

State of Idaho
Department of Water Resources
Permit to Appropriate Water
No. 65-23859

Priority: February 12, 2020

Maximum Diversion Rate: 0.15 CFS

This is to certify that

R. SCOTT SILVA 2383 KILLEBREW DR PAYETTE ID 83661-5506 AND
BETTYANN SILVA 2383 KILLEBREW DR PAYETTE ID 83661-5506

has applied for a permit to appropriate water from:

Source : GROUND WATER

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

Beneficial Use

IRRIGATION

Period of Use

03/01 to 11/15

Rate of Diversion

0.15 CFS

Location of Point(s) of Diversion

GROUND WATER NW¼ NE¼, Sec. 14, Twp 08N, Rge 05W, B.M. PAYETTE County

Place of Use: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
08N	05W	14		5.0															5.0

Total Acres: 5.0

Conditions of Approval

1. Proof of application of water to beneficial use shall be submitted on or before **May 01, 2025**.
2. Subject to all prior water rights.
3. This right when combined with all other rights shall provide no more than 0.03 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the place of use.
4. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.
5. Right holder shall comply with the drilling permit requirements of Idaho Code § 42-235 and applicable Well Construction Rules of the Department.
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.

State of Idaho
Department of Water Resources
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No. 65-23859

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

Signed this 27th day of April, 2020.



NICK MILLER
Western Regional Manager



State of Idaho
Department of Water Resources






Attachment to Permit to Appropriate Water

65-23859


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.

05W



-  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

April 27, 2020

BETTYANN SILVA
R. SCOTT SILVA
2383 KILLEBREW DR
PAYETTE ID 83661-5506

RE: Permit No. 65-23859

Permit Approval Notice

Dear Permit Holders:

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,

A handwritten signature in blue ink, appearing to read "Kencie Thorneycroft".

Kencie Thorneycroft


For: Nick Miller
Western Regional Manager

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on April 27, 2020, I served a true and correct copy of Permit to Appropriate Water No. 65-23859 by U.S. Mail, postage prepaid, to the following:

BETTYANN SILVA
R. SCOTT SILVA
2383 KILLEBREW DR
PAYETTE ID 83661-5506



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.

RECEIVED

MAR 13 2020

WATER RESOURCES
WESTERN REGION

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO }
County of Payette }

Melissa Swetland
Of Payette, Payette County, Idaho, being
First duly sworn, deposes and says:

- 1) That I am a citizen of the United States, and at all times hereinafter mentioned was over the age of eighteen years, and not party to the above entitled action.
- 2) That I am the representative of the Independent Enterprise, a weekly newspaper published in the County of Payette and State of Idaho; that the said newspaper is in general circulation in the said County of Payette, and has been uninterruptedly published in said County during a period of seventy-eight consecutive weeks prior to the first publication of this notice, a copy of which is hereto attached.
- 3) That the notice, of which the annexed is a printed copy, was published in said newspaper 2 time(s) in the regular and entire issue of said paper and was printed in the newspaper proper, and not in a supplement.

That said notice was published the following:
03/04/2020 03/11/2020

Legal # 270321
WATER RIGHTS 65-23859
L-270321

Melissa Swetland

State of Idaho }
County of Payette }

On this 11th day of March in the year 2020
Before me a Notary Public personally appeared.
Melissa Swetland, known or identified to me to be
the person whose name is subscribed to the within
instrument, and being by me first duly sworn,
declared that the statements therein are true, and
acknowledge to me that he/she executed the same.

Yvonne Dee Lee
Notary Public for Idaho
Residing at Payette County
My Commission expires *

November 4, 2025

YVONNE DEE LEE
Notary Public - State of Idaho
Commission Number 62548
My Commission Expires Nov 4, 2025

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

65-23859
R. SCOTT SILVA
BETTYANN SILVA
2383 KILLEBREW DR
PAYETTE, ID 83661-5506
Point of Diversion NWNE
S14 T08N R05W PAYETTE
County Source GROUND
WATER
Use: IRRIGATION 03/01 to
11/15 0.15 CFS
Total Diversion: 0.15 CFS
Date Filed: 02-12-2020
Place Of Use: IRRIGATION
T08N R05W S14 NWNE
Total Acres: 5

Permits will be subject to all
prior water rights. For
additional information
concerning the property lo-
cation, contact the Western
office at (208)334-2190; or
for a full description of the
right(s), please see
<https://idwr.idaho.gov/apps/ExtSearch/WRAApplicationResults/>. Protests may
be submitted based on the
criteria of Idaho Code § 42-
203A. Any protest against
the approval of this applica-
tion must be filed with the
Director, Dept. of Water Re-
sources, Western Region,
2735 W AIRPORT WAY,
BOISE ID 83705-5082 to-
gether with a protest fee of
\$25.00 for each application
on or before 3/23/2020.
The protestant must also
send a copy of the protest to
the applicant.
GARY SPACKMAN, Director
Published on 3/4/2020 and
3/11/2020

Legal Number 270321
March 4, 11, 2020

MAR 12 2020

WATER RESOURCES
WESTERN REGION

Lower Payette Ditch Company

102 North Main St.
Payette, ID 83661-2522

March 3, 2020

Kensie Thorneycroft
Idaho Department of Water Resources
2735 Airport Way
Boise, ID 83705-5082

Re: Water Right Application No. 65-23859

Dear Ms. Thorneycroft,

Thank you for the notice of application for Water Right Permit No. 65-23859. I have reviewed the application and determined this permit will not cause interference to any of the Lower Payette Ditch Company's water rights. Thus the company has no plan to protest the application.

Once again, thank you for notice of this water right application.

Best Regards,

Casey Odette
President

RECEIVED

MAR 06 2020

WATER RESOURCES
WESTERN REGION

Lake Reservoir Company

102 North Main St.
Payette, ID 83661-2522

March 2, 2020

Kensie Thorneycroft
Idaho Department of Water Resources
2735 Airport Way
Boise, ID 83705-5082

Re: Water Right Application No. 65-23859

Dear Ms. Thorneycroft,

Thank you for the notice of application for Water Right Permit No. 65-23859. I have reviewed the application and determined this permit will not cause an adverse effect to any of the Lake Reservoir Company's water rights. Thus the company has no plan to protest the application.

Once again, thank you for notice of this water right application.

Best Regards,



Ron Shurtleff
Executive Secretary