

RECEIVED

JAN 26 2022

Print Single Sided Only

DEPT OF WATER RESOURCES
SOUTHERN REGION

FORM 202 Rev. 09/16

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT
To appropriate the public waters of the State of Idaho

Ident. No. 37-23370

1. Name of applicant(s) JK Potatoes, LLC via 1-26-22 David Jentzsch email Phone 208-532-4119
 Name connector (check one): ☐ and ☐ or ☐ and/or
 Mailing address 20511 F st City Rupert
 State ID ZIP 83350 Email info@jkfarms.com

2. Name of representative, if any David Jentzsch Phone 208-431-1227
 Mailing address 319 River Road City Bliss
 State ID ZIP 83314 Email david@hcanyonfarms.com

- a. ☐ Send all correspondence for this application to the representative and not to the applicant OR
☒ Send original correspondence to the applicant and copies to the representative.
 b. ☒ The representative may submit information for the applicant but is not authorized to sign for the applicant OR
☐ The representative is authorized to sign for the applicant. Attach a Power of Attorney or other documentation.

3. Source of water supply Springs which is a tributary of Snake River

4. Location of point(s) of diversion:

Twp	Rge	Sec	Govt Lot	1/4	1/4	1/4	County	Source	Local name or tag #
06S	13E	8		SE	SW	SW	Gooding	springs	

5. Water will be used for the following purposes:

Amount .04 CFS for Domestic purposes from Jan 1 to Dec 31 (both dates inclusive)
 (cfs or acre-feet per year)
 Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
 (cfs or acre-feet per year)
 Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
 (cfs or acre-feet per year)
 Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
 (cfs or acre-feet per year)

6. Total quantity to be appropriated is (a) .04 cubic feet per second (cfs) and/or (b) _____ acre-feet per year (af).

7. Proposed diverting works:

- a. Describe type and size of devices used to divert water from the source. 10" pvc Pipe that collects springs water inside a rock cave.
 b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet. If the reservoir will be filled more than once each year, describe the refill plan in item 12. For dams 10 feet or more in height AND having a storage capacity of 50 acre-feet or more, submit a separate Application for Construction or Enlargement of a New or Existing Dam. Application required? ☐ Yes ☐ No
 c. Proposed well diameter is _____ inches; proposed depth of well is _____ feet.
 d. Is ground water with a temperature of greater than 85°F being sought? ☐ Yes ☐ No
 e. If well is already drilled, when? _____; drilling firm _____; well was drilled for (well owner) _____; Drilling Permit No. _____.

Received by SG Date 1/26/22 Time _____ Preliminary check by _____
 Fee \$ 100.00 Receipted by SG Receipt No. 5039053 Date _____

For Department Use

8. Description of proposed uses (if irrigation only, go to item 9):
- Hydropower; show total feet of head and proposed capacity in kW. _____
 - Stockwatering; list number and kind of livestock. _____
 - Municipal; must complete and attach the Municipal Water Right Application Checklist.
 - Domestic; show number of households 1
 - Other; describe fully. _____

9. Description of place of use:

- If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- If water is used for other purposes, place a symbol of the use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06S	13E	8											D						

Total number of acres to be irrigated: 0

10. Describe any other water rights used for the same purposes as described above. Include water delivered by a municipality, canal company, or irrigation district. If this application is for domestic purposes, do you intend to use this water, water from another source, or both, to irrigate your lawn, garden, and/or landscaping? We intend to use this water for domestic use.
Irrigation is provided by rights 37-793, 37-7216 and 37-21721

11. a. Who owns the property at the point of diversion? Jk potatoes
b. Who owns the land to be irrigated or place of use? JK potatoes
c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: _____

12. Describe your proposal in narrative form and provide additional explanation for any of the items above. Attach additional pages if necessary. We would like to use the spring water for in-house domestic use only.

A mitigation plan is included.*

13. Time required for completion of works and application of water to proposed beneficial use is 1 years (minimum 1 year).

14. **MAP OF PROPOSED PROJECT REQUIRED** - Attach an 8½" x 11" map or maps clearly identifying the proposed point of diversion, place of use, section #, township & range. The map scale shall not be less than two (2) inches equal to one (1) mile.

The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval.

Signature of Applicant

Derek Jentzsch

Print Name (and title, if applicable)

Signature of Applicant

Print Name (and title, if applicable)



RECEIVED

JAN 27 2022

DEPT OF WATER RESOURCES
SOUTHERN REGION

To whom it may concern,

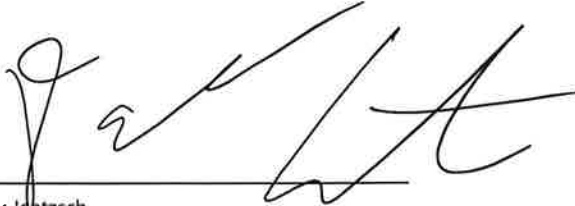
1/26/2022

JK Potatoes LLC agrees to mitigate its fish propagation right (37-7216) by .04 cfs to account for the in house domestic water use of a house located at 314 river road, bliss, ID 83314. This is in conjunction with water right application number 37--23370

X

Derek Jentzsch

CEO

A handwritten signature in black ink, appearing to read 'Derek Jentzsch', is written over a horizontal line. The signature is stylized with a large 'D' and a long, sweeping horizontal stroke at the end.



IDAHO DEPARTMENT OF
WATER RESOURCES

Southern Region • 650 Addison Ave W, Suite 500 • Twin Falls, ID 83301-5858

Phone: 208-736-3033 • Fax: 208-736-3037 • Email: southerninfo@idwr.idaho.gov • Web: idwr.idaho.gov

Governor Brad Little

Director Gary Spackman

January 28, 2022

WATER DISTRICT 130
NATHAN ERICKSON
650 ADDISON AVE W STE 500
TWIN FALLS, ID 83301-5858

RE: Application for Permit No(s): 37-23359 & 37-23370 (JK Potatoes LLC)
Application for Permit No(s): 37-23360 (David & Laci Jentzsch)

Dear Nathan:

The Idaho Department of Water Resources (IDWR) is seeking written comment and/or recommendations from you regarding the above referenced water right application. You can find a copy of the application at:

<https://idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx>. Please review the application, then complete the enclosed recommendation form and return it to this office within 21 days of the date of this letter.

If the application is approved, IDWR will include appropriate standard conditions of approval for a water right located within a water district, such as regulation by the watermaster, lockable controlling works, and/or measuring devices. Any special conditions or other concerns you have related to this application should be specifically addressed in your recommendation.

IDWR can finish reviewing an unprotested application as soon as the protest period has past. Your prompt response to this request will ensure that your recommendation can be considered. If IDWR has not received your written recommendation within 21 days from the date of this letter, IDWR will presume that you do not oppose approval of the application and that you have no comments for IDWR to consider.

Sincerely,

Denise Maline

Denise Maline
Administrative Assistant 1

Enclosure(s)

Maline, Denise

From: Maline, Denise
Sent: Friday, January 28, 2022 11:15 AM
To: Dawson,Bradley
Subject: Comment letters for (3) Applications for Permit
Attachments: Comment letter to F&G for 37-23359, 37-23360 & 37-23370.pdf; 37-23359 JK Potatoes.pdf; 37-23360 Jentzsch.pdf; 37-23370 JK Potatoes.pdf

Hi Bradley,

Attached are (3) applications for permit currently being processed by the department. Please review the applications and provide any necessary comments within 21 days.

If you have any questions regarding these applications, please feel free to contact Water Resource Agent Jim Bitzenburg at (208) 736-3033.

Thank you in advance,

Denise @ IDWR

Denise Maline, Administrative Assistant I

Idaho Dept. of Water Resources
650 Addison Ave W Ste 500
Twin Falls ID 83301-5858
(208) 293-9908
denise.maline@idwr.idaho.gov



IDAHO DEPARTMENT OF
WATER RESOURCES

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Governor Brad Little

Director Gary Spackman

January 28, 2022

IDAHO DEPT OF FISH & GAME
BRADLEY DAWSON
324 S 417 E STE 1
JEROME ID 83338-6206

RE: Application for Permit No(s): 37-23359 & 37-23370 (JK Potatoes LLC)
Application for Permit No(s): 37-23360 (David & Laci Jentzsch)

Dear Mr. Dawson:

The Idaho Department of Water Resources (IDWR) is seeking written comment and/or recommendations from your organization regarding the above referenced water right application. *You can find a complete copy of the application(s) at:* <https://idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx>. Please review the application, complete the enclosed recommendation form, and submit it to this office within 21 days of the date of this letter.

IDWR can finish reviewing an unprotested application as soon as the protest period has past. Therefore, your prompt response to this request is appreciated. If your organization desires to formally protest the approval of this application, you may do so after the notice is published by filing a written protest along with a \$25.00 filing fee within 10 days after final publication (**on or before February 22, 2022**).

Please contact this office if you have any questions regarding the application.

Sincerely,

Denise Maline

Denise Maline
Administrative Assistant 1

Enclosure(s)

Customer Ad Proof

60002276 ID DEPARTMENT OF WATER RESOURCES

Order Nbr 123944

Publication

Times News

Contact	ID DEPARTMENT OF WATER RESOURCES	PO Number	
Address 1	650 ADDISON AVE W, STE 500	Rate	Legal Notice
Address 2		Order Price	259.26
City St Zip	TWIN FALLS ID 83301	Amount Paid	0.00
Phone	2087363033	Amount Due	259.26
Fax			
Section	Legals	Start/End Dates	02/03/2022 - 02/10/2022
SubSection		Insertions	2
Category	50 Legal	Size	172
Ad Key	123944-1	Salesperson(s)	Legal Notices
Keywords	NTC/WATER RESOURCES	Taken By	Seana Chapman
Notes			

Ad Proof

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

37-23359

JK POTATOES LLC
20511 F ST
RUPERT, ID 83350-9476
Point of Diversion NWNW S17 T06S R13E GOODING County Source
UNNAMED STREAM Tributary SNAKE RIVER
Use: COOLING 07/05 to 10/30 4 CFS
Total Diversion: 4 CFS
Date Filed: 11-17-2021
Place Of Use: COOLING
T06S R13E S17 NWNW

Application for permit proposes diversion of up to 4.0 cfs for cooling use from an unnamed stream at a point located approximately 1.1 mile south and 0.3 mile east of the intersection of U. S. Highway 30 and River Road in Bliss. The water will be piped from the stream to an adjacent concrete flume where it will be used to cool produce from July 5 through October 30. The water will be piped back to the unnamed stream after leaving the flume. A mitigation plan is included in the application to address evaporation from the flume. This application proposes to appropriate trust water and will be evaluated in compliance with Section 42-203C, Idaho Code, and IDWR's Water Appropriation Rules, IDAPA 37.03.08.

37-23360

DAVID JENTZSCH
LACI JENTZSCH
314 RIVER RD
BLISS, ID 83314-5050
Point of Diversion SESWSW S8 T06S R13E GOODING County Source
SPRINGS Tributary SNAKE RIVER
Use: DOMESTIC 1/01 to 12/31 0.04 CFS
Total Diversion: 0.04 CFS
Date Filed: 11-17-2021
Place Of Use: DOMESTIC
T06S R13E S7 SESE

Application for permit proposes diversion of up to 0.04 cfs for year-round domestic in-house use from a spring located approximately 1.0 mile south and 0.2 mile east of the intersection of U. S. Highway 30 and River Road in Bliss. The proposed place of use will be a home located approximately 0.9 mile south and 0.1 west of Bliss. A mitigation plan is included in the application to address this new use of water from the spring. This application proposes to appropriate trust water and will be evaluated in compliance with Section 42-203C, Idaho Code, and IDWR's Water Appropriation Rules, IDAPA 37.03.08.

37-23370

JK POTATOES LLC
20511 F ST
RUPERT, ID 83350-9476
Point of Diversion SESWSW S8 T06S R13E GOODING County Source
SPRINGS Tributary SNAKE RIVER
Use: DOMESTIC 01/01 to 12/31 0.04 CFS
Total Diversion: 0.04 CFS
Date Filed: 01-26-2022
Place Of Use: DOMESTIC
T06S R13E S8 SWSW

Application for permit proposes diversion of up to 0.04 cfs for

✓ dm 1-27-2022

Proof of legal notice received
from Times News 1/27/2022 (2 pgs)

Customer Ad Proof

60002276 ID DEPARTMENT OF WATER RESOURCES

Order Nbr 123944

Application for permit proposed diversion of up to 0.05 cfs for year-round domestic in-house use from a spring located approximately 1.0 mile south and 0.2 mile east of the intersection of U. S. Highway 30 and River Road in Bliss. The proposed place of use is a home located adjacent to the spring. A mitigation plan is included in the application to address this use of water from the spring. This application proposes to appropriate trust water and will be evaluated in compliance with Section 42-203C, Idaho Code, and IDWR's Water Appropriation Rules, IDAPA 37.03.08.

NOTICE OF PROPOSED CHANGE OF WATER RIGHT TRANSFER NO. 85679

DOUGLAS E WICKHAM and TERRI WICKHAM, 18047 HIGHWAY 30, HAGERMAN ID 83332-5625 has filed Application No. 85679 for changes to the following water rights within TWIN FALLS County(s): Right No(s). 47-17555, 47-17560, 47-17565. The purpose of the transfer is to change a portion of the above rights as follows: Application proposes transferring a 2.6 acre portion (0.05 cfs) of three ground water rights from a farm located approximately 7.3 to 8.0 miles south and 0.8 to 1.5 miles west of the City of Kimberly for irrigation use to a parcel located approximately 6.8 to 7.0 miles north and 4.6 to 4.7 miles west of the city of Buhl. The transferred portion of the rights (0.05 cfs) will be diverted from an existing well and a new well to be drilled located on the proposed place of use.

Permits will be subject to all prior water rights. For additional information concerning the property locations, contact Southern Region office at (208) 736-3033; or for a full description of the rights &/or proposed transfer, please see <https://research.idwr.idaho.gov>. 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, 650 ADDISON AVE W, STE 500, TWIN FALLS, ID 83301-5858 together with a protest fee of \$25.00 for each application on or before February 22, 2022. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Published on February 3, 10, 2022





IDAHO DEPARTMENT OF
WATER RESOURCES

Southern Region • 650 Addison Ave W, Suite 500 • Twin Falls, ID 83301-5858

Phone: 208-736-3033 • Fax: 208-736-3037 • Email: southerninfo@idwr.idaho.gov • Web: idwr.idaho.gov

Governor Brad Little

Director Gary Spackman

January 27, 2022

JK POTATOES LLC
20511 F ST
RUPERT, ID 83350-9476

RE: Application for Permit No. 37-23359 and 37-23370

Dear Applicant(s):

The Department of Water Resources has received your water right application. Please refer to the number referenced above in all future correspondence regarding this application.

A legal notice of the application has been prepared and is scheduled for publication in the **TIMES NEWS on 2/3/2022 and 2/10/2022**. Protests to this application may be submitted for a period ending ten (10) days after the second publication. Any protest against this application must be filed with the Department of Water Resources, together with a protest fee of \$25.00 for each application, on or before **February 22, 2022**.

If the application is protested, you will be sent a copy of each protest. All protests must be resolved before the application can be considered for approval. If the protest(s) cannot be resolved voluntarily, the Department will conduct a conference and/or hearing on the matter.

If the application is not protested, the Department will process your application and notify you of any action taken on the application. If your application is approved, the Department will send you a copy of the permit.

Please contact this office if you have any questions regarding the application.

Sincerely,

Denise Maline
Administrative Assistant

c: David Jentzsch

Maline, Denise

From: Maline, Denise
Sent: Thursday, January 27, 2022 2:17 PM
To: Times News
Subject: LEGAL NOTICE
Attachments: Times News cover letter.docx; Times News ad.docx

Attached please find **(1)** legal notice being submitted for publication on February 3rd & 10th, 2022. Please let me know if there are any questions or if you are not able to run the ad on the dates requested.

Thank you in advance,

Denise @ IDWR Twin Falls

Denise Maline, Administrative Assistant I
Idaho Dept. of Water Resources
650 Addison Ave W Ste 500
Twin Falls ID 83301-5858
(208) 293-9908
denise.maline@idwr.idaho.gov



IDAHO DEPARTMENT OF
WATER RESOURCES

Southern Region • 650 Addison Ave W, Suite 500 • Twin Falls, ID 83301-5858

Phone: 208-736-3033 • Fax: 208-736-3037 • Email: southerninfo@idwr.idaho.gov • Web: idwr.idaho.gov

Governor Brad Little

Director Gary Spackman

January 27, 2022

LEGAL NOTICE DEPARTMENT
TIMES NEWS
PO BOX 548
TWIN FALLS, ID 83303-0548

RE: Application for Permit No. 37-23359, 37-23360, 37-23370

RE: Transfer No. 85679
Water Right No(s). 47-17555, 47-17560, 47-17565

Dear Legal Notice Department:

Please publish the enclosed legal notice on the dates indicated (once a week for two consecutive weekly issues). If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before February 22, 2022. Your cooperation is appreciated.

Sincerely,

Denise Maline

Denise Maline
Administrative Assistant

Enclosure(s)

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

37-23359

JK POTATOES LLC

20511 F ST

RUPERT, ID 83350-9476

Point of Diversion NWNW S17 T06S R13E GOODING County Source UNNAMED STREAM Tributary SNAKE RIVER

Use: COOLING 07/05 to 10/30 4 CFS

Total Diversion: 4 CFS

Date Filed: 11-17-2021

Place Of Use: COOLING

T06S R13E S17 NWNW

Application for permit proposes diversion of up to 4.0 cfs for cooling use from an unnamed stream at a point located approximately 1.1 mile south and 0.3 mile east of the intersection of U. S. Highway 30 and River Road in Bliss. The water will be piped from the stream to an adjacent concrete flume where it will be used to cool produce from July 5 through October 30. The water will be piped back to the unnamed stream after leaving the flume. A mitigation plan is included in the application to address evaporation from the flume. This application proposes to appropriate trust water and will be evaluated in compliance with Section 42-203C, Idaho Code, and IDWR's Water Appropriation Rules, IDAPA 37.03.08.

37-23360

DAVID JENTZSCH

LACI JENTZSCH

314 RIVER RD

BLISS, ID 83314-5050

Point of Diversion SESWSW S8 T06S R13E GOODING County Source SPRINGS Tributary SNAKE RIVER

Use: DOMESTIC 1/01 to 12/31 0.04 CFS

Total Diversion: 0.04 CFS

Date Filed: 11-17-2021

Place Of Use: DOMESTIC

T06S R13E S7 SESE

Application for permit proposes diversion of up to 0.04 cfs for year-round domestic in-house use from a spring located approximately 1.0 mile south and 0.2 mile east of the intersection of U. S. Highway 30 and River Road in Bliss. The proposed place of use will be a home located approximately 0.9 mile south and 0.1 west of Bliss. A mitigation plan is included in the application to address this new use of water from the spring. This application proposes to appropriate trust water and will be evaluated in compliance with Section 42-203C, Idaho Code, and IDWR's Water Appropriation Rules, IDAPA 37.03.08.

37-23370

JK POTATOES LLC

20511 F ST

RUPERT, ID 83350-9476

Point of Diversion SESWSW S8 T06S R13E GOODING County Source SPRINGS Tributary SNAKE RIVER

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

Total Diversion: 0.04 CFS

Date Filed: 01-26-2022

Place Of Use: DOMESTIC

T06S R13E S8 SWSW

Application for permit proposes diversion of up to 0.04 cfs for year-round domestic in-house use from a spring located approximately 1.0 mile south and 0.2 mile east of the intersection of U. S. Highway 30 and River Road in Bliss. The proposed place of use is a home located adjacent to the spring. A mitigation plan is included in the application to address this use of water from the spring. This application proposes to appropriate trust water and will be evaluated in compliance with Section 42-203C, Idaho Code, and IDWR's Water Appropriation Rules, IDAPA 37.03.08.

**NOTICE OF PROPOSED CHANGE OF WATER RIGHT
TRANSFER NO. 85679**

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Permits will be subject to all prior water rights. For additional information concerning the property locations, contact Southern Region office at (208) 736-3033; or for a full description of the rights &/or proposed transfer, please see <https://research.idwr.idaho.gov>. 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, 650 ADDISON AVE W, STE 500, TWIN FALLS, ID 83301-5858 together with a protest fee of \$25.00 for each application on or before **February 22, 2022**. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director
Published on February 3rd & 10th, 2022

Bitzenburg, James

From: David Jentzsch <david@hcanyonfarms.com>
Sent: Wednesday, January 26, 2022 3:41 PM
To: Bitzenburg, James
Subject: Re: JK Potatoes domestic app for permit

Yes that is correct

Sent from my Verizon, Samsung Galaxy smartphone
Get [Outlook for Android](#)

From: Bitzenburg, James <James.Bitzenburg@idwr.idaho.gov>
Sent: Wednesday, January 26, 2022 3:39:59 PM
To: David Jentzsch <david@hcanyonfarms.com>
Subject: RE: JK Potatoes domestic app for permit

[EXTERNAL]This message is from an EXTERNAL sender. Please be careful of links and attachments.
David-

I also noticed that the name of the applicant on today's application is JK Potatoes and, like the cooling app for permit, it should be JK Potatoes, LLC, correct?

From: David Jentzsch <david@hcanyonfarms.com>
Sent: Wednesday, January 26, 2022 3:03 PM
To: Bitzenburg, James <James.Bitzenburg@idwr.idaho.gov>
Subject: RE: JK Potatoes domestic app for permit

Good catch. I will get that signed and back to you shortly and then yes lets put it to advertising.

From: Bitzenburg, James <James.Bitzenburg@idwr.idaho.gov>
Sent: Wednesday, January 26, 2022 2:49 PM
To: David Jentzsch <david@hcanyonfarms.com>
Subject: RE: JK Potatoes domestic app for permit

[EXTERNAL]This message is from an EXTERNAL sender. Please be careful of links and attachments.
David-

Better change the date on the mitigation page to 1/26/2022!

From: David Jentzsch <david@hcanyonfarms.com>
Sent: Wednesday, January 26, 2022 2:26 PM
To: Bitzenburg, James <James.Bitzenburg@idwr.idaho.gov>
Subject: RE: JK Potatoes domestic app for permit

Yes please make that correction. Attached is a copy of the mitigation page. If it looks good I will get it signed and sent over.

From: Bitzenburg, James <James.bitzenburg@idwr.idaho.gov>
Sent: Wednesday, January 26, 2022 2:06 PM
To: David Jentzsch <david@hcanyonfarms.com>
Subject: JK Potatoes domestic app for permit

[EXTERNAL]This message is from an EXTERNAL sender. Please be careful of links and attachments.
David-

We received the Application for Permit for domestic use for the house on River Road and I have enough data entry to assign it a number: 37-23370, so if you could get the mitigation page to me ASAP, I can get it in for advertising. And I believe we were going to do the same mitigation as we did for you and your wife's domestic application, which was 0.04 cfs of fish propagation right 37-7216.

I have also attached the trust water letter- do you want me to hold processing of the application, or do you want to continue with processing and advertising immediately?

I forgot to have you add "A mitigation plan is included" to the application. Would it be okay for me to write that on the application?

Thanks for your help,

Jim

Jim Bitzenburg
Senior Water Resource Agent
Idaho Department of Water Resources
Southern Regional Office
Phone (208)-293-9909
james.bitzenburg@idwr.idaho.gov



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 E FRONT ST STE 648 PO BOX 83720 • BOISE, ID 83720-0098

Phone: (208)287-4800 • Fax: (208)287-6700 • Website: www.idwr.idaho.gov

January 26, 2022

JK POTATOES LLC
20511 F ST
RUPERT ID 83350-9476

RE: Application for Permit to Appropriate Trust Water – No. 37-23370

Dear Applicant:

The Department of Water Resources ("Department") has received your application for permit to appropriate water and has accepted it for filing. Your application has been assigned the identification number referenced in the subject line of this letter. Please refer to that number in all future correspondence regarding this application.

Your application proposes to appropriate Trust Water as described in this letter. The special nature of the trust affects how the Department will process your application as well as some aspects of the water right that may result. The purpose of this letter is to inform you of three items specific to applications proposing to appropriate Trust Water:

1. Your application will be subject to additional evaluation compared to applications that do not propose the use of Trust Water. This may require you to submit additional information and to demonstrate that your application meets the statutory evaluation criteria for appropriating Trust Water.
2. If a water right is issued to you, it could be subject to curtailment to satisfy senior minimum stream flow water rights on the Snake River at the Murphy Gage.
3. If a water right is issued to you, it will be subject to a periodic term review that may impact the future use of the right.

To understand better these three items and why they apply to your application, it helps to understand what Trust Water is and how it came about.

Trust Water arose from the 1984 Swan Falls Settlement between Idaho Power Company ("IPC") and the State of Idaho ("State").¹ Prior to the Swan Falls Settlement, the Idaho Supreme Court determined IPC held water rights for use at Swan Falls Dam that exceeded the entire flow of the Snake River at times. This limited future upstream development of water resources in the Snake River Basin. The Swan Falls Settlement resulted in changes to Idaho Law² and to IPC's water rights. As a result of the Swan Falls Settlement and subsequent legislation and court decrees, IPC's hydropower water rights in excess of the minimum flows at Murphy Gage are held in trust by the State. This change allows future development using water that would have previously

¹ For more information, including a more complete description of the Swan Falls Settlement and resulting legislation, please see the Department's web page: <https://idwr.idaho.gov/legal-actions/settlements/swan-falls/>.

² Although several sections of the Idaho Code were affected, the addition of Sections 42-203B and 42-203C, Idaho Code are the changes most relevant to this discussion.

been delivered to satisfy IPC water rights at Swan Falls Dam and, therefore, would have been unavailable for upstream appropriation. The purpose of this trust is defined in Idaho Code § 42-203B as follows:

The purposes of the trust established by ... this section are to assure an adequate supply of water for all future beneficial uses and to clarify and protect the right of a user of water for power purposes ... to continue using the water pending approval of depletionary future beneficial uses.

Your application proposes a use of water that could deplete the rights placed in trust, so the State, through the Department must evaluate your proposal under the laws and rules that came after the Swan Falls Settlement.³ In addition to the usual statutory process and evaluation criteria, the Department must also evaluate whether your application will deplete Trust Water and, if so, whether your depletion of Trust Water is in the public interest.

In addition, the availability of Trust Water and the public's interest in the use of Trust Water could change over time. The Department will periodically review rights to use Trust Water to determine if Trust Water remains available for use and if the continued use of Trust Water is in the public interest. The periodic review will occur for any right that issues from your application. A future review by the Department could terminate or limit your ability to use the right in the future.

An important aspect of the Swan Falls Settlement is that the State agreed to protect the minimum stream flows in the Snake River at the Murphy Gage. Should the flows at the Murphy Gage fall below these minimums, the water rights that use Trust Water could be curtailed to restore flow to meet those minimums.

The Department will hold your application for 14 days to allow you time to contact us if you have further questions on this topic or if you choose to withdraw your application. If the Department does not hear from you within 14 days, the Department will process your application and prepare it for publication. If you choose to withdraw your application before it is submitted for publication, you will receive a full refund of your filing fee. Refunds are not available if an application is withdrawn after advertising.

Please contact this office if you have questions regarding this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Bitzenburg", written over a horizontal line.

Jim Bitzenburg

Enclosure: Withdrawal of Application form

CC: David Jentzsch, via email

³ See Sections 42-203C and the Department's Water Appropriation Rules (IDAPA 37.03.08).

NOV 24 2021

DEPT OF WATER RESOURCES
SOUTHERN REGION

Resolution of Signing Authority

Date: March 30, 2021

WHEREAS, the management of JK Potatoes, LLC, Jentzsch Kearn Farms, LLC, and Teton Trees, LLC, (the "Companies"), is vested in Jentzsch-Kearn Farms, General Partnership (GP) via a certain Management Services Agreement dated July 31st, 2019,

And whereas the Second Amended and Restated Partnership Agreement of Jentzsch-Kearn Farms, GP vests management of Jentzsch-Kearn Farms, GP in a Management Committee, ,

And whereas there exists an Operating Agreement for the Companies and that said Operating Agreement remains in full force and effect as of this date,

And whereas the term of the Company shall continue perpetually unless sooner terminated,

And whereas all said requirements contained in the Operating Agreement to be met by its Members as to this Certificate of Authority have been completed,

NOW, THEREFORE, the Management Committee of Jentzsch-Kearn Farms, GP hereby resolve that the following Officers listed below are individually authorized and empowered to negotiate, enter into and execute, in the name and on behalf of the Companies, any agreements, documents, instruments, certificates, and other commitments or obligations that they deem or believe to be advisable and in the best interest of the Company.

Darek Jentzsch, President and CEO

Eric Mitton, Vice-President

Damon Jentzsch, Vice-President

Joe Kearn, Vice-President

Each of the undersigned, acting in the capacity and authority of the office ascribed to their name, hereby certify that the foregoing resolution was adopted at a meeting of the Management Committee of Jentzsch-Kearn Farms, GP held on the date first written above.

----- Signature Page Follows -----

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DEPT OF WATER RESOURCES
SOUTHERN REGION

Management Committee:

By: 

David Waldo, Chairman of the Management Committee

STATE OF OREGON

COUNTY OF WALHEM

On the 12th day of APRIL, 2021, before me, a Notary Public in and for the above state and county, personally appeared DAVID WALDO, known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he / she executed the same in his / her capacity, and that by his / her signature, he / she executed the instrument.

My Commission Expires: 2/4/2022

(SEAL)

