



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

August 8, 2013

JEAN PALACIO
TONY PALACIO
799 W 720 N
SHOSHONE ID 83352

RE: License No. 37-8089

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. Also enclosed is a copy of the approved application for amendment.

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)

CERTIFICATE OF SERVICE

I hereby certify that on August 9, 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.

37-8089

JEAN PALACIO

799 W 720 N

SHOSHONE ID 83352

TONY PALACIO

799 W 720 N

SHOSHONE ID 83352

A handwritten signature in blue ink, reading "Darla Block", is written over a horizontal line.

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. 37-08089

Priority: April 21, 1983

Maximum Diversion Rate: 0.18 CFS

It is hereby certified that JEAN PALACIO
799 W 720 N
SHOSHONE ID 83352

And/Or

TONY PALACIO
799 W 720 N
SHOSHONE ID 83352

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated April 21, 1983; and has submitted Proof of Beneficial Use on October 04, 1990. An examination confirms water is diverted from:

SOURCE

WASTE WATER

Tributary: SINKS

and a water right has been established as follows:

BENEFICIAL USE

IRRIGATION

PERIOD OF USE

03/15 to 11/15

DIVERSION RATE

0.18 CFS

LOCATION OF POINT(S) OF DIVERSION:

WASTE WATER NE $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 33, Twp 04S, Rge 16E, B.M. LINCOLN County

PLACE OF USE: IRRIGATION

Twp	Rge	Sec	NE			NW			SW			SE			Totals
			NE	NW	SE	NE	NW	SE	NE	NW	SE	NE	NW	SE	
04S	16E	33		9.0											9.0

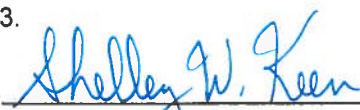
Total Acres: 9

CONDITIONS OF APPROVAL

1. The source of this right is waste water originally diverted by American Falls Reservoir District No. 2.
2. Use of this right is combined with water from American Falls Reservoir Dist. No. 2.
3. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the place of use.

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 and sealed this 7th day of August, 2013.


for GARY SPACKMAN
Director

State of Idaho
Department of Water Resources
APPLICATION FOR AMENDMENT

(For Licensing Purposes)

WATER RIGHT NO. 37-08089

RECEIVED

AUG 06 2013

**DEPARTMENT OF
WATER RESOURCES**

Date of Priority: April 21, 1983

Maximum Diversion Rate: 0.18 CFS

Comes now JEAN PALACIO
799 W 720 N
SHOSHONE ID 83352

And/Or

TONY PALACIO
799 W 720 N

SHOSHONE ID 83352

and represents to the Director of the Idaho Department of Water Resources that he is the owner and holder of Permit to appropriate the Public Waters of the State of Idaho No. 37-08089, and requests that the permit be changed as follows:

Source: WASTE WATER

Tributary: SINKS

BENEFICIAL USE

PERIOD OF USE

RATE OF DIVERSION

IRRIGATION

03/15 to 11/15

0.18 CFS

LOCATION OF POINT(S) OF DIVERSION:

WASTE WATER NE1/4NE1/4 Sec. 33, Twp 04S, Rge 16E, B.M. LINCOLN 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	
04S	16E	33		9.0															9.0

Total Acres: 9

Permit holder asserts that no one will be injured by such change and that such change will be made at permit holder's own risk. Signed this 4th day of August, 2013.

Jean Palacio
(Signature)

State of Idaho
Department of Water Resources
APPLICATION FOR AMENDMENT
(For Licensing Purposes)
WATER RIGHT NO. 37-08089

FOR DEPARTMENT USE ONLY

Preliminary check by CP Fee = 100.00 Received by HP # 0097580 Date 8-6-13

ACTION OF THE DEPARTMENT OF WATER RESOURCES

I, GARY SPACKMAN, of the Department of Water Resources hereby approve the
above Application for Amendment for Permit No. 37-08089 with the following:

CONDITIONS OF APPROVAL

1. The source of this right is waste water originally diverted by American Falls Reservoir District No. 2.
2. Use of this right is combined with water from American Falls Reservoir Dist. No. 2.
3. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the place of use.

Witness my hand this 7th day of August, 2013.

Shelley W. Keen
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 • Web Site: www.idwr.idaho.gov

GARY SPACKMAN
Director

C.L. "BUTCH" OTTER
Governor

08/01/2013

JEAN PALACIO
TONY PALACIO
799 W 720 N
SHOSHONE ID 83352

RE: Water Right Permit No. 37-08089

Dear Permit Holder(s):

The Department of Water Resources is reviewing the permit referenced above prior to issuing a water right license. By issuing a license, the Department confirms the extent of development that has been established in compliance with the terms of the permit. The examiner who verified your water use reported that certain elements of the permit have been developed differently than described on your permit. Changes that do not increase the authorized use of water under the permit can be requested and approved in accordance with Section 42-211, Idaho Code. Before a license can be issued, your permit must be amended to depict your water use as it was actually developed.

Based on the examiner's report, the following elements were developed differently than described on your permit:

 x Point(s) of Diversion

The enclosed Application for Amendment form depicts the elements of the water right as they will appear on the license when it is issued. Please review the amendment form carefully. If you concur with the information presented, please sign the form and return it with the \$100.00 filing fee within 14 days.

If you have any questions, please call me at (208) 287-4944.

Sincerely,

Cherie Palmer, Sr. Water Resource Agent
Water Allocation Bureau

Enclosure(s)

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
BENEFICIAL USE FIELD REPORT

A. GENERAL INFORMATION

Permit No: 37-8089

Exam Date: 8/30/2012

1. Current Owner: JEAN PALACIO
TONY PALACIO
799 W 720 N
SHOSHONE ID 83352
(208)886-7552

2. Accompanied by: Jean Palacio

3. SOURCE TRIBUTARY
WASTE WATER SINKS

B. OVERLAP REVIEW

1. Other water rights with the same place of use: No but, there is American Falls Reservoir District water
2. Other water rights with the same point of diversion: 37-4308

C. DIVERSION AND DELIVERY SYSTEM**1. LOCATION OF POINT(S) OF DIVERSION:**

WASTE WATER NE1/4NE1/4 Sec. 33, Twp 04S, Rge 16E, B.M. LINCOLN County

Method of Determination: GPS and Field Visit (43.039647, -114.555075)

2.

PLACE OF USE: IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
04S	16E	33	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	9.0

Total Acres: 9

Method of Determination:

3. ☒ Delivery System Diagram Attached (required). Indicate all major components and distances between components. Indicate weir size/pipe as applicable.
☐ Map Attached Showing Location(s) of point(s) of diversion and place(s) of use (required). Scale must be 1:24,000 or greater.
☐ Aerial Photo Attached (required for irrigation of 10+ acres).
☐ Photo of Diversion and System Attached

4.

<u>Well or Diversion</u> <u>ID No.*</u>	<u>Motor Make</u>	<u>Hp</u>	<u>Motor Serial No.</u>	<u>Pump Make</u>	<u>Pump Serial No. or Discharge</u> <u>Size</u>
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A0013800	Leeson 7.5 hp		Model #P215K17FB2G (pump is used in connection w/ 37-4308)		
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D. FLOW MEASUREMENTS

1.

Measurement

<u>Equipment</u>	<u>Type</u>	<u>Make</u>	<u>Model No.</u>	<u>Serial No.</u>	<u>Size</u>	<u>Calib. Date</u>
NA						

2. Measurements:

At the time of the examination, no water was being diverted to the POU but, water was in the channel for use under their other waste water right, 37-4308. According to the permit holder, waste water hasn't been delivered to the POU under this permit for about 10 years ago. Apparently, ever since the neighbors installed pivots there has been very little waste water. Even though water hasn't been delivered in years and most likely won't, the permit holder has developed their project and had put the waste water to beneficial use at one time. The permit holder outlined the area on a map that I used to determine the POU which amounted to 9 acres.

E. FLOW CALCULATIONS

___x___ Additional Computation Sheets Attached

Measured Method:

Culvert 36" and length of 40' that stretches under the road—the length of the culvert is where I released a float and timed the amount of time to run the length of the culvert. I ran two time trials and were within seconds with an average of 35 seconds. The total area of the water in the culvert is 3.25 square feet (see attached spreadsheet).

$$40'/35 \text{ seconds or } 1.14'/\text{second} \times 3.25 \text{ ft}^2 = 3.71 \text{ cfs}$$

At the PD there is a pump, but it appears that that pump is used in connection with waste water right 37-4308 which is used for a different POU.

For this permit, the delivery system uses gravity only, when enough waste water is available. While the wastewater at the time of the examination was flowing to the PD, no water was being delivered to the POU. In order to figure out how much water was available to the POU when waste water was sufficient, the delivery system will be evaluated. From the PD, there is an 8" buried pipe to the POU. There's essentially no elevation change between the POU and PD so one can conclude that the system capacity is based on the size of the conveyance pipe. An 8" pipe can deliver 1.74 cfs based on 5 fps velocity. Because 9 acres were found to be irrigated, the permit will be based on the duty of water for 9 acres or 0.18 cfs.

F. VOLUME CALCULATIONS

1. Volume Calculations for Irrigation: NA—waste water has been developed as a secondary source of water to the American Falls Reservoir District #2 water.

2. Volume Calculations for Other Uses: NA

G. NARRATIVE/REMARKS/COMMENTS

Please note that I have clarified the source of water that is tributary to the waste water. The permit holder states that the tributary is the Milner-Gooding Canal however, the Department has guidance saying that we cannot use a man-made structure for the tributary. Instead, the Department should find the first "named" tributary the source flows into. Right 37-4308 is decreed with a tributary of Thorn Creek, however; a review of the DRG map suggests that Thorn Creek is incorrect. The waste water does not 1) enter into a defined channel after making contact at the PD and 2) the waste water does not go into Thorn Creek. Therefore, I will identify the tributary as being SINKS. I believe this is correct because, if not diverted, the waste water would overflow the ponded area at the PD, collect in the permit holder's field and sink.

Have conditions of permit approval been met? ___x___ Yes _____ No On January 14, 1991, the Department received a letter from American Falls Reservoir District to satisfy condition #3 of the permit.

H. RECOMMENDATIONS

1. Recommended Amounts

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL VOLUME</u>
IRRIGATION	4/01 to 11/01	0.180 CFS	NA
<u>Totals:</u>		0.180 CFS	NA

2. Recommended Amendments

☒ Change P.D. as reflected above ☐ Add P.D. as reflected above ☐ None

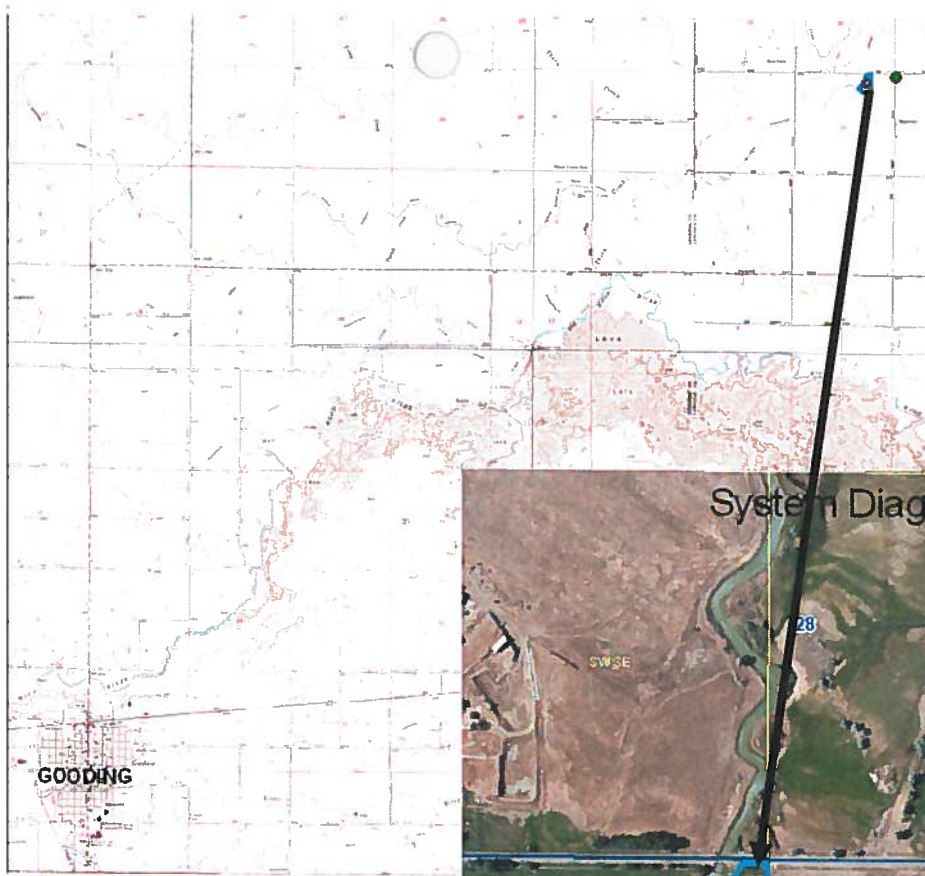
☐ Change P.U. as reflected above ☐ Add P.U. as reflected above ☐ Other

I. AUTHENTICATION

Field Examiner's Name Cheryl Palmer Date 8/1/2013

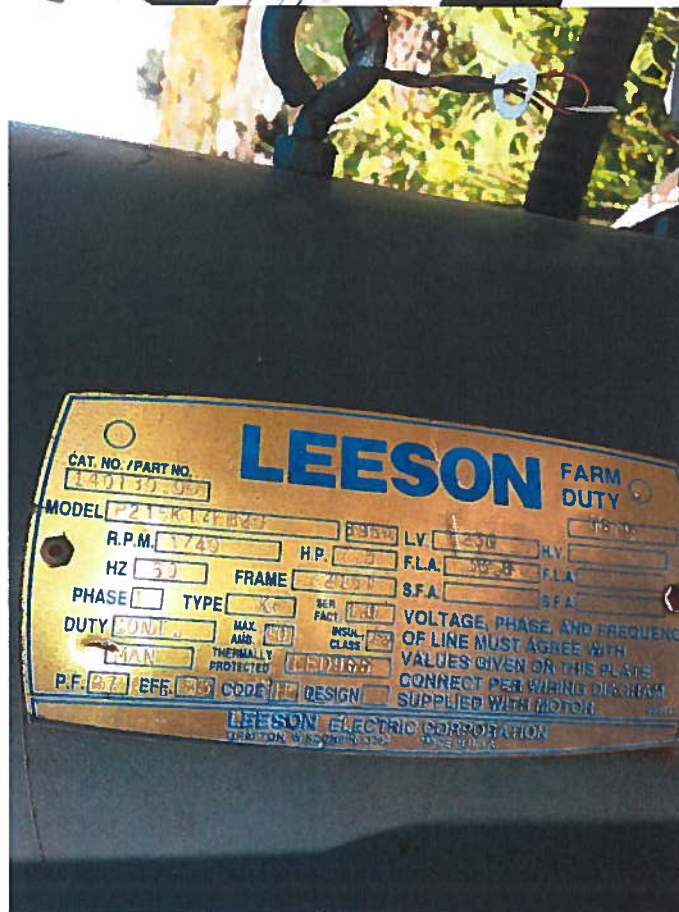
Reviewer _____ Date _____

MAP + System Diagram



POU = 9 ac





7.5 hp pump used in
connection w/ 37-4308
located at PD



facing south w/ Rd 750
to my left
Looking at POV for
37-4308



facing west w/ Rd 750
behind Me (pump also to
my back)
Looking at POV for 37-4308



Photo looking at Rd 750 facing E
wastewater ditch and
Measurement point
Water ponds here

to permits
delivery system

→ goes to delivery system
for 37-4308



Facing North at Rd 720

→ water from ponded area
above for permit.
Water goes into buried
8" pipe.



ponded area at PD



standing at the
POV where
buried pipe
surfaces
and water is
puddling up.

white pipe goes to the gated pipe at
the POV.



Gated pipe.
Facing South w/ pov
to my right



Looking at Rd 720,
North
Standing at the
pov



Palacio
home
POU
Photo looking
west from
neighboring field

Cross Sectional Area of Flow Calculator for Water Flowing in Circular Conduit

READ ME

Was the Diameter or Radius of the Pipe Measured?

☒ Diameter ☐ Radius

Was Sediment Observed & Measured in the Pipe?

☒ Sediment ☐ No Sediment

Converter: Inches --> Feet (Use as Needed)

X = 36.00 inches = 3.00 feet

Input Observed Conditions (Units Must be in Feet)

D = 3.00 feet (radius of pipe)

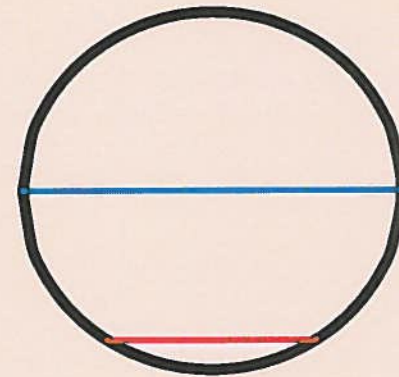
h = 1.50 feet (depth of water)

h' = 0.25 feet (depth of sediment)

Cross Sectional Area of Flow

A_{FLOW} = 3.25 square feet

X-Sectional Flow Area Sketch



— Conduit Wall - - - Horizontal Center Line
— Water Surface — Sediment Surface

$$Q = VA$$

$$Q = \frac{1.14'}{5 \text{ sec}} \times 3.25 \text{ ft}^2$$

$$Q = 3.1 \text{ cfs}$$