State of Idaho
Department of Water Resources

Water Right License

Water Right No. 65-24026

Priority: March 23, 2021

Maximum Diversion Volume: 26.2 AF

It is hereby certified that:

TROY JENKINS 5610 SE 1ST AVE NEW PLYMOUTH ID 83655-5251 AND/OR
STACY JENKINS 5610 SE 1ST AVE NEW PLYMOUTH ID 83655-5251

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated March 23, 2021, and has submitted Proof of Beneficial Use on June 17, 2021. An examination confirms water is diverted from:

Source : GROUND WATER

Beneficial Use	Period of Use	Rate of Diversion	Annual Volume
AESTHETIC STORAGE	01/01 to 12/31		26.2 AF

Location of Point(s) of Diversion
GROUND WATER NE¼ NW¼, Sec. 12, Twp 07N, Rge 04W, B.M. PAYETTE County

Place of Use: AESTHETIC 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	
07N	04W	1												X					
07N	04W	12					X												

Conditions of Approval

1. This right authorizes total annual storage volume of 26.2 acre-feet, 21.5 acre-feet to be used for the initial filling or carryover storage of the pond and 4.7 acre-feet for the replacement of losses caused by evaporation.
2. The pond established by the storage of water under this right shall not exceed a total capacity of 21.5 acre-feet or a total surface area of 2.24 acres.
3. Water stored under this right is subject to fluctuations of the water table caused by changes in the flow of local streams and by diversions under prior ground water rights. This right does not guarantee the maintenance of any particular ground water level.
4. This right authorizes a single point of diversion.
5. 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.

SCANNED

JAN 3 1 2023

State of Idaho
Department of Water Resources

Water Right License

Water Right No. 65-24026

This license is issued pursuant to the provisions of Idaho Code § 42-219. 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 25th day of January, 2023.

SCOTT STORMS
Water Rights Supervisor

SCANNED
JAN 31 2023

State of Idaho
Department of Water Resources

Attachment to Water Right License

65-24026

This map depicts the AESTHETIC 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.



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

0 0.035 0.07 0.14 Miles

N

SCANNED
JAN 3 1 2023

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
BENEFICIAL USE FIELD REPORT

A. GENERAL INFORMATION

Permit No: 65-24026
Exam Date: 05/17/2022

1. Current Owner:
   TROY JENKINS 5610 SE 1ST AVE NEW PLYMOUTH ID 83655-5251 AND/OR
   STACY JENKINS 5610 SE 1ST AVE NEW PLYMOUTH ID 83655-5251

2. Accompanied by: Troy Jenkins
   Phone No: 208-961-0990
   Address: 5610 SE 1ST AVE NEW PLYMOUTH ID 83655-5251
   Relationship to permit Holder: Is permit holder

3. **SOURCE:** GROUND WATER

Method of Determination: Aerial photography and site visit

B. OVERLAP REVIEW

1. Other water rights with the same place of use: None
2. Other water rights with the same point-of-diversion: None

C. DIVERSION AND DELIVERY SYSTEM

1. **LOCATION OF POINT(S) OF DIVERSION:**

GROUND WATER NE¼ NW¼, Sec. 12, Twp 07N, Rge 04W, B.M. PAYETTE County

Method of Determination: Aerial photography GPS at -116.764809 43.966887 and site visit

PLACE OF USE: AESTHETIC 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	
07N	04W	1												X					
07N	04W	12					X												

Method of Determination: Field photos and aerial photography used to measure pond boundaries on property.

3.

Delivery System Diagram Attached (required). Indicate all major components and distances between components.
x Indicate weir size/pipe as applicable.

Map Attached Showing Location(s) of point(s) of diversion and place(s) of use (required). Scale must be
x 1:24,000 or greater.

x Aerial Photo Attached (required for irrigation of 10+ acres).

x Photo of Diversion and System Attached

SCANNED
JAN 31 2023

4.

Well or Diversion ID No.*	Motor Make	Hp	Motor Serial No.	Pump Make	Pump Serial No. or Discharge Size
N/A	N/A	N/A	N/A	N/A	N/A

D. FLOW MEASUREMENTS

1.

Measurement Equipment	Type	Make	Model No.	Serial No.	Size	Calib. Date
N/A	N/A	N/A	N/A	N/A	N/A	N/A

2. Measurements: There is no rate on this water right therefore no flow measurement was taken.

E. FLOW CALCULATIONS

x Additional Computation Sheets Attached

Measured Method: N/A

F. VOLUME CALCULATIONS

1. Volume Calculations for irrigation: N/A

2. Volume Calculations for Other Uses:

Pond capacity determination is based on a free form polygon

- Surface area of pond =2.24 acres.
- Average Depth of pond = 9.6 feet

2.24 acres X 9.6 feet = 21.5 acre- feet

Estimated evaporation = 4.7 acre-feet

Total Volume Required = 26.2 acre-feet

Permitted volume = 75 acre- feet

Volume recommended for license = 26.2 acre- feet

SCANNED

JAN 31 2023

G. NARRATIVE/REMARKS/COMMENTS

A field exam was conducted on 05/17/2022 by Water Right Agent Marcelina Williams and was accompanied by Mr. Jenkins. Troy Jenkins is the current owner and original applicant. The application for permit was submitted on March 30, 2021, and proof of beneficial use was submitted on June 17, 2021.

The point of diversion (POD) was confirmed as ground water infiltration in the NENW QQ and is accurately described by the permit. Two PODs were described on the permit but due to the conditions on the permit stating "This right authorizes a single point of diversion" the POD in the SESW QQ was drop at licensing. Water right overlap did not discover any other water rights associated with the ground water PODs. No amendment required to the legal description.

The permit authorizes aesthetic storage for a pond with a 4.5-acre surface area and 52.6 acre-feet in volume within SESW Sec 1, T07N, R04W and NENW Sec12, T07N, R04W. The pond was verified in that location to have a surface area of 2.24 acres and constructed near the Payette River naturally filling with ground water. No surface water diversion was observed flowing into or out of the pond. No amendment required to correct the legal description of the POU.
Condition 103 replaced condition 121 per department standards. Conditions 219 and 220 were updated to reflect the changes of the pond volume.

Have conditions of permit approval been met? __x__ Yes ____ No

H. RECOMMENDATIONS

1. Recommended Amounts

Beneficial Use	Period of Use	Rate of Diversion	Annual Volume
AESTHETIC STORAGE	01/01 to 12/31		26.2 AF
	Totals:		26.2 AF

2. Recommended Amendments

____ Change P.D. as reflected above ____ Add P.D. as reflected above __x__ None

____ Change P.U. as reflected above ____ Add P.U. as reflected above __x__ None

I. AUTHENTICATION

Marcelina Williams

Field Examiner's Name Marcelina Williams Date 01/25/23

Reviewer _____ Date 1/17/2023

SCANNED

JAN 31 2023

DELIVERY SYSTEM DIAGRAM

Water Right No.65-24026

SCANNED
JAN 31 2023



Total Storage Calculations

FILE NUMBER	65-24026
REVIEWER	MW
DATE	12/16/2022

This spreadsheet has been designed by Idaho Department of Water Resources to estimate the total seepage, evaporation and fill capacity required for a pond.

User Input
Calculated value
Formula Explanations

Surface Area (AC.)	2.24	"Surface Area" is automatically carried over from the "Seepage Loss" sheet.
Average Pond Depth (FT.)	9.6	"Average Pond Depth" depicts the actual depth of the pond either measured or estimated. Note: If you know the maximum depth and not the average depth, the Field Examiner's Handbook suggests multiplying the maximum depth by 0.4 to get the average depth, or you can use any method that seems reasonable to attain average depth.
Pond Capacity (AF)	21.504	Pond Capacity is calculated by multiplying the Pond Surface Area by the Average Pond Depth. If you know the capacity, divide the capacity by surface area and enter the average pond depth in the space above. Note: If pond capacity is determined using a method shown on the "Pond Capacity" sheet, the user may need to modify the value of "Pond Capacity" (cell B9) manually. Note that if the value is modified manually, the formula will be altered for future use.
Multiple Fill Volume Above Initial Fill to Fulfill From Storage Needs- "Multiple Fills" (AF)	0	The "Multiple Fill Volume Above Initial Fill" is the acre-feet of water required to meet a *from storage* component if the *from storage* component exceeds a one time fill. This section should not include the amount of water needed to fill the pond initially or the amount of water needed to maintain the pond level due to evaporation or seepage. For example: if a pond has a capacity of 5 acre feet and 2.5 acre feet of seepage and evaporation, but the pond is used for irrigation that requires 10 acre feet of from storage for the irrigation use, then you would insert 5 acre feet into this location (10 acre feet needed - 5 acre feet from the initial fill = 5 acre feet of additional storage needed). Note: You must have a "From Storage" component exceeding the initial fill on the permit to include a volume in this space.
Estimated Seepage Loss (AF)	0.0	The "Estimated Seepage Loss" is automatically carried over from the "Seepage Loss" sheet.
Estimated Evaporation Loss (AF)	4.7	The "Estimated Evaporation Loss" is automatically carried over from the "Evaporation Loss" sheet.
Total Volume Required (AF)	26.2	The "Total Volume Required" is calculated by adding the Pond Capacity, Multiple Fills, Seepage Loss, and Evaporation Loss amounts to determine the total amount of storage required.

SCANNED

JAN 3 1 2023

Flow Rate into Pond (CFS)	1.00	The "Flow Rate into Pond" depicts the actual flow, either measured or estimated, into the pond. For offstream facilities, this will be equivalent to "diversion to storage" rate.
Highest Daily Evaporation Rate From Evaporation Tab. (mm/Day)	3.97	This number is carried over from the "Evaporation Loss" sheet. It is the highest recorded number in the "Precipitation Deficit Table".
Required Daily Maintenance Volume (AF/Day)	0.03	"Required Daily Maintenance Volume" is the maximum volume of water needed on any given day during the year to maintain pond volume. It is calculated by adding the highest daily evaporation loss to the average daily seepage loss in acre feet. The average daily seepage loss is calculated by dividing the "Estimated Seepage Loss" by 365 days. This is acceptable, since the seepage rate shouldn't vary throughout the season unless the pond completely freezes over during the winter months. The highest daily evaporation loss is calculated by dividing the Highest Daily Evaporation Rate by the 304.8 conversion factor and multiplying this number by the pond surface area to attain a combined daily acre feet requirement.
Minimum Maintenance Flow (CFS)	0.01	The "Minimum Maintenance Flow" is the minimum amount of flow required to maintain the level of the pond. This number is determined by dividing the "Maximum Required Daily Maintenance Volume" by 1.9835. This flow can be used to determine if the flow rate into the pond is adequate to maintain the pond level.
Days Required to Fill the Pond	11	The "Days Required to Fill the Pond" is calculated by dividing the "Pond Capacity" by the "Flow Rate" minus "Minimum Maintenance Flow" multiplied by 1.9835. This section will assist you in determining if the flow rate being diverted to the pond is adequate to fill the pond while maintaining the pond level. The length of time to fill the pond will help determine if the flow rate is adequate for the size of pond being proposed. If this number is *approximately* 6 months (180 days) or more, the reviewer should have a discussion with the applicant to make sure he/she understands that it will take a significant length of time to fill the pond.
Days Required to Fill the Pond at 13,000 Gallons per Day	2006	Some water users may want to fill a pond under the 13,000 gallons per day domestic exemption. The "Days Required to Fill the Pond at 13,000 Gallons per Day" is calculated by converting the "Pond Capacity" and the "Required Daily Maintenance Volume" to gallons. The "Pond Capacity" is then divided by 13,000 gallons minus the "Required Daily Maintenance Volume" in gallons to determine the number of days to fill pond. If this number is *approximately* 6 months (180 days) or more, the reviewer should have a discussion with the applicant to make sure he/she understands that it will take a significant length of time to fill the pond. Negative values indicate that the supply of 13,000 gallons per day is not enough volume to overcome the required daily maintenance volume; the pond will never fill.

SCANNED

JAN 31 2023

Evaporation Loss Calculations

This spreadsheet has been designed by Idaho Department of Water Resources to estimate the annual evaporation losses from a pond.

FILE NUMBER	65-24026
REVIEWER	MW
DATE	12/16/2022

User Input
Calculated value
Formula Explanations

The acronyms used on the Kimberly Research Center website are defined below:
P = Precipitation
ET= Evapotranspiration
P_d = Precipitation deficit
P_d =ET-P

USING THIS SPREADSHEET

Use the link below to access the Kimberly Research Center website. This website provides the Precipitation Deficit for a station most representative of the pond under examination. The Precipitation Deficit is the total amount of free water surface evaporation minus the precipitation for a given area, which gives the total amount of evaporative losses incurred by the pond. There are several weather sites that are used throughout the state. IDWR staff can find the nearest site using Arc Map. The shape file containing the sites can be found at X:/Spatial/Climate/ETIdahostations.shp.

Instructions:

1. Use the link below to navigate to ET Idaho 2012.
2. Select the station which is most representative to your pond location.
3. Click Submit Query.
4. Under "Land Covers with Evapotranspiration Estimates," select "Open Water - Shallow Systems (ponds, streams)" or "Open Water - small stock ponds" depending on the pond size.
5. Click the link to "Precipitation Deficit."
6. Reference and copy (ctrl + C) the first subheading "Mean" values.
7. Click the "Paste Values from ET Idaho" button. The table will automatically enter a zero (0) for any negative precipitation deficit values.

Found at: http://data.kimberly.uidaho.edu/ETIdaho/

Precipitation Deficit

Station: Twin Falls 2 NNE (NWS -- 109294)

Month	mm/day[1]	*Days per month*	mm/Month
Jan	-0.75	31	0.00
Feb	0.03	28	0.84
March	0.97	31	30.07
April	2.37	30	71.10
May	2.84	31	88.04
June	3.37	30	101.10
July	3.97	31	123.07
August	3.45	31	106.95
September	2.56	30	76.80
October	1.25	31	38.75
November	-0.36	30	0.00
December	-1.09	31	0.00

Total mm/year =	636.72

PLEASE NOTE: The seasonal average for precipitation deficit should not be used for calculations because precipitation often exceeds evaporation during wetter months of the year. If the pond is kept full, excess precipitation during wetter months does not serve to refill the pond during drier months.

For example, see Sandpoint KSPT (NWS -- 108137), the annual precipitation deficit is -106 mm. However, April through September have positive precipitation deficit values. To properly estimate the annual volume of water necessary to refill a pond due to evaporation losses, the table will automatically enter a zero (0) for each month that the precipitation value is reported as a negative value.

As described above, precipitation offsets evaporation in winter months, so the net effect is that wintertime precipitation deficit is usually zero.

[(mm/yr) ÷ (convert to feet)] X (Surface area of pond, in acres) = Evaporation Loss in Acre Feet

(636.72 ÷ 304.8) X 2.24 = 4.7 AFA

SCANNED
JAN 31 2023

Seepage Loss Calculations

This spreadsheet has been designed by Idaho Department of Water Resources to estimate the total annual seepage losses from a pond.

FILE NUMBER	65-24026
REVIEWER	MW
DATE	12/16/2022

User Input
Calculated value
Formula Explanations

INPUTS

Pond Surface Area (AC.)	2.24	AC.
Pond Surface Area (SQ. FT.)	97650	SQ. FT.
I used the following method to obtain my Soil Classification information:	NRCS Web Soil Survey	
My Soil Classification is	GrndWtr	
Suggested Seepage Rate (FT./DAY)	0.0000	FT./DAY

Formula: (Surface Area X Seepage Rate) X 7.48 = Gallons Per Day Loss

Convert to GPD	0	GPD
Total Seepage Loss (AFA)	0.0	AFA

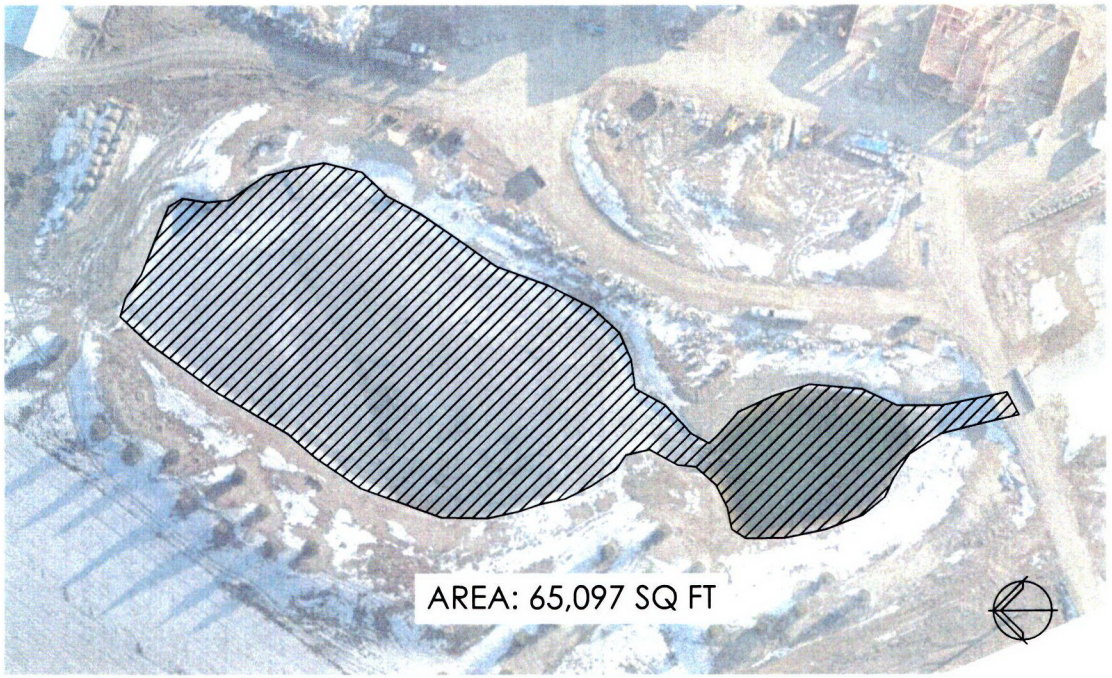
Though sand and gravel seepage rates may actually be higher, the maximum allowable rate is 0.2 ft/day, pursuant to Administrative Memo "Seepage Loss Standards for Ponds and Reservoirs."

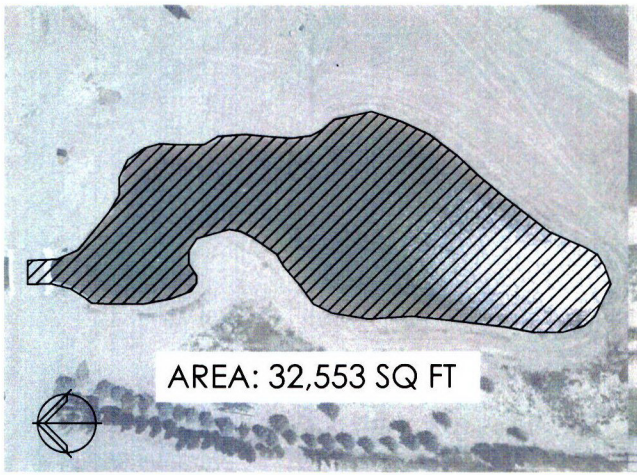
Suggested Seepage Rates for Different Soil Types:
GW, GP, GM, GC, SW, SP and SM (silty sand, sand silt mixtures and gravel mixtures) = **0.2 ft per day**
OL and ML (inorganic silts - very fine sands, silty, or clayey fine sands) = **0.02 ft per day**
SC (clayey sands, sand clay mixtures) = **0.007 ft per day**
CL (Low to medium plasticity clays) = **0.003 ft per day**
MH, OH, PT and CH (high plasticity clays) = **0.0003 ft per day**
LINED PONDS (liners can be chemical, fabric, or bentonite) = **0 ft per day**
Ponds Intercepting Groundwater (excavated ponds filled by ground water) = **0 ft per day**

PLEASE NOTE: The initial basis for the Suggested Seepage Rates in the table above is found on Page 16 of Seepage from Fish Ponds, Bulletin 599, August 1989 Alabama Agricultural experiment Station, Auburn University, Auburn University Alabama. If you don't know the soil type, please refer to the map provided at the NRCS Web Soil Survey (Tab #1) , an ArcMap Soil Classification Map (Tab #1.1), or published NRCS Soil Survey (Tab #1.2) . Use "0" if the pond fill relies on the water table.

SCANNED

JAN 31 2023







SCANNED
JAN 31 2023

COPYRIGHT F.W.L.C.
Drawing not to be reused without written permission of owner and landscape designer

DATE: 05-23-22

DRAWN BY: CK

JENKINS RESIDENCE

5610 SE 1ST AVE
NEW PLYMOUTH, ID 83655

FRANZ WITTE LANDSCAPE CONTRACTING
Landscape Design & Custom Construction
9770 W. State Street Boise, ID 83714
Phone: (208) 853-9808 Fax: (208) 853-4503

SCALE: 1:80

PAPER SIZE: 11" X 17"

SHEET TITLE: POND AREA

SHEET NUMBER: L-1



Fig. 1 – View of pond looking Southwest. Located in the SESW QQ and on the North side of the pond.



Fig. 2 – View of pond looking South. Located in the SESW QQ and on the Northeast side of the pond.

SCANNED
JAN 31 2023

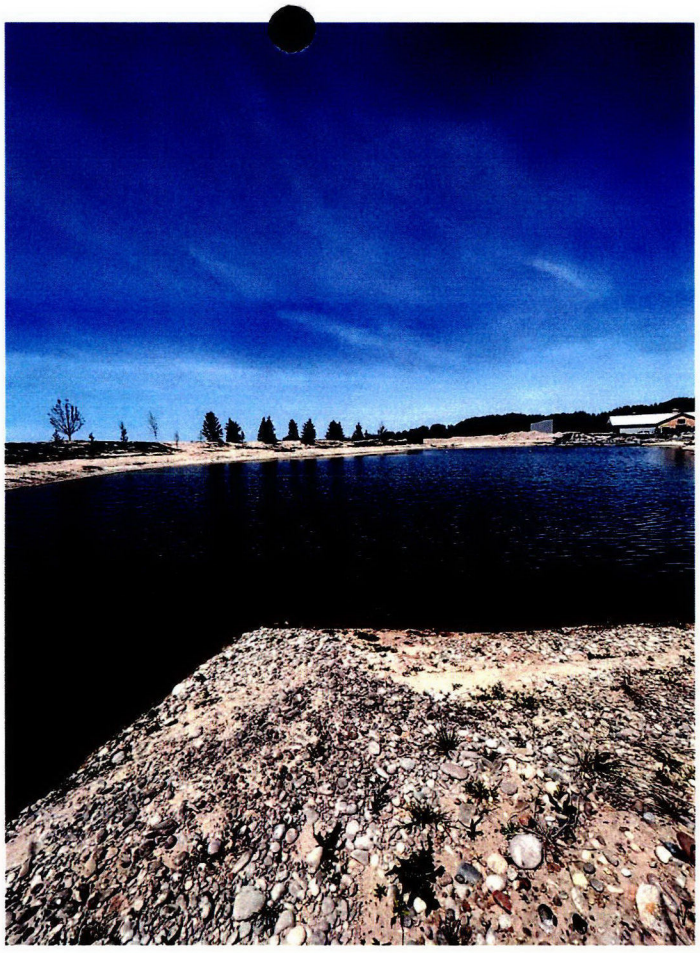


Fig. 3 – View of pond looking Northwest. Located in the SESW QQ on the East side of the pond.



Fig. . 4 – View of pond looking Northwest. Located in the NENW QQ and on the East side of the pond .

SCANNED

JAN 3 1 2023

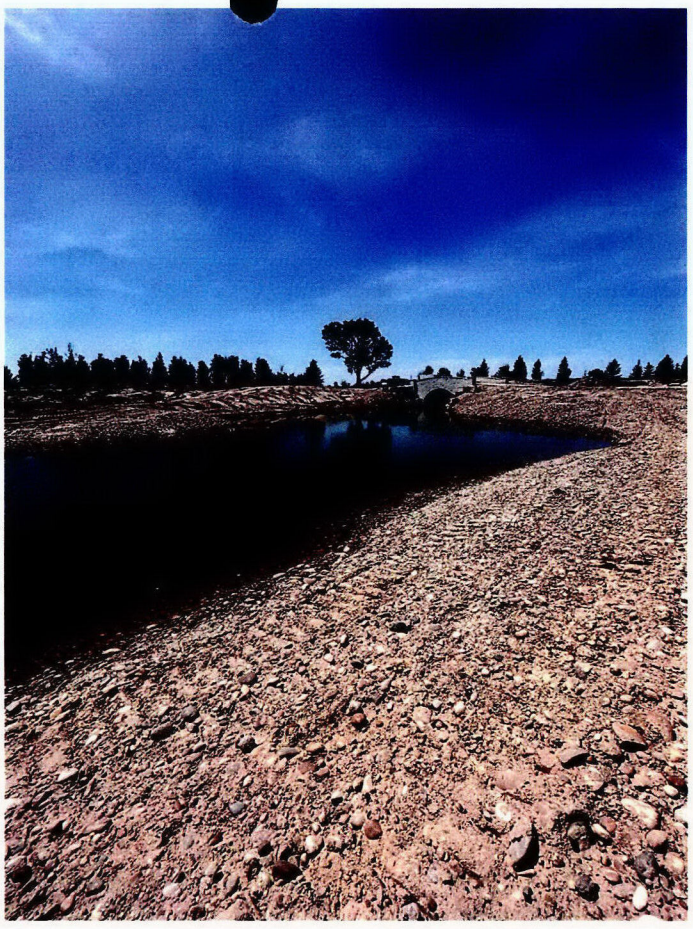


Fig. 5 – View of pond looking Northwest. Located in the NENW QQ on the East side of the pond.

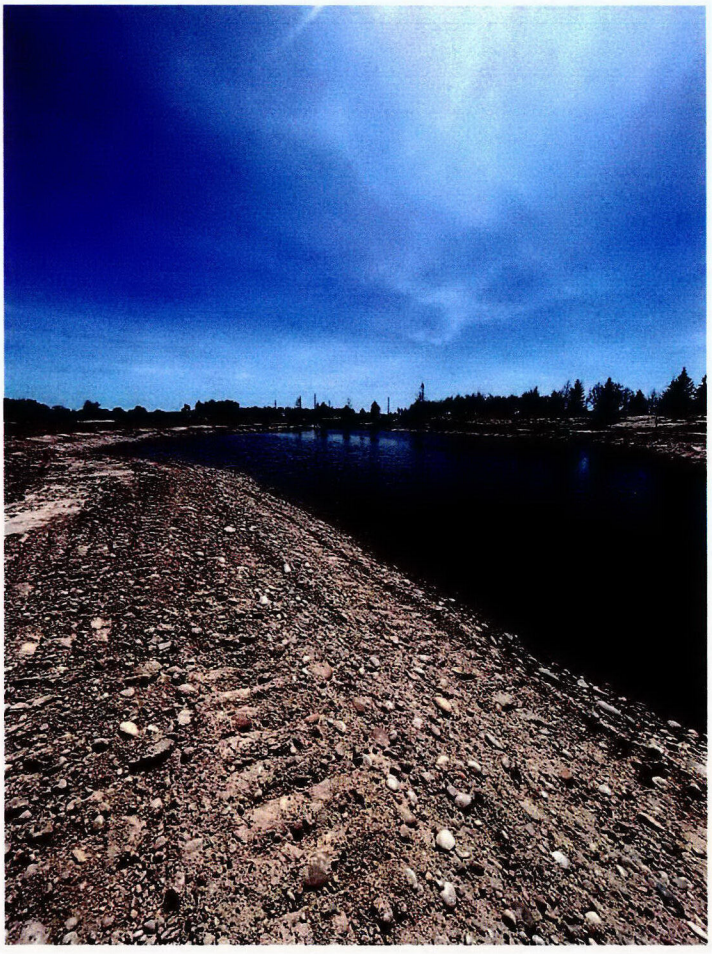


Fig. 6 – View of pond looking Southwest. Located in the NENW QQ on the West side of the pond.

SCANNED
JAN 31 2023

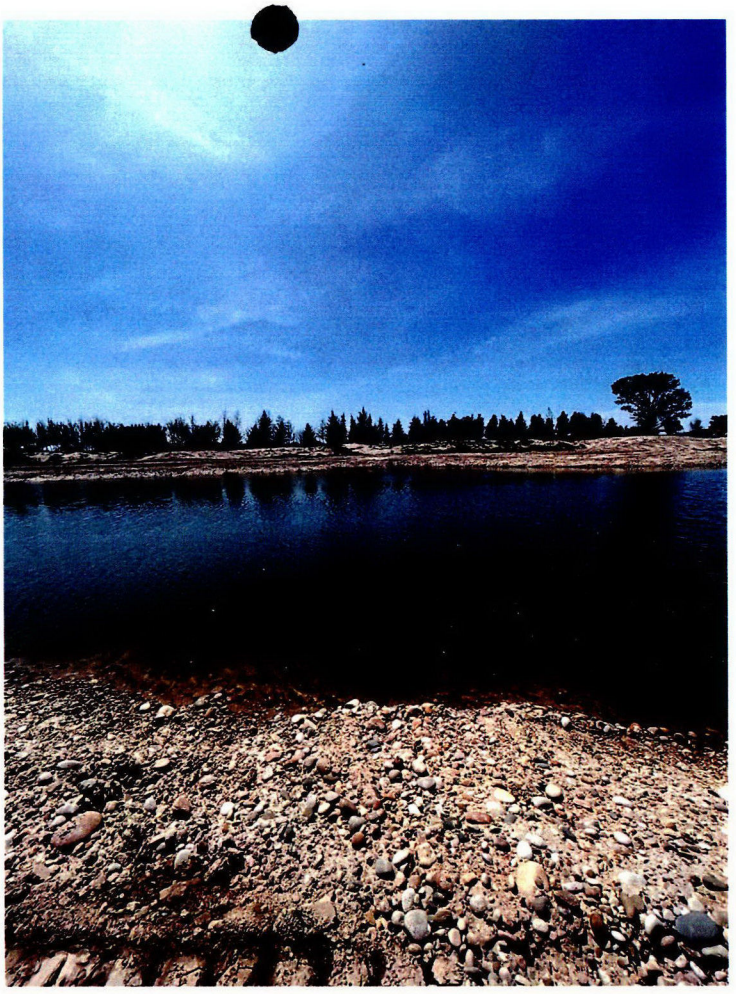


Fig. 7 – View of pond looking Northeast. Located in the NENW QQ on the East side of the pond.

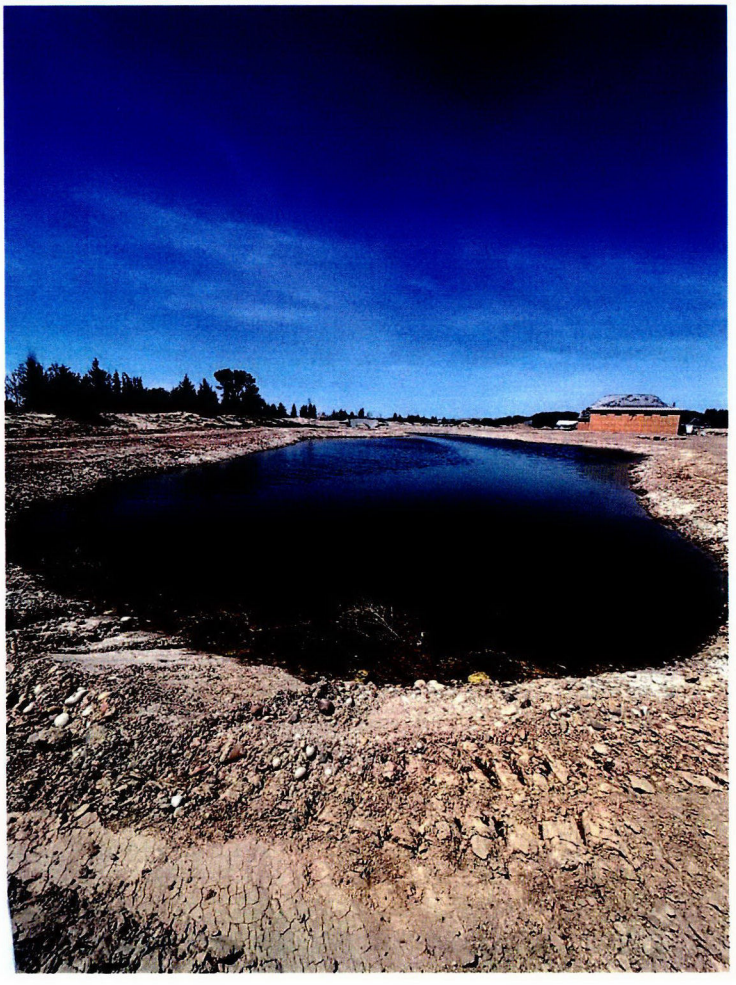


Fig. 8 – View of pond looking North. Located in the NENW QQ on the South side of the pond.

SCANNED

JAN 31 2023

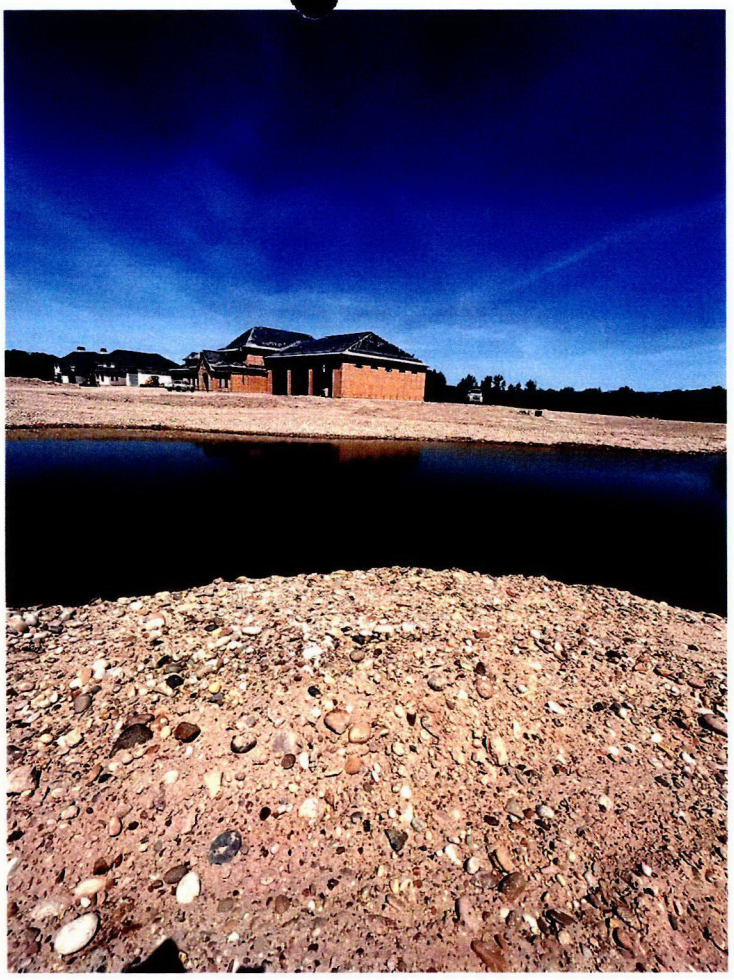


Fig. 9 – View of pond looking Northeast. Located in the SESW QQ on the West side of the pond.

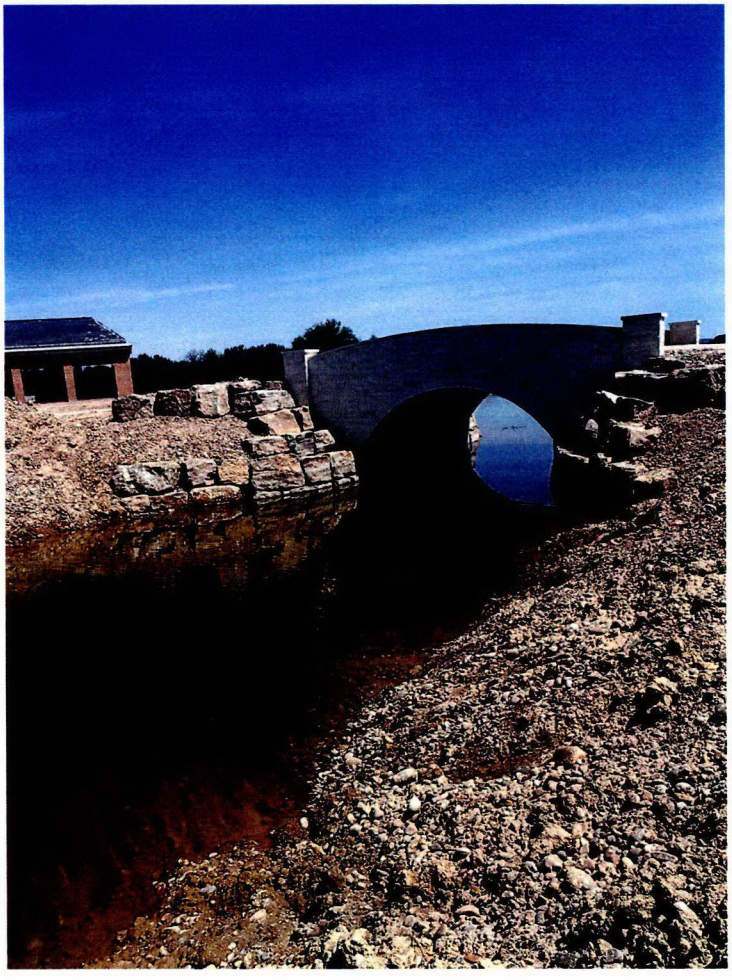


Fig. 10 – View of pond looking Southeast. Located in the NENW QQ on the East side of the pond.

SCANNED

JAN 31 2023

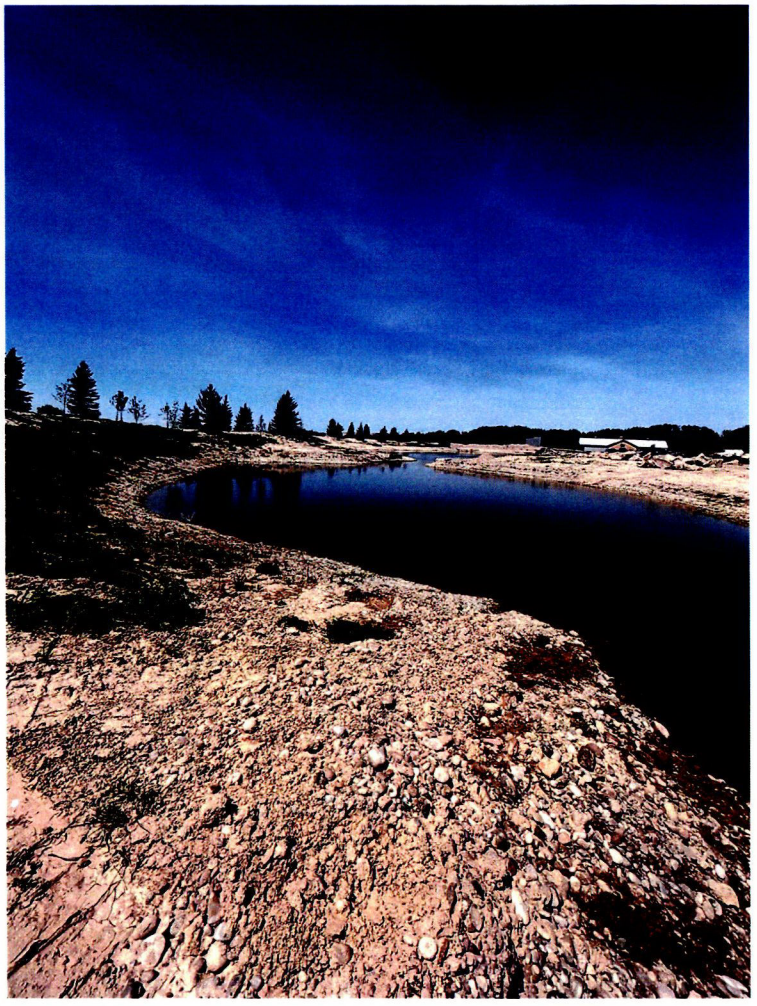


Fig. 11 – View of pond looking North. Located in the SESW QQ on the West side of the pond.



Fig. 12 – View of pond looking North. Located in the SESW QQ on the West side of the pond.

SCANNED

JAN 31 2023

IDAHO DEPARTMENT OF WATER RESOURCES **12/19/2022**
Proof Report

Water Application 65-24026

Owner Type	**Name and Address**
Current Owner	TROY JENKINS 5610 SE 1ST AVE NEW PLYMOUTH, ID 83655-5251 (208) 961-0990
Current Owner	STACY JENKINS 5610 SE 1ST AVE NEW PLYMOUTH, ID 83655-5251 (208) 961-0990

Priority Date: 3/23/2021
Status: Closed

Source	**Tributary**
GROUND WATER	

Beneficial Use	**From**	**To**	**Diversion Rate**	**Volume**
AESTHETIC STORAGE	01/01	12/31		75.0 AF
	Total Diversion			75.0 AF

Source and Point(s) of Diversion:

GROUND WATER	SESW	Sec. 1, Twp 07N, Rge 04W, PAYETTE County
GROUND WATER	NENW	Sec. 12, Twp 07N, Rge 04W, PAYETTE County

Place Of Use:
AESTHETIC STORAGE within PAYETTE County

			NE				NW				SW				SE				
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
07N	04W	1												X					
07N	04W	12					X												

Conditions of Approval:

Comments:

1	TSmith	3/31/2021	POU
Updated Shape			
2	TSmith	3/31/2021	POD
Updated Shape			

SCANNED
JAN 31 2023

Dates and Other Information:
Application Received Date: 3/23/2021
Protest Deadline Date: 5/10/2021
Number of Protests: 0
State or Federal: S
Water District Number: TBD
Application Type: New Appropriation
Time to Complete works: 2
Mitigation Plan: False

Combined Use Limits:
N/A

Verification Log

SubCase:
N/A

Water Supply Bank:

N/A

SCANNED
JAN 3 1 2023

IDAHO DEPARTMENT OF
WATER RESOURCES

Western Region • 2735 W Airport Way • Boise, ID 83705-5082
Phone: 208-334-2190 • Fax: 208-334-2348 • Email: westerninfo@idwr.idaho.gov • Web: idwr.idaho.gov

Governor Brad Little Director Gary Spackman

January 26, 2023

TROY JENKINS
5610 SE 1ST AVE
NEW PLYMOUTH ID 83655-5251

STACY JENKINS
5610 SE 1ST AVE
NEW PLYMOUTH ID 83655-5251

RE: License No. 65-24026

ISSUANCE OF LICENSE

Dear Water Right Holder(s):

The Department of Water Resources ("Department") 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 all the conditions of approval listed on your license. The conditions may include ongoing requirements, such as maintenance of a measuring device or implementation of mitigation, as well as information about how your water use may be administered, such as regulation by a watermaster in a water district.

The license is a PRELIMINARY ORDER issued by the Department 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.

Also, 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. Water right forms are available from any office of the Department or on the Department's website at idwr.idaho.gov

SCANNED
JAN 31 2023

If you have any questions concerning the enclosed information, please contact me at (208) 605-4624.

Sincerely,

Scott Stoms
Water Rights Supervisor

Enclosure(s)

SCANNED

JAN 31 2023

CERTIFICATE OF SERVICE

I hereby certify that on January 27, 2023, I served a true and correct copy of Water Right License No. 65-24026 by U.S. Mail, postage prepaid, to the following:

TROY JENKINS (Current Owner)
5610 SE 1ST AVE
NEW PLYMOUTH ID 83655-5251

STACY JENKINS (Current Owner)
5610 SE 1ST AVE
NEW PLYMOUTH ID 83655-5251

Scott Storms
Water Rights Supervisor

SCANNED
JAN 31 2023

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.

SCANNED

JAN 31 2023

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.

SCANNED

JAN 31 2023