

State of Idaho
Department of Water Resources
Water Right License
WATER RIGHT NO. 13-07945

PRIORITY: May 20, 2015

Maximum Diversion Rate: 0.08 CFS
Maximum Diversion Volume: 2.4 AF

It is hereby certified that:

LEO WALTON 1265 N 1250 E PRESTON ID 83263
NICK BOWCUTT 1262 N 1250 E PRESTON ID 83263

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated May 20, 2015, and has submitted Proof of Beneficial Use on May 23, 2016. An examination confirms water is diverted from:

SOURCE:
GROUND WATER

and a water right has been established as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL DIVERSION VOLUME</u>
DOMESTIC	01/01 to 12/31	0.08 CFS	2.4 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER SW¼NE¼ Sec. 13, Twp 15S, Rge 39E, B.M. FRANKLIN County

PLACE OF USE: DOMESTIC

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
15S	39E	13			X														

CONDITIONS OF APPROVAL

1. The domestic use authorized under this right shall not exceed 13,000 gallons per day per home.
2. The irrigation occurring under this domestic use shall not exceed 1/2 acre per home.
3. Domestic use is for 2 homes.
4. Point of diversion is located within Lots 10; Foster Meadows Subdivision.
5. Place of use is located within Lots 9 and 10; Foster Meadows Subdivision.

This license is issued pursuant to the provisions of Section 42-219, Idaho Code. The water right confirmed by this license is subject to all prior water rights and shall be used in accordance with Idaho law and applicable rules of the Department of Water Resources.

Signed this 19th day of January, 2017.



SHELLEY W. KEEN
Water Rights Section Manager

State of Idaho
Department of Water Resources
Attachment to Water Right License
13-7945

This map depicts the DOMESTIC 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.



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

0 0.035 0.07 0.14 Miles





State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

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

GARY SPACKMAN
Director

C.L. "BUTCH" OTTER
Governor

January 20, 2017

LEO WALTON
1265 N 1250 E
PRESTON ID 83263

NICK BOWCUTT
1262 N 1250 E
PRESTON ID 83263

RE: License No. 13-7945

Issuance of License

Dear Water Right Holder(s):

The Department of Water Resources has issued the enclosed Water Right License confirming that a water right has been established in accordance with your permit. Please be sure to thoroughly review the conditions of approval and remarks listed on your license.

The license 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.

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 208-287-4945.

Sincerely,

Pamela Skaggs
Water Rights Supervisor

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on January 23, 2017 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved License) to the person(s) listed below:

RE: WATER RIGHT NO.

13-7945

**LEO WALTON
1265 N 1250 E
PRESTON ID 83263**

**NICK BOWCUTT
1262 N 1250 E
PRESTON ID 83263**



**Darla Block
Technical Records Specialist**

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: Water Right Permit File 13-7945

FROM: Daniel A. Nelson

DATE: January 19, 2017

SUBJECT: License Review

This permit was licensed for two (2) separate domestic used from a single well in Basin 13. The permit was issued in the Bear River Ground Water Management Area (BRGWMA), so it must comply with the limitations set forth for Ground Water Management Area requirements. In order for a permit to be issued in BRGWMA, the use must be limited to the domestic exemption allowed in Idaho Code § 42-111. The permit was issued allowing both domestic uses a full domestic limitation of 13,000 gpd per home.

The field examiner for this permit did not include a volume, because the permit had the condition that limited the water use to 13,000 gallons per day per home. This permit can be issued based on each home complying with the Idaho Code § 42-111, and the condition limiting each domestic use to 13,000 gallons per day must be on the license.

However, Idaho Code § 42-111 doesn't allow for multiple home uses, and IDAPA Beneficial Use Examination Rules 37.03.02.035.01.j states that a volume isn't required on domestic uses only when those uses comply with Idaho Code § 42-111. Since this permit as a whole doesn't comply with Idaho Code § 42-111, then a volume is required. The condition limiting each home to 13,000 gallons per day per home still applies, since each of the two (2) domestic uses are limited to the 13,000 gallon per day limitation.

The volume allocated to each right will follow Processing Administrative Memorandum #22 direction of allowing 1.2 af per home for a total of 2.4 af.