

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
IN-OFFICE REVIEW/BENEFICIAL USE FIELD REPORT

A. GENERAL INFORMATIONPermit No: 96-9321

Exam Date: 9/28/2016

1. Does this qualify for an in-office field exam (IDAPA 035.02.r)? X Y N
- Irrigation of 5 acres or less
 - Storage of up to 14.6 AF for stockwater purposes only
 - Any use other than irrigation or storage, if the combined diversion rate is 0.24 cfs or less
 - Other < >

2. Current Owner: Name: Bruce D. and Julie Allen
 Owner of Record Correct? Y N N
 Address of Record Correct? Y N N
 If No: Address

* The Department parcel data shows that RKM Trusts, Kristin C. Williams Trustee as the owner of the property. The address the information is sent to is C/O B Allen, 1029 Red Fir RD, Yakima, Wa. The permit only shows Mr. and Ms. Allen as the owners of the permit. It does appear as though the Allens now own or are responsible for the property. The permit's map shows a different property than the location described in the Department of Lands permits, but Mr. Allen has confirmed the property is Lot 9C of Lake Side Homes Subdivision.

3. Beneficial Use Fees have been paid: X Y N Receipt No: C0
 4. SOURCE TRIBUTARY
 Lake Pend Oreille Pend Oreille River
 Method of Determination: Tax lot data and USGS Quadrangle Map.

Change in Source: Y X N

B. OVERLAP REVIEW

1. Other water rights with the same place of use: NO Overlap

Water Right No.	Source	Purpose of Use	Basis

Comments: Water right 96-8150 appears to be a direct overlapping water right for this property. However, water right 96-8150 shows home on the properties in the 1970s. The three parcels associated with this permits parcel information only had one home on the parcels in 1992, so it cannot be associated with water right 96-8150. Water right 96-8158 appears to be east of the property. The lots for 96-8158 have been split and no longer have the same addresses. Water right 96-9172 is for Lot A of subdivision, and this permit is for Lot C. Water right 96-9495 is for Lot B of the subdivision. Therefore, there are no water rights that directly overlap the property associated with the permit. The owner did state he had an exempt domestic well, but decommissioned the well due to high iron content.

2. Other water rights with the same point of diversion: NO Overlap

Water Right No.	Source	Purpose of Use	Basis

Comments: Water right 96-8150 appears to be a direct overlapping water right for this property. However, water right 96-8150 shows home on the properties in the 1970s. The three parcels associated with this permit's parcel information only had one home on the parcels in 1992, so it cannot be associated with water right 96-8150. Water right 96-8158 appears to be east of the property. The lots for 96-8158 have been split and no longer have the same addresses. Water right 96-9172 is for Lot A of subdivision, and this permit is for Lot C. Water right 96-9495 is for Lot B of the subdivision. Therefore, there are no water rights that directly overlap the property associated with the permit. The owner did state he had an exempt domestic well, but decommissioned the well due to high iron content.

C. DIVERSION AND DELIVERY SYSTEM**1. LOCATION OF POINT(S) OF DIVERSION:**

Source	Govt. Lot	¼	¼	¼	Sec.	Twp.	Rge.		County
Lake Pend Oreille	3		NW	SE	2	56N	1E	B.M.	Bonner
								B.M.	
								B.M.	

Method of Determination: Tax Lot data and PLS in ArcMap. The point of diversion and place of use were marked on the incorrect tax parcel. The correct tax parcel is still in the same Government lot and 40 acre tract, but it doesn't map the shape files created in Arcmap.

Change in POD? X Y N Amendment Required? X N

2. PLACE OF USE: 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	1E	2														D			
		Lot #														3			
Total Acres =																			

Method of Determination: Tax Lot data and PLS in ArcMap. The point of diversion and place of use were marked on the incorrect tax parcel. The correct tax parcel is still in the same Government lot and 40 acre tract, but it doesn't map the shape files created in Arcmap.

Change in POU? N Amendment Required? N

Delivery System Diagram Attached (required). Indicate all major components and distances between components.

Indicate weir size/pipe as applicable.

Aerial Photo Attached (required for irrigation of 10+ acres).

Photo of Diversion and System Attached

4. Well or Diversion Identification No.*	Motor Make	Hp	Motor Serial No.	Pump Make	Pump Serial No. or Discharge Size
Unknown					

*Code to correspond with No. on map and aerial photo

D. FLOW MEASUREMENTS

1.Measurement Equipment	Type	Make	Model No.	Serial No.	Size	Calib. Date

2. Measurements: This is an in-house field exam, so a measurement couldn't be accomplished.

E. FLOW CALCULATIONS

____ Additional Computation Sheets Attached

Measured Method:

Permit Processing Administrative Memorandum #22 states that a permit that is used for domestic purposes for a home and a yard is limited to 0.04 cfs.

Administrative Memorandum = 0.04 cfs

Permit allowed = 0.04 cfs

License recommend for 0.0 4cfs.

F. VOLUME CALCULATIONS

1. Volume Calculations for Irrigation:

$$V_{I.R.} = (\text{Acres Irrigated}) \times (\text{Irrigation Requirement}) = \underline{\quad} \times 3.5 = \underline{\quad}$$

$$V_{D.R.} = [\text{Diversion Rate (cfs)}] \times (\text{Days in Irrigation season}) \times 1.9835 = \underline{\quad} \times 214 \times 1.9835 = \underline{\quad}$$

$$V = \text{Smaller of } V_{I.R.} \text{ and } V_{D.R.} = \underline{\quad}$$

2. Volume Calculations for Other Uses:

Permit Processing Administrative Memorandum #22 states that a permit that is used for domestic purposes for a home and a yard is limited to 1.2 af.

G. PURPOSE OF USEIrrigation ____Y____N # Stock _____ Domestic # of Homes 1

Other: < >

Change in Purpose of Use? ____Y____N

Method of Determination: Tax parcel information.

If Yes: From Use _____ To Use _____ Amount _____ CFS _____ AFA _____

H. NARRATIVE/REMARKS/COMMENTS

This permit qualifies for an In-house field exam. There are two issues to deal with on this permit. The first issue was that the owner's didn't have a Department of Lands permit to put a pump into the lake. The owner emailed me a copy of the permit, so this issue has been resolved. The second issue was that they appear to have the water use already covered by another water right. However, further review of the existing right shows 3 homes constructed on the property prior to 1998. The 1998 aerial photography confirms that the 3 properties in Lake Side Homes subdivision only had one home built on the property. Therefore, water right 96-8150 could not be for the properties now described as Lake Side Homes Subdivision.

The permit map drew the place of use and point of diversion on parcel east of the actual parcel being irrigated. Mr. Allen confirmed by email that the permit should be for Lot 9C of Lake Side Homes subdivision.

Condition 3 (26A) will be removed at licensing. Conditions 1 (X01) and 2 (004) will be carried forward to licensing. I am adding condition 187 to limit the yard irrigation to 1/2 acre since the lot is 1.5 acres in size. I also included conditions X59 and X60 to ensure the water is used on correct tax parcel.

Have conditions of permit approval been met? X Yes _____ No

I. RECOMMENDATIONS**1. Recommended Amounts**

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL VOLUME</u>
Irrigation	04/01 to 10/31	0.04 CFS	1.2 AF
	<u>Totals:</u>	0.04 CFS	1.2 AF

2. Recommended Amendments

☐ Change P.D. as reflected above ☐ Add P.D. as reflected above ☐ None

☐ Change P.U. as reflected above ☐ Add P.U. as reflected above ☐ None

Other: < >

J. AUTHENTICATION – Daniel A. Nelson – Hydrologist

Field Examiner's Name  Date 9-28-16

Reviewer _____ Date _____

POD of Diversion moved here due to parcel information received from permit holder.

The Permit shows this parcel as the location of the permitted place of use, the pink dot as the point of diversion.

The owner stated this is the parcel associated with this permit per email dated 9/27/2016.
The Department's Parcel information shows this parcel as being owned by RKM Trust also known as 2-56N-1E Lakeside Homes Lot 9C

Field Exam Map - Permit 96-9321 -- By Dan Nelson

The place of use and point of diversion were moved over from the location marked in the premit. No amendment is necessary, since the both parcels are in the same government lot and 40 acre tract.

SESW 6

2

SWSE 7

SESE

Nelson, Dan

From: Nelson, Dan
Sent: Tuesday, September 27, 2016 2:26 PM
To: 'Bruce Allen'
Subject: RE: Water Right Permit 96-9321

Thank you Bruce, I appreciate it the help.

Dan

From: Bruce Allen [<mailto:bruce@columbiareach.com>]
Sent: Tuesday, September 27, 2016 2:05 PM
To: Nelson, Dan
Subject: RE: Water Right Permit 96-9321

The lot 9c

From: Nelson, Dan [<mailto:Dan.Nelson@idwr.idaho.gov>]
Sent: Tuesday, September 27, 2016 1:01 PM
To: Bruce Allen <bruce@columbiareach.com>
Subject: Water Right Permit 96-9321

Dear Mr. Allen,

I sent you an email Monday September 19, 2016 to confirm the location of your water use. The paperwork you sent me described a different tax parcel than the parcel that you marked in your permit. Since none of the parcels are in your name, I need you to confirm which parcel this permit is to be used on, before I can move forward with licensing the permit. A quick email is all that is needed confirming where the permit is used. I have attached a map to this email for your reference.

Thank you.

Dan Nelson

From: Nelson, Dan
Sent: Monday, September 19, 2016 7:30 AM
To: 'Bruce Allen'
Subject: RE: Emailing - doc03469720160917124716.pdf

Dear Mr. Allen,

Thank you for the documents that you sent. They do raise another question. You marked a different place of use for the water use in the permit from what is described in the approvals that you sent. The approvals describe a property in the name of RKM Trust or RKM Allen Family Trust for Parcel RP05680009C0A, Lakeside Homes, Lot 9-C. This isn't the parcel you marked in the aerial photos in the application for permit for a water right. In the permit, you drew a box around Parcel RP0025100007AA, Luttons Lake Lots, Lot 7. I have provided a map with the RKM lot marked in Blue and the Permit lot marked in Pink. Could you please look at the map and verify exactly which lot this permit belongs too?

Both lots have the same legal description, so I need from you is a quick email letting me know which parcel this permit belongs too. I am sorry for the confusion, but I need written confirmation from you before I can official change the Department's records from what you marked in the application for permit.

Thank you.

Dan Nelson

From: Bruce Allen [<mailto:bruce@columbiareach.com>]

Sent: Saturday, September 17, 2016 1:57 PM

To: Nelson, Dan; Nelson, Dan

Subject: Emailing - doc03469720160917124716.pdf

Copy of the cover page tht was recorded

Do you need anything else?

Nelson, Dan

From: Bruce Allen [bruce@columbiareach.com]
Sent: Saturday, September 17, 2016 1:57 PM
To: Nelson, Dan; Nelson, Dan
Subject: Emailing - doc03469720160917124716.pdf
Attachments: doc03469720160917124716.pdf

Copy of the cover page tht was recorded
Do you need anything else?

Nelson, Dan

From: Nelson, Dan
Sent: Monday, September 19, 2016 7:30 AM
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Subject: RE: Emailing - doc03469720160917124716.pdf
Attachments: 96-9321.pdf

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Dan Nelson

From: Bruce Allen [<mailto:bruce@columbiareach.com>]
Sent: Saturday, September 17, 2016 1:57 PM
To: Nelson, Dan; Nelson, Dan
Subject: Emailing - doc03469720160917124716.pdf

Copy of the cover page tht was recorded
Do you need anything else?

PEND OREILLE
SUPERVISORY AREA
2550 Highway 2 West
Sandpoint ID 83864
Phone (208) 263-5104
Fax: Area (208) 263-0724
Fax: District (208) 265-7263



TOM SCHULTZ, DIRECTOR
EQUAL OPPORTUNITY EMPLOYER

Instrument # 892956
BONNER COUNTY, SANDPOINT, IDAHO
8-5-2016 02:39:33 PM No. of Pages: 4
Recorded for: RKM TRUST
MICHAEL W ROSEDALE Fee: 19.00
Ex-Officio Recorder Deputy
Index to: ENCROACHMENT PERMIT

STA

C. L. "Butch" Otter, Governor
Lawrence E. Denney, Secretary of State
Lawrence G. Wasden, Attorney General
Brandon D. Woolf, State Controller
Sherri Ybarra, Sup't of Public Instruction

ENCROACHMENT PERMIT NO. L-96-S-1791A

Permission is hereby granted to RKM Trusts / RKM Allen Family Trust of 7600 Graystone Court, Yakima, WA 98908 to install and maintain 6'x40' pier, Total = 240sq ft.; Waterline under dock. Location: Pend Oreille Lake, Parcel RP0056800009C0A, Lakeside Homes, Lot 9-C, Section 02, Township 56 North, Range 01 East, Boise Meridian, Bonner County.

1. All applicable provisions of the Rules for Regulation of Beds, Waters, and Airspace over Navigable Lakes and Streams in the State of Idaho are incorporated herein by reference and made a part hereof.
2. Construction will follow details and specifications shown on the approved drawings and data provided by the applicant. Should such information and data prove to be materially false, incomplete and/or inaccurate, this authorization may be modified, suspended, or revoked in accordance with the Administrative Procedures Act, Idaho Code Title 67, Chapter 52.
3. This permit does not convey the State's title to nor jurisdiction or management of lands lying below the natural or ordinary high water mark.
4. Acceptance of this permit constitutes permission by the Permittee for representatives of the Department of Lands to come upon Permittee's property at all reasonable times to inspect the encroachment authorized by this permit.
5. The Permittee shall indemnify, defend and save harmless, the state, its officers, agents and employees from and against any liability, claims, damages, losses, debts, obligations, judgments, expenses or actions, including reasonable attorneys' fees from action related to this permit. If it becomes necessary for the State to defend any action seeking to impose any such liability, Permittee agrees to pay the State all costs of court and attorneys' fees incurred by the State in effecting such defense in addition to all other sums that the State may be called upon to pay by reason of the entry of a judgment against it in the litigation in which such is asserted.
6. *Idaho Code* §58-1305(g) and §58-1305(f) requires recordation of this permit in the records of respective county assessor's office as a condition of this permit.
7. This permit is not valid until the identification number is displayed on the outermost area of the encroachment.
8. If the activity authorized herein is not completed on or before the 1st day of August, 2019 (three years from the date of issuance), this permit shall automatically expire unless it was previously revoked or otherwise extended.

ATTACHMENT

PRELIMINARY JURISDICTIONAL DETERMINATION FORM

BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR PRELIMINARY JURISDICTIONAL DETERMINATION (JD): July 6, 2016

B. NAME AND ADDRESS OF PERSON REQUESTING PRELIMINARY JD:
RKM Allen Family Trust
7600 Graystone Court
Yakima, Washington 98908

C. DISTRICT OFFICE, FILE NAME, AND NUMBER:
CENWW-RD-CdA, RKM Allen Family Trust water intake line, NWW-2016-00318

D. PROJECT LOCATION(S) AND BACKGROUND INFORMATION:
(USE THE ATTACHED TABLE TO DOCUMENT MULTIPLE WATERBODIES AT DIFFERENT SITES)

State: ID County/parish/borough: Bonner City: Hope
Center coordinates of site (lat/long in degree decimal format):
Lat. 48.228970, Long. -116.298175
Universal Transverse Mercator: Zone
Name of nearest waterbody: Lake Pend Oreille
Identify (estimate) amount of waters in the review area:
Non-wetland waters: 1 linear feet.
Cowardin Class: Lacustrine (L1UBH)
Stream Flow: N/A
Wetlands: 0 acres.
Cowardin Class:

Name of any water bodies on the site that have been identified as Section 10 waters:

Tidal:

Non-Tidal: Lake Pend Oreille

E. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):

☒ Office (Desk) Determination. Date: July 6, 2016

☐ Field Determination. Date(s):

1. The Corps of Engineers believes that there may be jurisdictional waters of the United States on the subject site, and the permit applicant or other affected party who requested this preliminary JD is hereby advised of his or her option to request and obtain an approved jurisdictional determination (JD) for that site. Nevertheless, the permit applicant or other person who requested this preliminary JD has declined to exercise the option to obtain an approved JD in this instance and at this time.

2. In any circumstance where a permit applicant obtains an individual permit, or a Nationwide General Permit (NWP) or other general permit verification requiring "pre-construction notification" (PCN), or requests verification for a non-reporting NWP or other general permit, and the permit applicant has not requested an approved JD for the activity, the permit applicant is hereby made aware of the following: (1) the permit applicant has elected to seek a permit authorization based on a preliminary JD, which does not make an official determination of jurisdictional waters; (2) that the applicant has the option to request an approved JD before accepting the terms and conditions of the permit authorization, and that basing a permit authorization on an approved JD could possibly result in less compensatory mitigation being required or different special conditions; (3) that the applicant has the right to request an individual permit rather than accepting the terms and conditions of the NWP or other general permit authorization; (4) that the applicant can accept a permit authorization and thereby agree to comply with all the terms and conditions of that permit, including whatever mitigation requirements the Corps has determined to be necessary; (5) that undertaking any activity in reliance upon the subject permit authorization without requesting an approved JD constitutes the applicant's acceptance of the use of the preliminary JD, but that either form of JD will be processed as soon as is practicable; (6) accepting a permit authorization (e.g., signing a proffered individual permit) or undertaking any activity in reliance on any form of Corps permit authorization based on a preliminary JD constitutes agreement that all wetlands and other water bodies on the site affected in any way by that activity are jurisdictional waters of the United States, and precludes any challenge to such jurisdiction in any administrative or judicial compliance or enforcement action, or in any administrative appeal or in any Federal court; and (7) whether the applicant elects to use either an approved JD or a preliminary JD, that JD will be processed as soon as is practicable. Further, an approved JD, a proffered individual permit (and all terms and conditions contained therein), or individual permit denial can be administratively appealed pursuant to 33 C.F.R. Part 331, and that in any administrative appeal, jurisdictional issues can be raised (see 33 C.F.R. 331.5(a)(2)). If, during that administrative appeal, it becomes necessary to make an official determination whether CWA jurisdiction exists over a site, or to provide an official delineation of jurisdictional waters on the site, the Corps will provide an approved JD to accomplish that result, as soon as is practicable. This preliminary JD finds that there "may be" waters of the United States on the subject project site, and identifies all aquatic features on the site that could be affected by the proposed activity, based on the following information:

SUPPORTING DATA. Data reviewed for preliminary JD (check all that apply

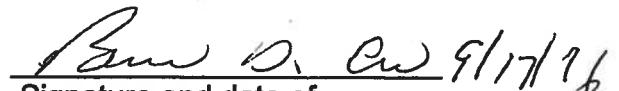
- checked items should be included in case file and, where checked and requested, appropriately reference sources below):

- ☒ Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: Vicinity map, Plan View, Parcel map
- ☐ Data sheets prepared/submitted by or on behalf of the applicant/consultant.
- ☐ Office concurs with data sheets/delineation report.
- ☐ Office does not concur with data sheets/delineation report.
- ☐ Data sheets prepared by the Corps: .
- ☐ Corps navigable waters' study: .
- ☐ U.S. Geological Survey Hydrologic Atlas:
 - ☐ USGS NHD data.
 - ☐ USGS 8 and 12 digit HUC maps.
- ☒ U.S. Geological Survey map(s).
Cite scale & quad name: 1:24K, ID-HOPE
- ☐ USDA Natural Resources Conservation Service Soil Survey. Citation:.
- ☐ National wetlands inventory map(s). Cite name:.
- ☐ State/Local wetland inventory map(s): .
- ☐ FEMA/FIRM maps: .
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☐ Photographs: ☐ Aerial (Name & Date): .
☐ or Other (Name & Date):
- ☐ Previous determination(s). File no. and date of response letter: .
- ☒ Other information (please specify): The proposed project area appears to contain waters of the United States. Lake Pend Oreille has been designated as navigable water and is regulated under the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

IMPORTANT NOTE: The information recorded on this form has not necessarily been verified by the Corps and should not be relied upon for later jurisdictional determinations.



Shane Slate, July 12, 2016
Signature and date of
Regulatory Project Manager
(REQUIRED)


Ben D. Cow 9/17/16
Signature and date of
person requesting preliminary JD
(REQUIRED, unless obtaining
the signature is impracticable)

Nelson, Dan

From: Nelson, Dan
Sent: Thursday, September 15, 2016 3:26 PM
To: 'bruce@columbiareach.com'
Subject: RE: Licensing of permit 96-9321

Dear Mr. and Ms. Allen;

Our office received your proof of beneficial use statement on September 6, 2016 for permit 96-9321. This permit allowed you to develop a domestic use from Lake Pend Oreille. The permit is small enough, that with a little assistance from you, we can verify the water use without actually visiting the site, unless you wish to have someone meet with you on sight to verify the water use.

I have been asked to review this permit to verify the water use so it can be licensed. We have all of the information needed to license this permit except for the approval notice or letter to place the water pump into the lake from Idaho Department of Lands (IDL) and the United States Geological Survey (USGS). If you could supply the following information, we can move forward with the licensing of your permit.

- 1.) Please scan and email or mail me a copy of the notice or letter of approval from IDL and USGS to insert a pump into Lake Pend Oreille for domestic purposes.

All I need to continue with licensing is the information requested above, but any other information you would like to include could help speed the licensing process. Information that is helpful are pictures of the pump, horsepower of the pump, pump production curve or table, the water pressure of your water system, or anything you deem significant. Any pictures you may have can also be helpful.

As I stated at the beginning of this email, if you wish to have someone come to your property to verify the use we are more than willing to accommodate that request. Please supply the information requested above or request that a Idaho Department of Water Resources employee within 30 days or by November 15, 2016. I would also be willing to speak with you on the telephone to go over the information needed. If I do not receive the requested information or a request for a field verification from you within thirty (30) days, I am required to take action to void your permits under the provision of Section 42-219(8) of the Idaho Code.

Please feel free to contact me if you have any questions.

Respectfully,

Daniel Nelson
Staff Hydrologist
Idaho Department of Water Resources
Telephone (208) 287-4856
Fax (208) 287-6700 (attn: Dan Nelson)

My Mailing Address is:

Idaho Department of Water Resources
Attn: Dan Nelson
PO Box 83720

The Department's Parcel information shows this parcel as being owned by RKM Trust also known as 2-56N-1E Lakeside Homes Lot 9C

The Permit shows this parcel as the location of the permitted place of use.

