



State of Idaho  
Department of Water Resources  
**Permit to Appropriate Water**  
NO. 37-22712

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **July 01, 2013**.
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. Use of water under this right for heating and cooling shall be non-consumptive.
7. 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.
8. 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.
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.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 25<sup>th</sup> day of June, 2012.

FOR



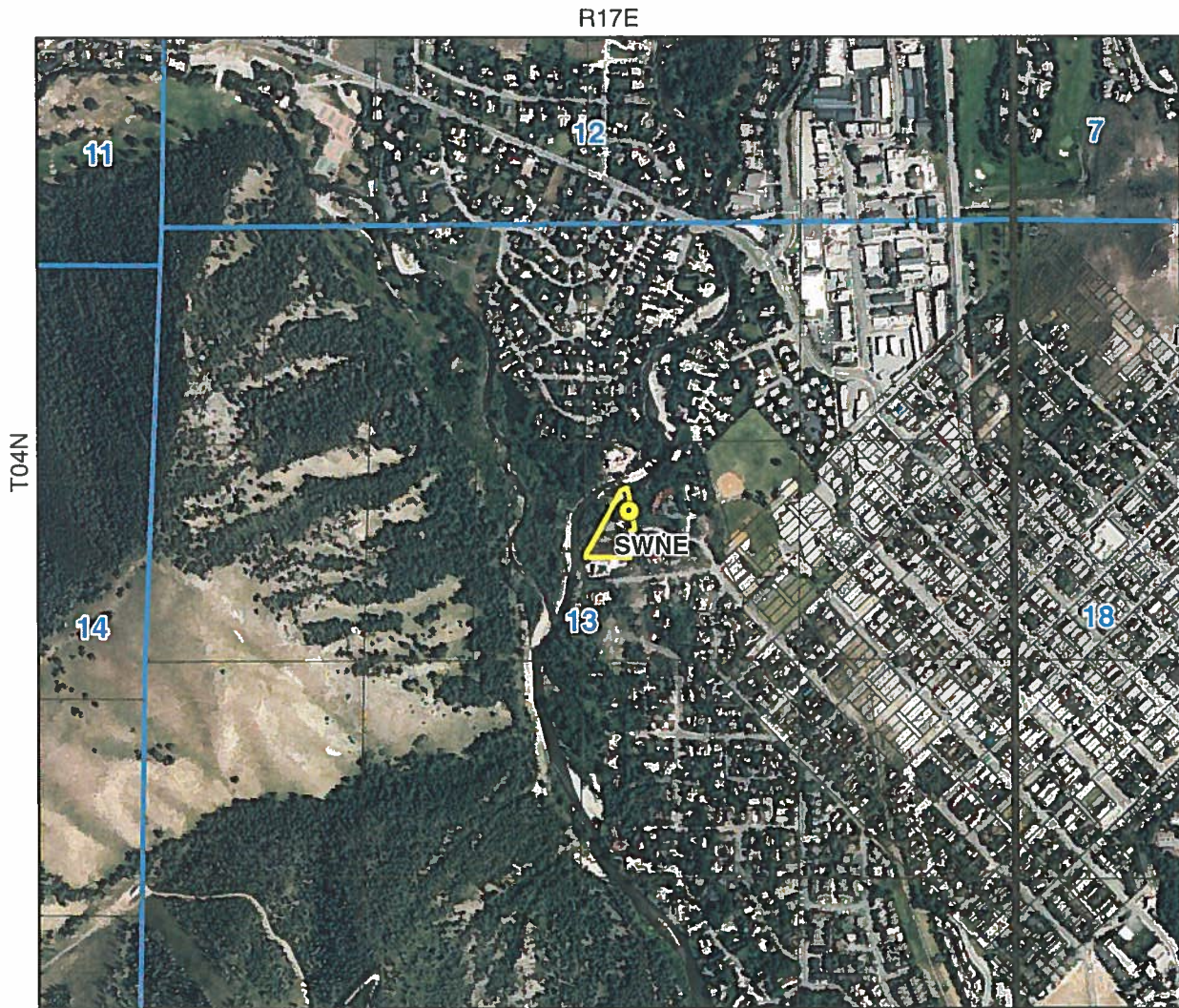
GARY SPACKMAN, Interim Director

State of Idaho  
Department of Water Resources

# Attachment To Permit to Appropriate Water

37-22712

This map depicts the DOMESTIC, HEATING & COOLING 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.



0 0.125 0.25 0.5 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](http://www.idwr.idaho.gov)

C. L. "BUTCH" OTTER  
Governor

GARY SPACKMAN  
Interim Director

June 25, 2012

LEGACY RESIDENTIAL LLC  
C/O TOM ELLISON  
400 112TH AVE N.E., STE 230  
BELLEVUE WA 98004

RE: Permit No. 37-22712

**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.

Enclosed is a form entitled 'Instructions for Proof of Beneficial Use.' Please read the instructions carefully since you must take further action to develop this permit into a licensed water right. Also enclosed is a form entitled 'Proof of Beneficial Use.' If your project is already completed, you should complete and submit this form immediately.

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". The signature is stylized with a large, looped initial "A" and a cursive "Merritt".

Allen Merritt  
Southern Region Manager

Enclosure(s)

cc: GALENA ENGINEERING INC.

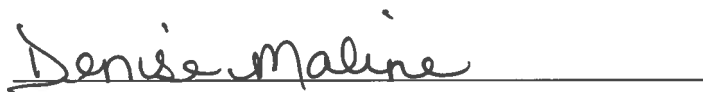
## **CERTIFICATE OF SERVICE**

I hereby certify that on June 25, 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. 37-22712**

**GALENA ENGINEERING INC.  
C/O JEFF LOOMIS, P.E.  
317 N RIVER ST  
HAILEY ID 83333**

**LEGACY RESIDENTIAL LLC  
C/O TOM ELLISON  
400 112TH AVE N.E., STE 230  
BELLEVUE WA 98004**

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.

**Walker, Benny**

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**From:** Jeff C. Loomis [jloomis@galena-engineering.com]  
**Sent:** Tuesday, June 12, 2012 4:06 PM  
**To:** Walker, Benny  
**Subject:** Legacy Residential, LLC application to appropriate 0.75 cfs of groundwater

Hi, Benny –

I received your message with regards to the basis for the amount of water to be appropriated associated with the Legacy Residential, LLC permit application (Lots 1B and 2C, Goose Island Sub., Ketchum, Idaho).

These are the assumptions I used to identify 0.75 cfs:

House: 8,000 s.f. @ 35 BTU/sf = 280,000 BTU  
Garage: 2,000 s.f. @ 35 BTU/sf = 70,000 BTU  
Pavers: 10,000 s.f. @ 100 BTU/sf = 1,000,000 BTU

Total: 1,350,000 BTU, or 112.5 tons (heating)  
Assuming 3 gpm per ton = 337.5 gpm, or 0.75 cfs.

Back check delta T needed from 0.75 cfs:  
337.5 gpm = 168,682.5 lbs/hr (BTU), therefore delta T required is 8 degrees, OK.

Please let me know if you need something else associated with this application.

Thank you,

**JEFF LOOMIS, PE**

Office: (208) 788-1705  
Cell: (208) 720-9107

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The information contained in this email message, including any attachments, may be confidential, proprietary, or exempt from disclosure, and is intended solely for the individual or entity to whom it is addressed. If you are not the intended recipient, please note that any dissemination, distribution, use or copying of this communication is strictly prohibited. If you have received this communication in error, please notify the sender immediately by telephone (208.726.4729) or by return e-mail, and delete it from your computer.

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RECEIVED  
JUN 12 2012  
DEPT. OF WATER RESOURCES  
SOUTHERN REGION



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  
Interim Director

June 11, 2012

Galena Engineering Inc.  
c/o Jeff Loomis, P.E.  
317 N. River ST  
Hailey, ID 83333

Re: Application For Permit No. 37-22712 Legacy Residential LLC

Dear Mr. Loomis

The Department of Water Resources is currently in the process of taking final action on the above mentioned application. Before the permit can be issued, the Department requests additional information concerning the amount of flow (0.75 cfs) sought for heating and cooling for the residence and snow melt applications. The Department seeks information that justifies the proposed flow rate in the application. During final review of your application it was noted that the amount of flow (0.75 cfs) listed on your application appears to be relatively large compared to similar types of applications that the Department has processed in the past for similar proposed uses.

Idaho Code requires that the Department must ensure an application is not filed for speculative purposes, that the application is in the local public interest, and that it is not contrary to the conservation of water resources within the state of Idaho. In other words, there must be a reasonable expectation that the amount of water requested will be put to beneficial use.

For applications that do not meet the criteria outlined in Idaho Code, the Department may reject such applications and refuse issuance of a permit therefore, or may partially approve and grant a permit for a smaller quantity of water than applied for, or may grant a permit upon conditions.

Please submit any additional information that justifies the amount of flow (0.75 cfs) listed on your application. If you determine the amount of flow (0.75 cfs) listed on your application is excessive, please provide us with the amount that will be expected to be applied to a beneficial use. Submittal of this requested information in a timely manner will help to prevent further delays in the processing of your application.

If you have any questions, or need any further assistance, feel free to contact this office at your convenience.

Sincerely,

Benny Walker  
Water Resource Agent

## MEMORANDUM

**Date:** June 4, 2012  
**To:** Application for Permit 37-22712 (Legacy Residential) File  
**From:** Benny Walker  
**Re:** Memo

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Application for Permit 37-22712, filed in the name of Legacy Residential (c/o Mr. Tom Ellison), seeks to appropriate 0.75 cfs of Groundwater for heating, cooling and domestic use. The permit would authorize a groundwater supply for a closed-loop heat exchanger to an injection well. The applicants propose to drill two new wells, one to be pumped and another for injection. The heating and cooling will be non-consumptive use. The heating and cooling will be used for residential space and snow melting applications. The domestic use will be for irrigation up to ½ acre. They have also applied for an injection well permit. The well and place of use will be located on Lots 1B and 2C in Goose Island Subdivision west of the city of Ketchum and east of the Big Wood River. The applicant owns the property where the proposed well is to be located. Jeff Loomis, P.E. from Galena Engineering Inc submitted information to demonstrate the need for the requested flow rate

RECEIVED

MAY 11 2012

DEPT. OF WATER RESOURCES  
SOUTHERN REGION

*Via email*

To: Denise Buffington

From: Sandra Thiel

Subject: Water Right Application 37- 22712

Date: May 11, 2012

The application for permit 37-22712, for 0.75 cfs of groundwater, is in close proximity to the Big Wood River. The Idaho Water Resource Board holds minimum stream flow water rights nos. 37-7919 and 37-82-58 near the applicant's point of diversion. Planning would like to emphasize that the existing minimum stream flows have senior priority. We request that the Department administer the groundwater right to insure that the senior minimum stream flows are not injured.

APR 26

COPY OF NOTICE

Pg. 1 of 2

## AFFIDAVIT OF PUBLICATION

State of Idaho  
County of BlaineDEPT. OF WATER RESOURCES  
SOUTHERN REGION

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 18 day of April, 20 12, and the date of the last publication was on the 25 day of April, 20 12

Subscribed and sworn to before me this 25 day of

April, 20 12.

Connie N. Johnson  
NOTARY PUBLIC

RESIDING AT HAILEY, IDAHO  
MY COMMISSION EXPIRES ON 7/10/2012

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 195

Number of Insertions 2

Lines tabular at 9.0 cents/pica

195 Lines straight at 179.40 8.0 cents/pica

195 Subsequent lines at 154.98 7.0 cents/pica

TOTAL COST \$ 336.38

Legal Notice  
TITLE OF NOTICE

PLAINTIFF ATTORNEY

DEFENDANT

PLAINTIFF

IDWR

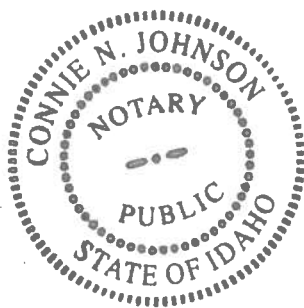
BILL TO

THE FOLLOWING APPLICATION(S)  
HAVE BEEN FILED TO APPROPRIATE  
THE PUBLIC WATERS OF THE  
STATE OF IDAHO:

37-22354

JUDE P AND JULIA MANDEVILLE  
DAMASCO TRUST  
700 MONTE VISTA WAY  
HALF MOON BAY, CA 94019  
Point of Diversion NESW S33 T03N  
R18E BLAINE County Source INDIAN  
CREEK Tributary BIG WOOD RIVER  
Use: AESTHETIC 01/01 to 12/31  
0.74 CFS  
Use: RECREATION 01/01 to 12/31  
0.74 CFS  
Use: WILDLIFE 01/01 to 12/31  
0.74 CFS  
Use: AESTHETIC STORAGE 01/01  
to 12/31 73 AF  
Use: DIVERSION TO STORAGE  
01/01 to 12/31 0.74 CFS  
Use: FIRE PROTECTION STORAGE  
01/01 to 12/31 73 AF  
Use: RECREATION STORAGE  
01/01 to 12/31 73 AF  
Use: WILDLIFE STORAGE 01/01 to  
12/31 73 AF  
Total Diversion: 0.74 CFS 73 AF  
Date Filed: 4/27/2007  
Place Of Use: AESTHETIC,  
RECREATION, WILDLIFE,  
AESTHETIC STORAGE, RECREATION  
STORAGE, WILDLIFE STORAGE,  
FIRE PROTECTION STORAGE  
T02N R18E S4 L3(NENW)  
T03N R18E S33 SESW  
Amended application for permit seeks  
to appropriate 0.74 cfs and 73 afa from  
Indian Creek for uses associated with  
an existing pond located along the east  
side of Buttercup Road approximately  
1.6 miles north and 0.2 miles west of  
the center of Hailey. Water from Indian  
Creek will be diverted at its confluence  
with the Hiawatha Canal and delivered  
to the pond via the Hiawatha Canal.

✓ OK  
DM 5/3/2012



37-22711

THREE CREEKS RANCH LLC  
1901 BAYADERE TERR  
CORONA DEL MAR, CA 92625  
Point of Diversion SESW S11 T01S  
R19E BLAINE County Source  
UNNAMED STREAM Tributary  
LOVING CREEK

Use: IRRIGATION 04/15 to 10/31  
0.14 CFS

Use: RECREATION STORAGE  
01/01 to 12/31 14.1 AF

Use: WILDLIFE STORAGE 01/01 to  
12/31 14.1 AF

Total Diversion: 0.14 CFS 14.1 AF  
Date Filed: 3/27/2012

Place Of Use: IRRIGATION

T01S R19E S11 SWSW SESW

Place Of Use: RECREATION  
STORAGE, WILDLIFE STORAGE

T01S R19E S11 SESW

Total Acres: 7

Application proposes appropriating  
14.1 acre-feet of water for wildlife and  
aesthetic storage associated with a  
new pond on an unnamed stream tribu-  
tary to Loving Creek. The application  
also proposes appropriating 0.14 cfs  
of water to be pumped from the pond  
for irrigation of 7 acres. The pond and  
irrigation site is located approximately  
2.7 miles north and 5.1 miles west of  
Picabo. A mitigation plan has been  
submitted with the application to allow  
for processing of the application in the  
moratorium area.

37-22712

LEGACY RESIDENTIAL LLC

C/O TOM ELLISON

400 112TH AVE N.E., STE 230

BELLEVUE, WA 98004

Point of Diversion SWNE S13 T04N

R17E BLAINE County Source

GROUNDWATER Tributary

Use: COOLING 01/01 to 12/31 0.75  
CFS

Use: DOMESTIC 04/01 to 10/31  
0.04 CFS

Use: HEATING 01/01 to 12/31 0.75  
CFS

Total Diversion: 0.75 CFS

Date Filed: 3/8/2012

Place Of Use: HEATING, COOLING,  
DOMESTIC

T04N R17E S13 SWNE

Application for permit proposes to divert  
up to 0.75 cfs for domestic, heating,  
and cooling use from a ground water  
well to be drilled. The heating and cool-  
ing water use will be non-consumptive  
and re-injected into the same aquifer.  
The well and place of use will be locat-  
ed on Lots 1B and 2C in Goose Island  
Subdivision west of the city of Ketchum  
and east of the Big Wood River.

NOTICE OF PROPOSED CHANGE  
OF WATER RIGHT

TRANSFER NO. 77861

NATHAN D BACHMAN and LYNDIA  
A BACHMAN, PO BOX 2388, SUN  
VALLEY, ID 83353 has filed Application  
No. 77861 for changes to the following  
water rights within BLAINE County(s):  
Right No(s). 37-13039. The purpose of  
the transfer is to change a portion of  
the above rights as follows: Application  
proposes changing the location of the  
recorded point of diversion, adding a  
second point of diversion location, and  
changing the recorded place of use  
associated with a domestic ground  
water right (37-13039) for Lot 9 of  
Stonegate Subdivision (located approx-  
imately 4.45 miles north and 0.9 miles  
west of the center of Ketchum) to reflect  
the actual locations of diversion and  
use. Application proposes diverting up  
to 0.04 cfs from the existing Stonegate  
Subdivision community well and an  
existing well on Lot 9 for domestic use  
on Lot 9.

NOTICE OF PROPOSED CHANGE  
OF WATER RIGHT

TRANSFER NO. 73743

JUDE P AND JULIA MANDEVILLE  
DAMASCO TRUST, 700 MONTE  
VISTA WAY, HALF MOON BAY, CA  
94019 has filed Application No. 73743  
for changes to the following water rights  
within BLAINE County(s): Right No(s).  
37-297D, 37-20359. The purpose of  
the transfer is to change a portion of  
the above rights as follows: Amended  
transfer application proposes convert-  
ing a 0.95 acre (0.06 cfs) portion of  
two Big Wood River rights to wildlife,  
recreation, and aesthetic uses associ-  
ated with an existing pond located  
along the east side of Buttercup Road  
approximately 1.6 miles north and 0.2  
miles west of the center of Hailey. The  
converted rights, along with the remain-  
ing irrigation portions, will continue to  
be diverted from the Big Wood River  
and delivered to the place of use via the  
Hiawatha Canal. The amended trans-  
fer application serves as mitigation for  
companion amended application for  
permit 37-22354.

Permits will be subject to all prior  
water rights. For additional informa-  
tion 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](http://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 togeth-  
er with a protest fee of \$25.00 for each  
application on or before May 7, 2012.  
The protestant must also send a copy  
of the protest to the applicant.

GARY SPACKMAN, Interim Director

PUBLISH:  
IDAHO MOUNTAIN EXPRESS  
April 18 & 25, 2012

✓ OK DM  
5/3/2012