

State of Idaho
Department of Water Resources
Permit to Appropriate Water
No. 96-16936

Priority: April 29, 2024

Maximum Diversion Rate: 0.03 CFS

This is to certify that

CINDY FITZGERALD 235 SUNDOWNER LN SAGLE ID 83860-9707 AND/OR
JOHN FITZGERALD 235 SUNDOWNER LN SAGLE ID 83860-9707

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:

Beneficial Use

IRRIGATION

Period of Use

04/01 to 10/31

Rate of Diversion

0.03 CFS

Location of Point(s) of Diversion

PEND OREILLE RIVER L2 (NW¼ NE¼), Sec. 6, Twp 56N, Rge 02W, 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	02W	6		0.5 L2															0.5

Total Acres: 0.5

Conditions of Approval

1. Proof of application of water to beneficial use shall be submitted on or before **September 01, 2025**.
2. Subject to all prior water rights.
3. Prior to the diversion and use of water under this approval, the right holder shall comply with all fish screening and/or fish passage requirements of the Idaho Department of Fish and Game.
4. Place of use is located within Lot 11 & Tax 53, Sunset Bay Estates Subdivision.
5. This right when combined with all other rights shall provide no more than 0.03 cfs nor more than 1.5 afa at the field headgate for irrigation of the place of use.
6. This right does not grant any right-of-way or easement across the land of another.

State of Idaho
Department of Water Resources
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No. 96-16936

This permit is issued pursuant to the provisions of Idaho Code § 42-204.

Signed this 13th day of August, 20 24.



CHACE BELL
Water Rights Supervisor



State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

96-16936

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
- State Outline





IDAHO DEPARTMENT OF
WATER RESOURCES

Northern Region • 7600 N Mineral Drive, Suite 100 • Coeur D'Alene, ID 83815-7763
Phone: 208-762-2800 • Fax: 208-762-2819 • Email: northerninfo@idwr.idaho.gov • Web: idwr.idaho.gov

Governor Brad Little

Director Mathew Weaver

August 13, 2024

CINDY FITZGERALD
JOHN FITZGERALD
235 SUNDOWNER LN
SAGLE ID 83860-9707

RE: Permit No. 96-16936

Permit Approval Notice

Dear Permit Holder(s):

The Department of Water Resources ("Department") has issued the enclosed permit authorizing you to establish a new water right. Please be sure to thoroughly review all the conditions of approval listed on your permit. The conditions include requirements that you must accomplish, such as timely submittal of proof of beneficial use or installation of a measuring device, as well as information about how your water use may be administered, such as regulation by a watermaster in a water district. Failure to comply with the conditions of approval may result in your permit lapsing or being canceled.

The permit is a PRELIMINARY ORDER issued 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.

The final step in the water right process is issuance of a water right license. To receive a water right license, you must divert and use water to the full extent intended and submit a *Statement of Completion for Submitting Proof of Beneficial Use* by the date shown in condition no. 1 of your permit. The Department will send you a *Proof Due Notice* approximately 60 days prior to the date listed in condition no. 1 of your permit.

You may also require approvals from other Department programs, such as Ground Water Protection, Safety of Dams, or Stream Channel Protection, to accomplish your proposed development. Please call or visit any Department office or see the Department's website at idwr.idaho.gov for more information about these programs.

Please be advised that Idaho Code § 42-248, requires you or the owner of this water permit to maintain current ownership and address records on file with the Department. Forms to file an assignment of permit and/or a change in the address of the permit owner are available from any Department office or at the Department's website at www.idwr.idaho.gov.

If you have any questions concerning the enclosed information, please contact the Northern Regional office at (208)762-2800.

Sincerely,



Chace Bell
Water Rights Supervisor

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on August 13, 2024, I served a true and correct copy of Permit to Appropriate Water No. 96-16936 by U.S. Mail, postage prepaid, to the following:

CINDY FITZGERALD (Current Owner)
235 SUNDOWNER LN
SAGLE ID 83860-9707

JOHN FITZGERALD (Current Owner)
235 SUNDOWNER LN
SAGLE ID 83860-9707



Hailey Palmer
Engineer, Intern

MEMORANDUM

June 25, 2024

Water Permit: 96-16936

Author: LBates JSB 6/25/24

Subject: Overlapping water right analysis

During permit processing, I identified irrigation overlap between filing 96-16936 and licensed Right 96-8823.

- 96-16936 contemplates irrigation from the Pend Oreille River for 0.5 acres with the POU associated with Lot 11 & Tax 53, Sunset Bay Estates Subdivision.
- 96-8823 authorizes domestic use for 17 homes and irrigation use for 6.0 total acres from a groundwater source associated with Lots 1-13, Sunset Bay Estates Subdivision and four additional homes.
- As filed, 96-16936 has the potential for 0.5 acres of overlap with 96-8823 in L2, NW1/4NE1/4, Section 6, Twp 56N, Rge 02W.

A Notice of Claim has been filed based on the License for 96-8823 in the Clark Fork Pend Oreille River Basin Adjudication (CFPRBA).

I'm not recommending use of condition X35 toward permitting 96-16936; any overlap between rights shall be assessed at time of future beneficial use field exam and license processes for 96-16936.

Bowman, Micki

From: Horsmon, Merritt
Sent: Wednesday, May 29, 2024 2:31 PM
To: Bowman, Micki
Subject: RE: Request for Comments for Water Right 96-16936

Hi Micki,
The Idaho Department of Fish and Game does not have any comments to submit for this application.

Thank you for the opportunity to review and comment,

Merritt Horsmon

Regional Technical Assistance Manager
Panhandle Region
2885 W. Kathleen Ave.
Coeur d'Alene, ID 83815
208.769.1414 office
208.251.4509 mobile
merritt.horsmon@idfg.idaho.gov



From: Bowman, Micki <Micki.Bowman@idwr.idaho.gov>
Sent: Wednesday, May 08, 2024 4:42 PM
To: Chantilly Higbee <Chantilly.Higbee@deq.idaho.gov>; Anna Moody <Anna.Moody@deq.idaho.gov>; Horsmon, Merritt <merritt.horsmon@idfg.idaho.gov>
Subject: Request for Comments for Water Right 96-16936

The Department of Water Resources is seeking written comment and/or recommendations from your agency regarding the above referenced Water Right Permit application. You can find copies of the application at: <https://research.idwr.idaho.gov/apps/waterrights/wrajsearch/wradjsearch.aspx>

This office can publish notice of the application as soon as the initial review is completed; therefore, your prompt response to this request is appreciated. If your agency desires to formally protest the approval of the application(s), 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. **The deadline for comments on the applications is June 3, 2024.**

Please contact the Northern Region Office at (208) 762-2800 if you have any questions regarding the Permit application.

Bowman, Micki

From: Chantilly Higbee
Sent: Thursday, May 23, 2024 10:57 AM
To: Bowman, Micki
Subject: RE: Request for Comments for Water Right 96-16936

DEQ's Surface Water section has reviewed the application and has no comment.

Thank you for the opportunity.

Chantilly
208-666-4605

From: Bowman, Micki <Micki.Bowman@idwr.idaho.gov>
Sent: Wednesday, May 8, 2024 4:42 PM
To: Chantilly Higbee <Chantilly.Higbee@deq.idaho.gov>; Anna Moody <Anna.Moody@deq.idaho.gov>; Horsmon, Merritt <merritt.horsmon@idfg.idaho.gov>
Subject: Request for Comments for Water Right 96-16936

The Department of Water Resources is seeking written comment and/or recommendations from your agency regarding the above referenced Water Right Permit application. You can find copies of the application at: <https://research.idwr.idaho.gov/apps/waterrights/wrajsearch/wradjsearch.aspx>

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Please contact the Northern Region Office at (208) 762-2800 if you have any questions regarding the Permit application.

Micki Bowman | Administrative Assistant 1
Idaho Department of Water Resources
Northern Regional Office
7600 N Mineral Drive, Suite 100
Coeur d'Alene, ID 83815-7763
Phone (208) 762-2807



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.

AFFIDAVIT OF PUBLICATION

RECEIVED

JUN 03 2024

IDWR / NORTH

STATE OF IDAHO)
) ss.
County of Bonner)

RikkiJade Lindstrom, being first duly sworn on oath, deposes and states:

1. I am a citizen of the United States of America, over the age of 18 years, a resident of the State of Idaho, and am not a party to the proceedings referred to in the attached Legal Notice.

My business address is P.O. Box 159, Sandpoint, Idaho.

2. I am the Legal Clerk of the Bonner County Daily Bee, a newspaper of general publication in Bonner County, Idaho;

3. Said newspaper has been continuously and uninterruptedly published in Bonner County, Idaho during a period of 12 months prior to the first publication of said Notice, and thereafter.

4. The attached Notice was published in the regular and entire issue of the Bonner County Daily Bee for a period of 2 consecutive weeks, commencing on the 16 day of May, 2024, and ending on the 23 day of May, 2024.

RikkiJade Lindstrom

State of Idaho, county of Bonner ss.

On this 23 day of May, in the year of 2024, before me, Angela Minehart, Notary Public, personally appeared RikkiJade Lindstrom known or identified to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he/she (or they) executed the same.

Angela Minehart
Notary Public
Residing at: Kootenai County

My Commission Expires 03/20/2029



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

96-16913
MARK HON
 238 CANOE COVE LN
 SANDPOINT, ID 83864
 Point of Diversion SWNW
 S28 T57N R02W
 BONNER County
 Source CHUCKS SLOUGH
 Tributary PEND OREILLE
 RIVER
 Use: IRRIGATION
 04/1 to 10/31 0.03 CFS
 Total Diversion: 0.03 CFS
 Date Filed: 04-10-2024
 Place Of Use: IRRIGATION
 T57N R02W S28
 NENW,NWNW,SENW,SWNW
 Total Acres: 0.7

96-16924
RAOUL LEBLANC
 154 AUBURN SOUND VIEW
 SE
 CALGARY, AB T3M0E2
 Point of Diversion SENE
 S16 T56N R03W
 BONNER County
 Source GROUND WATER
 Use: DOMESTIC
 1/1 to 12/31 0.04 CFS
 Use: IRRIGATION
 04/1 to 10/31 0.06 CFS
 Use: STOCKWATER
 1/1 to 12/31 0.02 CFS
 Total Diversion: 0.12 CFS
 Date Filed: 04-17-2024
 Place Of Use: DOMESTIC,IR-
 RIGATION,STOCKWATER
 T56N R03W S15 SWNW
 Place Of Use: DOMESTIC,IR-
 RIGATION,STOCKWATER
 T56N R03W S16 SENE
 Total Acres: 2.9

96-16930
TROY KRUMENACKER
 22592 HIGHWAY 2
 SANDPOINT, ID 83864-6307
 Point of Diversion L2 (SWSE)
 S35 T57N R02W
 BONNER County
 Source LAKE PEND OREILLE
 Tributary PEND OREILLE
 RIVER
 Use: DOMESTIC
 01/01 to 12/31 0.06 CFS
 Use: IRRIGATION
 04/01 to 10/31 0.03 CFS
 Total Diversion: 0.09 CFS
 Date Filed: 04-24-2024
 Place Of Use: DOMESTIC,
 IRRIGATION
 T57N R02W S35 L2(SWSE)
 Total Acres: 0.6

96-16931
SHANE PORTFOLIO
 2732 S JACKSON ST
 DENVER, CO 80210-6638
 Point of Diversion L4 (NESW)
 S2 T56N R01E
 BONNER County
 Source LAKE PEND OREILLE
 Tributary PEND OREILLE
 RIVER
 Use: DOMESTIC
 01/01 to 12/31 0.06 CFS
 Use: IRRIGATION
 04/01 to 10/31 0.03 CFS
 Total Diversion: 0.09 CFS
 Date Filed: 04-25-2024
 Place Of Use: DOMESTIC,
 IRRIGATION
 T56N R01E S2 L4(NESW)
 Total Acres: 1

96-16936
CINDY FITZGERALD
JOHN FITZGERALD
 235 SUNDOWNER LN
 SAGLE, ID 83860-9707
 Point of Diversion L2 (NWNE)
 S6 T56N 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: 04-29-2024
 Place Of Use: IRRIGATION
 T56N R02W S6 L2(NWNE)
 Total Acres 0.5

96-16938
ANDREA BERLINER
 75 CANOE CV
 SANDPOINT, ID 83864-8699
 Point of Diversion NENW
 S28 T57N R02W
 BONNER County
 Source CHUCK SLOUGH
 Tributary PEND OREILLE
 RIVER
 Use: IRRIGATION
 04/01 to 10/31 0.03 CFS
 Total Diversion: 0.03 CFS
 Date Filed: 04-29-2024
 Place Of Use: IRRIGATION
 T57N R02W S28 NENW
 Total Acres: 0.8

96-16939
JAMES MILLS
 483 FOX GLEN RD
 SANDPOINT, ID 83864
 Point of Diversion NESW
 S29 T59N R01E
 BONNER County
 Source GROUND WATER
 Point of Diversion SENW
 S29 T59N R01E
 BONNER County
 Source GROUND WATER
 Use: IRRIGATION
 04/01 to 10/31 0.12 CFS
 Use: COMMERCIAL
 01/01 to 12/31 0.2 CFS
 Total Diversion: 0.2 CFS
 Date Filed: 04-29-2024
 Place Of Use: COMMER-
 CIAL,IRRIGATION
 T59N R01E S29 SENW,NESW
 Total Acres: 4

96-16940
CLIFFORD C IRISH SR
 PO BOX 356
 SAGLE, ID 83860-0356
 Point of Diversion SENWSW
 S22 T56N R03W
 BONNER County
 Source SPRING
 Tributary SINKS
 Point of Diversion NESWSW
 S22 T56N R03W
 BONNER County
 Source SPRING
 Tributary SINKS
 Use: DOMESTIC
 01/01 to 12/31 0.08 CFS
 Total Diversion: 0.08 CFS
 Date Filed: 05-02-2024
 Place Of Use: DOMESTIC
 T56N R03W S22 SESW,SWSW

96-16946
KATHRYN L KLEPINGER
LEE C KLEPINGER
 PO BOX 505
 DOVER, ID 83825-0505
 Point of Diversion L1 (NENW)
 S29 T56N R03W
 BONNER County
 Source LAKE PEND OREILLE
 Tributary PEND OREILLE
 RIVER
 Use: IRRIGATION
 04/01 to 10/31 0.03 CFS
 Total Diversion: 0.03 CFS
 Date Filed: 05-03-2024
 Place Of Use: IRRIGATION
 T56N R03W S29 L1(NENW)
 Total Acres: 1

96-16951
JOHN SANDERS
SAMANTHA PAVEY
 811 ETHAN RD
 LANTANA, TX 76226-6597
 Point of Diversion SWNW
 S24 T59N R01W
 BONNER County
 Source SPRINGS
 Tributary SINKS
 Use: IRRIGATION
 04/01 to 10/31 0.15 CFS
 Use: STOCKWATER
 01/01 to 12/31 0.02 CFS
 Use: DOMESTIC
 01/01 to 12/31 0.04 CFS
 Total Diversion: 0.2 CFS
 Date Filed: 05-06-2024
 Place Of Use: DOMESTIC,IR-
 RIGATION,STOCKWATER
 T59N R01W S24
 NWNW,SENW,SWNW
 Total Acres: 5

Permits will be subject to all prior water rights. For additional information concerning the property location, contact the Northern office at (208)762-2800; or for a full description of the right(s), please see <https://idwr.idaho.gov/apps/ExtSearch/WRApplicationResults/>. 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 N MINERAL DR STE 100, COEUR D'ALENE ID 83815-7763 together with a protest fee of \$25.00 for each application on or before 6/3/2024. The protestant must also send a copy of the protest to the applicant.
MATHEW WEAVER, Director
 Legal#6114
 AD#22850
 May 16, 23, 2024