

State of Idaho
Department of Water Resources
Permit to Appropriate Water
No. 57-12013

Priority: February 24, 2020

Maximum Diversion Volume: 1.9 AF

This is to certify that

MARK S JENSEN 10015 WILD HORSE RD MELBA ID 83641-4296 AND
ANGELA JENSEN 10015 WILD HORSE RD MELBA ID 83641-4296

has applied for a permit to appropriate water from:

Source : WASTE WATER

Tributary: SNAKE RIVER

and a permit is APPROVED for development of water as follows:

<u>Beneficial Use</u>	<u>Period of Use</u>	<u>Annual Volume</u>
RECREATION STORAGE	01/01 to 12/31	1.9 AF

Location of Point(s) of Diversion

WASTE WATER NE¼ SE¼, Sec. 17, Twp 01N, Rge 03W, B.M. OWYHEE County

Place of Use: RECREATION STORAGE

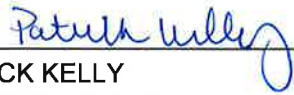
Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
01N	03W	17													X				

Conditions of Approval

1. Proof of application of water to beneficial use shall be submitted on or before **July 01, 2025**.
2. Subject to all prior water rights.
3. This right authorizes total annual storage volume of 1.9 acre-feet, 0.9 acre-feet to be used for the initial filling or carryover storage of the ponds and 1.0 acre-feet for the replacement of losses caused by seepage and evaporation.
4. The two (2) ponds established by the storage of water under this right shall not exceed a total capacity of 1.9 acre-feet or a total surface area of 0.3 acres.
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. The Director retains jurisdiction to require the right holder to provide purchased or leased natural flow or stored water to offset depletion of Lower Snake River flows if needed for salmon migration purposes. The amount of water required to be released into the Snake River or a tributary, if needed for this purpose, will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this permit.

This permit is issued pursuant to the provisions of Idaho Code § 42-204.

Signed this 26 day of June, 2020.


PATRICK KELLY
Water Rights Supervisor

State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

57-12013

This map depicts the RECREATION STORAGE 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.

03W



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

0 0.035 0.07 0.14 Miles





State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region • 2735 W AIRPORT WAY • BOISE, ID 83705-5082

Phone: (208)334-2190 • Fax: (208)334-2348 • Website: www.idwr.idaho.gov

Brad Little
Governor

Gary Spackman
Director

June 26, 2020

MARK S JENSEN
ANGELA JENSEN
10015 WILD HORSE RD
MELBA ID 83641-4296

RE: Permit No. 57-12013

Permit Approval Notice

Dear Permit Holder(s):

The Department of Water Resources ("Department") has issued the enclosed permit authorizing you to establish a new water right. Please be sure to thoroughly review all the conditions of approval listed on your permit. The conditions include requirements that you must accomplish, such as timely submittal of proof of beneficial use or installation of a measuring device, as well as information about how your water use may be administered, such as regulation by a watermaster in a water district. Failure to comply with the conditions of approval may result in your permit lapsing or being canceled.

The permit is a PRELIMINARY ORDER issued pursuant to Rule 730 of the Department's Rules of Procedure (IDAPA 37.01.01.730). It can and will become a final order without further action by the Department unless a party petitions for reconsideration, files exceptions, or requests a hearing as described in the enclosed information sheet.

The final step in the water right process is issuance of a water right license. To receive a water right license, you must first commence the excavation or construction of your diverting works within one year of the date the permit was issued, and you must proceed diligently until the project is complete. In addition, you must divert and use water to the full extent intended and submit a *Statement of Completion for Submitting Proof of Beneficial Use* by the date shown in condition no. 1 of your permit. The Department will send you a *Proof Due Notice* approximately 60 days prior to the date listed in condition no. 1 of your permit.

You may also require approvals from other Department programs, such as Ground Water Protection, Safety of Dams, or Stream Channel Protection, to accomplish your proposed development. Please call or visit any Department office or see the Department's website at idwr.idaho.gov for more information about these programs.

Also, please note that permit holders are required to report any change of 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. Forms to assign ownership or update your address are available from any office of the Department or on the Department's website.

If you have any questions concerning the enclosed information, please contact me at (208) 334-2190.

Sincerely,



Kensie Thorneycroft

Fa: Patrick Kelly
Water Rights Supervisor

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on June 26, 2020, I served a true and correct copy of Permit to Appropriate Water No. 57-12013 by U.S. Mail, postage prepaid, to the following:

MARK S JENSEN
ANGELA JENSEN
10015 WILD HORSE RD
MELBA ID 83641-4296



Kensie Thorneycroft
Administrative Assistant 1

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.

MEMORANDUM

TO: File 57-12013

FROM: Tyler Smith

DATE: 6/17/2020

RE: *Source Clarification for app. for permit 57-12013*

Application for permit 57-12013 was filed by applicants at the direction of Dan Nelson in order to cover evaporative & seepage losses for ponds licensed under water right 57-7627. The source was listed as waste water, however, the narrative of the application stated that "springs" fed the ponds. After speaking with Dan today (6/17), it was clarified that the source is indeed waste water. The ponds are on-stream (on-ditch) ponds filled with runoff from the applicants and their adjacent neighbor's irrigation runoff.

**OPALINE
IRRIGATION
DISTRICT**

RECEIVED

JUN 11 2020

**WATER RESOURCES
WESTERN REGION**

May 11, 2020

Angela Jensen

The board members of Opaline Irrigation District, in response to your request, would like to verify that we do not control waste water at this time.

If further clarification is required, please contact me to be placed on the agenda for a regular board meeting held on the first Tuesday of every month.

Sincerely,



Pam Howard

Secretary/Treasurer



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region • 2735 Airport Way • Boise, Idaho 83705-5082

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Website: www.idwr.idaho.gov

BRAD LITTLE
Governor

GARY SPACKMAN
Director

April 27, 2020

ANGELA AND MARK JENSEN
10015 WILD HORSE RD
MELBA, ID 83641

COPY

Re: Notice of Intent to Void Application For Permit 57-12013

Dear Applicant(s),

On February 24, 2020 the Department of Water Resources (IDWR) received your Application for Permit to appropriate water. The Department requested additional information regarding the status of waste water in the Opaline Irrigation District via a letter dated February 25, 2020. The letter stated that a written reply must be made within sixty (60) days or the Department will void the application. As of April 27, 2020, no written correspondence was received by the Department. I understand that these are uncertain times, and this action may not be a priority for you right now, however, the Department is not able to hold applications indefinitely. **If it is your intent to further pursue your application, please provide written response to the original letter or request additional time to respond.** It is the intent of the Department to void your application within the next fourteen (14) days if no response is received.

IDWR forms and other information are available on the Internet at www.idwr.idaho.gov. Please contact me at 208-334-2190 if you need more information. Thank you for your attention to these matters.

Sincerely,

Tyler Smith
Water Resource Agent
Idaho Department of Water Resources
Phone: (208) 334-2190
Email: tyler.smith@idwr.idaho.gov

The Owyhee Avalanche

P.O. Box 97 • HOMEDALE, IDAHO 83628

208 / 337-4681
EMAIL: OFFICE@OWYHEE.COM

RECEIVED

MAR 16 2020

WATER RESOURCES
WESTERN REGION

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO)
) ss
COUNTY OF OWYHEE)

I, Joe E. Aman, being first duly sworn, depose and say:

1. That I am a citizen of the United States of America, and at all times hereinafter mentioned was and now over the age of twenty-one years, not a party to nor interested in the proceedings hereinafter mentioned.

2. That during the time of publication of the notice hereinafter mentioned, I was and now am the publisher of The Owyhee Avalanche, a newspaper of general circulation printed and published weekly, on Wednesday of each and every week, in the City of Homedale, County of Owyhee and State of Idaho.

3. That the said The Owyhee Avalanche has been printed and published continuously and uninterruptedly in said County during a period of more than seventy-eight weeks prior to the first publication of the attached notice.

4. That said notice of which a copy of said newspaper, is hereto affixed, was published in the regular issue thereof, and not a supplement thereto, in said newspaper

in two

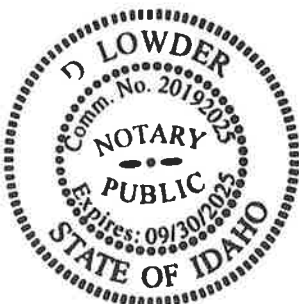
(consecutive) calendar weekly issue(s) of said newspaper, in the following date(s):

3/4, 3/11/20

SIGNED: _____

STATE OF IDAHO }
COUNTY OF OWYHEE }

On this 13 day of March in the year 2020, before me, a Notary Public, personally appeared JOE E. AMAN, known or identified to me to be the person whose name subscribed to the within instrument, and being by me duly sworn, declared that the statements therein are true, and acknowledged to me that he executed the same.



[Signature]
Notary Public of Idaho

Residing at

Homedale, ID

My commission expires:

09, 30, 2025

