

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 95-17227

Priority: October 28, 2016

Maximum Diversion Rate: 0.06 CFS

This is to certify, that GEORGE DULEBOHN And
JAQUI DULEBOHN
5535 S COTTONTAIL CT
COEUR D ALENE ID 83814

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
IRRIGATION	03/15 to 11/15	0.06 CFS
STOCKWATER	01/01 to 12/31	0.02 CFS

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER SW1/4NW1/4 Sec. 4, Twp 49N, Rge 04W, B.M. KOOTENAI County

PLACE OF USE: DOMESTIC AND STOCKWATER

Twp Rge Sec	NE				NW				SW				SE				Totals
49N 04W 4	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
							X										

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
49N 04W 4	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
							3.0										3.0

Total Acres: 3

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **January 01, 2023**.
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.

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4. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
5. Domestic use is for 1 home. Irrigation of lawn, garden and landscaping associated with the home is authorized under the irrigation component of this right.
6. Stockwater is for 6 head of mixed stock.
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. The diversion and use of water described in this right may be subject to additional conditions and limitations agreed to by the protestant and the right holder under a separate agreement to which the Department is not a party. Because the Department is not a party, the Department is not responsible for enforcement of any aspect of the agreement not specifically addressed in other conditions herein. Enforcement of those portions of the agreement not specifically addressed in other conditions shall be the responsibility of the protestant and the water right holder.
9. 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

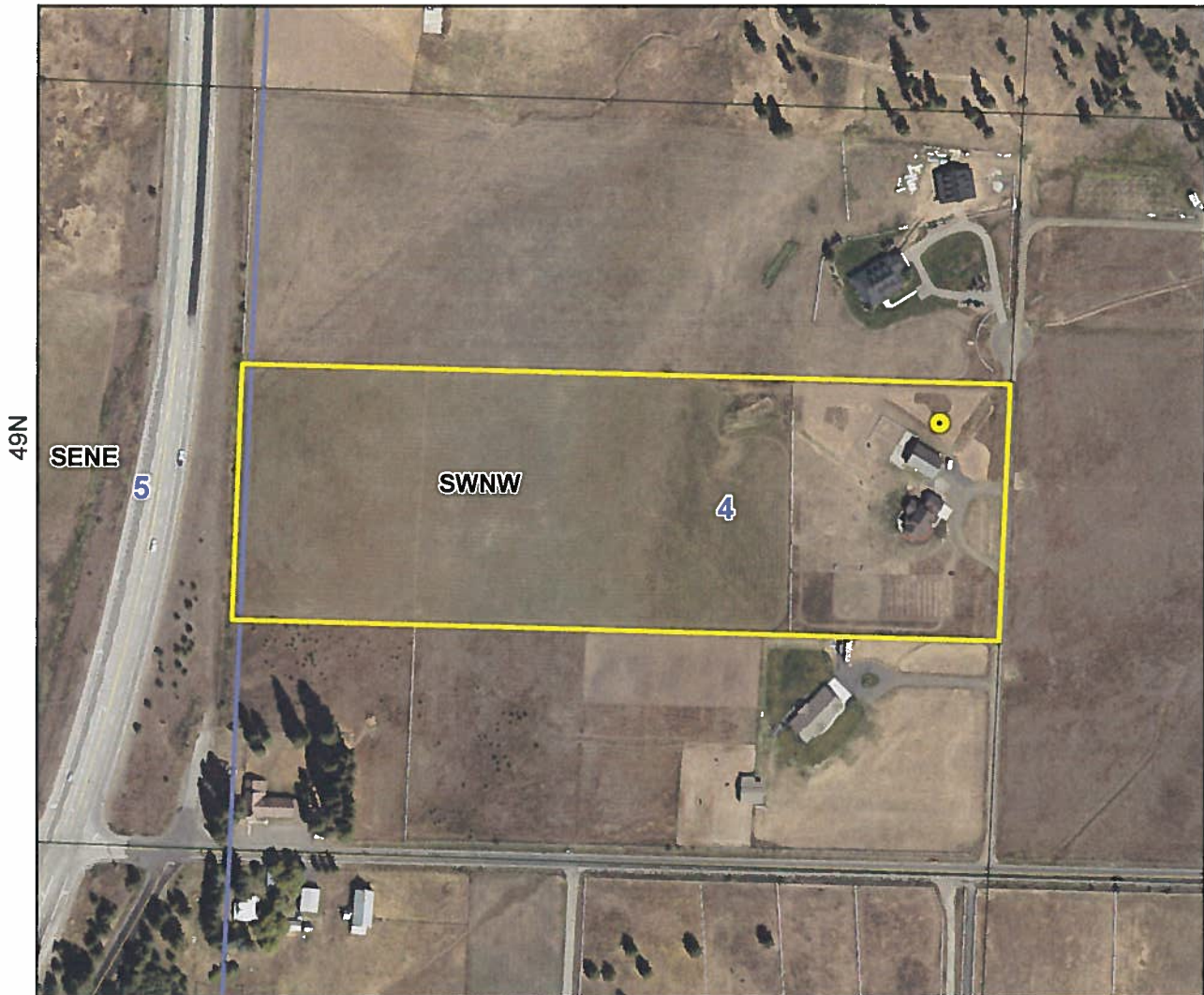
State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

95-17227

This map depicts the STOCKWATER 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
-  Townships
-  PLS Sections

0 0.0375 0.075 0.15 Miles



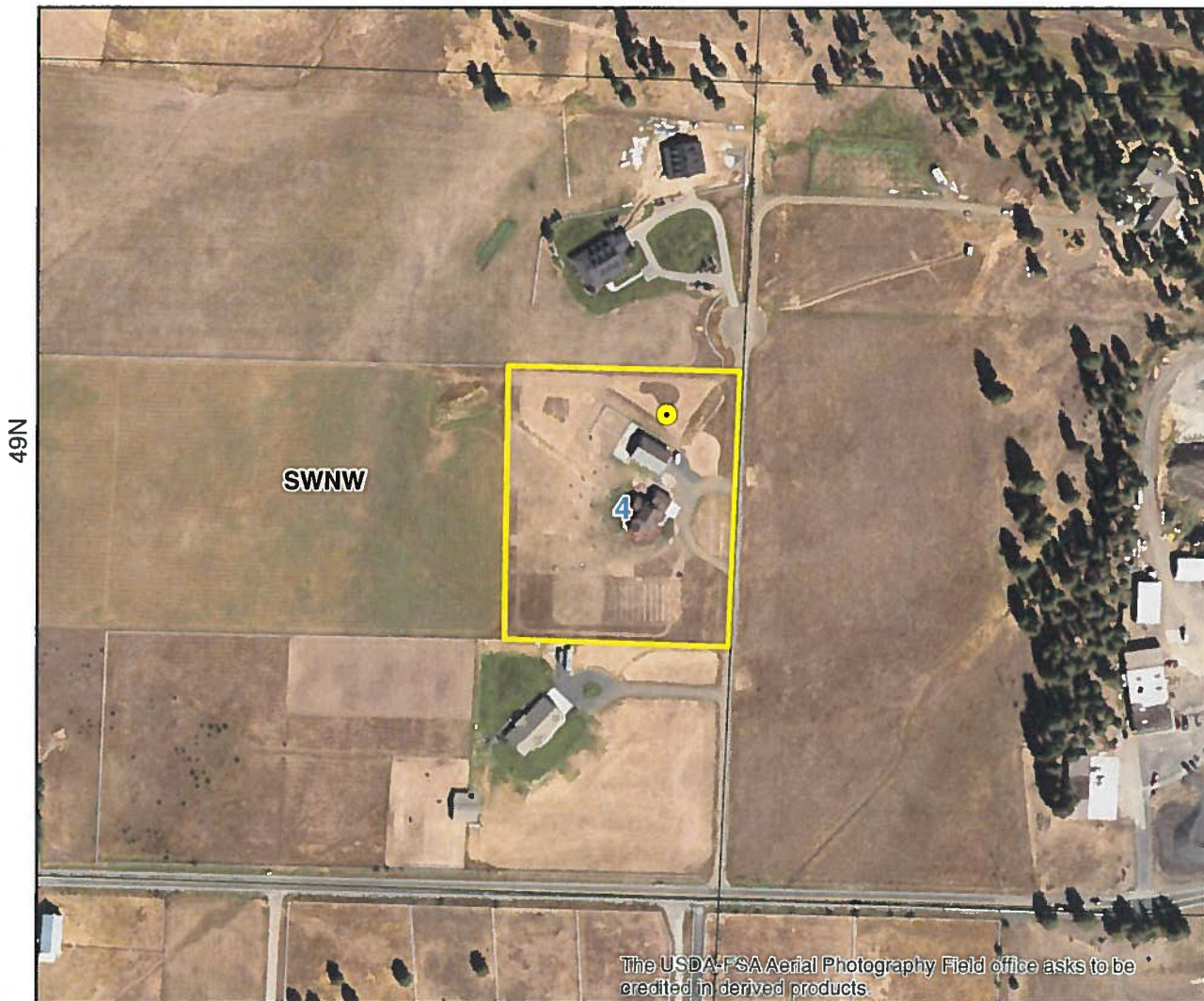
State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

95-17227

This map depicts the DOMESTIC and 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



0 0.035 0.07 0.14 Miles

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





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

GEORGE & JAQUI DULEBOHN
5535 S COTTONTAIL CT
COEUR D ALENE ID 83814

RE: Permit No. 95-17227

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.

The right to drill a well is not a part of this permit to appropriate water. Beginning in July of 1987, a statute was enacted which requires a drilling permit for new well construction and deepening of existing wells. If the well(s) proposed for use under this water right permit were drilled or deepened after July 1, 1987, a separate drilling permit must be obtained from this Department. Please contact the Ground Water Protection Section located here at this office or our regional office nearest you.

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 long horizontal flourish extending to the right.

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. 95-17227

**GEORGE & JAQUI DULEBOHN
5535 S COTTONTAIL CT
COEUR D ALENE ID 83814**



**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.

Alleman, Tammy

From: Alleman, Tammy
Sent: Tuesday, January 02, 2018 10:34 AM
To: '2NAVILLEDAD@GMAIL.COM'; 'kea@kealliance.org'
Cc: Frederick, Adam
Subject: RE: Settlement Agreement on Protest of WR# 95-17227

This is a friendly reminder that we received an agreement to settle a protest between George & Jaqui Dulebohn and Kootenai Environmental Alliance for Water Right Application #95-17227. As stipulated in C. Mutual Actions, the parties agree to file a Notice of Settlement along with the withdrawal of Protest by Kootenai Environmental Alliance. We cannot proceed until all these things are submitted.

Hope you had a great holiday!

Thank you,

Tammy

*Tammy Alleman
Administrative Assistant
Idaho Department of Water Resources
7600 North Mineral Drive, Suite 100
Coeur d'Alene, ID 83815
Tammy.Alleman@idwr.idaho.gov
208-762-2800 Phone
208-762-2819 Fax*

From: Alleman, Tammy
Sent: Friday, December 08, 2017 8:57 AM
To: '2NAVILLEDAD@GMAIL.COM' <2NAVILLEDAD@GMAIL.COM>; 'kea@kealliance.org' <kea@kealliance.org>
Cc: Frederick, Adam <Adam.Frederick@idwr.idaho.gov>
Subject: Settlement Agreement on Protest of WR# 95-17227

Good Morning,

I received a Settlement Agreement signed by both parties on Wednesday, December 6th, 2017. In reading the agreement, C. Mutual Actions states that the parties will file a Notice of Settlement, a copy of this agreement (attached) and a Motion to Withdraw Protest. I only have the agreement at this time so this is waiting the completion of said actions before we can consider this protest withdrawn and proceed with processing the Application for Permit.

We look forward to further correspondence from each party. If you have any questions or concerns, please let me know.

Thank you,

Tammy

DEC 06 2017

IDWR / NORTH

SETTLEMENT AGREEMENT BETWEEN GEORGE AND JAQUI DULEBOHN AND THE KOOTENAI ENVIRONMENTAL ALLIANCE IN REGARDS TO IDWR APPLICATION FOR PERMIT NO. 95-17227

This Settlement Agreement (Agreement) is entered into by and between the Kootenai Environmental Alliance, Inc. (KEA), George, and Jaqui Dulebohn to resolve disputes regarding IDWR Application for Permit No. 95-17227.

In consideration of the mutual promises specified herein and by conditioning their performance under this Agreement upon satisfaction of the identified conditions precedent, and for other good and valuable consideration, the Parties agree as follows:

A. Scope of Agreement

This Agreement is intended to settle all matters related solely to the protest filed by KEA of George and Jaqui Dulebohn's Application for Permit filed with IDWR (Permit No. 95-17227).

B. Actions of George and Jaqui Dulebohn

Under the terms of this Agreement, George and Jaqui Dulebohn agree to undertake the following actions:

1. Amend George and Jaqui Dulebohn's Application for Permit to stipulate a groundwater diversion rate for the water rights associated with IDWR permit No. 95-17227 for 0.06 cfs with the quantity of water under this right shall not exceed 38,779 gallons per day.

C. Mutual Actions

The Parties agree to jointly file a notice of settlement, a copy of this Agreement, and a motion to withdraw protest requesting that IDWR issue a water right that references this Agreement and includes a copy of this Agreement in the permit file.

The Parties further agree not to protest or otherwise challenge the terms of IDWR's water right permit should the terms of that permit be issued in a manner consistent with this Agreement.

D. Actions of KEA

In consideration for the actions identified above and upon the issuance of a final water rights permit to George and Jaqui Dulebohn that incorporates the terms set forth, KEA agrees to a full and final dismissal of its protest.

E. Enforcement

KEA and George and Jaqui Dulebohn agree that all terms of this Agreement may be enforceable, to the extent practicable, through an action by IDWR.

F. Good Faith

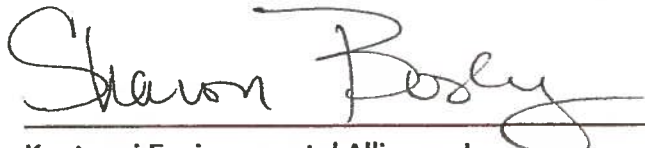
The Parties to this Agreement agree to act in good faith and make all reasonable efforts to satisfy the conditions of the Agreement.

G. Successors and Assigns

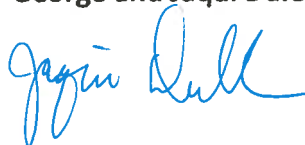
This Agreement will be binding and will inure to the benefit of the Parties and their respective heirs, legal representatives, successors and permitted assigns.

H. Authorizations

All individuals executing this Agreement and other documents on behalf of the respective Parties certify and warrant that they have the capacity and have been duly authorized to so execute the documents on behalf of the Party so indicated.

 Date 11/30/17
Kootenai Environmental Alliance, Inc.
Sharon Bosley, Executive Director

 Date 12/5/17
George and Jaqui Dulebohn

 12/5/17