

State of Idaho
Department of Water Resources

Permit to Appropriate Water

NO. 37-22783

Priority: October 10, 2012

Maximum Diversion Rate: 0.14 CFS

This is to certify, that MARY C WIRTH
PO BOX 718
KETCHUM ID 83340

BRADLEY S WIRTH
PO BOX 718
KETCHUM ID 83340

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	0.10 CFS
COOLING	01/01 to 12/31	0.10 CFS
DOMESTIC	01/01 to 12/31	0.04 CFS

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER NE1/4NE1/4SE1/4 Sec. 35, Twp 02N, 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	
02N 18E 35													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	
02N 18E 35													X				

State of Idaho
Department of Water Resources

Permit to Appropriate Water

NO. 37-22783

PLACE OF USE: DOMESTIC

Tw p	Rge	Sec	NE				NW				SW				SE				Totals
			<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	
02N	18E	35													X				

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **November 01, 2017**.
2. Subject to all prior water rights.
3. Domestic use is for 1 home.
4. The domestic use authorized under this right shall not exceed 13,000 gallons per day.
5. The irrigation occurring under this domestic use shall not exceed 1/2 acre.
6. Heating and cooling uses are for one household.
7. Use of water under this right for heating and cooling shall be non-consumptive.
8. The right holder shall record the quantity of water diverted and annually report diversions of water and/or other pertinent hydrologic and system information as required by Section 42-701, Idaho Code.
9. Return flow discharged to a subsurface system must be authorized by a separate injection well permit.
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. 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.
12. 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 14th day of November, 2012.

FOR



GARY SPACKMAN, Director

State of Idaho
Department of Water Resources

Attachment To Permit to Appropriate Water

37-22783

This map depicts the HEATING, COOLING and DOMESTIC 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.

R18E



0 0.03 0.06 0.12 Miles

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





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

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

November 14, 2012

BRADLEY S WIRTH
MARY C WIRTH
PO BOX 718
KETCHUM ID 83340

RE: Permit No. 37-22783

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.

Please note that one of the conditions of approval on your permit requires that you measure your diversion and record other important hydrologic and physical features and report them annually to the Department. The Department will shortly send you further information about measuring devices, flow estimation using power records, and annual reporting forms. If you have questions about the measuring and reporting requirements, please call the Department at (208) 287-4800 and ask for someone in the Water Distribution Section.

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", with a stylized flourish at the end.

Allen Merritt
Southern Region Manager

Enclosure(s)

cc: BROCKWAY ENGINEERING PLLC

CERTIFICATE OF SERVICE

I hereby certify that on November 14, 2012 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. 37-22783

**BRADLEY S WIRTH
MARY C WIRTH
PO BOX 718
KETCHUM ID 83340**

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

A handwritten signature in cursive script that reads "Denise Maline". The signature is written in black ink and is positioned above a solid 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.

OCT 25 2012
25DEPT. OF WATER RESOURCES
SOUTHERN REGION

AFFIDAVIT of PUBLICATION

COPY OF NOTICE

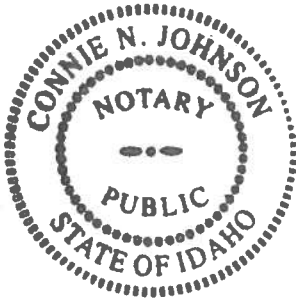
State of Idaho
County of Blaine

Pam Morris, being the first duly sworn, deposes and says that she is the printer (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 17 day of Oct., 20 12, and the date of the last publication was on the 24 day of Oct., 20 12

Subscribed and sworn to before me this 24 day of Oct., 20 12.



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 147

Number of Insertions 2

147 Lines tabular at 135.24 9.0 cents/pica

147 Lines straight at 118.34 8.0 cents/pica

147 Subsequent lines at 7.0 cents/pica

TOTAL COST \$253.58

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;

37-22783

BRADLEY S WIRTH

MARY C WIRTH

PO BOX 718

KETCHUM, ID 83340

Point of Diversion NENESE S35

T02N R18E BLAINE County Source

GROUND WATER Tributary

Use: COOLING 01/01 to 12/31 0.1 CFS

Use: DOMESTIC 01/01 to 12/31 0.04 CFS

Use: HEATING 01/01 to 12/31 0.1 CFS

Total Diversion: 0.14 CFS

Date Filed: 10/10/2012

Place Of Use: HEATING, COOLING, DOMESTIC

T02N R18E S35 NESE

Application for Permit 37-22783, filed in the name of Bradley S. and Mary C. Wirth, seeks to appropriate 0.14 cfs of ground water for heating, cooling, and domestic use. 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 0.5 miles west of the City of Bellevue at 50 Lowe Bradford Road

SEE REVERSE SIDE FOR
REMAINDER OF AD

✓ OK
AM 11-6-2012

**NOTICE OF PROPOSED CHANGE
OF WATER RIGHT
TRANSFER NO. 78162**

✓ HEART ROCK RANCH LLC, PO BOX 3724, HAILEY, ID 83333 has filed Application No. 78162 for changes to the following water rights within BLAINE County(s): Right No(s). 37-22051. The purpose of the transfer is to change a portion of the above rights as follows: Transfer application proposes changing the place of use for a 0.04 cfs stockwater and 2.75 cfs wildlife and aesthetic ground water right. This right has historically been diverted into Spring Creek through ditches and overland flow and this transfer is seeking to divert it into a pipe and deliver it into Crystal Creek. Proposed place of use is located approximately 12.0 to 13.5 miles south and 0.5 miles west to 1.4 miles east of the town center in Hailey.

**NOTICE OF PROPOSED CHANGE
OF WATER RIGHT
TRANSFER NO. 78191**

✓ PORTER FAMILY LIVING TRUST, PO BOX 2530, KETCHUM, ID 83340 has filed Application No. 78191 for changes to the following water rights within BLAINE County(s): Right No(s). 37-22764. The purpose of the transfer is to change a portion of the above rights as follows: Application proposes to change the point of diversion for a 0.02 cfs irrigation water right from the East Fork of the Wood River by moving the location approximately 0.5 mile downstream. The new proposed diversion will be located approximately 4.5 miles south and 3.0 miles east of Ketchum within lot 27, Hyndman Peak Subdivision. The right will be utilized to irrigate 0.5 acre within lot 27, Hyndman Peak Subdivision.

**NOTICE OF PROPOSED CHANGE
OF WATER RIGHT
TRANSFER NO. 78192**

✓ PORTER FAMILY LIVING TRUST, PO BOX 2530, KETCHUM, ID 83340 has filed Application No. 78192 for changes to the following water rights within BLAINE County(s): Right No(s). 37-22765. The purpose of the transfer is to change a portion of the above rights as follows: Application proposes to change the point of diversion for a 0.10 cfs irrigation water right from the East Fork of the Wood River by moving the location approximately 0.5 mile downstream. The new proposed diversion will be located approximately 4.5 miles south and 3.0 miles east of Ketchum within lot 27, Hyndman Peak Subdivision. The right will be utilized to irrigate 2.5 acre within lot 28, Hyndman Peak Subdivision.

**NOTICE OF PROPOSED CHANGE
OF WATER RIGHT
TRANSFER NO. 78193**

✓ PORTER FAMILY LIVING TRUST, PO BOX 2530, KETCHUM, ID 83340 has filed Application No. 78193 for changes to the following water rights within BLAINE County(s): Right No(s). 37-22766. The purpose of the transfer is to change a portion of the above rights as follows: Application proposes to change the point of diversion for a 0.17 cfs irrigation water right from the East Fork of the Wood River by moving the location approximately 0.5 mile downstream. The new proposed diversion will be located approximately 4.5 miles south and 3.0 miles east of Ketchum within lot 27, Hyndman Peak Subdivision. The right will be utilized to irrigate 4.35 acre within lot 29, Hyndman Peak Subdivision.

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 see www.idwr.idaho.gov/apps/ExtSearch/WRFiling.asp. 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, 1341 Fillmore St, Suite 200, Twin Falls, ID 83301 together with a protest fee of \$25.00 for each application on or before November 5, 2012. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

**PUBLISH:
IDAHO MOUNTAIN EXPRESS
Oct. 17 & 24, 2012**



✓ OK DM 11/6/2012