

State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 95-17949

Priority: May 18, 2020

Maximum Diversion Rate: 0.04 CFS

This is to certify that

KELSEY WALTON
1400 E ELDERBERRY CIR
COEUR D ALENE, ID 83815-6556

has applied for a permit to appropriate water from:

Source : GROUND WATER

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>
DOMESTIC	01/01 to 12/31	0.04 CFS

Location of Point(s) of Diversion

GROUND WATER NE¼, NE¼, Sec. 16, Twp 50N, Rge 04W, B.M., KOOTENAI County

Place of Use: DOMESTIC

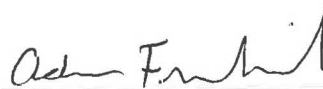
Twp	Rng	Sec	NE				NW				SW				SE				No QQ	Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
50N	04W	16	X																	

Conditions of Approval:

1. Proof of application of water to beneficial use shall be submitted on or before **August 01, 2025**.
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. Right holder shall comply with the drilling permit requirements of Idaho Code § 42-235 and applicable Well Construction Rules of the Department.
5. The following rights are diverted through point(s) of diversion described above 95-17948, 95-17949.
6. Domestic use is for 1 home.
7. The irrigation occurring under this domestic use shall not exceed 1/2 acre.

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

Signed this 23rd day of July, 2020.



ADAM FREDERICK
Water Rights Supervisor

State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

95-17949

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.

04W



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

0 0.02 0.04 0.08 Miles



Tax parcel information provided by Kootenai County.



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

Brad Little
Governor

Gary Spackman
Director

July 24, 2020

KELSEY WALTON
1400 E ELDERBERRY CIR
COEUR D ALENE ID 83815-6556

RE: Permit No. 95-17949

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 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,



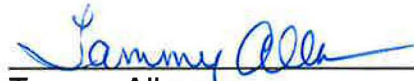
Adam Frederick
Water Rights Supervisor

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on July 24, 2020, I served a true and correct copy of Permit to Appropriate Water No. 95-17949 by U.S. Mail, postage prepaid, to the following:

KELSEY WALTON (Current Owner)
1400 E ELDERBERRY CIR
COEUR D ALENE ID 83815-6556



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.

Maxey, Shaun

From: Sean Penkert <stpenker@gmail.com>
Sent: Friday, July 17, 2020 7:02 PM
To: Maxey, Shaun
Cc: Kimberly Penkert; Kelsey Penkert
Subject: Penkert/Walton Shared well follow up
Attachments: Walton deed.pdf; Klm+Sean P quitclaim deed.PDF; Penkert_Walton well agmt..pdf

Hey Shaun,

I hope you are well!

Apologies for the delay in following up with the attached for the Penkert/Walton shared well:

- Penkert deed copy
- Walton deed copy
- Shared well agreement

Please let me know if anything else is needed.

Thank you for the support!

Best,
Sean Penkert
(208) 763-8456

Water Well Agreement

On this day, May 17th, 2020, all parties agree to the following:

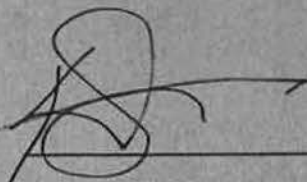
- Splitting (50-50) all costs associated with the drilling/establishment of the water well
- Splitting (50-50) all costs associated the maintenance of the water well
- Allowing physical access to the well with out hinderance or encumbrance



Sean T. Penkert



Kimberly N. Penkert



Kelsey C. Walton

RECEIVED

JUL 17 2020

IDWR / NORTH

QUITCLAIM DEED

RECORDING FEE: \$15.00

DD

FOR VALUE RECEIVED Rick Thomas Penkert and Diane Gail Penkert, Trustees of The RDKS Family Trust, whose address is 5812 N Toulon Dr, County of Kootenai, City of Coeur d'Alene, State of Idaho, hereinafter "Grantors", do hereby convey, release, remise and forever quitclaim unto Kelsey Walton, a Single Woman, whose address is 5812 N Toulon Dr, County of Kootenai, City of Coeur d'Alene, State of Idaho, hereinafter "Grantee", the parcel of land legally described on Exhibit "B", attached hereto and incorporated herein, together with all improvements, appurtenances, and any after acquired title;

TO HAVE AND TO HOLD said land, unto the said Grantees, heirs and assigns forever.

Dated this 2 day of November, 2017

GRANTORS

Rick Thomas Penkert and Diane Gail Penkert, Trustees of The RDKS Family Trust

By:

Rick Thomas Penkert, Trustee

By:

Diane Gail Penkert, Trustee

* This document is being re-recorded to correct the legal description attached as Exhibit 'B'.*

GRANTEE

Kelsey Walton, a Single Woman

By:

Kelsey Walton

JIM BRANNON 4 P 2740197000
KOOTENAI COUNTY RECORDER
MMS 3/9/2020 2:47 PM
REQ OF KOOTENAI COUNTY TITLE
COMPANY

RECORDING FEE: \$15.00
Electronically Recorded

DD

STATE OF IDAHO)

)ss

County of Kootenai)

On this 2nd day of November, 2017, before me, Rick and Diane Penkert, a Notary Public for the State of Idaho, personally appeared Rick Thomas Penkert and Diane Gail Penkert, Trustees of The RDKS Family Trust, known or identified to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

MICHAEL LARSEN

Notary Public

State of Idaho

Commission No. 20190221

Notary Public in and for the State of Idaho

Residing at: 1410 N Government Ave, Coeur d'Alene ID 83814

My Commission Expires: 2-4-25

QUIT CLAIM DEED

RECEIVED

JUL 17 2020

IDWR / NORTH

STATE OF IDAHO

)

)ss

County of Kootenai

)

On this 5 day of November, 2019, before me, Kelsey Walton,
a Notary Public for the State of Idaho, personally appeared Kelsey Walton, a Single Woman,
known or identified to me to be the person whose name is subscribed to the within instrument,
and acknowledged to me that they executed the same.

CRYSTAL BUTT

Notary Public

State of Idaho

Commission No. 20190220

Crystal Butt
Notary Public in and for the State of Idaho

Residing at: 1410 N Government Way CPA ID 83814

My Commission Expires: 02/04/2025

QUIT CLAIM DEED

EXHIBIT B
LOT 2
LEGAL DESCRIPTION

A portion of the Northeast 1/4 of the Northeast 1/4 of Section 16, T50N, R4W, B.M., Kootenai County, Idaho described as follows:

Commencing at the Northeast corner of said Section 16;

Thence along the east line of said Section 16, S 0°15'17" W, 1,315.32 feet;

Thence, leaving said east line, along the south line of said Northeast 1/4 of the Northeast 1/4, N 89°55'50" W, 982.42 feet to a point that is 30.00 feet, measured at a right angle, to the centerline of Upriver Drive (Blackwell Hill Road);

Thence, leaving said south line, parallel with said centerline, N 68°58'44" W, 73.58 feet to the **Point of Beginning**;

Thence, continuing along said parallel line N 68°58'44" W, 301.71 feet to west line of said Northeast 1/4 of the Northeast 1/4;

Thence, along said west line, N 0°11'50" E, 409.78 feet;

Thence, leaving said west line, S 89°48'10" E, 282.00 feet;

Thence, S 0°11'50" W, 517.03 feet to the **Point of Beginning**;

Containing 130,680 square feet, 3.000 Acres more or less.

^B
EXHIBIT 'A' LEGAL DESCRIPTION

Lot 2, Block 1, PENKERT ESTATES, according to the plat thereof recorded in Book L of Plats at Page 434, records of Kootenai County, Idaho.

A handwritten signature in black ink, appearing to read "Kaw" followed by a stylized flourish.



File No.: 409306-EP

JIM BRANNON 1 P 2740198000
KOOTENAI COUNTY RECORDER
MMS 3/9/2020 2:47 PM
REQ OF KOOTENAI COUNTY TITLE
COMPANY
RECORDING FEE: \$15.00 DD
Electronically Recorded

QUITCLAIM DEED

For Value Received

Richard Walton, a married man and spouse of the Grantee

does hereby convey, release and forever quit claim unto

Kelsey ~~W~~ Walton, a married woman as her sole and separate property

whose address is: 5027 W Lemonwood Ln, Post Falls, ID 83854

the following described premises, to wit:

Lot 2, Block 1, PENKERT ESTATES, according to the plat thereof recorded in Book L of Plats at Page 434, records of Kootenai County, Idaho.

together with their appurtenances and including any and all after acquired title.

Dated: March 3, 2020

Richard Walton

STATE OF IDAHO

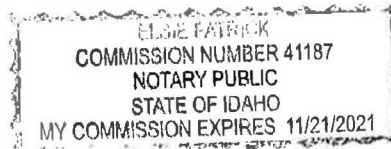
COUNTY OF KOOTENAI

On this 5 day of March, 2020, before me, the undersigned, a Notary Public in and for said State, personally appeared Richard Walton, known or identified to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

Notary Public for Idaho

Residing at:

My Commission Expires:



QUITCLAIM DEED



FOR VALUE RECEIVED Rick Thomas Penkert and Diane Gail Penkert, Trustees of The RDKS Family Trust, whose address is 5812 N Toulon Dr, County of Kootenai, City of Coeur d'Alene, State of Idaho, hereinafter "Grantors", do hereby convey, release, remise and forever quitclaim unto Sean Penkert and Kim Penkert, Husband and Wife, whose address is 5812 N Toulon Dr, County of Kootenai, City of Coeur d'Alene, State of Idaho, hereinafter "Grantees", the parcel of land legally described on **Exhibit "A"**, attached hereto and incorporated herein, together with all improvements, appurtenances, and any after acquired title;

TO HAVE AND TO HOLD said land, unto the said Grantees, heirs and assigns forever.

Dated this 2 day of November, 2019.

GRANTORS

Rick Thomas Penkert and Diane Gail Penkert, Trustees of The RDKS Family Trust

By:

Rick Thomas Penkert, Trustee

By:

Diane Gail Penkert, Trustee

GRANTEE

Sean Penkert and Kim Penkert, Husband and Wife

By:

Sean Penkert

By:

Kim Penkert

STATE OF IDAHO)

)ss

County of Kootenai)

On this 2nd day of November, 2019, before me, Rick and Diane Penkert, a Notary Public for the State of Idaho, personally appeared Rick Thomas Penkert and Diane Gail Penkert, Trustees of The RDKS Family Trust, known or identified to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

MICHAEL LARSEN

Notary Public

State of Idaho

Commission No. 20190221

Notary Public in and for the State of Idaho

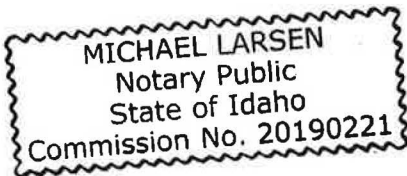
Residing at: 1410 N Government Way, Coeur d'Alene, ID 83814

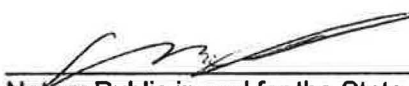
My Commission Expires: 2-4-23

QUIT CLAIM DEED

STATE OF IDAHO)
)ss
County of Kootenai)

On this 2nd day of November, 2014, before me, Sean and Kim Penkert,
a Notary Public for the State of Idaho, personally appeared Sean Penkert and Kim Penkert,
Husband and Wife, known or identified to me to be the persons whose names are subscribed to
the within instrument, and acknowledged to me that they executed the same.





Notary Public in and for the State of Idaho
Residing at: 140 N Government st, Coeur d'Alene ID 83814
My Commission Expires: 2-4-25

QUIT CLAIM DEED

EXHIBIT A
LOT 3
LEGAL DESCRIPTION

A portion of the Northeast 1/4 of the Northeast 1/4 of Section 16, T50N, R4W, B.M., Kootenai County, Idaho described as follows:

Commencing at the Northeast corner of said Section 16;

Thence along the east line of said Section 16, S 0°15'17" W, 1,315.32 feet;

Thence, leaving said east line, along the south line of said Northeast 1/4 of the Northeast 1/4, N 89°55'50" W, 701.19 feet to the **Point of Beginning**;

Thence continuing along said south line N 89°55'50" W, 281.23 feet to a point that is 30.00 feet, measured at a right angle, to the centerline of Upriver Drive (Blackwell Hill Road);

Thence leaving said south line, parallel with said centerline, N 68°58'44" W, 73.58 feet;

Thence N 0°11'50" E, 350.04 feet;

Thence S 89°48'10" E, 350.00 feet;

Thence S 0°11'50" W, 375.57 feet to the **Point of Beginning**;

Containing 130,681 square feet, 3.000 Acres more or less.

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO)
) ss.
County of Kootenai)

Alley Wolf, being first duly sworn upon oath, deposes and states:

1. I am now and at all times hereinafter mentioned was a citizen of the United States, resident of the State of Idaho, over the age of twenty-one years and not a party of the above entitled action.

2. I am now and at all times hereinafter mentioned was the printer (principal clerk) of the "Coeur d'Alene Press", a newspaper printed and published daily in Coeur d'Alene, Kootenai County, Idaho, and having a general circulation in said county.

3. The Legal Notice of which the annexed is a printed copy, was published in the regular Thursday issue of said newspaper for 2 consecutive weeks commencing on the 4th day of June, 2020, and ending on the 11th day of June, 2020, and such publication was made as often during said period as said daily newspaper was regularly issued.

4. That said newspaper has been continuously and uninterruptedly published in said Kootenai County, during a period of more than seventy-eight consecutive weeks immediately prior to the first publication of said notice

[Signature]
On this 11th day of June in the year of 2020 before me, a Notary Public, personally appeared Alley Wolf, known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that he executed the same.



Katrina George
Notary Public for the State of Idaho
Residing in Coeur d'Alene, Idaho

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:

95-17946
TENOLD CRESCENT BAY LLC
1112 ORO REAL NE
ALBUQUERQUE, NM
87123-1939
Point of Diversion: NESW
S35 T49N R04W
KOOTENAI County
Source COEUR D'ALENE LAKE
Tributary SPOKANE RIVER
Use: DOMESTIC
01/01 to 12/31
Total Diversion: 0.04 CFS
Date Filed: 05-18-2020
Place Of Use: DOMESTIC
T49N R04W S35
NESW,NWSW

95-17948
SEAN PENKERT
1400 E ELDERBERRY CIR
COEUR D'ALENE, ID
83815-6556
Point of Diversion: NENE
S16 T50N R04W
KOOTENAI County
Source GROUND WATER
Use: DOMESTIC
01/01 to 12/31
Total Diversion: 0.04 CFS
Date Filed: 05-18-2020
Place Of Use: DOMESTIC
T50N R04W S16 NENE

95-17949
KELSEY WALTON
1400 E ELDERBERRY CIR
COEUR D'ALENE, ID
83815-6556
Point of Diversion: NENE
S16 T50N R04W
KOOTENAI County
Source GROUND WATER
Use: DOMESTIC
01/01 to 12/31
Total Diversion: 0.04 CFS
Date Filed: 05-18-2020
Place Of Use: DOMESTIC
T50N R04W S16 NENE

RECEIVED

JUN 18 2020

DWR / NORTH

95-17950

GREGORY PINDRAS
1923 WARREN AVE N
SEATTLE, WA 98109-2551
Point of Diversion NWSW
S35 T50N R04W
KOOTENAI County
Source GROUND WATER
Use: DOMESTIC
01/01 to 12/31
Total Diversion: 0.04 CFS
Date Filed: 05-22-2020
Place Of Use: DOMESTIC
T50N R04W S35 NWSW

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 6/22/2020. The protestant must also send a copy of the protest to the applicant.
GARY SPACKMAN, Director
CDA LEGAL 3646
AD#386554
JUNE 4, 11, 2020