

State of Idaho
Department of Water Resources
Water Right License

WATER RIGHT NO. 2-07379

Priority: March 31, 1982

Maximum Diversion Rate: 6,550.00 CFS

It is hereby certified that IDAHO POWER CO
C/O JON BOWLING
PO BOX 70
BOISE ID 83707

has complied with the terms and conditions of the permit,
issued pursuant to Application for Permit dated March 31, 1982; and has submitted Proof of Beneficial
Use on April 01, 1996. An examination confirms water is diverted from:

SOURCE

Snake River

Tributary: COLUMBIA RIVER

and a water right has been established as follows:

BENEFICIAL USE

POWER

PERIOD OF USE

01/01 to 12/31

DIVERSION RATE

6,550.00 CFS

LOCATION OF POINT(S) OF DIVERSION:

Snake River L11 (SE $\frac{1}{4}$ SE $\frac{1}{4}$) Sec. 18, Twp 02S, Rge 01E, B.M. ADA 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	
02S	01E	18																X	
																		L 11	

CONDITIONS OF APPROVAL

- For purposes of the determination and administration of this water right, no portion of the waters of the Snake River or surface or ground water tributary to the Snake River upstream from Milner Dam shall be considered.
- The term of this water right shall run concurrently with Swan Falls Hydroelectric license Project No. 503 issued by the Federal Energy Regulatory Commission (FERC), which expires on September 1, 2042. The term shall automatically extend to run concurrently with any annual renewals of the project's FERC license. Prior to the issuance of a subsequent or new FERC license for the project, the Director may review the water right license and may issue an order canceling all or any part of the use, establishing a new term, or revising, adding or deleting conditions under which the water right may be exercised. The order shall take effect on the date the current term, as may be extended through annual renewals, expires. If the Director does not issue such an order, the term shall automatically extend to a length equal to the project's subsequent or new FERC license and any prior conditions on the water right license shall remain in effect.
- The water right acquired under this license for hydropower purposes shall be junior and subordinate to all rights to 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 to the use of water, other than hydropower, within the State of Idaho initiated later in time than the priority of this right.

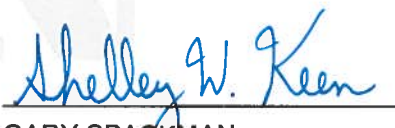
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4. This right does not constitute Idaho Public Utilities Commission or Federal Energy Regulatory Commission approval that may be required.
5. Use of water under this right shall be non-consumptive.
6. Use of water under this right will be regulated 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 02.
7. Power generation is at the Swan Falls Dam power plant.
8. This right is specifically subject to the agreement among the state of Idaho, the Governor, the Attorney General and Idaho Power Co. dated October 25, 1984. It is also subject to the contract between the state of Idaho and the Idaho Power Co. dated October 25, 1984.
9. Without regard to the right granted to the right holder to the beneficial use of 6550 cfs pursuant to license 02-7379, water may only be claimed and used thereunder if and when the water is physically available and such right shall not give rise to any claim on the part of the right holder to a flow requirement in the Snake River which exceeds 3,900 cfs during the summer season and 5,600 cfs during the winter season as specified in the above described agreement and contract.
10. Diversion and use of water by the reconstructed Swan Falls power project shall be pursuant to water rights held by the right holder and as such rights are modified by the agreement and contract and not otherwise.

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 4th day of April, 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

April 7, 2014

IDAHO POWER CO
C/O JON BOWLING
PO BOX 70
BOISE ID 83707

RE: License No. 2-7379

Issuance of License

Dear Water Right Holder(s):

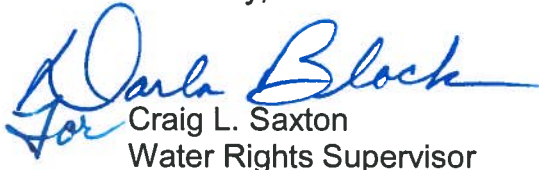
The Department of Water Resources has issued the enclosed Water Right License confirming that a water right has been established in accordance with your permit. Please be sure to thoroughly review the conditions of approval and remarks listed on your license.

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

Please note that water right owners are required to report any change of water right ownership and/or mailing address to the Department within 120 days of the change. Failure to report these changes could result in a \$100 late filing fee. Contact any office of the Department or visit the Department's homepage on the Internet to obtain the proper forms and instructions.

If you have any questions, please contact me at 208-287-4916.

Sincerely,


Craig L. Saxton
Water Rights Supervisor

Enclosure(s)

cc: James C. Tucker, Randy Budge, Dana Hofstetter,
Clive J. Strong, Jerry Rigby, and Josephine Beeman

CERTIFICATE OF SERVICE

I hereby certify that on April 7, 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.

2-7379

**IDAHO POWER CO
C/O JON BOWLING
PO BOX 70
BOISE ID 83707**

**JAMES C TUCKER
IDAHO POWER CO
PO BOX 70
BOISE ID 83707**

**IDAHO GROUND WATER
APPROPRIATORS INC
RANDY BUDGE, RACINE OLSON
101 S CAPITOL BLVD STE 208
BOISE ID 83702**

**JEFF & JACKIE HARPER & RANGE
RESOURCES CO LLC
DANA HOFSTETTER
698 W FRANKLIN ST
BOISE ID 83702**

**UPPER SNAKE WATER USERS
JERRY RIGBY
RIGBY THATCHER ANDRUS RIGBY
PO BOX 250
REXBERG ID 83440-0250**

**CLIVE J STRONG
NATURAL RESOURCES
PO BOX 83720
BOISE ID 83720-0010**

**JOSEPHINE BEEMAN
BEEMAN ASSOCIATES
409 W JEFFERSON ST
BOISE ID 83702**



**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.