

State of Idaho  
Department of Water Resources  
**Permit to Appropriate Water**  
No. 96-9795

**Priority:** March 19, 2020

**Maximum Diversion Rate:** 0.03 CFS

This is to certify that

PETER HICKS 297 CARR CREEK RD SANDPOINT ID 83864-6313 AND  
FIONA HICKS 297 CARR CREEK RD SANDPOINT ID 83864-6313

has applied for a permit to appropriate water from:

**Source :** CARR CREEK

**Tributary:** PEND OREILLE 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       | 0.03 CFS                 |

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

CARR CREEK NE¼ NW¼, Sec. 26, Twp 57N, 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 |        |
| 57N | 03W | 26  |    |    |    |    | 0.5 |    |    |    |    |    |    |    |    |    |    |    | 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, 2022**.
2. Subject to all prior water rights.
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. 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.
5. 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 27<sup>th</sup> day of AUGUST, 2020.

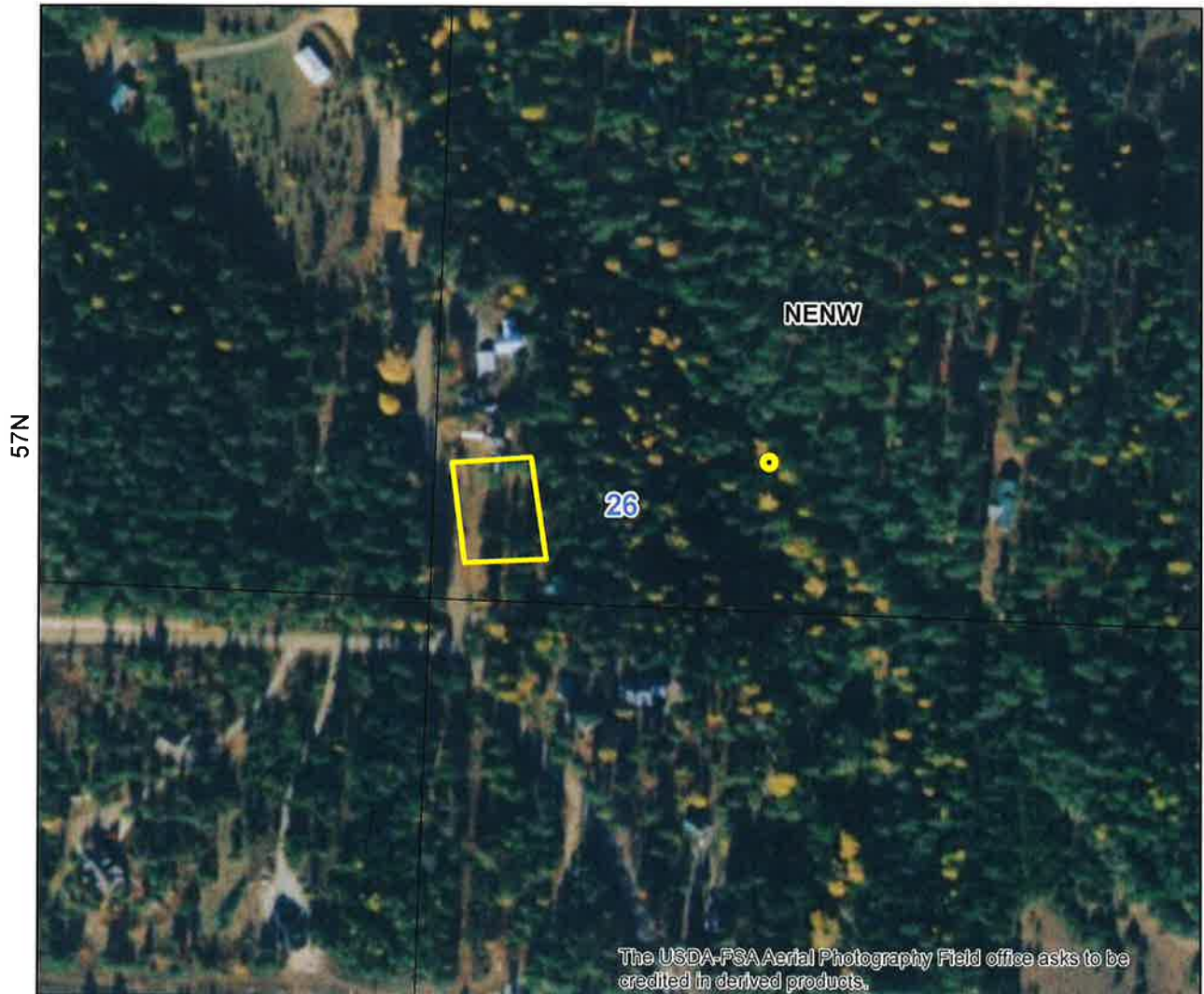


ANGELA GRIMM  
Water Rights Section Manager

State of Idaho  
Department of Water Resources  
**Attachment to Permit to Appropriate Water**  
96-9795

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.

03W



-  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

322 E FRONT ST STE 648 PO BOX 83720 • BOISE, ID 83720-0098

Phone: (208)287-4800 • Fax: (208)287-6700 • Website: [www.idwr.idaho.gov](http://www.idwr.idaho.gov)

Brad Little  
Governor

Gary Spackman  
Director

August 28, 2020

PETER HICKS  
FIONA HICKS  
297 CARR CREEK RD  
SANDPOINT ID 83864-6313

RE: Permit Nos. 96-9794 and 96-9795

### Permit Approval Notice

Dear Permit Holders:

The Department of Water Resources ("Department") has issued the enclosed permits authorizing you to establish a new water rights. Please be sure to thoroughly review all the conditions of approval listed on your permits. 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 permits 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 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 me at (208) 287-4951.

Sincerely,

A handwritten signature in blue ink, appearing to read "Angela M. Grimm". The signature is fluid and cursive, with a large initial 'A' and a long, sweeping underline.

Angela Grimm  
Water Rights Section Manager

Enclosures

## CERTIFICATE OF SERVICE

I hereby certify that on August 28, 2020, I served a true and correct copy of Permit to Appropriate Water No. 96-9795 by U.S. Mail, postage prepaid, to the following:

PETER HICKS (Current Owner)  
297 CARR CREEK RD  
SANDPOINT ID 83864-6313

FIONA HICKS (Current Owner)  
297 CARR CREEK RD  
SANDPOINT ID 83864-6313

CLEARWATER ENGINEERING (Representative) – *via email*  
PO BOX 251  
SANDPOINT ID 83864-0251



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Debbi Judd  
Technical Records Specialist

## **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

## AFFIDAVIT OF PUBLICATION

RECEIVED

APR 27 2020

STATE OF IDAHO )

FISCAL ) ss.

County of Bonner )

APR 27 2020

DEPARTMENT OF  
WATER RESOURCES

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 16 day of  
April, 2020, and ending on the 23 day of  
April, 2020.

Danielle Rukmshottel

State of Idaho, county of Bonner ss.

On this 23 day of April, 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:

96-9794

PETER HICKS  
FIONA HICKS  
297 CARR CREEK RD  
SANDPOINT, ID 83864-6313  
Point of Diversion  
NENW S26 T57N R03W  
BONNER County  
Source GROUND WATER  
Use: IRRIGATION  
04/01 to 10/31  
0.04 CFS  
Use: DOMESTIC  
01/01 to 12/31  
0.04 CFS  
Total Diversion:  
0.04 CFS  
Date Filed: 03-13-2020  
Place Of Use:  
DOMESTIC, IRRIGATION  
T57N R03W S26 NENW  
Total Acres: 0.5

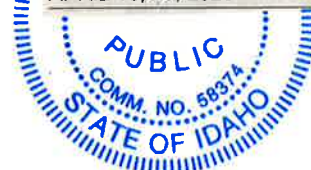
96-9795

PETER HICKS  
FIONA HICKS  
297 CARR CREEK RD  
SANDPOINT, ID 83864-6313  
Point of Diversion  
NENW S26 T57N R03W  
BONNER County  
Source CARR CREEK Tributary  
PEND OREILLE RIVER  
Use: IRRIGATION  
04/01 to 10/31  
0.03 CFS  
Total Diversion:  
0.03 CFS  
Date Filed: 01-30-2020  
Place Of Use: IRRIGATION  
T57N R03W S26 NENW  
Total Acres: 0.5

Permits will be subject to all  
prior water rights. For addi-  
tional information concerning  
the property location, contact  
the State office at  
(208) 287-4800; 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 Wa-  
ter Resources, State Office,  
322 E Front St, PO Box 83720,  
Boise, ID 83720 together with  
a protest fee of \$25.00 for  
each application on or before

5/4/2020. The protestant must  
also send a copy of the protest  
to the applicant.

GARY SPACKMAN, Director  
SNP LEGAL 7683  
AD#376180  
APRIL 16, 23, 2020



*for 5-8-2020*



## Hersley, Jean

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**From:** Horsmon, Merritt <merritt.horsmon@idfg.idaho.gov>  
**Sent:** Thursday, July 30, 2020 2:18 PM  
**To:** Hersley, Jean  
**Subject:** Re: Application for Permit 96-9795

Hi Jean,

The Idaho Department of Fish and Game has no comments to submit for this application.

Thank you for the opportunity.

Merritt Horsmon

Environmental Staff Biologist

2885 W. Kathleen Ave.

Coeur d'Alene, Id 83815

208-769-1414 (Office)

208-251-4509 (Mobile)

merritt.horsmon@idfg.idaho.gov<mailto:merritt.horsmon@idfg.idaho.gov>

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**From:** Hersley, Jean <Jean.Hersley@idwr.idaho.gov>  
**Sent:** Monday, July 13, 2020 7:40:44 AM  
**To:** Horsmon, Merritt  
**Cc:** Hummer, Phill; Dillon, Paula  
**Subject:** Application for Permit 96-9795

The Department of Water Resources is seeking written comments and/or recommendations from your agency regarding Application for Permit 96-9795. You can find copies of the application at:  
<http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx>.

This application has already been published and the protest end date was May 4, 2020. However, the Department did not seek comments from you. Please let me know within 14 days if you have any comments or concerns with this application. If the Department does not hear from you in 14 days, we will presume you do not oppose the approval of this application and have no comments to consider.

If you have any questions, please contact Phill Hummer at (208) 287-4925. Thank you.

Jean Hersley  
Technical Records Specialist II

## Hummer, Phill

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**From:** Golden, Kala  
**Sent:** Friday, July 10, 2020 2:17 PM  
**To:** Hummer, Phill  
**Subject:** RE: comments for 96-9795

Hi Phil,

No concerns on this one.

-Kala

**From:** Hummer, Phill  
**Sent:** Friday, July 10, 2020 11:15 AM  
**To:** Golden, Kala <Kala.Golden@idwr.idaho.gov>  
**Subject:** comments for 96-9795

Kala,

I am working with Paula on some applications for permit. One of them 96-9795 proposed to use water from Carr Creek tributary to the Pend Oreille River. I didn't notice or remember that there is a MSF right for that river (96-8730) so we didn't send so a request for comments. I wanted to give you a chance to review the application and provide comment before the permit is issued. Does you have any concerns with the water use in application 96-9795? Are you still looking at these requests or should I send an email to someone else?

Phill Hummer  
Water Rights Supervisor  
IDWR State Office  
(208) 287-4925