

State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 95-17386

Priority: November 16, 2017

Maximum Diversion Volume: 13.0 AF

This is to certify, that BEVERLY EVANS And/Or
ELMOR EVANS
6776 BENEWAH CREEK RD
SAINT MARIES ID 83861

has applied for a permit to appropriate water from:

Source: UNNAMED STREAM**Tributary:** BENEWAH CREEK

and a permit is APPROVED for development of water as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>ANNUAL VOLUME</u>
IRRIGATION STORAGE	01/01 to 12/31	11.1 AF
IRRIGATION FROM STORAGE	04/01 to 10/31	11.1 AF
AESTHETIC STORAGE	01/01 to 12/31	1.9 AF
FIRE PROTECTION STORAGE	01/01 to 12/31	1.9 AF

LOCATION OF POINT(S) OF DIVERSION:

UNNAMED STREAM SW1/4SW1/4 Sec. 4, Twp 45N, Rge 03W, B.M. BENEWAH County

PLACE OF USE: IRRIGATION STORAGE, AESTHETIC STORAGE, AND FIRE PROTECTION STORAGE

Twp Rge Sec	NE				NW				SW				SE				Totals
45N 03W 4	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
											X						

PLACE OF USE: IRRIGATION FROM STORAGE

Twp Rge Sec	NE				NW				SW				SE				Totals
45N 03W 4	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
											3.7						3.7

Total Acres: 3.7

State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 95-17386

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **January 01, 2020**.
2. Subject to all prior water rights.
3. 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.
4. Water shall not be diverted from fire protection storage except to fight or repel an existing fire.
5. Right 95-17386 authorizes the storage of an annual total of 13.0 acre-feet, 1.2 acre-feet to be used for the initial filling of the pond, 0.7 acre-feet for the replacement of losses due to seepage and evaporation, and up to 11.1 acre-feet for additional refills for irrigation from storage use.
6. The pond established by the storage of water under this right shall not exceed a total capacity of 1.2 acre-feet or a total surface area of 0.3 acres.
7. This right when combined with all other rights shall provide no more than 3.0 afa per acre at the field headgate for irrigation of the place of use.
8. 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 Section 42-204, Idaho Code.

Signed this 16th day of January, 20 18.


DOUGLAS JONES, Northern Regional Manager

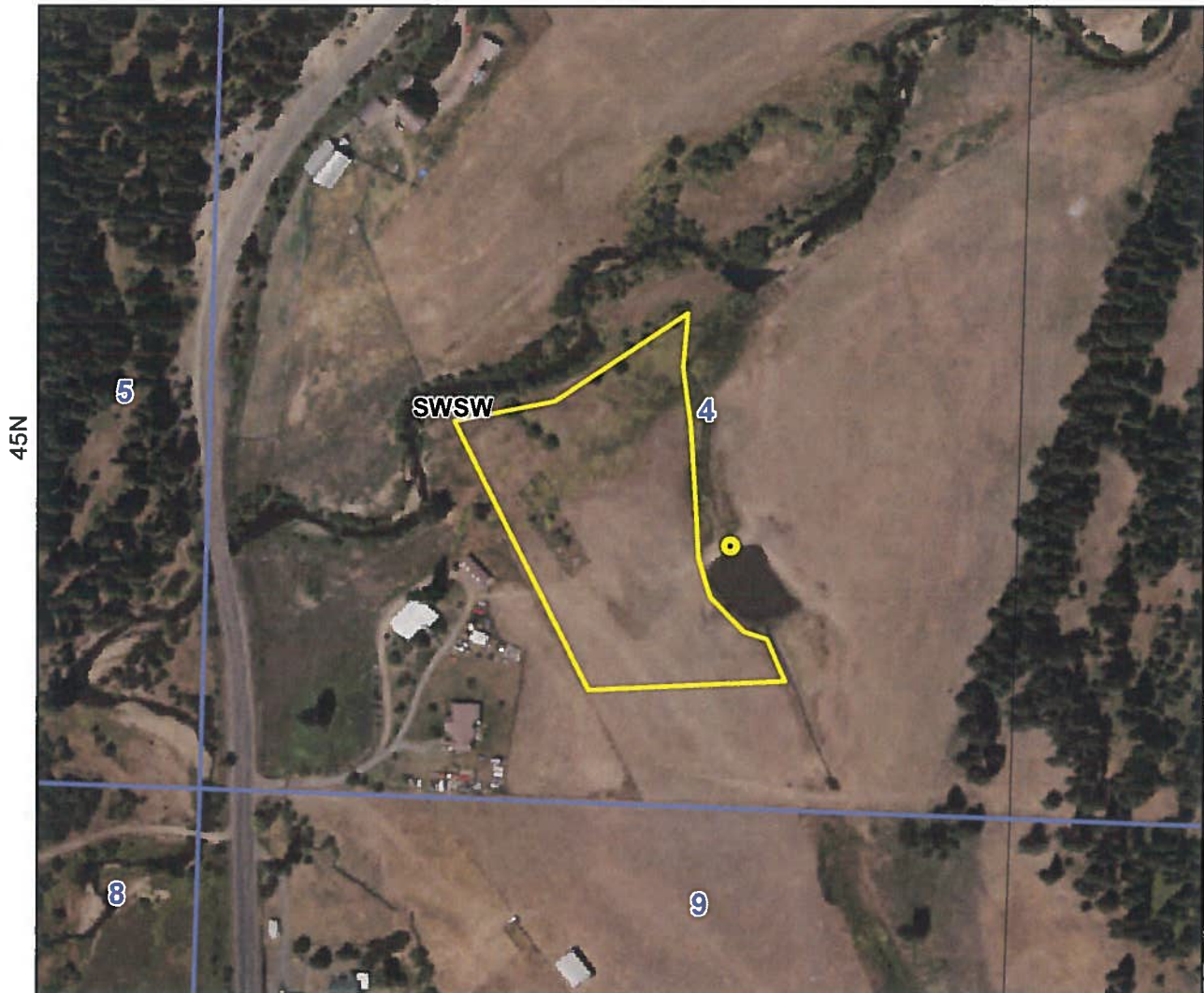
State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

95-17386

This map depicts the IRRIGATION FROM STORAGE 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

0 0.035 0.07 0.14 Miles



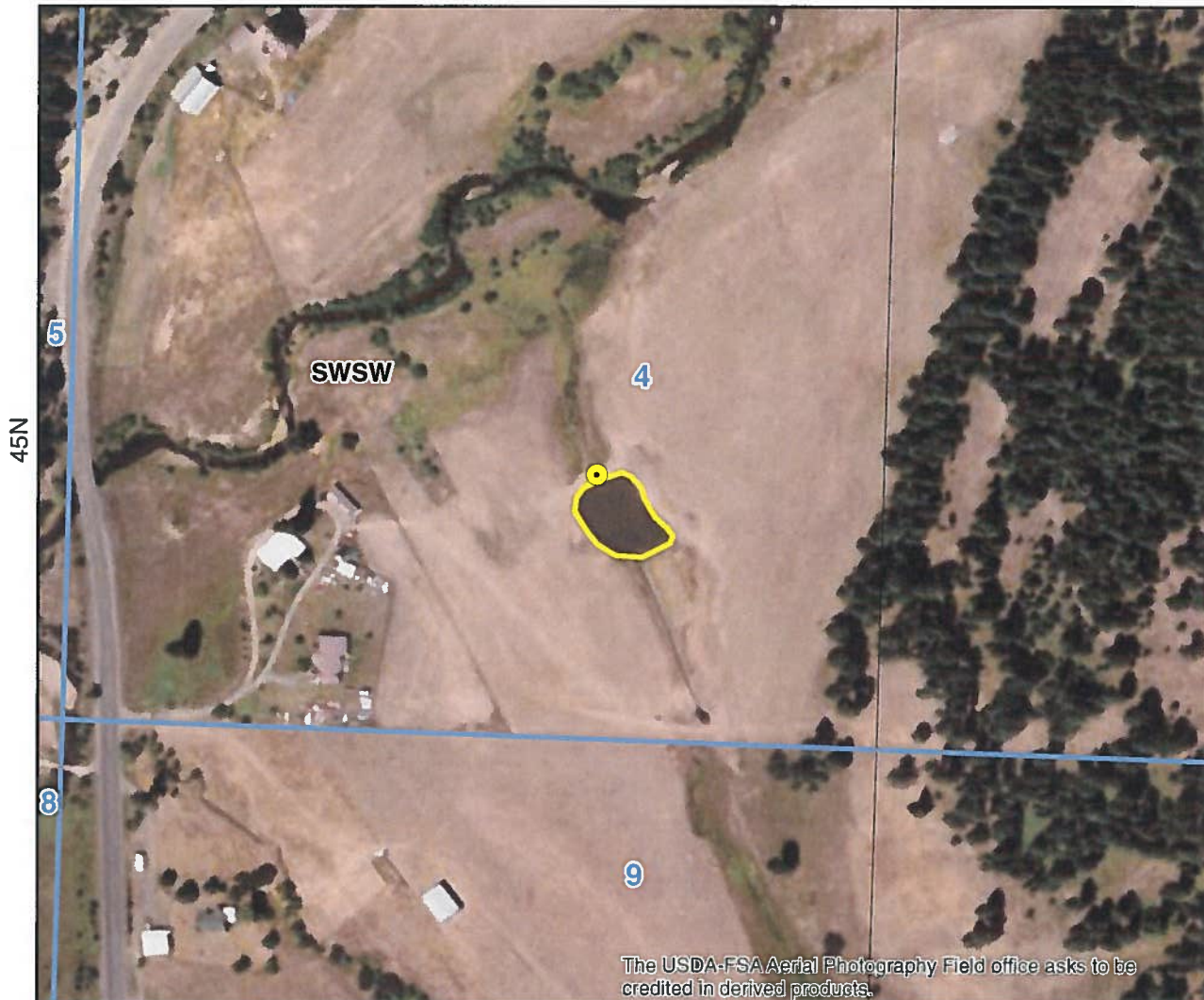
State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

95-17386

This map depicts the AESTHETIC STORAGE, IRRIGATION STORAGE, and FIRE PROTECTION STORAGE 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

0 0.035 0.07 0.14 Miles





State of Idaho

DEPARTMENT OF WATER RESOURCES

Northern Region • 7600 N. Mineral Drive, Suite 100 • Coeur d'Alene, Idaho 83815-7763
Phone: (208) 762-2800 • Fax: (208) 762-2819 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

January 18, 2018

ELMOR & BEVERLY EVANS
6776 BENEWAH CREEK RD
SAINT MARIES ID 83861

RE: Permit No. 95-17386

Permit Approval Notice

Dear Permit Holder:

The Department of Water Resources has issued the enclosed permit authorizing you to establish a new water right. Please be sure to thoroughly review the conditions of approval and remarks listed on your permit.

The permit 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 by the Department unless a party petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date as described in the enclosed information sheet.

As a permit owner you must commence the excavation or construction of the diverting works within one year of the date the permit was issued, and you must proceed diligently until the project is completed. The date shown under condition no. 1 is the date when the project must be completed.

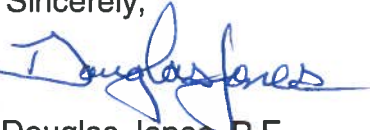
The Department will send you a 'Proof Due Notice' approximately 60 days prior to the above referenced date requesting you to file either a Proof of Beneficial Use form or a Request for Extension of Time form.

Please note that a separate stream channel alteration permit must be obtained from the Department prior to any activity in the stream channel other than construction or maintenance of the diversion structure for your water right(s). Applications for stream channel alteration permits must be filed at least sixty days prior to the commencement of work in the stream.

Also, please note that water right owners are required to report any change of water right 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. Contact any office of the Department or visit the Department's homepage on the Internet to obtain the proper forms and instructions.

If you have any questions, please contact our Northern Regional Office at 208-762-2800.

Sincerely,

A handwritten signature in blue ink, appearing to read "Douglas Jones", with a stylized flourish at the end.

Douglas Jones, P.E.

Northern Regional Manager

Enclosure(s)

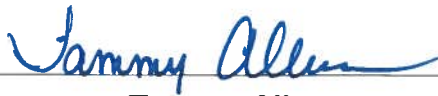
CERTIFICATE OF SERVICE

I hereby certify that on January 18, 2018 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved Permit) to the persons listed below:

RE: WATER RIGHT NO.

95-17386

**ELMOR & BEVERLY EVANS
6776 BENEWAH CREEK RD
SAINT MARIES ID 83861**



**Tammy Alleman
Administrative Assistant**

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

County of Benewah, ss.

Cynthia Ann Hammes, being first duly sworn on oath, deposes and says that she is vice president of The Corporation, owner of the St. Maries Gazette Record, a weekly newspaper printed and published at St. Maries, Benewah County, State of Idaho; the St. Maries Gazette Record is a newspaper having general circulation in Benewah County, State of Idaho, and has been continuously and uninterruptedly published in Benewah County, State of Idaho, during a period of more than seventy-eight consecutive weeks prior to the first publication of notice of advertisement herein.

That the notice, of which the one hereto attached is a true copy, was published in said newspaper for a period of 2 issues, the first publication being on the 6 day of December, 2017 and the last on the 13 day of December, 2017.

That said newspaper was regularly distributed to its subscribers during the time of the same period; that said notice was published in the regular and entire issue of said paper.

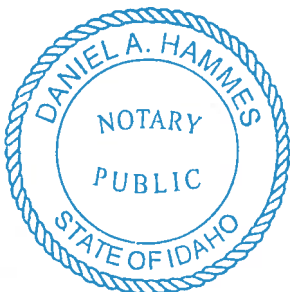
Dated this 13 day of December, 2017

Cynthia Ann Hammes

STATE OF IDAHO)

COUNTY OF BENEWAH)

On this 13 day of Dec., in the year of 2017 before me, a Notary Public, personally appeared Cynthia Ann Hammes, known or identified to me to be the person whose name subscribed to within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that she executed the same.



Daniel A. Hammes

Notary Public for Idaho
Residing at St. Maries, Idaho
My commission expires:

July 13, 2019

RECEIVED

DEC 14 2017

IDWR / NORTH

NOTICE OF APPLICATION

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

95-17386

ELMOR & BEVERLY EVANS

6776 BENEWAH CREEK RD

SAINT MARIES, ID 83861

Point of Diversion SWSW

S4 T45N R03W

BENEWAH County

Source UNNAMED STREAM

Tributary BENEWAH CREEK

Use: AESTHETIC STORAGE

01/01 to 12/31 1.9 AF

Use: FIRE PROTECTION STORAGE

01/01 to 12/31 1.9 AF

Use: IRRIGATION FROM STORAGE

04/01 to 10/31 11.1 AF

Use: IRRIGATION STORAGE

01/01 to 12/31 11.1 AF

Total Diversion: 13 AF

Date Filed: 11/16/2017

Place Of Use: IRRIGATION STORAGE

T45N R03W S4 SWSW

Place Of Use: IRRIGATION FROM STORAGE

T45N R03W S4 SWSW

Place Of Use: AESTHETIC STORAGE

T45N R03W S4 SWSW

Place Of Use: FIRE PROTECTION STORAGE

T45N R03W S4 SWSW

Total Acres: 3.7

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 Mineral Drive, Suite 100, Coeur D'Alene ID 83815 together with a protest fee of \$25.00 for each application on or before 12/26/2017. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Published on 12/6/2017 and 12/13/2017

9844 Dec. 6 - 13