

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 95-17278

Priority: March 22, 2017

Maximum Diversion Rate: 0.03 CFS
Maximum Diversion Volume: 2.6 AF

This is to certify, that MSHS LLC PO BOX 371 ATHOL ID 83801

has applied for a permit to appropriate water from:

Source: SPRING

Tributary: SINKS

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>	<u>ANNUAL VOLUME</u>
DIVERSION TO STORAGE	01/01 to 12/31	0.03 CFS	
FIRE PROTECTION STORAGE	01/01 to 12/31		1.1 AF
WILDLIFE STORAGE	01/01 to 12/31		1.1 AF
IRRIGATION STORAGE	01/01 to 12/31		2.6 AF
IRRIGATION FROM STORAGE	04/01 to 10/31		1.5 AF

LOCATION OF POINT(S) OF DIVERSION:

SPRING NE1/4, NE1/4, SE1/4, Sec. 17, Twp 54N, Rge 02W, B.M., BONNER County

PLACE OF USE: FIRE PROTECTION STORAGE, IRRIGATION STORAGE, and WILDLIFE STORAGE

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
54N	02W	17													X				

PLACE OF USE: IRRIGATION FROM STORAGE

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
54N	02W	17													.5				.5

Total Acres: 0.5

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **May 01, 2020**.
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. 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. A fish screen of 1/4 inch or smaller mesh shall be installed and maintained at the point of diversion.
6. Right 95-17278 authorizes the storage of an annual total of 2.6 Acre Feet (AF), 0.11 AF to be used for the initial filling or carryover storage of the pond, 1.0 AF for the replacement of losses due to seepage and evaporation, and up to 1.5 AF for additional refills for Irrigation From Storage use.
7. 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.
8. Water shall not be diverted from fire protection storage except to fight or repel an existing fire.
9. Place of use is located within Lot 2, Critchfield Minor Subdivision.

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

Signed, this 5th day of June, 20 17.

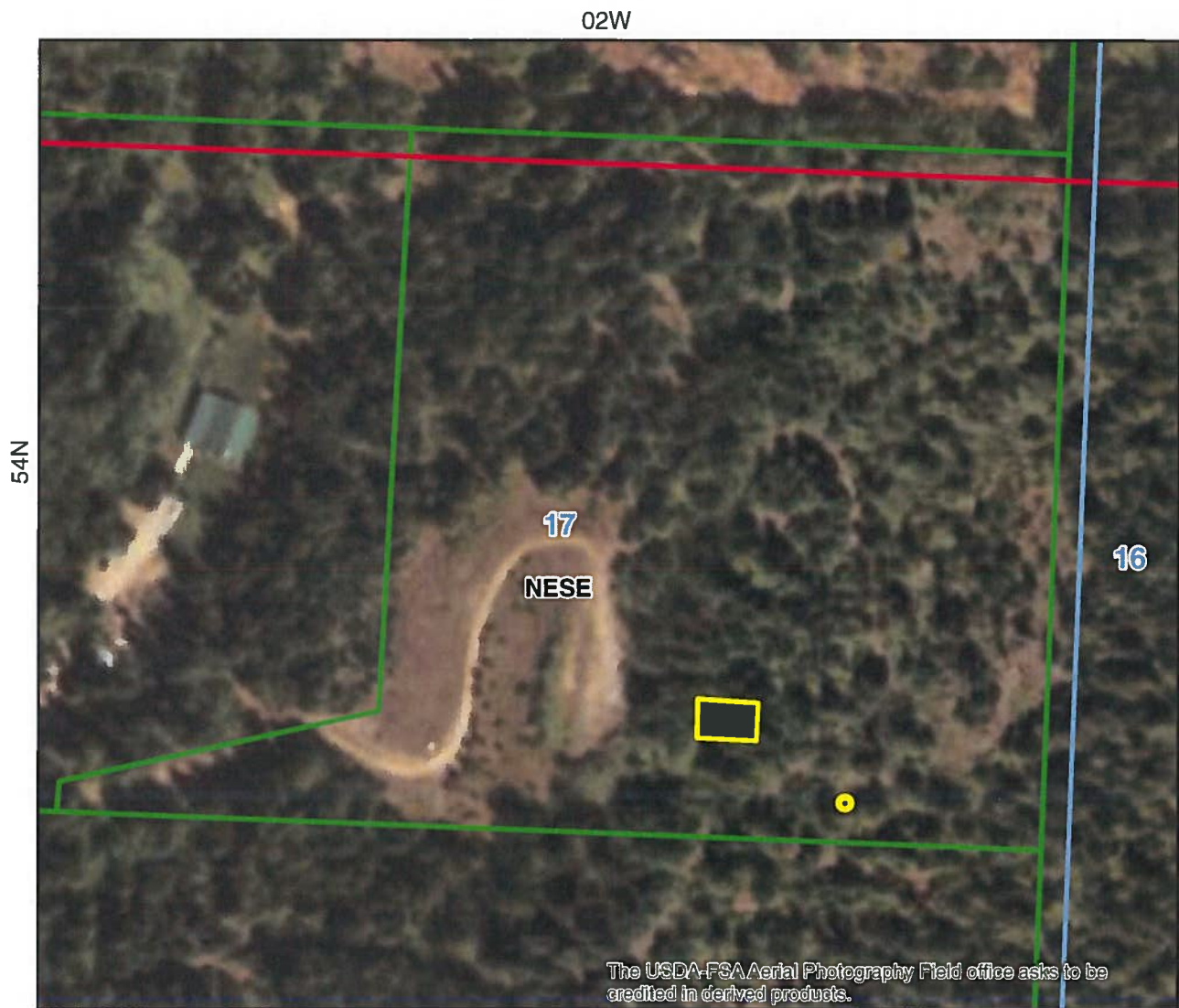

MORGAN CASE, Northern Regional Manager

State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

95-17278

This map depicts the FIRE PROTECTION STORAGE, IRRIGATION STORAGE, and WILDLIFE 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.



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

0 0.02 0.04 0.08 Miles



Tax parcel information provided by Bonner County.

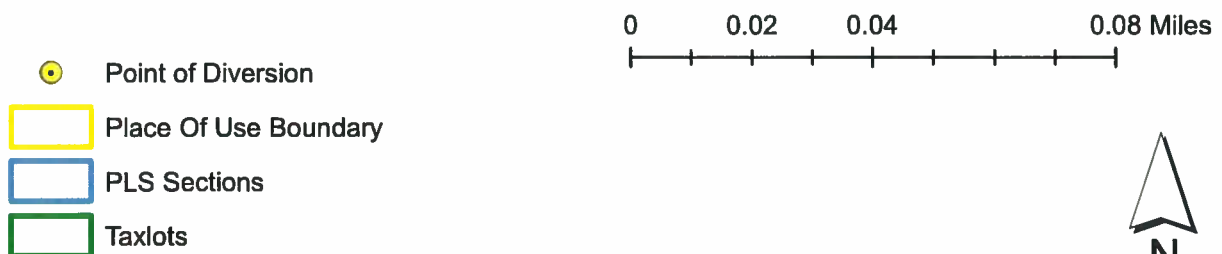
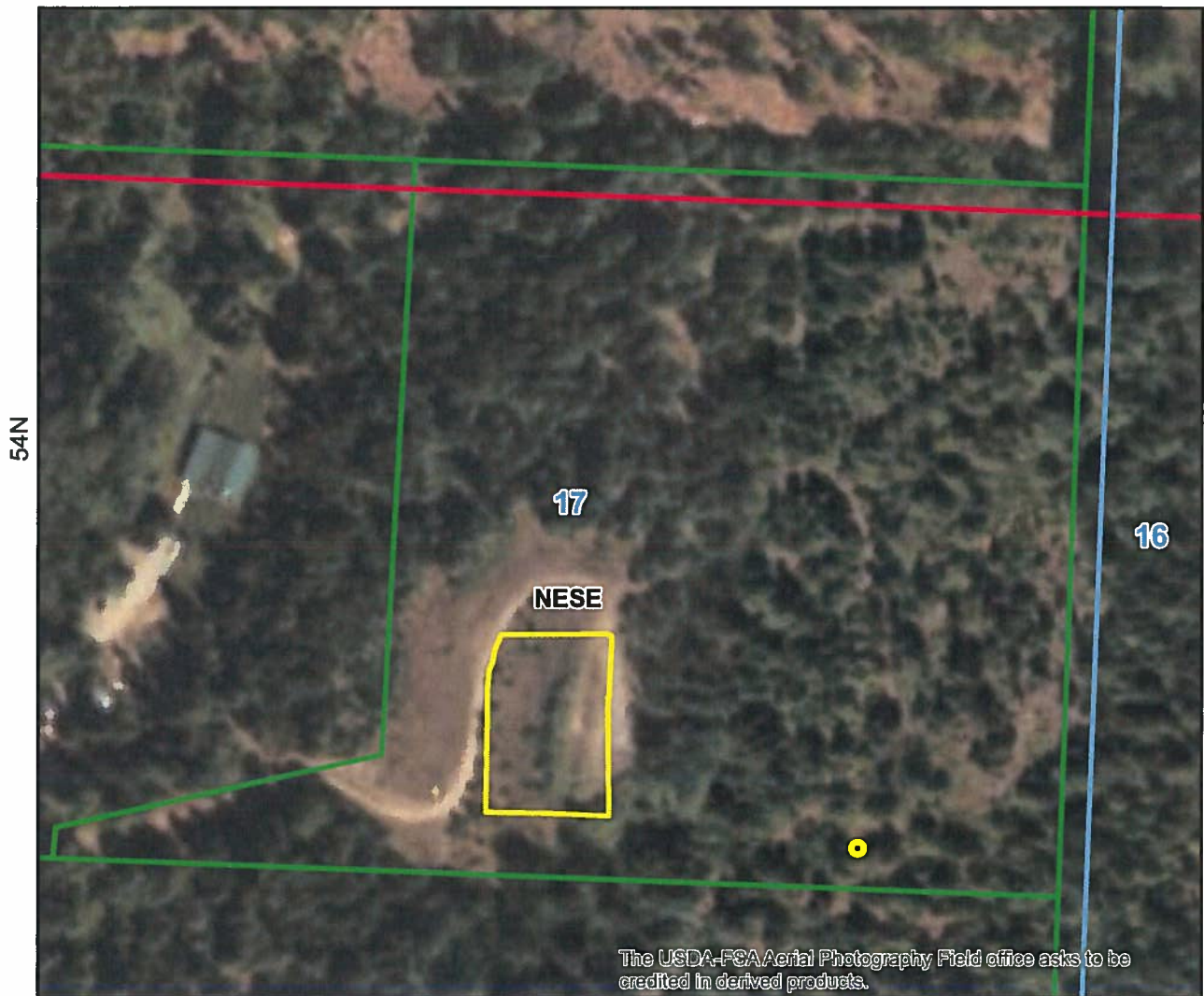
State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

95-17278

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.

02W



Tax parcel information provided by Kootenai County.



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

June 6, 2017

MSHS LLC
PO BOX 371
ATHOL ID 83801

RE: Permit No. 95-17278

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 me at 208-762-2800.

Sincerely,

A handwritten signature in blue ink that reads "Morgan Case". The signature is written in a cursive, flowing style.

Morgan Case

Northern Regional Manager

Enclosure(s)

cc: BRIAN BUNKER

CERTIFICATE OF SERVICE

I hereby certify that on June 6, 2017 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved Permit) to the person(s) listed below:

RE: WATER RIGHT NO.

95-17278

**BRIAN BUNKER
PO BOX 371
ATHOL ID 83801**

**MSHS LLC
PO BOX 371
ATHOL ID 83801**



**Natalie Steading
Technical Records Specialist**

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.

RECEIVED

APR 17 2017

IDWR / NORTH

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO)

) SS.

County of Bonner)

Holly Fredenicks, 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 Legal Notice.
My business address is P.O. Box 159, Sandpoint, Idaho.
2. I am the legals clerk 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 6 day of Apr, 2017, and ending on the 13 day of Apr, 2017.

The ducks

State of Idaho, county of Bonner ss.

On this 13 day of Apr, in the year of 2017, before me, Katrina George, Notary Public, personally appeared

Holly Fredericks, 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

Comm. Exp.: MY COMMISSION EXPIRES 8/29/17



RECEIVED
APR 17 2017
IDWR / NORTH

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

95-17278

MSHS LLC

PO BOX 371

ATHOL, ID 83801

Point of Diversion NENESE S17 T54N R02W BONNER County

Source SPRING tributary SINKS

Use: DIVERSION to Storage 01/01 to 12/31 0.03 CFS

Use: WILDLIFE Storage 01/01 to 12/31 1.1 AF

Use: FIRE PROTECTION Storage 01/01 to 12/31 1.1 AF

Use: IRRIGATION Storage 01/01 to 12/31 2.6 AF

Use: IRRIGATION from Storage 01/01 to 12/31 1.5 AF

Total Diversion: 0.03 CFS 2.6 AF

Date Filed: 3/22/2017

Place of Use: DIVERSION to Storage T54N R02W S17 NESE

Place of Use: WILDLIFE Storage T54N R02W S17 NESE

Place of Use: FIRE PROTECTION Storage and IRRIGATION

Storage same as WILDLIFE Storage

Place of Use: IRRIGATION from Storage T54N R02W S17 NESE

Total Acres: 0.5

96-9652

JEFF BARNHART

MELISSA BARNHART

1611 E EDMONDTON AVE

POST FALLS, ID 83854

Point of Diversion NENW S32 T55N R02W BONNER County

Source GROUND WATER tributary COCOLALLA CREEK

Point of Diversion NENW S32 T55N R02W BONNER County

Source UNNAMED STREAM tributary COCOLALLA CREEK

Use: WILDLIFE Storage 01/01 to 12/31 5.1 AF

Use: RECREATION Storage 01/01 to 12/31 5.1 AF

Use: STOCKWATER Storage 01/01 to 12/31 0.1 AF

Use: FIRE PROTECTION Storage 01/01 to 12/31 5.1 AF

Use: STOCKWATER from Storage 01/01 to 12/31 0.1 AF

Total Diversion: 5.2 AF

Date Filed: 3/22/2017

Place of Use: WILDLIFE Storage T55N R02W S32 NENW

Place of Use: RECREATION Storage T55N R02W S32 NENW

Place of Use: STOCKWATER Storage T55N R02W S32 NENW

Place of Use: FIRE PROTECTION Storage T55N R02W S32 NENW

Place of Use: STOCKWATER from Storage T55N R02W S32 NWNE NENW

Recreation use is for fishing.

Stockwater use is for 10 head of mixed stock.

Permits will be subject to all prior water rights. For additional information concerning the property location, contact Northern Region office at (208) 762-2800; or for a full description of the right(s), please see:

<http://www.idwr.idaho.gov/apps/ExtSearch/WRAApplicationResult/>

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 4/24/2017. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

SNP LEGAL 4508

APR 6, 13, 2017

Ball, Dianne

From: Ball, Dianne
Sent: Thursday, March 30, 2017 2:55 PM
To: kiira.sitari@idfg.idaho.gov
Subject: FW: RE: Application for Permit No. 95-17278 and 96-9652
Attachments: app-map-nd-attachmts-95-17278.pdf; app-map-nd-attachmts-96-9652.pdf

Let's try again. ☺

Subject: RE: Application for Permit No. 95-17278 and 96-9652

Good afternoon, Kiira:

The Department of Water Resources is seeking written comment and/or recommendations from your agency regarding the above referenced water right application. A copy of the application is enclosed for your reference.

These are being prepared for publication in the Bonner County Daily Bee on April 6 and 13, 2017 with April 24, 2017 as final date for protests to be received in our office.

Your prompt response to this request is appreciated. If your agency desires to formally protest the approval of this application, you may do so after the notice is published by filing a written protest along with a \$25.00 filing fee within 10 days after final publication.

Please contact Shaun Maxey in this office if you have any questions regarding application 95-17278, and contact Adam Frederick in this office if you have questions regarding application 96-9652. Thanks.

Sincerely,

Dianne Ball

Administrative Assistant
Idaho Department of Water Resources
7600 N Mineral Dr., Ste. 100
Coeur d'Alene, ID 83815
208-762-2800 Fax 208-762-2819