

State of Idaho
Department of Water Resources
Water Right License

WATER RIGHT NO. 63-33911

Priority: February 03, 2014

Maximum Diversion Rate: 2.40 CFS

It is hereby certified that A J P FARMS INC
23546 HARTLEY LN
MIDDLETON ID 83644
And
JLP FARMS INC
ATTN JERRY PAYNE
27333 FOUNTAIN RD
PARMA ID 83660

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated February 03, 2014; and has submitted Proof of Beneficial Use on May 27, 2015. An examination confirms water is diverted from:

SOURCE

GROUND WATER

and a water right has been established as follows:

BENEFICIAL USE

IRRIGATION

PERIOD OF USE

03/01 to 11/15

DIVERSION RATE

2.40 CFS

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER NE1/4NE1/4 Sec. 18, Twp 05N, Rge 04W, B.M. CANYON 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	
05N 04W 18	38.0	38.0	38.0	36.0									32.0				182.0

Total Acres: 182

CONDITIONS OF APPROVAL

1. This right does not grant any right-of-way or easement across the land of another.
2. 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.
3. When ordered by the Director, the right holder shall provide mitigation acceptable to the Director to offset depletion of lower Snake River flows needed for migrating anadromous fish. The amount of water required for mitigation, which is to be released into the Snake River or a tributary for this purpose, will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this right. Any order of the Director issued in accordance with this paragraph shall be in conformance with applicable rules allowing the right holder due process as the need for mitigation and the amount of mitigation are determined.

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4. The right holder shall make full beneficial use of all Black Canyon Irrigation District water rights available to the right holder for irrigation of the lands authorized to be irrigated under this right. The right holder shall limit the diversion of ground water under this right to those times when the surface water supply is not available or the surface water supply is not reasonably sufficient to irrigate the place of use authorized under this right.
5. If the Black Canyon Irrigation District water rights appurtenant to the place of use is unavailable for any reason other than drought or curtailment by priority (for example abandoned, forfeited, sold, transferred, leased, used on another place of use, or disallowed by court decree), this right to divert ground water shall not be used without an approved transfer pursuant to Section 42-222, Idaho Code, or approval of the Department if a transfer is not required.
6. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor exceed a combined annual maximum diversion volume of 819 af at the field headgate for the place of use.
7. Use of this right is combined with water from Black Canyon Irrigation District.
8. This right when combined with all other rights shall provide no more than 4.5 afa per acre at the field headgate for irrigation of the place of use.

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 23rd day of June, 2015.


for GARY SPACKMAN
Director

State of Idaho
Department of Water Resources

Attachment To Water Right License

63-33911

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.



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

0 0.125 0.25 0.5 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 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

June 25, 2015

A J P FARMS INC
23546 HARTLEY LN
MIDDLETON ID 83644

JLP FARMS INC
ATTN JERRY PAYNE
27333 FOUNTAIN RD
PARMA ID 83660

RE: License No. 63-33911

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 208-287-4951.

Sincerely,

Pamela Skaggs

Water Rights Supervisor

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on June 26, 2015, 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.

63-33911

**A J P FARMS INC
23546 HARTLEY LN
MIDDLETON ID 83644**

**JLP FARMS INC
ATTN JERRY PAYNE
27333 FOUNTAIN RD
PARMA ID 83660**



**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 File 63-33911

FROM: Daniel Nelson – Staff Hydrologist

DATE: June 16, 2015

SUBJECT: Licensing Review of Water Right 63-33911

This field exam was performed by Certified Field Examiner Peter Z. Cooper of SPF Engineering Inc. Mr. Cooper reported that 182 acres were irrigated and limited the diversion rate to 2.40 cfs and 819 acre feet of water to irrigate 182 acres. There are a couple of issues that need to be addressed. Each will be addressed below:

Property Ownership:

At the time the permit was issued, the water right was in the name of A J P Farms Inc. and JLP Farms Inc. The permit has a note from Eleanor J. Fritts and William L. Fritts giving Jerry Payne permission to use the well water on their property. The Fritts own approximately 40 acres of the farm, and AJP Farms (James and Glenda Payne) and Jerry Payne (JLP Farms Inc.) owns the remainder of the farm. It should be noted that this farm is actually owned by 3 different entities, but the land is farmed by Jerry by Jerry Payne (JLP Farms Inc.).

Acres and Place of Use:

Mr. Cooper determined that the number of acres irrigated was ¹⁸²~~1852~~ acres. I recreated his shape file and came up with the same number of acres. I agree with his acre determination and the shape file determined by Mr. Cooper. I did find a small portion of the field in the NESE did bleed over into the NWSE. I did not include the lands in the NWSE, because they were not on the permit and they were small enough that it wouldn't be reasonable to require an amendment for less than an acre of land.

Point of Diversion:

Mr. Cooper located the point of diversion on the map that matches the well location in the Department's records. I used the well location in our mapping records to show the location of the well on the license.

Diversion Rate:

Mr. Cooper measured a diversion rate of 5.40 cfs. Mr. Cooper supplied a pump curve that verifies that the well pump can produce 2,500 gpm or 5.57 cfs. I did a calculation for this system based on the pumping water level of 134 feet determined on the well driller's report and found that the system would need to be operating at approximately 16 psi to attain a 5.41 cfs. This system is an open discharge system, so this measurement seems reasonable. The permit was limited to 2.40 cfs, so I recommend that this right be licensed for the 2.40 cfs recommended by the field examiner.

Volume:

This is an irrigation right with an established headgate requirement of 4.5 acre feet per acre limitation. It has been established that 182 acres were irrigated, so the volume of 819 af recommended by Mr. Cooper seems reasonable. The adjusted diversion rate of 2.40 cfs can supply the 819 af recommended as shown in Mr. Cooper's report.

Overlapping Water Rights:

The only overlapping water right for this place of use is the Black Canyon Irrigation District water rights. This permit was filed as a supplemental water use to the Black Canyon Irrigation District water on the property. Therefore, I don't see any further issues with overlapping water rights.

Conditions:

Condition 2 (046) was removed at licensing. Conditions 1(04), 3(01M), 5(065), 8(W51), and 9(R61) were carried over to licensing. Condition 4(121) was changed to condition 103 per standards. Condition 6(104) was updated to the newer version and I included the irrigation company's name for the overlapping surface water rights. Condition 7(WB7) was updated to the new recommended diversion rate.