

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 96-09627

Priority: June 07, 2016

Maximum Diversion Rate: 0.04 CFS

This is to certify, that LOVENBURY REVOCABLE TRUST
815 JANISH DR
SANDPOINT ID 83864

has applied for a permit to appropriate water from:

Source: PACK RIVER

Tributary: LAKE PEND OREILLE

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>
DOMESTIC	01/01 to 12/31	0.04 CFS

LOCATION OF POINT(S) OF DIVERSION:

PACK RIVER NE1/4SE1/4 Sec. 34, Twp 60N, Rge 02W, B.M. BOUNDARY 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	
60N	02W	34																X	

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **October 01, 2021**.
2. Subject to all prior water rights.
3. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which the permit holder had no control.
4. A fish screen of 1/4 inch or smaller mesh shall be installed and maintained at the point of diversion.
5. The approach velocity at the point of diversion shall not exceed 0.5 feet per second.
6. Domestic use is for 1 home and does not include lawn, garden, landscape, or other types of irrigation.
7. Water shall not be diverted under this right when flows in the Pack River are below minimum flow amounts as defined by Right 96-8717. The right holder shall be responsible for monitoring the daily flow of the Pack River using real-time data and shall cease diverting water when flows in the Pack 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 gauging station at Colburn, No. 12392300, may be used for purposes of determining the daily flow amounts.
8. This right does not grant any right-of-way or easement across the land of another.

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

Signed this 19th day of September, 20 16.


MORGAN CASE, Northern Regional Manager

State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

96-9627

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.

02W



-  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

Northern Region, 7600 Mineral Drive, Suite 100, Coeur d'Alene, Idaho 83815

Phone: (208) 762-2800 FAX: (208) 762-2819 www.idwr.idaho.gov

September 27, 2016

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

**LOVENBURY REVOCABLE TRUST
815 JANISH DR
SANDPOINT ID 83864**

RE: Permit No. 96-9627

Permit Approval Notice

Dear Permit Holder:

The Department of Water Resources has issued the enclosed permit authorizing you to establish a new water right. Please be sure to thoroughly review the conditions of approval and remarks listed on your permit.

The permit 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.

As a permit owner you must commence the excavation or construction of the diverting works within one year of the date the permit was issued, and you must proceed diligently until the project is completed. The date shown under condition no. 1 is the date when the project must be completed.

The Department will send you a 'Proof Due Notice' approximately 60 days prior to the above referenced date requesting you to file either a Proof of Beneficial Use form or a Request for Extension of Time form.

Please note that a separate stream channel alteration permit must be obtained from the Department prior to any activity in the stream channel other than construction or maintenance of the diversion structure for your water right(s). Applications for stream channel alteration permits must be filed at least sixty days prior to the commencement of work in the stream.

Also, 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) 762-2800.

Sincerely,



Morgan Case
Northern Regional Manager

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on September 27, 2016 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved Permit) to the person(s) listed below:

RE: WATER RIGHT NO.

96-9627

**LOVENBURY REVOCABLE TRUST
815 JANISH DR
SANDPOINT ID 83864**



**Dianne L. Ball
Administrative Assistant**

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 issuance 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 Boundary, Jinda Johnson

being first duly sworn on oath deposes and says that

he/she is boob keeper of the

Bonnors Ferry Herald, a newspaper printed and

published at Bonnors Ferry, Boundary County, Idaho;

that the said newspaper has been continuously and

uninterruptedly published in said Boundary County during

a period of 12 months prior to the first publication of the

hereto attached notice of publication in the case of:

Permit No. 96-9627, 98-7972

as it was published in the regular and entire issue of the

said paper for a period of 2 consecutive weeks,

commencing on 4th day of Aug., 2016 and

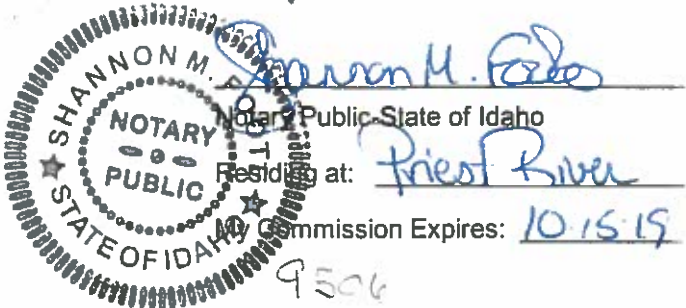
ending on the 11th day of Aug., 2016 and

that said notice was published in said newspaper.

Jinda Johnson

SUBSCRIBED AND SWORN TO before me, this

16th day of August, 2016.



RECEIVED
SEP 08 2016
IDWR / NORTH

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

96-9627

LOVENBURY REVOCABLE TRUST

815 JANISH DR

SANDPOINT, ID 83864

Point of Diversion NESE S34 T60N R02W BOUNDARY County

Source PACK RIVER tributary LAKE PEND OREILLE

Use: DOMESTIC 01/01 to 12/31 0.04 CFS

Total Diversion: 0.04 CFS

Date Filed: 6/7/2016

Place of Use: DOMESTIC T60N S34 NESE

Domestic use is for 1 home.

98-7972

CLIFTY VIEW NURSERY INC

312 CLIFTY VIEW RD

BONNERS FERRY, ID 83805

Point of Diversion SWSWNE S18 T61N R02E BOUNDARY CO

Source SPRING tributary SINKS

Point of Diversion SWNE S18 T61N R02E BOUNDARY County

Source UNNAMED STREAM tributary COW CREEK

Use: DIVERSION to Storage 01/01 to 12/31 0.67 CFS

Use: IRRIGATION 04/01 to 10/31 0.67 CFS

Use: IRRIGATION from Storage 04/01 to 10/31 284.4 AF

Use: IRRIGATION Storage 01/01 to 12/31 284.4 AF

Use: RECREATION Storage 01/01 to 12/31 69 AF

Total Diversion: 0.67 CFS 353.4 AF

Date Filed: 6/22/2016

Place of Use: IRRIGATION T61N R02E S7 NENE NWNE SWNE

SENE SENW NESW SESW NESE NWSE SWSE SESE

T61N R02E S8 SWNW NWSW

Place of Use: IRRIGATION from STORAGE T61N R02E S7

NENE NWNE SWNE SENE SENW NESW SESW NESE NWSE

SWSE SESE T61N R02E S8 SWNW NWSW

Place of Use: IRRIGATION STORAGE T61N R02E S7

SESW SWSE SESE

Place of Use: RECREATION STORAGE T61N R02E S7

SESW SWSE SESE

Total Acres: 236.5

Recreation storage use is for swimming and fishing.

Permits will be subject to all prior water rights. For additional information concerning the property location, contact Northern Region office at (208) 762-2800; or for a full description of the right(s), please see:

<http://www.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, Northern Region, 7600 Mineral Drive, Suite 100, Coeur D'Alene ID 83815 together with a protest fee of \$25.00 for each application on or before 8/22/2016. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

BFH Legal 9506

August 4, 11, 2016