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Ident. No. _____

AUG 16 2022

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho Department of Water Resources
Eastern Region

1. Name of applicant(s) Terry Petersen and Cynthia Petersen Phone 208-993-9390
 Name connector (check one): ☐ and ☐ or ☒ and/or
 Mailing address PO Box 143, 161 E. Tower Creek Road City Carmen
 State Idaho ZIP 83462 Email cindypete5682@gmail.com
2. Name of representative, if any _____ Phone _____
 Mailing address _____ City _____
 State _____ ZIP _____ Email _____
- a. ☐ Send all correspondence for this application to the representative and not to the applicant OR
☐ Send original correspondence to the applicant and copies to the representative.
- b. ☐ The representative may submit information for the applicant but is not authorized to sign for the applicant OR
☐ The representative is authorized to sign for the applicant. Attach a Power of Attorney or other documentation.
3. Source of water supply TOWER CREEK EAST FORK which is a tributary of SALMON RIVER
4. Location of point(s) of diversion:

Twp	Rge	Sec	Govt Lot	1/4	1/4	1/4	County	Source	Local name or tag #
23N	22E	10			NE	NW	LEMHI	TOWER CREEK	

5. Water will be used for the following purposes:
- Amount .04 cfs for IRRIGATION purposes from 4/1 to 10/31 (both dates inclusive)
 (cfs or acre-feet per year)
- Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
 (cfs or acre-feet per year)
- Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
 (cfs or acre-feet per year)
- Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
 (cfs or acre-feet per year)
6. Total quantity to be appropriated is (a) .04 cubic feet per second (cfs) and/or (b) _____ acre-feet per year (af).
7. Proposed diverting works:
- a. Describe type and size of devices used to divert water from the source. 2 HP irrigation pump
- b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet. If the reservoir will be filled more than once each year, describe the refill plan in item 12. For dams 10 feet or more in height AND having a storage capacity of 50 acre-feet or more, submit a separate Application for Construction or Enlargement of a New or Existing Dam. Application required? ☐ Yes ☒ No
- c. Proposed well diameter is _____ inches; proposed depth of well is _____ feet.
- d. Is ground water with a temperature of greater than 85°F being sought? ☐ Yes ☒ No
- e. If well is already drilled, when? _____; drilling firm _____;
 well was drilled for (well owner) _____; Drilling Permit No. _____

For Department Use

Received by _____ Date _____ Time _____ Preliminary check by _____
 Fee \$ _____ Receipted by _____ Receipt No. _____ Date _____

75-15055

AMENDED

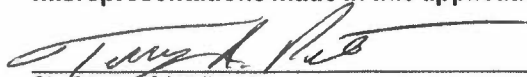
8. Description of proposed uses (if irrigation only, go to item 9):
- a. Hydropower; show total feet of head and proposed capacity in kW. _____
 - b. Stockwatering; list number and kind of livestock. _____
 - c. Municipal; must complete and attach the [Municipal Water Right Application Checklist](#).
 - d. Domestic; show number of households _____
 - e. Other; describe fully. _____
9. Description of place of use:
- a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
 - b. If water is used for other purposes, place a symbol of the use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
23N	22E	10					2												2

Total number of acres to be irrigated: 2

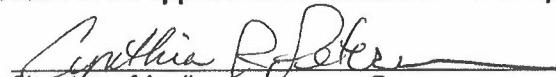
10. Describe any other water rights used for the same purposes as described above. Include water delivered by a municipality, canal company, or irrigation district. If this application is for domestic purposes, do you intend to use this water, water from another source, or both, to irrigate your lawn, garden, and/or landscaping? Well water is currently being used to water the area intended for irrigation
11. a. Who owns the property at the point of diversion? Petersen Revocable Living Trust
b. Who owns the land to be irrigated or place of use? Petersen Revocable Living Trust
c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: Property was sold by Roy Lincoln to Terry Petersen. Application has been submitted to change name.
12. Describe your proposal in narrative form and provide additional explanation for any of the items above. Attach additional pages if necessary. The property to be irrigated was originally irrigated using Tower Creek water. The irrigation of said water usage changed to well source irrigation by previous owner. Irrigation from the domestic well is causing stress on current well usage which has caused a decrease in irrigation of surrounding vegetation. This makes the area proposed to be irrigated more vulnerable to wildfire losses and wildlife losses.
13. Time required for completion of works and application of water to proposed beneficial use is 1 years (minimum 1 year).
14. **MAP OF PROPOSED PROJECT REQUIRED** - Attach an 8½" x 11" map or maps clearly identifying the proposed point of diversion, place of use, section #, township & range. The map scale shall not be less than two (2) inches equal to one (1) mile.

The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval.



Signature of Applicant
Terry A. Petersen

Print Name (and title, if applicable)



Signature of Applicant
Cynthia B. Petersen

Print Name (and title, if applicable)

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FORM 202 Rev. 09/16
AUG 01 2022STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

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Department of Water Resources
Eastern Region**APPLICATION FOR PERMIT**
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 (cfs or acre-feet per year)
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For Department Use

Received by _____ Date _____ Time _____ Preliminary check by _____
 Fee \$ 100.00 Receipted by C+H Receipt No. 6048367 Date 8/1/22

75-15053

SUPERCEDED

8. Description of proposed uses (if irrigation only, go to item 9):
- a. Hydropower; show total feet of head and proposed capacity in kW. _____
 - b. Stockwatering; list number and kind of livestock. _____
 - c. Municipal; must complete and attach the Municipal Water Right Application Checklist. _____
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			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
23N	22E	10			1		1												2

Total number of acres to be irrigated: 2

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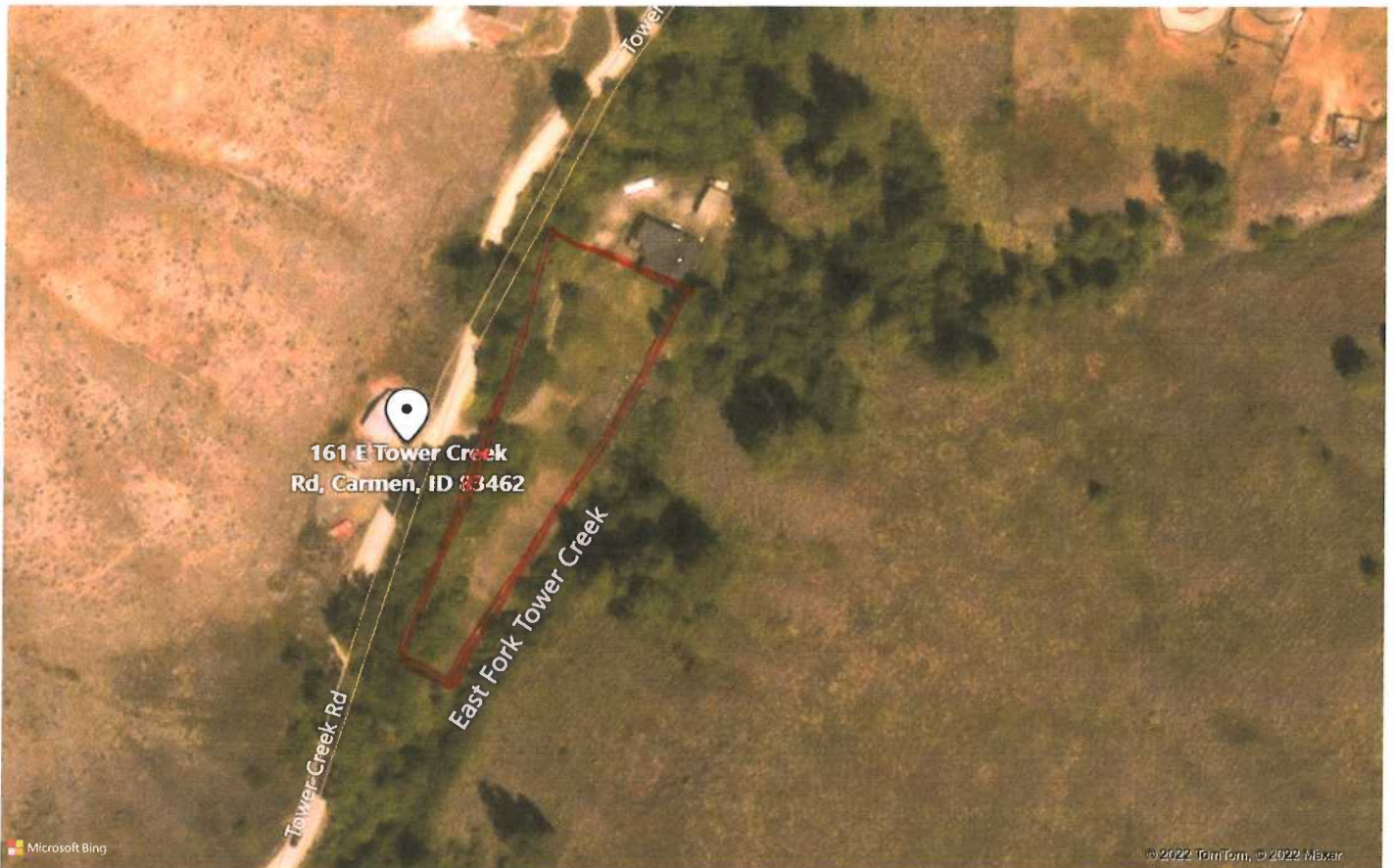
Terry Petersen
Signature of Applicant
Terry Petersen
Print Name (and title, if applicable)

Signature of Applicant

Print Name (and title, if applicable)

161 E Tower Creek Rd, Carmen, ID 83462

Area To be irrigated



75-15055

75-15053

1340321.17
N 0-22-2 W
427.49

N 0-5-2 W
885

1680754.16

S 0-5-7 E
801.637

RP23N22E102403
KLICH, ROBERT W
2016
[12|32|34]

N 89-49-10 E
507.63

S 40-56-13 W
867.54

178 E TOWER CREEK RD

RP23N22E102403
KLICH, ROBERT W
2016
[12|32|34]

S 89-52-2 W
320.58

25 TOM BOYLE RD

RP23N22E102404
GRISWOLD, ROBERT S
2016
[04|05|10|31|32]

RP23N22E103001

RP23N22E102402
LINCOLN, ROY W
2016
[12|32|34]

Terry A. Peterson

Area To be
irrigated
(E. Tower
Creek)
Point of
diversion

S 0-5-2 E
885

N 0-4-5 W
885

N 89-20-18 E
881.809

RP23N22E103601
JOHNSTON FAMILY TRUST/SURVIVOR
2016
[12|34]

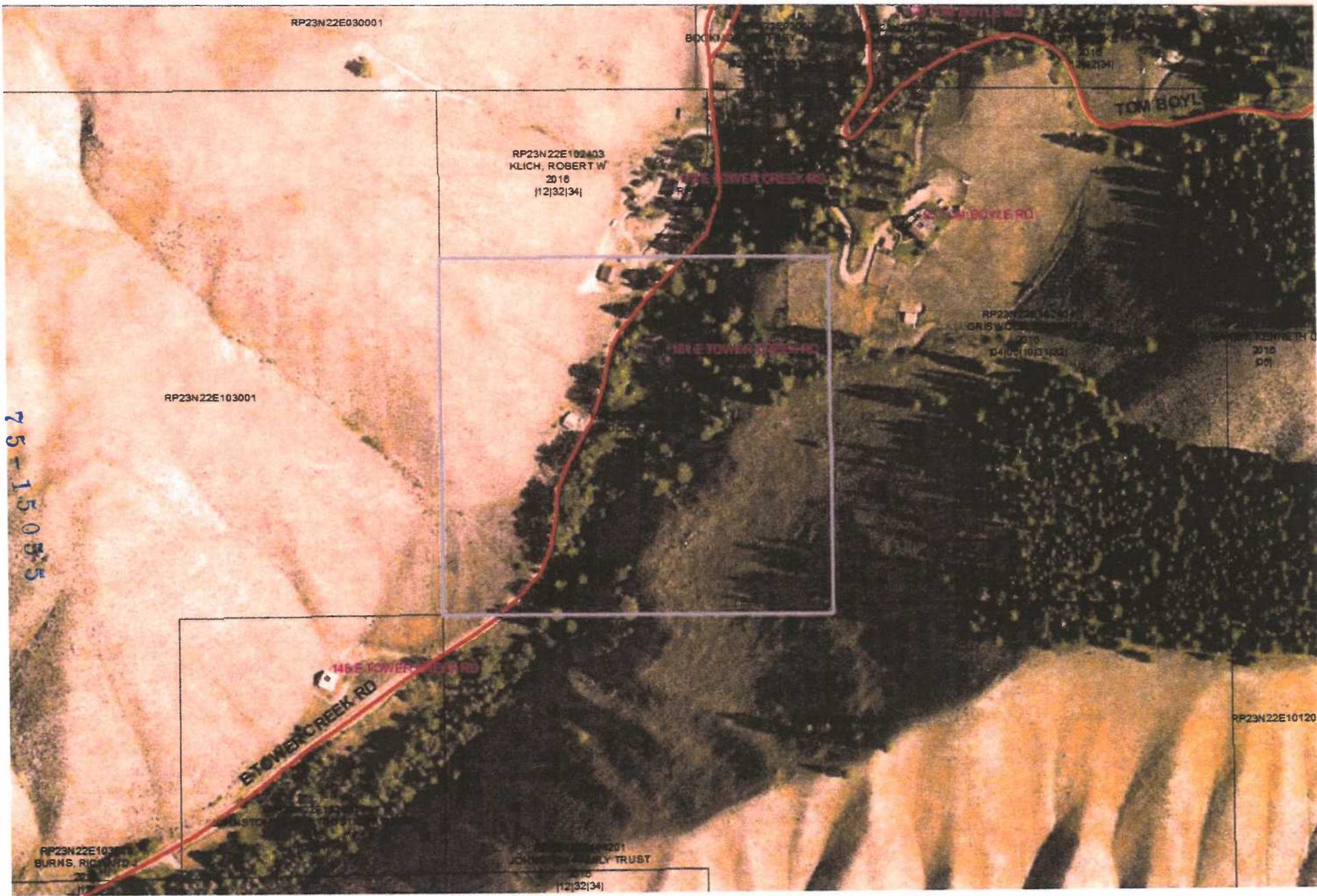
148 E TOWER CREEK RD

S 89-54-58 W
984.4

RP23N22E104801

S 89-52-2 W
344.22

N 89-50-58 W
665.57



75-150B5

LP Price \$299,000

Quitclaim Deed

For Value Received

Terry A Petersen, a married man as his sole and separate property

the grantors, do hereby grant, bargain, sell and convey unto

**Revocable Living Trust of Terry Alton Petersen and Cynthia Rae Petersen, dated
April 26, 2022**

Whose current address is:

**PO Box 143
Carmen, ID 83462**

the grantee, the following described premises, to-wit:

See Attached Legal Description as Exhibit 'A'

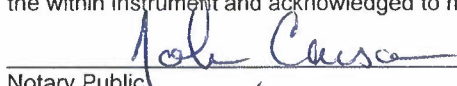
TO HAVE AND TO HOLD, the said premises, with their appurtenances unto the said Grantees, their heirs and assigns forever. And the said Grantors do hereby covenant to and with the said Grantees that they are the owners in fee simple of said premises; that they are free from all encumbrances EXCEPT: Subject to all existing patent reservations, easements, right(s) of way, protective covenants, zoning ordinances, and applicable building codes, laws and regulations, general taxes, assessments, including irrigation and utility easements (if any) for the current year, which are not due and payable, and that Grantor(s) will warrant and defend the same from all lawful claims whatsoever.

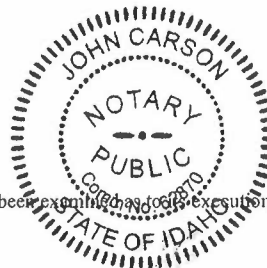
Dated: June 7, 2022


Terry A Petersen

STATE OF IDAHO)
COUNTY OF LEMHI) ss

On this 7th day of JUNE, 2022, before me, a notary public in and for said State, personally appeared **Terry A Petersen** known to me or proved to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same.


Notary Public
Residing at: SALMON
Comm. Expires: 4/8/2026



This instrument has been filed as an accommodation only. It has not been examined for execution, insurability or effect on title.

Exhibit 'A'
Legal Description

A fraction of the NE $\frac{1}{4}$ of Section 10, T. 23 N., R. 22 E., Boise Meridian, more particularly described as follows, to-wit:

Commencing at the Northerly $\frac{1}{4}$ corner of said Section 10, run thence West along the Northerly boundary of the NE $\frac{1}{4}$ of Section 10 a distance of 343.0 feet; thence South 435.0 feet to the point of beginning, and the Northeasterly corner of the tract of land herein described; continuing thence South 885.0 feet to a point on the Southerly boundary of the NE $\frac{1}{4}$ of Section 10; thence West along the Southerly boundary of the NE $\frac{1}{4}$ of Section 10 a distance of 984.4 feet; thence North 885.0 feet; thence East 984.4 feet to the point of beginning.

**REVOCABLE LIVING TRUST OF
TERRY ALTON PETERSEN AND CYNTHIA RAE PETERSEN**

The Declaration of this Trust is entered into 26 Day of April 2022, by and between TERRY ALTON PETERSEN and CYNTHIA RAE PETERSEN, as Grantors, and TERRY ALTON PETERSEN and CYNTHIA RAE PETERSEN as Trustees. Trustees agree to accept and manage such property in accordance with the terms outlined in this Trust and in agreement as outlined in the Living Wills of TERRY ALTON PETERSEN and CYNTHIA RAE PETERSEN.

**ARTICLE I
TRUST NAME**

This revocable living trust shall be known as the PETERSEN Revocable Living Trust ("Trust").

**ARTICLE II
APPOINTMENTS**

GRANTORS: TERRY ALTON PETERSEN AND CYNTHIA RAE PETERSEN are the Grantors of this Trust.

TRUSTORS: TERRY ALTON PETERSEN AND CYNTHIA RAE PETERSEN are the Trustors of this Trust.

TRUSTEES: Trustors appoint the following Trustee(s) of this Trust:

First Appointment: Terry Alton Petersen and Cynthia Rae Petersen.

Second Appointment: Brandon Cory Petersen and Michaela Cullen Brantner Jointly and Equally.

- 1.1 Terry Alton Petersen and Cynthia Rae Petersen shall serve as first joint trustees. If both Terry Alton Petersen and Cynthia Rae Petersen is unable or unwilling to act the remaining joint trustees of the second appointment shall serve as successor trustees. When both Terry Alton Petersen and Cynthia Rae Petersen cease to act, the successor trustees shall serve as appointed.
- 1.2 If either of the successor trustees designated to act in the event of death or incapacitation, the remaining successor trustee shall act in sua.
- 1.3 If both successor trustees designated to act in the event of death or incapacitation, the majority adult beneficiaries entitled to distribution from this trust shall appoint a successor trustee.

**ARTICLE III
FAMILY INFORMATION**

I, Terry Alton Petersen am a MARRIED Male. I have five children born of me and 3 step-children born of my wife CYNTHIA RAE PETERSEN, prior to the date of this Trust. For purposes of this Trust, all

references to "children" or "descendants" shall include children born or adopted after the date this Trust was signed.

I Cynthia Rae Petersen am a MARRIED Female, I have 3 children born of me and five step-children born of my husband TERRY ALTON PETERSEN, prior to the date of the Trust. For the purpose of this Trust, all references to "children" or "descendants" shall include children born or adopted after the date of the Trust was signed.

ARTICLE IV BENEFICIARIES

1. Grantors shall be the initial beneficiaries of the Trust during their lifetime. During the Joint Lifetime of the Grantors and the Primary Beneficiaries, Terry Alton Petersen and Cynthia Rae Petersen, the Grantors and the primary beneficiaries shall be entitled to all joint and separately owned income, property and principal of their community property without limitation.
2. Upon the death of either Grantor beneficiary, there shall be one beneficiary of the Trust: The surviving Grantor Beneficiary. All interests incorporated into the Trust shall be distributed to surviving Grantor Beneficiary upon the death of either Grantor beneficiary.
3. Notwithstanding, any other provision of this Trust Instrument to the contrary, upon the death of the first trustee beneficiary, this trust agreement may be amended or revoked by the surviving trustee beneficiary.
4. Upon the death of both Grantor Beneficiaries, the successor beneficiaries are those persons designated in Article VII, 3.

ARTICLE V AMENDMENT AND REVOCATION

A. Amendment or Revocation by Grantors. The grantor(s) may amend or revoke this Trust at any time, for any reason, without notifying any beneficiary. Any amendment to the Trust must be made in writing and signed by the grantor(s) and shall be incorporated into the Trust. Revocation must be in writing and signed by the grantor(s).

B. Amendment or Revocation by Other Person. The power to revoke or amend this Trust is personal to the grantors. A conservator, guardian, agent or other person may only exercise the power to amend or revoke the trust on behalf of the Grantors if the Grantors specifically granted such power in a Durable Power of Attorney of both Grantor Beneficiaries separately.

ARTICLE VI INCAPACITY OF GRANTORS

A. Determination of Incapacity.

1. If both Grantors becomes physically or mentally incapacitated, the successor trustees named in Article VII shall become trustees jointly and equally. Grantors shall be considered incapacitated and no longer able to serve as Trustees if a court of competent jurisdiction finds Grantors no longer be able to manage their financial affairs, or if it is the opinion of a qualified physician, who has examined the Grantors, that the Grantors are unable to manage their personal and financial affairs.

2. The successor trustees shall jointly manage the Trust, pursuant to the terms of paragraph B below, until at least one of grantors has regained capacity to manage their financial affairs.

Grantors capacity to manage their financial affairs shall be made in the same manner their incapacitation was determined.

B. Distributions During Grantors Incapacity. During the Grantors incapacity, the trustees shall use any amount of trust income or principal necessary for the grantor's health, support and maintenance in the grantors accustomed manner of living. Any income not spent on the Grantors behalf shall be accumulated and added to principal. Income shall be paid to the grantors or for the benefit of the grantors at least annually.

ARTICLE VII DEATH OF BOTH GRANTORS

Upon both Grantors deaths this trust shall become irrevocable and may not be amended except as otherwise provided for herein. The Trust is terminated only by the distributions authorized herein.

A. Payment of Debts. The trustee may pay out of trust property such amounts as necessary for payment of the grantor's debts, estate taxes, funeral expenses and any fees necessary to distribute the Trust's property.

B. Creation of Trust and Assignment of Assets: TERRY ALTON PETERSEN and CYNTHIA RAE PETERSEN, trustors, hereby Grant, Assign, Transfer, and Deliver to Terry Alton Petersen and Cynthia Rae Petersen, Trustees of the PETERSEN TRUST, as of the date of acknowledgement of this Trust, the following Assets:

1. 20 Acres of Real Property and House Located at 161 East Tower Creek Road, Carmen Idaho.
2. 2018 Jayco Seneca located at 161 East Tower Creek Road, Carmen Idaho.
3. Promissory Notes, amounts owing to the trustors, stocks, bonds, securities, claims under pending lawsuits, and other causes in action, and
4. Any other assets held by the Trustees which would otherwise be subject to probate.
5. **Memorandum of Wishes.** Grantors may leave in writing, executed after this Trust, disposing of some or all of their tangible personal property. If Grantors does so, and the writing can be incorporated by reference into this Trust or otherwise be held legally binding, Grantors direct that it be incorporated or followed and prevail over the disposition below in this Article. If the writing is not legally binding, Grantors requests that their wishes, as expressed in the writing, be followed.
6. **General Gift of Tangible Personal Property.** Upon the Death of both Grantor Beneficiaries, Grantor Beneficiaries give all of their tangible personal and real property not otherwise disposed of in Terry Alton Petersen's Living Will and Cynthia Rae Petersen's Living Will and shall be distributed to THE HEIRS OF TERRY ALTON PETERSEN and CYNTHIA RAE PETERSEN as follows:

KACCANDRA D WAVRA Fifteen Percent (20%) interest

BRANDON C PETERSEN Twenty Percent (20%) interest

MICHAELA C BRANTNER Twenty Percent (20%) interest

CAITLIN M PRATT Twenty Percent (20%) interest

KHRISTINA K RUESCH Fifteen Percent (20%) Interest

7. Death of any successor Trustee or Beneficiary.

7.1 Upon the Death of any Beneficiaries entitled to distribution under this Trust Instrument, that beneficiary's share shall be equally divided between the surviving beneficiaries if the deceased beneficiary had no children.

7.2 Upon the Death of any Beneficiary entitled to distribution under this Trust Instrument, if the deceased beneficiary had adult children, the deceased beneficiary's remainder interest shall be distributed to the adult children of the deceased beneficiary.

7.3 Upon the Death of any Beneficiary entitled to distribution under this Trust Instrument, if the deceased beneficiary had minor children, the deceased beneficiary's remainder interest shall be held "In Trust" by Caitlin Mae Pratt for the benefit of the deceased beneficiary's minor children until the minor child of the deceased beneficiary reaches the age of 25 years of age.

7.4 Upon the Death of Beneficiary entitled to distribution under this Trust Instrument, no spouse of any beneficiaries shall be entitled to any distribution shall be entitled to distribution of the deceased beneficiary share under this Trust Instrument.

Any dispute between the Beneficiaries of Terry Alton Petersen or Cynthia Rae Petersen in this Trust Agreement, shall be settled by proxy vote of all beneficiaries and adult heirs per each beneficiary's interest percentage as stated in Article VII (b)(6) of this trust agreement and shall be the decided and settled in writing between the heirs and the beneficiaries of this trust.

1. Any Person(s) regardless of if that person(s) is a party to or not a party to this Revocable Living Trust challenges or contests this Revocable Living Trust Instrument, that person(s) shall receive a settlement of not more than one dollar (\$1.00).

**ARTICLE VIII
TRUSTEES**

A. Trustees. TERRY ALTON PETERSEN and CYNTHIA RAE PETERSEN shall serve as trustee of this Trust.

B. Successor Trustee. If both TERRY ALTON PETERSEN and CYNTHIA RAE PETERSEN becomes unwilling or unable to serve, the joint trustee beneficiary shall be appointed successor trustee of this Trust in sua.

C. Trustee's Responsibilities. The trustees shall serve as trustees of all trusts created under this Trust.

D. Resignation of Trustee. Any trustee may resign at any time by signing a notice of resignation. The resignation shall be delivered to the Grantors (if the Grantors is not serving as trustee), or the successor trustees nominated under this Trust. If there is no successor trustee, then such resignation shall be delivered to the remaining trust beneficiaries.

- E. Power to Appoint Successor Trustee.** If no person named to serve as Trustee or successor Trustee is willing or able to serve, the last acting trustee may appoint a successor trustee. The appointment must be made in writing and signed by the then-serving Trustee.
- F. Waiver of Bond.** No bond shall be required for any Trustee appointed to serve, whether named in this Trust or appointed by another Trustee pursuant to the terms of this Trust.
- G. Compensation.** The Trustee(s) may receive reasonable compensation for serving as Trustee(s) and such compensation shall be paid from funds held by the trust as funds are available.
- H. Liability of Trustee.** The Trustee(s) shall not be liable for the exercise or non-exercise of discretionary powers granted under this Trust, provided such actions were taken in good faith.

ARTICLE IX TRUSTEE'S POWERS

A. Powers Conferred by State Law. The trustees shall have all powers allowed or conferred on a trustee under IDAHO state law, subject to the trustee's fiduciary duty to the grantors and the beneficiaries. If there is a conflict between a power granted under this Trust and the duty imposed upon trustees under IDAHO state law, to the extent the law allows, the duties granted to the Trustees herein shall be controlling.

B. Specified Powers. The trustee's powers include but are not limited to:

1. power to sell trust property, borrow money using trust property as collateral, and to encumber trust property, by mortgage, deed of trust or other method as necessary to maintain, improve or preserve the property contained in this trust herein.
2. The power to manage real estate owned by the trust, including the power to lease (even if the lease term may extend beyond the Trust term) or grant options to lease, to make repairs or alterations, and to insure against loss.
3. The power to sell or grant options for the sale or exchange of any trust property, including stocks, bonds, and any other form of security, at public or private sale, for cash or on credit as necessary to maintain, improve or preserve the property contained in this trust herein.
4. The power to invest trust property in any manner as to the benefit of such trust property held within the trust herein.

5. The power to receive additional property from any source and add it to any trust created hereunder.
6. The power to employ and pay reasonable fees to accountants, lawyers, or other financial advisors for advice or aid in the administration of this Trust.
7. The power to deposit and hold trust funds in both interest-bearing and non-interest-bearing accounts.
8. The power to diversify investments, including the authority to decide that some or all the trust property need not become income-producing property.
9. The power to decide the method of distribution of a gift to any beneficiary who is a minor at the time of the death of the Grantors, including transferring such property pursuant to the Uniform Transfers to Minors Act, or to a trust that is either already in existence for the sole benefit of such minor beneficiary or that the Trustee creates for the sole purpose of holding such minor's gift under this Trust.

ARTICLE X GENERAL RULES REGARDING DISTRIBUTIONS

The following rules shall apply to all distributions of Trust property to beneficiaries other than the Grantors. Any Property not specifically assigned to a person or persons within this trust instrument shall be distributed as specified in the individual will of Terry Alton Petersen and Cynthia Rae Petersen.

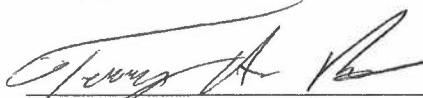
A. Survival of Beneficiary. A beneficiary must survive the grantors for 120 hours in order to receive a distribution from this Trust.

B. Non-payment of Liens and Encumbrances. All personal and real property distributed to a Beneficiary, other than the Grantors, under this Trust shall pass subject to any encumbrances or liens placed on the property, and such encumbrances and liens shall not be paid out of Trust property.

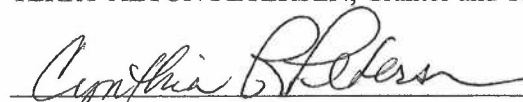
C. Property Left to Multiple Beneficiaries. If property is left to two or more beneficiaries, they shall share it as otherwise provided in Article VII above. If any beneficiary does not survive the grantor, that beneficiary's share shall pass in equal shares to his or her descendants, unless otherwise provided herein.

ARTICLE XI SEVERABILITY OF CLAUSES

If any provision of this Trust is ruled unenforceable, the remaining provisions shall remain in effect.


TERRY ALTON PETERSEN, Grantor and Trustee

4-26-2022
Date


CYNTHIA RAE PETERSEN, Grantor and Trustee

4/26/2022
Date

75-15055



IDAHO DEPARTMENT OF
WATER RESOURCES

Eastern Region • 900 N Skyline Drive, Suite A • Idaho Falls, ID 83402-1718

Phone: 208-525-7161 • Fax: 208-525-7177 • Email: easterninfo@idwr.idaho.gov • Web: idwr.idaho.gov

Governor Brad Little

Director Gary Spackman

August 24, 2022

TERRY A PETERSEN
CYNTHIA PETERSEN
PO BOX 143
CARMEN, ID 83462-0143

RE: Application for Permit No. 75-15055

Dear Applicants:

The Department of Water Resources has received your water right application. Please refer to the number referenced above in all future correspondence regarding this application.

A legal notice of the application has been prepared and is scheduled for publication in the RECORDER HERALD on 9/1/2022 and 9/8/2022. Protests to this application may be submitted for a period ending ten (10) days after the second publication.

If the application is protested, you will be sent a copy of each protest. All protests must be resolved before the application can be considered for approval. If the protest(s) cannot be resolved voluntarily, the Department will conduct a conference and/or hearing on the matter.

If the application is not protested, the Department will process your application and notify you of any action taken on the application. If your application is approved, the Department will send you a copy of the permit.

Please contact this office if you have any questions regarding the application.

Sincerely,

Christina Henman
Administrative Assistant



IDAHO DEPARTMENT OF
WATER RESOURCES

Eastern Region • 900 N Skyline Drive, Suite A • Idaho Falls, ID 83402-1718

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Governor Brad Little

Director Gary Spackman

August 24, 2022

TERRY A PETERSEN
CYNTHIA PETERSEN
PO BOX 143
CARMEN, ID 83462-0143

RE: Application for Permit No. 75-15055

Dear Applicant:

The Idaho Department of Water Resources (IDWR) has received your application to establish a new use of water in the upper Salmon River Basin. Idaho Code 42-203A(5) requires IDWR to determine whether each water right application satisfies all the criteria necessary for appropriating water in Idaho. One statutory criterion requires IDWR to determine the total public interest relative to the proposed water use. Idaho Code 42-202B(3) defines the local public interest as “the interests that the people in the area directly affected by a proposed water use have in the effects of such use on the public resources.” The local public interest has many facets, including the effects of a proposed water use on aquatic habitat for fish and wildlife resources.

The upper Salmon River basin is home to stocks of chinook salmon, sockeye salmon, steelhead trout and bull trout, all of which are listed as threatened or endangered under the Endangered Species Act (ESA). Since the early 1990s, local water users, conservation districts, and federal and state agencies have cooperated to implement conservation measures intended to protect and restore habitat for ESA-listed species in the upper Salmon River watershed. For example, at the request of local water users the Idaho Legislature directed the Idaho Water Resource Board (IWRB) to establish a minimum stream flow in the lower Lemhi River for fish passage. The minimum stream flow is maintained through a water supply bank and temporary or permanent acquisition of additional water supplies by willing buyers from willing sellers.

Pursuant to the Snake River Water Rights Agreement of 2004, Idaho has been developing a long term conservation plan for the benefit of ESA-listed species in the Lemhi River. Improving condition in flow-limited river reaches and streams is a fundamental component of the Lemhi plan. In addition to IDWR, numerous state agencies, including the Office of Species Conservation, Idaho Department of Fish and Game, Idaho Department of Environmental Quality, Idaho Soil and Water Conservation Commission and the Idaho Department of Lands, have committed and continue to commit significant resources toward this objective under the following programs:

- Columbia Basin Water Transactions Program
- National Marine Fisheries Service Pacific Coastal Salmon Recovery Fund
- U.S. Fish & Wildlife Service Aquatic Species Conservation Fund
- Salmon and Clearwater River Basins Habitat Fund
- 2008 Columbia Basin Fish Accords

A myriad of habitat restoration projects are being constructed / implemented another parts of the upper Salmon River basin. These projects have been coordinated with the local communities and water users through the Upper Salmon River Basin Watershed Program and predecessor programs, including the model watersheds. Furthermore, the Snake River Water Rights Agreement of 2004 contemplates the development of additional conservation plans for other upper Salmon River basin watersheds. Accordingly, the Comprehensive State Water Plan revised by the IWRB contains policies for the Salmon River basin that focus on the protection and restoration of instream habitat for ESA-listed species through voluntary participation in conservation programs.

Because of the ESA-listed species recovery efforts in the upper Salmon River basin, IDWR must determine on a case-by-case basis whether it is in the local public interest to authorize proposed water uses that would further deplete flow-limited stream reaches.

Pursuant to Rule 40.04.c of the Water Appropriation Rules (IDAPA 37.03.08.040.04.c), the applicant has the ultimate burden of persuasion regarding the items that must be evaluated in connection with each water right application. Before proceeding further with your application, IDWR requests you submit additional information about how your proposal invokes any local public interest concerns for ESA species recovery.

Within 30 days, please submit any additional information you believe IDWR may need to evaluate and determine the local public interest in the water you propose to divert and use. If IDWR has not received a response from you within 30 days, IDWR will assume you have no comment regarding the local public interest, and processing of your application will resume with the information currently on file. Processing will include public notice and the potential for formal protests by other interested parties. Applications that are not in the local public interest will be denied.

Sincerely,



Christina Henman
Administrative Assistant

Henman, Christina

From: Henman, Christina
Sent: Wednesday, August 24, 2022 11:04 AM
To: rhlegals@custertel.net
Subject: Legal Notice for Recorder Herald
Attachments: 75-15051, 75-15052, 75-15055, 85893 Recorder Herald.docx

LEGAL NOTICE DEPARTMENT
RECORDER HERALD
PO BOX 310
SALMON, ID 83467

RE: Application for Permit No. 75-15051, 75-15052, 75-15055 & Transfer No. 85893

Dear Legal Notice Department:

Please publish the enclosed legal notice on the dates indicated (once a week for two consecutive weekly issues). If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before 9/19/2022. Your cooperation is appreciated.

Thank You,



Christina Henman
Administrative Assistant
IDWR, Eastern Region
900 N Skyline Ste. A
Idaho Falls, ID 83402
Phone: (208) 525-7161

**NOTICE OF PROPOSED CHANGE OF WATER RIGHT
TRANSFER NO. 85893**

RICHARD L HUSSEY and FRAN M MCVAY, 275 IRON CREEK RD, SALMON, ID 83467-5121 has filed Application No. 85893 for changes to the following water rights within LEMHI County(s): Right No(s). 75-11615; to see a full description of these rights and the proposed transfer, please see <https://research.idwr.idaho.gov/apps/waterrights/querynewtransfers>. The purpose of the transfer is to change a portion of the above rights as follows: correct point of diversion and place of use to reflect actual location of spring box and house. Proposed point of diversion is in SWNENW Sec 8 T18N R21E for 0.04 cfs from a spring tributary to sinks. Proposed place of use is in Lot 2 (SWNW) Sec 8 T18N R21E for domestic use at one home.

For additional information concerning the property location, contact Eastern Region office at (208)525-7161. Protests may be submitted based on the criteria of Idaho Code Sec. 42-222. Any protest against the proposed change must be filed with the Department of Water Resources, Eastern Region, 900 N SKYLINE DR STE A, IDAHO FALLS ID 83402-1718 together with a protest fee of \$25.00 for each application on or before 9/19/2022. The protestant must also send a copy of the protest to the applicant.

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

75-15051

FRAN M MCVAY, 275 IRON CREEK RD, SALMON, ID 83467-5121

Point of Diversion L1(SWSWNW) S8 T18N R21E LEMHI County

Source SPRING Tributary IRON CREEK

Use: IRRIGATION

04/01 to 10/31

0.09 CFS

Total Diversion:

0.09 CFS

Date Filed: 07-22-2022

Place Of Use: IRRIGATION

T18N R21E S8

SENW

Total Acres: 3

This application proposes the diversion and use of water from a spring tributary to the Salmon Wild & Scenic River. The decreed minimum stream flow rights for the federal Wild & Scenic Rivers are subordinate to certain categories of water use and to specific amounts of water use established after the minimum stream flow. The water use proposed in this application will benefit from the subordination provision because the diversion rate and acres will be applied to the subordination amounts specified in the decree for the Wild & Scenic River listed above.

75-15052

RICHARD L HUSSEY, 275 IRON CREEK RD, SALMON, ID 83467-5121

Point of Diversion L1(SWSWNW) S8 T18N R21E LEMHI County

Source SPRING Tributary IRON CREEK

Use: IRRIGATION

04/01 to 10/31

0.06 CFS

Total Diversion:

0.06 CFS

Date Filed: 07-22-2022

Place Of Use: IRRIGATION

T18N R21E S8

L2(SWNW)

Total Acres: 2

This application proposes the diversion and use of water from a spring tributary to the Salmon Wild & Scenic River. The decreed minimum stream flow rights for the federal Wild & Scenic Rivers are subordinate to certain categories of water use and to specific amounts of water use established after the minimum stream flow. The water use proposed in this application will benefit from the subordination provision because the diversion rate and acres will be applied to the subordination amounts specified in the decree for the Wild & Scenic River listed above.

75-15055

TERRY A & CYNTHIA PETERSEN, PO BOX 143, CARMEN, ID 83462-0143

Point of Diversion NENW S10 T23N R22E LEMHI County

Source TOWER CREEK Tributary SALMON RIVER

Use: IRRIGATION

04/01 to 10/31

0.04 CFS

Total Diversion:

0.04 CFS

Date Filed: 08-01-2022

Place Of Use: IRRIGATION

T23N R22E S10

NENW

Total Acres: 2

This application proposes the diversion and use of water from East Fork Tower Creek, tributary of the Salmon Wild & Scenic River. The decreed minimum stream flow rights for the federal Wild & Scenic Rivers are subordinate to certain categories of water use and to specific amounts of water use established after the minimum stream flow. The water use proposed in this application will benefit from the subordination provision because the diversion rate and acres will be applied to the subordination amounts specified in the

decree for the Wild & Scenic River listed above.

Permits will be subject to all prior water rights. For additional information concerning the property location, contact the Eastern office at (208)525-7161; or for a full description of the right(s), please see <https://idwr.idaho.gov/apps/ExtSearch/WRAApplicationResults/>. 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, Eastern Region, 900 N SKYLINE DR STE A, IDAHO FALLS ID 83402-1718 together with a protest fee of \$25.00 for each application on or before 9/19/2022. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Published on 9/1/2022 and 9/8/2022