

State of Idaho
Department of Water Resources
Water Right License
WATER RIGHT NO. 96-09675

PRIORITY: September 19, 2017

Maximum Diversion Rate: 0.03 CFS

Maximum Diversion Volume: 1.8 AF

It is hereby certified that:

LORI G FINNERTY And SHAWN FINNERTY 8131 N 75TH ST SCOTTSDALE AZ 85258

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated September 19, 2017, and has submitted Proof of Beneficial Use on February 20, 2018. An examination confirms water is diverted from:

SOURCE:
LAKE PEND OREILLE

TRIBUTARY:
PEND OREILLE RIVER

and a water right has been established as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL DIVERSION VOLUME</u>
DOMESTIC	01/01 to 12/31	0.03 CFS	1.2 AF
IRRIGATION	04/01 to 10/31	0.03 CFS	0.6 AF

LOCATION OF POINT(S) OF DIVERSION:

LAKE PEND OREILLE NW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 2, Twp 56N, Rge 01E, B.M. BONNER County

PLACE OF USE: DOMESTIC

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
56N	01E	2														X L 3			

PLACE OF USE: IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
56N	01E	2														0.2 L 3			.2

Total Acres: 0.2

CONDITIONS OF APPROVAL

1. A fish screen of 1/4 inch or smaller mesh shall be installed and maintained at the point of diversion.
2. Domestic use is for 2 homes. Irrigation of lawn, garden and landscaping associated with the home is authorized under the irrigation component of this right.
3. This right does not grant any right-of-way or easement across the land of another.
4. Place of use is located within Lot 5A, Luttons Lake Lots subdivision.
5. This right when combined with all other rights shall provide no more than 0.03 cfs nor more than 0.6 afa at the field headgate for irrigation of the place of use.

This license is issued pursuant to the provisions of Section 42-219, Idaho Code. The water right confirmed by this license is subject to all prior water rights and shall be used in accordance with Idaho law and applicable rules of the Department of Water Resources.

Signed this 28th day of February, 2018.

Shelley W. Keen

SHELLEY W. KEEN
Water Rights Section Manager

State of Idaho
Department of Water Resources
Attachment to Water Right License
96-9675

This map depicts the DOMESTIC 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.

01E



0 0.035 0.07 0.14 Miles

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



State of Idaho
Department of Water Resources

Attachment to Water Right License 96-9675

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
-  Townships
-  PLS Sections

0 0.035 0.07 0.14 Miles





State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

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

GARY SPACKMAN
Director

C.L. "BUTCH" OTTER
Governor

March 5, 2018

LORI G FINNERTY
SHAWN FINNERTY
8131 N 75TH ST
SCOTTSDALE AZ 85258

RE: License No. 96-9675

Issuance of License

Dear Water Right Holder(s):

The Department of Water Resources has issued the enclosed Water Right License confirming that a water right has been established in accordance with your permit. Please be sure to thoroughly review the conditions of approval and remarks listed on your license. Also enclosed is a copy of the Order Correcting the Priority Date of a Permit.

The license 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 by the Department unless a party petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date as described in the enclosed information sheet.

Please note that water right owners are required to report any change of water right 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. Contact any office of the Department or visit the Department's homepage on the Internet to obtain the proper forms and instructions.

If you have any questions, please contact me at 208-287-4951.

Sincerely,

A handwritten signature in blue ink that reads "Pamela Skaggs".

Pamela Skaggs, Water Rights Supervisor
Water Right Permits Section

Enclosure(s)

CERTIFICATE OF SERVICE

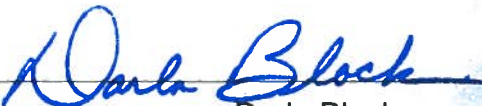
I hereby certify that on March 6, 2018 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (**Approved License**), and Order Correcting the Priority Date of a Permit to the person(s) listed below:

RE: WATER RIGHT NO.

96-9675

**LORI G FINNERTY
8131 N 75TH ST
SCOTTSDALE AZ 85258**

**SHAWN FINNERTY
8131 N 75TH ST
SCOTTSDALE AZ 85258**



Darla Block
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.

BEFORE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF PERMIT	)	ORDER CORRECTING
NO. 96-9675 IN THE NAME OF	)	THE PRIORITY DATE
SHAWN FINNERTY AND LORI FINNERTY	)	OF A PERMIT
_____	)	

This matter having come before the Department of Water Resources (Department) as a result of an application to appropriate water, the Department finds, concludes and orders as follows:

FINDINGS OF FACT

1. On September 19, 2017, the Department received a complete application for permit (“Application”) from Shawn Finnerty and Lori Finnerty (“Permit Holders”) to divert and use water from Lake Pend Oreille for domestic and irrigation purposes.
2. On October 5 and 12, 2017, the Department published notice (“Notice”) of the Application in the *Bonner County Daily Bee*. The Notice states that the Application was filed on “9/19/2017.”
3. On October 26, 2017, the Department approved the Application as permit no. 96-9675 (“Permit”). The Permit was issued with a priority date of September 19, 2019, which is two years after the Department received the Application.
4. The Permit record contains no reason why the priority date of the Permit should have been advanced.

CONCLUSIONS OF LAW

1. Rule 35.02.b of the Department’s Water Appropriation Rules (IDAPA 37.03.08.35.02.b) states:

The priority of an application for unappropriated or trust water is established as of the time and date the application is received in complete form along with the statutory fee in any official office of the department. The priority of the application, remains fixed unless changed by action of the Director in accordance with applicable law.

2. The Department did not intend to issue the Permit with a priority date other than the date the application was received.
3. The Department should correct the priority date of the Permit to September 19, 2017.

ORDER

IT IS THEREFORE HEREBY ORDERED that the priority date for the Permit is **CORRECTED** to September 19, 2017.

Dated this 28th day of February, 2018

Shelley W. Keen

Shelley W. Keen, Manager
Water Rights Section