

State of Idaho
Department of Water Resources

Permit to Appropriate Water

NO. 47-17588

Priority: September 24, 2012

Maximum Diversion Rate: 0.02 CFS

This is to certify, that EVELYN L POPPAY
4586 RIVER RD
BUHL ID 83316

has applied for a permit to appropriate water from:

Source: WASTE WATER

Tributary: DEEP CREEK

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>
DOMESTIC	03/15 to 11/15	0.02 CFS

LOCATION OF POINT(S) OF DIVERSION:

WASTE WATER SE1/4NE1/4 Sec. 9, Twp 09S, Rge 14E, B.M.
TWIN FALLS County

PLACE OF USE: DOMESTIC

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
09S	14E	9				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. The domestic use authorized under this right and all other domestic rights appurtenant to the place of use of this right shall not exceed a combined total of 13,000 gallons per day.
4. The irrigation occurring under this domestic use and all other domestic rights appurtenant to the place of use of this right shall not exceed a combined total of 1/2 acre.
5. The waste water diverted under this right is subject to the right of the original appropriator, in good faith and in compliance with state laws governing changes in use and/or expansion of water rights, to cease wasting water, to change the place of use or manner of wasting it, or to recapture it.
6. 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.

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, 20 12.


 FOR _____
 GARY SPACKMAN, Director

State of Idaho
Department of Water Resources

Attachment To Permit to Appropriate Water

47-17588

This map depicts the 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.

R14E



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 15, 2012

EVELYN L POPPAY
4586 RIVER RD
BUHL ID 83316

RE: Permit No. 47-17588

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.

Please note that a separate stream channel alteration permit must be obtained from the Department prior to any activity in the stream channel other than construction or maintenance of the diversion structure for your water right(s). Applications for stream channel alteration permits must be filed at least sixty days prior to the commencement of work in the stream.

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 initial "A" and a cursive "Merritt".

Allen Merritt
Southern Regional Manager

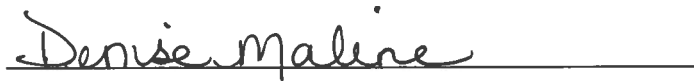
Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on November 15, 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. 47-17588

**EVELYN L POPPAY
4586 RIVER RD
BUHL ID 83316**

A handwritten signature in cursive script, reading "Denise Maline", is written over 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.



RECEIVED

NOV 08 2012

DEPT. OF WATER RESOURCES
SOUTHERN REGION

IDAHO DEPARTMENT OF FISH AND GAME
MAGIC VALLEY REGION
324 South 417 East, Suite 1
Jerome, Idaho 83338

C.L. "Butch" Otter / Governor
Virgil Moore / Director

November 6, 2012

Denise Maline
Idaho Department of Water Resources
1341 Fillmore Street
Suite 200
Twin Falls, Idaho 83301-3380

**RE: Applications for Transfer of Water Rights: 78191, 78192, 78193, 78130, and 77869
Application for Permit 47-17588**

Dear Denise:

Idaho Department of Fish and Game (IDFG) staff has reviewed the above listed applications for transfer of water rights associated with the East Fork Wood River in Blaine County and the Raft River in Cassia County and the new application for a water right from Deep Creek in Twin Falls County.

The purpose of these comments is to assist the decision-making authority by providing technical information addressing potential effects on wildlife and wildlife habitat and how any adverse effects might be mitigated. It is not the purpose of IDFG to support or oppose this proposal. Resident species of fish and wildlife are property of all Idaho citizens, and IDFG and the Idaho Fish and Game Commission are expressly charged with statutory responsibility to preserve, protect, perpetuate and manage all fish and wildlife in Idaho (Idaho Code 36-103(a)). In fulfillment of our statutory charge and direction as provided by the Idaho Legislature, we offer the following comments and recommendations.

Hyndman Peak Subdivision, East Fork Wood River, Blaine County

It is our understanding applications 78191, 78192, 78193, and 78180 are associated with four lots in the Hyndman Peak Subdivision and represent a request to add a new point of diversion downstream of an existing point of diversion. The existing diversion will continue to deliver water to other legal water rights within the same subdivision. Consumptive water use will remain unchanged with a small potential for water savings associated with delivery efficiency.

An additional downstream diversion will result in some water benefits in the river reach between the existing and proposed point of diversion. However, an additional instream pump represents an increased risk of entrainment or impingement for resident salmonids. We recommend the Applicant(s) screen the water intake structures with 1/4" mesh to avoid entraining or impinging juvenile fish and divert (pump) from a location away from potential fish refugia like stream banks with overhanging vegetation or near accumulations of large woody debris.

Keeping Idaho's Wildlife Heritage

Raft River, Cassia County

It is our understanding the application for transfer represents a request to add a new point of diversion downstream of an existing point of diversion (77869). The additional point of diversion will allow for more efficient delivery of water. The existing diversion will continue to deliver water to other legal water rights and consumptive water use will remain unchanged with a small potential for water savings associated with delivery efficiency.

An additional downstream diversion will result in some water benefits in the river reach between the existing and proposed point of diversion. While the delivery method (diversion system) for the new diversion was unclear from the application, an additional instream pump represents an increased risk of entrainment or impingement for resident salmonids. If an instream pump is the intended delivery method, we recommend the Applicant(s) screen the water intake structures with 1/4" mesh to avoid entraining or impinging juvenile fish and divert (pump) from a location away from potential fish refugia like stream banks with overhanging vegetation or near accumulations of large woody debris.

Deep Creek, Twin Falls County

It is our understanding the applicant wishes to secure a new water right (47-17588) that diverts waste-water from an existing irrigation return that runs through the Applicant's property. The purpose of the application is to provide irrigation water for trees. If approved, the new water right would not result in an additional irrigation return to the Deep Creek drainage. Approval of the new water right should have minimal negative impacts on fish and wildlife resources in the area.

Thank you for the opportunity to review the applications. If you have any questions please contact Mike McDonald, Environmental Staff Biologist, at this office.

Sincerely,



H. Jerome Hansen
Magic Valley Regional Supervisor

Cc: IDFG – Boise (Kiefer/Poole)
ECc: R4 staff

Affidavit of Publication
STATE OF IDAHO)
COUNTY OF TWIN FALLS) SS.

RECEIVED
OCT 26 2012
DEPT. OF WATER RESOURCES
SOUTHERN REGION

I, Ruby Aufderheide, being first duly sworn upon oath, depose and say that I am Legal Clerk of the TIMES-NEWS, published daily at, Twin Falls, Idaho, and do solemnly swear that a copy of the notice of advertisement, as per clipping attached, was published in the regular and entire issue of said newspaper, and not in any supplement thereof, for two consecutive weeks, commencing with the issue dated 18th day of October, 2012 and ending with the issue dated 25th day of October, 2012

And I do further certify that said newspaper is a consolidation, effective February 16, 1942, of the Idaho Evening Times, published theretofore daily except Sunday, and the Twin Falls News, published theretofore daily except Monday, both of which newspapers prior to consolidation had been published under said names in said city and county continuously and uninterruptedly during a period of more than twelve consecutive months, and said TIMES-NEWS, since such consolidation, has been published as a daily newspaper except Saturday, until July 31, 1978, at which time said newspaper began daily publication under said name in said city and county continuously and uninterruptedly.

And I further certify that pursuant to Section 60-108 Idaho Code, Thursday of each week has been designated as the day on which legal notice by law or by order of any court of competent jurisdiction within the state of Idaho to be issued thereof Thursday is announced as the day on which said legal will be published.

Ruby Aufderheide
Ruby Aufderheide, Legal Clerk

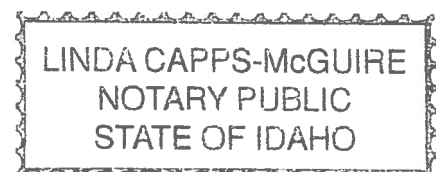
STATE OF IDAHO
COUNTY OF TWIN FALLS

On this 25th day of October, 2012, before me,

a Notary Public, personally appeared Ruby Aufderheide,
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.

Linda Capps McGuire
Notary Public for Idaho
Residing at Twin Falls, Idaho.

My commission expires: 5-19-15 **OVER** →



The following application(s) have been filed to appropriate the public waters of the State of Idaho:

47-17588

EVELYN L POPPAY

4586 RIVER RD

BUHL, ID 83316

Point of Diversion SENE S9 T09S R14E TWIN FALLS County

Source WASTE WATER Tributary DEEP CREEK

Use: DOMESTIC 03/15 to 11/15 0.02 CFS

Total Diversion: 0.02 CFS

Date Filed: 9/24/2012

Place Of Use: DOMESTIC

T09S R14E S9 SENE

Application proposes diverting up to 0.02 cfs of wastewater for domestic purposes (irrigation not to exceed 0.5 acres in connection with a home) on property located along River Road approximately 4.0 miles north and 2.6 miles west of the center of Buhl.

NOTICE OF PROPOSED CHANGE OF WATER RIGHT

TRANSFER NO. 74994

ALEX ANHDER and HOLLY ANHDER, 117 N 2100 E, ROBERTS, ID 83444 has filed Application No. 74994 for changes to the following water rights within LINCOLN County(s): Right No(s). 37-4097. The purpose of the transfer is to change a portion of the above rights as follows: Application proposes to change the points of diversion (POD) and nature of use for a one-acre portion (0.02 CFS) of wastewater irrigation/stockwater right 37-4097. Right 37-4097 currently provides for up to six acres of irrigation on ground located approximately 1.5 to 1.7 mi. S & 0.8 to 0.9 mi. W of Dietrich. Application proposes to cover wildlife storage uses for an existing pond within the current Place of Use (POU) by drying up approximately one acre of irrigation and change the POD to the location of the impoundment on the wastewater stream.

NOTICE OF PROPOSED CHANGE OF WATER RIGHT

TRANSFER NO. 77869

ALAN J HARPER and BEVERLY K HARPER, 2436 E 1850 S, MALTA, ID 83342 has filed Application No. 77869 for changes to the following water rights within CASSIA County(s): Right No (s). 43-10384, 43-10380, 43-11251, 43-11252, 43-11253, 43-165A, 43-11254, 43-11255, 43-11256, 43-11269, 43-11270, 43-168A, 43-169C, 43-170A, 43-171A, 43-172A, 43-173A, 43-178J, 43-10086, 43-12941, 43-12944, 43-12996, 43-12997, 43-12998, 43-12999, 43-13000, 43-13001, 43-13002, 43-13003, 43-13078, 43-13080, 43-13082, 43-13084, 43-13086, 43-13088, 43-13090, 43-13092, 43-13094, 43-13096, 43-13060. The purpose of the transfer is to change a portion of the above rights as follows: Application proposes to add a point of diversion for irrigation water rights diverted from Raft River by adding a new location downstream from the currently authorized diversions. The new proposed diversion will be located approximately 5.0 miles south and 1.0 mile east of Malta. The new proposed and currently authorized points of diversion will allow for up to 32.03 cfs to be diverted for the irrigation of up to 817 acres on an existing farm located approximately 4.0 to 6.0 miles south and 0.75 to 1.8 miles east of Malta.

NOTICE OF PROPOSED CHANGE OF WATER RIGHT TRANSFER NO. 78130

ALAN J HARPER and BEVERLY K HARPER, 2436 E 1850 S, MALTA, ID 83342 has filed Application No. 78130 for changes to the following water rights within CASSIA County(s): Right No (s). 43-13079, 43-13081, 43-13083, 43-13085, 43-13087, 43-13089, 43-13091, 43-13093, 43-13095, 43-13097. The purpose of the transfer is to change a portion of the above rights as follows: Application proposes to add a point of diversion for irrigation water rights diverted from Raft River by adding a new location downstream from the currently authorized diversions. The new proposed diversion will be located approximately 5.0 miles south and 1.0 mile east of Malta. The new proposed and currently authorized points of diversion will allow for up to 0.18 cfs to be diverted for the irrigation of up to 2.5 acres on an existing farm located approximately 4.0 to 6.0 miles south and 0.75 to 1.8 miles east of Malta.

NOTICE OF PROPOSED CHANGE OF WATER RIGHT TRANSFER NO. 78168

CHRIS DRAKOS, PO BOX 793, BLACKFOOT, ID 83221 has filed Application No. 78168 for changes to the following water rights within CASSIA County(s): Right No(s). 45-2601, 45-2641. The purpose of the transfer is to change a portion of the above rights as follows: Application proposes adding a new point of diversion (new well to be drilled) to two groundwater rights used to irrigate 639 acres on a farm located approximately 11.0 - 12.0 miles north and 4.0 - 5.0 miles east of Oakley. The new well will be located near the northwest corner of the farm and will be limited to a diversion rate of 4.0 cfs. In total, the new well and two existing wells on the farm will be limited to the currently authorized diversion of 5.24 cfs for the irrigation of 639 acres. 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: October 18th & 25th, 2012

✓ OK DM 11/6/2012