

State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 96-9821

Priority: August 17, 2020

Maximum Diversion Rate: 0.03 CFS

This is to certify that

EUGENE C NELSON
627 E FRANCIS AVE
SPOKANE, WA 99208-3634

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

SE¼, SE¼, Sec. 35, Twp 56N, Rge 04W, B.M., BONNER County

Place of Use: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				No QQ	Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
55N	04W	2	1.0 L1																	1.0

Right Acre Limit: 1.0

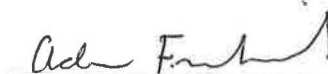
Total Acres: 1.0

Conditions of Approval:

1. Proof of application of water to beneficial use shall be submitted on or before **October 01, 2021**.
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. A fish screen of 1/4 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.
6. This right when combined with all other rights shall provide no more than 0.03 Cubic Feet per Second (CFS) per acre nor more than 3.0 Acre Feet (AF) per acre annually at the field headgate for irrigation of the place of use.
7. Place of use is located within Lot 17, Pinewood West subdivision.

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

Signed this 30th day of September, 2020.



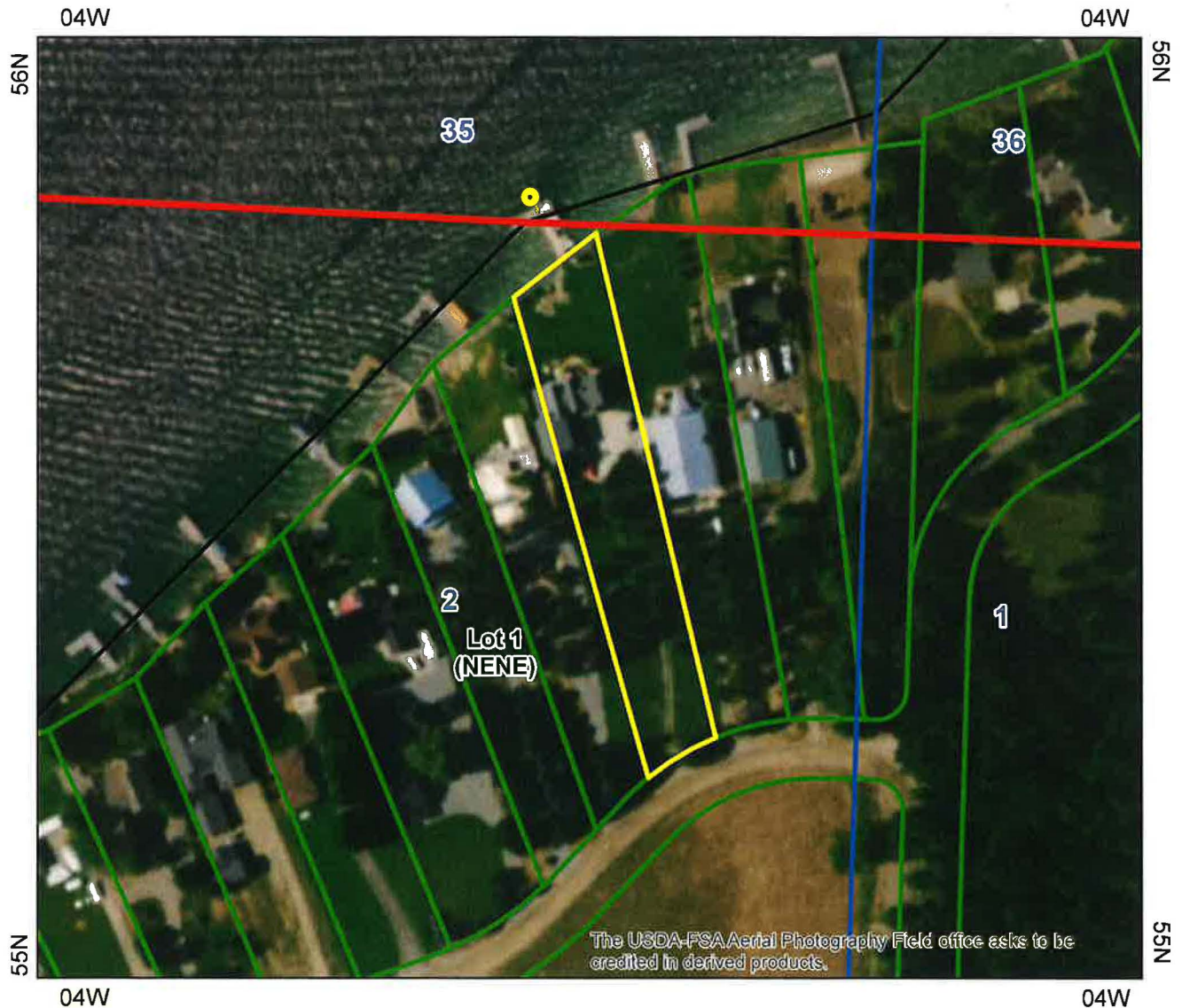
ADAM FREDERICK
Water Rights Supervisor

State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

96-9821

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.



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

0 0.02 0.04 0.08 Miles



Tax parcel information provided by Bonner County.



Brad Little
Governor

State of Idaho

DEPARTMENT OF WATER RESOURCES

Northern Region • 7600 N MINERAL DR STE 100 • COEUR D ALENE, ID 83815-7763
Phone: (208)762-2800 • Fax: (208)769-2819 • Website: www.idwr.idaho.gov

Gary Spackman
Director

October 01, 2020

EUGENE C NELSON
627 E FRANCIS AVE
SPOKANE WA 99208-3634

RE: Permit No. 96-9821

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* ("Proof") 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. If you have already diverted and used water to the full extent intended, you may complete and submit the enclosed Proof form immediately.

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.

Also, please note that permit holders are required to report any change of 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. Forms to assign ownership or update your address are available from any office of the Department or on the Department's website.

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

Sincerely,



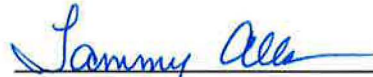
Adam Frederick
Water Rights Supervisor

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on October 01, 2020, I served a true and correct copy of Permit to Appropriate Water No. 96-9821 by U.S. Mail, postage prepaid, to the following:

EUGENE C NELSON (Current Owner)
627 E FRANCIS AVE
SPOKANE WA 99208-3634



Tammy Alleman
Administrative Assistant 1

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.



RECEIVED

SEP 21 2020

IDWR / NORTH

IDAHO DEPARTMENT OF FISH AND GAME

PANHANDLE REGION
2885 West Kathleen Avenue
Coeur d'Alene, Idaho 83815

Brad Little / Governor
Ed Schriever / Director

September 16, 2020

Ms. Tammy Alleman
Idaho Department of Water Resources
7600 N. Mineral Dr., Ste. 100
Coeur d'Alene, ID 83815

REFERENCE: 96-9821 – Nelson

Dear Tammy:

We have reviewed the above-named water right application request to pump 0.03 cfs from the Pend Oreille River to irrigate 1.0 acre of land. The purpose of these comments is to assist the decision-making authority by providing technical information addressing potential effects on wildlife and wildlife habitat and how any adverse effects might be mitigated.

The Pend Oreille River is a migration corridor for bull trout that are federally listed as threatened by the United State Fish and Wildlife Service.

The application fails to describe screening for their existing pump in the Pend Oreille River. According to Idaho Code 36-906, a diversion must be properly screened in order to prevent fish entrainment. We recommend **less than 0.25" mesh screen** and **approach velocity of less than 0.5 feet per second** in order to protect juvenile fish from the proposed pump. Beyond this, we have no evidence to assume negative impacts to fish and wildlife if the applicants adhere to these recommendations.

Thank you for the opportunity to comment.

Sincerely,

Charles E. Corsi
Regional Supervisor

CEC:MH:dsn

Keeping Idaho's Wildlife Heritage

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO)
) ss.
County of Bonner)

Danielle Rukmshottal, 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 Bonner County, Idaho, and
am not a party to the proceedings referred to in the attached
Public Notice.

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

2. I am the bookkeeper 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 2 day of
September, 2020, and ending on the 9 day of
September, 2020.

Danielle Rukmshottal

State of Idaho, county of Bonner ss.

On this 9 day of September, in the year of 2020,
before me, Katrina George, Notary Public, personally
appeared Danielle Rukmshottal 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.

Katrina George
Notary Public
Residing at: Kootenai County

My Commission Expires 8/29/23



RECEIVED

SEP 14 2020

IDWR / NORTH

PUBLIC NOTICE

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

96-9820
EUGENE C NELSON
448 ROCKVIEW DR
PRIEST RIVER, ID
83856-9763
Point of Diversion: SESE
S35 T56N R04W
BONNER County
Source PEND OREILLE
RIVER
Tributary COLUMBIA RIVER
Use: IRRIGATION
04/01 to 10/31
Total Diversion: 0.03 CFS
Date Filed: 08-17-2020
Place Of Use: IRRIGATION
T55N R04W S2
L1(NENE)
Place Of Use: IRRIGATION
T56N R04W S35
L1(SESE)
Total Acres: 1.1

96-9821
EUGENE C NELSON
627 E FRANCIS AVE
SPOKANE, WA 99208-3634
Point of Diversion SESE
S35 T56N R04W
BONNER County
Source PEND OREILLE
RIVER
Tributary COLUMBIA RIVER
Use: IRRIGATION
04/01 to 10/31
Total Diversion: 0.03 CFS
Date Filed: 08-17-2020
Place Of Use: IRRIGATION
T55N R04W S2
L1(NENE)
Total Acres: 1

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/WRAApplicationResults/>
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
9/21/2020. The protestant
must also send a copy of the
protest to the applicant.
GARY SPACKMAN, Director
SNP LEGAL 8033
AD#404825
SEPTEMBER 2, 9, 2020