

**State of Idaho**  
**Department of Water Resources**

**Maximum Diversion Rate: 0.22 CFS**

IDAHO DEPT OF LANDS PO BOX 83720 BOISE ID 83720-0050  
AND  
BRADLEY J MCMULLEN 3239 78TH PL NE MEDINA WA 98039-1019  
AND  
COLLETTE E MCMULLEN 3239 78TH PL NE MEDINA WA 98039-1019  
AND  
KENT G MERRICK 9614 E GREENBLUFF RD COLBERT WA 99005-9552  
AND  
CINDY M MERRICK 9614 E GREENBLUFF RD COLBERT WA 99005-9552  
AND  
MARK S MACKIN 309 W VIEWMONT RD SPOKANE WA 99224-9238  
AND  
PATTI A MACKIN 309 W VIEWMONT RD SPOKANE WA 99224-9238  
AND  
JEFF A BROWN PO BOX 31450 SPOKANE WA 99223-3024  
AND  
LORIANN C BROWN PO BOX 31450 SPOKANE WA 99223-3024  
AND  
JAMES A BROWN 2021 S ONEIDA PL SPOKANE WA 99203-2044  
AND  
MYRNA H BROWN 2021 S ONEIDA PL SPOKANE WA 99203-2044

0.10 CFS

SE¼, NE¼, Sec. 3, Twp 60N, Rge 04W, B.M., BONNER County

[illegible][illegible]

Department of Water Resources  
**Permit to Appropriate Water**

NO. 97-7572

**Conditions of Approval**

1. Proof of application of water to beneficial use shall be submitted on or before **February 01, 2024**.
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. 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. Water shall not be diverted under this right when the level in Priest Lake cannot be maintained as defined in Idaho Statute Title 70 Chapter 507.
6. Water shall not be diverted under this right when flows in the Priest River are below minimum flow amounts as defined by Right 97-7380. The right holder shall be responsible for monitoring the daily flow of the Priest River using real-time data and shall cease diverting water when flows in the Priest River are below established minimum flow amounts. Unless otherwise specified by the Director of the Department of Water Resources, data from the U.S. Geological Survey Priest River gauging station, No. 12395000, may be used for purposes of determining the daily flow amounts.
7. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which the permit holder had no control.
8. Domestic use is for 4 homes and does not include lawn, garden, landscape, or other types of irrigation.
9. This right when combined with all other rights shall provide no more than 0.02 Cubic Feet per Second (CFS) per acre nor more than 3.0 Acre Feet (AF) annually per acre at the field headgate for irrigation of the place of use.
10. Place of use is located within Lot 22, Lot 23, Lot 24, and Lot 25, Blk. 1, Horton Creek subdivision.

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

Signed this 7<sup>th</sup> day of February, 2020.



ADAM FREDERICK  
Water Rights Supervisor








State of Idaho  
Department of Water Resources

# Attachment to Permit to Appropriate Water

97-7572

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
-  PLS Sections
-  Quarter Quarters
-  Taxlots

0 0.04 0.08 0.16 Miles



Tax parcel information provided by Bonner County.

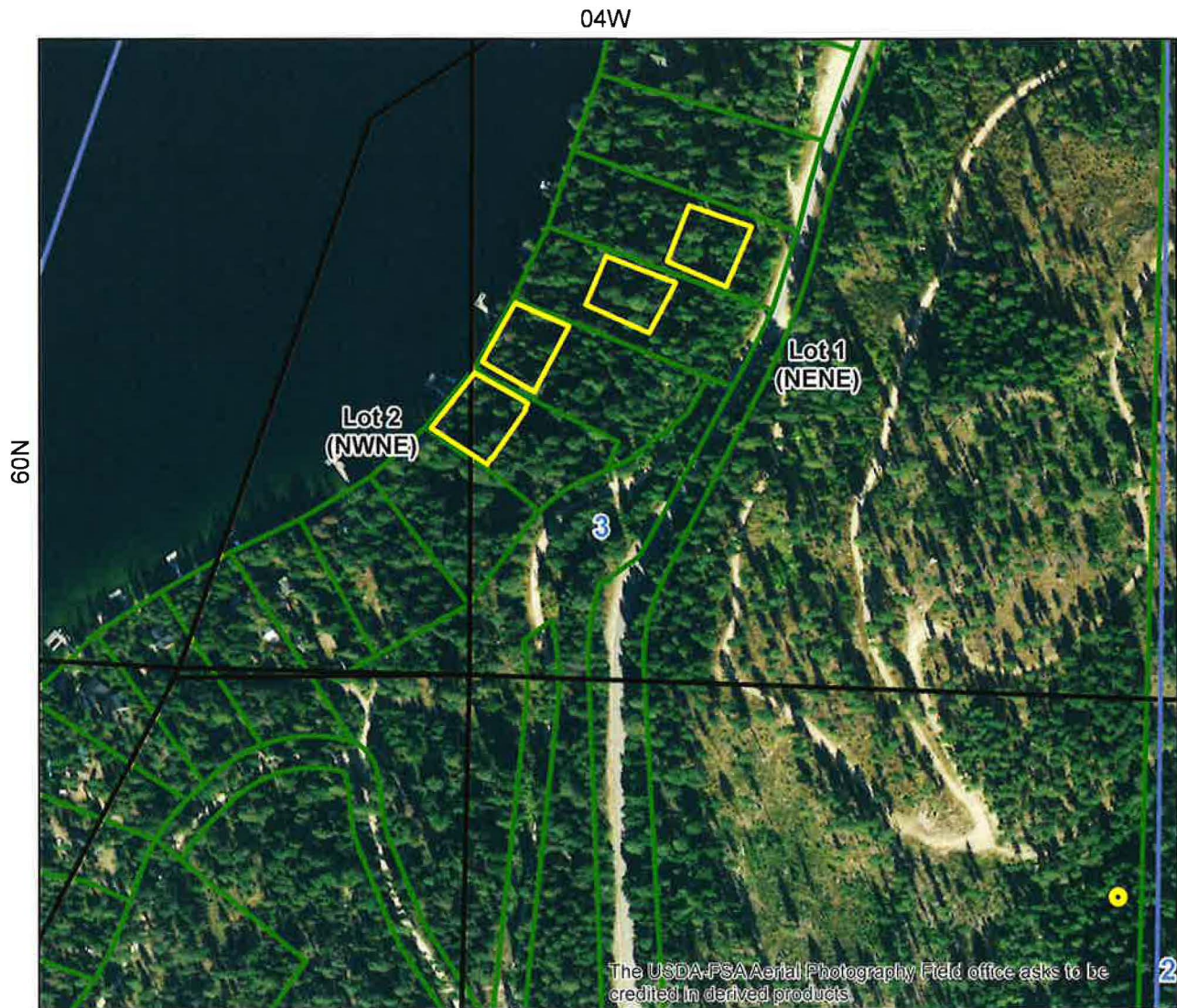








State of Idaho  
Department of Water Resources

# Attachment to Permit to Appropriate Water

97-7572

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
-  Taxlots

0 0.04 0.08 0.16 Miles



Tax parcel information provided by Bonner 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](http://www.idwr.idaho.gov)

Brad Little  
Governor

Gary Spackman  
Director

February 10, 2020

BRADLEY J MCMULLEN  
COLLETTE E MCMULLEN  
3239 78TH PL NE  
MEDINA WA 98039-1019

KENT G MERRICK  
CINDY M MERRICK  
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SPOKANE WA 99203-2044

IDAHO DEPT OF LANDS  
PO BOX 83720  
BOISE ID 83720-0050

RE: Permit No. 97-7572

**Permit Approval Notice**

Dear Permit Holders:

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 February 10, 2020, I served a true and correct copy of Permit to Appropriate Water No. 97-7572 by U.S. Mail, postage prepaid, to the following:

BRADLEY J MCMULLEN (Current Owner)  
COLLETTE E MCMULLEN (Current Owner)  
3239 78TH PL NE  
MEDINA WA 98039-1019

KENT G MERRICK (Current Owner)  
CINDY M MERRICK (Current Owner)  
9614 E GREENBLUFF RD  
COLBERT WA 99005-9552

MARK S MACKIN (Current Owner)  
PATTI A MACKIN (Current Owner)  
309 W VIEWMONT RD  
SPOKANE WA 99224-9238

JEFF A BROWN (Current Owner)  
LORIAN C BROWN (Current Owner)  
PO BOX 31450  
SPOKANE WA 99223-3024

JAMES A BROWN (Current Owner)  
MYRNA H BROWN (Current Owner)  
2021 S ONEIDA PL  
SPOKANE WA 99203-2044

IDAHO DEPT OF LANDS (Current Owner)  
PO BOX 83720  
BOISE ID 83720-0050



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Tammy Allen  
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 Ruhmshottel, 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.

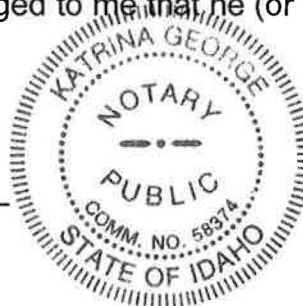
4. The attached Notice was published in the regular and entire issue of the Bonner County Daily Bee for a period of 2 consecutive weeks, commencing on the 20 day of November, 2019, and ending on the 27 day of November, 2019.

Danielle Ruhmshottel

State of Idaho, county of Bonner ss.

On this 2 day of December, in the year of 2019, before me, Katrina George, Notary Public, personally appeared Danielle Ruhmshottel 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

DEC 03 2019

IDWR / NORTH

## PUBLIC NOTICE

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

96-9781  
DANIEL S WILLIAMS  
STACY M WILLIAMS  
13315 S LARKIN RD  
VALLEYFORD, WA 99036-5103

Point of Diversion L2(NESW)  
S29 T56N R05W  
BONNER County  
Source GROUND WATER  
Use: DOMESTIC  
01/01 to 12/31 0.04 CFS  
Total Diversion: 0.04 CFS  
Date Filed: 11/8/2019  
Place Of Use: DOMESTIC  
T56N R05W S29  
L2(NESW)

97-7572  
IDAHO DEPT OF LANDS  
PO BOX 83720  
BOISE, ID 83720-0050  
BRADLEY J MCMULLEN  
COLLETTE E MCMULLEN  
3239 78TH PL NE  
MEDINA, WA 98039-1019  
KENT G MERRICK  
CINDY M MERRICK  
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COLBERT, WA 99005-9552  
MARK S MACKIN

PATTI A MACKIN  
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SPOKANE, WA 99224-9238  
JEFF A BROWN  
LORIANN C BROWN  
PO BOX 31450  
SPOKANE, WA 99223-3024

JAMES A BROWN  
MYRNA H BROWN  
2021 S ONEIDA PL  
SPOKANE, WA 99203-2044  
Point of Diversion SENE  
S3 T60N R04W

BONNER County  
Source HORTON CREEK  
Tributary PRIEST LAKE  
Use: DOMESTIC  
01/01 to 12/31 0.1 CFS  
Use: IRRIGATION  
04/01 to 10/31 0.12 CFS  
Total Diversion: 0.22 CFS  
Date Filed: 10/10/2019  
Place Of Use: DOMESTIC  
T60N R04W S3  
L1(NENE) L2(NWNE)  
Place Of Use: IRRIGATION  
T60N R04W S3  
L1(NENE) L2(NWNE)  
Total Acres: 6

Permits will be subject to all prior water rights. For additional information concerning the property location, contact Northern Region office at (208) 762-2800. 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 12/9/2019. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN,  
Director  
SNP LEGAL 7389  
AD#343235  
NOVEMBER 20, 27, 2019