

State of Idaho  
Department of Water Resources  
**Permit to Appropriate Water**  
NO. 96-9718

**Priority:** September 10, 2018

**Maximum Diversion Rate:** 0.05 CFS

This is to certify that

CRAIG M ELLISON 85 CORBETT GLEN SANDPOINT ID 83864  
NONA L ELLISON 85 CORBETT GLEN SANDPOINT ID 83864

has applied for a permit to appropriate water from:

**Source :** SAND CREEK

**Tributary:** LAKE PEND OREILLE

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

**Beneficial Use**

IRRIGATION

**Period of Use**

04/01 to 10/31

**Rate of Diversion**

0.05 CFS

**Location of Point(s) of Diversion**

SAND CREEK SE¼, SE¼, Sec. 26, Twp 58N, Rge 02W, B.M., BONNER County

**Place of Use:** IRRIGATION

| Twp | Rng | Sec | NE |    |    |    | NW |    |    |    | SW |    |    |    | SE |    |     |     | No QQ | Totals |
|-----|-----|-----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|-----|-----|-------|--------|
|     |     |     | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW  | SE  |       |        |
| 58N | 02W | 26  |    |    |    |    |    |    |    |    |    |    |    |    |    |    | 0.1 | 1.4 |       | 1.5    |

Total Acres: 1.5

**Conditions of Approval**

1. Proof of application of water to beneficial use shall be submitted on or before **May 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. A fish screen of 1/4 inch or smaller mesh shall be installed and maintained at the point of diversion.
5. Water shall not be diverted under this right when flows in the Pend Oreille River are below minimum flow amounts as defined by Right 96-8730. The right holder shall be responsible for monitoring the daily flow of the Pend Oreille River using real-time data and shall cease diverting water when flows in the Pend Oreille 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 Pend Oreille River gauging station at Newport, Washington, No. 12395500, may be used for purposes of determining the daily flow amounts.
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 per Acre (AFA) at the field headgate for irrigation of the place of use.

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

Signed, this 19<sup>th</sup> day of April, 2019.

  
DOUGLAS JONES  
Northern Regional Manager

State of Idaho  
Department of Water Resources

# Attachment to Permit to Appropriate Water

96-9718

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.



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

0 0.02 0.04 0.08 Miles



Tax parcel information provided by Bonner County.



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](http://www.idwr.idaho.gov)

Brad Little  
Governor

Gary Spackman  
Director

April 22, 2019

NONA L ELLISON  
85 CORBETT GLEN  
SANDPOINT ID 83864

CRAIG M ELLISON  
85 CORBETT GLEN  
SANDPOINT ID 83864

RE: Permit No. 96-9718

### 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.

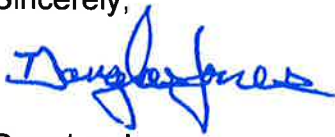
The final step in the water right process is issuance of a water right license. To receive a water right license, you must first commence the excavation or construction of your diverting works within one year of the date the permit was issued, and you must proceed diligently until the project is complete. In addition, 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](http://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 the Northern Region Office at (208) 762-2800.

Sincerely,



Douglas Jones  
Northern Regional Manager

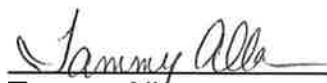
Enclosure(s)

## CERTIFICATE OF SERVICE

I hereby certify that on April 22, 2019, I served a true and correct copy of Permit to Appropriate Water No. 96-9718 by U.S. Mail, postage prepaid, to the following:

NONA L ELLISON (Current Owner)  
85 CORBETT GLEN  
SANDPOINT ID 83864

CRAIG M ELLISON (Current Owner)  
85 CORBETT GLEN  
SANDPOINT ID 83864

  
\_\_\_\_\_  
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.

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO )  
 ) ss.  
County of Bonner )

Ashley Kinzer, 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 Legal Notice.  
My business address is P.O. Box 159, Sandpoint, Idaho.

2. I am the Legal Clerk 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 20 day of September 20 18, and ending on the 27 day of September 20 18.

Ashley Kinzer

State of Idaho, county of Bonner ss.

On this 27 day of September, in the year of 2018, before me, Katrina George, Notary Public, personally appeared

Ashley Kinzer, 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

Comm. Exp.: MY COMMISSION EXPIRES 8/29/23



# **PUBLIC NOTICE**

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

**96-9714**

CHEYENNA LYNN WHITTIER TRUST

PO BOX 908

SAGLE, ID 83860

Point of Diversion L4(SESE)

S28 T56N R01W

BONNER County

Source LAKE PEND

OREILLE

Tributary PEND OREILLE

RIVER

Use: IRRIGATION

04/01 to 10/31 0.14 CFS

Total Diversion: 0.14 CF

Date Filed: 8/28/2018

Place Of Use: IRRIGATION

T56N R01W S28

L3(NESE) L4(SESE)

Total Acres: 7

**96-9716**

ANTHONY M ZIMMERMAN

296 4TH ST 274

PONDERAY, ID 83852

Point of Diversion SESESW

S24 T59N R01W

BONNER County

Source SPRING

Tributary SINKS

Use: STOCKWATER

01/01 to 12/31 0.02 CFS

Total Diversion: 0.02 CFS

Date Filed: 9/6/2018

Place Of Use: STOCKWATER

T59N R01W S24 SESW

**96-9717**

JOS SOUTH SHORE AT

GARFIELD BAY OWNERS

14740 LITTLE SPRINGS RD

LAS VEGAS, NV 89161

Point of Diversion L1(SENE)

S21 T56N R01W

BONNER County

Source GROUND WATER

Point of Diversion L1(SENE)

S21 T56N R01W

BONNER County

Source GROUND WATER

Use: DOMESTIC

01/01 to 12/31 0.04 CFS

Total Diversion: 0.04 CFS

Date Filed: 8/31/2018

Place Of Use: DOMESTIC

T56N R01W S21 L1(SENE)

**96-9718**

CRAIG M ELLISON

NONA L ELLISON

85 CORBETT GLEN

SANDPOINT, ID 83864

Point of Diversion SESE

S26 T58N R02W

BONNER County

Source SAND CREEK

Tributary LAKE PEND

OREILLE

Use: IRRIGATION

04/01 to 10/31 0.05 CFS

Total Diversion: 0.05 CFS

Date Filed: 9/10/2018

Place Of Use: IRRIGATION

T58N R02W S26

SWSE SESE

Total Acres: 1.5

Permits will be subject to all prior water rights. For additional information concerning the property location, contact Northern Region office at (208) 762-2800. Protests may be submitted based on the criteria of Idaho Code S 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 10/9/2018. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

SNP LEGAL 6216

AD# 227461

SEPTEMBER 20, 27, 2018

## MEMORANDUM

**DATE:** September 28, 2018

**TO:** Tammy Alleman, IDWR

**FROM:** Emily Skoro, Staff Engineer, Water Projects Section,

**RE:** IDWR Application for Permit No. 96-9718

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The Idaho Water Resource Board (Board), would like to submit the following comments for consideration when processing the Application for Permit No. 96-9718. The applicant is requesting a water right for an irrigation use (0.05 cfs). The water supply source is Sand Creek which is a tributary of Lake Pend Oreille.

The applicant should be aware that the Board holds a minimum stream flow (MSF) water right 96-8730 on the Pend Oreille River downstream of the applicant's point of diversion (POD). Any water rights with a priority date junior to the Board's water right should be administered in priority and may be curtailed if the MSF is not being met. USGS Gage 12395500 (Pend Oreille River at Newport WA) is located along the Board's MSF water right. Historic records show that this reach of the Pend Oreille River are generally below the MSF most of the year except parts of May and June during minimum flow years. Therefore, flows measured at the referenced gage should be used to verify current Pend Oreille River stream flows, and diversions should be limited to times when the Board's MSF water right is met. Please see the attached Proof Report for the diversion rates authorized under the Board's MSF water right 96-8730.

IDAHO DEPARTMENT OF WATER RESOURCES  
Proof Report

9/26/2018

Water Right 96-8730

|                   |                                                                                                                          |
|-------------------|--------------------------------------------------------------------------------------------------------------------------|
| <u>Owner Type</u> | <u>Name and Address</u>                                                                                                  |
| Current Owner     | STATE OF IDAHO<br>IDAHO WATER RESOURCE BOARD<br>322 E FRONT ST<br>PO BOX 83720<br>BOISE, ID 83720-0098<br>(208) 287-4800 |

Priority Date: 6/15/1992

Basis: License

Status: Active

|                    |                  |
|--------------------|------------------|
| <u>Source</u>      | <u>Tributary</u> |
| PEND OREILLE RIVER | COLUMBIA RIVER   |

|                       |                        |           |                       |               |
|-----------------------|------------------------|-----------|-----------------------|---------------|
| <u>Beneficial Use</u> | <u>From</u>            | <u>To</u> | <u>Diversion Rate</u> | <u>Volume</u> |
| MINIMUM STREAM FLOW   | 1/01                   | 12/31     | 10,655.000 CFS        |               |
|                       | <u>Total Diversion</u> |           | 10,655.000 CFS        |               |

Source and Point(s) of Diversion

|                    |      |                            |                  |
|--------------------|------|----------------------------|------------------|
| PEND OREILLE RIVER | SWSW | Sec. 13, Twp 56N, Rge 06W, | BONNER County(E) |
| PEND OREILLE RIVER | NWNW | Sec. 24, Twp 56N, Rge 06W, | BONNER County(E) |
| PEND OREILLE RIVER | NWSW | Sec. 13, Twp 56N, Rge 06W, | BONNER County(E) |
| PEND OREILLE RIVER | NWNW | Sec. 29, Twp 56N, Rge 05W, | BONNER County(B) |
| PEND OREILLE RIVER | SWNW | Sec. 24, Twp 56N, Rge 06W, | BONNER County(E) |
| PEND OREILLE RIVER | NWSW | Sec. 24, Twp 56N, Rge 06W, | BONNER County(E) |

Place Of Use

MINIMUM STREAM FLOW

Conditions of Approval:

1. Establishment of a minimum flow on the Pend Oreille River in the requested reach shall serve to protect water released from Albeni Falls Dam as it flows through the requested reach at rates up to the established flow, but shall not directly or indirectly cause any change in the operation of Albeni Falls Dam.

Upon the future finding and order of the Director that gaging stations are required to maintain the approved minimum stream flow, the right holder shall permanently install and maintain gaging stations as specified by the department.

The Director retains jurisdiction, as described below, to review and amend any and all parameters of this right. The Board, upon receiving a request, or upon its own initiative, may petition the Director for an amendment to the right. The petition must set forth any significant change in circumstances and evidence of the public interest supporting the proposed amendment. The Director will notify the general public and specific persons or known interested parties of the proposed change, and conduct a hearing for the purpose of determining whether the right should be amended in the public interest. The burden of proof at the hearing shall be upon the persons or parties seeking the amendment to establish that the amendment of the right would be in the public interest.

This minimum stream flow begins at Albeni Falls Dam in the NWNW, S29, T56N, R5W

**IDAHO DEPARTMENT OF WATER RESOURCES**  
**Proof Report**

9/26/2018

and ends 2.4 miles downstream at the state line on the west side of Sections 13 and 24, T56N, R6W.

This minimum stream flow is for the protection of fish and wildlife habitat, aquatic life and recreational values.

2.        027        Use of water under this right shall be non-consumptive.

**Comments:**

- |    |                                                           |           |                              |
|----|-----------------------------------------------------------|-----------|------------------------------|
| 1. | CZIMMERM                                                  | 2/18/1998 | DIVERSION DESCRIPTION        |
|    | From Albeni Falls Dam to the Idaho/Washington state line. |           |                              |
| 2. | VAULT                                                     | 9/8/1998  | Proof of Beneficial Use Rcvd |
|    | Proof of Beneficial Use Rcvd                              |           |                              |
| 3. | segbert                                                   | 10/2/2008 | POD                          |
|    | Updated Shape                                             |           |                              |
| 4. | segbert                                                   | 10/2/2008 | POD                          |
|    | Deleted Shape                                             |           |                              |
| 5. | mciscell                                                  | 6/10/2013 | POD                          |
|    | Bulk Generate Shape From PLS                              |           |                              |

**Dates and Other Information**

Licensed Date: 2/19/1999

Mitigation Plan: False

**Combined Use Limits**

N/A

**Verification Log**

**SubCase:**

N/A

**Water Supply Bank:**

N/A