

MAY 27 2026

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May 21, 2026

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION	)	RESPONSE TO LOID'S
OF WATER AND TO WATER RIGHT	)	MOTION TO DISMISS
NOS. 85-15730 (ARD) AND	)	MEMORANDUM FROM
85-15851 (BOWEN)	)	ARD AND BOWEN
	)	

IN THE MATTER OF DISTRIBUTION

I. SUMMARY

Lewiston Orchards Irrigation District (LOID) submitted a motion to dismiss the *ARD & BOWEN Petition for Delivery Call (Petition)* on May 12, 2026. This motion to dismiss references IDAPA 37.01.01.220 and IDPA 37.03.11.041 and alleges:

1. The Petition does not address that there is insufficient water to meet the water rights demand within the Lewiston Plateau Ground Water Management Area (LPGWMA), and
2. The Petition does not seek curtailment of junior water rights holders on a time priority basis, and
3. The memorandum goes further to insinuate that the petition attempts to deceive the respondents that are not LOID into believing they will NOT be included in the delivery call and therefore they were inclined not to respond.

ARD'S AND BOWEN'S RESPONSE TO
LEWISTON ORCHARDS IRRIGATION
DISTRICT'S MOTION TO DISMISS

II. RESPONSE TO ARGUMENTS

1. In the petition section 1, paragraph 3 it indicates that Bowen's well has struggled to produce enough water starting in 2015 and he was compelled to annex into LOID domestic water in 2022 because of this lack of water. The Petition also states in Section 3, the opening sentence, wells are declining, not recharging. "Declining water levels without recovery" is also evidence that there is insufficient water for LOID's purposes.
2. All junior water rights owners were included in the petition and served the petition as requested by LOID and the hearing officer. The petitioners hand delivered a copy of petition to a majority of the respondents and answered questions and discussed the problem. Petitioners also explained that LOID's excessive pumping is likely to deplete all our water and encouraged people to get involved. Petitioners sent out informational letters to all water rights holders in the LPGWMA encouraging people to contact us if they wanted more information.
3. IDAPA 37.03.11.20 provides for the basis and procedure for responding to delivery calls. IDAPA 37.03.41.01 is titled "Responding to a Delivery Call." The basis and procedure for responding to a delivery call should not serve as a basis to dismiss the petition.
4. The petitioners are not responsible if respondents fail to engage in the process. These same junior water rights holders will be in the position of not having water as LOID continues to pump vast amounts of water for irrigation and deplete the water source.

The petition has been filed with all ground water users in mind with concern for the future of our water source.

III. OTHER STATEMENTS AND INACCURACIES

1. LOID indicates that the petitioners are targeting their water permit. The petitioners are merely stating the facts which will be supported in a hearing. LOID has yet to dispute that they, far and away, use the most water in the LPGWMA. IDAPA 37.03.11.020.03 Reasonable use of Surface and Ground Water states “An appropriator is not entitled to command the entirety of large volumes in a surface or ground water source to support his appropriation contrary to public policy of reasonable use of water...” LOID’s lack of conservation may be interpreted to violate this rule. There likely would not be a problem if LOID were not pumping ground water from the Grande Ronde Aquifer to supplement irrigation surface water lost in litigation with the Nez Perce tribe. Other wells in the LPGWMA are inconsequential in comparison to LOID.
2. LOID’s memorandum states “petitioners allege that they and all respondents in this matter have wells and water rights within the LPGWMA.” No where in the petition does it “allege” that all respondents have wells. In fact, at least five of the respondents have water rights but have yet to construct a well.
3. Coincidentally, LOID’s manager has stated publicly and the LOID website has been altered to acknowledged the insufficient water availability
4. Since the petition was initially filed, the petitioners have become aware that six wells in the LPGWMA area went dry last summer. Any further discussion or facts are to be presented in a future hearing of the Petition.

5. Petitioners have attempted to follow the intentions of every law relating to the Petitions for Delivery Calls and at no time have they tried to circumvent the proceedings. They have acted in good faith throughout any and all communications and actions.

IV. CONCLUSION

LOID's Motion to dismiss should not be granted and it should be recognized as a stall tactic, preventing evidence and facts from being presented. LOID's concern for other junior water rights holders inclusion is suspect and an effort to delay these proceedings. It is clear that there is insufficient water in the LPGWMA to sustain all water rights. All respondents have the right to respond, or not, to this Petition for Call for Water. If this motion to dismiss is not granted, LOID will still have achieved their goal of informing all the respondents of consequences of this petition, therefore encouraging them to choose to engage in the process. A primary goal of the petitioners is to make all water rights holders in the LPGWMA aware of the impending crisis.

On or around the 21st day of May 2026, Ard and Bowen caused a true and correct copy of the foregoing document to be served upon the following:

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David Ard

5/21/2026

Date



Mark J Bowen

5/21/2026

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