

State of Idaho
Department of Water Resources
Permit to Appropriate Water
No. 96-9788

Priority: February 07, 2020

Maximum Diversion Rate: 0.15 CFS

This is to certify that

TIMOTHY J BRADY AND/OR
YUAN BRADY 217 CEDAR ST PMB 333 SANDPOINT ID 83864

has applied for a permit to appropriate water from:

Source : PEND OREILLE RIVER

Tributary: COLUMBIA 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	0.15 CFS

Location of Point(s) of Diversion

PEND OREILLE RIVER L2 (SW¼ SE¼), Sec. 29, Twp 57N, Rge 02W, 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	
57N	02W	29															8.8 L2		8.8

Total Acres: 8.8

Conditions of Approval

1. Proof of application of water to beneficial use shall be submitted on or before **September 01, 2021**.
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. Prior to the diversion and use of water under this approval, the right holder shall comply with all fish screening and/or fish passage requirements of the Idaho Department of Fish and Game.
5. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.0 afa per acre at the field headgate for irrigation of the place of use.
6. Place of use is located within Lots 2-5, Czap's Acres Subdivision.

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

Signed this 25th day of AUGUST, 2020.



ANGELA GRIMM

Water Rights Section Manager

State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

96-9788

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.

02W



- 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

322 E FRONT ST STE 648 PO BOX 83720 • BOISE, ID 83720-0098

Phone: (208)287-4800 • Fax: (208)287-6700 • Website: www.idwr.idaho.gov

Brad Little
Governor

Gary Spackman
Director

August 25, 2020

TIMOTHY J BRADY
YUAN BRADY
217 CEDAR ST
PMB 333
SANDPOINT ID 83864

RE: Permit No. 96-9788

Permit Approval Notice

Dear Permit Holders:

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* ("Proof") 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. If you have already diverted and used water to the full extent intended, you may complete and submit the enclosed Proof form immediately.

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.

Also, please note that permit holders are required to report any change of ownership and/or mailing address to the Department within 120 days of the change. Failure to report these changes could result in a \$100 late filing fee. Forms to assign ownership or update your address are available from any office of the Department or on the Department's website.

If you have any questions concerning the enclosed information, please contact me at (208) 287-4951.

Sincerely,



Angela Grimm
Water Rights Section Manager

Enclosures

CERTIFICATE OF SERVICE

I hereby certify that on August 26, 2020, I served a true and correct copy of Permit to Appropriate Water No. 96-9788 by U.S. Mail, postage prepaid, to the following:

YUAN BRADY (Current Owner)
217 CEDAR ST
PMB 333
SANDPOINT ID 83864

TIMOTHY J BRADY (Current Owner)
217 CEDAR ST
PMB 333
SANDPOINT ID 83864

ROBERT G HAYNES (Representative) – *via email*
2571 S REYNOLDS RD
COEUR D ALENE ID 83814-7965



Debbi Judd
Technical Records Specialist

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.



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 E Front Street, Suite 648 • PO Box 83720 • Boise ID 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700

Website: idwr.idaho.gov • Email: idwrinfo@idwr.idaho.gov

BRAD LITTLE
Governor

GARY SPACKMAN
Director

August 10, 2020

Robert G Haynes
2571 S Reynolds Road
Coeur d'Alene, ID 83814

RE: Application for Permit 96-9788 – Existing Water Right Issue

Dear Robert Haynes,

In reviewing the application received February 7, 2020 for 0.15 cfs for irrigation (water permit 96-9788), it was discovered that the applicants, Timothy and/or Yuan Brady, may own a portion of water right 96-8961 (priority date of 6/5/1997). This water right appears to overlap with the two western parcels that the Brady's own (Bonner County parcels RPD38670000050A and RPD38670000020A). The current owner of record of water right 96-8961 is Mr. Al Czap. Did your clients (Timothy and/or Yuan Brady) acquire the property from Mr. Czap? If so, they may be entitled to a portion of that water right.

If it appears that your clients do indeed own a portion of 96-8961, then they may choose to file an Ownership Change form to claim their portion of the right. I have enclosed that form and instructions on filing it for you. To process the ownership change a copy of the warranty deed showing ownership of the property must be included if it was acquired from Mr. Czap, or a chain of title for the property that goes back to Mr. Czap must be submitted if the property was acquired from another party.

Additionally, an application for transfer would be required to move the point of diversion for the Brady's portion of 96-8961 to a location that is accessible by your client. The obvious location would be to move it to the proposed location of their recent water right application. I have also enclosed that form for you to use.

If you have any questions, there is a department employee staffed daily to answer water rights questions, which can be reached by calling (208) 287-4800 during business hours. You can also reach me by email at amy.steimke@idwr.idaho.gov.

Regards,

A handwritten signature in cursive script, appearing to read 'Amy Steimke', written over a horizontal line.

Amy Steimke
Hydrogeologist, staff

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO)
) ss.
 County of Bonner)

Danielle Rukmshottel, being first duly sworn on oath, deposes and states:

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

Public Notice
 My business address is P.O. Box 159, Sandpoint, ID 83864

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

3. Said newspaper has been published in Bonner County, Idaho, for a period of 12 months prior to the first publication of this 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 19 day of March, 2020, and ending on the 26 day of March, 2020.

Danielle Rukmshottel

State of Idaho, county of Bonner ss.
 On this 26 day of March, in the year of 2020, before me, Katrina George, Notary Public, personally appeared Danielle Rukmshottel 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

RECEIVED

MAR 30 2020

DEPARTMENT OF
 WATER RESOURCES

Date Filed: 02-07-2020
 Place Of Use: IRRIGATION
 T57N R02W S29
 L2(SWSE)
 Total Acres: 8.8

Permits will be subject to all prior water rights. For additional information concerning the property location, contact the State office at (208) 287-4800; or for a full description of the right(s), please see <https://idwr.idaho.gov/apps/ExtSearch/WRApplicationResults/>.
 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, State Office, 322 E Front St, PO Box 83720, Boise, ID 83720 together with a protest fee of \$25.00 for each application on or before 4/6/2020. The protestant must also send a copy of the protest to the applicant.
 GARY SPACKMAN, Director
 SNP LEGAL 7630
 AD#371431
 MARCH 19, 26, 2020

PUBLIC NOTICE

The following application(s) have been filed to appropriate the public waters of the State of Idaho:
 96-9788
 TIMOTHY J BRADY
 YUAN BRADY
 217 CEDAR ST
 PMB 333
 SANDPOINT, ID 83864
 Point of Diversion: L2(SWSE)
 S29 T57N R02W
 BONNER County
 Source PEND OREILLE
 RIVER Tributary COLUMBIA
 RIVER
 Use: IRRIGATION
 04/01 to 10/31
 0.15 CFS
 Total Diversion:
 0.15 CFS

RECEIVED

MAR 30 2020

ACCTS. PAYABLE

RECEIVED

MAR 30 2020

DEPARTMENT OF
 WATER RESOURCES

3-30-2020

