

State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 97-8752

Priority: June 06, 2022

Maximum Diversion Rate: 0.03 CFS

This is to certify that

ROBERT L LOWRY
3020 N LOCUST RD
SPOKANE, WA 99206

has applied for a permit to appropriate water from:

Source : PRIEST RIVER

Tributary: PEND OREILLE RIVER

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>
IRRIGATION	04/01 to 10/31	0.03 CFS

Location of Point(s) of Diversion

PRIEST RIVER NE¼, SE¼, Sec. 24, Twp 56N, Rge 05W, B.M., BONNER County

Place of Use: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
56N	05W	24													0.6				0.6

Total Acres: 0.6

Conditions of Approval

1. Proof of application of water to beneficial use shall be submitted on or before **August 01, 2023**.
2. Subject to all prior water rights.
3. This right does not grant any right-of-way or easement across the land of another.
4. A fish screen of 1/4 inch or smaller mesh shall be installed and maintained at the point of diversion.
5. The approach velocity at the point of diversion shall not exceed 0.5 feet per second.
6. This right when combined with all other rights shall provide no more than 0.03 Cubic Feet per Second (CFS) per acre nor more than 3.0 Acre Feet (AF) annually per acre at the field headgate for irrigation of the place of use.
7. Water shall not be diverted under this right when flows in the Priest River are below minimum flow amounts as defined by Right 97-7380. The right holder shall be responsible for monitoring the daily flow of the Priest River using real-time data and shall cease diverting water when flows in the Priest 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 Priest River Gauging Station, No. 12395000, may be used for purposes of determining the daily flow amounts.
8. Place of use is located within; Lot 1; Kennan Subdivision of Judges.

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

Signed this 20th day of July, 2022



ADAM FREDERICK
Water Rights Supervisor

State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

97-8752

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.



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

0 0.0125 0.025 0.05 Miles



Tax parcel information provided by Bonner County.



IDAHO DEPARTMENT OF
WATER RESOURCES

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

July 21, 2022

ROBERT L LOWRY
3020 N LOCUST RD
SPOKANE WA 99206

RE: Permit No. 97-8752

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.

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 July 21, 2022, I served a true and correct copy of Permit to Appropriate Water No. 97-8752 by U.S. Mail, postage prepaid, to the following:

ROBERT L LOWRY (Current Owner)
3020 N LOCUST RD
SPOKANE WA 99206



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.



IDAHO DEPARTMENT OF FISH AND GAME
PANHANDLE REGION
2885 West Kathleen Avenue
Coeur d'Alene, Idaho 83815

Brad Little / Governor
Ed Schriever / Director

RECEIVED
JUL 05 2022
IDWR / NORTH

June 29, 2022

Ms. Tammy Alleman
Idaho Department of Water Resources
7600 North Mineral Drive, Suite 100
Coeur d'Alene, ID 83815

REFERENCE: 97-8752- Lowry

Dear Tammy:

We have reviewed the above-named water right application for 0.03 cfs for irrigation from Priest River in Bonner County. The purpose of these comments is to assist the decision-making authority by providing technical information addressing potential effects on wildlife and wildlife habitat and how any adverse effects might be mitigated.

Priest River is hydrologically connected to Lake Pend Oreille with no barriers to fish movement, and like a number of other Idaho tributaries to the system, provides spawning and early rearing habitat for Lake Pend Oreille Bull Trout. Native Westslope Cutthroat Trout also inhabit Lower Priest River. The entire 45-mile length is federally listed as critical habitat for Bull Trout.

Streamflow in Lower Priest River is regulated by the Priest Lake Outlet Dam, installed in 1950 and operated by the Idaho Department of Water Resources. Dam operations target a discharge of at least 60 cfs to Lower Priest River during the recreation season and majority of irrigation season. During low water years it has been difficult for the 60 cfs minimum flow to be met, and occasionally the flows have been dropped to nearly half that amount. Furthermore, Priest River, below the mouth of the East River (mile 21.7) has a minimum flow water right requirement of 300 cubic feet per second held by the Idaho Water Resources Board. Although this request is for a small amount of water, during dry years which we are experiencing more frequently, this minimum flow requirement may not be met and will be further impacted if water diversions continue to be appropriated but not regulated. At this time we are unaware of a Water Master or other individual with the authority to ensure senior water rights are met prior to diversion of junior rights. Thus, the responsibility to monitor stream flows and curtail diversion when minimum stream flows are not being met falls to the applicant.

Keeping Idaho's Wildlife Heritage

Equal Opportunity Employer • 208-769-1414 • Fax: 208-769-1418 • Idaho Relay (TDD) Service: 1-800-377-3529 • <https://idfg.idaho.gov>

Ms. Tammy Alleman – Page 2
June 29, 2022

Lower Priest River is classified as water quality limited under §303(d) of the Clean Water Act. It is TMDL listed for both temperature and sediment. Further reduction of flows may adversely affect beneficial uses, but it is not defined as a pollutant under §303(d). Care should be taken to not increase sedimentation with the proposed diversion.

Idaho code 36-906 prohibits any person diverting water through a conduit from ... *taking water from any stream or lake in this state without first installing and maintaining a suitable screen or other device to prevent fish from entering therein.* We recommend a **pipe diameter of 2.5" or less**, screened with **not more than 0.25" mesh screen**, and an approach velocity of **not more than 0.5 feet per second** in order to protect juvenile fish from the proposed pump.

We are concerned that the cumulative effects of private diversions may negatively impact habitat for both native and introduced species and negate the positive effects of the ecological flow regimen set forth by the minimum stream flow water right held by the Idaho Water Resources Board.

Thank you for the opportunity to comment.

Sincerely,



Charles E. "Chip" Corsi
Regional Supervisor

CEC:MH:lat
C: eFile M:\

RECEIVED

JUN 27 2022

IDWR / NORTH

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO)
) ss.
County of Bonner)

Italia Jimenez, being first duly sworn on oath, deposes and states:

1. I am a citizen of the United States of America, over the age of 18 years, a resident of Bonner County, Idaho, and am not a party to the proceedings referred to in the attached

Notice of Permit Applications.
My business address is P.O. Box 159, Sandpoint, Idaho.

2. I am the bookkeeper of the Bonner County Daily Bee, a newspaper of general publication in Bonner County, Idaho;

3. Said newspaper has been continuously and uninterruptedly published in Bonner County, Idaho during a period of 12 months prior to the first publication of said Notice, and thereafter.

4. The attached Notice was published in the regular and entire issue of the Bonner County Daily Bee for a period of 2 consecutive weeks, commencing on the 15th day of June, 2022, and ending on the 22nd day of June, 2022.

Italia Jimenez

State of Idaho, county of Bonner ss.

On this 22nd day of June, in the year of 2022, before me, Katrina George, Notary Public, personally appeared Italia Jimenez known or identified to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he (or they) executed the same.

Katrina George
Notary Public
Residing at: Kootenai County

My Commission Expires 8/29/23



NOTICE OF PERMIT APPLICATIONS

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

97-8642
GREGG PRUMMER
PO BOX 2146
PRIEST RIVER, ID
83856-2146
Point of Diversion SESWSE
S24 T57N R05W
BONNER County
Source SPRING
Tributary SINKS
Use: STOCKWATER FROM
STORAGE
01/01 to 12/31 0.7 AF
Use: STOCKWATER STOR-
AGE
01/01 to 12/31 31.3 AF
Total Diversion: 31.3 AF
Date Filed: 04-15-2022
Place Of Use: STOCKWATER
F R O M
STORAGE, STOCKWATER
STORAGE
T57N R05W S24 SWSE

97-8680
GREGG PRUMMER
PO BOX 2146
PRIEST RIVER, ID
83856-2146
Point of Diversion NWSESW
S24 T57N R05W
BONNER County
Source SPRING
Tributary PEEWEE CREEK
Use: STOCKWATER STOR-
AGE
01/01 to 12/31 9.2 AF
Use: STOCKWATER FROM
STORAGE
01/01 to 12/31 0.7 AF
Use: IRRIGATION STORAGE
01/01 to 12/31 30 AF
Use: IRRIGATION FROM
STORAGE
04/01 to 10/31 30 AF
Total Diversion: 39.2 AF
Date Filed: 05-18-2022
Place Of Use: IRRIGATION
F R O M
STORAGE, STOCKWATER
FROM STORAGE
T57N R05W S24 NESW
Place Of Use: IRRIGATION
STORAGE, STOCKWATER
F R O M
STORAGE, STOCKWATER
STORAGE
T57N R05W S24 SESW
Total Acres: 10

97-8684
GREGG PRUMMER
PO BOX 2146
PRIEST RIVER, ID
83856-2146
Point of Diversion NWSE
S24 T57N R05W
BONNER County
Source GROUND WATER
Use: IRRIGATION
04/01 to 10/31 0.2 CFS
Use: STOCKWATER
01/01 to 12/31 0.03 CFS
Total Diversion: 0.2 CFS
Date Filed: 05-18-2022
Place Of Use: IRRIGATION
T57N R05W S24
NESE, SWSE, SESE
Place Of Use: STOCKWATER
T57N R05W S24
NESE, NWSE, SESE, SWSE
Total Acres: 20

97-8693
BOYD AND HELEN
LOFGREN TRUST
2309 89TH STREET CT NW
GIG HARBOR, WA
98332-7526
Point of Diversion L2(NWNE)
S3 T59N R04W
BONNER County
Source PRIEST LAKE
Tributary PRIEST RIVER
Use: DOMESTIC
01/01 to 12/31
Total Diversion: 0.04 CFS
Date Filed: 05-11-2022
Place Of Use: DOMESTIC
T59N R04W S3 L2(NWNE)

97-8694
ELIZABETH WARD
16229 22ND ST E
LAKE TAPPS, WA 98391-4916
Point of Diversion SENW
S36 T60N R05W
BONNER County
Source GROUND WATER
Use: DOMESTIC
1/1 to 12/31
Total Diversion: 0.06 CFS
Date Filed: 05-26-2022
Place Of Use: DOMESTIC
T60N R05W S36 SENW

97-8701
PETER BOCK
DONNA T HERAK
72 TURTLE LN
PRIEST LAKE, ID 83856-8641
Point of Diversion SENW
S23 T61N R05W
BONNER County
Source GROUND WATER
Use: STOCKWATER
01/01 to 12/31 0.02 CFS
Use: IRRIGATION
04/01 to 10/31 0.12 CFS
Total Diversion: 0.14 CFS
Date Filed: 05-19-2022
Place Of Use: IRRIGATION, STOCKWATER
T61N R05W S23
SWNE, SENW
Total Acres: 4

97-8717
JAMI M BARNES
THOMAS M BARNES
PO BOX 1101
PRIEST RIVER, ID
83856-1101
Point of Diversion SESW
S31 T57N R04W
BONNER County
Source PRIEST RIVER
Tributary PEND OREILLE RIV-
ER
Use: IRRIGATION
04/01 to 10/31
Total Diversion: 0.09 CFS
Date Filed: 05-27-2022
Place Of Use: IRRIGATION
T57N R04W S31
L9(SWSE), L9(SES), SESW
Total Acres: 3

97-8718
KEN MALIKOWSKI
1106 E BRENTWOOD DR
SPOKANE, WA 99208-8560
Point of Diversion L4(NESW)
S3 T59N R04W
BONNER County
Source GROUND WATER
Use: DOMESTIC
01/01 to 12/31
Total Diversion: 0.04 CFS
Date Filed: 05-09-2022
Place Of Use: DOMESTIC
T59N R04W S3 L4(NESW)

97-8739
LARRY A WHITE
PO BOX 83
PRIEST RIVER, ID 83856
Point of Diversion L2(SWSE)
S21 T56N R05W
BONNER County
Source GROUND WATER
Use: DOMESTIC
01/01 to 12/31 0.04 CFS
Use: STOCKWATER
01/01 to 12/31 0.02 CFS
Use: IRRIGATION
04/01 to 10/31 0.15 CFS
Total Diversion: 0.15 CFS
Date Filed: 06-03-2022
Place Of Use: DOMESTIC, IRRIGATION, STO
CKWATER
T56N R05W S21
L2(SWSE), SWSE
Total Acres: 5

97-8752
ROBERT L LOWRY
3020 N LOCUST RD
SPOKANE, WA 99206
Point of Diversion NESE
S24 T56N R05W
BONNER County
Source PRIEST RIVER
Tributary PEND OREILLE RIV-
ER
Use: IRRIGATION
04/01 to 10/31
Total Diversion: 0.03 CFS
Date Filed: 06-06-2022
Place Of Use: IRRIGATION
T56N R05W S24 NESE
Total Acres: 0.6

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 7/5/2022. The protestant must also send a copy of the protest to the applicant.
GARY SPACKMAN, Director
Legal#4295
AD#540965
June 15, 22, 2022