

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 96-09478

Priority: April 29, 2011

Maximum Diversion Rate: 0.03 CFS

This is to certify, that ALAN BARRETT
31 EVERGREEN BLUFFS POINT SW
CALGARY AB T2Y 4P7
(403) 816-2555

has applied for a permit to appropriate water from:

Source: PEND OREILLE RIVER **Tributary:** COLUMBIA RIVER

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	0.03 CFS

LOCATION OF POINT(S) OF DIVERSION:

PEND OREILLE RIVER, L1 (NW1/4NW1/4NE1/4), Sec. 32, Twp 57N, Rge 02W, 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 02W 29															.6		.6
57N 02W 32			.4												L 2		.4
			L 1														

Total Acres: 1

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **October 01, 2016**.
2. Subject to all prior water rights.
3. This right does not grant any right-of-way or easement across the land of another.
4. 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.
5. 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.
6. A fish screen of 0.25 inch or smaller mesh shall be installed and maintained at the point of diversion.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Coeur d'Alene, this 19 day of September, 2011.


GARY SPACKMAN, Interim Director



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

Phone: (208) 762-2800 • Fax: (208) 762-2819 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

September 20, 2011

ALAN BARRETT
31 EVERGREEN BLUFFS POINT SW
CALGARY AB T2Y 4P7

RE: Permit No.96-9478

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,

A handwritten signature in black ink, reading "Keith E. Franklin". The signature is written in a cursive, flowing style with a large initial "K".

Keith E. Franklin

Sr. Water Resource Agent

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on September 21, 2011 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. 96-9478

**ALAN BARRETT
31 EVERGREEN BLUFFS POINT SW
CALGARY AB T2Y 4P7**

A handwritten signature in cursive script, reading "Carolyn S. Monitz", is written over a horizontal line.

**Carolyn S. Monitz
Technical Records Specialist**

Statement of Available Procedures and Applicable Time Limits

RESPONDING TO PRELIMINARY ORDERS ISSUED BY THE IDAHO DEPARTMENT OF WATER RESOURCES (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.

IDAHO DEPARTMENT OF WATER RESOURCES
APPROPRIATION APPLICATION ANALYSIS SHEET

P 8/17/11

W.R.# 96-9478

APPLICATION ID # 77235

ENT. 6/7

BCA 6/8/11

OK to Publish 6/8/11

APPLICANT: Alan Barrett

INITIAL REVIEW

BY: KD

DATE: 6/17/2011

ITEM REQUIRED INFORMATION

1. ☒ Name and Address
2. ☒ Source
3. ☒ Point of Diversion & County
4. ☒ Quantity
5. ☒ Nature of Proposed Use
6. ☒ Period of Use
7. ☒ Total Quantity
8. ☒ Description of diverting works
9. ☒ Time required for b/u
10. ☒ Proposed use
11. ☒ Place of use or acres irrigated
12. ☒ Other water Rights
13. ☒ Ownership
14. ☒ Map
15. ☒ Signature
16. ☒ Fee (Amt, receipt, acknowledgement)

*** Send info sheet Y () N ()

ADDITIONAL INFORMATION

(Yes)(No)

☒ Shape File Created Date 6/7/11 By: KD
☐ Field check: by _____
☐ Field report attached
☐ Analysis Supp. Attached (>5cfs/500af)

☐ Water delivered by water master? Water District # _____

PROCESSING

(Yes)(No)

PRIORITY DATE: 4/29/2011

(Include Moratorium Remark)
 Statewide Advertising: (Diversion rate greater than 10 cfs or 1,000 af).

ADVERTISE IN:

Newspaper: BCOB Bonner County

Dates scheduled for publication 8/18 & 25/11

Affidavit of Publication received: 9/3/11

Dates actually published: 8/18 & 25/11

Application published correctly. Yes ☒ No ☐

If not, action taken: _____

Final Date for Protest: 9/6/11

Protests Received: Yes ☐ No ☒

LETTERS SENT REQUESTING:

- () Dam Information () Fish Information
 () Power Information () Other: _____

INFORMATION RECEIVED:

- () Dam Information () Fish Information
 () Power Information () Other: _____

GROUNDWATER SECTION

WD Permit No.'s:	Tag #	Type:	Fees	Receipt No.	Upgrade Needed?
_____	_____	Dom. Non-Dom.	Paid \$ _____	_____	Y () N ()
_____	_____	Dom. Non-Dom.	Paid \$ _____	_____	Y () N ()
_____	_____	Dom. Non-Dom.	Paid \$ _____	_____	Y () N ()

Pend Drilling Fees

- ☐ Groundwater management area
☐ Critical ground water area
☐ Well Drilling Permit required
☐ Well Drilling Application and Fees received
☐ Well Drilling Application approved?

Remarks: _____

FINAL REGIONAL PROCESSING/REVIEW

(Yes)(No)

- ☒ Notice of pending void order issued.
☒ Further information required from applicant

Final order response date: ____/____/____

- ☒ Measuring device required
☒ Measuring port required
☒ Special conditions: _____
☒ Special conditions of approval supplement and/or cover letter attached: _____

Approval Recommended by: Keith L. Dahlman

Date: 9/19/2011 Sr. Agent initial KD

RECEIVED
SEP 02 2011
IDWR / NORTH

Jennifer Albert, being first duly sworn on oath, deposes and states:

- Junfer Albert

On this 25 day of Aug, in the year of 2011, before me, Sherilyn Jones, Notary Public, personally appeared James Albert, 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.

RECEIVED
SEP 02 2011
IDWR/NORTH

RECEIVED
SEP 02 2011
IDWR/NORTH

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

96-9478

ALAN BARRETT
31 EVERGREEN BLUFFS POINT SW
CALGARY, AB T2Y 4P7
Point of Diversion L1(NWNWNE) S32 T57N R02W
BONNER County
Source PEND OREILLE RIVER tributary COLUMBIA RIVER
Use: IRRIGATION 04/01 to 10/3 0.03 CFS
Total Diversion: 0.03 CFS
Date Filed: 4/29/2011
Place Of Use: IRRIGATION
T57N R02W S29 L2(SWSE)
T57N R02W S32 L1(NWNE)
Total Acres: 1

96-9479

CARY KELLY
1207 WEST ODEN BAY RD
SANDPOINT, ID 83864
Point of Diversion L3(NWSE) S8 T57N R01W BONNER CO
Source PEND OREILLE LK tributary PEND OREILLE RIVER
Use: DOMESTIC 01/01 to 12/31 0.04 CFS
Total Diversion: 0.04 CFS
Date Filed: 5/24/2011
Place Of Use: DOMESTIC
T57N R01W S8 L3(NESW) L3(NWSE)
Domestic use is for 1 home.

96-9480

JERRY FOUTS
2714 E OXBOW RD
COLBERT, WA 99005
Point of Diversion L1(NWNWNE) S32 T57N R02W
BONNER County
Source PEND OREILLE RIVER tributary COLUMBIA RIVER
Use: IRRIGATION 04/01 to 10/31 0.03 CFS
Total Diversion: 0.03 CFS
Date Filed: 6/2/2011
Place Of Use: IRRIGATION
T57N R02W S29 L2(SWSE)
T57N R02W S32 L1(NWNE)
Total Acres: 1

96-9483

HOWARD K HOGLUND
KATHRYN I HOGLUND
221 N TERRANCE DR
COCOLALLA, ID 83813
Point of Diversion L7(NWNE) S7 T55N R02W BONNER CO
Source COCOLALLA LAKE tributary COCOLALLA CREEK
Use: IRRIGATION 04/01 to 10/31 0.03 CFS
Total Diversion: 0.03 CFS
Date Filed: 7/1/2011
Place Of Use: IRRIGATION T55N R02W S7 L7(NWNE)
Total Acres: 1

Permits will be subject to all prior water rights. For additional information concerning the property location, contact Northern Region office at 208-762-2800. 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 9/6/2011. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Interim Director

SNP Legal 13276

August 18, 25, 2011

Ball, Dianne

From: Ball, Dianne
Sent: Tuesday, August 09, 2011 4:12 PM
To: Legal Notices-Bonner Co Daily Bee - Jennifer Albert (jalbert@bonnercountydailybee.com.)
Subject: Application for Permit No. 96-9478, 96-9479, 96-9480, 96-9483
Attachments: LegalNotice 08-09-11 BCDB e-mail 96-9478,79,80,83.doc

Good afternoon, Jennifer,

Please publish the enclosed legal notice on the dates indicated, August 18 and 25, 2011, (once a week for two consecutive weekly issues). If you cannot publish the notice on the proposed dates, please contact us immediately.

Please send a proof/preview copy for my review before this goes to press.

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before 9/6/2011. Your cooperation is greatly appreciated.

If you have any questions or comments, please call me or reply to this e-mail.

Thank you.

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

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

96-9478

ALAN BARRETT

31 EVERGREEN BLUFFS POINT SW

CALGARY, AB T2Y 4P7

Point of Diversion L1(NWNWNE) S32 T57N R02W

BONNER County

Source PEND OREILLE RIVER tributary COLUMBIA RIVER

Use: RIRIGATION 04/01 to 10/3 0.03 CFS

Total Diversion: 0.03 CFS

Date Filed: 4/29/2011

Place Of Use: IRRIGATION

T57N R02W S29 L2(SWSE)

T57N R02W S32 L1(NWNE)

Total Acres: 1

96-9479

CARY KELLY

1207 WEST ODEN BAY RD

SANDPOINT, ID 83864

Point of Diversion L3(NWSE) S8 T57N R01W BONNER CO

Source PEND OREILLE LK tributary PEND OREILLE RIVER

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

Total Diversion: 0.04 CFS

Date Filed: 5/24/2011

Place Of Use: DOMESTIC

T57N R01W S8 L3(NESW) L3(NWSE)

96-9480

JERRY FOUTS

2714 E OXBOW RD

COLBERT, WA 99005

Point of Diversion L1(NWNWNE) S32 T57N R02W

BONNER County

Source PEND OREILLE RIVER tributary COLUMBIA RIVER

Use: IRRIGATION 04/01 to 10/31 0.03 CFS

Total Diversion: 0.03 CFS

Date Filed: 6/2/2011

Place Of Use: IRRIGATION

T57N R02W S29 L2(SWSE)

T57N R02W S32 L1(NWNE)

Total Acres: 1

96-9483

HOWARD K HOGLUND

KATHRYN I HOGLUND

221 N TERRANCE DR

COCOLALLA, ID 83813

Point of Diversion L7(NWNE) S7 T55N R02W BONNER CO

Source COCOLALLA LAKE tributary COCOLALLA CREEK

Use: IRRIGATION 04/01 to 10/31 0.03 CFS

Total Diversion: 0.03 CFS

Date Filed: 7/1/2011

Place Of Use: IRRIGATION T55N R02W S7 L7(NWNE)

Total Acres: 1

Permits will be subject to all prior water rights. For additional information concerning the property location, contact Northern Region office at #2087622800. 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 9/6/2011. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Interim Director

Legal #

Published on 8/18/2011 and 8/25/2011

Ball, Dianne

From: Ball, Dianne
Sent: Wednesday, August 10, 2011 10:21 AM
To: mary.terra-berns@idfg.idaho.gov; jbrady@idl.idaho.gov
Subject: RE: Application for Permit No. 96-9478, 96-9479, 96-9480, and 96-9483 Bonner County

Dear Mary & Jim:

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

(Jim, I already have your comments on Barrett and Kelly. They were scheduled to publish earlier, but since our system has been down, none of these has actually published yet.)

These are all going to publish in the Bonner County Daily Bee on August 18 and 25, 2011, with September 6, 2011 as final date for protests to be received in our office.



96-9478_Barrett
.pdf



96-9479_Kelly.p
df



96-9480_Fouts.p
df



96-9483_Hoglun
d.pdf

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



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

Phone: (208) 762-2800 • Fax: (208) 762-2819 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

August 9, 2011

ALAN BARRETT
31 EVERGREEN BLUFFS POINT SW
CALGARY, AB T2Y 4P7

Application For Permit No. 96-9478

Dear Applicant(s):

The Department of Water Resources has received your water right application. Please refer to the number referenced above in all future correspondence regarding this application.

A legal notice of the application has been prepared and is scheduled for publication in the BONNER COUNTY DAILY BEE, PRIEST RIVER TIMES on 8/18/2011 and 8/25/2011. Protests to this application may be submitted for a period ending ten (10) days after the second publication.

If the application is protested, you will be sent a copy of each protest. All protests must be resolved before the application can be considered for approval. If the protest(s) cannot be resolved voluntarily, the Department will conduct a conference and/or hearing on the matter.

If the application is not protested, the Department will process your application and notify you of any action taken on the application. If your application is approved, the Department will send you a copy of the permit.

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

Sincerely,

Keith Franklin
Interim Program Manager

Cc: Marty Taylor
James A Sewell & Assoc. LLC, Sandpoint

Ball, Dianne

From: Ball, Dianne
Sent: Friday, June 10, 2011 3:09 PM
To: mary.terra-berns@idfg.idaho.gov; jbrady@idl.idaho.gov
Subject: FW: RE: Application for Permit No. 96-9478, 96-9479

This is to notify you that due to network problems with our legal notice portion of our workflow process, these applications sent earlier stating scheduled for publication June 16 and 23, 2011 will now be publishing the first 2 weeks in July with final date for protest being July 25, 2011,

If you have any questions, please contact me.

Thanks,

Don't count the days, let the days count.

Dianne

From: Ball, Dianne
Sent: Thursday, June 09, 2011 12:32 PM
To: mary.terra-berns@idfg.idaho.gov; jbrady@idl.idaho.gov
Subject: RE: Application for Permit No. 96-9478, 96-9479

Dear Mary and Jim:

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 each of the applications is enclosed for your reference.



96-9478_Barrett.pdf
f



96-9479_Kelly.pdf

These are being prepared for publication in Bonner County Daily Bee on June 16 and 23, 2011 with July 5, 2011 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

Ball, Dianne

From: Jim Brady [jbrady@idl.idaho.gov]
Sent: Thursday, June 09, 2011 1:12 PM
To: Ball, Dianne
Subject: RE: Application for Permit No. 96-9478, 96-9479

Thank you for opportunity to comment.

A search through our files did not indicate a permit has been sought from our Department to place this encroachment on the bed of the lake. I will be notifying the applicant, Mr. Barrett, a permit is also required from our Department.

I am currently processing an application from Mr. Kelly to place a water intake system in Lake Pend Oreille. Therefore we have no comment for this particular application.

Jim Brady

From: Ball, Dianne [<mailto:Dianne.Ball@idwr.idaho.gov>]
Sent: Thursday, June 09, 2011 12:32 PM
To: mary.terra-berns@idfg.idaho.gov; Jim Brady
Subject: RE: Application for Permit No. 96-9478, 96-9479

Dear Mary and Jim:

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 each of the applications is enclosed for your reference.

<<96-9478_Barrett.pdf>> <<96-9479_Kelly.pdf>>

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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

Ball, Dianne

From: Ball, Dianne
Sent: Thursday, June 09, 2011 12:32 PM
To: mary.terra-berns@idfg.idaho.gov; jbrady@idl.idaho.gov
Subject: RE: Application for Permit No. 96-9478, 96-9479

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96-9478_Barrett.pdf
f



96-9479_Kelly.pdf

These are being prepared for publication in Bonner County Daily Bee on June 16 and 23, 2011 with July 5, 2011 final date for protests to be received in our office.

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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



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

Phone: (208) 762-2800 • Fax: (208) 762-2819 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

May 27, 2011

Marty Taylor
James A Sewell & Associates, LLC
1205 Highway 2, Ste. 101
Sandpoint, ID 83864

Re: Application For Permit to Appropriate the Public Waters of the State of Idaho
No. 96-9478, Alan Barrett

Dear Marty:

The department is once again returning the above mentioned application for additions and/or corrections.

The department is having trouble determining the shape for the place of use. The aerial black & white photograph that was submitted with the application, copy of which is enclosed, apparently has been altered to match up Bonner County tax lots, please refer to the color version of the same photograph for comparison. We will need to resolve this issue before processing can be completed.

Also, since acreage is being added within Section 29, the application will need to be altered to reflect what how many acres will be irrigated in the SESW and the SWSE. Please correct the application and initial each change.

Once the application has been amended, please return it to me within the next 30 days. Please give me a call at your earliest convenience so we can further discuss the dilemma of the shape drawing

Thank you.

Sincerely,

COPY

Keith E Franklin
Senior Water Resources Agent

Enclosure(s)

RECEIVED
JUN 02 2011
IDWR / NORTH

Marty Taylor

From: Marty Taylor
Sent: Tuesday, May 31, 2011 2:37 PM
To: 'Franklin, Keith'
Cc: foothillsreno@nucleus.com; 'Jerry Fouts'
Subject: Draft Water Right Application (Barrett)
Attachments: Corrected aerial and preplat to IDWR (May 31 2011).pdf; IDWR aerial with registration error (May 31 2011).pdf

Hi Keith:

Pursuant to your 5/27/11 letter requesting that I call you, I left you a message at 1:10 p.m., 5/31/11, Tuesday. Give me a call and I'd be happy to clarify this IDWR mapping confusion.

In response to your 5/27/11 letter, I have added the Section 29 data confirming that 0.6 acre will be irrigated in the SW4SE4, S29 T57N R2W, while 0.4 acre will be irrigated in the NW4NE4, S32 T57N R2W. I will mail back to you 6/1/11 the amended application.

The confusion rests with the map you sent me not correctly registering the assessor's parcels between Sections 29 and 32. We ran up against this same registration problem. I previously correctly spliced the two sections together so that they register properly. Hence, the "altered" photo you referenced. You wouldn't have had any way of knowing about this registration problem. We discovered it after doing some survey work.

The color photo attached to your 5/27/11 letter confirms this registration problem. The photo correctly depicts the Barrett boundary, it just doesn't correctly align the assessor's parcels in Section 29 with the assessor's parcels in Section 32, hence the parcel separation shown on your photo (attached for ready reference).

Attached is your photo showing how the two assessor plats correctly align after I correctly aligned the assessor parcels. Also attached is the preliminary plat (sheets 1 and 2) correctly depicting the subject property and its relationship with the assessor's parcels in both sections. Note that these two sheets are stamped by our surveyor.

Thanks.

Marty

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5/31/2011

Franklin, Keith

From: Marty Taylor [mtaylor@jasewell.com]
Sent: Monday, May 16, 2011 11:00 AM
To: Franklin, Keith
Subject: RE: Draft Water Right Application (Barrett)

The Section 29 acreage is 0.6. The Section 32 acreage is 0.4.

Thanks.

Marty

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From: Franklin, Keith [mailto:Keith.Franklin@idwr.idaho.gov]
Sent: Monday, May 16, 2011 10:46 AM
To: Marty Taylor
Subject: RE: Draft Water Right Application (Barrett)

If water is to be used in Section 29, I will need to know what fraction of the 1 acre will be irrigated in Section 29 and what fraction in Section 32. Right now the application is for the irrigation of one acre only in Section 32.

Keith.

From: Marty Taylor [mailto:mtaylor@jasewell.com]
Sent: Monday, May 16, 2011 9:03 AM
To: Franklin, Keith
Subject: RE: Draft Water Right Application (Barrett)

Thanks, Keith. It makes sense to reference Gov 1 if that's *all* that was to be referenced, as pointed out by our surveyor. I figured that your data entry caused the conflict by needing to reference an aliquot part. No problem. The POD is in that NWNE.

Please see my 4/1/11 e-mail where I asked you "Because portions of the property that will be irrigated are located in the NE4 NW4 of Section 32, the SE4 SW4 of Section 29, and the SW4 SE4 of Section 29, I still need to know if you would like me to list all four quarter-quarter sections."

Your 4/5/11 response was "Go ahead and submit the application," so I did. Consequently, the app only states Section 32, though some of the property to be irrigated is also in Section 29 as shown on the mapping.

Marty

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From: Franklin, Keith [mailto:Keith.Franklin@idwr.idaho.gov]
Sent: Monday, May 16, 2011 8:45 AM
To: Marty Taylor
Subject: RE: Draft Water Right Application (Barrett)

Marty,
Government Lot 1 is the governing description for the location of the property in Section 32. The naming of the quarter quarter is just to satisfy our data entry for the location. We will yield to your surveyors description of the NWNE.

Even though your clients land extends into Section 29, the application requests the irrigation of the 1 acre is to take place in Section 32 only.

We will further process the application.

Keith.

From: Marty Taylor [mailto:mtaylor@jasewell.com]
Sent: Thursday, May 12, 2011 5:04 PM
To: Mark Duffner; Franklin, Keith
Subject: RE: Draft Water Right Application (Barrett)

Thanks, Mark, for clarify that the POD is located in the NW4NE4.

Keith:

You offered that the department's records indicate that the NE4NW4 is the most appropriate choice. What records are those? The aerial you provided does not place the POD in the NE4NW4. The aerial does not depict the N-S Section 32 centerline. However, the portion of the subdivision plat that Mark shared with you does. The POD is most certainly in the NW4NE4 as confirmed by our licensed land surveyor.

Consequently, I can't consent to an application that places the POD in the wrong area. The POD that the IDWR application references is on the neighbor's property to the west.

In addition, the subject property extends into adjacent Section 29 as I mapped out for you previously (attached), and as is shown on the subdivision plat that Mark shared with you. (Proposed Lot 1 is the subject area.) The discrepancy as I see it is the use of assessor mapping that is not registering correctly between Sections 32 and 29, compounded by the underlying aerial. The attached aerial correctly correlates with the assessor's plat.

Attached is your draft application correctly amended.

If it helps you out, Mark is available if you need to further discuss this mapping issue. Mark left a phone message with you 5/12/11.

Thanks.

Marty

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From: Mark Duffner
Sent: Thursday, May 12, 2011 4:13 PM
To: Marty Taylor
Cc: Keith.Franklin@idwr.idaho.gov
Subject: RE: Draft Water Right Application (Barrett)

Marty,

I got my labels crossed on the file names. See renamed attachments.

Mark

Mark W. Duffner, PLS
James A. Sewell & Associates, LLC
1205 Highway 2, Suite 101
Sandpoint, Idaho 83864
208-263-4160
208-255-8099 (mobile)
<http://www.jasewell.com>

From: Mark Duffner
Sent: Thursday, May 12, 2011 3:15 PM
To: Marty Taylor
Cc: 'Keith.Franklin@idwr.idaho.gov'
Subject: RE: Draft Water Right Application (Barrett)

Marty,

Properly stated, the P.O.D. is in Government Lot 1 of Section 32. However, if it was necessary to place it in a GLO plat quadrant then it would be in the Northwest Quarter of the Northeast Quarter of Section 32, nothing else.

I am cc-ing this email to Keith Franklin with attached my marked up and PLS stamped copy of a portion of a GLO plat and the map page from the Barrett plat, also with my PLS stamp on it. These exhibits clearly depict the aliquot relationships vis-à-vis the P.O.D.

I hope this clarifies the matter.

Mark

Mark W. Duffner, PLS
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State of Idaho

DEPARTMENT OF WATER RESOURCES

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

Phone: (208) 762-2800 • Fax: (208) 762-2819 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

May 10, 2011

Marty Taylor
James A. Sewell & Associates, LLC
1205 Highway 2, Ste. 101
Sandpoint, ID 83864

Re: Application for Permit to Appropriate the Public Waters of the State of Idaho
No. 96-9478, Alan Barrett

Dear Marty:

Before I advertise the above said application I wanted you to see the final draft with a change to the location of the point of diversion and place of use. The original 1880 survey shows the property is located within Government Lot 1 of Section 32, which prevails over identifying the location by a quarter quarter. If you look at the maps, Government Lot 1 encompasses both the NWNE and the NENW. The department's records indicate the NENW is the most appropriate choice to use in processing the application.

Also, I have provided a shape map showing where the water will be used within Section 32 and no water being used within Section 29.

After you have reviewed this information, please e-mail me back your conformation or comments.

Thanks.

Sincerely,

COPY

Keith E Franklin
Senior Water Resources Agent
Enclosure(s)

RECEIVED

APR 29 2011

Marty Taylor

IDWR / NORTH

From: Marty Taylor
Sent: Tuesday, April 05, 2011 12:45 PM
To: 'Franklin, Keith'
Subject: RE: Draft Water Right Application (Barrett)

Will do.

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From: Franklin, Keith [mailto:Keith.Franklin@idwr.idaho.gov]
Sent: Tuesday, April 05, 2011 10:45 AM
To: Marty Taylor
Subject: RE: Draft Water Right Application (Barrett)

Go ahead and submit the application.
Keith.

From: Marty Taylor [mailto:mtaylor@jasewell.com]
Sent: Tuesday, April 05, 2011 8:45 AM
To: Franklin, Keith
Subject: FW: Draft Water Right Application (Barrett)

Are we good to go now, Keith? I'll get signatures and a filing fee if you're ready.
Thanks.
Marty

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James A. Sewell & Associates, LLC

4/27/2011

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From: Marty Taylor
Sent: Friday, April 01, 2011 1:42 PM
To: 'Franklin, Keith'
Subject: RE: Draft Water Right Application (Barrett)

No problem, Keith.

I see the confusion. The map that you're looking at does not clearly depict the north-south centerline of Section 32. Hence, you thought the POD was in the NENW. It's actually in the NWNE. What further compounds the confusion is that the map you sent me does not correctly register the boundary between Sections 29 and 32, nor is the photo accurately registered with the assessor's plat. We ran up against this same registration problem. I have correctly spliced the two sections together. You wouldn't have had any way of knowing about this registration problem. We discovered it after doing some survey work. See attached. It's not very good quality. I think you're better served using the attached "Section 32" map which clearly depicts the Section 32 breakdown.

Because portions of the property that will be irrigated are located in the NE4 NW4 of Section 32, the SE4 SW4 of Section 29, and the SW4 SE4 of Section 29, I still need to know if you would like me to list all four quarter-quarter sections.

Marty

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From: Franklin, Keith [mailto:Keith.Franklin@idwr.idaho.gov]
Sent: Friday, April 01, 2011 11:16 AM
To: Marty Taylor
Subject: RE: Draft Water Right Application (Barrett)

Marty,

Sorry I haven't got back to before now. I've been working on a big project that has taken all my time. I have attached an aerial photograph of the area in question, so you can see what we're up against. If you can draw the boundary of the property for your proposal and submit that with the application that should do it. If

4/27/2011

not, I would get back with you.
Keith

From: Marty Taylor [mailto:mtaylor@jasewell.com]
Sent: Tuesday, March 29, 2011 1:17 PM
To: Franklin, Keith
Subject: FW: Draft Water Right Application (Barrett)

Sorry, Keith. I forgot to say "see comment, below." I responded to your location comments.
Thanks.

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From: Marty Taylor
Sent: Tuesday, March 29, 2011 12:03 PM
To: 'Franklin, Keith'
Subject: RE: Draft Water Right Application (Barrett)

Thanks, Keith.

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4/27/2011

Cell: 208-610-0465

From: Franklin, Keith [mailto:Keith.Franklin@idwr.idaho.gov]

Sent: Monday, March 28, 2011 10:46 AM

To: Marty Taylor

Subject: RE: Draft Water Right Application (Barrett)

Marty,

The Bonner County tax lot information for this area doesn't match anything that's in the states data base, so I can't determine which lot or lots Mr. Barrett owns.

With that said, here are corrections that need to be made to the application.

The subject property consists of two "tax parcels," D00000320853A and D0094001006FA.

Line Item #3 the land is located within Government Lot 1 in the NE1/4 of the NW1/4.

The POD is located in the NW4 NW4 NE4 of Section 32. Please see attached map.

Line Item #4. Since he is planning to irrigate one acre the diversion rate would be 0.03 cfs rather than 0.04 cfs and the time of use for this area is between April 1 and October 31.

I'll change to 0.03 cfs in both places. Thanks for the help determining that amount.

Line Item #5 would be 0.03 cfs instead of 0.04 cfs.

I'll change to 0.03 cfs in both places. Thanks for the help determining that amount.

Line Item #8 The quarter quarter the 1 acre is located in would be the NE1/4 of the NW1/4 rather than the NW1/4 of the NE1/4

Everything else looks ok.

The POD is located in the NW4 of the NE4 (quarter-quarter section; (40 acre area). See attached map. However, a portion of the property that will be irrigated is located in the NE4 NW4, too. For that matter, a portion of the property that will be irrigated is also located in the SE4 SW4 of Section 29, as well as the SW4 SE4 of Section 29. See map. Would you like me to list all four quarter-quarter sections?

Keith E Franklin
Senior Water Resources Agent
Northern Region
208-762-2800

From: Marty Taylor [mailto:mtaylor@jasewell.com]

Sent: Friday, March 25, 2011 3:52 PM

To: Franklin, Keith

Subject: Draft Water Right Application (Barrett)

Hi Keith:

Attached for your look-see is a draft app for irrigating some landscaping via the Pend Oreille River.

Before I seek signature and send you the filing fee, I have found in the past that it has been very helpful to have you take a look first.

4/27/2011

The lot contains about an acre and a quarter, of which I estimated high that maybe an acre of that could be landscaped. I'm thinking of sticking with that 0.04 cfs (± 18 gpm) max, if you think that makes sense.

Also, I think we can limit the lawn watering season to March through October. Folks around here don't do any lawn watering Nov – Feb anyway.

Lastly, I listed what I believe is the max period to prove up your beneficial use --- 5 years.

You can call me if I need to make any revisions.

Thanks in advance for your assistance.
Marty

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