

State of Idaho  
Department of Water Resources  
**Permit to Appropriate Water**  
No. 96-9818

**Priority:** August 07, 2020

**Maximum Diversion Rate:** 0.04 CFS

This is to certify that

HEMKEN TRUST 4419 S PINEGROVE LN SPOKANE WA 99223-5059

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**

DOMESTIC

**Period of Use**

04/01 to 10/31

**Rate of Diversion**

0.04 CFS

**Location of Point(s) of Diversion**

PEND OREILLE RIVER L1 ( SW $\frac{1}{4}$  SW $\frac{1}{4}$ ), Sec. 36, Twp 56N, Rge 04W, B.M. BONNER County

**Place of Use:** DOMESTIC


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		
56N	04W	36											X L1							

**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. A fish screen of 1/4 inch or smaller mesh shall be installed and maintained at the point of diversion.
4. The approach velocity at the point of diversion shall not exceed 0.5 feet per second.
5. Domestic use is for external use only.
6. The irrigation occurring under this domestic use shall not exceed 1/2 acre.
7. This right does not grant any right-of-way or easement across the land of another.

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

Signed this 14<sup>th</sup> day of September, 2020.

  
ADAM FREDERICK  
Water Rights Supervisor

State of Idaho  
Department of Water Resources

# Attachment to Permit to Appropriate Water

96-9818

This map depicts the DOMESTIC 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

0 0.035 0.07 0.14 Miles







**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](http://www.idwr.idaho.gov)

Brad Little  
Governor

Gary Spackman  
Director

September 14, 2020

HEMKEN TRUST  
4419 S PINEGROVE LN  
SPOKANE WA 99223-5059

RE: Permit No. 96-9818

**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 first commence the excavation or construction of your diverting works within one year of the date the permit was issued, and you must proceed diligently until the project is complete. In addition, 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](http://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

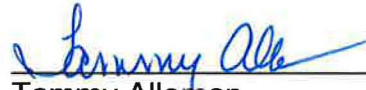
Enclosure(s)

## CERTIFICATE OF SERVICE

I hereby certify that on September 14, 2020, I served a true and correct copy of Permit to Appropriate Water No. 96-9818 by U.S. Mail, postage prepaid, to the following:

HEMKEN TRUST (Current Owner)  
4419 S PINEGROVE LN  
SPOKANE WA 99223-5059

MICHAEL HEMKEN (Trustee)  
4419 S PINEGROVE LN  
SPOKANE WA 99223-5059



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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.



# AFFIDAVIT OF PUBLICATION

STATE OF IDAHO )  
 ) ss.  
County of Bonner )

Danielle Rukmshottel, 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 19 day of  
August, 2020, and ending on the 26 day of  
August, 2020.

Danielle Rukmshottel

State of Idaho, county of Bonner ss.

On this 26 day of August, in the year of 2020,  
before me, Katrina George, Notary Public, personally  
appeared Danielle Rukmshottel 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



## PUBLIC NOTICE

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

**96-9817**  
DELLAGO, LLC  
1327 W SUPERIOR ST STE  
101  
SANDPOINT, ID 83864-2742  
Point of Diversion L1(NENE)  
S20 T56N R03W  
BONNER County  
Source PEND OREILLE RIV-  
ER  
Tributary COLUMBIA RIVER  
Use: DOMESTIC  
04/01 to 10/31  
Total Diversion: 0.04 CFS  
Date Filed: 08-03-2020  
Place Of Use: DOMESTIC  
T56N R03W S20  
L1(NENE)

**96-9818**  
HEMKEN TRUST  
4419 S PINEGROVE LN  
SPOKANE, WA 99223-5059  
Point of Diversion L1(SWSW)  
S36 T56N R04W  
BONNER County  
Source PEND OREILLE RIV-  
ER  
Tributary COLUMBIA RIVER  
Use: DOMESTIC  
04/01 to 10/31  
Total Diversion: 0.04 CFS  
Date Filed: 08-07-2020  
Place Of Use: DOMESTIC  
T56N R04W S36  
L1(SWSW)

**97-7577**  
JASEN N HARADA  
SHANNON N HARADA  
25963 SE 39TH PL  
ISSAQUAH, WA 98029-7768  
ANDREW FONTAINE  
ANGELA FONTAINE  
2118 S MEADOWVIEW RD  
GREENACRES, WA  
99016-8829  
ERIC WODELMAN  
NICOL WODELMAN  
19303 E INDIANA AVE  
SPOKANE VLY, WA  
99016-8574  
Point of Diversion SWNW  
S15 T59N R04W  
BONNER County  
Source GROUND WATER  
Use: DOMESTIC  
01/01 to 12/31 0.08 CFS  
Use: IRRIGATION  
04/01 to 10/31 0.06 CFS  
Total Diversion: 0.14 CFS  
Date Filed: 08-04-2020  
Place Of Use: DOMESTIC, IRRIGATION  
T59N R04W S15 SWNW

RECEIVED

AUG 31 2020

QWR / NORTH



**97-7579**

LOEL FENWICK  
100 WATERBIRD LNDG  
COOLIN, ID 83821-9796  
Point of Diversion NESE  
S27 T60N R04W  
BONNER County  
Source GROUND WATER  
Point of Diversion L4(SENSE)  
S27 T60N R04W  
BONNER County  
Source GROUND WATER  
Point of Diversion NESE  
S27 T60N R04W  
BONNER County  
Source GROUND WATER  
Use: IRRIGATION  
04/01 to 10/31 0.13 CFS  
Use: DIVERSION TO STORAGE  
01/01 to 10/31 0.13 CFS  
Use: DOMESTIC STORAGE  
01/01 to 12/31 2.4 AF  
Use: DOMESTIC FROM STORAGE  
01/01 to 12/31 2 AF  
Use: DOMESTIC  
01/01 to 12/31 0.09 CFS  
Use: IRRIGATION FROM STORAGE  
04/01 to 10/31 14 AF  
Use: IRRIGATION STORAGE  
01/01 to 12/31 14 AF  
Total Diversion: 0.13 CFS,  
16.4 AF  
Date Filed: 08-03-2020  
Place Of Use: DOMESTIC  
T60N R04W S27  
L1(NWNE),L4(SENSE)  
Place Of Use: IRRIGATION  
T60N R04W S27  
NWNE,SWNE,SENSE  
Total Acres: 7

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 9/8/2020. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director  
SNP LEGAL 7975  
AD#401646  
AUGUST 19, 26, 2020



IDAHO DEPARTMENT OF FISH AND GAME  
PANHANDLE REGION  
2885 West Kathleen Avenue  
Coeur d'Alene, Idaho 83815

RECEIVED

AUG 31 2020

IDWR / NORTH

Brad Little / Governor  
Ed Schriever / Director

August 27, 2020

Ms. Tammy Alleman  
Idaho Department of Water Resources  
7600 North Mineral Drive, Suite 100  
Coeur d'Alene, ID 83815

REFERENCE: 96-9818 – Hemken Trust

Dear Tammy:

We have reviewed the above-named water right application from the Pend Oreille River in Bonner County. The permit request is to pump 0.04 cfs to for external domestic use to irrigate 1/2 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 their proposed ½ HP 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:lat

C: Paul Kline, IDFG Director's Office

*Keeping Idaho's Wildlife Heritage*