

State of Idaho
Department of Water Resources
Water Right License

WATER RIGHT NO. 96-09463

Priority: May 11, 2010

Maximum Diversion Rate: 0.02 CFS
Maximum Diversion Volume: 1.5 AF

It is hereby certified that ROB S BEHRENS
84 STEWARTS DR
SAGLE ID 83860 has complied with the terms and conditions of the
permit, issued pursuant to Application for Permit dated April 20, 2010; and has submitted Proof of
Beneficial Use on August 24, 2015. 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>
IRRIGATION	04/01 to 10/31	0.02 CFS	1.5 AF

LOCATION OF POINT(S) OF DIVERSION:

LAKE PEND OREILLE L2 (SW1/4NE1/4) Sec. 33, Twp 57N, Rge 01W, B.M. BONNER County

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	
57N 01W 33			.5														.5
			L 2														

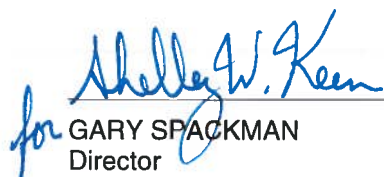
Total Acres: 0.5

CONDITIONS OF APPROVAL

1. This right does not grant any right-of-way or easement across the land of another.
2. A fish screen of 0.25 inch or smaller mesh shall be installed and maintained at the point of diversion.
3. Property is also known as Lot 2, 2nd Add, Bel Tane Acres.
4. This right when combined with all other rights shall provide no more than 0.02 cfs nor more than 1.5 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 9th day of November, 2015.


for GARY SPACKMAN
Director

State of Idaho
Department of Water Resources
Attachment To Water Right License
96-9463

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.

01W



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

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 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

November 12, 2015

ROB S BEHRENS
84 STEWARTS DR
SAGLE ID 83860

RE: License No. 96-9463

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 approved application for amendment.

Enclosed is an order that reinstated this permit, since proof and the license examination fee were submitted after the proof deadline. Please note that the priority date for this permit has been advanced to June 19, 2015, as provided in section 42-218a(2), Idaho Code.

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

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on November 13, 2015, I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDERS (Preliminary Order Reinstating A Permit) & (Approved License) to the person(s) listed below:

RE: WATER RIGHT NO.

96-9463

**ROB S BEHRENS
84 STEWARTS DR
SAGLE ID 83860**



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.

RECEIVED
NOV 09 2015
DEPARTMENT OF
WATER RESOURCES

Page 1

State of Idaho
Department of Water Resources
APPLICATION FOR AMENDMENT
(For Licensing Purposes)
WATER RIGHT NO. 96-09463

Date of Priority: May 11, 2010

Maximum Diversion Rate: 0.02 CFS
Maximum Diversion Volume: 1.5 AF

Comes now ROB S BEHRENS
84 STEWARTS DR
SAGLE ID 83860 and represents to the Director of the Idaho Department
of Water Resources that he is the owner and holder of Permit to Appropriate the Public Waters of the
State of Idaho No. 96-09463, and requests that the permit be changed as follows:

Source: LAKE PEND OREILLE **Tributary:** PEND OREILLE RIVER

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
IRRIGATION	04/01 to 10/31	0.02 CFS	1.5 AF

LOCATION OF POINT(S) OF DIVERSION:

LAKE PEND OREILLE L2 (SW1/4NE1/4) Sec. 33, Twp 57N, Rge 01W, B.M. BONNER County

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
57N 01W 33			.5														.5
			L2														

Total Acres: 0.5

Permit holder asserts that no one will be injured by such change and that such change will be made
at
permit holder's own risk.

Signed this 2 day of Nov, 2015



(Signature)

State of Idaho
Department of Water Resources
APPLICATION FOR AMENDMENT
(For Licensing Purposes)
WATER RIGHT NO. 96-09463

FOR DEPARTMENT USE ONLY

Preliminary check by _____ Fee = \$100⁰⁰ Received by Dj # C101022 Date 9-21-15

ACTION OF THE DEPARTMENT OF WATER RESOURCES

I, GARY SPACKMAN, of the Department of Water Resources hereby approve the above Application for Amendment for Permit No. 96-09463 with the following:

CONDITIONS OF APPROVAL

1. This right does not grant any right-of-way or easement across the land of another.
2. A fish screen of 0.25 inch or smaller mesh shall be installed and maintained at the point of diversion.
3. Property is also known as Lot 2, 2nd Add, Bel Tane Acres.
4. This right when combined with all other rights shall provide no more than 0.02 cfs nor more than 1.5 afa at the field headgate for irrigation of the place of use.

Witness my hand this 9th day of November, 2015.

Shelley W. Keen
for GARY SPACKMAN
Director

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN THE MATTER OF PERMIT
NO. 96-9463 IN THE NAME OF
ROB S BEHRENS

)
)
)
)
**PRELIMINARY ORDER
REINSTATING A PERMIT**

This matter having come before the Idaho Department of Water Resources ("Department"), the Department finds, concludes and orders:

FINDINGS OF FACT

1. On July 28, 2010, the Department issued the above-captioned permit in the name of Rob S. Behrens ("permit holder") with the condition that proof of construction of works and application of water to beneficial use ("proof of beneficial use") be submitted to the Department on or before August 1, 2015. The permit bore the priority date of April 20, 2010.
2. On May 29, 2015, the Department notified the permit holder that proof of beneficial use was due and instructed the permit holder of the steps to be taken to submit the proof or a Request for Extension of Time ("extension request"). The letter was returned with a forwarding address, and the mailing was resent to the correct address on June 22, 2015.
4. On August 1, 2015, the permit lapsed since the Department had not received an acceptable proof of beneficial use statement or request for extension of time.
5. On August 6, 2015, the Department sent the permit holder notice that the permit had lapsed. The letter was returned and re-sent to the forwarding address on August 5, 2015. The permit holder was also notified by email on August 19, 2015 that the permit had lapsed.
6. On August 24, 2015, the permit holder filed a Statement of Completion for submitting proof of beneficial use.

CONCLUSIONS OF LAW

1. Section 42-218a, *Idaho Code*, provides that the Department may reinstate a permit upon a showing of reasonable cause by the permit holder within sixty days of the date of notice of lapsing.
2. The permit holder has provided a reasonable showing why this permit should be reinstated, by submitting an acceptable proof of beneficial use. The permit shall be reinstated based upon the August 24, 2015 filing date.

ORDER

IT IS HEREBY ORDERED that Permit No. 96-9463 is **REINSTATED** and the permit's priority date is advanced to May 11, 2010.

Dated this 9th day of November, 2015.



Shelley Keen, Manager
Water Right Section

Nelson, Dan

From: Nelson, Dan
Sent: Monday, November 02, 2015 9:39 AM
To: 'rsbehrens@gmail.com'
Subject: 96-9463 AmendmentLicense
Attachments: 96-9463 AmendmentLicense.rtf

Dear Mr. Behrens;

Attached is the corrected amendment of permit. As told you on the telephone, there is no fee for this amendment. We needed to correct the priority date from May 13, 2010 to May 11, 2010. I apologize for the error. I would appreciate it if you could print it out, review it, sign it if you feel it is correct, and send it back to my office at:

Idaho Department of Water Resources
Attn: Dan Nelson
PO Box 83720-0098
Boise ID 83720

If you have any questions, please don't hesitate to contact me.

Thank you.

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



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 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

10/02/2015

ROB S BEHRENS
84 STEWARTS DR
SAGLE ID 83860

RE: Water Right Permit No. 96-09463

Dear Permit Holders:

In the final review before issuing the license for this permit, it was discovered that the priority date had been missed calculated after the proof of beneficial use was received late. The priority date on the first amendment was May 13, 2010, and it should have been May 11, 2010 as reflected on this new amendment. Before a license can be issued, your permit must be amended to depict your water use as it was actually developed. **This was a Departmental error, so there will be no fee to make this correction, but we will need a signed amendment document that is correct.**

The enclosed Application for Amendment form depicts the elements of the water right as they will appear on the license when it is issued. Please review the amendment form carefully. If you concur with the information presented, please sign the form and return it within 14 days. **There is no fee to correct this amendment. All that is needed is a signature on the front page, and the return of the document within the 14 day period. .**

If you have any questions, please don't hesitate to contact me.

Sincerely,

Daniel A. Nelson
Staff Hydrologist
Planning Bureau
Idaho Department of Water Resources
Telephone # (208) 287-4856
Email – dan.nelson@idwr.idaho.gov

Enclosure(s)