

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO,
IN AND FOR THE COUNTY OF TWIN FALLS

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number 2-10349
Date Received: 12/7/1988
Receipt No: X777777
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

LEO BERGER Phone: (208)461-2098
2321 S SAN FRANCISCO LN
NAMPA ID USA 83686

ANITA BERGER Phone: (208)461-2098
2321 S SAN FRANCISCO LN
NAMPA ID USA 83686

2. Date of Priority: 01/19/1949

3. Source: SNAKE RIVER Trib. to: COLUMBIA RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot			County	Type
02N	04W	23	SE	SW	4	OWYHEE	

5. Description of diverting works:

Pump and pipeline

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	03/15	11/15	0.04	8.1

7. Total Quantity Appropriated is:
0.04 C.F.S. and/or 8.1 A.F.A.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
02N	04W	23	SE SW	4	IRRIGATION	1.8
Section Acres						1.8
Total Acres						1.8

11. Place of use in counties: OWYHEE

12. Do you own the property listed above as place of use? No

13. Other Water Rights Used:

14. Remarks:

The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.

Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.

The period of use for the irrigation described in this approval may be extended to a beginning date of 3/1 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water before 3/15 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date of this approval.

This right when combined with all other rights shall provide no more than 0.03 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the lands above.

15. Basis of Claim: License

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 2-10331

WATER RIGHT NUMBER: 2-10331

<u>Owner Type</u>	<u>Name and Address</u>
Original Owner	ESTATE OF ESTHER F ASHE C/O JACK HURT 4470 VEGAS VALLEY #108 LAS VEGAS, NV 89121 (702)457-3477
Current Owner	VANCE VAN HALL 5552 WILLOW LN NAMPA, ID 83687-8424 (208)461-2575

Priority Date: 01/19/1949

Basis:	License
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Status: Parent

<u>Source</u>	<u>Tributary</u>
SNAKE RIVER	COLUMBIA RIVER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	03/15 to 11/15	1.980 CFS	423.50 AF
	<u>Total Diversion:</u>	1.980 CFS	423.50 AF

Location of Point(s) of Diversion

SNAKE RIVER L4 (NE1/4SE1/4SW1/4) Sec. 23, Twp 02N, Rge 04W, B.M.
OWYHEE County

Place of Use

IRRIGATION

[illegible]

Total Acres: 94.1

Conditions of Approval:

1. This right is a split from former right 2-10257 .
2. P22 Split right: See Right Nos. 2-10346, 63-10347, 2-10348, 2-10349 and 2-10351.

Remarks:

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 2-10349

NAME AND ADDRESS: LEO BERGER
2321 S SAN FRANCISCO LN
NAMPA ID 83686

ANITA BERGER
2321 S SAN FRANCISCO LN
NAMPA ID 83686

SOURCE: SNAKE RIVER

TRIBUTARY: COLUMBIA RIVER

QUANTITY: 0.040 CFS
8.100 AFY

PRIORITY DATE: 01/19/1949

POINT OF DIVERSION:

T02N R04W S23 SESW Lot 4 Within OWYHEE County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

IRRIGATION

03/15 11/15

0.040 CFS

8.10 AFY

The use of water for irrigation under this right may begin as early as March 1 provided other elements of the right are not exceeded. The use of water before March 15 under this remark is subordinate to all water rights having no subordinated early irrigation use and a priority date earlier than the date a partial decree is entered for this right.

PLACE OF USE: IRRIGATION in OWYHEE County

T02N R04W S23 Lot 4 SESW 1.80

1.8 ACRES TOTAL

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - License

This right when combined with all other rights shall provide no more than 0.03 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the lands above.

Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

This right is a split from former right 2-10331.

The right holder shall accomplish the change authorized by Transfer 73806 within one year of the date of the approval.

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA	)	Water Rights: 2-10331 (Split)
	)	2-10346, 2-10347, 2-10348, 2-10349, 2-10351
Case No. 39576	)	NOTICE OF COMPLETED
	)	ADMINISTRATIVE
_____	)	PROCEEDING

IDWR has completed the following administrative proceeding:

- ☐ Address change
- XX Substitution of Party
- XX IC § 42-222 transfer
- | | |
|---|--|
| ☐ Point of diversion | ☐ Place of use |
| ☐ Period of use | ☐ Nature of use |
| XX Split of water right | ☐ Change in ownership |
| ☐ Other | |
- ☐ IC § 42-219 license

IDWR certifies that it has completed its investigation into the changes to the elements of the water rights listed above as set forth in the attached *Amended Director's Report(s)* for said water right(s). No other changes have been made to the elements of these water rights except as set forth above.

IDWR has served copies of the *Notice of Completed Administrative Proceeding* and *Amended Director's Report(s)* on the claimant(s), prior claimant(s) and all parties in the subcases affected, if any, as reflected on the attached certificate of mailing.

DATED: April 3, 2009



Signature of IDWR Representative

CERTIFICATE OF MAILING

I certify that on April 3, 2009, I delivered the original and copies of this form, including all attachments, to the following persons, postage prepaid if required and addressed as follows:

1. Original to:

Clerk of the District Court	☐	overnight mail
Snake River Basin Adjudication	☒	regular mail
P.O. Box 2707	☐	hand-delivered
Twin Falls, ID 83303-2707	☐	facsimile

2. Copies to:

Clive Strong	☐	overnight mail
Off ice of the Attorney General	☒	regular mail
P.O. Box 44449	☐	hand-delivered
Boise, ID 83711-4449	☐	facsimile

United States Dept of Justice	☐	overnight mail
Environment & Natural Resource Div	☒	regular mail
550 West Fort Street MSC 033	☐	hand-delivered
Boise ID 83724	☐	facsimile

3. Copies to all parties to the subcase:

Vance Van Hall	☐	overnight mail
5552 Willow Ln	☒	regular mail
Nampa ID 83687-8424	☐	hand-delivered
	☐	facsimile

Greg Sims	☐	overnight mail
Susan Sims	☒	regular mail
7530 Riverfront Dr	☐	hand-delivered
Marsing ID 83639	☐	facsimile

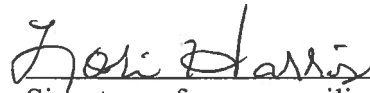
Phillip Warner	☐	overnight mail
Susan Warner	☒	regular mail
7548 Riverfront Dr	☐	hand delivered
Marsing ID 83639	☐	facsimile

Leo Berger
Anita Berger
2321 S San Francisco Ln
Nampa ID 83686

☐ overnight mail
☒ regular mail
☐ hand-delivered
☐ facsimile

Val Shap
Yevgeniya Shaposhnik
7500 Riverfront Dr
Marsing ID 83639

☐ overnight mail
☒ regular mail
☐ hand-delivered
☐ facsimile



Signature of person mailing this document

WATER RIGHT NO. 2-10349
As Modified by Transfer No. 73806

In accordance with the approval of Transfer No. 73806, Water Right No. 2-10349 is now described as follows.

Right Holder: LEO BERGER And
 ANITA BERGER
 2321 S SAN FRANCISCO LN
 NAMPA ID 83686

Priority Date: January 19, 1949

Source: SNAKE RIVER

Tributary: COLUMBIA RIVER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	03/15	11/15	0.04 CFS	8.1 AF
			0.04 CFS	8.1 AF

LOCATION OF POINT(S) OF DIVERSION:

SNAKE RIVER L4 (SESW) Sec. 23 Twp 02N Rge 04W OWYHEE County

PLACE OF USE: IRRIGATION

Twp	Rge	Sec	NE	NW	SW	SE	Totals
02N	04W	23	1.8				1.8
					1.8		

Total Acres: 1.8

CONDITIONS OF APPROVAL

1. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
2. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
3. Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.
4. The period of use for the irrigation described in this approval may be extended to a beginning date of 3/1 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water before 3/15 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date of this approval.
5. This right when combined with all other rights shall provide no more than 0.03 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the lands above.

This water right is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.

Dated this 23rd day of December, 2008


 John Westra, Western Regional Manager

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRANSFER OF WATER RIGHT
TRANSFER NO. 73806

This is to certify that: LEO BERGER And
ANITA BERGER
2321 S SAN FRANCISCO LN
NAMPA ID 83686
(208)461-2098

has requested a change to the water right(s) listed below. This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code. A summary of the changes is also listed below. The authorized change for each affected water right, including conditions of approval, is shown on the following pages of this document.

Summary of Water Rights Before the Proposed Change

<u>Right</u>	<u>Origin/Basis</u>	<u>Priority</u>	<u>Rate</u>	<u>Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>Source</u>
2-10349	AJC/License	01/19/1949	0.04 cfs	8.1 af	N/A	1.8	SNAKE RIVER

Purpose of Transfer (Changes Proposed)

<u>Current Number</u>	<u>Split</u>	<u>POD</u>	<u>POU</u>	<u>Add POD</u>	<u>Period of Use</u>	<u>Nature of Use</u>
2-10349	NO	YES	NO	NO	NO	NO

Summary of Water Rights After the Approved Change

<u>Existing Right</u>	<u>New No. (changed portion)</u>	<u>Transfer Rate</u>	<u>Transfer Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>New No. (remaining portion)</u>	<u>Remaining Rate</u>	<u>Remaining Volume</u>	<u>Remaining Acre Limit</u>	<u>Remaining Total Acres</u>
2-10349	2-10349	0.04 cfs	8.1 af	N/A	1.8		N/A	N/A	N/A	N/A
COMBINED										
TOTALS		0.04 cfs	8.1 af	N/A	1.8		N/A	N/A	N/A	N/A

Detailed Water Right Description(s) attached

Dated this 23rd day of December, 2008


John Westra, Western Regional Manager



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way • Boise, Idaho 83705-5082

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

April 3, 2009

LEO BERGER
ANITA BERGER
2321 S SAN FRANCISCO LN
NAMPA ID 83686

Re: Water Right No. 2-10349

Dear Mr. & Mrs. Berger:

Enclosed is a copy of the Notice of Completed Administrative Procedure and pertinent water right(s) recently sent to the Snake River Basin Adjudication Court in Twin Falls. These documents are now required to be filed by the Department in order to notify the Court of any changes to your water right(s).

The change to your water right(s) was a result of an approved transfer. This notification to the Court does not affect the previous approval of this transfer or your water right(s). You will be notified of any future action on your water right(s) by the SRBA Court or Water Resources.

Please contact this office if you have any questions concerning this notification.

Sincerely,

A handwritten signature in cursive script, appearing to read "Lori Harris", is written over the printed name.

Lori Harris
Technical Records Specialist 2
Adjudication Section
Western Region Office

JS:lh
Enclosures

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 2-10331 V1

WATER RIGHT NUMBER: 2-10331 V1

<u>Owner Type</u>	<u>Name and Address</u>
Original Owner	ESTATE OF ESTHER F ASHE C/O JACK HURT 4470 VEGAS VALLEY #108 LAS VEGAS, NV 89121 (702)457-3477
Current Owner	VANCE VAN HALL 5552 WILLOW LN NAMPA, ID 83687-8424 (208)461-2575

Priority Date: 01/19/1949

Basis: License

Status: Disallowed

<u>Source</u>	<u>Tributary</u>
SNAKE RIVER	COLUMBIA RIVER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	03/15 to 11/15	1.960 CFS	418.61 AF
	<u>Total Diversion:</u>	1.960 CFS	418.61 AF

Location of Point(s) of Diversion

SNAKE RIVER	L4 (NE1/4SE1/4SW1/4)	Sec. 23, Twp 02N, Rge 04W, B.M.
OWYHEE County		

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	
02N 04W 23											55.0	33.0	23.5				111.5
											L 3		L 4				
02N 04W 26							17.0										17.0
							L 1										

Total Acres: 128.5

Conditions of Approval:

1. C05 Right includes accomplished change in place of use pursuant to Section 42-1425, Idaho Code.
2. K06 This right is limited to the irrigation of 92.6 acres within the place of use described above in a single irrigation season.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 2-10331 V1

3. S47 The use of water for irrigation under this right may begin as early as March 1 provided other elements of the right are not exceeded. The use of water before March 15 under this remark is subordinate to all water rights having no subordinated early irrigation use and a priority date earlier than the date a partial decree is entered for this right.
4. C18 This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.
5. X36 Rights 2-7463 and 2-2077B are also diverted through the point of diversion described above.
6. P22 Split right: See Right Nos. 2-10346, 63-10347, 2-10348, 2-10349 and 2-10351.
7. C03 Right includes accomplished change in point of diversion pursuant to Section 42-1425, Idaho Code.
8. This right is a split from former right 2-10257.
9. R69 This right when combined with all other rights shall provide no more than 0.03 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the lands above.

Remarks:

Comments:

1. dshaff 3/19/2007 Change Owner Split
Comment: Split by change in ownership

2. Iharris 9/30/2008 Ownership Change
Comment: This right has been split per ownership changes and transfers.

Water Supply Bank: