

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 96-09620

Priority: April 25, 2016

Maximum Diversion Rate: 0.06 CFS

This is to certify, that DEANNA BARRETT And/Or
KENNETH BARRETT
611 WATKINS ST
BIRMINGHAM MI 48009

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>
IRRIGATION	04/01 to 10/31	0.06 CFS

LOCATION OF POINT(S) OF DIVERSION:

PACK RIVER NW1/4SE1/4 Sec. 11, Twp 59N, Rge 02W, B.M. BONNER County

PLACE OF USE: IRRIGATION

Twp Rge Sec		NE		NW		SW		SE		NE		NW		SW		SE		NE		NW		SW		SE		Totals
59N 02W 11		NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	2.0

Total Acres: 2

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **July 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. This right when combined with all other rights shall provide no more than 0.03 cfs per acre nor more than 3.0 afa per acre at the field headgate for irrigation of the place of use.
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.

SCANNED
JUN 24 2016

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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 20th day of June, 20 16.

Morgan Case
MORGAN CASE, Northern Regional Manager



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JUN 24 2016

State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

96-9620

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



0 0.035 0.07 0.14 Miles

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


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JUN 24 2016



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

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

June 23, 2016

DEANNA BARRETT And/Or
KENNETH BARRETT
611 WATKINS ST
BIRMINGHAM MI 48009

RE: Permit No.96-9620

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.

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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,

A handwritten signature in black ink that reads "Morgan Case". The signature is written in a cursive, flowing style.

Morgan Case
Northern Regional Manager

Enclosure(s)

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CERTIFICATE OF SERVICE

I hereby certify that on June 23, 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.

96-9620

**DEANNA BARRETT
611 WATKINS ST
BIRMINGHAM MI 48009**

**KENNETH BARRETT
611 WATKINS ST
BIRMINGHAM MI 48009**



**Dianne L Ball
Administrative Assistant**

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JUN 24 2016**

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.



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JUN - 9 2016

IDWR/NORTHERN

IDAHO DEPARTMENT OF FISH AND GAME

PANHANDLE REGION

2885 West Kathleen Avenue

Coeur d'Alene, Idaho 83815

C.L. "Butch" Otter/Governor

Virgil Moore/Director

June 3, 2016

Mr. Adam Frederick
Idaho Department of Water Resources
7600 N Mineral Drive
Coeur d'Alene, ID 83815

REFERENCE: 96-9620 BARRETT

Dear Adam,

We have reviewed the application by Deanna and Kenneth Barrett to divert 0.06 cfs of water from the Pack River for irrigation. The purpose of these comments is to assist the decision-making authority by providing technical information addressing potential effects on wildlife and wildlife habitat and how any adverse effects might be mitigated. It is not the purpose of Idaho Department of Fish and Game (IDFG) to support or oppose this proposal.

The Pack River is federally designated critical habitat for Endangered Species Act listed bull trout and is furthermore managed with restrictive fishing regulations by IDFG to protect native westslope cutthroat trout. The proposed POD is in an important migration corridor for these species, which move from Lake Pend Oreille to the upper Pack River and tributaries to spawn.

Although the amount requested is relatively small, we are concerned with the cumulative impacts to fish and aquatic habitat that additional diversions may have on the Pack River. This stream is EPA 303(d) temperature impaired and additional losses of water quantity are likely to intensify this impairment. The applicants should be made aware that the State holds a minimum streamflow water right for this section of the Pack River (96-8717) and their diversion for irrigation must cease when flows fall below 54 cfs (August-October) or 129 cfs (all other months). For reference, in 2015, flows in the Pack River were below these minimum standards from mid-June through October (USGS gauge 12392300).

In order to protect resident and migrating fish, the intake must be screened with $\frac{1}{4}$ in mesh or finer and velocity at the inlet may not exceed 0.5 ft/sec. Entrainment or impingement that results in illegal bull trout take is regulated by the U.S. Fish and Wildlife Service, who recommend more stringent screening standards (3/32" mesh). Low volume pump screens can be homemade or purchased by vendors like Pump-rite or Sure-Flo. Because fish use pools and side channels for resting and rearing habitat, we recommend the intake be placed outside of these areas and perpendicular to flow.

Please contact Kiira Siitari, Environmental Staff Biologist with any questions or concerns: (208) 769-1414 or kiira.siitari@idfg.idaho.gov. Thank you for the opportunity to comment.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Chip Corsi', with a small checkmark above the end of the signature.

Charles E. "Chip" Corsi
Regional Supervisor

CEC:KJS

C: Sharon Kiefer, IDFG Boise
Gary Vecellio, IDFG Idaho Falls

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JUN 24 2016

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

6/17/2016

Water Right 96-8717

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

Priority Date: 6/15/1992

Basis: License

Status: Active

<u>Source</u>	<u>Tributary</u>
PACK RIVER	LAKE PEND OREILLE

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
MINIMUM STREAM FLOW	11/01	7/31	129.000 CFS	
MINIMUM STREAM FLOW	8/01	10/31	54.000 CFS	
	<u>Total Diversion</u>		129.000 CFS	

Source and Point(s) of Diversion

PACK RIVER	SESENE	Sec. 30, Twp 61N, Rge 02W, BOUNDARY County(B)
PACK RIVER	SWSESW	Sec. 4, Twp 58N, Rge 01W, BONNER County(E)

Place Of Use

MINIMUM STREAM FLOW

Conditions of Approval:

1. 027 Use of water under this right shall be non-consumptive.
2. This minimum streamflow may be depleted by future municipal and domestic diversions from the Pack River and its tributaries within and upstream of the minimum streamflow reach. The minimum streamflow will not be depleted by diversions for irrigation uses or other future large consumptive purposes authorized by a future municipal or domestic water right.

Specifically because of the generalization of the Tennant method, 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 would be in the public interest.

Use of water under this right shall recognize and allow the continued beneficial diversion of water for irrigation or other purposes under any prior existing water right established by diversion and application to beneficial use or by an application, permit, or license on file or issued by the Director under the provisions of Chapter 2, Title 42,

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IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

6/17/2016

Idaho Code, with a priority of water right earlier than 06/15/1992.

Upon a future finding and order of the Director that gauging stations are required to maintain the approved minimum flows on Pack River, such measuring devices shall be permanently installed and maintained as specified by the Director.

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

This minimum stream flow begins at the confluence of Pack River and Zuni Creek in the SENE, S30, T61N, R2W and ends at the confluence of Pack River with Grouse Creek, located in the SESW, S4, T58N, R1W.

Comments:

1.	mciscell	6/10/2013	POD
Bulk Generate Shape From PLS			

Combined Use Limits

N/A

SubCase:

N/A

Water Supply Bank:

N/A

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO)
) ss.
County of Bonner)

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JUN 08 2016
IDWR / NORTH

Holly Fredericks 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 19 day of May, 2016, and ending on the 26 day of May, 2016.

Holly Fredericks

State of Idaho, county of Bonner ss.

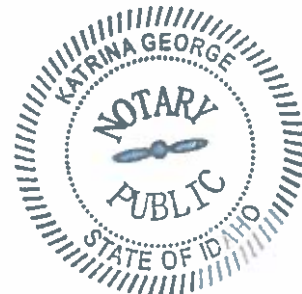
On this 26 day of May, in the year of 2016 before me, Katrina George, Notary Public, personally appeared

Holly Fredericks, 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 8/29/17



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JUN 24 2016

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

95-17157

DARLA FLETCHER
THOMAS FLETCHER
720 RAVEN LN
CAREYWOOD, ID 83809

Point of Diversion SWNE S8 T54N R02W BONNER County
Source UNNAMED STREAM tributary THREE SISTERS CREEK
Use FIRE PROTECTION Storage 01/01 to 12/31 1.3 AF
Use IRRIGATION from Storage 04/01 to 10/31 6 AF
Use IRRIGATION Storage 01/01 to 12/31 7.3 AF
Use STOCKWATER from Storage 01/01 to 12/31 0.2 AF
Use STOCKWATER Storage 01/01 to 12/31 1.5 AF
Total Diversion: 7.3 AF

Date Filed: 4/29/2016
Place of Use: IRRIGATION STORAGE T54N R02W S8 SWNE
Place of Use for ALL OTHER STORAGE same as IRRIGATION.
Total Acres: 2
Stockwater use is for 12 head of mixed stock.

96-9614

GAROLA BAUER
236 SKY VIEW RD
SAGLE, ID 83860

Point of Diversion NWSWSE S27 T57N R01W BONNER County
Source SPRING tributary SINKS
Use DOMESTIC 01/01 to 12/31 0.04 CFS
Use IRRIGATION 04/01 to 10/31 0.16 CFS
Total Diversion: 0.2 CFS

Date Filed: 5/13/2016
Place of Use: DOMESTIC T57N R01W S27 L2(NWSE) SWSE
Place of Use: IRRIGATION T57N R01W S27 L2(NWSE) SWSE
Total Acres: 6
Domestic use is for 1 house.

96-9615

THOMPSON LAND TRUST
PO BOX 1267
SANDPOINT, ID 83864

Point of Diversion NWSWSE S27 T57N R01W BONNER County
Source SPRING tributary SINKS
Use DOMESTIC 01/01 to 12/31 0.04 CFS
Use IRRIGATION 04/01 to 10/31 0.16 CFS
Total Diversion: 0.2 CFS

Date Filed: 4/13/2016
Place of Use: DOMESTIC T57N R01W S27 SWSE
Place of Use: IRRIGATION T57N R01W S27 SWSE
Total Acres: 6
Domestic use is for 1 house.

96-9620

DEANNA BARRETT
KENNETH BARRETT
611 WATKINS ST
BIRMINGHAM, MI 48009

Point of Diversion NWSE S11 T59N R02W BONNER County
Source PACK RIVER tributary LAKE PEND OREILLE
Use IRRIGATION 04/01 to 10/31 0.06 CFS
Total Diversion: 0.06 CFS

Date Filed: 4/25/2016
Place of Use: IRRIGATION T59N R02W S11 NWSE
Total Acres: 2

96-9621

TRACIE FINNEY
SCOTT FINNEY
157 W BRONX RD
SANDPOINT, ID 83864

Point of Diversion SESE S35 T58N R02W BONNER County
Source SAND CREEK tributary LAKE PEND OREILLE
Use IRRIGATION 04/01 to 10/31 0.14 CFS
Total Diversion: 0.14 CFS

Date Filed: 5/4/2016
Place of Use: IRRIGATION T58N R02W S35 SESE
Total Acres: 7

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:

www.idwr.idaho.gov/apps/ExtSearch/WRFiling.asp.

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 6/6/2016. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director
Published on 5/19/2016 and 5/26/2016
SNP LEGAL 3773
MAY 19, 26, 2016

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