

State of Idaho
Department of Water Resources
Permit to Appropriate Water
No. 95-18039

Priority: November 10, 2020

Maximum Diversion Rate: 0.03 CFS

This is to certify that

THOMAS E KIRBY PO BOX 1494 POST FALLS ID 83877-1494

has applied for a permit to appropriate water from:

Source : GROUND WATER

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	03/15 to 11/15	0.03 CFS

Location of Point(s) of Diversion

GROUND WATER NE¼ NE¼, Sec. 30, Twp 51N, Rge 04W, B.M. KOOTENAI 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	
51N	04W	30	1.0																1.0

Total Acres: 1.0

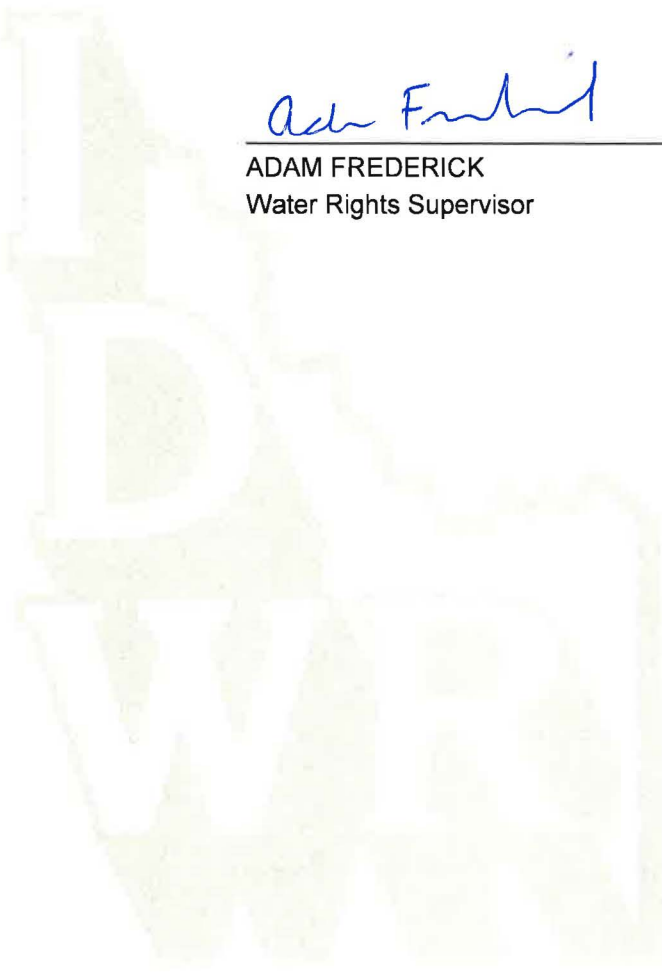
Conditions of Approval

1. Proof of application of water to beneficial use shall be submitted on or before **January 01, 2026**.
2. Subject to all prior water rights.
3. The following rights are diverted through point of diversion described above: 95-13116 and 95-18039.
4. Right holder shall comply with the drilling permit requirements of Idaho Code § 42-235 and applicable Well Construction Rules of the Department.
5. This right when combined with all other rights shall provide no more than 0.03 cfs per acre nor more than 3.0 afa per acre at the field headgate for irrigation of the place of use.
6. When notified by the Department, the right holder shall install and maintain a measuring device of a type acceptable to the Department as part of the diverting works.
7. This right authorizes the diversion of ground water within the Rathdrum Prairie Ground Water Management Area (RPGWMA). Use of water under this right shall be subject to the provisions of the RPGWMA management plan approved by the director, including its conservation goals.
8. When notified by the Department, the right holder shall record the quantity of water diverted and annually report diversions of water and/or other pertinent hydrologic and system information as required by Idaho Code § 42-701, and/or the management plan for the Rathdrum Prairie Ground Water Management Area.
9. This right does not grant any right-of-way or easement across the land of another.

State of Idaho
Department of Water Resources
Permit to Appropriate Water
No. 95-18039

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

Signed this 24th day of December, 2020.



Adam Frederick

ADAM FREDERICK
Water Rights Supervisor

State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

95-18039

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.

04W



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

0 0.035 0.07 0.14 Miles





State of Idaho

DEPARTMENT OF WATER RESOURCES

Northern Region • 7600 N MINERAL DR STE 100 • COEUR D ALENE, ID 83815-7763
Phone: (208)762-2800 • Fax: (208)769-2819 • Website: www.idwr.idaho.gov

Brad Little
Governor

Gary Spackman
Director

December 24, 2020

THOMAS E KIRBY
PO BOX 1494
POST FALLS ID 83877-1494

RE: Permit No. 95-18039

Permit Approval Notice

Dear Permit Holder:

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,



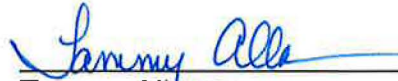
Adam Frederick
Water Rights Supervisor

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on December 24, 2020, I served a true and correct copy of Permit to Appropriate Water No. 95-18039 by U.S. Mail, postage prepaid, to the following:

THOMAS E KIRBY (Current Owner)
PO BOX 1494
POST FALLS ID 83877-1494



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.

MEMORANDUM

To: Water Right Permit 95-18039

From: Luke Bates *LSB*

Date: 12/22/2020

Re: Application for a Permit to Appropriate Water within the State of Idaho.

An application for permit for irrigation use in the name of Thomas E Kirby, was received by the department on 11/10/2020. During permit approval processing, it was identified that water rights 95-13116 overlap this permit's POU, but for domestic use for the same applicant.

Condition X35 was not incorporated in the approval of this permit, as backfile research for right 95-13116 results in an inconclusive determination of actual overlap when considering the $\frac{1}{2}$ acre of irrigation associated with the domestic beneficial use, and to what extent it will overlap this permit. Additionally, right 95-18039 has yet to complete its permit development period, and a future field exam will be required to verify to the irrigation developed under right 95-18039.

The afore mentioned overlap will be addressed in the future at time of field exam and licensing review for 95-18039.

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO)
) ss.
County of Kootenai)

MARY MOORE, being first duly sworn upon oath, deposes and states:

1. I am now and at all times hereinafter mentioned was a citizen of the United States, resident of the State of Idaho, over the age of twenty-one years and not a party of the above entitled action.

2. I am now and at all times hereinafter mentioned was the printer (principal clerk) of the "Coeur d'Alene Press", a newspaper printed and published daily in Coeur d'Alene, Kootenai County, Idaho, and having a general circulation in said county.

3. The Legal notice of which the annexed is a printed copy, was published in the regular Thursday issue of said newspaper for 2 consecutive weeks commencing on the 3 day of December, 2020, and ending on the 10 day of December, 2020, and such publication was made as often during said period as said daily newspaper was regularly issued.

4. That said newspaper has been continuously and uninterruptedly published in said Kootenai County, during a period of more than seventy-eight consecutive weeks immediately prior to the first publication of said notice

Mary Moore
On this 10 day of December in the year of 2020 before me, a Notary Public, personally appeared Mary Moore, 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 he executed the same.



Katrina George
Notary Public for the State of Idaho
Residing in Coeur d'Alene, Idaho

My Commission Expires 8/29/23

PUBLIC NOTICE

The following application has been filed to amend Permit to Appropriate Water:
95-9427
REMINGTON WATER DISTRICT
PO BOX 468
ATHOL, ID 83801-0468

Point of Diversion L3(NWSW)
S18 T53N R03W
KOOTENAI County
Source: GROUND WATER
Point of Diversion L3(NWSW)
S18 T53N R03W
KOOTENAI County
Source: GROUND WATER
Point of Diversion L2(SWNW)
S18 T53N R03W
KOOTENAI County
Source: GROUND WATER
Point of Diversion SENE
S13 T53N R04W
KOOTENAI County
Source: GROUND WATER
Use: MUNICIPAL
01/01 to 12/31 5.9 CFS
Total Diversion: 5.9 CFS
Date Filed: 11/13/2020
Place Of Use: MUNICIPAL
Place of use within the service area of the Remington Water District

This amendment of permit proposes to add a fourth point of diversion S18 T53N R03W L3(NWSW) to the applicant's existing permit. The permitted diversion rate, nature of use, and place of use will remain the same.

The following applications have been filed to appropriate the public waters of the State of Idaho:

94-9647
KEITH SWAIN
14516 STATE ROUTE 530 NE
ARLINGTON, WA 98223-5357
Point of Diversion SWNW
S20 T47N R02W
KOOTENAI County
Source: SURFACE RUNOFF
Tributary BLACK CREEK
Use: WILDLIFE STORAGE
01/01 to 12/31 2 AF
Use: FIRE PROTECTION STORAGE
01/01 to 12/31 2 AF
Use: IRRIGATION FROM STORAGE
04/01 to 10/31 3 AF
Use: STOCKWATER STORAGE
01/01 to 12/31 0.1 AF
Use: STOCKWATER FROM STORAGE
01/01 to 12/31 0.1 AF
Use: IRRIGATION STORAGE
01/01 to 12/31 3 AF
Total Diversion: 5.1 AF
Date Filed: 11-16-2020
Place Of Use: FIRE PROTECTION STORAGE, IRRIGATION FROM STORAGE, IRRIGATION STORAGE, STOCKWATER FROM STORAGE, STOCKWATER STORAGE, WILDLIFE STORAGE
T47N R02W S20 SWNW
Total Acres: 1

RECEIVED

DEC 18 2020

IDWR / NORTH

95-18036

TC HAYDEN PROPERTIES
LLC
15250 N WILDCAT CREEK
RD
HAYDEN LAKE, ID
83835-5021
Point of Diversion L1(SENE)
S33 T52N R03W
KOOTENAI County
Source GROUND WATER
Point of Diversion L1(SENE)
S33 T52N R03W
KOOTENAI County
Source GROUND WATER
Use: DOMESTIC
01/01 to 12/31 0.12 CFS
Use: IRRIGATION
03/15 to 11/15 0.15 CFS
Total Diversion: 0.2 CFS
Date Filed: 11-04-2020
Place Of Use: DOMESTIC,
IRRIGATION
T52N R03W S33
SWNE, L1(SENE)
Total Acres: 5

95-18039

THOMAS E KIRBY
PO BOX 1494
POST FALLS, ID 83877-1494
Point of Diversion NENE
S30 T51N R04W
KOOTENAI County
Source GROUND WATER
Use: IRRIGATION
03/15 to 11/15
Total Diversion: 0.03 CFS
Date Filed: 11-10-2020
Place Of Use: IRRIGATION
T51N R04W S30 NENE
Total Acres: 1

95-18040

SERENE WOODS WATER
ASSN LLC
13939 E PERIMETER RD
ATHOL, ID 83801-8403
Point of Diversion NENE
S7 T53N R02W
KOOTENAI County
Source GROUND WATER
Use: DOMESTIC
01/01 to 12/31
Total Diversion: 0.13 CFS
Date Filed: 11-16-2020
Place Of Use: DOMESTIC
T53N R02W S7
NENE, NWNE, SWNE, SENE

95-18043

DAN ALSAKER
ANNE ALSAKER
7186 W BEN POINTE RD
WORLEY, ID 83876-8668
Point of Diversion NWSE
S20 T48N R04W
KOOTENAI County
Source COEUR D ALENE
LAKE
Tributary SPOKANE RIVER
Use: IRRIGATION
03/15 to 11/15 0.16 CFS
Use: FIRE PROTECTION
01/01 to 12/31 0.16 CFS
Total Diversion: 0.16 CFS
Date Filed: 11-19-2020
Place Of Use: FIRE PROTEC-
TION, IRRIGATION
T48N R04W S20
L5(NESE), L5(NWSE),
L4(SWNE)
Total Acres: 8

95-18044

ROBERT L QUINN
21123 N CORBIN HILL RD
HAYDEN, ID 83835-9461
Point of Diversion SESE
S4 T52N R03W
KOOTENAI County
Source GROUND WATER
Use: DOMESTIC
01/01 to 12/31 0.04 CFS
Use: STOCKWATER
01/01 to 12/31 0.02 CFS
Total Diversion: 0.06 CFS
Date Filed: 11-23-2020
Place Of Use: DOMESTIC,
STOCKWATER
T52N R03W S4 SESE

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 12/21/2020. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director
CDA LEGAL 4588
AD#422343
DECEMBER 8, 10, 2020