

State of Idaho
Department of Water Resources
Application For Permit
96-9591



-  Point of Diversion
-  Place Of Use Boundary
-  Townships
-  Taxlots

0 0.01 0.02 0.04 Miles



Prepared By: Maxey, Shaun



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

December 15, 2015

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

ROY G MILLS
JUDITH H VAN VLEET
219 TRESTLE LN
SAGLE ID 83860

RE: Permit No.96-9591

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.

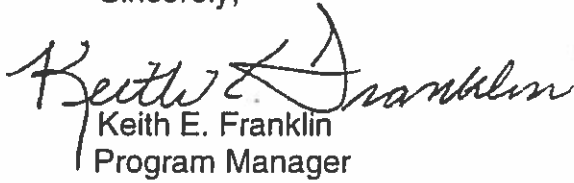
The Department will send you a 'Proof Due Notice' approximately 60 days prior to the above referenced date requesting you to file either a Proof of Beneficial Use form or a Request for Extension of Time form.

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,


Keith E. Franklin
Program Manager

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on December 16, 2015 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.

96-9591

**JUDITH H VAN VLEET
219 TRESTLE LN
SAGLE ID 83860**

**ROY G MILLS
219 TRESTLE LN
SAGLE ID 83860**



**Carolyn Monitz
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.

M E M O R A N D U M

Date: December 07, 2015
To: Water Right File 96-9591
From: smaxey
Re: ACRES

A NOTATION ON THE APPLICANTS MAP (PROVIDED WITH APPLICATION) INDICATES THE IRRIGATED AREA IS .45 ACRES.

MEMORANDUM

Date: November 19, 2015
To: Water Right File 96-9591
From: smaxey
Re: Legal Notice Error

IDWR PUBLISHED INCORRECT LEGAL NOTICES FOR THE QUARTER QUARTER IN THE 96-9591 PLACE OF USE (POU). THE POU WAS INCORRECTLY PUBLISHED AS BEING LOCATED IN T57N R03W S.26 SW SW GL6. THE CORRECT POU LEGAL DESCRIPTION IS T57N R03W S.26 SE SW GL6.

IDWR STAFF HAVE DETERMINED THAT REPUBLICATION IS NOT REQUIRED. THE PUBLISHED POU LEGAL DESCRIPTION IS CORRECT EXCEPT FOR THE QUARTER QUARTER (QQ). THE CORRECT POU LIES WITHIN GOVT LOT 6.

NO PROTESTS HAVE BEEN RECEIVED AS OF THE DEADLINE DATE. NO INJURY TO OTHER WATER RIGHT HOLDERS IS LIKELY BECAUSE THE POINT OF DIVERSION LEGAL DESCRIPTION IS CORRECT AND THE SOURCE & QUANTITY OF WATER USED IS NOT AFFECTED BY PUBLICATION OF THE INCORRECT QQ.

AFFIDAVIT OF PUBLICATION

RECEIVED
NOV 03 2015
IDWR / NORTH

STATE OF IDAHO)
) ss.
County of Bonner)

Danielle Rucker, 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 Notice of Application. My business address is P.O. Box 159, Sandpoint, Idaho.

2. I am the bookkeeper 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.

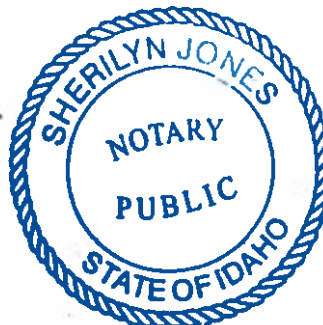
4. The attached Notice was published in the regular and entire issue of the Bonner County Daily Bee for a period of 2 consecutive weeks, commencing on the 1 day of October, 2015, and ending on the 8 day of October, 2015.

Danielle Rucker

State of Idaho, county of Bonner ss.

On this 8 day of Oct., in the year of 2015, before me, Sherilyn Jones, Notary Public, personally appeared Danielle Rucker, 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.

Sherilyn Jones
Notary Public
Residing at: Sandpoint
Comm. Exp.: 2/24/17



NOTICE OF APPLICATION

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

95-17054

ABBY FOSNAUGH
SARAH BIRDSONG
ANNA FOSNAUGH
886 LAS PLAMAS DR
IRVINE, CA 92602
Point of Diversion L4(SWSW) S27 T54N R02W BONNER CO
Source BAYVIEW CREEK tributary LAKE PEND OREILLE
Use: DOMESTIC 01/01 to 12/31 0.04 CFS
Total Diversion: 0.04 CFS

Date Filed: 7/30/2015
Place of Use: DOMESTIC T54N R02W S27 L4(SWSW)
Domestic use is for 1 home with up to 1/2 acre irrigation.

96-9590

GEORGINA M BURT REVOCABLE TRUST UDT JUNE 13 2001
145 HIDDEN HARBOR LN
SANDPOINT, ID 83864
Point of Diversion NESW S6 T57N R01W BONNER CO
Source BOYER SLOUGH tributary LAKE PEND OREILLE
Use: DOMESTIC 01/01 to 12/31 0.04 CFS
Total Diversion: 0.04 CFS

Date Filed: 8/25/2015
Place of Use: DOMESTIC T57N R01W S6 NESW
Domestic use is for 1 home.

96-9591

ROY G MILLS
JUDITH H VAN VLEET
219 TRESTLE LN
SAGLE, ID 83860
Point of Diversion L6(SESW) S26 T57N R03W BONNER CO
Source PEND OREILLE RIVER tributary COLUMBIA RIVER
Use: DOMESTIC 01/01 to 12/31 0.04 CFS
Total Diversion: 0.04 CFS

Date Filed: 8/28/2015
Place of Use: DOMESTIC T57N R03W S26 L6(SESW)
Domestic use is for 1 home.

96-9592

MICHEAL HENKER
PO BOX 41
LACLEDE, ID 83841
Point of Diversion L3(NWNW) S31 T56N R03W BONNER CO
Source PEND OREILLE RIVER tributary COLUMBIA RIVER
Use: DOMESTIC 01/01 to 12/31 0.04 CFS
Total Diversion: 0.04 CFS

Date Filed: 9/2/2015
Place of Use: DOMESTIC T56N R03W S31 L3(NWNW)
Domestic use is for one home.

96-9593

BEN TATE
RHONDA TATE
766 PONDER POINT DR
SANDPOINT, ID 83864
Point of Diversion L3(SENW) S12 T57N R02W BONNER CO
Source PEND OREILLE LAKE tributary PEND OREILLE RIVER
Use: DOMESTIC 01/01 to 12/31 0.04 CFS
Total Diversion: 0.04 CFS

Date Filed: 9/2/2015
Place of Use: DOMESTIC T57N R02W S12 L3(SENW)
Domestic use is for 1 household for irrigation up to 1/2 acre.

96-9594

DOUGLAS SHERWOOD
11846 N WHISPERING RIDGE DR
ORO VALLEY, AZ 85737
Point of Diversion L5(SENE) S4 T56N R03W BONNER CO
Source PEND OREILLE RIVER tributary COLUMBIA RIVER
Use: DOMESTIC 01/01 to 12/31 0.04 CFS
Total Diversion: 0.04 CFS

Date Filed: 9/1/2015
Place of Use: DOMESTIC T56N R03W S4 L5(SENE)
Domestic use is for 1 home and up to 1/2 acre irrigation.

96-9596

JACK W ARMSTRONG
KELLY ARMSTRONG
10612 S FORNEY RD
MICA, WA 99023
Point of Diversion SESE S23 T57N R02W BONNER CO
Source PEND OREILLE RIVER tributary COLUMBIA RIVER
Use: DOMESTIC 01/01 to 12/31 0.04 CFS
Total Diversion: 0.04 CFS

Date Filed: 9/14/2015
Place of Use: DOMESTIC T57N R02W S22 SESE
Domestic use is for 1 home with up to 1/2 acre irrigation.
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 10/19/2015. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director
SNP Legal 3954
October 1, 8, 2015

RECEIVED
NOV 03 2015
IDWR / NORTH



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

October 19, 2015

RECEIVED

OCT 22 2015

IDWR/NORTHERN

Mr. Shaun Maxey
Idaho Department of Water Resources
7600 N Mineral Drive, Suite 100
Coeur d'Alene, ID 83815

Dear Shaun:

REFERENCE: BURT 96-9590, MILLS & VAN VLEET 96-9591, HENKER
96-9592, TATE 96-9593, SHERWOOD 96-9594, ARMSTRONG
96-9596a *COMBINED*

We have reviewed the above six applications for water diversions on the Pend Oreille River (96-9592, 9594, 9596a), Lake Pend Oreille (96-9591, 9593), and adjoining Boyer Slough (96-9590). 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 to support or oppose this proposal.

Although these applications request only 0.04 cfs apiece, we remain concerned about the potential cumulative effects of continued increases in water withdrawals on fisheries and aquatic species that reside and migrate through these waterways. Per usual, all diversions should be properly screened with mesh that no more than 0.25 inch mesh and with an approach velocity of no more than 0.5 feet per second, so as to meet the intent of Idaho Code 36-906. This will reduce the risk of entrainment of juvenile fish that utilize these areas.

We appreciate your and Dianne's diligence in checking for accompanying IDL encroachment permits. Thank you for the opportunity to comment.

Sincerely,

Chip Corsi
Regional Supervisor

CEC:KJS:njk

C: Sharon Kiefer, IDFG Boise

File: 96-9590_9591_9592_9593_9594_9596a_COMBINED

Keeping Idaho's Wildlife Heritage

Equal Opportunity Employer • 208-769-1414 • Fax: 208-769-1418 • Idaho Relay (TDD) Service: 1-800-377-3529 • <http://fishandgame.idaho.gov>



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

October 19, 2015

RECEIVED

OCT 22 2015

IDWR/NORTHERN

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Idaho Department of Water Resources
7600 N Mineral Drive, Suite 100
Coeur d'Alene, ID 83815

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96-9596a COMBINED**

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Sincerely,

Chip Corsi
Regional Supervisor

CEC:KJS:njk

C: Sharon Kiefer, IDFG Boise

File: 96-9590_9591_9592_9593_9594_9596a_COMBINED

Keeping Idaho's Wildlife Heritage

Ball, Dianne

From: Ball, Dianne
Sent: Wednesday, September 30, 2015 11:52 AM
To: kiira.siitari@idfg.idaho.gov; mahmer@idl.idaho.gov
Cc: Maxey, Shaun
Subject: RE: Application for Permit No. 96-9591, 96-9592, 96-9593, 96-9594; 96-9496
Attachments: App-and-maps-96-9591.pdf; App-and-map(s)-96-9592.pdf; App-and-map(s)-96-9593.pdf; App-and-maps-96-9594.pdf; App-and-map(s)-etc-96-9596a.pdf

Dear Kiira and Mike:

The Department of Water Resources is seeking written comment and/or recommendations from your agency regarding the above referenced water right application. A copy of the application is enclosed for your reference.

Mike, I have no IDL information regarding the Mills & Van Vleet application – 96-9591. However, on our Tate file 96-9593, IDL appears to have issued permit L-96-S-1537A, and on our Sherwood file 96-9594, IDL appears to have also issued permit L-96-S-2346, so for those files, this is FYI as a courtesy to let you know we have a water right application (and for our file reference.) Regarding our Armstrong and Henker files, it appears that an encroachment permit might be pending on each of those.

These are scheduled for publication in the Bonner County Daily Bee on October 1 and 8, 2015, with October 19, 2015 as final date for protests to be received in our office.

Your prompt response to this request is appreciated. If your agency desires to formally protest the approval of this application, you may do so after the notice is published by filing a written protest along with a \$25.00 filing fee within 10 days after final publication.

Please contact this office if you have any questions regarding the application.

Sincerely,

Dianne Ball

Administrative Assistant
Idaho Department of Water Resources
7600 N Mineral Dr., Ste. 100
Coeur d'Alene, ID 83815
208-762-2800 Fax 208-762-2819