

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 37-22672

Priority: December 23, 2011

Maximum Diversion Rate: 0.08 CFS

This is to certify, that WILLIAM R RATLIFF
21165 SW KILLARNEY CT
TUALATIN OR 97062

And/Or

KATHLEEN L RATLIFF
21165 SW KILLARNEY CT
TUALATIN OR 97062

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>
IRRIGATION	04/15 to 10/31	0.08 CFS

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER L4 (SW1/4SW1/4SW1/4) Sec. 31, Twp 02N, Rge 19E, B.M.
BLAINE 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	
02N 19E 31											4.4						4.4
											L 4						

Total Acres: 4.4

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **July 01, 2014**.
2. Subject to all prior water rights.
3. This right does not authorize the irrigation of land not previously irrigated.

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4. To mitigate for the depletion of water resulting from the use of water under this right and to prevent injury to senior water right holders, the right holder shall cease diverting and using water as authorized by the following water rights for the purposes and amounts specified below.

Moreover, the official record for the following water rights will be changed to show that diversion and use of water is not authorized because the rights, or portion thereof, are being dedicated to mitigation purposes.

Right No.	Use Changed to Mitigation	Mitigation Rate (cfs)	Mitigation Volume (AF)	Mitigation Acres
37-577BY	Irrigation	0.10	N/A	5.0
37-20450	Irrigation	0.06	15.0	5.0

If right 37-577BY is sold, transferred, leased, used on any place of use, or is not deliverable due to a shortage of water or a priority call, then the amount of water authorized for diversion under this right shall be reduced by the same proportion as the reduction to right 37-577BY.

Additionally the following conditions will be added to these rights as follows:

Conditions for 37-577BY:

-This right mitigates for the injury to other water users caused by the diversion and use of water under Right 37-22672. To prevent injury to other water right holders, the watermaster shall deliver 0.02 cfs of this right into the Cove Canal where it shall remain undiverted but provide for conveyance loss in the canal. Additionally the watermaster shall deliver 0.08 cfs of this right to the Bypass Canal where it shall remain undiverted but provide for losses in the river reach between the Cove Canal and the Bypass canal which result because of use of water under Right 37-22672.

-If the mitigation portion of this right is used for any purpose other than mitigation and conveyance loss, then water shall not be diverted under Right 37-22672. If the mitigation portion of this right is not deliverable due to a shortage of water or a priority call, then the amount of water authorized for diversion under the use of Right 37-22672 that is being mitigated shall be reduced by the same proportion as the reduction to this right.

Condition for 37-20450:

-A portion of this right mitigates for the injury to other water users caused by the diversion and use of water under Right 37-22672. If right 37-22672 is delivered, all irrigation use under this right shall cease.

5. The land that will no longer be irrigated under rights 37-577BY and 37-20450 is located within the SWSW (Govt. Lt 4), Section 31, Township 2N, Range 19E, B.M. which is the same land to be irrigated under right 37-22672.
6. 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. 37.
7. 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.

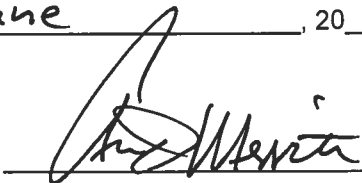
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8. The right holder shall install or construct a straight length of conduit or ditch suitable for installation of a device for measuring the entire flow of water being diverted in connection with this right. If the right holder uses conduit, the straight length of conduit shall be at least fifteen times the diameter of the conduit and shall be above ground or otherwise easily accessible.
9. 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.
10. Noncompliance with any condition of this right, including the requirement for mitigation, is cause for the director to issue a notice of violation, cancel or revoke the right, or, if the right is included in a water district, request that the watermaster curtail diversion and use of water.
11. Rights 37-22672 and 37-20450 when combined shall not exceed a total diversion rate of 0.08 cfs or the irrigation of 4.4 acres.
12. 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 25th day of June, 2012.

For


GARY SPACKMAN, Interim Director



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
Interim Director

June 26, 2012

WILLIAM R RATLIFF
KATHLEEN L RATLIFF
21165 SW KILLARNEY CT
TUALATIN OR 97062

RE: Permit No. 37-22672

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: BROCKWAY ENGINEERING PLLC
FRITZ X HAEMMERLE

CERTIFICATE OF SERVICE

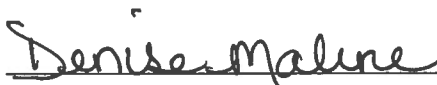
I hereby certify that on June 26, 2012 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (Approved Permit) to the person(s) listed below:

RE: WATER RIGHT NO. 37-22672

**WILLIAM R RATLIFF
KATHLEEN L RATLIFF
21165 SW KILLARNEY CT
TUALATIN OR 97062**

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

**FRITZ X HAEMMERLE
400 S MAIN ST STE 102
PO BOX 1800
HAILEY ID 83333**

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

Attachment To Permit to Appropriate Water

37-22672

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.



0 0.05 0.1 0.2 Miles

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



Merritt, Allen

From: Merritt, Allen
Sent: Monday, June 25, 2012 4:32 PM
To: charles.e.brockway@brockwayeng.com; fxh@haemlaw.com; Jones, Doug
Cc: Peppersack, Jeff; Keen, Shelley; Fritschle, Carter; Maline, Denise
Subject: Ratliffe Permit 37-22672
Attachments: DOC001.pdf

Gents:

After consultation with staff and the applicant's representatives I am signing the permit approval. Attached is the permit I signed today. It will be sent out soon by Denise as a preliminary order as time permits. Pursuant to the approval rights 37-577BY and 37-20450 pending in the SRBA need to have their records modified to include MITIGATION as described in the conditions of the permit and new conditions added as described in the permit. (Note that 37-20450 will still have a portion remaining as DOMESTIC.)

I presume SRBA staff will correct the recommendation records and create the SF5's.

Allen

AFFIDAVIT c PUBLICATION

RECEIVED
MAY 24 12

COPY OF NOTICE

State of Idaho
County of Blaine

DEPT. 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

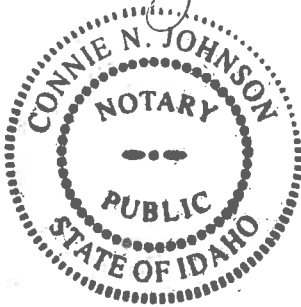
publication of said advertisement was on the 16 day of

May, 20 12, and the date of the last publication was on the 23 day of May, 20 12

Subscribed and sworn to before me this 23 day of

May, 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 100

Number of Insertions 2

Lines tabular at 9.0 cents/pica

100 Lines straight at 92.00 8.0 cents/pica

100 Subsequent lines at 80.50 7.0 cents/pica

TOTAL COST \$ 172.50

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:

✓ 37-22672
WILLIAM R RATLIFF
KATHLEEN L RATLIFF
21165 SW KILLARNEY CT
TUALATIN, OR 97062
Point of Diversion L4(SWSWSW) S31
T02N R19E BLAINE County Source
GROUND WATER Tributary
Use: IRRIGATION 01/01 to 12/31 *
0.075 CFS

Total Diversion: 0.075 CFS
Date Filed: 12/23/2011
Place Of Use: IRRIGATION
T02N R19E S31 L4(SWSW)
Total Acres: 4.4

It is proposed that the 0.10 cfs allowed diversion from the Big Wood River under water right 37-577BY with a priority of 3-17-1883 be dedicated to mitigation. A portion of right 37-577BY (0.02 cfs) will continue to diverted into the Cove Canal for conveyance loss to users in the canal and the remaining portion (0.08 cfs) will not be diverted at the Cove Canal but left in the river to mitigate for the aquifer depletion attributable to this application. Note that right 37-577BY historically irrigated 5 acres at the site of this application. Also right 37-20450 for 0.06 cfs with a priority of 6-22-1978 diverted from ground water also irrigates the same 5 acres.

* should be 4/15 - 10/31
season of use. ex - no
need to re-advertise.

See reverse for
remainder of ad.

✓ OK
DM 6/5/2012

**NOTICE OF PROPOSED CHANGE
OF WATER RIGHT
TRANSFER NO. 77878**

BELLE RANCH LLC, PO BOX 3322, HAILEY, ID 83333 has filed Application No. 77878 for changes to the following water rights within BLAINE County(s): Right No(s). 37-7391, 37-115G, 37-117, 37-158D, 37-418C, 37-419C, 37-481C, 37-482H, 37-483C, 37-501D, 37-577AP, 37-577BT, 37-597A, 37-664B, 37-665I, 37-666G, 37-666H, 37-667L, 37-667M, 37-886D, 37-2630, 37-2656, 37-7645, 37-7658B, 37-7856. The purpose of the transfer is to change a portion of the above rights as follows: Transfer proposes to move a total of 20.7 acres and 0.65 cfs (0.38 cfs from the Big Wood River & 0.27 cfs from groundwater) from portions of 11 water rights, currently authorized for a combined diversion of 31.96 cfs (21.34 cfs from the Big Wood River & 10.62 cfs from groundwater) to another farm approximately 3-4 miles to the north. The north farm currently has five existing water rights with the combined diversion of 27.06 cfs (23.31 cfs from the Big Wood & 3.75 cfs from groundwater) for the irrigation of 289 acres. The north farm is also creating a permissible place of use of 380 acres and will be limited to the irrigation of 309.7 acres within. The groundwater will be diverted from an existing well; no new wells will be drilled. The approximate location of the north farm is 1 - 2.25 miles south of Bellevue and the south farm is 4 - 6 miles south of Bellevue.

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 June 4, 2012. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Interim Director

**PUBLISH:
IDAHO MOUNTAIN EXPRESS
May 16 & 23, 2012**



✓ ok DM
6/5/2012