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AUG 05 2024

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IDWR/NORTH

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
STATEMENT OF COMPLETION
FOR SUBMITTING PROOF OF BENEFICIAL USE

FOR OFFICE USE ONLY

Amt. of Fee \$ 50.00
Receipt No. N044580
Received By NS
Date Received 8/2/24

The Idaho Department of Water Resources (Department) considers this form a statement that the permit holder(s) applied water to beneficial use and completed development of a water right to the extent described below. **This form must be accompanied by an examination fee, when necessary, or by a completed Beneficial Use Field Report prepared by a certified water right examiner (CWRE).** Please refer to the instructions and fee schedule for this form. If ownership of the permit has changed, complete a Notice of Change in Water Right Ownership form. If you wish to relinquish your permit because you have not established the authorized water use and are not applying for an extension, please notify the Department in writing.

1. Permit No. 82-12294 Name of Permit Holder(s) Michael's Holpen Corporation
Telephone No. 208-842-2474 Email medmondson51@yahoo.com
Mailing Address 285 Main Street City Elk City State ID Zip 83525

2. Source of Water Swale Creek If Ground Water (well), Date Drilled mo. ____ / yr. ____
Drilling Permit/Tag No. ____ Drilling Company's Name ____

3. Extent of use(s) completed as authorized by the water right permit:

Domestic (No. households) 0 Irrigation (No. acres) 0 Stockwater (No. and stock type) Mixed
Other Fire Protection Storage

4. Total diversion rate or volume (storage only) for which proof is submitted 0.2 cfs OR 1.3 af
If the total developed water use is 5 acres of irrigation or less, is stockwater storage of 14.6 acre-feet or less, or has a diversion rate of less than 0.24 cfs, attach a map of the place of use and point of diversion and photographs showing beneficial use.

5. Describe the diversion and delivery system from the water source to the use (pump, lift, irrigation method, etc.)
Diversion from Swale Creek is accomplished using a small lift pump. Distance from Swale Creek to the retaining pond is approx. 500 ft with an elevation gain of approx. 20 ft. The pump for the system is capable of ... (continued in attachment A)

6. Permit condition compliance. Refer to the permit approval conditions and check all the items required, then check "Yes" or "No" to indicate whether the required items were established, submitted, and/or installed:

Required? Yes No (If "Yes", attach required data, evidence of compliance, or evidence of installation)

- | | | |
|--------------------------|-------------------------------------|---|
| ☐ | ☒ | Ground water level data, pumping information, or other diversion data |
| ☐ | ☒ | Mitigation plan |
| ☐ | ☒ | Lockable controlling works |
| ☐ | ☒ | Measuring device |
| ☐ | ☒ | Fish screen |
| ☐ | ☒ | Other requirements of the water right permit <u>See Attachment B</u> |
| ☐ | ☒ | Reasonably Anticipated Future Needs ("RAFN") Municipal use |

If RAFN Municipal use, additional increment of beneficial use developed? ☐ Yes (attach CWRE report) ☐ No

7. Fee Enclosed \$ 50.00 or XXXXXXXXXXXX or ☐ No fee required
See fee schedule on page 3 of the instructions. Proof statements filed without an appropriate fee are incomplete.

8. Person to contact to accompany a Department representative during the field examination of the water system:

Name: Michael Edmondson Telephone No. (208) 842-2704 Email medmondson51@yahoo.com
Mailing Address 285 Main Street City Elk City State ID Zip 83525

The information given on this form is my true statement of the extent to which the above numbered permit has been developed and water has been diverted and applied to beneficial use. I understand that any undeveloped portion of the permit is relinquished to the State of Idaho.

SIGNATURE OF PERMIT HOLDER*

Michael Edmondson
PRINTED NAME AND TITLE

DATE

*Attach power of attorney if completing on behalf of permit holder.

7/30/24

TDG ENGINEERING
Water & Wastewater Engineering & Design

Attachments for Michael's Holpen Corporation Water Rights

Attachment A: (continued) ... a pump rate of approximately 35 gpm with the appropriate fish screen attached. Water is pumped from a small pool formed by debris that has collected in the stream. The pond used for storage of the water is approximately 75 ft. by 50 ft. with a depth of 6 ft.; total volume is 22,500 cubic feet (0.5 acre feet), 38% of the allowable total volume (see item 7).

The level in the receiving pond is maintained using the diversion as long as there is adequate flow in the creek. With the distance from the creek and height to the retaining pond, the installed pump is capable of pumping 35 gpm, or 39% of the maximum allowable flow of 0.2 cfs (see item 8). (Water level is maintained to ensure a minimum level for potential fire flow, particularly during the summer and early fall months when fire danger is the highest. There are no other sources of water for fire events within any reasonable distance.)

Attachment B: Diversion from Swale Creek is not allowed if such diversion results in de-watering of the creek. In addition, diversion is not allowed if flows in Big Elk Creek, the American River, the South Fork of the Clearwater River, or the Clearwater River have dropped below established minimums for each (See items 10, 11, and 12 in the permit).

TDG ENGINEERING

Water & Wastewater Engineering & Design

Figure 1. Property Location

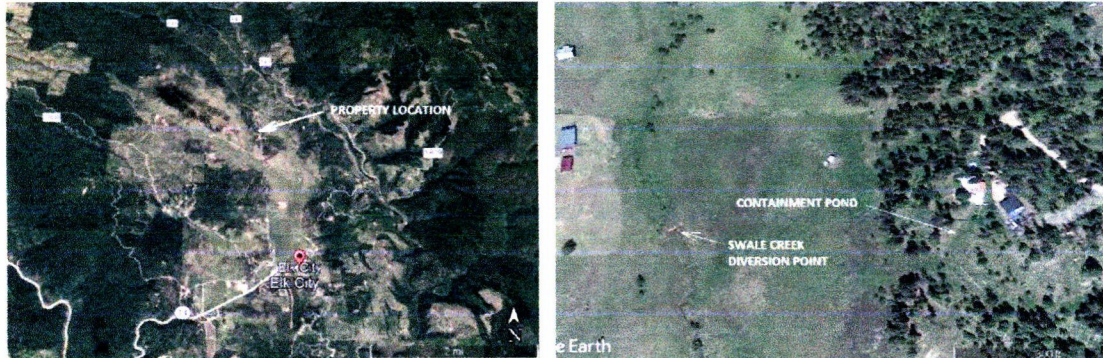


Figure 2: Diversion Point in Swale Creek

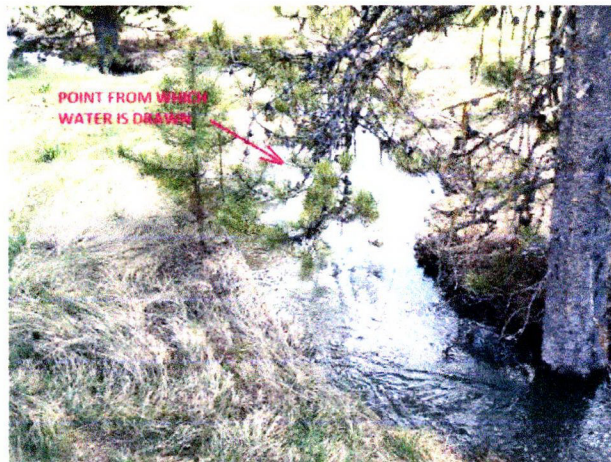


Figure 3. Containment Pond



State of Idaho
Department of Water Resources
Permit to Appropriate Water
No. 82-12294

Priority: July 25, 2022

Maximum Diversion Rate: 0.20 CFS

Maximum Diversion Volume: 1.3 AF

This is to certify that

MICHAELS HOLPEN CORP 285 MAIN ST ELK CITY ID 83525

has applied for a permit to appropriate water from:

Source : SPRING

Source : SWALE CREEK

Source : SURFACE RUNOFF

Tributary: SWALE CREEK

Tributary: BIG ELK CREEK

Tributary: SWALE CREEK

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

<u>Beneficial Use</u>	<u>Period of Use</u>	<u>Rate of Diversion</u>	<u>Annual Volume</u>
STOCKWATER STORAGE	01/01 to 12/31		0.3 AF
FIRE PROTECTION STORAGE	01/01 to 12/31		1.0 AF
DIVERSION TO STORAGE	01/01 to 12/31	0.20 CFS	

Location of Point(s) of Diversion

SWALE CREEK NE¼ NE¼, Sec. 15, Twp 29N, Rge 08E, B.M. IDAHO County

SURFACE RUNOFF NE¼ NE¼, Sec. 15, Twp 29N, Rge 08E, B.M. IDAHO County

SPRING NW¼ NE¼ NE¼, Sec. 15, Twp 29N, Rge 08E, B.M. IDAHO County

Place of Use: STOCKWATER STORAGE & FIRE PROTECTION 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	
29N	08E	15	X																

Conditions of Approval

1. Proof of application of water to beneficial use shall be submitted on or before **October 01, 2025**.
2. Subject to all prior water rights.
3. A fish screen of 3/32 inch or smaller mesh shall be installed and maintained at the Swale Creek point of diversion.
4. The approach velocity at the Swale Creek point of diversion shall not exceed 0.5 feet per second.
5. Diversion of water from Swale Creek is not authorized when such diversion shall result in de-watering of the stream.
6. Water shall not be diverted from fire protection storage except to fight or repel an existing fire.
7. Right 82-12294 authorizes a total annual storage volume of 1.3 acre-feet, 0.6 acre-feet to be used for the initial filling or carryover storage of the pond, 0.4 acre-feet for the replacement of losses caused by seepage and evaporation, and 0.3 acre-feet for stockwater storage use.

SCANNED

OCT 17 2022

State of Idaho
Department of Water Resources
Permit to Appropriate Water
No. 82-12294

8. The pond established by the storage of water under this right shall not exceed a total capacity of 0.6 acre-feet or a total surface area of 0.2 acres.
9. Stockwater use is for 20 head of mixed stock.
10. Water shall not be diverted under this right when flows in Big Elk Creek, Right 82-12225, are below established minimum flow amounts nor when flows in the American River, Right 82-12227, are below established minimum flow amounts.
11. Water shall not be diverted under this right when flows in the South Fork Clearwater River are below minimum flow amounts as defined by Right 82-12220. The right holder shall be responsible for monitoring the daily flow of the South Fork Clearwater River using real-time data and shall cease diverting water when flows in the South Fork Clearwater River are below established minimum flow amounts. Unless otherwise specified by the Director of the Department of Water Resources, data from the U.S. Geological Survey Stites gauging station, No. 13338500, may be used for purposes of determining the daily flow amounts.
12. Water shall not be diverted under this right when flows in the Clearwater River, Right 82-12229, is below established minimum flow amounts.
13. This right does not grant any right-of-way or easement across the land of another.

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

Signed this 14th day of October, 2022



ADAM FREDERICK
Water Rights Supervisor

SCANNED
OCT 17 2022

State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

82-12294

This map depicts the STOCKWATER STORAGE & FIRE PROTECTION 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



SCANNED
OCT 17 2022



IDAHO DEPARTMENT OF
WATER RESOURCES

322 E Front Street, Suite 648, Boise ID 83702 • PO Box 83720, Boise ID 83720-0098
Phone: 208-287-4800 • Fax: 208-287-6700 • Email: idwrinfo@idwr.idaho.gov • Website: idwr.idaho.gov

Governor Brad Little

Director Mathew Weaver

August 28, 2024

MICHAELS HOLPEN CORP
285 MAIN ST
ELK CITY ID 83525

PROOF ACKNOWLEDGEMENT LETTER

RE: Permit No. 82-12294

Dear Permit Holder(s):

The Department acknowledges receipt of the proof of beneficial use form submitted for the above referenced permit. The next step in the process of developing a water right is for the Department to conduct a field examination to determine and confirm the use being made of the water.

Please be advised that Section 42-248, Idaho Code, requires you or the owner of this water right to maintain current ownership and address records on file with the Department. Forms to file a change of ownership of a water right and/or a change in the address of the water right owner are available from any Department office or at the Department's website at www.idwr.idaho.gov.

If you have any questions concerning the field examination, please contact the Northern Region Office of the Department located in Coeur d'Alene at (208) 762-2800.

Sincerely,



Amanda Veibell
Technical Records Specialist

Enclosure(s)

c: JAMIE EDMONDSON , MICHAEL EDMONDSON

Beneficial Use Proof Evaluation

Permit Number: 82-12294 Reviewer: AVeibell Review Date: 8/27/2024

Acceptability

- 1) Is the contact on the request the current permit holder? Yes
- 2) Does the address of record need to be updated? No
- 3) Proof Submitted Date: 8/2/2024
- 4) Proof Due Date: 10/1/2025
- 5) Days added for weekend due date? 0
- 6) Days added for holiday due date? 0
- 7) Number of days late: -425
- 8) Proof received timely? Yes

Analysis

- 1) Are the water uses correct? Yes
- 2) Are one of the following items required?
 - a. Measuring Device -- No
 - b. Lockable Device --No
 - c. Fish Screen -- Yes
- 3) Are the required items installed? Yes
 - a. Measuring Device -- No
 - b. Lockable Device --No
 - c. Fish Screen -- Yes
- 4) Is there a request to waive the required items? No
- 5) Drilling Permit Number:
- 6) Is a drilling permit upgrade needed? No
- 7) Was a well drillers report filed? No
- 8) Is proof accepted? Yes

Fees

- 1) Is a licensing exam fee required? Yes
- 2) Was proof submitted with an exam report from a CWE? No
- 3) Filing fee due: \$50.00
- 4) Filing fee submitted: \$50.00
- 5) Remaining fee or (refund): \$0.00

Receipt IDs

N040619

Comments

Proof Acknowledged.

Burkard, Blake

From: Michael Edmondson <medmondson51@yahoo.com>
Sent: Monday, December 4, 2023 11:26 AM
To: Burkard, Blake
Subject: Re: Beneficial Use Examination Follow-up

CAUTION: This email originated outside the State of Idaho network. Verify links and attachments BEFORE you click or open, even if you recognize and/or trust the sender. Contact your agency service desk with any concerns.

copy

On Monday, December 4, 2023 at 10:20:42 AM PST, Burkard, Blake <blake.burkard@idwr.idaho.gov> wrote:

Michael,

Here is a copy of the letter I sent to you in October. As I said over the phone, the time limit on the letter is only a motivational tool, as your permit is still a few years away from the proof due date (October 1, 2025). If things are not fixed by then, your priority date could be adjusted to account for the tardiness, or the permit could be voided. The department sends notices to permit holders 60 days prior to proof due dates as a final reminder, but I am sure you and Jon will accomplish the things needed long before then.

If for any reason I am not available for correspondence, I will route you to a coworker of mine who specializes in Certified Water Rights Examiner reports.

Regards,

Blake Burkard

Engineer Intern

(208) 287-4870

blake.burkard@idwr.idaho.gov





322 E Front Street, Suite 648, Boise ID 83702 • PO Box 83720, Boise ID 83720-0098
Phone: 208-287-4800 • Fax: 208-287-6700 • Email: idwrinfo@idwr.idaho.gov • Website: idwr.idaho.gov

Governor Brad Little

Director Mathew Weaver

October 5, 2023

JON MENOUGH PE
TDG ENGINEERING
PO BOX 357
ELK CITY ID 83525

Re: Water Right 82-12294 Field Examination Report Acceptability

Dear Mr. Menough:

Beneficial Use Examination Rules (IDAPA 37.03.02) are the basis upon which certified water rights examiner field reports are reviewed for completion. Rule 035.02.b. states:

Field reports not completed as required by these rules will be returned to the certified water right examiner for completion. If the date for submitting proof of beneficial use has passed, the penalty provisions of Rule 055 shall apply.

The Department has determined that the field report submitted for water right 82-12294 is insufficient, as it does not include all of the information required by Rule Subsection 035.01. Enclosed is the report received by the Department on July 17, 2023, as well as a copy of the Statement of Completion for Submitting Proof of Beneficial Use form. The permit holder will not need to resubmit proof.

Please submit an acceptable field report with the required information within sixty (60) days.

Respectfully,

Blake Burkard
Water Allocation Engineer Intern

A handwritten signature in blue ink, appearing to be "BK", with a long horizontal line extending to the right.

CWRE Exam NEEDED TO BE
FIXED. MAY HAPPEN THIS FALL (2023)
OR NEXT YEAR, ~~PERHAPS~~ PROOF
DUE DATE 10/1/2025 SO NOT
PRESSING.

BB 12/4/23

Burkard, Blake

From: Burkard, Blake
Sent: Thursday, October 5, 2023 3:53 PM
To: tundraboar@hotmail.com
Subject: Certified Water Rights Examiner report for water right 82-83815
Attachments: beneficial-use-field-report.pdf; 20240105125846.pdf

Jon,

You will be receiving a letter soon, returning your field exam report for water right 82-83815 (attached for your reference). Certain information is missing from the report and the Department cannot license the water right until an acceptable report is submitted.

Below are items that the Department has deemed insufficient:

- The number of mixed stock was not included in your report. (35.01.l)
- Pond dimensions: pond volume calculation was performed assuming rectangular shape. The pond appears ovalar in aerial imagery and in the submitted picture. Are the length and width values provided better described as the long and short diameters?
 - Additionally, for irregular-shaped ponds, IDWR uses equation: volume = surface area * (0.4*max depth). Is six feet the average or maximum depth? In the application, the expected maximum depth was 8 ft, average depth was 3.2 ft.
- As surface area changes, so do the associated losses. Please review [Water Right Licensing Memo #15](#) and complete the associated Excel Workbook to determine the losses associated with the pond as it was developed. Your recommended volume should be the sum of the pond capacity, evapotranspiration losses, and seepage losses.
- Your report did not show compliance with fish screen requirements. Idaho Fish and Game submitted a comment letter requesting this condition of approval. Please submit proof that a fish screen was installed. (35.01.f)
- The make, capacity, serial number, nor model number of the pump were described in the report. A photograph of the diversion and conveyance equipment should be included. (35.01.c)
- The map depicting the point of diversion and place of use does not show the locations to the nearest 40-acre tract. The location of the conveyance system should also be shown to the nearest 40-acre tract. (45.03)
- The place of use overlap with water rights 82-10215 and 82-10216 is not discussed. (35.01.d)
- The date of the exam/measurement is not included. (40.03)

Attached is a blank Beneficial Use Field Report that examiners will complete on the day of the exam. It can be used as a guide for what is required and is typically submitted alongside a long-form narrative report. Our [Administrative Guidance Documents](#) are a great tool for how IDWR staff apply the Water Appropriation Rules and Beneficial Use Examination Rules. We can also provide you a list of water rights that utilized a CWRE for the licensing process, for reference.

Blake Burkard
Engineer Intern
(208) 287-4870
blake.burkard@idwr.idaho.gov



TDG ENGINEERING
Water & Wastewater Engineering & Design

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JUL 17 2023

DEPARTMENT OF
WATER RESOURCES

July 8, 2023

Mr. Luke Bates
Idaho Department of Water Resources
7600 N. Mineral Drive, Ste. 100
Coeur d'Alene, ID 83815

Dear Mr. Bates:

Attached is the Statement of Completion for Water Rights for Michael's Holpen Corporation, No. 82-12294, along with separate Attachments A & B referenced in the document and several pictures showing where the site is located and pictures related to the site.

Should you have any questions, please feel free to contact me or Michael Edmondson at your convenience.

Sincerely,



Jon Menough, Ph.D. P.E.
Certified Water Rghts Examiner No. 165

RECEIVED

JUL 17 2023

DEPARTMENT OF
WATER RESOURCESSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
STATEMENT OF COMPLETION
FOR SUBMITTING PROOF OF BENEFICIAL USE

FOR OFFICE USE ONLY

Amt. of Fee \$ _____

Receipt No. _____

Received By _____

Date Received _____

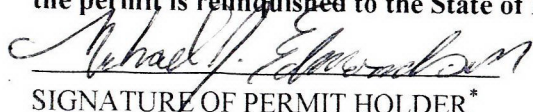
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- Permit No. 82-12294 Name of Permit Holder(s) Michael's Holpen Corporation
Telephone No. 208-842-2474 Email medmondson51@yahoo.com
Mailing Address 285 Main Street City Elk City State ID Zip 83525
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Drilling Permit/Tag No. _____ Drilling Company's Name _____
- Extent of use(s) completed as authorized by the water right permit:
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- Total diversion rate or volume (storage only) for which proof is submitted 0.2 cfs OR 1.3 af
If the total developed water use is 5 acres of irrigation or less, is stockwater storage of 14.6 acre-feet or less, or has a diversion rate of less than 0.24 cfs, attach a map of the place of use and point of diversion and photographs showing beneficial use.
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- Permit condition compliance. Refer to the permit approval conditions and check all the items required, then check "Yes" or "No" to indicate whether the required items were established, submitted, and/or installed:
Required? Yes No (If "Yes", attach required data, evidence of compliance, or evidence of installation)

☐	☐	☒ Ground water level data, pumping information, or other diversion data
☐	☐	☒ Mitigation plan
☐	☐	☒ Lockable controlling works
☐	☐	☒ Measuring device
☐	☒	☐ Fish screen
☐	☒	Other requirements of the water right permit <u>See Attachment B</u>
☐	☒	Reasonably Anticipated Future Needs ("RAFN") Municipal use

If RAFN Municipal use, additional increment of beneficial use developed? ☐ Yes (attach CWRE report) ☐ No
- Fee Enclosed \$ _____ or ☒ CWRE field report attached or ☒ No fee required
See fee schedule on page 3 of the instructions. Proof statements filed without an appropriate fee are incomplete.
- Person to contact to accompany a Department representative during the field examination of the water system:
Name: Michael Edmondson Telephone No. (208) 842-2704 Email medmondson51@yahoo.com
Mailing Address 285 Main Street City Elk City State ID Zip 83525

The information given on this form is my true statement of the extent to which the above numbered permit has been developed and water has been diverted and applied to beneficial use. I understand that any undeveloped portion of the permit is relinquished to the State of Idaho.



Michael Edmondson

SIGNATURE OF PERMIT HOLDER*

PRINTED NAME AND TITLE

DATE

*Attach power of attorney if completing on behalf of permit holder.

7/12/23

TDG ENGINEERING
Water & Wastewater Engineering & Design

Attachments for Michael's Holpen Corporation Water Rights

Attachment A: (continued) ... a pump rate of approximately 35 gpm with the appropriate fish screen attached. Water is pumped from a small pool formed by debris that has collected in the stream. The pond used for storage of the water is approximately 75 ft. by 50 ft. with a depth of 6 ft.; total volume is 22,500 cubic feet (0.5 acre feet), 38% of the allowable total volume (see item 7).

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Attachment B: Diversion from Swale Creek is not allowed if such diversion results in de-watering of the creek. In addition, diversion is not allowed if flows in Big Elk Creek, the American River, the South Fork of the Clearwater River, or the Clearwater River have dropped below established minimums for each (See items 10, 11, and 12 in the permit).

TDG ENGINEERING

Water & Wastewater Engineering & Design

Figure 1. Property Location



Figure 2: Diversion Point in Swale Creek

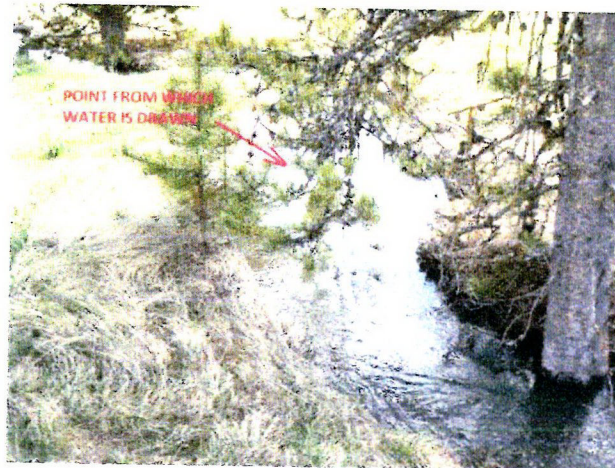


Figure 3. Containment Pond





Northern Region • 7600 N Mineral Drive, Suite 100 • Coeur D'Alene, ID 83815-7763
Phone: 208-762-2800 • Fax: 208-762-2819 • Email: northerninfo@idwr.idaho.gov • Web: idwr.idaho.gov

Governor Brad Little

Director Gary Spackman

October 17, 2022

MICHAELS HOLPEN CORP
ATTN: MICHAEL & JAMIE EDMONDSON
285 MAIN ST
ELK CITY ID 83525

RE: Permit No. 82-12294

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 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.

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OCT 17 2022

Please be advised that Idaho Code § 42-248, requires you or the owner of this water permit to maintain current ownership and address records on file with the Department. Forms to file an assignment of permit and/or a change in the address of the permit owner are available from any Department office or at the Department's website at www.idwr.idaho.gov.

If you have any questions concerning the enclosed information, please contact the Northern Region Office at (208) 762-2800.

Sincerely,



Adam Frederick
Water Rights Supervisor

Enclosure(s)

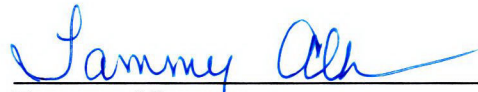
CERTIFICATE OF SERVICE

I hereby certify that on October 17, 2022, I served a true and correct copy of Permit to Appropriate Water No. 82-12294 by U.S. Mail, postage prepaid, to the following:

MICHAELS HOLPEN CORP (Current Owner)
285 MAIN ST
ELK CITY ID 83525

MICHAEL EDMONDSON (Representative)
285 MAIN ST
ELK CITY ID 83525

JAMIE EDMONDSON (Representative)
285 MAIN ST
ELK CITY ID 83525



Tammy Alleman
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.

37.01.01302
37.01.01303

MEMORANDUM

To: Water Right Application 82-12294

From: Luke Bates *jsb*

Date: 9/12/2022

Re: Application for a Permit to Appropriate Water within the Salmon and Clearwater River Basins.

Re: Regional Analysis and Recommendation in accordance with Water Appropriation Rules (IDAPA 37.03.08.040.05).

Water Supply Information

Water should be available from the spring source, surface runoff source, and subsequent Swale Creek source.

Good Faith, Delay, or Speculative Information

The applicant plans to use water from multiple sources to fill a storage pond annually and replenish seepage, evaporation, and stock animal consumption uses. There are no known issues with any other party.

Financial Resources Information

The pond is existing, and the applicant currently owns all diversion components which mitigates any financial requirements to complete the project and put water to beneficial use.

Local Public Interest

The Idaho Department of Fish & Game (F & G), Department of Environmental Quality (DEQ), and Water Board (WB) have been asked to comment by the Idaho Department of Water Resources. DEQ commented that diversion from Swale Creek should be made during periods of high flow and diversion should not result in conditions that de-water the creek. F & G commented recommending intake pipe screen requirements and maximum approach velocities at the intake pipe be applied to permit approval document. The WB did not comment during the advertising period for this application. There were no other known issues with this application as no protests were received.

Injury to Other Water Rights

Water from the spring & unnamed stream source are tributary to Big Elk Creek, the American River, South Fork Clearwater River & the Clearwater River. Condition WB9 (2ea) were added for Big Elk Creek, American River, and Clearwater River minimum stream flow requirement (s). Condition 227 was added to prescribe this permit's minimum stream flow requirements for Right 82-12220 associated with the South Fork Clearwater River.

Recommendation

The Northern Region recommends proceeding with the processing of this water right application.

SCANNED
OCT 17 2022



STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY

1118 F Street, Lewiston, ID 83501
(208) 799-4370

Brad Little, Governor
Jess Byrne, Director

September 6, 2022

Idaho Department of Water Resources
Northern Regional Office
7600 N Mineral Drive, Suite 100
Coeur d'Alene, ID 83815

Subject: Water Right Application #82-12294, Michael's Holpen Corporation

The Department of Environmental Quality (DEQ) has received a request for comment on the approval of a water right application to withdraw from Swale Creek, a tributary of Big Elk Creek in Idaho County. The sought withdrawals are comprised of 0.3 acre-feet (af) for stockwater storage, 1.0 af for fire protection storage, and 0.20 cubic feet per second (cfs) for diversion to storage. Withdrawal is to occur between January 1 to December 31 inclusive.

Swale Creek is a 1st order intermittent stream that is a tributary to the 3rd order Big Elk Creek. Swale Creek has been assessed as not supporting of the beneficial uses cold water aquatic life and salmonid spawning due to temperature, and along with Big Elk Creek, is subject to the approved Total Maximum Daily Load (TMDL) for the Clearwater River (South Fork). DEQ has limited flow data for Swale Creek but most recently recorded a flow of 2.16 cfs in August 2014.

Given that Swale Creek has been observed to have intermittent flow, DEQ recommends that the legally appropriated withdrawal be made during periods of seasonal high flow or at a minimum, flows greater than 1 cfs and managed such that at no time the stream is allowed to go dry as a result of legally appropriated and allowable water withdrawals.

Thank you for the opportunity to comment on your application. If you have any questions regarding the Idaho Water Quality Standards, please contact me at (208) 799-4370, or by email at david.mcintyre@deq.idaho.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "DMcIntyre", with a long horizontal flourish extending to the right.

David McIntyre
Water Quality Analyst

c: Michael's Holpen Corporation
EDMS

SCANNED
OCT 17 2022

Alleman, Tammy

From: Hickey, Clay <clay.hickey@idfg.idaho.gov>
Sent: Tuesday, September 6, 2022 1:15 PM
To: Alleman, Tammy
Subject: RE: Request for Comments for WR#82-12294

Hi Tammy, I have reviewed WR#82-12294 for the application to withdraw 0.2 CFS from Swale Creek.

Based on my understanding of the application, the proposed location and amount of withdrawal; the withdrawal is unlikely to have a significant impact on fish, wildlife or habitat. Assuming that all federal, state and local permits have been obtained and regulations met, I have no objection to the proposed withdrawal.

I do recommend that the pump intake be screened. I'd recommend a maximum screen mesh size of 3/32- inches. I would also recommend to require that approach velocities at the intake should not exceed 0.5 feet per second. These recommendations meet NOAA standards to limit entrainment of salmonids.

Thank you,

Clay Hickey
Environmental Staff Biologist, Clearwater Region
Idaho Department of Fish and Game
3316 16th Street
Lewiston, ID 83501
Office (208) 750-4217
Clay.hickey@idfg.idaho.gov



From: Alleman, Tammy <Tammy.Alleman@idwr.idaho.gov>
Sent: Tuesday, August 09, 2022 2:45 PM
To: IWRB Water Use Reviews <WaterUseApprovalReviews@idahogov.onmicrosoft.com>; Sujata Connell <Sujata.Connell@deq.idaho.gov>; Hickey, Clay <clay.hickey@idfg.idaho.gov>
Subject: Request for Comments for WR#82-12294

Dear Interested Agencies:

The Department of Water Resources is seeking written comment and/or recommendations from your agency regarding the above referenced Water Right Permit application. You can find copies of the application at: <http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx>.

This office can publish notice of the application as soon as the initial review is completed; therefore, your prompt response to this request is appreciated. If your agency desires to formally protest the approval of the

application(s), you may do so after the notice is published by filing a written protest along with a \$25.00 filing fee within 10 days after final publication. The deadline for comments on the applications is September 6, 2022.

Please contact the Northern Region Office at (208) 762-2800 if you have any questions regarding the Permit application.

Thank you,



Tammy Alleman | Administrative Assistant
Idaho Department of Water Resources
Northern Regional Office
7600 N Mineral Drive, Suite 100
Coeur d'Alene, ID 83815-7763
Phone: (208) 762-2800

Legal Notice

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

81-12043
JACK D KIRKLAND
CECELIA M KIRKLAND
PO BOX 531
KOOSKIA, ID 83539-0531
Point of Diversion NESW
S20 T32N R05E
IDAHO County
Source GROUND WATER
Use: DOMESTIC
01/01 to 12/31
Total Diversion: 0.04 CFS
Date Filed: 06-03-2022
Place Of Use: DOMESTIC
T32N R05E S20 NESW
82-12294
MICHAELS HOLPEN CORP
285 MAIN ST
ELK CITY, ID 83525
Point of Diversion NENE
S15 T29N R08E
IDAHO County
Source SWALE CREEK
Tributary BIG ELK CREEK
Point of Diversion NENE
S15 T29N R08E
IDAHO County
Source SURFACE RUNOFF
Point of Diversion NWNENE
S15 T29N R08E
IDAHO County
Source SPRING
Tributary SWALE CREEK
Use: STOCKWATER STORAGE
01/01 to 12/31 0.3 AF
Use: FIRE PROTECTION
STORAGE
01/01 to 12/31 1 AF
Use: DIVERSION TO STORAGE
01/01 to 12/31 0.2 CFS
Total Diversion: 0.2 CFS, 1.3 AF
Date Filed: 07-25-2022
Place Of Use: FIRE PROTECTION STORAGE, STOCKWATER STORAGE
T29N R08E S15 NENE
Permits will be subject to all prior water rights. For additional information concerning the property location, contact the Northern office at (208)762-2800; 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 application must be filed with the Director, Dept. of Water Resources, Northern Region, 7600 N MINERAL DR STE 100, COEUR D ALENE ID 83815-7763 together with a protest fee of \$25.00 for each application on or before 9/6/2022. The protestant must also send a copy of the protest to the applicant.
GARY SPACKMAN, Director
Published on 8/17/2022 and 8/24/2022
(AU17-AU24)

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO

County of Idaho - ss.

RECEIVED

AUG 26 2022

Sarah Klement, being first duly sworn, says she is the Publisher of the IDAHO COUNTY FREE PRESS, a weekly newspaper published and issued weekly at Grangeville, Idaho County, State of Idaho, and is of general circulation in said county and state, that the said legal notice, of which the one hereto attached is a true copy, was published in said paper for two weeks, being published two times, the first publication being on the 17th day of August, 2022 and the last publication on the 24th day of August, 2022; and that the said legal notice was published in the newspaper proper and not a supplement; that said newspaper has been continuously and uninterruptedly published in said county during a period of seventy-eight consecutive weeks prior to the publication of said legal notice of advertisement.

STATE OF IDAHO)

COUNTY OF IDAHO)

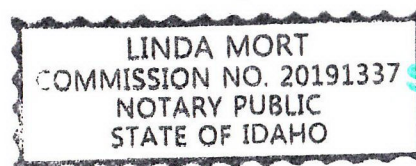
On this 24th day of August in the year of 2022, before me a Notary Public personally appeared Sarah Klement, known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that she executed the same.

Linda Mort

Notary Public for Idaho

Residing at Grangeville, ID

My commission expires: 7/12/25



SCANNED

OCT 17 2022