

State of Idaho
Department of Water Resources
Water Right License
WATER RIGHT NO. 94-07445

Corrected***Corrected*****PRIORITY:** July 17, 2008

Maximum Diversion Rate: 0.01 CFS

Maximum Diversion Volume: 5.4 AF

It is hereby certified that:

LOIS J WECHSLER PO BOX 725 POST FALLS ID 83877 And

JAMES C GEORGE PO BOX 725 POST FALLS ID 83877 And

VALERIE J GEORGE PO BOX 725 POST FALLS ID 83877

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated July 16, 2008, and has submitted Proof of Beneficial Use on May 29, 2009. An examination confirms water is diverted from:

SOURCE: EAST FORK EAGLE CREEK **TRIBUTARY:** EAGLE CREEK

and a water right has been established as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL DIVERSION VOLUME</u>
DOMESTIC	01/01 to 12/31	0.01 CFS	1.2 AF
IRRIGATION	04/01 to 10/31	0.01 CFS	4.2 AF

LOCATION OF POINT(S) OF DIVERSION:

EAST FORK EAGLE CREEK SE¼NW¼ Sec. 25, Twp 50N, Rge 04E, B.M. SHOSHONE County

EAST FORK EAGLE CREEK SE¼NW¼ Sec. 25, Twp 50N, Rge 04E, B.M. SHOSHONE County

PLACE OF USE: DOMESTIC

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
50N	04E	25								X									

PLACE OF USE: IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
50N	04E	25								4.0									4.0

Total Acres: 4

CONDITIONS OF APPROVAL

1. 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 lands above.
2. This right does not grant any right-of-way or easement across the land of another.

State of Idaho
Department of Water Resources
Water Right License
WATER RIGHT NO. 94-07445

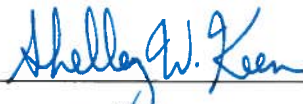
Corrected

Corrected

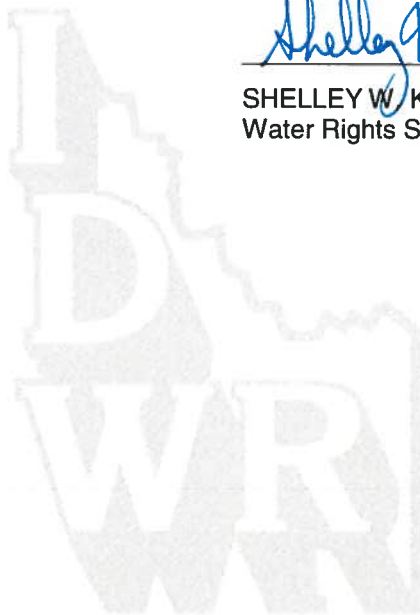
3. Domestic use is for 2 homes. Irrigation of lawn, garden and landscaping associated with the home is authorized under the irrigation component of this right.

This license is issued pursuant to the provisions of Section 42-219, Idaho Code. The water right confirmed by this license is subject to all prior water rights and shall be used in accordance with Idaho law and applicable rules of the Department of Water Resources.

Signed this 12th day of May, 2016.



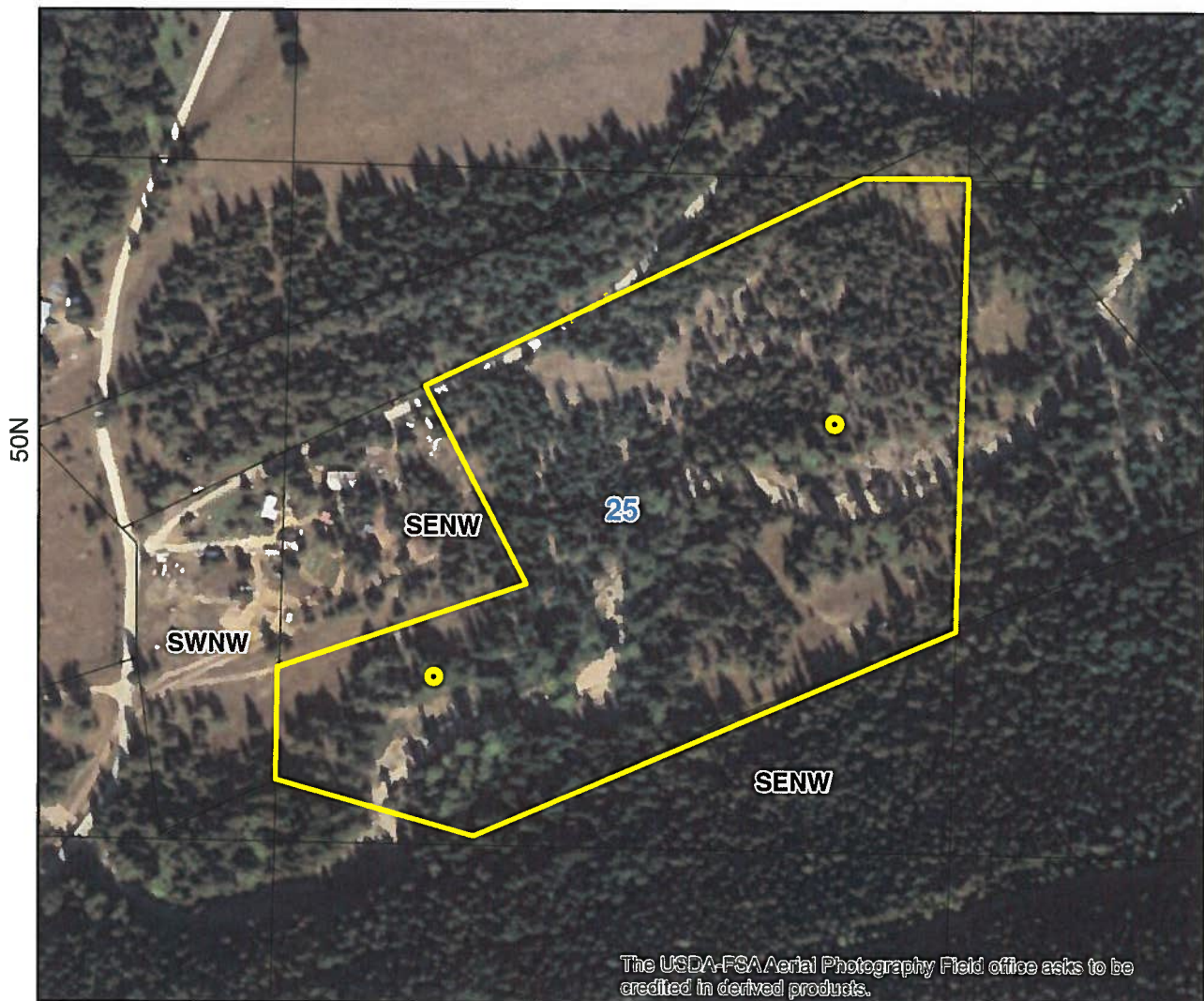
SHELLEY W. KEEN
Water Rights Section Manager



State of Idaho
Department of Water Resources
Attachment to Corrected Water Right License
94-7445

This map depicts the IRRIGATION and 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.

04E



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

0 0.0425 0.085 0.17 Miles





State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

May 16, 2016

LOIS J WECHSLER
JAMES C GEORGE
VALERIE J GEORGE
PO BOX 725
POST FALLS ID 83877

RE: Corrected License No. 94-7445

Dear Water Right Holder(s):

The Department of Water Resources has issued the enclosed Preliminary Order Correcting License along with the Corrected Water Right License. Please be sure to thoroughly review the conditions of approval and remarks listed on your license. Also enclosed is a copy of the approved revised application for amendment.

The order is a PRELIMINARY ORDER issued by the Department pursuant to Idaho Code § 42-219. 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.

The Department also acknowledges the receipt of correspondence changing ownership of the above referenced water right. The Department has modified its records to reflect this change in ownership.

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 208-287-4947.

Sincerely,

Shelley W. Keen, Manager
Water Right Permits Section

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on March 17, 2015 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (Preliminary Order Correcting License) to the person(s) listed below:

RE: WATER RIGHT NO.

94-7445

**LOIS J WECHSLER
PO BOX 725
POST FALLS ID 83877**

**JAMES C GEORGE
PO BOX 725
POST FALLS ID 83877**

**VALERIE J GEORGE
PO BOX 725
POST FALLS ID 83877**



**Darla Block
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.

BEFORE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER LICENSE NO. 94-7445)
IN THE NAME OF PETER B. WECHSLER,)
LOIS J. WECHSLER, JAMES C. GEORGE)
AND VALERIE J. GEORGE)

**PRELIMINARY ORDER
CORRECTING LICENSE**

This matter having come before the Department of Water Resources (Department) as a result of development of a permit to appropriate water, the Department finds, concludes and orders as follows:

FINDINGS OF FACT

1. On July 17, 2008, the Department received an application from Peter B. Wechsler, Lois J. Wechsler, James C. George and Valerie J. George (right holders) to appropriate water (application) from the East Fork of Eagle Creek for domestic and irrigation purposes. The application included a warranty deed and map describing the place of use as a portion of Homestead Entry Survey No. 554 within the SE¼NW¼ of Section 25, Township 50 North, Range **04** East, B.M. The application place of use description listed Range **01** East for both uses.
2. On September 23, 2008, the Department issued Permit 94-7445 (permit) to the right holders authorizing the development of a right to divert water from the East Fork of Eagle Creek for domestic and irrigation purposes. The place of use was described within the SE¼NW¼ of Section 25, Township 50 North, Range **01** East, B.M., for both purposes.
3. On May 22, 2009, the right holder completed a proof of beneficial use statement for the permit and submitted it to the Department with the appropriate fee.
4. On May 22, 2009, Department staff conducted a field examination to verify the beneficial use of water established in connection with the permit. The field examiner identified the place of use on the Beneficial Use Field Report (field report) as SE¼NW¼ of Section 25, Township 50 North, Range **04** East, B.M. The examiner recommended that the license be amended to correct the place of use to match the examiner's field report.

5. On November 5, 2009, the Department approved the right holders' Application for Amendment for Licensing Purposes (licensing amendment) and issued Water Right License 94-7445 (license) to the right holders. Both the licensing amendment and the license identify the place of use as the SE¼NW¼ of Section 25, Township 50 North, Range 01 East, B.M., for both purposes. No changes to the elements of the permit were accomplished through the licensing amendment.
6. On May 4, 2016, the right holders submitted a revised licensing amendment showing the place of use for both irrigation and domestic purposes in the SE¼NW¼ of Section 25, Township 50 North, Range 01 East, B.M., as reported by the field examiner.

CONCLUSIONS OF LAW

1. Idaho Code § 42-219 describes the Department's role in licensing a water right after proof of beneficial use has been submitted:

Upon receipt by the department of water resources of all the evidence in relation to such final proof, it shall be the duty of the department to carefully examine the same, and if the department is satisfied that the law has been fully complied with and that the water is being used at the place claimed and for the purpose for which it was originally intended, the department shall issue to such user or users a license confirming such use.

2. Under Idaho Code § 42-219, the Department has an obligation to issue a water right license that accurately portrays the beneficial use of water developed in accordance with the permit.
3. The licensing amendment and Water Right License 94-7445 authorize domestic and irrigation use within Range 01 East instead of modifying the place of use to Range 04 East in accordance with the field report.
4. The Department should approve the revised licensing amendment and correct the place of use descriptions on the license.

ORDER

IT IS HEREBY ORDERED that the revised licensing amendment is approved.

IT IS FURTHER HEREBY ORDERED that the place of use description for domestic and irrigation use of Water Right License 94-7445 is **CORRECTED** to SE¼NW¼ of Section 25, Township 50 North, Range 04 East, B.M.

Dated this 12th day of May, 2016.



SHELLEY W. KEEN, Water Rights Section Manager

RECEIVED

MAY 04 2016

DEPARTMENT OF
WATER RESOURCES

Page 1

State of Idaho
Department of Water Resources
REVISED APPLICATION FOR AMENDMENT
(For Licensing Purposes)
WATER RIGHT NO. 94-07445

PRIORITY: July 17, 2008

Maximum Diversion Rate: 0.01 CFS

Maximum Diversion Volume: 5.4 AF

Comes now

PETER B WECHSLER PO BOX 725 POST FALLS ID 83877 And
LOIS J WECHSLER PO BOX 725 POST FALLS ID 83877 And
JAMES C GEORGE PO BOX 725 POST FALLS ID 83877 And
VALERIE J GEORGE PO BOX 725 POST FALLS ID 83877

and represents to the Idaho Department of Water Resources that he is the owner and holder of Permit to Appropriate the Public Waters of the State of Idaho No. 94-07445, and requests that the permit be changed as follows:

SOURCE: EAST FORK EAGLE CREEK

TRIBUTARY: EAGLE CREEK

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL DIVERSION VOLUME</u>
DOMESTIC	01/01 to 12/31	0.01 CFS	1.2 AF
IRRIGATION	04/01 to 10/31	0.01 CFS	4.2 AF

LOCATION OF POINT(S) OF DIVERSION:

EAST FORK EAGLE CREEK SE¼NW¼ Sec. 25, Twp 50N, Rge 04E, B.M. SHOSHONE County
EAST FORK EAGLE CREEK SE¼NW¼ Sec. 25, Twp 50N, Rge 04E, B.M. SHOSHONE County

PLACE OF USE: DOMESTIC

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
50N	04E	25								X									

PLACE OF USE: IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
50N	04E	25								4.0									4.0

Total Acres: 4

Permit holder asserts that no one will be injured by such change and that such change will be made at permit holder's own risk. Signed this 25 day of April, 2016.

Lois J. Wechsler
(Signature)

JE * James C George
(Signature)

(Signature)

VE * Valerie J George
(Signature)

State of Idaho
Department of Water Resources
REVISED APPLICATION FOR AMENDMENT
(For Licensing Purposes)
WATER RIGHT NO. 94-07445

FOR DEPARTMENT USE ONLY

Preliminary check by _____ Fee = \$50.00 Received by _____ # N022314 Date 10/02/2009

ACTION OF THE DEPARTMENT OF WATER RESOURCES

The Idaho Department of Water Resources hereby approves the above Revised Application for Amendment for Permit No. 94-07445 with the following:

CONDITIONS OF APPROVAL

1. 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 lands above.
2. This right does not grant any right-of-way or easement across the land of another.
3. Domestic use is for 2 homes. Irrigation of lawn, garden and landscaping associated with the home is authorized under the irrigation component of this right.

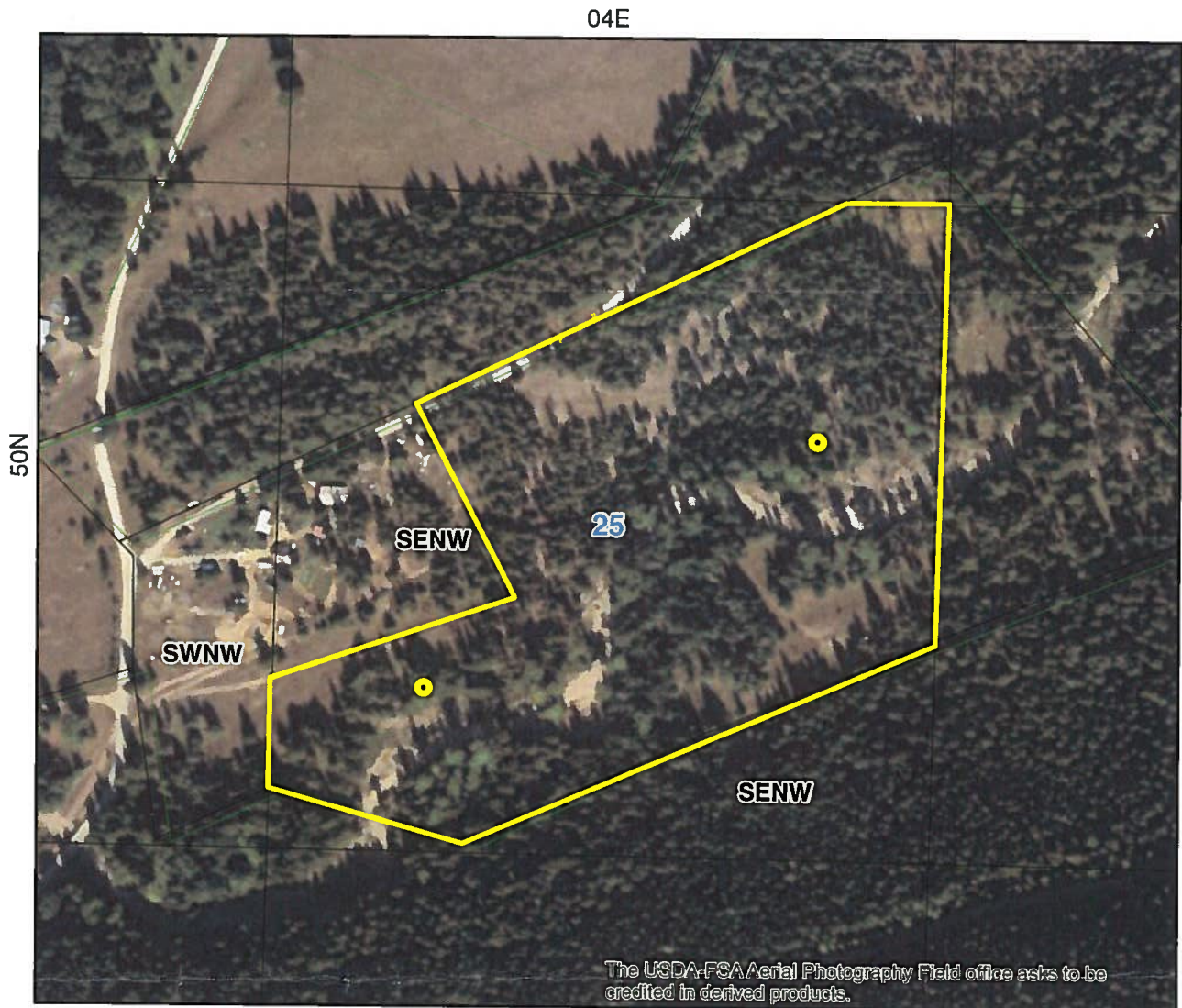
This amendment is issued pursuant to the provisions of Section 42-211, Idaho Code.

Signed this 12th day of May, 2016.



SHELLEY W. KEEN
Water Rights Section Manager

State of Idaho
Department of Water Resources
Revised Amendment for Licensing Purposes
Right 94-7445
Domestic and Irrigation Uses



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

0 0.0425 0.085 0.17 Miles



Skaggs, Pam

From: Holzinger, Joseph R -FS <jholzinger@fs.fed.us>
Sent: Tuesday, May 10, 2016 8:49 AM
To: Skaggs, Pam
Subject: RE: 94-7445 Map Research

Hi Pam,

As discussed, we have no issues with correcting water right #94-7445. We appreciate the call and are happy to know the diversion isn't on NFS lands.

Thanks,



Joe Holzinger
Special Use Program Coordinator
Forest Service
North Idaho Lands Zone, Idaho Panhandle National Forests

p: 208-765-7279
jholzinger@fs.fed.us

3815 Schreiber Way
Coeur d'Alene, ID 83815
www.fs.fed.us



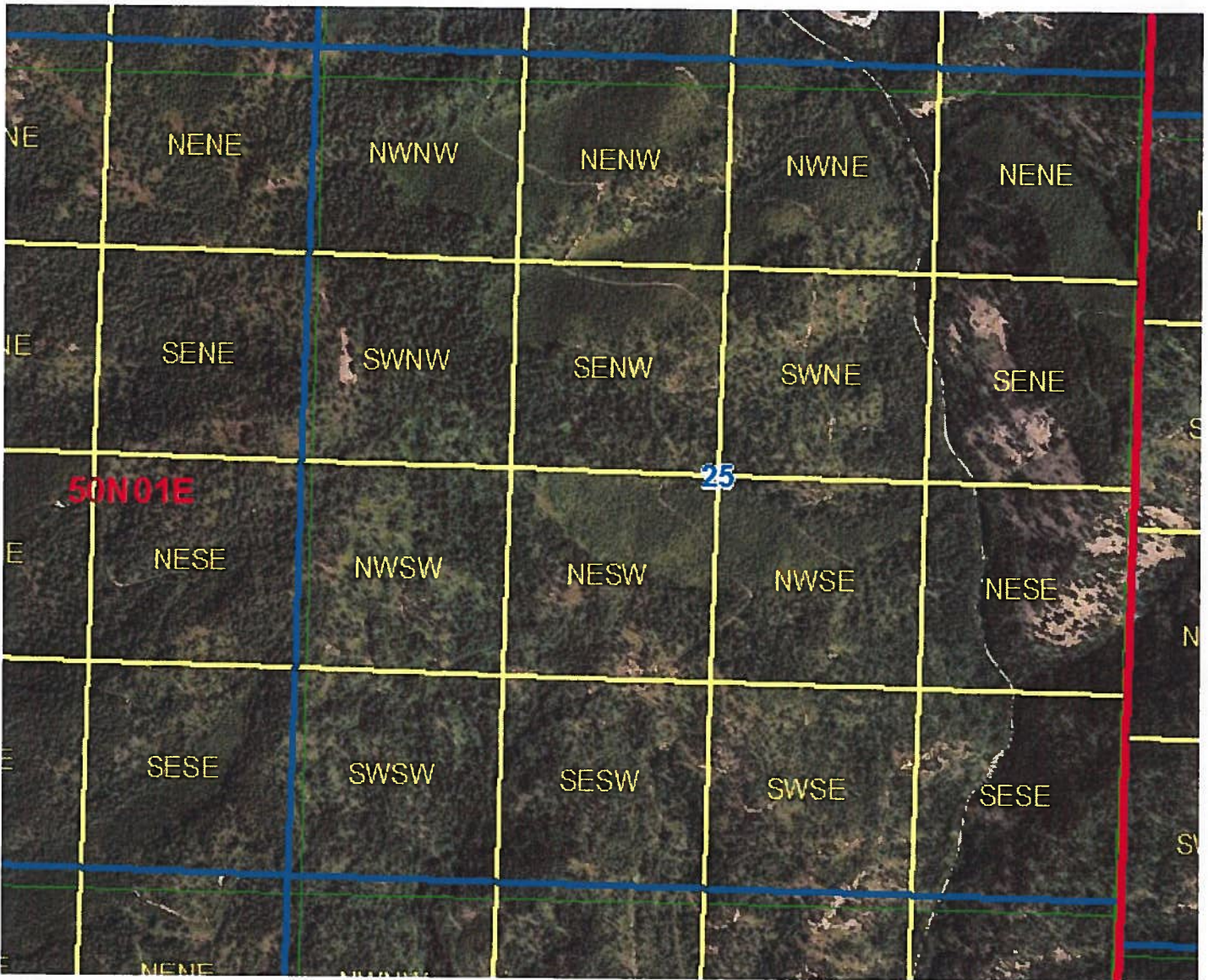
Caring for the land and serving people

From: Skaggs, Pam [mailto:Pam.Skaggs@idwr.idaho.gov]
Sent: Tuesday, May 10, 2016 7:45 AM
To: Holzinger, Joseph R -FS <jholzinger@fs.fed.us>
Subject: 94-7445 Map Research

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Legal Description per Permit & License 94-7445

Entire Section 25 Idaho Panhandle National Forest lands. No other WRs in entire section



Correct location is SENW, S25, T50N, R04E, B.M., a portion of H.E.S. No. 554 surrounded by Idaho Panhandle Nat'l Forest



Correct location of Right 94-7445 (highlighted in blue) in Section 25, T50N, R04E.

