

**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS**

**IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE CLARK FORK-PEND OREILLE RIVER
BASIN WATER SYSTEM**

RECEIVED

CIVIL CASE NUMBER: 69576

Claim ID: 96-9416

Date Received: 5/17/24

Receipt No: N044672

Claim Fee: \$54.00 By: YMS

MAY 17 2024

**NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW**

IDWR / NORTH

Please type or print clearly

1. Name of claimant(s) M & D Properties, LLC Phone (714) 843-9116
Mailing address 7352 Autopark Drive Huntington Beach CA Zip 82648
Street or Box City State
Email address (optional) jmoran@morandc.com
2. Date of priority: (Only one per claim) 07/17/2000 (Explain priority date selected in Remarks)
Month/Day/Year (YYYY)
3. Source of water supply (Check one) Ground Water () or Other (☒) (a) Pend Oreille River
which is tributary to (b) Columbia River
4. a. Location of point of diversion is: Township 56N, Range 06W, Section 24,
NW 1/4 of SW 1/4, Govt. Lot 1, BM, County of Bonner
Parcel no. _____
Additional points of diversion, if any: _____
If available, GPS Coordinates _____
- b. If instream flow, beginning point of claimed instream flow is:
Township _____, Range _____, Section _____, _____ 1/4 of _____ 1/4,
Govt. Lot _____, BM, County of _____
Ending point is: Township _____, Range _____, Section _____, _____ 1/4 of _____ 1/4,
Govt. Lot _____, BM, County of _____
5. Description of existing diversion works (dams, reservoirs, ditches, wells, pumps, pipelines, headgates, etc.),
including the dates of any changes or enlargements in use, the dimensions of the diversion works as
constructed and as enlarged and the depth of each well.
3" irrigation feed line with a foot valve, 7.5 HP Jet-Pump

6. Water is claimed for the following purposes:

(dates are inclusive MM-DD) (cfs) (acre-feet)
For Irrigation purposes from 04/01 to 10/31 amount 0.18 or 3.5
For purposes from to amount or
For purposes from to amount or
For purposes from to amount or

7. Total quantity claimed (a) .18 (cfs) and/or (b) (acre-feet)

8. Non-irrigation uses; describe fully (e.g., Domestic: Give number of households served; Stockwater: Type and number of livestock, etc.)

9. Description of place of use:

- If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

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	6W	24										3.5							3.5

Parcel no(s) Total number of acres irrigated 3.5

10. In which county(ies) are lands listed above as place of use located? Bonner County

11. Do you own the property listed above as place of use? Yes (✓) No ()
If your answer is No, describe in Remarks below the authority you have to claim this water right.

12. Describe any other water rights used at the same place and for the same purposes as described above.
or None (✓)

13. Remarks (Include an explanation of the priority date selected):

Priority date is in conformance with Idaho Water Right License 96-9416.

Name of claimant(s) M & D Properties, LLC Claim ID

Scale: 2 inches equals 1 mile

[illegible]

Claim ID _____

14. Basis of claim (Check one) Beneficial Use () Posted Notice () License (☒) Permit () Decree ()

Court _____ Decree Date _____ Plaintiff v. Defendant _____

If applicable provide IDWR Water Right Number 96-9416

15. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notices in the Clark Fork-Pend Oreille River Basin Water System Adjudication."

(b.) I/We do () do not (☒) wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: 3 maps attached.

For Individuals: I/We do solemnly swear or affirm under penalty of perjury that the statements contained in the foregoing document are true and correct.

Signature of Claimant (s) _____ Date: _____

_____ Date: _____

For Organizations: I do solemnly swear or affirm under penalty of perjury that I am, and that I have signed the foregoing document in the space below as the

Manager of M & D Properties LLC
Agent's title (Please print) Name of organization (Please print)

and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent S/ Joseph Moran Date 5/15/2024

Printed Name of Authorized Agent Joseph Moran

16. Notice of Appearance:

Notice is hereby given that I, (please print) Katy DeVries Riker, will be acting as attorney at law on behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature Katy D. Riker Date 5/15/2024

Address 800 W. Main Street #1750, Boise, Idaho, 83702

Name of claimant(s) M & D Properties, LLC Claim ID _____

HOW YOU WILL RECEIVE NOTICES IN THE CLARK FORK-PEND OREILLE RIVER BASIN WATER SYSTEM ADJUDICATION

All documents filed in the Clark Fork-Pend Oreille River Basin Water System Adjudication, other than notices of claim, are filed with the court. Notices of claim to water rights filed in the Clark Fork-Pend Oreille River Basin Water System Adjudication are filed with the Idaho Department of Water Resources (IDWR). Copies of all documents filed in the Clark Fork-Pend Oreille River Basin Water System Adjudication will not be mailed to all parties (claimants) in the adjudication. Any document filed with the court will be mailed only to those parties who may be directly affected by it.

A monthly docket sheet is prepared by the court, which contains a summary of all documents filed with the court in the previous month and the dates and locations of hearings scheduled for the following three months. The docket sheet will be filed with the district court clerk in each county within the Clark Fork-Pend Oreille River Basin Water System Adjudication. Copies of a monthly docket sheet may be obtained from any of the offices of IDWR; a small fee may be charged to cover the cost of mailing and/or copying. If you wish to receive an annual subscription of the docket sheet printed each month, you should mark the appropriate place on your notice of claim form. You will be charged a small annual subscription fee by the court to cover the cost of copying and mailing. The docket sheet is also available on the court's web site at:

<http://www.srba.idaho.gov/KRBA20.HTM>

Copies of any document listed on the docket sheet may be obtained from any of the IDWR offices or the court and a small fee may be charged to cover the cost of mailing and/or copying the document.

Copies of all notices of claim filed with IDWR will be available for inspection at all IDWR offices. You may also obtain copies of the notices of claim filed by other claimants, but you may be charged for the cost of copying and mailing. A claimant will not be charged for a copy of his or her own notice of claim, and a person who acquires property with water rights for which a notice of claim was filed will not be charged for a copy of the notice of claim filed by the previous owner.

After the notices of claim have been reviewed, the director will prepare and file a Director's report with the court that will contain the Director's recommendations as to each water right claimed under state law and a copy of each federal reserved water right claimed. A Director's report will be prepared for all claims filed in the Clark Fork-Pend Oreille River Basin Water System Adjudication. When this report is filed with the court, you will be mailed a notice informing you that the report has been filed. The notice will be sent to the most recent address shown by IDWR's files. Attached to the notice will be a copy of those portions of the report describing the water rights you have claimed. If you do not agree with the way your water right is described, you may file an objection to the report with the court. You can also file an objection if you disagree with the way another claimant's water rights are described, and the notice will tell you where a copy of the full report is available for inspection. The notice will tell you when and where to file your objection.

It is very important that you inform IDWR in writing of any change in your address. This is to make sure that you receive the notices affecting your water rights that are to be mailed by IDWR or the court.

If you are acquiring property with water rights within the boundaries of the Clark Fork-Pend Oreille River Basin Water System Adjudication in Idaho (either by purchase, gift, inheritance, or other means), it is very important that you inquire of IDWR whether a notice of claim has been filed. If you fail to file a required notice of claim for a water right, that water right may be determined to no longer exist.

If a notice of claim has been filed, it is very important that you file a written notice of change in ownership with IDWR. You may contact IDWR regional offices or the IDWR web site <http://www.idwr.idaho.gov/> for change of ownership forms. The notice of change in ownership form must be accompanied by evidence of the ownership of the property. Again, this is to make sure that you receive the notices affecting your water rights that are to be mailed by IDWR or the court.

Map Attachments to Notice of Claim for Water Right License #96-9416

The map below shows the Point of Diversion, circled in orange, for Water Right License 96-9416.



M & D Properties, LLC

Map Attachments to Notice of Claim for Water Right License #96-9416

MAP 2

Map 2 below shows the place of use boundary, indicated in fuchsia. This map also illustrates the Township, Range, and Section information associated with the Place of Use and Point of Diversion. Disregard fuchsia places of use outside of the blue box.

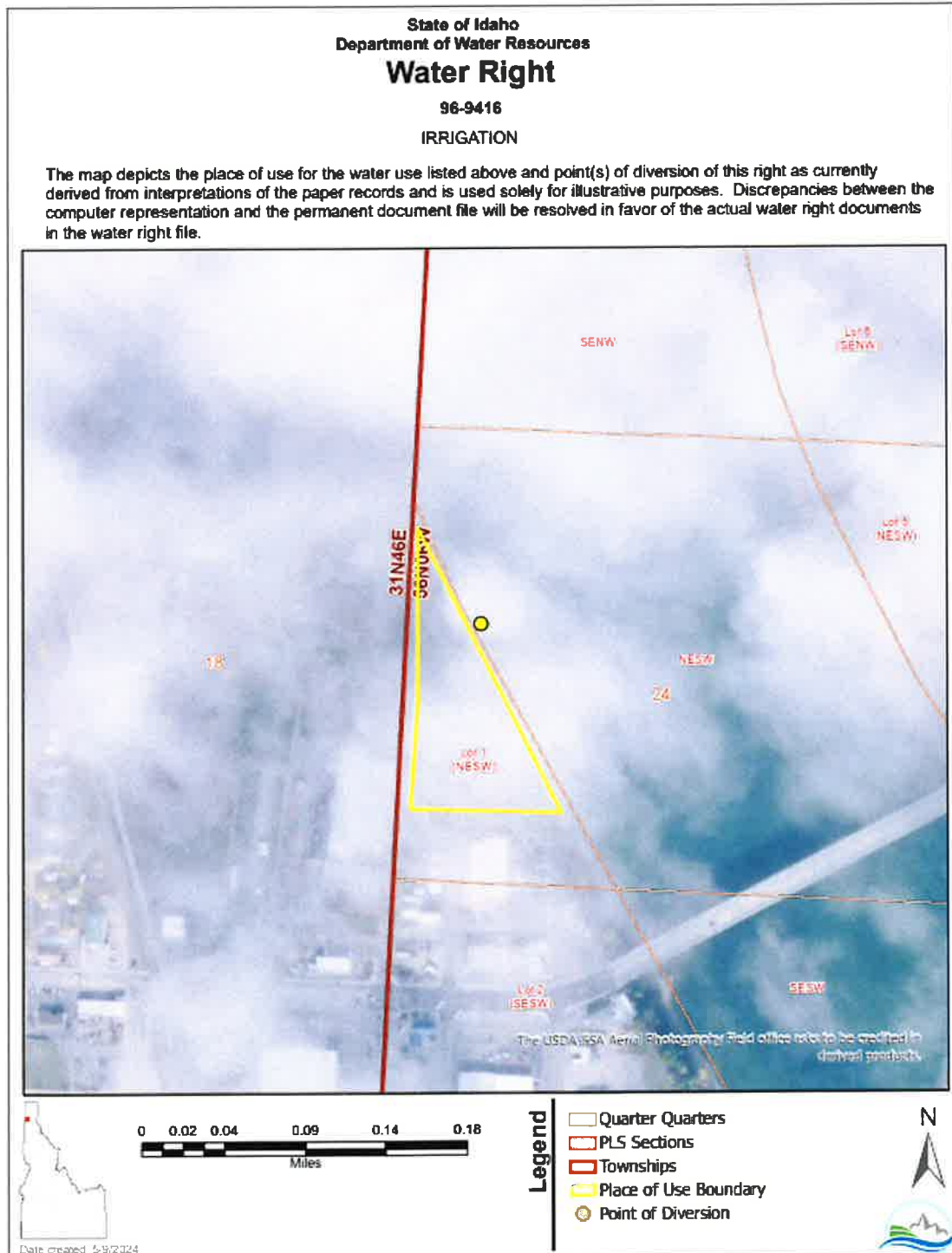


M & D Properties, LLC

Map Attachments to Notice of Claim for Water Right License #96-9416

MAP 3

Map 3 is the aerial image previously used by the Idaho Department of Water Resources associated with this water right license. This image, while accurate and consistent with the mapping above, is difficult to view due to cloud cover contained in the original aerial image.



IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 96-9416

WATER RIGHT NUMBER: 96-9416

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	AEROCELL INC PO BOX 1799 NEWPORT, WA 99156 (509)447-4122

Priority Date: 07/17/2000

Basis: License

Status: Active

<u>Source</u>	<u>Tributary</u>
PEND OREILLE RIVER	COLUMBIA RIVER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	04/01 to 10/31	0.180 CFS	10.50 AF
	<u>Total Diversion:</u>	0.180 CFS	10.50 AF

Location of Point(s) of Diversion

PEND OREILLE RIVER	L1 (NW1/4SW1/4)	Sec. 24, Twp 56N, Rge 06W, 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	
56N	06W	24																	3.5

Total Acres: 3.5

Conditions of Approval:

1. 004 The issuance of this right does not grant any right-of-way or easement across the land of another.
2. X15 A fish screen of 1/4 inch or smaller mesh shall be installed and maintained at the point of diversion.
3. R58 This right when combined with all other rights shall provide no more than 3.0 afa per acre at the field headgate for irrigation of the lands above.
4. X16 The approach velocity at the point of diversion shall not exceed 0.5 feet per second.
5. This right when combined with all other rights shall provide no more than 0.2 af per day at the field headgate for irrigation of the lands above.

Remarks:

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report 96-9416

Comments:

1. kwalker 10/17/2002 Rate of Diversion

Comment: The permit was issued for application of 0.05 cfs/acre. In order to limit this right in case of change of ownership or system operation we applied condition 1 stating that the use should not exceed 0.2 af per day.
 $0.03 \text{ cfs} \times 3.5 \text{ acres} \times 1.9835 = 0.2 \text{ af}$.

2. Renumber 12/22/2008 8:44:38 AM Renumber WR 96-9416

Comment: This has been renumbered from 97-7401

Dates and Other Information:

Licensed Date: 10/21/2002

Decreed Date:

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

State or Federal:

Owner Name Connector:

Water District Number:

Generic Max Rate Per Acre: 0.05

Generic Max Volume Per Acre: 3

Decree Defendant:

Decree Plaintiff:

Civil Case Number:

Judicial District:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Carey Act Number:

Mitigation Plan: False

Combined Use Limits:Water Supply Bank:

State of Idaho
Department of Water Resources
Water Right License

WATER RIGHT NO. 97-07401

Priority: July 17, 2000

Maximum Diversion Rate: 0.18 CFS
Maximum Diversion Volume: 10.5 AF

It is hereby certified that AEROCELL INC
PO BOX 1799
NEWPORT WA 99156 has complied with the terms and
conditions of the permit, issued pursuant to Application for Permit dated July 17, 2000; and has
submitted Proof of Beneficial Use on November 20, 2001. An examination indicates that the works have
a diversion capacity of 0.18 cfs of water from:

SOURCE

PEND OREILLE RIVER

Tributary: COLUMBIA 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	0.18 CFS	10.5 AF

LOCATION OF POINT OF DIVERSION:

PEND OREILLE RIVER L1 (NW¼SW¼) Sec. 24, Twp 56N, Rge 06W, 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	
56N 06W 24											3.5						3.5
											L1						
Total Acres: 3.5																	

CONDITIONS OF APPROVAL

1. This right when combined with all other rights shall provide no more than 0.2 af per day at the field headgate for irrigation of the lands above.
2. This right when combined with all other rights shall provide no more than 3.0 afa per acre at the field headgate for irrigation of the lands above.
3. The issuance of this right does not grant any right-of-way or easement across the land of another.
4. A fish screen of ¼ inch or smaller mesh shall be installed and maintained at the point of diversion.
5. The approach velocity at the point of diversion shall not exceed 0.5 feet per second.

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 and sealed this 21ST day of October, 2002.

MICROFILMED

JAN 29 2003

Acting for 
KARL J. DREHER
Director

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 97-07401

Priority: 07/17/2000

Maximum Diversion Rate: 0.18 CFS

This is to certify, that AEROCELL INC
PO BOX 1799
NEWPORT WA 99156

has applied for a permit to appropriate water from:

PEND OREILLE RIVER tributary to **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	0.18 CFS

LOCATION OF POINT(S) OF DIVERSION:

PEND OREILLE RIVER L1 NW¼SW¼ Sec. 24, Twp 56N, Rge 06W, B.M. BONNER County

PLACE OF USE: IRRIGATION

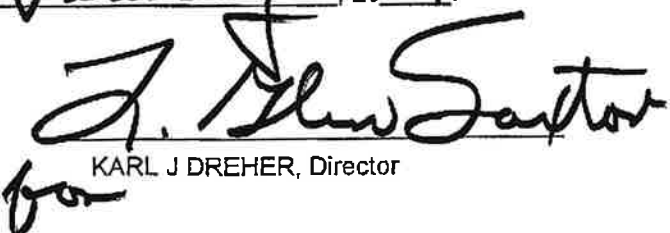
Twp Rge Sec	NE	NW	SW	SE	Totals
56N 06W 24	NE NW SW SE	NE NW SW SE	NE NW SW SE	NE NW SW SE	3.5
			3.5 L1		

Total Acres: 3.5

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before January 01, 2002.
2. Subject to all prior water rights.
3. The issuance of this right does not grant any right-of-way or easement across the land of another.
4. This right when combined with all other rights shall provide no more than 0.05 cfs per acre nor more than 3.0 afa per acre at the field headgate for irrigation of the lands above.
5. A fish screen of ¼ inch or smaller mesh shall be installed and maintained at the point of diversion.
6. The approach velocity at the point of diversion shall not exceed 0.5 feet per second.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 9th day of January, 2001.


KARL J DREHER, Director

MICROFILMED
JAN 29 2003