

State of Idaho  
Department of Water Resources  
**Permit to Appropriate Water**  
No. 95-17943

Priority: April 06, 2020

Maximum Diversion Rate: 0.09 CFS

This is to certify that

SHERYL MISENHIMER 630 GOLDFINCH LN SPIRIT LAKE ID 83869-5500 AND/OR  
JAMES MISENHIMER 630 GOLDFINCH LN SPIRIT LAKE ID 83869-5500

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>
IRRIGATION	04/01 to 10/31	0.09 CFS

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

GROUND WATER NE¼ SW¼, Sec. 21, Twp 54N, 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		
54N	04W	21			3.0															3.0

Total Acres: 3.0

**Conditions of Approval**

1. Proof of application of water to beneficial use shall be submitted on or before **June 01, 2025**.
2. Subject to all prior water rights.
3. Right holder shall comply with the drilling permit requirements of Idaho Code § 42-235 and applicable Well Construction Rules of the Department.
4. 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.
5. The following rights are diverted through points of diversion described above: 95-17943 and 95-17217.
6. 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.
7. This right does not grant any right-of-way or easement across the land of another.

State of Idaho  
Department of Water Resources  
**Permit to Appropriate Water**  
No. 95-17943

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

Signed this 18<sup>th</sup> day of May, 2020.



ADAM FREDERICK  
Water Rights Supervisor

State of Idaho  
Department of Water Resources

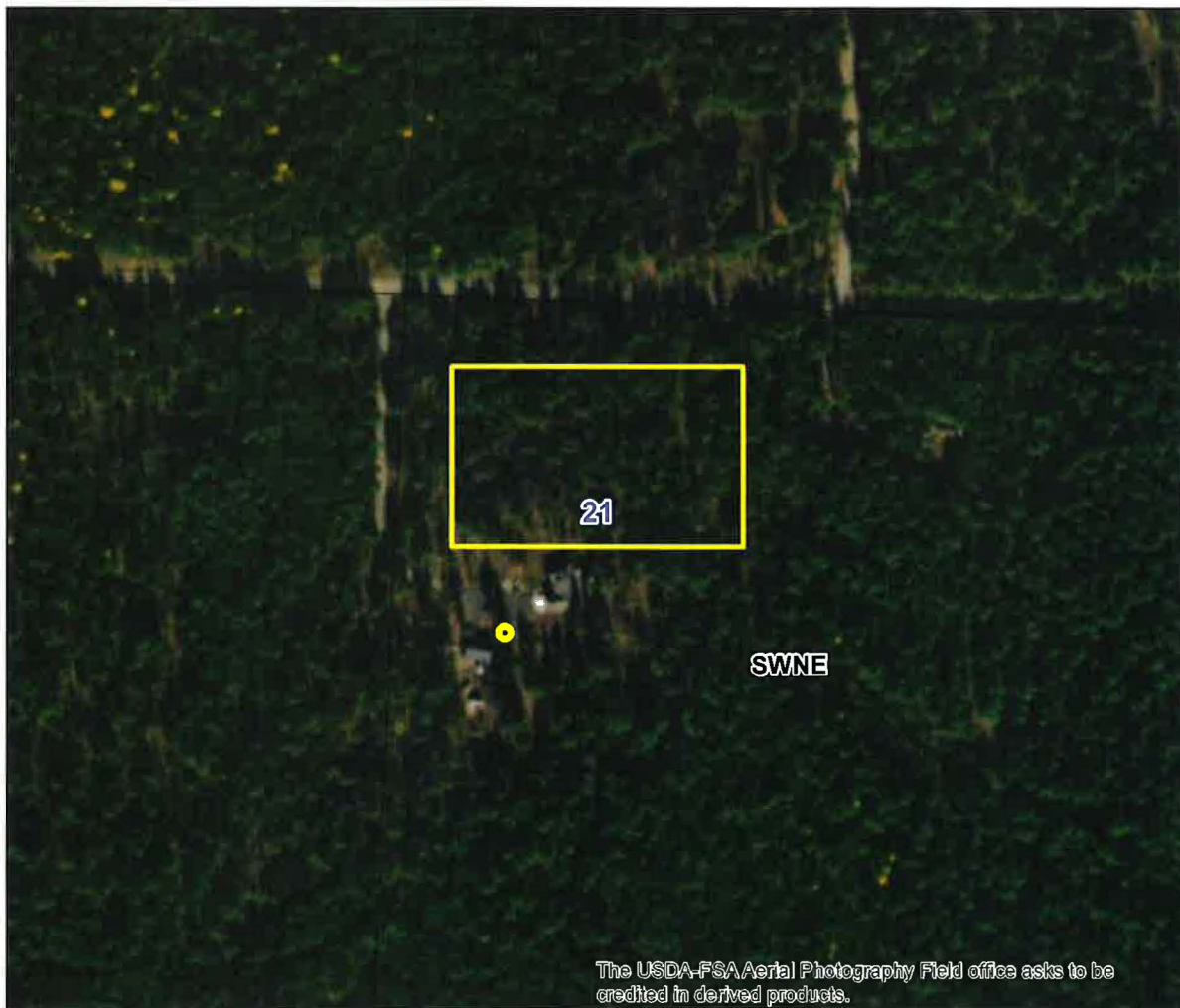
# Attachment to Permit to Appropriate Water






95-17943

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.

04W

54N



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

0 0.035 0.07 0.14 Miles





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

Gary Spackman  
Director

May 18, 2020

JAMES MISENHIMER  
SHERYL MISENHIMER  
630 GOLDFINCH LN  
SPIRIT LAKE ID 83869-5500

RE: Permit No. 95-17943

### 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)

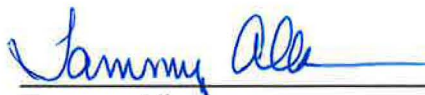


## CERTIFICATE OF SERVICE

I hereby certify that on May 18, 2020, I served a true and correct copy of Permit to Appropriate Water No. 95-17943 by U.S. Mail, postage prepaid, to the following:

JAMES MISENHIMER (Current Owner)  
630 GOLDFINCH LN  
SPIRIT LAKE ID 83869-5500

SHERYL MISENHIMER (Current Owner)  
630 GOLDFINCH LN  
SPIRIT LAKE ID 83869-5500



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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 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

RECEIVED  
APR 27 2020  
IDWR / NORTH

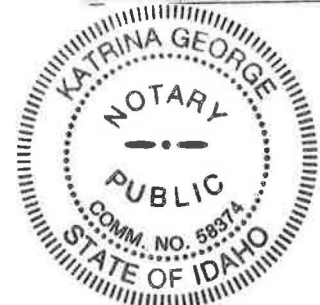
## PUBLIC NOTICE

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

**95-17943**  
SHERYL MISENHIMER  
JAMES MISENHIMER  
630 GOLDFINCH LN  
SPIRIT LAKE, ID 83869-5500  
Point of Diversion NESW  
S21 T54N R04W  
BONNER County  
Source GROUND WATER  
Use: IRRIGATION  
04/01 to 10/31  
Total Diversion: 0.09 CFS  
Date Filed: 04-06-2020  
Place Of Use: IRRIGATION  
T54N R04W S21 SWNE  
Total Acres: 3

**96-9797**  
JOHN SNYDER  
25964 HIGHWAY 2  
SANDPOINT, ID 83864-6583  
Point of Diversion NWNE  
S32 T57N R02W  
BONNER County  
Source PEND OREILLE  
RIVER  
Tributary COLUMBIA RIVER  
Use: IRRIGATION  
04/01 to 10/31  
Total Diversion: 0.05 CFS  
Date Filed: 03-30-2020  
Place Of Use: IRRIGATION  
T57N R02W S29  
L2(SWSE)  
Place Of Use: IRRIGATION  
T57N R02W S32  
L1(NWNE)  
Total Acres: 1.3

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 5/4/2020. The protestant must also send a copy of the protest to the applicant.  
GARY SPACKMAN, Director  
SNP LEGAL 7686  
AD#376540  
APRIL 16, 23, 2020



## MEMORANDUM

**To: Water Right Permit 95-17943**

**From: Luke Bates** 

**Date: 5/14/2020**

**Re: Permit for Licensing to Appropriate Water within the State of Idaho.**

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An application for permit at the time of permitting review was in-process for Irrigation use in the name of James and/or Sheryl Misenhimer. During the permitting process, IDWR staff identified the Point of Diversion (POD), step 4 on application, had incorrect  $\frac{1}{4}$   $\frac{1}{4}$  PLS designator reading NESW, likely transposed by applicant at time of submission. Applicant's map clearly states  $\frac{1}{4}$   $\frac{1}{4}$  PLS designator should read SWNE. Arcmap PLS layer and aerial imagery verify the SWNE location.

The application has been published for public notice, running two consecutive weeks on 4/16/2020 and 4/23/2020. No protest or comments regarding the transposed  $\frac{1}{4}$   $\frac{1}{4}$  PLS location have been received by the public or the applicant. No injury to the public, other water rights, or to the applicant is likely from the transposed POD PLS location as there are no pre-existing water right conflicts with correcting to read SWNE.

Applicant was contacted via email correspondence on 5/14/2020 regarding the need for correction, and applicant replied with his acknowledgement of the error and approval of the change reflecting SWNE for POD location on 5/14/2020. IDWR staff has updated the POD location to reflect SWNE at time of permitting approval.

## Bates, Luke

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**From:** Dan Misenhimer <longbeachsilver@yahoo.com>  
**Sent:** Thursday, May 14, 2020 10:17 AM  
**To:** Bates, Luke  
**Subject:** Re: IDWR application for water permit follow up  
**Attachments:** Misenhimer Application - copy.pdf

To Luke Bates

As per our phone conversation this morning, I am responding with the correction discussed. Part of the Public Land Survey description for the subject property should read SW NE rather than the other way around which I mistakenly wrote in my application. Thank you.

James Misenhimer

On Thursday, May 14, 2020, 7:52:56 AM PDT, Bates, Luke <luke.bates@idwr.idaho.gov> wrote:

Good morning James and Sheryl Misenhimer,

Your application for water permit has been processed through advertising, and during my permit approval process I noted 1 discrepancy we need to correct before permitting.

In step 4 of your application you selected PLS ¼ ¼ location for point of diversion as NESW. I believe this was transposed, as the map you provided clearly states SWNE. This was further verified using GIS arcmap aerial imagery with PLS layer active, and I need to correct the point of diversion to read Twp 54N, Rge 04W, Section 21, **SWNE**.

I need your acknowledgement of the correction, and a reply to this email will satisfy this requirement.

I have attached a copy of your application for reference. Please review and reply at your convenience so that we may work toward approving the permit for your water right.

Please contact me at the number below if you've any questions/concerns.

Thank you,

Luke Bates

Water Resource Agent

**Bates, Luke**

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**From:** Bates, Luke  
**Sent:** Thursday, May 14, 2020 7:53 AM  
**To:** 'longbeachsilver@yahoo.com'  
**Subject:** IDWR application for water permit follow up  
**Attachments:** Misenhimer Application - copy.pdf

Good morning James and Sheryl Misenhimer,

Your application for water permit has been processed through advertising, and during my permit approval process I noted 1 discrepancy we need to correct before permitting.

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I have attached a copy of your application for reference. Please review and reply at your convenience so that we may work toward approving the permit for your water right.

Please contact me at the number below if you've any questions/concerns.

Thank you,

Luke Bates  
Water Resource Agent  
Idaho Dept. of Water Resources  
Northern Regional Office  
P: (208) 762-2800  
F: (208) 762-2819  
Luke.bates@idwr.idaho.gov