

State of Idaho
Department of Water Resources
Water Right License
Water Right No. 96-11087

Priority: May 04, 2022

Maximum Diversion Rate: 0.02 CFS

It is hereby certified that:

KELLY TRUST PO BOX 728 PRIEST RIVER ID 83856-0728

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated May 04, 2022, and has submitted Proof of Beneficial Use on April 13, 2023. An examination confirms water is diverted from:

Source : PEND OREILLE RIVER

Tributary: COLUMBIA RIVER

Beneficial Use
IRRIGATION

Period of Use
04/01 to 10/31

Rate of Diversion
0.02 CFS

Location of Point(s) of Diversion

PEND OREILLE RIVER SE¼ SW¼, Sec. 31, Twp 56N, Rge 03W, 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	
56N	03W	31									0.6			0.2					0.8
											L6								

Total Acres: 0.8

Conditions of Approval

1. Point of diversion is located within Lot 6, On The Waterfront Subdivision.
2. Place of use is located within Lot 6, On The Waterfront Subdivision.
3. 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.
4. 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 24th day of April, 2023.



PHILL HUMMER
Water Rights Supervisor

SCANNED

MAY 17 2023

State of Idaho
Department of Water Resources
Attachment to Water Right
96-11087

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.



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



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MAY 17 2023

0 400 800 Feet

RECEIVED

APR 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.	C115872
Received By	24
Date Received	4.13.23

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.

1. Permit No. 96-11087 Name of Permit Holder(s) Kelly Trust
Telephone No. 208-255-1631 Email building Idaho 26 @ YAHOO.COM
Mailing Address P.O. Box 728 City Pratt River State ID Zip 83856

2. Source of Water Pend Oreille River If Ground Water (well), Date Drilled mo. ____ / yr. ____
Drilling Permit/Tag No. ____ Drilling Company's Name ____

3. Extent of use(s) completed as authorized by the water right permit:

Domestic (No. households) 1 Irrigation (No. acres) 1.4 Stockwater (No. and stock type) ____
Other ____

4. Total diversion rate or volume (storage only) for which proof is submitted 0.04 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.

5. Describe the diversion and delivery system from the water source to the use (pump, lift, irrigation method, etc.)

WATER LINE GOES FROM WATER TO A SMALL ELECTRIC PUMP TO GO TO SPRINKLER HEADS

6. 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

7. 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.

8. Person to contact to accompany a Department representative during the field examination of the water system:

Name: Richard Kelly Telephone No. 208-255-1631 Email building Idaho 26 @ YAHOO.COM
Mailing Address P.O. Box 728 City Pratt River State ID Zip 83856

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.

Richard A Kelly
SIGNATURE OF PERMIT HOLDER*

RICHARD A KELLY / OWNER
PRINTED NAME AND TITLE

4/10/2023
DATE

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

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MAY 17 2023



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

April 26, 2023

KELLY TRUST
PO BOX 728
PRIEST RIVER ID 83856-0728

RE: License No. 96-11087

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,

Phill Hummer
Water Rights Supervisor

Enclosure(s)

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CERTIFICATE OF SERVICE

I hereby certify that on April 27, 2023, I served a true and correct copy of Water Right License No. 96-11087 by U.S. Mail, postage prepaid, to the following:

KELLY TRUST (Current Owner)
PO BOX 728
PRIEST RIVER ID 83856-0728



Sidney Palmer
Technical Records Specialist 1

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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 INFORMATIONPermit No: 96-11087Exam Date: 4/21/2023

1. Does this qualify for an in-office field exam (IDAPA 035.02.r)? X Y N
- Irrigation of 5 acres or less
 - Storage of up to 14.6 AF for stockwater purposes only
 - Any use other than irrigation or storage, if the combined diversion rate is 0.24 cfs or less
 - Other < >

2. Current Owner: Name: David and/or Karen Brown
- Owner of Record Correct? X Y N
- Address of Record Correct? X Y N
- If No: Address

According to Tax Parcel Data the property is owned by David and Karen Brown.

3. Beneficial Use Fees have been paid: X Y N Receipt No: C115872

4. **SOURCE** **TRIBUTARY**

Pend Oreille River

Columbia River

Method of Determination: GIS and Tax Parcel DataChange in Source: Y X N**B. OVERLAP REVIEW**

1. Other water rights with the same place of use: Yes Overlap

Water Right No.	Source	Purpose of Use/Affiliation	Basis
96-9081	Groundwater	Domestic	Licensed

Comments: The only right overlapping the permit place of use (POU) is a domestic right diverting groundwater, owned by On the Waterfront HOA. The HOA owns the rights for domestic use for lots 3-11 (the permit is for Lot 6). The licensed will carry condition R66 over from the permit to limit use to 0.03cfs per acre total to prevent any enlargement or injury concerns.

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

Water Right No.	Source	Purpose of Use	Basis
96-8730	Pend Oreille River	Minimum Stream Flow	License

Comments: There are no rights sharing the point of diversion (POD) with the permit, but the POD is within the Pend Oreille River MSF reach of right 96-7830. As no comments are found in the supporting documents for the permit, and no condition was included at permitting, No comment from the IWRB indicates that this small acreage irrigation use is not a concern for MSF impact.

C. DIVERSION AND DELIVERY SYSTEM**1. LOCATION OF POINT(S) OF DIVERSION:**

Source	Govt. Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.		County
Pend Oreille River			SE	SW	31	56N	03W	B.M.	Bonner

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:** Use: Domestic

TWP	RGE	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
56N	03W	31												0.2					N/A
56N	03W	31								0.6									
		Lot #								6									N/A
Total Acres =0.8																			N/A

Method of Determination: GIS and Tax Parcel Data...

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.

☐ Aerial Photo Attached (required for irrigation of 10+ acres).☐ Photo of Diversion and System Attached

4. Well or Diversion Identification No.*	Motor Make	Hp	Motor Serial No.	Pump Make	Pump Serial No. or Discharge Size
River Pump	Unknown		Unknown	Unknown	unknown

*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. Measurements: No measurement is required for an in-house exam, but administrative memo #17 was used to support that the rate requested is acceptable.**E. FLOW CALCULATIONS**☐ Additional Computation Sheets AttachedThe permit holder did not provide pump details in the Proof of beneficial use.Administrative memo 17 allows a rate of up to 0.03cfs per acre for the irrigation of up to 5 acres. The permit and Statement of Completion both indicate 1.4 acres of irrigation. However, I was only able to confirm about 0.8 acres of irrigation using GIS and Google Earth aerial imagery. I am recommending a maximum diversion rate of 0.02cfs at licensing.**Permit allowed = 0.04cfs, Recommendation=0.02cfs****F. VOLUME CALCULATIONS**

1. Volume Calculations for Irrigation:

According to IDAPA 37-Rule 35.01.J.viii, river water is exempt from volume reporting requirements.

2. Volume Calculations for Other Uses:

N/A

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G. PURPOSE OF USEIrrigation ☒ Y ☐ N # Stock _____ Domestic # of Homes _____

Other: < >

Change in Purpose of Use? ☐ Y ☒ X ☐ NMethod of Determination: GIS, Tax Parcel Data, a phone conversation with the permit holder on April 20th, 2023, and Google Earth Imagery.

If Yes: From Use _____ To Use _____ Amount _____ CFS _____ AFA _____

H. NARRATIVE/REMARKS/COMMENTS

This permit for irrigation use diverted from the Pend Oreille River qualifies for an in-office exam. The permit POU is parcel RP027080000060A, Lot 6 of the On The Waterfront Subdivision. Parcel data lists the Kelly Trust (the permit holder) as the current owners of the parcel appurtenant to the POU. The permit authorizes irrigation use for 1.4 Acres (the entire parcel is just under 1.3 acres). However, Aerial Imagery could only confirm about 0.8 acres of irrigable area, due to development and dense shrubbery and tree cover. I made a phone call to the permit holders on April 21st, 2023, regarding my findings. The permit holders agreed with the imagery supported 0.8 acres of irrigation (see figures 1, 1.1, & 1.2).

The only overlapping right is owned by the On the Waterfront HOA, who owns the domestic rights for lots 3-11, which includes a volume to support up to ½ acre of irrigation for each domestic use. Due to this overlap the permit was issued with condition R66 limiting the total rate and volume, as per Administrative Memo #17 and the headgate standards. I am recommending the license be issued for up to a 0.02cfs rate of diversion with conditions X59, X60, R66, and 004.

Have conditions of permit approval been met? ☒ X Yes ☐ No**I. RECOMMENDATIONS****1. Recommended Amounts**

BENEFICIAL USE	PERIOD OF USE	DIVERSION RATE	ANNUAL VOLUME
Irrigation	04/01 to 10/31	0.02 CFS	N/A
Totals:		0.02 CFS	N/A

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: Bob Howe, Water Resource AgentField Examiner's Name Bob Howe Date 4/24/2023Reviewer Phyllis Date 4/24/23

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Figure 1- Google Earth-2012 image of the POU. Creek and overgrowth in the south of the property and dense tree cover greatly reduced the areas of irrigation that could be confirmed by aerial imagery.

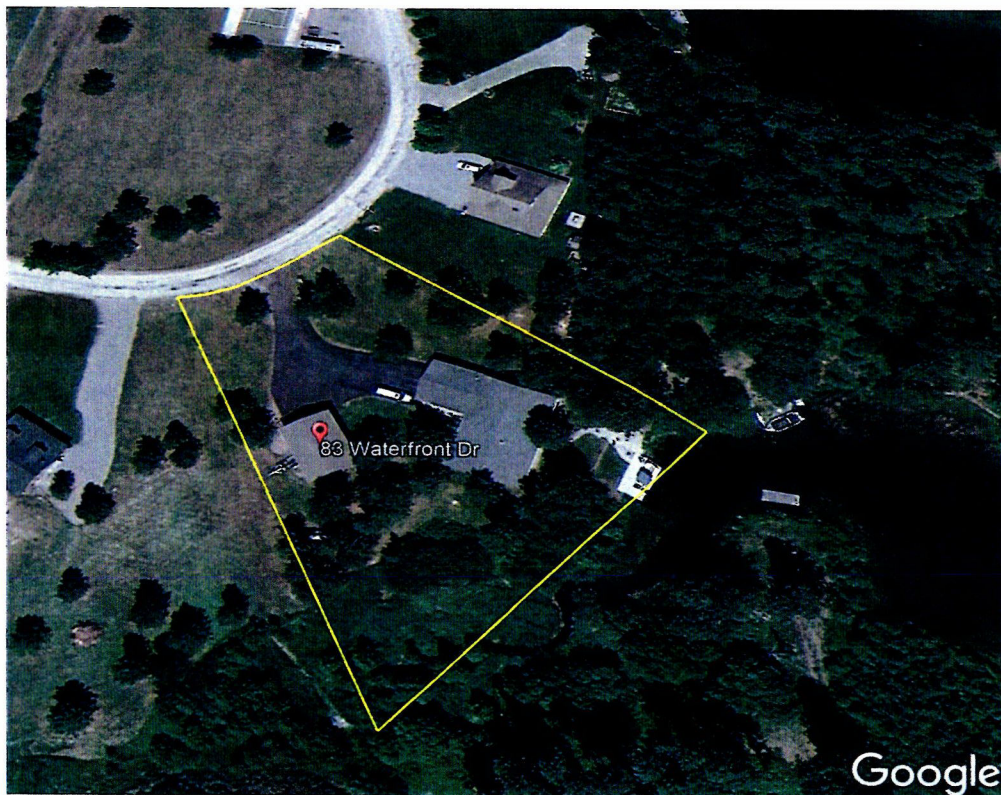


Figure 1.1- Google Earth-2014 image of the POU. Areas in the south of the parcel are too overgrown throughout the historical imagery to confirm any irrigation.

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Figure 1.2- 2021- GIS image of the POU and POD, outlined and marked in light blue.

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Beneficial Use Proof Evaluation

Permit Number: 96-11087 Reviewer: djudd Review Date: 4/14/2023

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: 4/13/2023
- 4) Proof Due Date: 8/1/2023
- 5) Days added for weekend due date? 0
- 6) Days added for holiday due date? 0
- 7) Number of days late: -110
- 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?
 - a. Measuring Device --
 - b. Lockable Device --
 - c. Fish Screen --
- 4) Is there a request to waive the required items?
- 5) Drilling Permit Number:
- 6) Is a drilling permit upgrade needed?
- 7) Was a well drillers report filed?
- 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

N039256

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.