

State of Idaho  
Department of Water Resources

## Permit to Appropriate Water

NO. 71-10945

Priority: June 11, 2012

Maximum Diversion Rate: 0.10 CFS

This is to certify, that RIVCO LLC  
PO BOX 640  
SALMON ID 83467

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> | <u>ANNUAL VOLUME</u> |
|-----------------------|----------------------|--------------------------|----------------------|
| IRRIGATION            | 05/01 to 10/31       | 0.10 CFS                 | 14.4 AF              |

**LOCATION OF POINT(S) OF DIVERSION:**

|               |            |                                 |
|---------------|------------|---------------------------------|
| GROUND WATER  | NW1/4SE1/4 | Sec. 25, Twp 11N, Rge 12E, B.M. |
| CUSTER County |            |                                 |

**PLACE OF USE:** IRRIGATION

| Twp Rge Sec | NE |    |    |    | NW |    |    |    | SW |    |    |    | SE |     |     |    |        |
|-------------|----|----|----|----|----|----|----|----|----|----|----|----|----|-----|-----|----|--------|
|             | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW  | SW  | SE | Totals |
| 11N 12E 25  |    |    |    |    |    |    |    |    |    |    |    |    |    | 2.5 | 2.3 |    | 4.8    |

Total Acres: 4.8

### CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **February 01, 2018**.
2. Subject to all prior water rights.
3. Place of use is located within Tract 1742 and Tract 1743 of HES 578, Section 25, T11N, R12E.
4. 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. 170.
5. Prior to diversion of water under this right, the right holder shall install a lockable device, subject to the approval of the Department, in a manner that will provide the watermaster suitable control of the diversion.
6. The right holder shall install or construct a straight length of conduit or ditch suitable for installation of a device for measuring the entire flow of water being diverted in connection with this right. If the right holder uses conduit, the straight length of conduit shall be at least fifteen times the diameter of the conduit and shall be above ground or otherwise easily accessible.
7. Upon specific notification by the Department, the right holder shall install and maintain acceptable measuring device(s), including data logger(s), at the authorized point(s) of diversion, in accordance with Department specifications.

State of Idaho  
Department of Water Resources

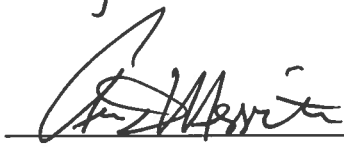
## Permit to Appropriate Water

NO. 71-10945

8. 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.
9. This right when combined with all other rights shall provide no more than 0.03 cfs per acre nor more than 3.0 afa per acre at the field headgate for irrigation of the place of use.
10. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
11. If the irrigation use authorized under this right is established on the same land as the active irrigation occurring under Right 71-7124, then the total combined irrigated area for Rights 71-7124 and 71-10945 shall not exceed 4.8 acres. However, if Right 71-7124 is transferred or otherwise legally moved to a different location without ever being used on the same land as Right 71-10945, then the total combined irrigated area for the two rights may be 5.8 acres. If Right 71-7124 is not used and not moved prior to proof of beneficial use being submitted in connection with this right, then the total combined irrigated area for Rights 71-7124 and 71-10945 shall not exceed 4.8 acres.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 23<sup>rd</sup> day of January, 2013.

FOR

  
GARY SPACKMAN, Director

State of Idaho  
Department of Water Resources

# Attachment To Permit to Appropriate Water

71-10945

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 0.03 0.06 0.12 Miles





**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](http://www.idwr.idaho.gov)

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C. L. "BUTCH" OTTER  
Governor

GARY SPACKMAN  
Director

January 23, 2013

RIVCO LLC  
PO BOX 640  
SALMON ID 83467

RE: Permit No. 71-10945

**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 stylized with a large, sweeping initial "A" and a cursive "Merritt".

Allen Merritt  
Southern Region Manager

Enclosure(s)

cc: HOLDEN KIDWELL HAHN & CRAPO PLLC

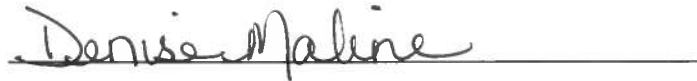
## **CERTIFICATE OF SERVICE**

I hereby certify that on January 23, 2013 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. 71-10945**

**RIVCO LLC  
PO BOX 640  
SALMON ID 83467**

**HOLDEN KIDWELL HAHN & CRAPO PLLC  
C/O ROBERT L HARRIS  
PO BOX 50130  
IDAHO FALLS ID 83405**

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

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

C. L. "BUTCH" OTTER  
Governor

GARY SPACKMAN  
Director

January 23, 2013

JAN SKRUKRUD  
WATER DISTRICT #71  
PO BOX 203  
STANLEY, ID 83278

Re: **APPROVED Permit No. 71-10945 (Rivco LLC)**

Dear Ms. Skrukrud:

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".

Denise Maline  
Administrative Assistant

Enclosure

## Merritt, Allen

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**From:** Keen, Shelley  
**Sent:** Wednesday, January 23, 2013 12:27 PM  
**To:** Merritt, Allen  
**Subject:** Approval condition for 71-10945

Allen,

I couldn't find a previously drafted condition for this set of circumstances, so I took another shot at it. How about the following?

If the irrigation use authorized under this right is established on the same land as the active irrigation occurring under Right 71-7124, then the total combined irrigated area for Rights 71-7124 and 71-10945 shall not exceed 4.8 acres. However, if Right 71-7124 is transferred or otherwise legally moved to a different location without ever being used on the same land as Right 71-10945, then the total combined irrigated area for the two rights may be 5.8 acres. If Right 71-7124 is not used and not moved prior to proof of beneficial use being submitted in connection with this right, then the total combined irrigated area for Rights 71-7124 and 71-10945 shall not exceed 4.8 acres.

Shelley

# MEMORANDUM

**Date:** January 10, 2013  
**To:** Application for Permit 71-10945 (Rivco LLC) File  
**From:** Benny Walker  
**Re:** Evaluation of Sufficiency of Information Submitted

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Application proposes diverting up to 0.1 cfs of Ground water for irrigation of 4.8 acres from a well to be drilled. The point of diversion and place of use is located approximately 2.3 miles north and 3.5 miles west of Stanley on the eastside of Hwy 21. This applicant seeks an alternative source of supply to water right 71-7124 for 0.03 cfs and the irrigation of 1.0 acres from Valley Creek. Water right 71-7124 is to be placed in the Idaho Water Supply Bank.

This application proposes the diversion and use of water tributary to the federally designated Salmon River Wild & Scenic River. The decreed minimum stream flow rights for the federal Wild & Scenic Rivers are subordinate to certain categories of water use and to specific amounts of water use established after the minimum stream flow. The water use proposed in this application will benefit from the subordination provision because 0.1 cfs and 4.5 acres will be applied to the subordination amounts specified in the decree for the Salmon River Wild & Scenic River.

Jan Skrukud, Water Master of Water District 71, has given approval of this application if it is conditioned as follows, "installation of CFS Meter or Total Volume flow Meter on the well".

- **Effect on Other Water Rights:**  
None anticipated. If application is approved and a permit is granted, it will be one of the more junior rights in the area.
- **Sufficiency of Water Supply:**  
Applicant proposes to drill a new well for the diversion of a relatively small amount of water solely for irrigation use. No issues anticipated.
- **Application Made in Good Faith:**  
This application is an attempt to obtain a ground water right as an alternative to surface water right 71-7124. The applicant proposes to place water right 71-7124 diverted from Valley Creek into the Idaho Water Supply Bank. No issues anticipated.
- **Financial Resources:**  
It is anticipated that the applicant has the financial resources needed to complete the project. No issues anticipated.
- **Local Public Interest:**  
The Wild and Scenic 30-day letter was sent to the applicants with additional information being submitted. Application was subject to public notice and protest and no protests or negative comments were received. Comments were solicited from the watermaster, IDF&G, and IDWR planning section with no negative comments received.
- **Beneficial Use/Conservation of Water Resources:**  
Proposed use is a beneficial use of water.

**Review of the application finds there is no clear inconsistency with criteria set forth in Section 42-203A Idaho Code or the Water Appropriation Rules (IDAPA 37.03.08) preventing processing of this application.**

## Walker, Benny

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**From:** Rob Harris [rharris@holdenlegal.com]  
**Sent:** Tuesday, October 30, 2012 12:26 AM  
**To:** Walker, Benny  
**Subject:** RE: Rivco, LLC Application for Permit

RECEIVED  
OCT 30 2012  
DEPT. OF WATER RESOURCES  
SOUTHERN REGION

Benny:

I was just reviewing emails, and I see that I did not get back to you. I apologize for the delay. No, we are not seeking the water for geothermal purposes. It is strictly for irrigation purposes.

Thanks, and let me know if you have any questions.



Robert L. Harris  
HOLDEN, KIDWELL, HAHN & CRAPO, PLLC  
1000 Riverwalk Drive, Suite 200  
P.O. Box 50130  
Idaho Falls, ID 83405-0130  
Phone: (208) 523-0620  
Fax: (208) 523-9518  
E-Mail: [rharris@holdenlegal.com](mailto:rharris@holdenlegal.com)

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**From:** Walker, Benny [<mailto:Benny.Walker@idwr.idaho.gov>]  
**Sent:** Wednesday, October 24, 2012 12:07 PM  
**To:** Rob Harris  
**Subject:** Rivco, LLC Application for Permit

Mr. Harris,

Processing of the Application for Permit in the name of Rivco, LLC you submitted to the Department of Water Resources is almost complete.

There is some additional information I need to finalize the permit. On the application the question number 6(d) was not answered. The question is "Is ground water with a temperature of greater than 85 degrees F being sought? Yes or No. The watermaster for the area has some concerns if Geo thermal water is being sought. If you could e-mail me your response I can continue processing the application and resolve the watermaster's concerns.

AFFIDAVIT OF PUBLICATION

State of Idaho, County of Custer, ss:

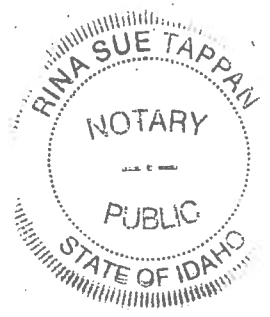
I, Susan Callahan, representing the Challis Messenger, a weekly newspaper, published at Challis, Idaho, do solemnly swear that the notice hereto attached and made a part hereof, was published in the regular and entire issue of the Challis Messenger for 2 consecutive weeks, commencing with the issue dated 9/6 2012 and ending with the issue dated 9/13 2012

Susan Callahan

STATE OF IDAHO )  
COUNTY OF CUSTER )

On this 17<sup>th</sup> day of Sept. in the year of 2012, before me, a Notary Public, personally appeared Susan Callahan, known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that he executed the same.

Rina Sue Tappan  
Notary Public for Idaho  
Residing at Challis, ID  
My commission expires: 12-8-14



**IDWR**  
The following application(s) have been filed to appropriate the public waters of the State of Idaho:  
**71-10945**  
RIVCO LLC  
PO BOX 640  
SALMON, ID 83467  
Point of Diversion NWSE S25  
T11N R12E CUSTER County  
Source GROUND WATER  
Tributary  
Use: IRRIGATION 04/15 to 10/15 0.1 CFS 14.4 AF  
Total Diversion: 0.1 CFS  
Date Filed: 6/11/2012  
Place Of Use: IRRIGATION  
T11N R12E S25 NWSE  
SWSE  
Total Acres: 4.8

Application for permit proposed to divert 0.1 cfs of ground water for the irrigation of 4.8 acres from a well to be drilled located approximately 2.3 miles north and 3.5 miles west of Stanley on the eastside of Hwy 21. This application proposes the diversion and use of water tributary to the federally designated Wild & Scenic River. The decreed minimum stream flow rights for the federal Wild & Scenic Rivers are subordinate to certain categories of water use and to specific amounts of water use established after the minimum stream flow. The water use proposed in this application will benefit from the subordination provision because 0.1 cfs and 4.8 acres will be applied to the subordination amounts specified in the decree for the Salmon River Wild & Scenic River.

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 right(s), please see [www.idwr.idaho.gov/apps/ExtSearch/WRFiling.asp](http://www.idwr.idaho.gov/apps/ExtSearch/WRFiling.asp). Protests may be submitted based on the criteria of Idaho Code § 42-203A. Any protest against the approval of this application 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 September 24, 2012. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director  
Published: September 6 and 13, 2012

RECEIVED  
OCT 11 2012  
DEPT. OF WATER RESOURCES  
SOUTHERN REGION

✓ OK  
DM 10/12/2012

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

**RECEIVED**  
**SEP 18 2012**  
DEPT. OF WATER RESOURCES  
SOUTHERN REGION

fax

Application No.: 71-10945  
Applicant's Name: RIVCO, LLC  
PO BOX 640  
SALMON, ID 83467

Watermaster's Recommendation:

- a) \_\_\_\_\_ I do not oppose approval of this application.  
b) X I do not oppose approval of this application if it is conditioned as follows:

*installation of CFS meter or total volume  
flow meter on the well.*

- c) \_\_\_\_\_ I oppose approval of this application for the following reasons:

- d) \_\_\_\_\_ Additional comments:

Dated this 18th day of September, 2012

Water District No. 71

*Jan Skrukrud*  
Watermaster's Signature

*Jan Skrukrud*  
Printed Name