



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

October 8, 2013

CARLA J GRIFFITH
RODNEY J GRIFFITH
DBA BOSWELL TROUT FARMS
4579B RIVER RD
BUHL ID 83316

RE: License No. 47-7460

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: SEAPACE OF IDAHO INC

CERTIFICATE OF SERVICE

I hereby certify that on October 8, 2013, 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.

47-7460

**CARLA J GRIFFITH
DBA BOSWELL TROUT FARMS
4579B RIVER RD
BUHL ID 83316**

**RODNEY J GRIFFITH
DBA BOSWELL TROUT FARMS
4579B RIVER RD
BUHL ID 83316**

**SEAPACE OF IDAHO INC
PO BOX 546
BUHL ID 83316**



**Darla Block
Technical Records Specialist**

EXPLANATORY INFORMATION TO ACCOMPANY A PRELIMINARY ORDER

(To be used in connection with actions when a hearing was not held)

(Required by Rule of Procedure 730.02)

The accompanying order or approved document is a "Preliminary Order" issued by the department pursuant to section 67-5243, Idaho Code. **It can and will become a final order without further action of the Department of Water Resources ("department") unless a party petitions for reconsideration, files an exception and brief, or requests a hearing as further described below:**

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the department within fourteen (14) days of the service date of this order. **Note: the petition must be received by the department within this fourteen (14) day period.** The department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3) Idaho Code.

EXCEPTIONS AND BRIEFS

Within fourteen (14) days after: (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding with the Director. Otherwise, this preliminary order will become a final order of the agency.

REQUEST FOR HEARING

Unless a right to a hearing before the Department or the Water Resource Board is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Director and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

ORAL ARGUMENT

If the Director grants a petition to review the preliminary order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with IDAPA Rules 37.01.01302 and 37.01.01303 (Rules of Procedure 302 and 303).

FINAL ORDER

The Director will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Director may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its service date if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

- (a) The petition for reconsideration is disposed of; or
- (b) The petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

State of Idaho
Department of Water Resources
Water Right License

WATER RIGHT NO. 47-07460

Priority: April 02, 1978

Maximum Diversion Rate: 23.20 CFS
Maximum Diversion Volume: 16,796.0 AF

It is hereby certified that CARLA J GRIFFITH

And

RODNEY J GRIFFITH
DBA BOSWELL TROUT FARMS
4579B RIVER RD
BUHL ID 83316

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated March 1, 1978; and has submitted Proof of Beneficial Use on November 15, 1988. An examination water is diverted from:

SOURCE

DEEP CREEK

Tributary: SNAKE RIVER

and a water right has been established as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL DIVERSION VOLUME</u>
FISH PROPAGATION	01/01 to 12/31	23.20 CFS	16,796.0 AF

LOCATION OF POINT(S) OF DIVERSION:

DEEP CREEK L4 (NW1/4NW1/4) Sec. 5, Twp 10S, Rge 14E, B.M. TWIN FALLS County

PLACE OF USE: FISH PROPAGATION

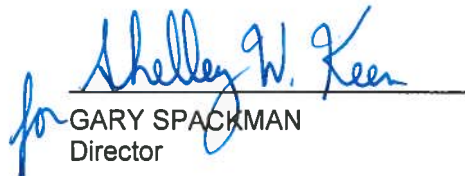
Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
10S	14E	5																	
								X											
								L4											

CONDITIONS OF APPROVAL

1. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion.
2. Return flow discharged to a surface water system shall meet Idaho Water Quality Standards.
3. The right holder shall not divert water at a rate exceeding what is reasonably necessary for the beneficial use authorized by this right.

This license is issued pursuant to the provisions of Section 42-219, Idaho Code. The water right confirmed by this license is subject to all prior water rights and shall be used in accordance with Idaho law and applicable rules of the Department of Water Resources.

Signed this 7th day of October, 2013.


GARY SPACKMAN
Director

State of Idaho
Department of Water Resources
Attachment To Water Right License
47-7460

This map depicts the FISH PROPAGATION 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 0.0425 0.085 0.17 Miles



MEMORANDUM

TO: File 47-7460

FROM: Daniel Nelson – Staff Hydrologist

DATE: October 7, 2013

SUBJECT: Licensing Review

I have been asked to review water right 47-7460 for licensing purposes. During my review of this water right I found a couple of issues that need to be addressed. I will discuss each issue separately below:

Beneficial Use of Fish Propagation Facility:

Unfortunately, this file was done before fish numbers and fish size was collected by the field examiner. The facility is now owned by a new owner, who wouldn't have past production records. Therefore, I needed to perform a couple of back calculations to determine if the facility size was reasonable for the amount of water being diverted. I have attached a spreadsheet to this memo with my calculations. The calculations suggests that this system is limited by the existing rate of flow and not by the size if the facility, which appears to be larger than is needed. Therefore, we can limit the water for this water right that can be delivered to the facility at a diversion rate of 23.2 cfs and an annual volume of 16,796 acre feet.

Overlap:

There are two overlapping domestic water rights, 47-12070 and 47-10473, from ground water, but they should not affect this surface water right.

Diversion Rate Calculation:

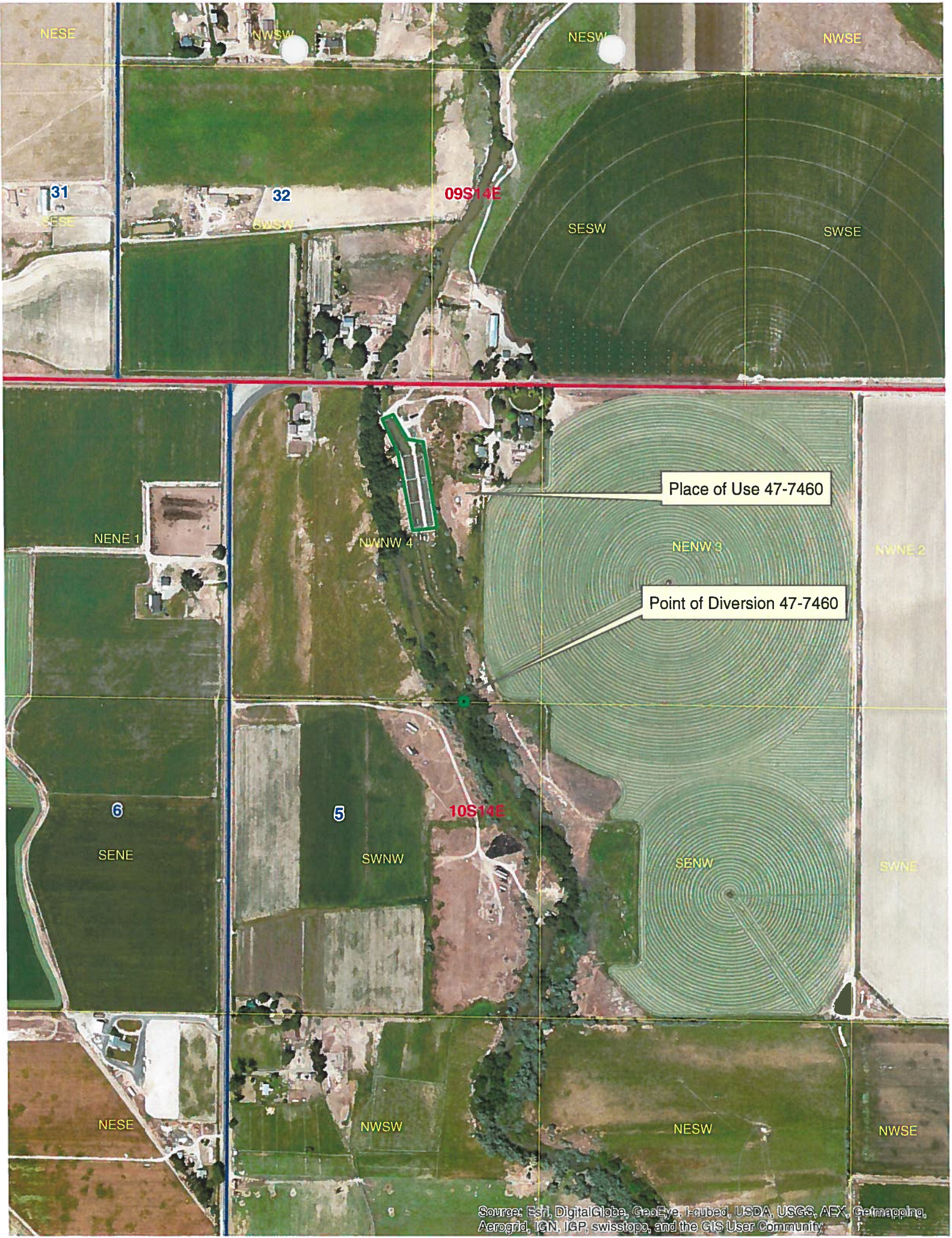
The field examiner did a good job of determining the diversion rate of this facility, and I have no reason to dispute their findings.

Conditions:

Condition 007 was removed at licensing, since it was no longer needed. A condition discussing the re-instatement was moved to remarks, Condition 002 was changed to R43. Even though this water use is not in a water district, it was decided to keep this condition due to the high flow rate and the possibility of future regulation. Condition 009 was replaced with R08. Condition 122 was added at licensing.

ArcMap and Shape Files:

The original field exam was done without the use of ArcMap, so I did my best to determine the place of use and point of diversion. The place of use was fairly obvious, so there shouldn't be any issues there. However, the point of diversion is very close to the 40 acre tract line. I decided to keep the point of diversion in the NWNW Lot 4, since the owners of this facility have never owned land in the other 40 acre tract. I have included a map of the place of use and point of diversion that I created with this memo.



Fish Facility Calculations for Water Right 47-7460 By Dan Nelson

Determination of Fish Weight Using Density Index - -Fish Weight = Density Index X Fish length in inches X Facility Volume in ft ³		
	Minimum Index	Maximum Index
Density Index	0.40	1.00
Length	13.50	13.50
Volume	70,872.00	70872.00
Fish Weight	382,708.80	956,772.00
Under Ideal Conditions, Density Index should be between 0.4 and 1. A standard size of 13.5 inches was used for fish length, since this a common fish size for production purposes.		

Determination of Fish Weight Using Flow Index --- Weight in Pounds = / Flow Index X Fish Length X Diversion Rate in gpm.		
	Minimum Index	Maximum Index
Flow Index	0.83	2.7
Length	13.50	13.5
Diversion Rate	10,412.00	10412
Flow Index	116,666.46	379,517.40
Under Ideal Conditions, Flow Index should be between 0.83 and 2.7. A standard size of 13.5 inches was used for fish length, since this a common fish size for production purposes.		

Determination of facility exchange = Diversion Rate in cfs X 3600/ Facility Volume in ft ³		
Diversion Rate	23.20	
Facility Volume	70,872.00	
Exchanges per Hour	1.18	
Under Ideal Conditions, Exchanges per Day should be 2.5 for Trout.		

Diversion Capacity Calculation = Diversion Rate in cfs X 1.9835 X 356 days		
Diversion Rate	23.2	
Total Volume in Acre Feet	16,796.28	

Unfortunately, this file was done before fish numbers and fish size was collected by the field examiner. The facility is now owned by a new owner, who wouldn't have past production records. Therefore, I needed to perform a back calculation to determine if the facility size was reasonable for the amount of water being diverted. The calculations above show that by using the industry recommended range for flow index, 23.20 cfs could supply adequate water to 117,000 to 380,000 fish. Using the industry standards for facility density, the facility is adequate to raise between 383,000 to 957,000 fish. The industry also recommends that a facility have approximately 2.5 exchanges of water per hour. This facility can only provide 1.18 exchanges of water per hour. This information suggests that this system is limited by the existing rate of flow and not by the size of the facility, which appears to be larger than is needed. Therefore, we can limit the water for this water right that can be delivered to the facility at a diversion rate of 23.2 cfs and an annual volume of 16,796 acre feet.