Company's water right (37-863E) of 4.56 cfs, then the Stevens shares equate to 0.31 cfs ($14 \text{ shares} \div 207 \text{ total shares} \times 4.56 \text{ cfs}$). The application for permit, however, asserts that 14 shares equates to 12.9 acres of irrigation. Under this scenario, since 37-863E allows for the irrigation of 143.9 acres, then 14 shares would be equivalent to 0.41 cfs ($12.9 \text{ acres} \div 143.9 \text{ total acres} \times 4.56 \text{ cfs}$). Because the irrigation company's right is directly affected by this permit, we are seeking clarification of what the value of an individual share actually is.

We ask that you please respond with this information as soon as possible so we can continue processing the application before the Department. If you have any questions, please don't hesitate to contact me.

Sincerely,

Jeffrey S. Cooper
Senior Water Resource Agent, IDWR – Southern Regional Office, Twin Falls

CC: Charles E. Brockway, Ph.D, PE, Carol & Robert Stevens, 37-22779 File



BROCKWAY
ENGINEERING
P.L.L.C.

Hydraulics

Hydrology

Water Resources

CHARLES E.
BROCKWAY,
PH.D., P.E.

CHARLES G.
BROCKWAY,
PH.D., P.E.

2016 NORTH
WASHINGTON
STREET • SUITE 4

TWIN FALLS,
IDAHO 83301

208•736•8543

FAX: 736•8506

RECEIVED
JAN 07 2014
DEPT. OF WATER RESOURCES
SOUTHERN REGION

January 6, 2014

Mr. Jeffery S. Cooper
Idaho Department of Water Resources
1341 Fillmore Street, Suite 200
Twin Falls, ID 83301

Re: Application for Permit 37-22779 (Robert and Carol Stevens)

Dear Jeff:

Your letter of December 10, 2013 requested additional information relative to the application for permit and administration of the water right. Specifically, you requested data on the water measurement facilities planned and protocol for administration in the event discharge from the mitigating water right, 37-863E is decreased.

I have discussed the water measurement facilities with Kevin Lakey, Watermaster for WD 37. At this time he is apparently uncertain where the flow measurement device should be located on Eagle Creek to assure that the proper distribution of flow is achieved. It should be noted that Eagle Creek has been designated a 'dry stream' and no water rights administration has occurred in the past. Therefore, water right 37-863E with a priority of 10/06/1902, should not be curtailed under the Big Wood River priority system.

The existing well which diverts under water right 37-21427 and which will be utilized for diversion under 37-22779 has a 3 inch Seametrics in-line magnetic flow meter installed. This meter is capable of measuring the total flow which would be available under both water rights 37-21427 and/or 37-22779. Figure 1 shows the magnetic flow meter.

There is a Parshall flume in the high ditch at the diversion from Eagle Creek and a Cippoletti weir in Eagle Creek at the diversion of the high ditch (Figure 2). Therefore, total available flow from Eagle Creek can be measured at the diversion point of the high ditch. The Eagle Creek Irrigation Company water right is for 4.56 cfs. If that available flow diminishes, then the discharge available for mitigation under the 14 shares owned by Robert and Carol Stevens should be reduced proportionately. The 0.41 cfs available under the 14 shares comprise 9.0% of the 4.56 cfs water right. For example, if the total available flow in Eagle Creek decreases from 4.56 cfs to 3.00 cfs, then the discharge available under the 14 shares would decrease to 65.8% (3.0/4.56) of

the available 0.41 cfs or 0.27 cfs. Similarly, the 0.08 cfs which is proposed to be diverted into the high ditch for mitigation of seepage losses would reduce to 0.05 cfs. and the discharge remaining in Eagle Creek for mitigation would be 0.22 cfs.

There are several small diversions from Eagle Creek between the diversion to the high ditch and the last diversion into the lower ditch. The 0.33 cfs which is to remain in Eagle Creek if the full 4.56 cfs is available under water right 37-22779 is to remain in Eagle Creek to the confluence with Big Wood River. Therefore, a measuring device is required at or below the control gate on Eagle Creek at the Miller property where the low ditch diversion is located. Currently there is a 7.73 ft. wide steel adjustable slide gate which can regulate and measure the discharge going to the Big Wood River (Figure 3). It is proposed to modify the existing large gate by installing a smaller 1.0 ft. wide slide gate in the existing gate which will allow accurate measurement of the mitigation flow. Preliminary discharge rating tables have been prepared for these sluice gates and copies are enclosed. The Watermaster will be able to measure the total flow passing downstream of the Miller property to the Big Wood River.

The ground water rights owned by the Stevens' will consist of the two existing rights 37-21427 and 37-21428 both with a priority of 3/14/1980 and water right 37-22779 which will be mitigated with shares of Eagle Creek Irrigation Company water right 37-863.

Table 1 shows the configuration of all ground water rights if the current application for 37-22779 is approved:

Table 1 Stevens Ground Water Rights

Number	Priority	Discharge cfs	Acres	Volume af	Limits
37-21427	3/14/1980	0.21	12.4	37.2	12.9 acres, 0.26 cfs
37-22779 (pending)	2013 Mitigated with 37-863E	0.26	12.9		12.9 acres, 0.26 cfs
37-21428	3/14/1980	0.01	0.6	1.8	

Based on the proposed mitigation plan, water right 37- 21428 is not involved in mitigation. Water right 37-21427 utilizes the same well as the proposed

mitigated right 37-22779. The purpose of the proposed new permit is to assure that the well can still pump even though water right 37-21427 may be curtailed because of conjunctive management under Big Wood River priorities.

I understand that IDWR has changed the PLS description to match the BLM and that the well serving water rights 37-21427 and proposed water right 37-22779 will be in Section 23 ZNWNE and the 12.9 acre POU will be in Section 14 SWSE. Thanks for changing that.

Sincerely,



Charles E. Brockway, P.E.

CC: Robert Stevens
Kevin Lakey, Watermaster

Sluice Gate Discharge Rating

Brockway Engineering, PLLC

Existing large sluice gate is 92.75 inches(7.73 ft) wide

PROJECT: Robert Stevens

DATE: 17-Dec-13

LOCATION / DEVICE:

Eagle Creek

GATE WIDTH:

1.00 ft (between steel angles)

CONTRACTION COEFF:

0.61 Free discharge

GAUGE ZERO ABOVE FLOOR:

0 ft

CONTROL GATE ON EAGLE CREEK-

Miller Property

Sluice gate to release mitigation water for Stevens

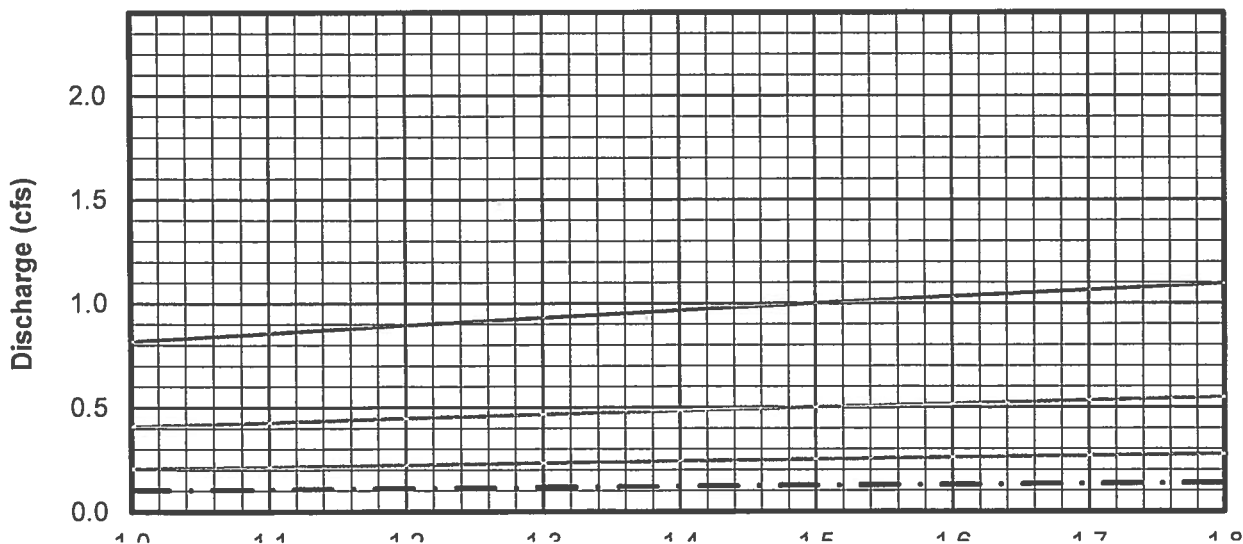
water right 372279 will be 1.0 ft wide

to pass design mitigation flow of 0.41 cfs.

DISCHARGE IN CUBIC FEET PER SECOND

GATE OPENING		GAUGE READING (FT)								
(INCHES)	(INCHES)	1.0	1.1	1.2	1.3	1.4	1.5	1.6	1.7	1.8
1/4	0.250	0.10	0.11	0.11	0.12	0.12	0.12	0.13	0.13	0.14
3/8	0.375	0.15	0.16	0.17	0.17	0.18	0.19	0.19	0.20	0.21
1/2	0.500	0.20	0.21	0.22	0.23	0.24	0.25	0.26	0.27	0.27
5/8	0.625	0.25	0.27	0.28	0.29	0.30	0.31	0.32	0.33	0.34
3/4	0.750	0.31	0.32	0.34	0.35	0.36	0.37	0.39	0.40	0.41
7/8	0.875	0.36	0.37	0.39	0.41	0.42	0.44	0.45	0.47	0.48
1	1.000	0.41	0.43	0.45	0.47	0.48	0.50	0.52	0.53	0.55
1 1/8	1.125	0.46	0.48	0.50	0.52	0.54	0.56	0.58	0.60	0.62
1 1/4	1.250	0.51	0.53	0.56	0.58	0.60	0.62	0.65	0.66	0.68
1 3/8	1.375	0.56	0.59	0.61	0.64	0.66	0.69	0.71	0.73	0.75
1 1/2	1.500	0.61	0.64	0.67	0.70	0.72	0.75	0.77	0.80	0.82
1 5/8	1.625	0.66	0.70	0.73	0.76	0.78	0.81	0.84	0.86	0.89
1 3/4	1.750	0.71	0.75	0.78	0.81	0.84	0.87	0.90	0.93	0.96
1 7/8	1.875	0.76	0.80	0.84	0.87	0.91	0.94	0.97	1.00	1.03
2	2.000	0.82	0.86	0.89	0.93	0.97	1.00	1.03	1.06	1.09
2 1/8	2.125	0.87	0.91	0.95	0.99	1.03	1.06	1.10	1.13	1.16
2 1/4	2.250	0.92	0.96	1.01	1.05	1.09	1.12	1.16	1.20	1.23

1.0 FT SLUICE GATE-EAGLE CREEK



Sluice Gate Discharge Rating

Brockway Engineering, PLLC

CONTROL GATE ON EAGLE CREEK-

Miller Property

Width measured by R. Stevens 12/31/2013

PROJECT: Robert Stevens

DATE: 17-Dec-13

LOCATION / DEVICE:

GATE WIDTH:

CONTRACTION COEFF:

GAUGE ZERO ABOVE FLOOR:

Eagle Creek

7.73 ft (between steel angles)

0.61 Free discharge

0 ft

DISCHARGE IN CUBIC FEET PER SECOND

GATE OPENING		GAUGE READING (FT)								
(INCHES)	(INCHES)	1.0	1.1	1.2	1.3	1.4	1.5	1.6	1.7	1.8
1/4	0.250	0.78	0.82	0.86	0.89	0.93	0.96	0.99	1.02	1.05
3/8	0.375	1.17	1.23	1.28	1.34	1.39	1.44	1.49	1.53	1.58
1/2	0.500	1.56	1.63	1.71	1.78	1.85	1.91	1.98	2.04	2.10
5/8	0.625	1.94	2.04	2.13	2.22	2.30	2.39	2.47	2.54	2.62
3/4	0.750	2.32	2.44	2.55	2.66	2.76	2.86	2.96	3.05	3.14
7/8	0.875	2.70	2.84	2.97	3.09	3.21	3.33	3.44	3.55	3.66
1	1.000	3.07	3.23	3.38	3.53	3.66	3.80	3.92	4.05	4.17
1 1/8	1.125	3.45	3.63	3.79	3.96	4.11	4.26	4.41	4.55	4.68
1 1/4	1.250	3.82	4.02	4.21	4.39	4.56	4.73	4.89	5.04	5.19
1 3/8	1.375	4.19	4.41	4.61	4.81	5.00	5.19	5.37	5.54	5.70
1 1/2	1.500	4.56	4.80	5.02	5.24	5.45	5.65	5.84	6.03	6.21
1 5/8	1.625	4.92	5.18	5.43	5.66	5.89	6.11	6.32	6.52	6.72
1 3/4	1.750	5.29	5.56	5.83	6.08	6.33	6.56	6.79	7.01	7.22
1 7/8	1.875	5.65	5.95	6.23	6.50	6.77	7.02	7.26	7.50	7.73
2	2.000	6.01	6.33	6.63	6.92	7.20	7.47	7.73	7.98	8.23
2 1/8	2.125	6.36	6.70	7.03	7.34	7.64	7.92	8.20	8.47	8.73
2 1/4	2.250	6.72	7.08	7.42	7.75	8.07	8.37	8.67	8.95	9.23

7.73 FT SLUICE GATE-EAGLE CREEK-Existing

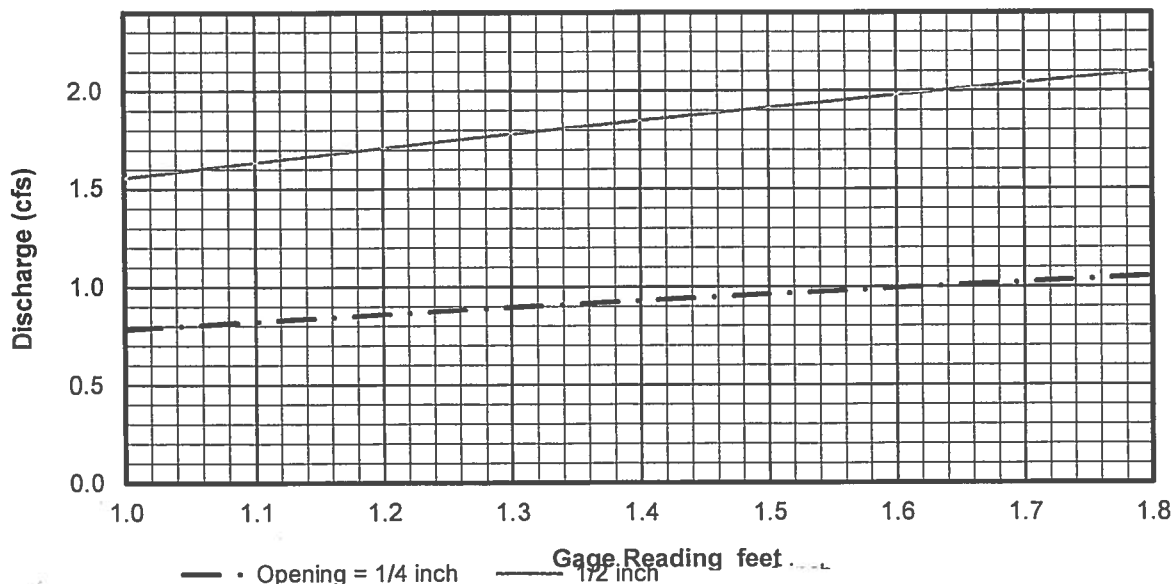




Figure 3 Eagle Creek Proposed Sluice Gate and Gages





Figure 1 Eagle Creek High Ditch Parshall Flume



Figure 2 Eagle Creek High Ditch



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 1341 Fillmore Street, Suite 200 • Twin Falls, Idaho 83301-3380

Phone: (208) 736-3033 • Fax: (208) 736-3037 • Web Site: www.idwr.idaho.gov

December 10, 2013

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

Charles E. Brockway PhD, PE
2016 Washington Street, Suite 4
Twin Falls, ID 83301

COPY

RE: Application for Permit 37-22779 (Robert & Carol Stevens)

Dr. Brockway,

Upon review of the mitigation plan provided with Application for Permit 37-22779, the Department is requiring more information before we can finalize processing the application. In particular, the Department would like detailed information as to the specifics of the measuring device(s) proposed within the plan for both the diversion at the well and also at the injection point where water is measured being injected into the Big Wood River. This may include, but not limited to, the following:

- Type of measuring device
- Dimensions
- Sighting information including arrangement for placement of measuring device at the point of injection.

I would also suggest that you discuss with the Watermaster these details to make sure they are acceptable.

Additionally, the Department would also like more detailed information as to what protocol will be followed by the Watermaster and water user in the event that the Eagle Creek water right (37-863E) is diminished or curtailed. Also, please provide additional information as to what the status of the existing groundwater rights will be while 37-863E is mitigating for the new appropriation. Also, explain if the existing ground water rights are part of the mitigation plan?

Please also note that after discussion with the administration in Boise, that we have changed the PLS description to match what is currently provided by the BLM. For this particular application the entire 12.9-acre POU will fall within TWP 05N RNG 17E Sec. 14 SWSE and the POD will be within TWP 05N RNG 17E Sec. 23 NWNE. Please keep

in mind that, as we have discussed before, the actual legal description is and will remain HES 129.

If you have any questions, please don't hesitate to contact me. Thank you.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Jeffrey S. Cooper', with a long horizontal flourish extending to the right.

Jeffrey S. Cooper
Senior Water Resource Agent, IDWR – Southern Regional Office, Twin Falls

Cc: Robert & Carol Stevens, Kevin Lakey (Watermaster WD37)

Cooper, Jeff

From: Price, Fredric [fwprice@blm.gov]
Sent: Wednesday, November 20, 2013 4:36 PM
To: Charles Brockway
Cc: Crane, Jordan; Spencer, Steven; Gary Madenford; Cooper, Jeff; Amy Runser
Subject: Re: 37-22779 (Stevens) Typo in Application for Permit and Mixed POD and POU (FS & private)
Attachments: 37-22779-clarification.pdf

Charles,

RE: 37-22779, Robert & Carol Stevens

You are correct, the data set you are using for PLSS lines is the same data set that we are using, however there is still an error in how the place of use is described in the application for permit (37-22779).

Whereas the lines denoting the locations of the QQs is the same in our respective data sets and are correct, unfortunately, the error is due to the fact that the attribute for that QQ in our data sets is labeled incorrectly. I will bring this to the attention of our folks so that they can correctly attribute that QQ.

I think you will agree after looking at the attached map that BLM's attributing of the SWSE, S14, T05N, R17E as the NESW is erroneous.

BLM discovered this error as a consequence of our routine review and is just communicating this apparent typographical error to you in case it is of interest or assistance. BLM has no interest or concerns regarding this application or in its potential amendment.

Fred Price
Water Rights Specialist
BLM, Idaho State Office

On Wed, Nov 20, 2013 at 3:33 PM, Charles Brockway <charles.e.brockway@brockwayeng.com> wrote:

Jordan

We reviewed our PLS listing again and we downloaded BLM source PLSS from the GEOCOMMUNICATOR website today. We found that the QQ in question (5N 17E Sec 14 NESW) we are listing matches the QQ on the PLSS provided BLM on the GEOCOMMUNICATOR website. To our knowledge, IDWR and Blaine county have adopted the BLM delineation as well. If BLM has updated this data recently, we are unaware of the change.

C.E. Brockway

From: Crane, Jordan [mailto:jcrane@blm.gov]
Sent: Wednesday, November 20, 2013 12:15 PM

To: charles.e.brockway@brockwayeng.com; sspencer@fs.fed.us; Fredric Priess; Gary Madenford;
jeff.cooper@idwr.idaho.gov
Subject: 37-22779 (Stevens) Typo in Application for Permit and Mixed POD and POU (FS & private)

All:

On 10-17-2013 an Amended Application for Permit was filed for 37-22779 (Stevens) for the irrigation of 12.9 acres. The Amended Application for Permit appears to contain a clerical error describing the POU in NESW (pvt) (incorrect), however the POU is actually located in SWSE (correct) (mixed FS & pvt).

Also The POD and POU are both located within QQs that are comprised of mixed ownership between the Forest Service and private. The POD and POU are both located in the private portions of these QQs within HES 129. Should there be a comment added to this claim that states this claim resides completely within HES 129?

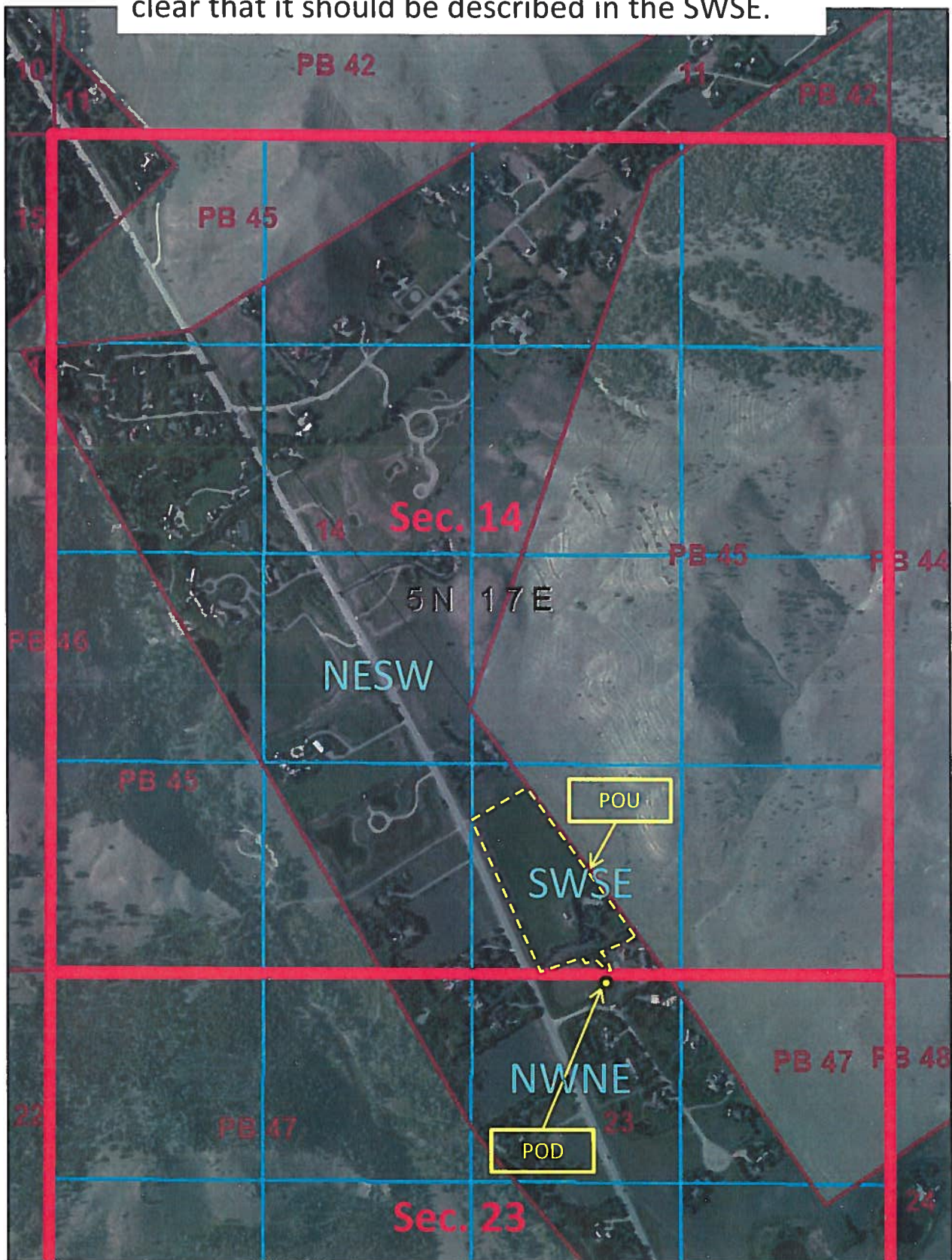
BLM is not affected by this typo or mixed ownership QQs; we just wanted to bring these issues to your attention just in case.

--

Jordan D. Crane

Water Rights Clerk

POU was claimed in the NESW, however it is clear that it should be described in the SWSE.



37-22779

AFFIDAVIT of PUBLICATION NOV 15 2013

State of Idaho
County of BlaineDEPT. 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 6 day of

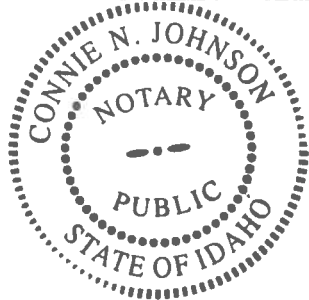
Nov., 20 13, and the date of the last publication was

on the 13 day of Nov., 20 13

Pam Morris

Subscribed and sworn to before me this 13 day of

Nov., 20 13.



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 125

Number of Insertions 2

125 Lines tabular at 9.0 cents/pica

125 Lines straight at 115.00 8.0 cents/pica

125 Subsequent lines at 100.63 7.0 cents/pica

TOTAL COST 215.63

✓
AM
11-27-2013

COPY OF NOTICE

Public Notice

TITLE OF NOTICE

PLAINTIFF ATTORNEY

DEFENDANT

PLAINTIFF

IDWR

BILL TO

PUBLIC NOTICE

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

37-22779

ROBERT G STEVENS

CAROL F STEVENS

PO BOX 308

KETCHUM, ID 83340

Point of Diversion NWNE S23 T05N

R17E BLAINE County Source

GROUND WATER Tributary

Use: IRRIGATION 04/15 to 10/31

0.26 CFS

Total Diversion: 0.26 CFS

Date Filed: 8/29/2012

Place Of Use: IRRIGATION

T05N R17E S14 NESW

Total Acres: 12.9

It is proposed that the 0.41 CFS allowed diversion from Eagle Creek under water right 37-863E (Eagle Creek Irrigation Co.), with a priority of 10-6-1902, be dedicated to mitigation for the proposed appropriation. This 0.41 CFS portion of right 37-863E (0.08 CFS) will continue to be diverted into the high ditch of the Eagle Creek Irrigation Co. for conveyance loss to users in that delivery system and the remaining portion (0.33 CFS) will not be diverted at any authorized Eagle Creek Irrigation Co. point of diversion (POD) under right 37-863E, but left in the natural channel to mitigate for the aquifer depletion attributable to this application. Note that right 37-863E historically irrigated the same ground as this application proposes to irrigate. Also, rights 37-21427 (0.21 CFS) & 37-21428 (0.01 CFS), with a priority of 3-14-1980 and diverted from groundwater, also irrigates the same 12.9 acres and from the same well proposed under this application. Please note that the proposed appropriation occurs on property owned by the applicant within the following legal description: HES no. 129.

over →

37-22847

TOM R NORRIS

2351 CLAY ST, STE 510

SAN FRANCISCO, CA 94115

Point of Diversion NESE S7 T03N

R18E BLAINE County Source

GROUND WATER Tributary

Use: DOMESTIC 01/01 to 12/31

0.04 CFS

Total Diversion: 0.04 CFS

Date Filed: 10/21/2013

Place Of Use: DOMESTIC

T03N R18E S7 NESE

Application seeks to appropriate 0.04 cfs of ground water from an existing domestic well for domestic use on Lot 2B of Little Makawao Subdivision located northeast of the Highway 75 & East Fork Road intersection approximately 5.2 miles south and 0.8 miles east of the center of Ketchum. The domestic use (limited to 13,000 gpd) includes water for in-house use for 1 home, evaporative losses associated with the expansion of an existing pond on the property, and irrigation of no more than 0.44 acre.

**NOTICE OF PROPOSED CHANGE
OF WATER RIGHT**

TRANSFER NO. 78865

CHRISTOPHER MANNINO, 5206 VALLEY VIEW RD, RANCHO PALOS VERDES, CA 90275; has filed Application No. 78865 for changes to the following water rights within BLAINE County(s): Right No(s). 37-21121, 37-21122. The purpose of the transfer is to change a portion of the above rights as follows: Application for transfer proposes to change the point of diversion (POD) for two Big Wood River irrigation rights, currently authorized to divert 3.6 CFS at the Bannon #49 ditch headgate, located approximately 2.0 mi. S & 0.2 mi. W of Bellevue. Application proposes to divert this water from the Glendale #50 ditch headgate, located approximately 0.2 downstream of the Bannon #49 ditch headgate.

Permits will be subject to all prior water rights. For additional information concerning the property location, 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/ExtSearch/WRFiling.asp. 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, 1341 Fillmore St, Suite 200, Twin Falls, ID 83301 together with a protest fee of \$25.00 for each application on or before November 25, 2013. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

PUBLISH:
IDAHO MOUNTAIN EXPRESS
Nov. 6 & 13, 2013



✓ OK DM
11/27/2013

State of Idaho
Department of Water Resources
Transfer of water right (s)

RECOMMENDATION OF WATERMASTER

RECEIVED ^{via} E-mail
NOV 01 2013

DEPT. OF WATER RESOURCES
SOUTHERN REGION

Application No. Permit # 37-22779

Water Right No.(s)

Applicant's Name Carol and Robert Stevens

Watermaster's Recommendation:

- a) ☒ I do not oppose approval of this application.
- b) ☐ I do not oppose approval of this application if it is conditioned as follows:
- b) ☐ I oppose approval of this application for the following reasons:
- c) ☐ Additional Comment:

Dated 11/1/13

Water Districts 37 and 37M


Watermaster Signature

Kevin Lakey
Printed Name