

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 37-22870

Priority: February 26, 2014

Maximum Diversion Rate: 0.11 CFS

This is to certify, that **TERRENCE DANIELS**
259 YELLOW MOUNTAIN ROAD
GREENWOOD VA 22943

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>
HEATING	01/01 to 12/31	0.11 CFS
COOLING	01/01 to 12/31	0.11 CFS

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER NW1/4SW1/4SW1/4 Sec. 3, Twp 03N, Rge 18E, B.M.
BLAINE County

PLACE OF USE: HEATING

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
03N 18E 3												X					

PLACE OF USE: COOLING

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
03N 18E 3												X					

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **May 01, 2019**.
2. Subject to all prior water rights.
3. Heating and cooling uses are for one household.
4. Use of water under this right for heating and cooling shall be non-consumptive.
5. Return flow discharged to a subsurface system must be authorized by a separate injection well permit.

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NO. 37-22870

6. 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.
7. When notified by the Department, the right holder shall install and maintain a measuring device of a type acceptable to the Department as part of the diverting works.
8. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
9. 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 20 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.
10. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which the permit holder had no control.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 21st day of April, 20 14.



GARY SPACKMAN, Director

FOR

State of Idaho
Department of Water Resources

Attachment To Permit to Appropriate Water

37-22870

This map depicts the HEATING and COOLING 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.

18E



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

0 0.0125 0.025 0.05 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

April 22, 2014

TERRENCE DANIELS
259 YELLOW MOUNTAIN ROAD
GREENWOOD VA 22943

RE: Permit No. 37-22870

Permit Approval Notice

Dear Permit Holder:

The Department of Water Resources has issued the enclosed permit authorizing you to establish a new water right. Please be sure to thoroughly review the conditions of approval and remarks listed on your permit.

The permit is a PRELIMINARY ORDER issued by the Department pursuant to Section 67-5243, Idaho Code. It can and will become a final order without further action by the Department unless a party petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date as described in the enclosed information sheet.

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

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

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 the first name "Allen" and last name "Merritt" clearly distinguishable.

Allen Merritt
Southern Region Manager

Enclosure(s)

cc: BROCKWAY ENGINEERING PLLC

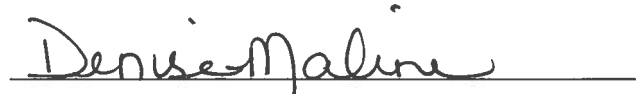
CERTIFICATE OF SERVICE

I hereby certify that on April 22, 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. 37-22870

**TERRENCE DANIELS
259 YELLOW MOUNTAIN ROAD
GREENWOOD VA 22943**

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

A handwritten signature in cursive script, 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.



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region • 650 Addison Ave W, Suite 500 • Twin Falls, Idaho 83301-5858

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C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

April 22, 2014

KEVIN LAKEY WATERMASTER
WATER DISTRICT # 37
107 W 1ST ST
SHOSHONE, ID 83352

Re: **APPROVED Permit No. 37-22870 (Terrence Daniels)**

Dear Mr. Lakey:

For your information and records, we have enclosed a copy of an APPROVED Application for Permit within your District.

If you have any questions, please contact this office, or the applicant.

Sincerely,

A handwritten signature in cursive script that reads "Denise Maline". The signature is written in dark ink and is positioned above the printed name and title.

Denise Maline
Administrative Assistant

Enclosure

State of Idaho
Department of Water Resources
Application for Permit
RECOMMENDATION FORM

RECEIVED

APR 18 2014

DEPT. OF WATER RESOURCES
SOUTHERN REGION

Via E-mail

Application No.: 37-22870

Applicant's Name: TERRENCE DANIELS
259 YELLOW MOUNTAIN RD
GREENWOOD, VA 22943

Recommendation:

- a) ~~X~~ I do not oppose approval of this application.
- b) _____ I do not oppose approval of this application if it is conditioned as follows:
- c) _____ I oppose approval of this application for the following reasons:
- d) _____ Additional comments:

Dated this 18th day of April, 2014

Water District No. 37

Kevin Lakey

Watermaster's Signature

Kevin Lakey

Printed Name

Maline, Denise

From: Maline, Denise
Sent: Thursday, April 17, 2014 4:07 PM
To: 'Kevin Lakey'
Subject: Comment Letter for 37-22870
Attachments: Comment Letter to WM37 for 37-22870.pdf; 37-22870.pdf

Dear Kevin,

Attached please find a cover letter, recommendation forms, and a copy of Application for Permit 37-22870. Please review the attached information and provide any necessary comments within 21 days. This application has already been through the initial process; and prior to final approval, it was noted that we had not yet solicited comments from you. Feel free to contact our office if you have any questions.

Thank you,

Denise Maline
Idaho Dept of Water Resources
Administrative Assistant, Southern Region
650 Addison Ave W, Ste 500
Twin Falls, ID 83301
(208) 736-3033
denise.maline@idwr.idaho.gov



State of Idaho

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C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

April 17, 2014

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

Via E-mail

RE: Application For Permit No.(s): 37-22870

Dear Mr. Lakey:

A copy of the above referenced application is enclosed. Please review the application, then complete the enclosed recommendation form as necessary, and return it to this office within 21 days of the date of this letter.

If the application is approved, IDWR will include appropriate standard conditions of approval for a water right located within a water district, such as regulation by the watermaster, lockable controlling works, and/or measuring devices. Any special conditions or other concerns you have related to this application should be specifically addressed in your recommendation.

IDWR's regional offices can finish reviewing an unprotested application as soon as the protest period has past. Your prompt response to this request will ensure that your recommendation can be considered. If IDWR has not received your written recommendation within 21 days from the date of this letter, IDWR will presume that you do not oppose approval of the application and that you have no comments for IDWR to consider.

Sincerely,

Denise Maline
Administrative Assistant

Enclosure(s)

RECEIVED

MAR 28 2014

COPY OF NOTICE

AFFIDAVIT OF PUBLICATION

State of Idaho
County of BlainePam MorrisDEPT OF WATER RESOURCES
SOUTHERN REGION

Pam Morris, being the first 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

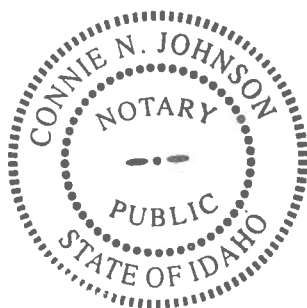
publication of said advertisement was on the 19 day of

March, 20 14, and the date of the last publication was

on the 26 day of March, 20 14

Subscribed and sworn to before me this 26 day of

March, 20 14.



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 89

Number of Insertions 2

Lines tabular at 9.0 cents/pica

89 Lines straight at 81.88 8.0 cents/pica

89 Subsequent lines at 71.65 7.0 cents/pica

TOTAL COST \$ 153.53

Legal Notice
TITLE OF NOTICE

PLAINTIFF ATTORNEY

DEFENDANT

PLAINTIFF

IDWR
BILL TO

LEGAL NOTICE

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

37-22870

TERRENCE DANIELS
259 YELLOW MOUNTAIN ROAD
GREENWOOD, VA 22943
Point of Diversion NWSWSW S3 T03N
R18E BLAINE County Source GROUND
WATER Tributary

Use: COOLING 01/01 to 12/31 0.11
CFS

Use: HEATING 01/01 to 12/31 0.11
CFS

Total Diversion: 0.11 CFS

Date Filed: 2/26/2014

Place Of Use: HEATING & COOLING
T03N R18E S3 SWSW

Application for Permit 37-22870, filed in the name of Terrence Daniels, seeks to appropriate 0.11 cfs of ground water for heating and cooling. Heating and cooling uses will be returned to the aquifer through an injection well. The proposed place of use and point of diversion are located approximately 3 miles east and 4.5 miles south of the City of Ketchum.

✓ OK DM
4/3/2014

✓

**NOTICE OF PROPOSED CHANGE OF
WATER RIGHT**

TRANSFER NO. 79140

DOUGLAS C WALTON and DIANA L WHITING, PO BOX 1093, KETCHUM, ID 83340; has filed Application No. 79140 for changes to the following water rights within BLAINE County(s): Right No(s). 37-22675. 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) and place of use (POU) for Big Wood River right 37-22675, which is currently authorized to divert 0.19 CFS for 4.2 acres of irrigation on property located approximately 0.3 mi – 0.4 mi N & 0.5 – 0.7 mi. W of Hailey (Lot 12, River Grove Ranch Subdivision). Application proposes to change two PODs from the Big Wood River, located just upstream of the POU, to a well located approximately 250 ft from the Big Wood River, within the current authorized POU. Application also proposes to create a 4.3-acre permissible place of use (PPU) to include a small portion of ground adjacent to the current authorized POU. Right will continue to be limited to 4.2 acres within the proposed 4.3-acre PPU and continue to be under the control of the Big Wood River Water District (37).

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 visit our website at www.idwr.idaho.gov and search under New Water Right Applications. Protests may be submitted based on the criteria of Sec 42-222 and 42-203A, Idaho Code. Any protest against the approval of this application(s) must be filed with the Director, Dept. of Water Resources, Southern Region, 650 Addison Ave W, Ste 500, Twin Falls, ID 83301 together with a protest fee of \$25.00 for each application on or before April 7, 2014. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

PUBLISH:
IDAHO MOUNTAIN EXPRESS
March 19 & 26, 2014

✓ OK DM 4/3/2014