

State of Idaho
Department of Water Resources
Water Right License
Water Right No. 96-12010

Priority: July 20, 2022

Maximum Diversion Rate: 0.01 CFS

Maximum Diversion Volume: 0.6 AF

It is hereby certified that:

MARY A HERLIHY LIVING TRUST 2456 SUNNYSIDE RD SANDPOINT ID 83864-6482

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated July 20, 2022, and has submitted Proof of Beneficial Use on July 13, 2023. An examination confirms water is diverted from:

Source: LAKE PEND OREILLE

Tributary: PEND OREILLE RIVER

Beneficial Use
IRRIGATION

Period of Use
04/01 to 10/31

Rate of Diversion
0.01 CFS

Annual Volume
0.6 AF

Location of Point(s) of Diversion

LAKE PEND OREILLE NE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 10, Twp 57N, Rge 01W, B.M. BONNER County

Place of Use: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
57N	01W	10													0.2				0.2

Total Acres: 0.2

Conditions of Approval

1. This right when combined with all other rights shall provide no more than 0.01 cfs nor more than 0.6 afa at the field headgate for irrigation of the place of use.
2. This right does not grant any right-of-way or easement across the land of another.

This license is issued pursuant to the provisions of Idaho Code § 42-219. 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 14th day of August, 20 23.



PHILL HUMMER
Water Rights Supervisor

SCANNED
AUG 22 2023

State of Idaho
Department of Water Resources
Attachment to Water Right
96-12010

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



0 0.035 0.07 0.14 Miles

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

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AUG 22 2023



N

RECEIVED

JUL 13 2023
DEPARTMENT OF
WATER RESOURCESSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
STATEMENT OF COMPLETION
FOR SUBMITTING PROOF OF BENEFICIAL USE

FOR OFFICE USE ONLY

Amt. of Fee \$ 50.00
Receipt No. C116727
Received By LM
Date Received 7.13.23

The Idaho Department of Water Resources (Department) considers this form a statement that the permit holder(s) applied water to beneficial use and completed development of a water right to the extent described below. **This form must be accompanied by an examination fee, when necessary, or by a completed Beneficial Use Field Report prepared by a certified water right examiner (CWRE).** Please refer to the instructions and fee schedule for this form. If ownership of the permit has changed, complete a Notice of Change in Water Right Ownership form. If you wish to relinquish your permit because you have not established the authorized water use and are not applying for an extension, please notify the Department in writing.

- Permit No. 96-12010 Name of Permit Holder(s) Marg A. Herlihy Living Trust
Telephone No. 208-610-6215 Email margherlihy73@gmail.com
Mailing Address 2456 Sunnyside Rd City Sandpoint State ID Zip 83864
- Source of Water Lake Pend Oreille If Ground Water (well), Date Drilled mo. ____ / yr. ____
Drilling Permit/Tag No. ____ Drilling Company's Name ____
- Extent of use(s) completed as authorized by the water right permit:
Domestic (No. households) ____ Irrigation (No. acres) 0.5 Stockwater (No. and stock type) ____
Other ____
- Total diversion rate or volume (storage only) for which proof is submitted 0.03 cfs OR ____ af
If the total developed water use is 5 acres of irrigation or less, is stockwater storage of 14.6 acre-feet or less, or has a diversion rate of less than 0.24 cfs, attach a map of the place of use and point of diversion and photographs showing beneficial use.
- Describe the diversion and delivery system from the water source to the use (pump, lift, irrigation method, etc.)
pump with intake line, foot valve, filter
for irrigation of lawn and landscape
- Permit condition compliance. Refer to the permit approval conditions and check all the items required, then check "Yes" or "No" to indicate whether the required items were established, submitted, and/or installed:
Required? Yes No (If "Yes", attach required data, evidence of compliance, or evidence of installation)

☐	☐	☒	Ground water level data, pumping information, or other diversion data
☐	☐	☒	Mitigation plan
☐	☐	☒	Lockable controlling works
☐	☐	☒	Measuring device
☒	☒	☐	Fish screen
☐	☐	☒	Other requirements of the water right permit _____
☐	☐	☒	Reasonably Anticipated Future Needs ("RAFN") Municipal use

If RAFN Municipal use, additional increment of beneficial use developed? ☐ Yes (attach CWRE report) ☐ No
- Fee Enclosed \$ 50.00 or ☐ CWRE field report attached or ☐ No fee required
See fee schedule on page 3 of the instructions. Proof statements filed without an appropriate fee are incomplete.
- Person to contact to accompany a Department representative during the field examination of the water system:
Name: Mary Herlihy Telephone No. 208-610-6215 Email margherlihy73@gmail.com
Mailing Address 2456 Sunnyside Rd City Sandpoint State ID Zip 83864

The information given on this form is my true statement of the extent to which the above numbered permit has been developed and water has been diverted and applied to beneficial use. I understand that any undeveloped portion of the permit is relinquished to the State of Idaho.

Mary A Herlihy
SIGNATURE OF PERMIT HOLDER*

Mary A. Herlihy (Trustee)
PRINTED NAME AND TITLE

7-5-23
DATE

*Attach power of attorney if completing on behalf of permit holder.

SCANNED

AUG 22 2023



Governor Brad Little

Director Gary Spackman

August 22, 2023

MARY A HERLIHY LIVING TRUST
2456 SUNNYSIDE RD
SANDPOINT ID 83864-6482

RE: License No. 96-12010

ISSUANCE OF LICENSE

Dear Water Right Holder(s):

The Department of Water Resources ("Department") 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 all the conditions of approval listed on your license. The conditions may include ongoing requirements, such as maintenance of a measuring device or implementation of mitigation, as well as information about how your water use may be administered, such as regulation by a watermaster in a water district.

The license is a PRELIMINARY ORDER issued by the Department pursuant to Rule 730 of the Department's Rules of Procedure (IDAPA 37.01.01.730). It can and will become a final order without further action by the Department unless a party petitions for reconsideration, files exceptions, or requests a hearing as described in the enclosed information sheet.

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. Water right forms are available from any office of the Department or on the Department's website at idwr.idaho.gov

If you have any questions concerning the enclosed information, please contact me at (208) 287-4925.

Sincerely,

Jean Hersley

for
Phill Hummer
Water Rights Supervisor

Enclosure(s)

SCANNED

AUG 22 2023

CERTIFICATE OF SERVICE

I hereby certify that on August 23, 2023, I served a true and correct copy of Water Right License No. 96-12010 by U.S. Mail, postage prepaid, to the following:

MARY A HERLIHY LIVING TRUST (Current Owner)
2456 SUNNYSIDE RD
SANDPOINT ID 83864-6482

MARY A HERLIHY (Trustee)
2456 SUNNYSIDE RD
SANDPOINT ID 83864-6482



Jean Hersley
Technical Records Specialist 2

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.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
IN-OFFICE REVIEW/BENEFICIAL USE FIELD REPORT

A. GENERAL INFORMATIONExam Date: 7/31/2023

1. Does this qualify for an in-office field exam (IDAPA 37.03.02.035.01.r)? X Y N
- a. X Irrigation of 5 acres or less
- b. Storage of up to 14.6 AF for stockwater purposes only
- c. Any use other than irrigation or storage, if the combined diversion rate is 0.24 cfs or less
- d. Other < >
2. Current Owner: Mary A. Herlihy Living Trust
- Owner of Record Correct? N
- Address of Record Correct? N
- If No Explain: N/A
3. Beneficial Use Fees have been paid: X Y N Receipt No: C116727
4. Source: Tributary:
- Lake Pend Oreille Pend Oreille River

Method of Determination:

Change in Source: Y X N

B. OVERLAP REVIEW

1. Other water rights with the same place of use: No Overlap

Water Right No.	Source	Purpose of Use	Basis
96-8953	Lake Pend Oreille	Municipal	License
96-7011	Lake Pend Oreille	Municipal	License

Comments: Water right 96-8953 and 96-7011 overlap the proposed place of use. According to the permit holder's application for permit water under 96-8953, held by the Oden Water Association, is used for in house domestic use. Since the overlapping water rights are municipal water rights there is no reason to limit 96-8953, 96-7011, and this permit.

2. Other water rights with the same point of diversion: X NO Overlap

Water Right No.	Source	Purpose of Use	Basis
N/A			

Comments: N/A

C. DIVERSION AND DELIVERY SYSTEM

1. Location of Point(s) of Diversion:

Source	Govt. Lot	¼	¼	¼	Sec.	Twp.	Rge.		County
Lake Pend Oreille			NE	SE	10	57N	01W	B.M.	Bonner
								B.M.	
								B.M.	

Method of Determination: GIS and Tax Parcel Data.

Change in POD? Y X N Amendment Required? Y X N

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2. 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	10													0.2				0.2
		Lot #																	N/A
Total Acres =																			0.2

Method of Determination: GIS, Tax Parcel Data, 2023 Bonner County Aerial Imagery, and a phone conversation with the permit holder on July 31st, 2023.

Change in POU? Y X N Amendment Required? Y X N

 Delivery System Diagram Attached (required). Indicate all major components and distances between components.

Indicate weir size/pipe as applicable:

 X Aerial Photo Attached (required for irrigation of 10+ acres).

 Photo of Diversion and System Attached

3. Diversion Id No.*	Motor Make	HP	Motor Serial No.	Pump Make	Pump Serial No. or Discharge Size
N/A					

*Code to correspond with No. on map and aerial photo

D. FLOW MEASUREMENTS

1. Measurement Equipment	Type	Make	Model No.	Serial No.	Size	Calib. Date
N/A						

2. Measurement Comments: The permit holder did not provide pump horsepower. Therefore, a diversion rate calculation is not possible.

E. FLOW CALCULATIONS

 Additional Computation Sheets Attached

Measured Method: Since the permit holder did not provide a pump horsepower a diversion rate calculation is not possible. According to Administrative Processing Memo #17 the standard diversion rate/acre for the irrigation of less than 5 acres is 0.03 cfs per/acre, (0.2 acres) *(0.03 cfs/acre) = 0.006 cfs or 0.01 cfs rounded. The permit authorizes 0.03 cfs. I am recommending a 0.01 cfs diversion rate.

F. VOLUME CALCULATIONS

1. Volume Calculations for Irrigation:

$$V_{I.R.} = (\text{Acres Irrigated}) \times (\text{Irrigation Requirement}) = (0.2 \text{ acres}) \times (3 \text{ af/acre}) = 0.6 \text{ af}$$

$$V_{D.R.} = [\text{Diversion Rate (cfs)}] \times (\text{Days in Irrigation season}) \times 1.9835 = (0.01 \text{ cfs}) \times (214 \text{ days}) \times (1.9835) = 4.2 \text{ af}$$

$$V = \text{Smaller of } V_{I.R.} \text{ and } V_{D.R.} = 0.6 \text{ af}$$

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AUG 22 2023

G. PURPOSE OF USEIrrigation X Y N # Stock N/A Domestic # of Homes N/A

Other: < >

Change in Purpose of Use? Y X NMethod of Determination: GIS, Tax Parcel Data, 2023 Bonner County Aerial Imagery, and a phone conversation with permit holder on 7/31/2023.If Yes: From Use To Use Amount CFS AFA **H. NARRATIVE/REMARKS/COMMENTS**

This permit qualifies for an in-house examination. According to Tax Parcel Data the property was developed in 1965. 2023 Bonner County Aerial Imagery confirmed at least 0.2 acres of irrigation occurred. However, it was difficult to completely confirm irrigation due to trees blocking possible irrigation. After a phone conversation with the permit holder on July 31st, 2023, it was confirmed where 0.2 acres of irrigation occurred. There were garden beds to the west of the home, but the permit holder explained they did not irrigate those with the developed diversion system but rather hand irrigated them with in-house water provided by the Oden Water Association. The projected Tax Parcel boundary and visual property boundary did not match. The place of use was updated to match the visual property boundary. According to the permit holder's Statement of Completion for Proof of Beneficial Use a fish screen was installed that meets the fish screening and passage requirements of the Idaho Department of Fish and Game.

Since the permit holder did not provide a pump horsepower a diversion rate calculation is not possible. The standards set in Administrative Processing Memo #17 was used to make a diversion rate recommendation. All of the conditions have been met and it has been confirmed a beneficial use was developed within authorization of the permit. Therefore, I am recommending a 0.01 cfs diversion rate and 0.6 af diversion volume.

Conditions X31 and 004 should remain on the license. Condition 029 should be removed because the permit holder installed a fish screen that meets the fish screening and passage requirements of the Idaho Department of Fish and Game. All other conditions should be removed as standard with licensing.

Have conditions of permit approval been met? X Yes No**I. RECOMMENDATIONS**

1. Recommended Amounts:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL VOLUME</u>
Irrigation	04/01-10/31	0.01 CFS	0.6 AF
<u>Totals:</u>		0.01 CFS	0.6 AF

2. Recommended Amendments:

 Change P.D. as reflected above Add P.D. as reflected above X None Change P.U. as reflected above Add P.U. as reflected above X None

Other: < >

J. AUTHENTICATION Skyler Cheever – Water Resource AgentField Examiner's  Date 7/31/2023Reviewer  Date 8/9/23

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AUG 22 2023

Field Exam Map

Map showing the authorized point of diversion (yellow point) and place of use (orange outline).



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Irrigation Map

2023 Bonner County Aerial Imagery confirming the irrigation of 0.2 acres along with a phone conversation with the permit holder on July 31st, 2023.

96-12010 Irrigation Map



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AUG 22 2023

Beneficial Use Proof Evaluation

Permit Number: 96-12010 Reviewer: AVeibell Review Date: 7/13/2023

Acceptability

- 1) Is the contact on the request the current permit holder? Yes
- 2) Does the address of record need to be updated? No
- 3) Proof Submitted Date: 7/13/2023
- 4) Proof Due Date: 9/1/2023
- 5) Days added for weekend due date?
- 6) Days added for holiday due date?
- 7) Number of days late: -50
- 8) Proof received timely? Yes

Analysis

- 1) Are the water uses correct? Yes
- 2) Are one of the following items required?
 - a. Measuring Device -- No
 - b. Lockable Device --No
 - c. Fish Screen -- No
- 3) Are the required items installed? Yes
 - a. Measuring Device -- No
 - b. Lockable Device --No
 - c. Fish Screen -- No
- 4) Is there a request to waive the required items? No
- 5) Drilling Permit Number:
- 6) Is a drilling permit upgrade needed? No
- 7) Was a well drillers report filed? No
- 8) Is proof accepted? Yes

Fees

- 1) Is a licensing exam fee required? Yes
- 2) Was proof submitted with an exam report from a CWE? No
- 3) Filing fee due: \$50.00
- 4) Filing fee submitted: \$50.00
- 5) Remaining fee or (refund): \$0.00

Receipt IDs

N040596

Comments

Proof deemed acceptable. Gave file to water right agent for in-house license review. Water right agent will enter the proof made date in AdHoc at the time of licensing.



IDAHO DEPARTMENT OF
WATER RESOURCES

322 E Front Street, Suite 648, Boise ID 83702 • PO Box 83720, Boise ID 83720-0098
Phone: 208-287-4800 • Fax: 208-287-6700 • Email: idwrinfo@idwr.idaho.gov • Website: idwr.idaho.gov

Governor Brad Little

Director Gary Spackman

June 30, 2023

MARY A HERLIHY LIVING TRUST
2456 SUNNYSIDE RD
SANDPOINT ID 83864-6482

NOTICE: STATEMENT OF COMPLETION DUE

RE: Permit No. 96-12010

IMPORTANT: A response from you is required to maintain the active status of the referenced water right permit. If no response is received from you, the permit will lapse and your authorization to develop and/or use this water right will be cancelled.

Dear Permit Holder(s):

One of the conditions of approval of the above referenced water permit was that proof of the extent of your beneficial use must be submitted to this office on or before **September 01, 2023**. Please complete and return the enclosed Statement of Completion for Submitting Proof of Beneficial Use (proof) if you have completed the water project authorized by your permit. The proof statement must be accompanied by either the appropriate license examination fee or a field examination report prepared by a certified water right examiner.

If you have not fully completed your project, and you or a previous owner of this permit have not received a prior extension of time, you may request an extension of time if the delay is for reasonable cause as provided in Section 42-204, Idaho Code. If you have been delayed by a government agency or by litigation that brings title to the water in question, an extension of time may be granted if appropriate documentation is provided at the time of filing. An extension request must be accompanied by a \$50.00 filing fee and signed by the appropriate authorized permit holder(s) or authorized representative with a power of attorney.

Either an acceptable proof or an acceptable extension request must be received by this department on or before the above proof due date. If neither is received, the department will send you a lapse notice and the permit will no longer be of any force or effect.

Sincerely,

Water Rights Section

Enclosure(s)

CERTIFIED MAIL

7021 1970 0000 0024 4847

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JUL 03 2023