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Attorneys for Bruce and Glenda McConnell

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN THE MATTER OF APPLICATION FOR
TRANSFER 84441 IN THE NAME OF
BRUCE AND GLENDA MCCONNELL

**MCCONNELL WITNESS
AND EXHIBIT LIST**

COMES NOW Bruce and Glenda McConnell ("McConnell"), by and through their
attorneys of record, and hereby submit the following identity of witness McConnell may call to
testify at the hearing in this matter:

1. Scott King, SPF Water Engineering
2. Bruce McConnell
3. Cindy Yenter, IDWR
4. Steven Kauer
5. David Tomchak
6. Shanna Foster
7. Steven Johnson
8. Rosalie Ericcson
9. James Whittaker
10. Jordan Whittaker
11. Bryce Contor

Additional witnesses may be called for rebuttal or foundational purposes. McConnell reserves the right to use rebuttal witnesses in addition to those witnesses identified above. Moreover, McConnell reserves the right to examine witnesses called by the protestants to this matter.

EXHIBIT LIST:

McConnell identifies the following exhibits for use at the hearing in this matter:

1. Scott King expert report
2. Scott King resume
3. 7/28/2020 emails regarding Lee Creek water administration
4. 8/6/2020 letter from Cindy Yenter to McConnell
5. 8/6/2020 letter from Cindy Yenter regarding watermaster instructions
6. 10/8/2020 IDWR approval of T.84367
7. 10/5/2020 James Cefalo memo regarding T.84367
8. 10/6/2020 McConnell transfer application regarding T.84441
9. McConnell SRBA partial decrees
10. 11/24/2020 Cindy Yenter watermaster recommendation regarding McConnell T.84441
11. 5/4/1983 Lemhi decree regarding 74-157
12. 5/2/1990 SRBA claim regarding 74-157
13. 5/27/2004 Notice of error regarding 74-157
14. 4/3/2012 SRBA partial decree regarding 74-157
15. 11/6/2020 Whittaker transfer 84508 to remove Lee Creek as tributary to 74-157
16. 11/20/2020 McConnell protest as to Whittaker T.84508
17. 11/24/2020 Cindy Yenter watermaster recommendation regarding Whittaker T.84508
18. 2/8/2021 Whittaker withdrawal of T.84508
19. 2/18/2021 IDWR acknowledgment of withdrawal of T.84508
20. 6/23/2020 letter from Cindy Yenter to Whittaker
21. Text to McConnell
22. Warranty Deed
23. Title Insurance
24. USGS Quadrangle Map

Additional exhibits may be introduced at the hearing for illustrative purposes, to aid or explain witness testimony, or for rebuttal or cross examination purposes.

DATED this 7th day of April, 2021.



Chris M. Bromley
McHugh Bromley, PLLC
Attorneys for Bruce and Glenda McConnell

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7th day of April, 2021, I served a true and correct copy of the foregoing document on the person(s) whose names and addresses appear below by U.S. Mail:

Idaho Dept. of Water Res. 900 N. Skyline Dr., Ste. A Idaho Falls, ID 83402-1718 james.cefalo@idwr.idaho.gov	Rosalie Ericsson 3738 E. 38 N. Rigby, ID 83442-5621	David R. Tomchak 1476 Lee Creek Rd. Leadore, ID 83464-5007
Steven L. Johnson 1019 Lee Creek Rd. Leadore, ID 83464-5011	Smith 2P Ranch c/o Shanna Foster 213 Grady Rd. Leadore, ID 83464	Robert L. Harris Holden Kidwell PO Box 50130 Idaho Falls, ID 83405 rharris@holdenlegal.com


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**NOTICE OF SERVICE OF
MCCONNELL WITNESS AND EXHIBIT
LIST**

On April 1, 2021, Bruce and Glenda McConnell ("McConnell"), by and through undersigned counsel of record, file the Notice of Service of McConnell Witness and Exhibit List.

DATED this 7th day of April, 2021.



Chris M. Bromley
McHugh Bromley, PLLC
Attorneys for Bruce and Glenda McConnell

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7th day of April, 2021, I served a true and correct copy of the foregoing document on the person(s) whose names and addresses appear below by U.S. Mail and/or electronic mail as indicated:

Idaho Dept. of Water Res. 900 N. Skyline Dr., Ste. A Idaho Falls, ID 83402-1718 james.cefalo@idwr.idaho.gov	Rosalie Ericsson 3738 E. 38 N. Rigby, ID 83442-5621	David R. Tomchak 1476 Lee Creek Rd. Leadore, ID 83464-5007
Steven L. Johnson 1019 Lee Creek Rd. Leadore, ID 83464-5011	Smith 2P Ranch c/o Shanna Foster 213 Grady Rd. Leadore, ID 83464	Robert L. Harris Holden Kidwell PO Box 50130 Idaho Falls, ID 83405 rharris@holdenlegal.com


Chris. M. Bromley

SCOTT KING EXPERT REPORT

EXHIBIT

1

T.84441

exhibitsticker.com

MAR 29 2021

Department of Water Resources
Eastern Region

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**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN THE MATTER OF APPLICATION FOR
TRANSFER 84441 IN THE NAME OF
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**NOTICE OF SERVICE OF
MCCONNELL EXPERT REPORT**

On March 26, 2021, Bruce and Glenda McConnell ("McConnell"), by and through undersigned counsel of record, served *McConnell Application for Transfer No. 84441 Expert Witness Report*, prepared by SPF Water Engineering.

DATED this 26th day of March, 2021.


Chris M. Bromley
McHugh Bromley, PLLC
Attorneys for Bruce and Glenda McConnell

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 26th day of March, 2021, I served a true and correct copy of the foregoing document on the person(s) whose names and addresses appear below by U.S. Mail:

Idaho Dept. of Water Res. 900 N. Skyline Dr., Ste. A Idaho Falls, ID 83402-1718	Rosalie Ericsson 3738 E. 38 N. Rigby, ID 83442-5621	Rob Harris Holden Kidwell P.O. Box 50130 Idaho Falls, ID 83405-0130
Steven L. Johnson 1019 Lee Creek Rd. Leadore, ID 83464-5011	Smith 2P Ranch c/o Shanna Foster 213 Grady Rd. Leadore, ID 83464	David R. Tomchak 1476 Lee Creek Rd. Leadore, ID 83464-5007


Chris. M. Bromley



RECEIVED

MAR 29 2021

Department of Water Resources
Eastern Region

March 26, 2021

Idaho Department of Water Resources
Eastern Regional Office
900 North Skyline Drive, Suite A
Idaho Falls, ID 83402-1718

*Subject: McConnell Application for Transfer No. 84441
Expert Witness Report*

Enclosed please find SPF Water Engineering's Expert Witness Report prepared for the above-referenced Application.

Sincerely,

A handwritten signature in blue ink, appearing to read "Scott N. King", is written over a faint, circular, light-blue watermark.

Scott N. King, P.E.
Project Manager

cc: Chris Bromley (via email)

File: 1610.0010

McConnell
Application for Transfer No. 84441
Expert Witness Report

Prepared for

Bruce and Glenda McConnell
100 Cottom Lane
Leadore, Idaho 83464

Prepared by

SPF Water Engineering, LLC
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March 26, 2021



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Appendix B: McConnell water right reports.

Appendix C: Ericsson water right reports.

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Appendix E: Smith 2P Ranch/Foster water right reports.

Appendix F: Tomchak water right reports.

Appendix G: Whittaker water right reports.

1. INTRODUCTION

1.1. Report Organization

This report describes McConnell's Application for Transfer No. 84441 (the Application) proposing to include an existing, long-used point of diversion to water rights diverted from Lee Creek. Included in Section 1 is a summary of the Application and the protests against the Application. Section 2 includes a discussion of water rights owned by the McConnells and the Protestants.

In Section 3, the applicant's irrigation diversion works from Lee Creek are described including photographs and a map of the authorized place of use. Section 4 presents the hydrology of the Lee Creek drainage and includes point of diversion locations for the protestant's water rights.

Section 5 includes analysis of historic water use based on review of watermaster records. Analysis of the proposed transfer application is included in Section 6, with summary and conclusions in Section 7.

1.2. Application for Transfer 84441

Application for Transfer No. 84441 (the Application) proposes to add one point of diversion to McConnell's irrigation water rights diverted from Lee Creek. This point of diversion has existed for many years. Per Bruce McConnell, both diversions have been in use since 1993 when they acquired the ranch. The point of diversion was inadvertently omitted from water right claims filed in the Snake River Basin Adjudication (SRBA).

The transfer proposes to add a second point of diversion which has been used and existed for decades. Adding the second point of diversion will not otherwise alter, affect, or injure existing water rights.

1.3. Protests

Protests against the Application were filed by the following six water right holders:

1.3.1. Ericksson Protest

Rosalie Ericsson stated basis of protest:

"I believe that by altering the way water is administered it will adversely affect more people than it would benefit."

The stated a basis for resolving the protest:

"I believe the way things have been done for the past 90 years have worked pretty well. I think that the proposed change should be withdrawn."

1.3.2. Johnson Protest

Steven Johnson stated basis of protest:

"Bruce filing for new point of diversion so my water should come befor (sic) the water that goes into that point of new diversion."

The stated basis for resolving the protest:

"Just so I have my water and he can have his new headgate for his ranch so that it work for him."

1.3.3. Smith 2P Ranch Protest

Smith 2P Ranch stated basis of protest:

"By changing the point of diversion on these water rights, it will alter the way the water has been historically administered based on priority dates. All of the junior water right holders on Lee Creek will be adversely affected"

The stated basis for resolving the protest:

"Delivering the water according to the 1930s agreement between the former owners of the McConnell Ranch and the other water users on Lee Creek via higher ditch. Along with having a proper headgate and a measuring device.

OR

McConnell's can make no claim to any water from the east fork of Lee Creek (Everson and Stroud)."

1.3.4. Tomchak Protest

David Tomchak stated basis of protest:

"Bruce & Glenda McConnell have water rights for Lee Creek only. They do not have water rights for Everson Creek. Here are their filed upon water rights numbers (74-361, 74-362, 74-363, 74-364, 74-365, 74-367, 74-368) and the set points where they have existing water rights of 15.2 cfs on Lee Creek at (NENE Sec 30 T16N R25E). If they are allowed to move their 15.2 cfs on Lee Creek to (SWSW Sec 20 T16 R25E) it will be below where Everson Creek feeds into Lee Creek taking water from legitimate water right holders on Everson Creek. The McConnell's have been taking water from Everson Creek water right holders illegally. They have done this by removing the original headgate attached to their water rights for Lee Creek and setting it off to the side of where Lee Creek and their ditch diverge or separate. Not only is this illegal, but it makes it impossible for the water master to control water flow and does not allow water above 15.2 cfs back into Lee Creek's (currently empty) main stream bed (see photo 1). Furthermore, McConnell's have drained Lee Creek into their upper ditch by not having a headgate and are currently irrigating with that water (see photo 2). Presently, the weir that McConnell's are measuring their water with is over ½ mile

downstream in their upper ditch, which is not in compliance with established guidelines set forth by the State of Idaho Department of Water Resources (see photo 3). They also have a weir that is on their lower ditch measuring water from Everson Creek that they have no water rights to use (see photo 4). At this time, the McConnell's have 100% of Lee Creek dumping into their upper ditch (see photo 5). McConnell's bottom ditch is located after Everson Creek feeds into Lee Creek and is currently dammed forcing most of the water from Everson Creek/Lee Creek's empty channel into their lower ditch. All of this takes place approximately ½ mile downstream of McConnell's water rights (see photos 6, 7, and 8).

In addition, it appears McConnell's have water rights to the springs located on Rosalee Whitakers property which has nothing to do with Everson Creek's main stream flow. The arrangement as to how they get that spring water to their property is between them and the land owners that the water must cross over and should not have anything to do with the flow of Everson Creek."

The stated basis for resolving the protest:

"A new headgate must be installed along with a weir to measure water flow within 300 feet or by established guidelines set forth by the State of Idaho Department of Water Resources. The new headgate and weir must be placed at (NENE Sec 30 T16N R25E) where McConnell's water rights numbers (74-361, 74-362, 74-363, 74-364, 74-365, 74-367, 74-368) are originally filed. This new headgate must allow the water master the ability to control water flow so as to channel everything above 15.2 cfs into Lee Creek's normal stream bed and allow it to meet downstream where Everson Creek dumps into Lee Creek's channel (see photo 9). The damming of the water which flows from Everson Creek/Lee Creek at McConnell's lower ditch must be stopped (refer to photos 6-8). McConnell's lower ditch must be removed or blocked off, so as to not take any water from Everson Creek/Lee Creek downstream from where the original water rights are filed on."

1.3.5. Whittaker Two Dot Ranch Protest

Whittaker Two Dot Ranch stated basis of protest:

"By changing the point of diversion on these water rights, it will alter the way the water has been historically administered based on priority dates. All of the junior water right holders on Lee Creek will be adversely affected. In addition, the only way to convey McConnell's water from the east fork of Lee Creek to this new point of diversion would be through my ranch's PRIVATE ditch systems. Under no circumstances will I allow another water user to deliver his/her water through my private ditches."

The stated basis for resolving the protest:

"Delivering the water according to the 1930s agreement between the former owners of the McConnell Ranch and the other water users on Lee Creek which delivered water

from the east fork of Lee Creek via a higher ditch and acknowledged the spring water on our property is private and not subject to priority dates on Lee Creek

Or

McConnell's can make no claim to any water from the east fork of Lee Creek (Everson and Stroud)"

1.3.6. Whittaker Protest

James Whittaker stated basis of protest:

"Change from historical POD (Lot 4 S6 T15N R26E) which connects left Fork to the Right Fork Lee Creek No. 8363 Supreme Court Case."

The stated basis for resolving the protest:

"Withdrawal of application & file for historical POD."

2. LOCAL WATER RIGHTS

2.1. McConnell Water Rights

Bruce and Glenda McConnell hold seven water rights from Lee Creek, a tributary of Lemhi River, for irrigation of 547.4 acres, and an additional right authorizing diversion from Springs for domestic and stockwater. McConnell's rights are further described below. Water right reports are included in Appendix B.

- 74-361 provides 1.18 cfs of May 12, 1883 priority water from Lee Creek for irrigation of 211.7 acres and 0.02 cfs for stockwater.
 - 74-362 provides an additional 4.1 cfs of May 1, 1906 priority Lee Creek water for the same 211.7 acres.
- 74-363 provides 1 cfs of May 12, 1883 priority water from Lee Creek for irrigation of 46.1 acres.
 - 74-364 provides an additional 1.3 cfs of June 1, 1900 priority Lee Creek water for the same 46.1 acres.
- 74-365 provides 1.2 cfs of May 12, 1883 priority water from Lee Creek for irrigation of 20.8 acres.
- 74-367 provides 0.6 cfs of May 12, 1883 priority water from Lee Creek for irrigation of 268.8 acres.
 - 74-368 provides an additional 5.8 cfs of November 5, 1909 priority Lee Creek water for the same 268.8 acres.
- 74-1075 provides 0.02 cfs of April 1, 1913 priority water from Springs tributary to Lee Creek for Domestic and Stockwater use.

The McConnell rights were recently the subject of an IDWR transfer proceeding (T84367) to correct an error in the legal description for the point of diversion element that resulted in changing the point of diversion from T11N R25E S30 SENE to T11N R25E S30 NENE. The transfer application was approved by IDWR on October 8, 2020.

2.2. Ericsson Water Rights

Ericsson's water rights are described below. Water right reports are included in Appendix C.

- 74-370 provides 4 cfs of May 12, 1883 priority water from Left Fork Lee Creek for irrigation of 186 acres. This right has a condition on pro-rating with other water rights having the same priority date.
- 74-1855 provides 2 cfs of June 28, 1912 priority water from Stroud Creek for irrigation of 186 acres. The place of use is the same as that for 74-340. Although the source is identified differently, the point of diversion appears to be the same as 74-340.
- 74-1853 provides 0.1 cfs of April 1, 1960 priority water from a spring for irrigation of 5 acres. The place of use is within that described by 74-340 and 74-1855.
- 74-1854 provides 0.04 cfs of April 1, 1916 priority water from three springs for stockwater use.
- 74-1017 provides 0.04 cfs of April 1, 1912 priority water from groundwater for domestic use.

Ericsson's point of diversion from Left Fork Lee Creek aka Stroud Creek aka Everson Creek is downstream of the Tomchak and Foster diversion.

2.3. Johnson Water Rights

Johnson owns water rights in the Lemhi drainage with sources including Big Eightmile Creek, ground water, Lee Creek, Mill Creek, and Springs. Johnson's water rights associated with the Lee Creek system are described below. Water right reports are included in Appendix D.

- 74-949 provides 0.02 cfs of December 5, 1918 priority water from Lee Creek for irrigation of 1 acre and 0.02 cfs for stockwater.
- 74-1831 provides 0.24 cfs of June 28, 1912 priority water from Lee Creek for irrigation of 12 acres.
- 74-15201 provides 0.34 cfs of May 8, 1990 priority water from Lee Creek for irrigation of 17 acres. The place of use is within the authorized place of use for rights the following two rights diverted from Big Eightmile Creek.
- 74-15720 and 74-15721 in combination provide 6.84 cfs of May 11, 1910 priority water from Big Eightmile Creek for irrigation of 250.6 acres. The 17-acre place of use for 74-15201, described above, is within the 250.6-acre place of use for these two rights.

- Other rights authorizing diversions from Big Eightmile Creek for irrigation or stockwater uses include 74-350, 74-411, 74-15072, 74-15715, 74-15717, and 74-15719. These rights do not appear to have a direct connection with Lee Creek or McConnell's Application and therefore are not discussed further.

2.4. Smith 2P Ranch Water Rights

Foster's water rights are described below. Water right reports are included in Appendix E.

- 74-1616 provides 0.02 cfs of April 1, 1919 priority water from Springs for domestic use.
- 74-1615 provides 2.43 cfs of April 1, 1919 priority water from Everson Creek for irrigation of 121.4 acres. This right also provides 0.02 cfs for stockwater use.
- 74-2351 provides 0.55 cfs of January 9, 1963 priority water from Everson Creek irrigation of 27.3 acres.

It appears Smith 2P Ranch (Foster) and Tomchak may share the same point of diversion for their respective irrigation rights.

Aerial imagery indicates 74-2351 may not have been used in many years.

2.5. Tomchak Water Rights

Tomchak's water rights are described below. Water right reports are included in Appendix F.

- 74-1057 provides 0.02 cfs of April 1, 1957 priority water from Stroud Creek for domestic use.
- 74-2195A provides 1.4 cfs of December 11, 1915 priority water from Everson Creek for irrigation of 65 acres.
- 74-2261A and 74-2339A each individually and in combination provide 1 cfs of December 21, 1941 priority water from Everson Creek irrigation of 65 acres and 24 AFA for irrigation storage and irrigation from storage.

The place of use is for 74-2195A, 74-2261A, and 74-2339A is the same 65 acres. It appears Tomchak and Smith 2P Ranch (Foster) may share the same point of diversion for their respective irrigation rights.

2.6. Whittaker Water Rights

Whittaker owns water rights in the Lemhi drainage with many sources. Described below are water rights associated with the Lee Creek drainage. Water right reports are included in Appendix G.

- 74-157 provides 3.2 cfs of April 1, 1916 priority water from two Springs tributary to Lee Creek for irrigation of 291.7 acres. This right also provides 0.02 cfs for stockwater use.
- 74-369 provides 2.4 cfs of May 12, 1883 priority water from Left Fork Lee Creek for irrigation of 275.4 acres within a 686-acre place of use. Rights 74-1136 and 74-15788 are diverted from the same diversion
- 74-1136 provides 2 cfs of June 28, 1912 priority water from Left Fork Lee Creek for irrigation of 102.6 acres within a 686-acre place of use.
- 74-15788 provides 1.97 cfs of December 31, 1982 priority water from Stroud Creek for irrigation of 378 acres within a 686-acre place of use. This right is an enlargement of 74-369 and 74-1136.

Note that the source "Stroud Creek" is also known as "Left Fork Lee Creek."

- 74-338B, 74-349, 74-1105, and 74-15787 authorize diversion from Big Eightmile Creek for irrigation of 724 acres.

The place of use for Big Eightmile Creek rights 74-338B, 74-349, 74-1105, and 74-15787 overlaps the places of use for the above rights 74-157, 74-369, 74-1136, and 74-15788.

3. IRRIGATION SYSTEM OVERVIEW

3.1. McConnell Irrigation System

Irrigation water is diverted from Lee Creek at two points of diversion and conveyed through ditches to the McConnell places of use where irrigation water is applied by the gravity flooding method. The points of diversion and places of use are presented in Figure 1. The point identified as "Lower Irrigation Point of Diversion" is the point of diversion that is being added to the irrigation water rights in the Application.

Photos of the upper point of diversion, ditch, and measuring device are provided in Figure 2 and Figure 3. The diversion works are difficult to discern due to snow cover and thick vegetation. The ditch is approximately 2 to 3 feet wide at the flume and has an estimated conveyance capacity of 2.5 to 4 cfs.

Photos of the lower point of diversion, ditch, and measuring device are provided in Figure 4 and Figure 5. Similar with the upper diversion, snow cover and vegetation prevented a good photograph of the diversion works. The ditch upstream of the flume is approximately four feet wide and has an estimated conveyance capacity of 12 cfs.

The channels feeding the two diversions appear to be separated at the diversion works. At the upper diversion, the channel feeding the lower diversion was about 50 feet distant from the channel feeding the upper diversion.

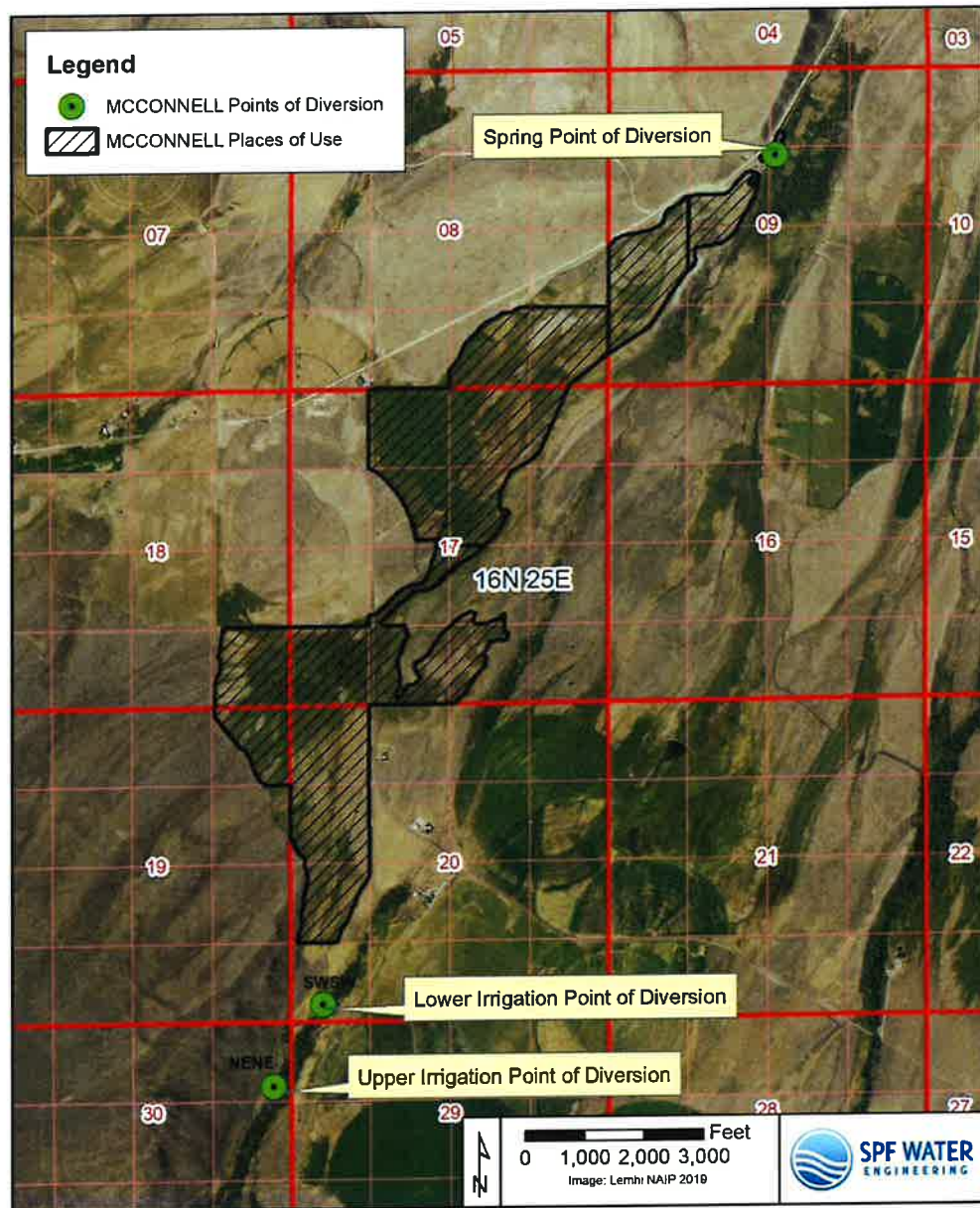


Figure 1: McConnell diversion points and places of use.



Figure 2: Photo of check dam at upper point of diversion.



Figure 3: Photo of upper ditch, measuring flume in ditch, facing upstream towards the point of diversion.



Figure 4: Photo of lower point of diversion check structure and diversion works.



Figure 5: Photo of the lower ditch, measuring flume in ditch, facing upstream towards the point of diversion.

Maps of the diversion points and ditches are presented based on aerial imagery from 2019 and 1986, and on hand-drawn maps prepared for the 1970 Lemhi Adjudication. Figure 6 depicts the points of diversion as green dots which were located per SPF's March 15, 2021 site visit and GPS data collection on 2019 NAIP Imagery. Arrows point to the location of the two ditches conveying water from the diversion points to the irrigated fields.

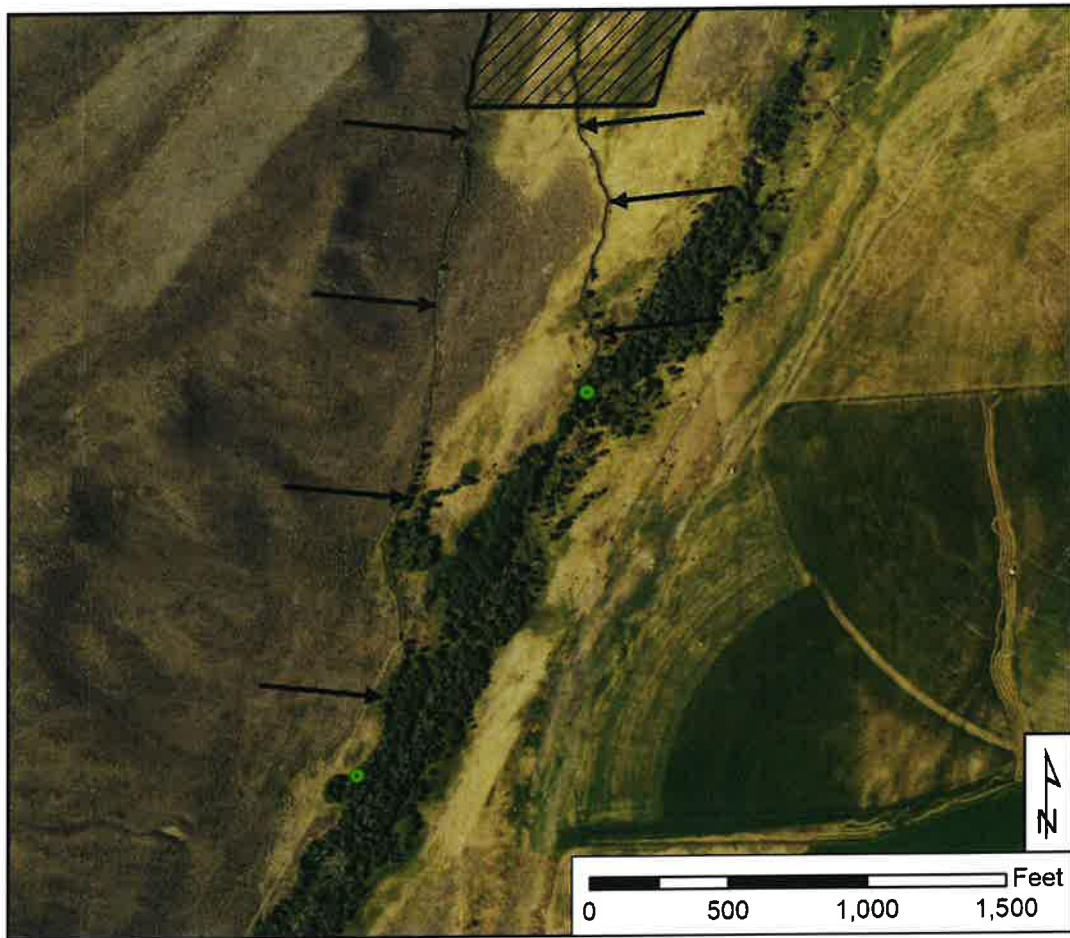


Figure 6: Points of diversion and ditches conveying water from the diversions to the places of use.

Figure 7 presents the points of diversion and arrows exactly in the same location marked in Figure 6 using IDWR's 1986 SRBA imagery for Basin 74 as a base layer. The locations of the diversion points and ditches identified by the arrows appears nearly identical to those in the 2019 imagery.

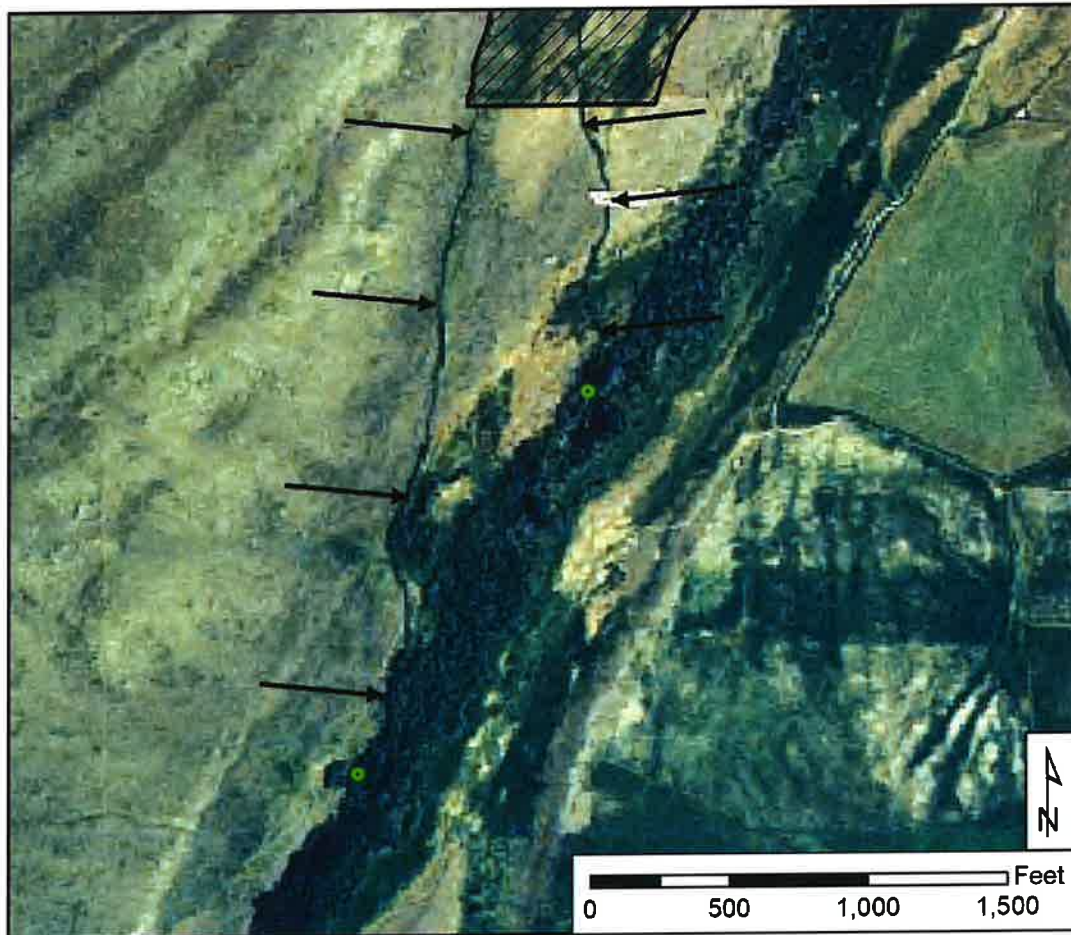


Figure 7: Points of diversion and ditches presented on 1986 SRBA Imagery.

Figure 8 similarly presents the points of diversion and arrows as located in Figure 6 on IDWR's 1970 hand-drawn Lemhi Adjudication map as a base layer. The geo-referencing of these map may be off a bit compared to recent aerial imagery and it appears the Lemhi Adjudication base layer should be adjusted eastward. It is apparent from this figure that in 1970 there was one diversion located further upstream from the current diversions, and from this diversion one ditch subsequently bifurcated into two ditches approximately 500 feet downstream from the point of diversion.

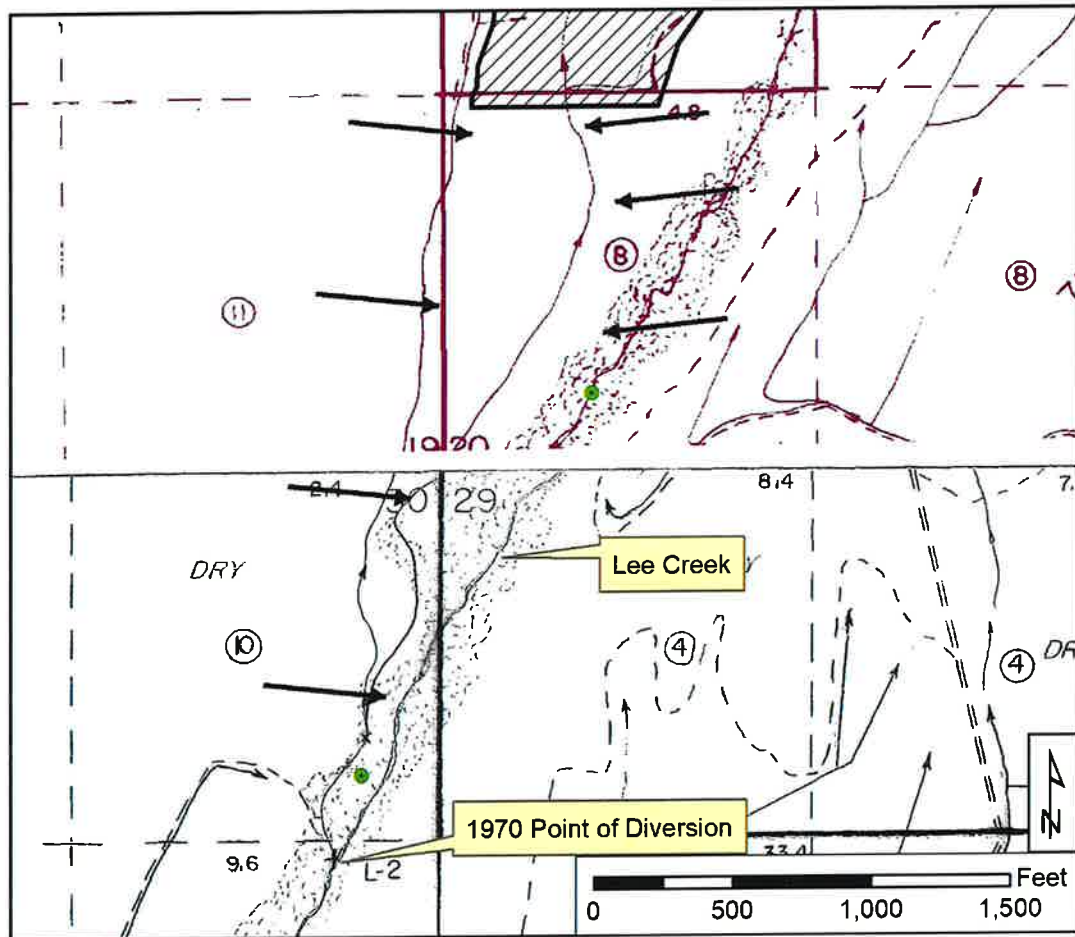


Figure 8: Points of diversion and ditches presented on 1970 Lemhi Adjudication map.

4. LOCAL HYDROLOGY

4.1. Lee Creek System

The Lee Creek system forms from runoff originating from the north and east facing slopes of the Lemhi Range. Lee Creek is tributary to the Lemhi River. Figure 9 presents and identifies the major stream systems discussed in this report and used as sources in water rights owned by McConnell and the Protestants. The USGS identified stream of "Lee Creek" may locally be referred to as Right Fork Lee Creek upstream of Stroud Creek's confluence with Lee Creek. The lower portion of Stroud Creek may locally be referred to as Left Fork Lee Creek.

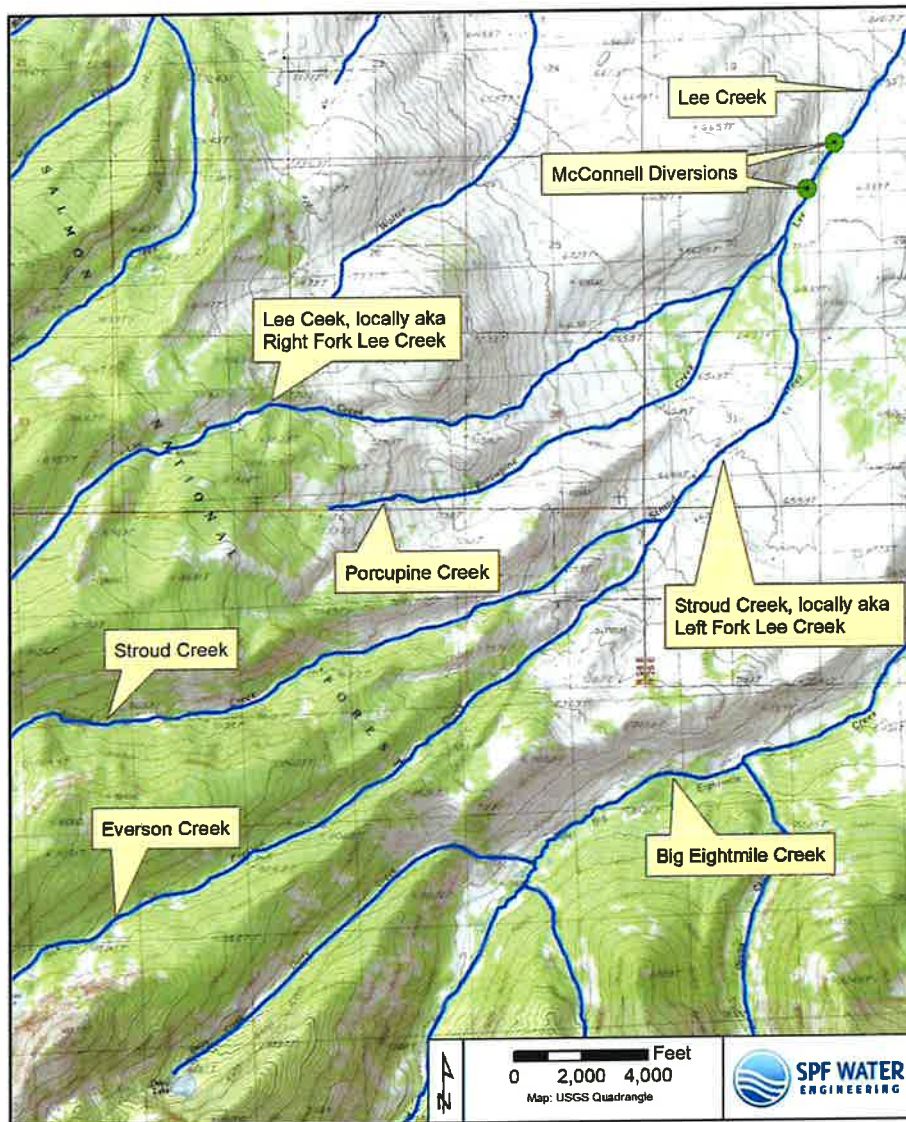


Figure 9: Lee Creek Hydrology

Figure 10 depicts water right points of diversion on the Lee Creek system owned by McConnell and the Protestants. Furthest upstream in Section 1, Tomchak's water rights from Everson Creek tributary to Stroud Creek include 74-2261A, 74-2339A, and 74-2195A. This point of diversion coincides with Smith 2P Ranch/Foster's rights from Everson Creek tributary to Lee Creek including 74-2351 and 74-1615. Next in downstream order and located in Section 6 is Tomchak's water right 74-1057 that lists a source of Stroud Creek tributary to Lee Creek. Next downstream also in Section 6 are Ericsson's diversions for water right 74-370 with a listed source of Left Fork Lee Creek and water right 74-1855 with a listed source of Stroud Creek, both of which are tributary to Lee Creek.

Further downstream in Section 31 are Whittaker's water rights which are tributary to Lee Creek (Whittaker has many other rights from other sources, some of which are identified in Section 1.3.6). These include rights 74-369 and 74-1136 listing the source as Left Fork Lee Creek tributary to Lee Creek, 74-15788 listing the source as Stroud Creek tributary to Lee Creek, and 74-157 with two points of diversion listing the source as Springs tributary to Lee Creek. All of these water rights were decreed in the SRBA.

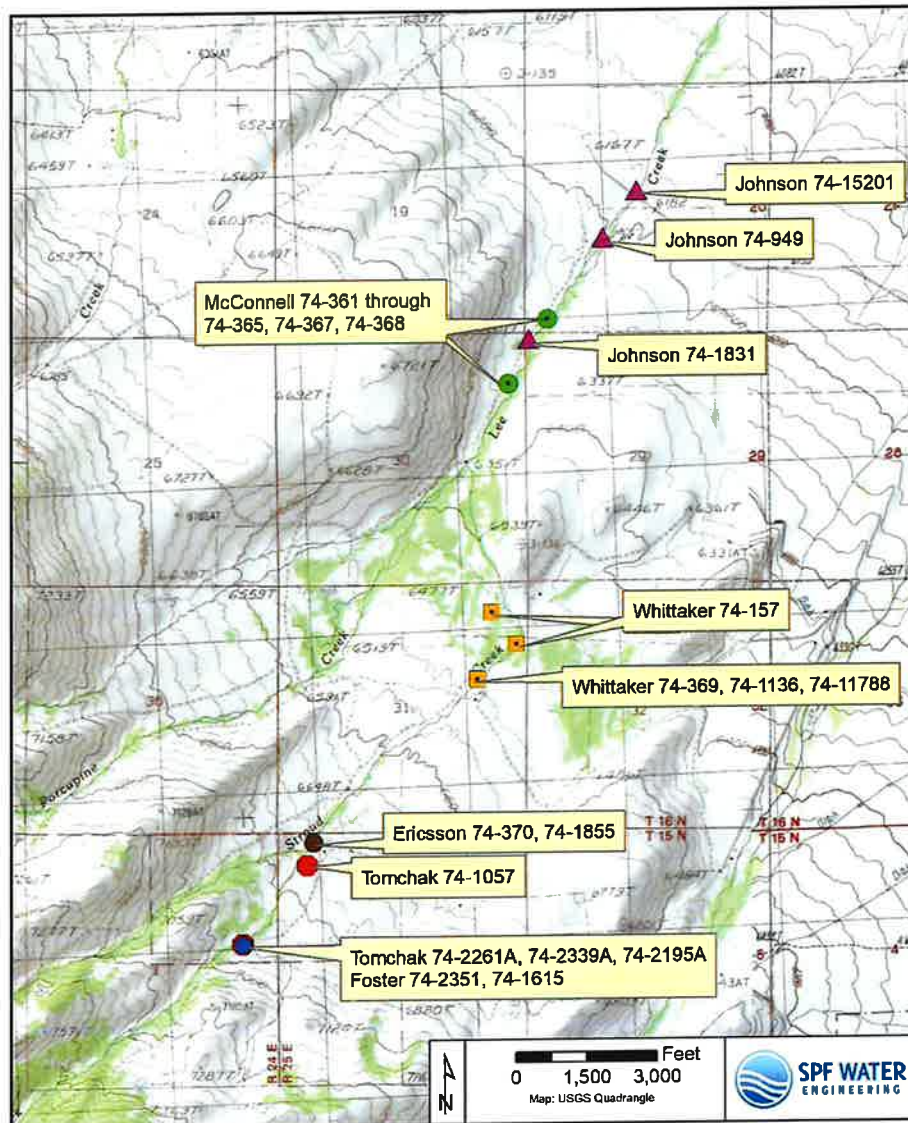


Figure 10: Water right points of diversion of the Lee Creek system.

Next downstream are the McConnell and Johnson rights, all diverted from Lee Creek tributary to Lemhi River. First is McConnell's upper diversion for water rights 74-361, 74-362, 74-363, 74-364, 74-365, 74-367, and 74-368. Below this diversion is Johnson's

water right 74-1831. Next downstream is McConnell's lower diversion for McConnell's rights listed above and subject of the Application. Downstream from McConnell's lower diversion are Johnson's diversion for water rights 74-949 and 74-15201.

Protests allege McConnell's lower point of diversion withdraws water from the Left Fork Lee Creek. This is contrary to the fact as shown in Figure 9 and Figure 10 which clearly depict the lower point of diversion located at least ½ mile downstream of the Left and Right Fork confluence. This is further confirmed by the 1954 Engineer's Map referenced in Rocky Mountain Environmental's July 20, 2020 report and depicted in Figure 11. Likewise, the 1970 Lemhi Adjudication map in Figure 12 shows the diversion points well downstream of the confluence.

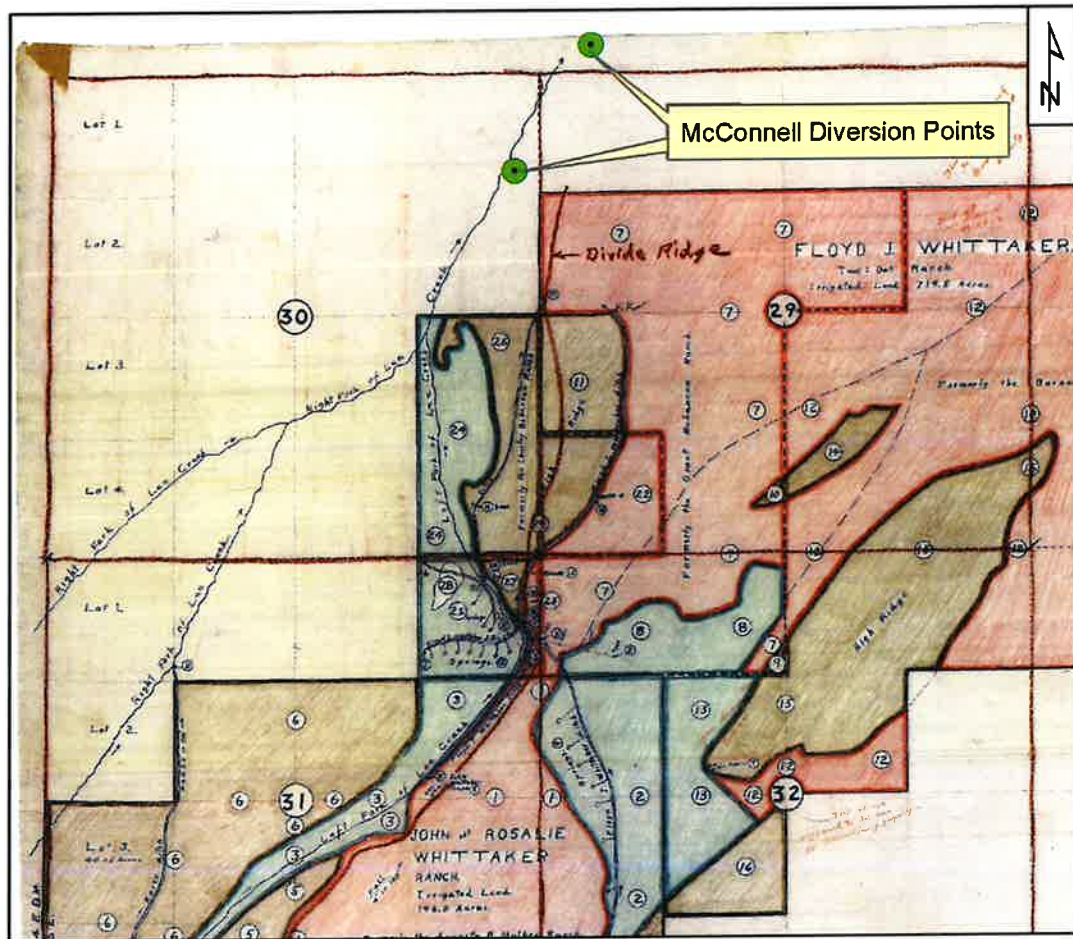


Figure 11: 1954 Engineer's Map with McConnell's current diversion points included.

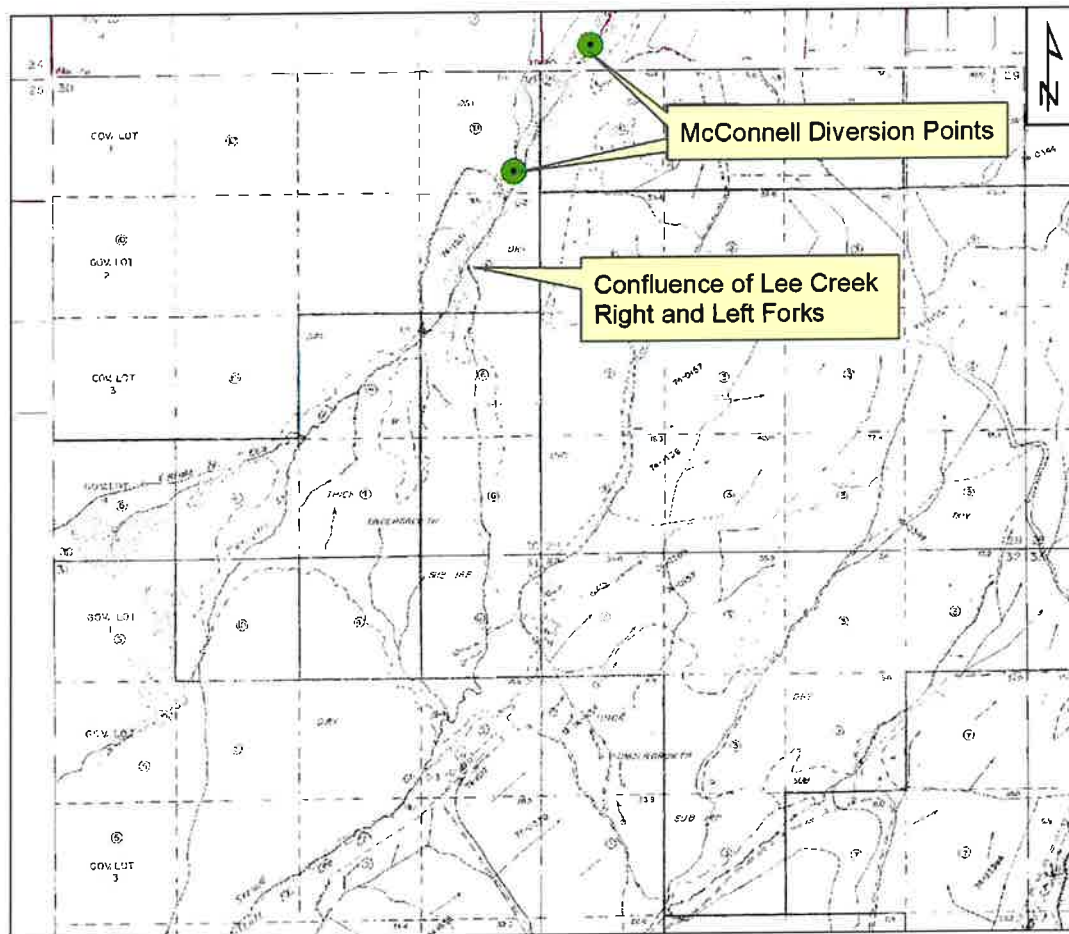


Figure 12: 1970 Lemhi Adjudication Map with McConnell's current diversion points included.

4.2. Springs

Protestants Ericsson and Foster own water rights with sources of "Springs." These rights either do not list a tributary system or list a tributary of "sinks." These springs appear to be located outside of the Lee Creek drainage and instead within the Big Eightmile Creek Drainage.

Whittaker owns water right 74-157 authorizing diversion from two springs that were decreed in the SRBA as tributary to Lee Creek.

4.3. Diversion and Use by Protestants

The points of diversion and places of use for rights owned by Tomchak, Foster and Ericsson are well upstream of the McConnell points of diversion. Some of these water rights are junior in priority to some of McConnell's water rights. Whittaker's water right 74-369 and Ericsson's water right 74-370 include conditions preventing pro-rata curtailment with other Lee Creek rights having the same May 12, 1883 priority date.

Because the McConnell points of diversion are downstream, no change in water administration will occur with these rights if the Application is approved.

The places of use for Whittaker's rights described above in section 4.1 are also covered by water rights diverted from Big Eightmile Creek listed in section 2.6.

In November 2020, Whittaker filed Application for Transfer No. 84508 proposing to remove the tributary listed under water right 74-157 which authorizes diversion of water from Springs for irrigation. The application was protested by McConnell. Cindy Yenter provided a November 24, 2020 email regarding watermaster comments on the proposed transfer. In this email, Yenter described that the two springs do not appear to be hydraulically connected, that the "East Spring" would likely sink before reaching a named tributary, and that "The West Spring in NENE Sec 31 is clearly tributary to Stroud Creek." Yenter provided additional details of the spring diversions, ditches, use of the water, and recommendations for conditional approval of the proposed transfer. Whittaker subsequently withdrew the application. As a result, water right 74-157 remains tributary to Lee Creek

Johnson's Lee Creek water rights include 74-1831, 74-949, and 74-15201. Notably, water rights 74-949 and 74-15201 are the only water rights at issue in this proceeding that are downstream of the McConnell proposed point of diversion. Water right 74-1831 was transferred to its current place of use in 2004 by Johnson's predecessor Darrell and Verna Nef. Aerial imagery indicates the right may have never been used at its current authorized location. Review of aerial imagery does not indicate a ditch from Lee Creek and the place of use does not appear irrigated. Water right 74-949 authorizes irrigation of 1 acre from Lee Creek. It is unclear how water is diverted from the authorized point of diversion to the place of use as a conveyance ditch is not apparent on aerial imagery. Water right 74-15201 includes a 17-acre place of use that is overlapped with other rights diverted from Big Eightmile Creek. This place of use appears irrigated, but it is difficult to determine whether the source of water is Lee Creek, Big Eightmile Creek, or both.

5. HISTORIC WATER USE

5.1. Water District 74Z Watermaster Reports

Watermaster reports for years 2014 through 2019 were reviewed. The 2020 watermaster report was not available at the time of this report's preparation.

The 2017 Watermaster report for Water District 74Z includes delivery records for individual water rights on Lee and Big Eightmile Creeks. This record documents delivery of McConnell Lee Creek water rights. In June 2017, McConnell was receiving nearly a full delivery of all water rights with the junior water right 74-368 right cut to 2.6 cfs.

The 2018 Watermaster report presents a detailed delivery record for individual water rights on Lee and Big Eightmile Creeks. This record indicates full delivery of all

McConnell Lee Creek water rights, except for the junior right 74-368, through the full irrigation season.

The 2014 through 2016 Watermaster reports are similar to the 2017 and 2018 reports with records indicating delivery of McConnell's Lee Creek water rights with varied deliveries of the junior priority water rights depending on year and month.

The 2019 Watermaster report includes deliveries for McConnell, Ericsson, Whittaker, Foster and Tomchak, but not for Johnson. This report does not detail the individual rights or priorities being delivered and is not nearly as detailed as the earlier reports.

Whittaker's right 74-157 for diversion of springs tributary to Lee Creek was not included in any of the reviewed watermaster records.

That the watermaster records show McConnells have exercised full beneficial use of their Lee Creek water rights is consistent with an October 5, 2020 Memorandum from James Cefalo examining Transfer 84367, which was approved by IDWR on October 9, 2020: "Water rights were decreed in 2014. Aerial photos show consistent irrigation of the respective places of use since 2014."

6. TRANSFER ANALYSIS

6.1. The Transfer will not Reduce the Quantity of Water Under Existing Water Rights

The Application proposes to include a point of diversion on seven existing water rights. This diversion has existed for many years, since at least 1993 when McConnell acquired the ranch, and was inadvertently excluded from claims filed in the SRBA. There will be no reduction in quantity to existing water rights, including all of the Protestants' water rights if the Application is approved.

6.2. The Transfer will not Result in Enlargement of McConnell Water Rights

The Application does not enlarge the quantity of water authorized for diversion, nor does it change or enlarge the place of use or nature of use. Water will be diverted and used as it has historically been used.

6.3. The Transfer is Consistent with the Conservation of Water Resources within the State of Idaho

Diverting water for irrigation and growing crops is consistent with the conservation of water resources within the State of Idaho and the McConnells use of water is efficient and in keeping with the local custom and use.

6.4. The Transfer is in the Local Public Interest

The Application includes as an authorized point of diversion one that has been used for decades. Maintain use of the water rights and water for growing crops is in the local public interest.

6.5. The Transfer Will Not Adversely Affect the Local Economy

The Application includes as an authorized point of diversion one that has been used for decades. The diversion and use of water are unchanged from historical practices. The Application maintains beneficial use of water for growing crops benefitting the local economy.

6.6. The Use is a Beneficial Use

The authorized use for the water rights is irrigation, and this use is unchanged. Irrigation is considered a beneficial use of water in Idaho.

7. CONCLUSIONS AND RECOMMENDATIONS

1. The transfer is structured to prevent enlargement and injury and should be approved.
2. The point of diversion added by this Application is a diversion that has been used for decades. The 1970 Lemhi Adjudication map indicates that at the time of mapping, there appeared to be one point of diversion located upstream of the current diversion points, and that the main ditch was bifurcated into two ditches. The location of the upper ditch and much of the lower ditch in the 1970 map appear identical, or nearly identical, to the current ditch locations. The 1986 aerial imagery used for SRBA analysis indicates ditches and diversion points consistent with current locations.
3. The Lee Creek channel at the points of diversion has a bed that consists of sandy and gravelly sediments. There is heavy vegetation growth in the channel. High flows are expected to transport sediments resulting in erosion, deposition, channel migration and bifurcation. The fact that there are two channels at the upper point of diversion is not a surprise and it is likely there are other locations where Lee Creek is bifurcated. Channel meandering and bifurcation is common and expected in many of Idaho's stream systems.
4. Protests allege the Application is contrary to the *Whittaker v. Kauer*, 78 Idaho 94 (1956) Supreme Court decision. This is a legal argument that is beyond the qualifications of this report's author. However, provided that disclaimer, it is our understanding that the Snake River Basin Adjudication Final Unified Decree superseded prior decisions. If the prior ruling was not carried forward to the SRBA decree, it is no longer valid.

8. REFERENCES

Lemhi 1970s adjudication map provided by Craig Saxton of IDWR.

Contor, Bryce A., 2020. Field Observation of Lee Creek, a Ditch Locally Known as "Kauer Ditch," and the "West Springs" Water Source for Idaho Water Right 74-157. Rocky Mountain Environmental Associates, Inc. July 20, 2020.

APPENDIX A
Summary of Water Rights Owned
by Applicants and Protestants

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McConnell Water Rights

Number	Owner	Priority Date	Source	Tributary	Water Uses	Season of Use	Maximum Diversion Rate (cfs)	Volume Limit (AFA)	Acres Irrigated	Basin	Status	Combined Use Limits (CUL)	Remarks
74-361	Bruce & Glenda McConnell	5/12/1883	Lee Creek	Lemhi River	Irrigation Stockwater	3/15 - 11/15 1/1 - 12/31	1.18 0.02	3.5 afa 13,000 gpd	211.7	Decree	Active	1) 74-361 & 74-362 combined = 211.7 acres	
74-362	Bruce & Glenda McConnell	5/11/1906	Lee Creek	Lemhi River	Irrigation	3/15 - 11/15	4.1	3.5 afa	211.7	Decree	Active	1) 74-361 & 74-362 combined = 211.7 acres	
74-363	Bruce & Glenda McConnell	5/12/1883	Lee Creek	Lemhi River	Irrigation	3/15 - 11/15	1	3.5 afa	46.1	Decree	Active	2) 74-363 & 74-364 combined = 46.1 acres	
74-364	Bruce & Glenda McConnell	6/1/1900	Lee Creek	Lemhi River	Irrigation	3/15 - 11/15	1.3		46.1	Decree	Active	2) 74-363 & 74-364 combined = 46.1 acres	
74-365	Bruce & Glenda McConnell	5/12/1883	Lee Creek	Lemhi River	Irrigation	3/15 - 11/15	1.2	3.5 afa	20.8	Decree	Active		
74-367	Bruce & Glenda McConnell	5/12/1883	Lee Creek	Lemhi River	Irrigation	3/15 - 11/15	0.6	3.5 afa	268.8	Decree	Active	3) 74-367 & 74-368 combined = 268.8 acres	
74-368	Bruce & Glenda McConnell	11/5/1909	Lee Creek	Lemhi River	Irrigation	3/15 - 11/15	5.8	3.5 afa	268.8	Decree	Active	3) 74-367 & 74-368 combined = 268.8 acres	
74-1075	Bruce & Glenda McConnell	4/1/1913	Springs	Lee Creek	Stockwater Domestic	1/1 - 12/31 1/1 - 12/31	0.02	13,000 gpd		Decree	Active		250 cattle 1 home POD Sec 9 SWNE

Ericsson Water Rights

Number	Owner	Priority Date	Source	Tributary	Water Uses	Season of Use	Maximum Diversion Rate (cfs)	Volume Limit (AFA)	Acres Irrigated	Basils	Remarks
74-370	Rosalie Ericsson	5/12/1883	Left Fork Lee Creek	Lee Creek	Irrigation	3/15 - 11/15	4	n/a	186	Decreed	When the flow of water in Lee Creek is insufficient to supply all rights under the 5 12-1883 date of priority, right 74-369 and right 74-370 shall not be pro-rated with any rights on Lee Creek with that priority date. When the flow in the Left Fork of Lee Creek falls below amounts decreed in rights 74-369 and 74-370, the two rights shall be pro-rated according to the respective amounts of water decreed <POU same as 74-1855. POD in same QQ as 74-1855. Shapefile points 4 ft apart>
74-1017	Rosalie Ericsson	4/1/1912	Ground Water		Domestic	1/1 - 12/31	0.04	13,000 gpd		Decreed	
74-1853	Rosalie Ericsson	4/1/1960	Springs	Sinks	Irrigation	3/15 - 11/15	0.1	n/a	5	Decreed	POD 16N 25E S31 NWSESE <POU within 74-370 & 74-1855 POU>
74-1854	Rosalie Ericsson	4/1/1916	Springs		Stockwater	1/1 - 12/31	0.04	13,000 gpd		Decreed	PODs 16N 25E S32 SWNW, NWSW, SWSW
74-1855	Rosalie Ericsson	6/28/1912	Stroud Creek	Lee Creek	Irrigation	3/15 - 11/15	2	n/a	186	Decreed	<POU same as 74-370. POD in same QQ as 74-370. Shapefile points 4 ft apart>

Johnson Water Rights

Number	Owner	Priority Date	Source	Tributary	Water Uses	Season of Use	Maximum Diversion Rate (cfs)	Volume Limit (AFA)	Acres Irrigated	Basils	Status	Combined Use Limits (CUL)	Remarks
74-949	Steven L & Susan Johnson	12/5/1918	Lee Creek	Lemhi River	Stockwater	1/1 - 12/31	0.02			Decree	Active		
					Irrigation	3/15 - 11/15	0.02		1				
74-1831	Steven L & Susan Johnson	6/28/1912	Lee Creek	Lemhi River	Irrigation	3/15 - 11/15	0.24		12	Decreed	Active		
74-15201	Steven L & Susan Johnson	5/8/1990	Lee Creek	Lemhi River	Irrigation	4/15 - 10/15	0.34	59.5	17	License	Active	2) Rights 74-15201, 74-15720 and 74-15721 when combined shall not exceed the irrigation of 250.6 acres.	
74-350	Steven L & Susan Johnson	5/11/1910	Big Eightmile Creek	Lemhi River	Irrigation	3/15 - 11/15	7.04	n/a	175	Decreed	Active	1) Rights 74-350 and 74-15072 when combined shall not exceed a total diversion rate of 7.04 cfs and the irrigation of 234 acres.	Right No. 74-15072 is an enlargement of this right. 234 acre PPU
74-411	Steven L & Susan Johnson	3/25/1887	Big Eightmile Creek	Lemhi River	Stockwater	1/1 - 12/31	0.33	13,000 gpd		Decreed	Active		This right and right 74-412 provide for the diversion of 1.0 cfs that shall always be allowed to be diverted through the headgate of the ditch known as the "Schoonover-Freeman-Seamour" ditch.
74-15072	Steven L & Susan Johnson	6/19/1982	Big Eightmile Creek	Lemhi River	Irrigation	3/15 - 11/15	7.04		59	Decreed	Active	1) Rights 74-350 and 74-15072 when combined shall not exceed a total diversion rate of 7.04 cfs and the irrigation of 234 acres.	This right is based on an enlargement of 74-350.
74-15715	Steven L & Susan Johnson	3/25/1887	Big Eightmile Creek	Lemhi River	Stockwater	1/1 - 12/31	0.33	13,000 gpd		Decreed	Active		Water rights 74-411, 74-15714 and 74-15715 provide for the diversion of 1.0 cfs that shall always be allowed to be diverted through the headgate of the ditch known as the "Schoonover-Freeman-Seamour" ditch.
74-15717	Steven L & Susan Johnson	7/29/1901	Big Eightmile Creek	Lemhi River	Irrigation	3/15 - 11/15	2.07		237.8	Decreed	Active	3) Right Nos. 74-15717 and 74-15719 are limited to the irrigation of a combined total of 237.8 acres in a single irrigation season.	
74-15719	Steven L & Susan Johnson	5/11/1910	Big Eightmile Creek	Lemhi River	Irrigation	3/15 - 11/15	4		237.8	Decreed	Active	3) Right Nos. 74-15717 and 74-15719 are limited to the irrigation of a combined total of 237.8 acres in a single irrigation season.	
74-15720	Steven L & Susan Johnson	5/11/1910	Big Eightmile Creek	Lemhi River	Irrigation	3/15 - 11/15	1.54		56.3	Decreed	Active	2) Rights 74-15201, 74-15720 and 74-15721 when combined shall not exceed the irrigation of 250.6 acres.	250.6 acre PPU
74-15721	Steven L & Susan Johnson	5/11/1910	Big Eightmile Creek	Lemhi River	Irrigation	3/15 - 11/15	5.3		194.3	Decreed	Active	2) Rights 74-15201, 74-15720 and 74-15721 when combined shall not exceed the irrigation of 250.6 acres.	250.6 acre PPU
74-16196	Steven L & Susan Johnson	4/30/2019	Big Eightmile Creek	Lemhi River	Irrigation	3/15 - 11/15	1.62		81	Application	Active, Protested		

Foster and Ayers Water Rights

Number	Owner	Priority Date	Source	Tributary	Water Uses	Season of Use	Maximum Diversion Rate (cfs)	Volume Limit (AFA)	Acres Irrigated	Basis	Status
74-1616	Shanna L Foster & Jennifer Jo Ayers	4/1/1919	Springs		Domestic	1/1 - 12/31	0.02			Decree	Active
74-1615	Shanna L Foster & Jennifer Jo Ayers	4/1/1919	Everson Creek	Lee Creek	Irrigation	3/15 - 11/15	2.43		121.4	Decree	Active
					Stockwater	1/1 - 12/31	0.02	13,000 gpd			
74-2351	Shanna L Foster & Jennifer Jo Ayers	1/9/1963	Everson Creek	Lee Creek	Irrigation	3/15 - 11/15	0.55		27.3	Decree	Active

Tomchak Water Rights

Number	Owner	Priority Date	Source	Tributary	Water Uses	Season of Use	Maximum Diversion Rate (cfs)	Volume Limit (AFA)	Acres Irrigated	Basis	Status	Combined Use Limits (CUL)
74-1057	David R Tomchak	4/1/1957	Stroud Creek	Lee Creek	Domestic	1/1 - 12/31	0.02	13,000 gpd		Decreed	Active	
74-2195A	David R Tomchak	12/11/1915	Everson Creek	Stroud Creek	Irrigation	3/15 - 11/15	1.4		65	License	Active	
74-2261A	David R Tomchak	12/21/1941	Everson Creek	Stroud Creek	Irrigation	3/15 - 11/15	1					1) USE OF THIS RIGHT WITH RIGHT NO. 74-2339A IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 1 CFS, A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 24 AF, AND IRRIGATION OF 65 ACRES.
					Irrigation Storage	1/1 - 12/31		24	65	Decree	Active	
					Irrigation From	3/15 - 11/15		24				
74-2339A	David R Tomchak	12/21/1941	Everson Creek	Stroud Creek	Irrigation	3/15 - 11/15	1					1) USE OF THIS RIGHT WITH RIGHT NO. 74-2339A IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 1 CFS, A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 24 AF, AND IRRIGATION OF 65 ACRES.
					Irrigation Storage	1/1 - 12/31		24	65	Decree	Active	
					Irrigation From	3/15 - 11/15		24				

Whittaker Water Rights

Number	Owner	Priority Date	Source	Tributary	Water Uses	Season of Use	Maximum Diversion Rate (cfs)	Volume Limit (AFY)	Acres Irrigated	Base	Status	Combined Use Limits (CUL)	Remarks
74-157	F. James Whitaker & Paula J. Whitaker	4/11/1916	Springs	Lee Creek	Irrigation Stockwater	3/15 - 11/15 1/1 - 12/31	3.2 0.02		291.7	Decreed	Active		Two PODs from Springs.
74-369	F. James Whitaker & Paula J. Whitaker	5/12/1883	Left Fork Lee Creek	Lee Creek	Irrigation	3/15 - 11/15	2.4		275.4	Decreed	Active		When the flow of water in Lee Creek is insufficient to supply all rights under the 5-12-1883 date of priority, right 74-369 and right 74-370 shall not be pro-rated with any rights on Lee Creek with that priority date. When the flow in the Left Fork of Lee Creek falls below amounts decreed in rights 74-369 and 74-370, the two rights shall be pro-rated according to the respective amounts of water decreed. Right No. 74-369, 74-1136 and 74-15788 are diverted through the same point of diversion. 686-acre PPU
74-1136	F. James Whitaker & Paula J. Whitaker	6/28/1912	Left Fork Lee Creek	Lee Creek	Irrigation	3/15 - 11/15	2		102.6	Decreed	Active		Right No. 74-369, 74-1136 and 74-15788 are diverted through the same point of diversion. 686-acre PPU
74-15788	F. James Whitaker & Paula J. Whitaker	12/31/1982	Stroud Creek	Lee Creek	Irrigation	3/15 - 11/15	1.97		378	Decreed	Active		3) Right Nos 74-1136, 74-369, and 74-15788 are limited to a total combined diversion rate of 4.40 cfs. 4) The rights listed below are limited to the irrigation of a combined total of 378.0 acres in a single irrigation season. Combined Right Nos. 74-369, 74-1136, and 74-15788. Enlargement of 74-369 and 74-1136. Right No. 74-369, 74-1136 and 74-15788 are diverted through the same point of diversion. 686-acre PPU
74-338B	F. James Whitaker & Paula J. Whitaker	11/1/1887	Big Eightmile Creek	Lemhi River	Irrigation	3/15 - 11/15	3.2		128.9	Decreed	Active		Two PODs from Big Eightmile Creek. Right Nos. 74-338B, 74-349, 74-1105, and 74-15787 are diverted through the same points of diversion. 724-acre PPU
74-349	F. James Whitaker & Paula J. Whitaker	7/6/1916	Big Eightmile Creek	Lemhi River	Irrigation	3/15 - 11/15	2		72.7	Decreed	Active		Two PODs from Big Eightmile Creek. Right Nos. 74-338B, 74-349, 74-1105, and 74-15787 are diverted through the same points of diversion. 724-acre PPU
74-1105	F. James Whitaker & Paula J. Whitaker	3/25/1918	Big Eightmile Creek	Lemhi River	Irrigation	3/15 - 11/15	4		197	Decreed	Active		Two PODs from Big Eightmile Creek. Right Nos. 74-338B, 74-349, 74-1105, and 74-15787 are diverted through the same points of diversion. 724-acre PPU
74-15787	F. James Whitaker & Paula J. Whitaker	12/31/1982	Big Eightmile Creek	Lemhi River	Irrigation	3/15 - 11/15	4.13		398.6	Decreed	Active		1) Right Nos. 74-349, 74-1105, 74-338B and 74-15787 are limited to a total combined diversion rate of 9.20 cfs. 2) The rights listed below are limited to the irrigation of a combined total of 724 acres in a single irrigation season. Combined Right Nos. 74-349, 74-338B, 74-1105, 74-15787, 15788, 74-157, 74-369, 74-1136. Two PODs from Big Eightmile Creek. Enlargement of 74-349, 74-338B, & 74-1105. 724-acre PPU

APPENDIX B
McConnell Water Right Reports

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IDAHO Department of Water Resources



IDWR offices are open to the public and following the CDC guidelines for wearing masks and observing social distancing. For in-person visits, we encourage you to call ahead for an appointment.

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WATER RIGHT REPORT

2/8/2021

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report

WATER RIGHT NO. 74-361

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	BRUCE MC CONNELL
Current Owner	GLENDIA MC CONNELL
	100 COTTOM LN
	LEADORE, ID 83464
	2087682203
Original Owner	PARLEY A ARAVE
Original Owner	ROBERT T HEMMING
	PO BOX 1
	LEMHI, ID 83465

Priority Date: 05/12/1883

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
LEE CREEK	LEMHI RIVER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	03/15	11/15	1.18 CFS	
STOCKWATER	01/01	12/31	0.02 CFS	
Total Diversion			1.2 CFS	

Location of Point(s) of Diversion:

LEE CREEK|NENE|Sec. 30|Township 16N|Range 25E|LEMHI County

STOCKWATER Use:

Number of other uses: 200 Head Cattle

Place(s) of use:

Place of Use Legal Description: IRRIGATION LEMHI County

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>
16N	25E	8		SWSE	34		SESE	35						
		17		NENE	9		NWNE	39.8		SWNE	26.9			
				NENW	40		SENE	27						

Total Acres: 211.7

Conditions of Approval:

- X35 Rights 74-361 and 74-362 when combined shall not exceed the irrigation of 211.7 acres.
- R05 Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 74Z.

3. R43 The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
4. R59 This right when combined with all other rights shall provide no more than 3.5 afa per acre at the field headgate for irrigation of the place of use.
5. X02 Stockwater use is for 200 head cattle.
6. N05 The quantity of water under this right for stockwater use shall not exceed 13,000 gallons per day.
7. N08 The quantity of water decreed for this water right for stockwater use is not a determination of historical beneficial use.
8. T07 The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
9. T08 Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
10. T19 Pursuant to Idaho Code § 42-1412(6), 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 determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

Dates:

Licensed Date:

Decreed Date: 08/14/2014

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal: S

Owner Name Connector: OR

Water District Number: TBD

Generic Max Rate per Acre: 0.02

Generic Max Volume per Acre: 3.5

Combined Acres Limit: 211.7

Combined Volume Limit:

Combined Rate Limit:

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

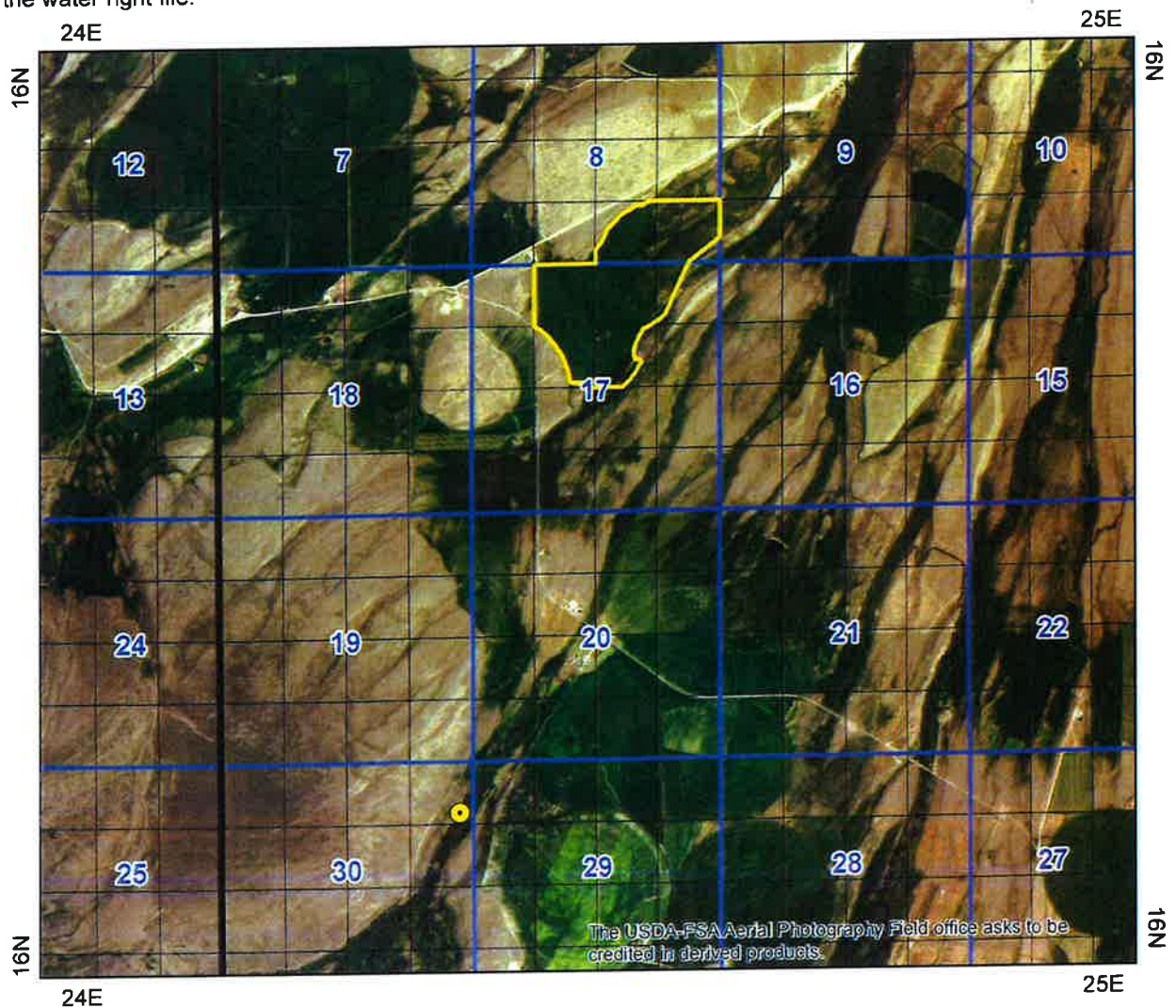
Mitigation Plan: False

State of Idaho
Department of Water Resources

Water Right 74-361

IRRIGATION

The map depicts the place of use for the water use listed above and point(s) of diversion of this right as currently derived from interpretations of the paper records and is used solely for illustrative purposes. Discrepancies between the computer representation and the permanent document file will be resolved in favor of the actual water right documents in the water right file.



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

0 0.45 0.9 1.8 Miles



IDAHO Department of Water Resources



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WATER RIGHT REPORT

2/8/2021

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report

WATER RIGHT NO. 74-362

Owner Type	Name and Address
Current Owner	BRUCE MC CONNELL
Current Owner	GLENDA MC CONNELL
	100 COTTOM LN
	LEADORE, ID 83464
	2087682203
Original Owner	PARLEY A ARAVE
Original Owner	ROBERT T HEMMING
	PO BOX 1
	LEMHI, ID 83465

Priority Date: 05/01/1906

Basis: Decreed

Status: Active

Source	Tributary
LEE CREEK	LEMHI RIVER

Beneficial Use	From	To	Diversion Rate	Volume
IRRIGATION	3/15	11/15	4.1 CFS	
Total Diversion			4.1 CFS	

Location of Point(s) of Diversion:

LEE CREEK|NENE|Sec. 30|Township 16N|Range 25E|LEMHI County

Place(s) of use:

Place of Use Legal Description: IRRIGATION LEMHI County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
16N	25E	8		SWSE	34		SESE	35						
		17		NENE	9		NWNE	39.8		SWNE	26.9			
				NENW	40		SENE	27						

Total Acres: 211.7

Conditions of Approval:

1. X35 Rights 74-361 and 74-362 when combined shall not exceed the irrigation of 211.7 acres.
2. R05 Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 74Z.
3. R43 The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
4. R59 This right when combined with all other rights shall provide no more than 3.5 afa per acre at the field headgate for irrigation of the place of use.
5. T07 The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
6. T08 Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
7. T19 Pursuant to Idaho Code § 42-1412(6), 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 determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

Dates:

Licensed Date:

Decreed Date: 08/13/2014

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal: S

Owner Name Connector: OR

Water District Number: 74Z

Generic Max Rate per Acre: 0.02

Generic Max Volume per Acre: 3.5

Combined Acres Limit: 211.7

Combined Volume Limit:

Combined Rate Limit:

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

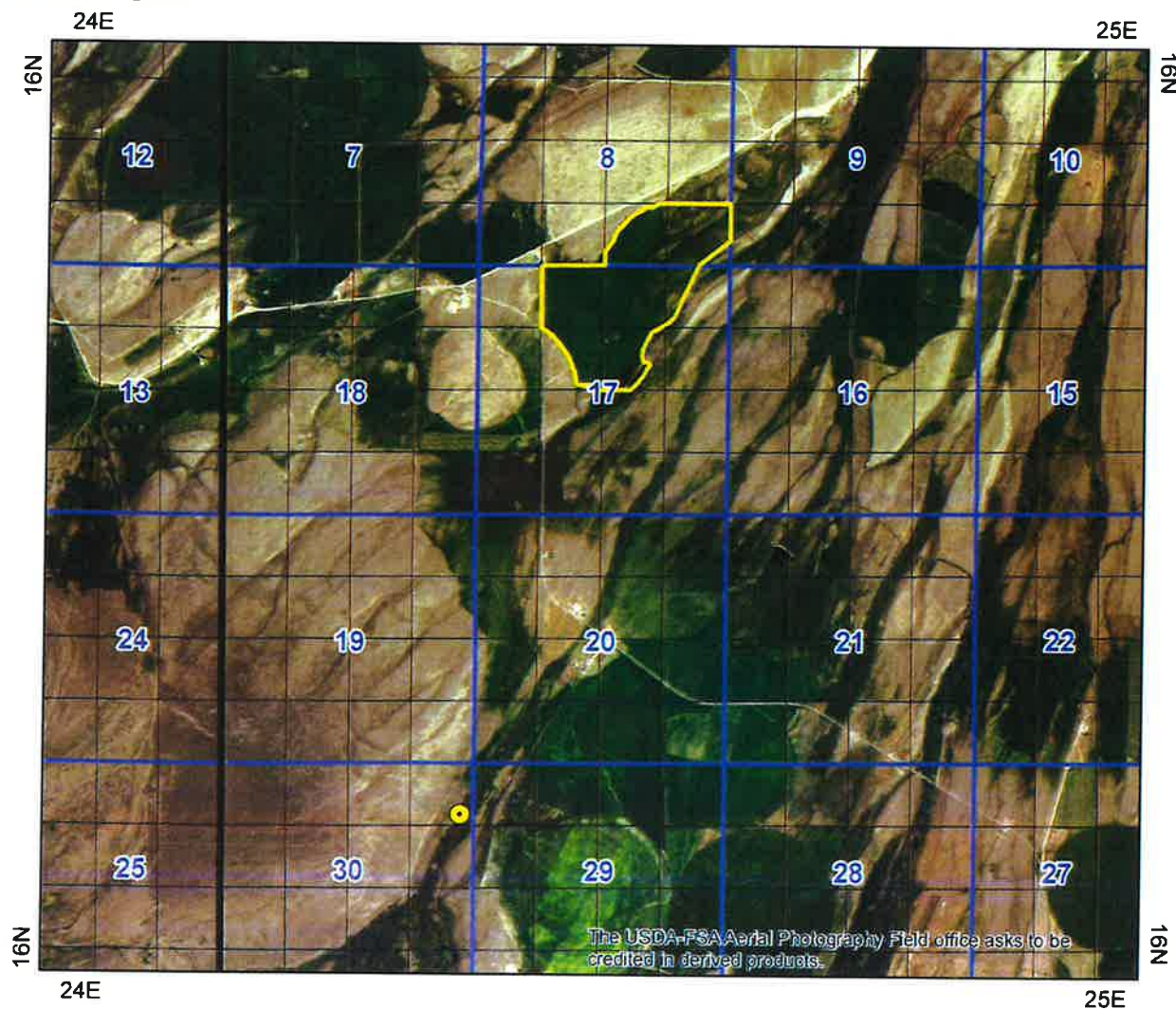
Mitigation Plan: False

State of Idaho
Department of Water Resources

Water Right 74-362

IRRIGATION

The map depicts the place of use for the water use listed above and point(s) of diversion of this right as currently derived from interpretations of the paper records and is used solely for illustrative purposes. Discrepancies between the computer representation and the permanent document file will be resolved in favor of the actual water right documents in the water right file.



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

0 0.45 0.9 1.8 Miles



IDAHO Department of Water Resources



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WATER RIGHT REPORT

2/8/2021

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report

WATER RIGHT NO. 74-363

Owner Type	Name and Address
Current Owner	BRUCE MC CONNELL
Current Owner	GLENDA MC CONNELL
	100 COTTOM LN
	LEADORE, ID 83464
	2087682203
Original Owner	PARLEY A ARAVE
Original Owner	ROBERT T HEMMING
	PO BOX 1
	LEMHI, ID 83465

Priority Date: 05/12/1883

Basis: Decreed

Status: Active

Source	Tributary
LEE CREEK	LEMHI RIVER

Beneficial Use	From	To	Diversion Rate	Volume
IRRIGATION	3/15	11/15	1 CFS	
Total Diversion			1 CFS	

Location of Point(s) of Diversion:

LEE CREEK|NENE|Sec. 30|Township 16N|Range 25E|LEMHI County

Place(s) of use:

Place of Use Legal Description: IRRIGATION LEMHI County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
16N	25E	9		SWNW	3.1									
				NWSW	34.7		SWSW	8.3						

Total Acres: 46.1

Conditions of Approval:

1. |X35|Rights 74-363 and 74-364 when combined shall not exceed the irrigation of 46.1 acres.

2. R05 Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 74Z.
3. R43 The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
4. R59 This right when combined with all other rights shall provide no more than 3.5 afa per acre at the field headgate for irrigation of the place of use.
5. T07 The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
6. T08 Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
7. T19 Pursuant to Idaho Code § 42-1412(6), 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 determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

Dates:

Licensed Date:

Decreed Date: 08/13/2014

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal: S

Owner Name Connector: OR

Water District Number: 74Z

Generic Max Rate per Acre: 0.02

Generic Max Volume per Acre: 3.5

Combined Acres Limit: 46.1

Combined Volume Limit:

Combined Rate Limit:

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

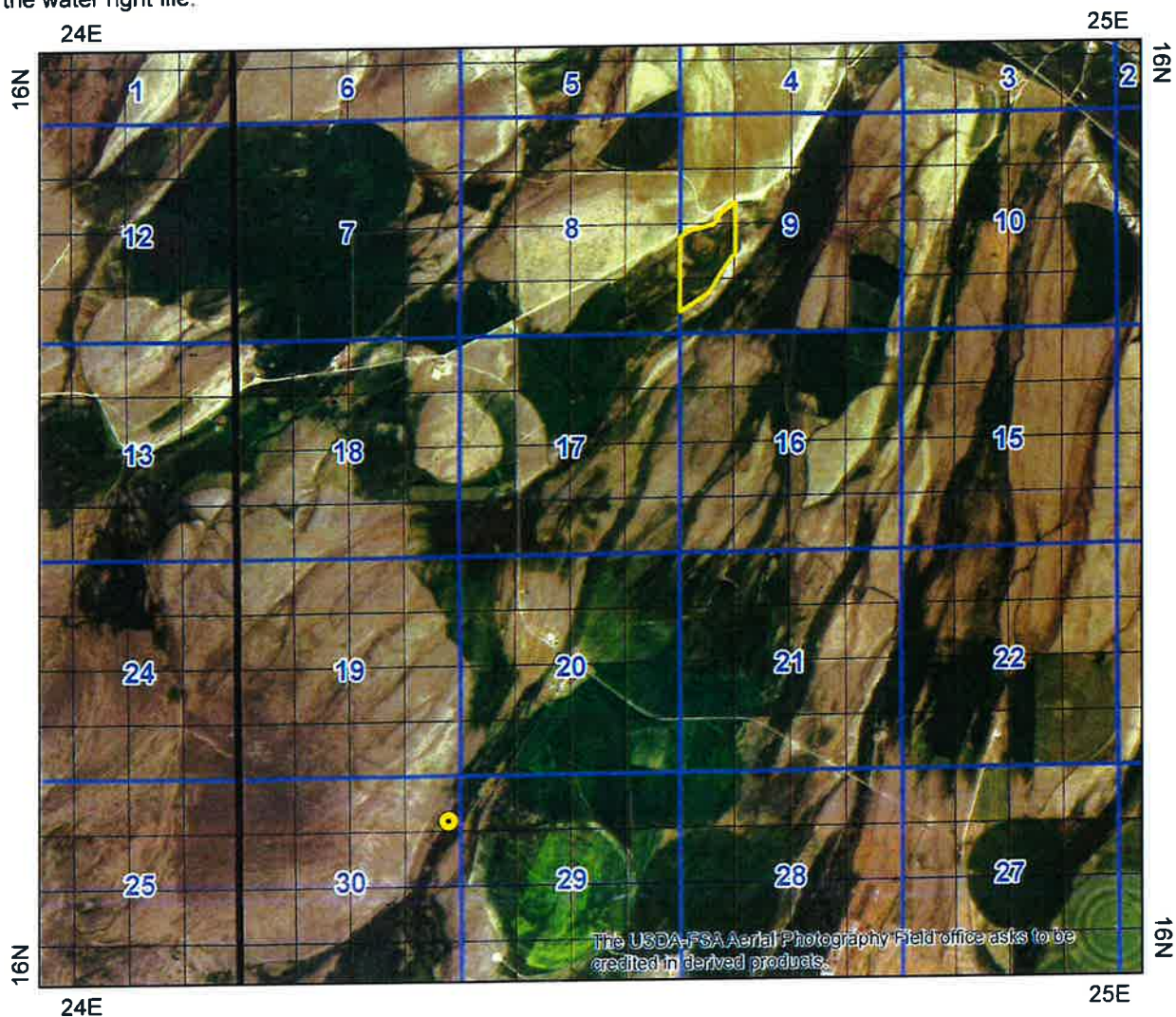
Mitigation Plan: False

State of Idaho
Department of Water Resources

Water Right 74-363

IRRIGATION

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- Point of Diversion
- Place Of Use Boundary
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- Quarter Quarters

0 0.5 1 2 Miles



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WATER RIGHT REPORT

2/8/2021

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report

WATER RIGHT NO. 74-364

Owner Type	Name and Address
Current Owner	BRUCE MC CONNELL
Current Owner	GLENDA MC CONNELL
	100 COTTOM LN
	LEADORE, ID 83464
	2087682203
Original Owner	PARLEY A ARAVE
Original Owner	ROBERT T HEMMING
	PO BOX 1
	LEMHI, ID 83465

Priority Date: 06/01/1900

Basis: Decreed

Status: Active

Source	Tributary
LEE CREEK	LEMHI RIVER

Beneficial Use	From	To	Diversion Rate	Volume
IRRIGATION	3/15	11/15	1.3 CFS	
Total Diversion			1.3 CFS	

Location of Point(s) of Diversion:

LEE CREEK|NENE|Sec. 30|Township 16N|Range 25E|LEMHI County

Place(s) of use:

Place of Use Legal Description: IRRIGATION LEMHI County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
16N	25E	9		SWNW	3.1									
				NWSW	34.7		SWSW	8.3						

Total Acres: 46.1

Conditions of Approval:

1. |X35|Rights 74-363 and 74-364 when combined shall not exceed the irrigation of 46.1 acres.

2. R05 Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 74Z.
3. R43 The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
4. R59 This right when combined with all other rights shall provide no more than 3.5 afa per acre at the field headgate for irrigation of the place of use.
5. T07 The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
6. T08 Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
7. T19 Pursuant to Idaho Code § 42-1412(6), 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 determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

Dates:

Licensed Date:

Decreed Date: 08/13/2014

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal: S

Owner Name Connector: Or

Water District Number: 74Z

Generic Max Rate per Acre: 0.02

Generic Max Volume per Acre: 3.5

Combined Acres Limit: 46.1

Combined Volume Limit:

Combined Rate Limit:

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

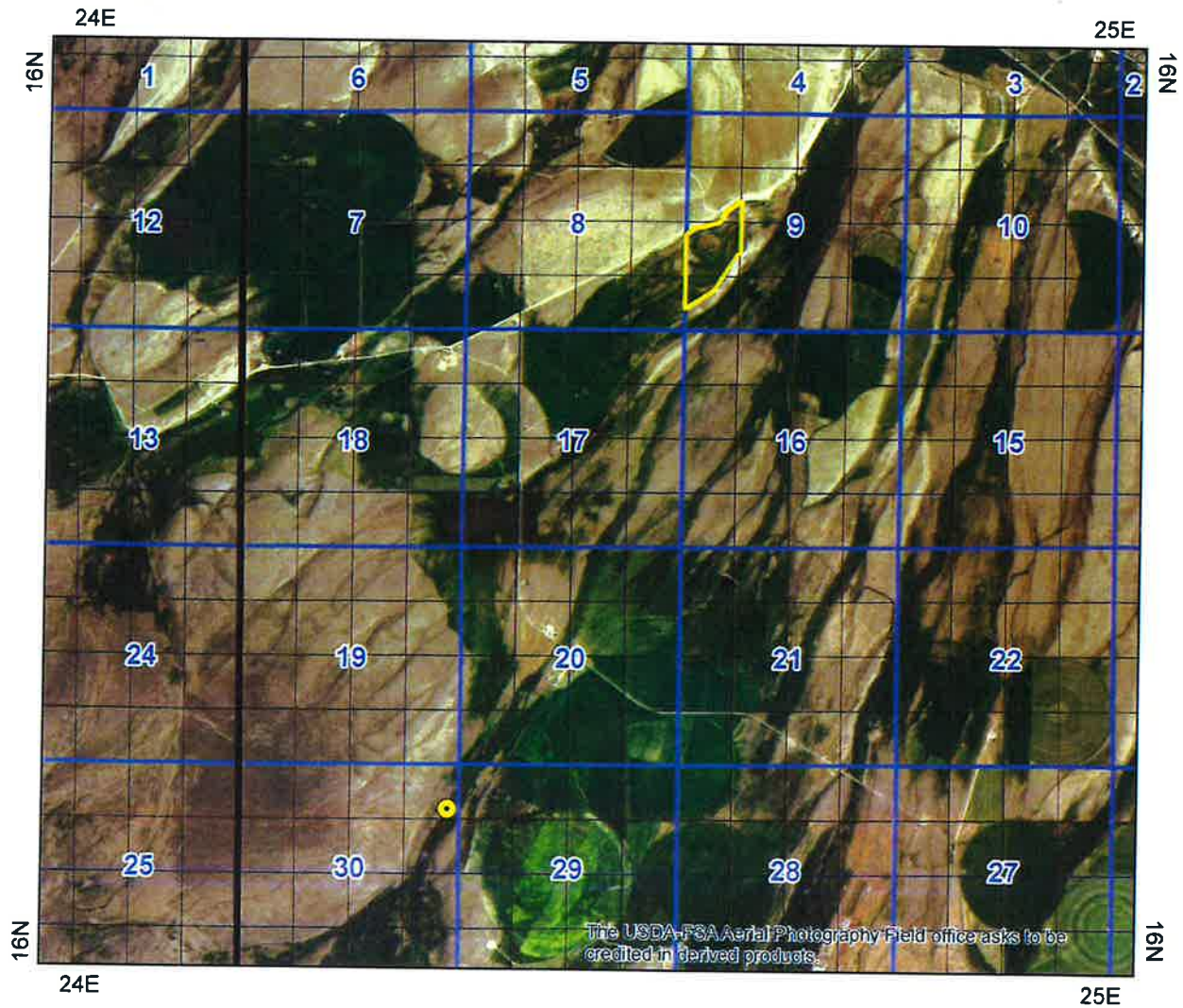
Mitigation Plan: False

State of Idaho
Department of Water Resources

Water Right
74-364

IRRIGATION

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- Point of Diversion
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0 0.5 1 2 Miles



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WATER RIGHT REPORT

2/8/2021

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report

WATER RIGHT NO. 74-365

Owner Type	Name and Address
Current Owner	BRUCE MC CONNELL
Current Owner	GLEND A MC CONNELL
	100 COTTON LN
	LEADORE, ID 83464
	2087682203
Original Owner	PARLEY A ARAVE
Original Owner	ROBERT T HEMMING
	PO BOX 1
	LEMHI, ID 83465

Priority Date: 05/12/1883

Basis: Decreed

Status: Active

Source	Tributary
LEE CREEK	LEMHI RIVER

Beneficial Use	From	To	Diversion Rate	Volume
IRRIGATION	3/15	11/15	1.2 CFS	
Total Diversion			1.2 CFS	

Location of Point(s) of Diversion:

LEE CREEK|NENE|Sec. 30|Township 16N|Range 25E|LEMHI County

Place(s) of use:

Place of Use Legal Description: IRRIGATION LEMHI County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
16N	25E	9		SENE	14.5									
				NESW	6.3									

Total Acres: 20.8

Conditions of Approval:

1. R05 Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 74Z.
2. R43 The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
3. R59 This right when combined with all other rights shall provide no more than 3.5 afa per acre at the field headgate for irrigation of the place of use.
4. T07 The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
5. T08 Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
6. T19 Pursuant to Idaho Code § 42-1412(6), 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 determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

Dates:

Licensed Date:

Decreed Date: 08/13/2014

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal: S

Owner Name Connector: OR

Water District Number: 74Z

Generic Max Rate per Acre: 0.02

Generic Max Volume per Acre: 3.5

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

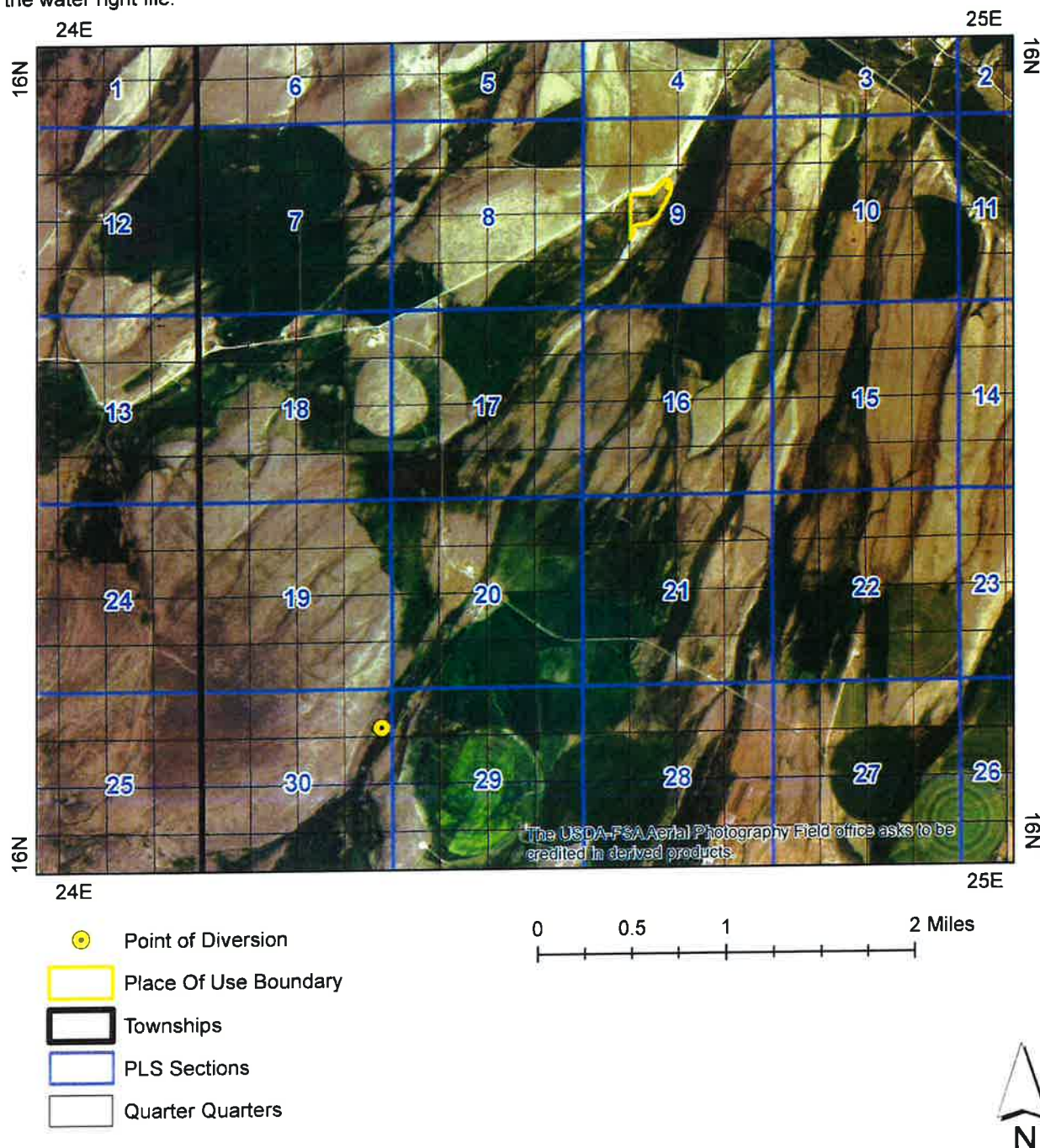
Mitigation Plan: False

State of Idaho
Department of Water Resources

Water Right 74-365

IRRIGATION

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IDAHO Department of Water Resources



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WATER RIGHT REPORT

2/8/2021

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report

WATER RIGHT NO. 74-367

Owner Type	Name and Address
Current Owner	BRUCE MC CONNELL
Current Owner	GLENDA MC CONNELL
	100 COTTOM LN
	LEADORE, ID 83464
	2087682203
Original Owner	PARLEY A ARAVE
Original Owner	ROBERT T HEMMING
	PO BOX 1
	LEMHI, ID 83465

Priority Date: 05/12/1883

Basis: Decreed

Status: Active

Source	Tributary
LEE CREEK	LEMHI RIVER

Beneficial Use	From	To	Diversion Rate	Volume
IRRIGATION	3/15	11/15	0.6 CFS	
Total Diversion			0.6 CFS	

Location of Point(s) of Diversion:

LEE CREEK|NENE|Sec. 30|Township 16N|Range 25E|LEMHI County

Place(s) of use:

Place of Use Legal Description: IRRIGATION LEMHI County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
16N	25E	17		NESW	8.8		SWSW	40		SESW	28.2			
				NWSE	5.7		SWSE	13.8						
		18		SESE	38.4									
		19		NENE	26.3									
		20		NWNW	40		SWNW	39.1						
				NWSW	28.5									

Total Acres: 268.8

Conditions of Approval:

1. X35 Rights 74-367 and 74-368 when combined shall not exceed the irrigation of 268.8 acres.
2. R05 Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 74Z.
3. R43 The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
4. R59 This right when combined with all other rights shall provide no more than 3.5 afa per acre at the field headgate for irrigation of the place of use.
5. T07 The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
6. T08 Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
7. T19 Pursuant to Idaho Code § 42-1412(6), 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 determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

Dates:

Licensed Date:

Decreed Date: 08/13/2014

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal: S

Owner Name Connector: OR

Water District Number: 74Z

Generic Max Rate per Acre: 0.02

Generic Max Volume per Acre: 3.5

Combined Acres Limit: 268.8

Combined Volume Limit:

Combined Rate Limit:

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

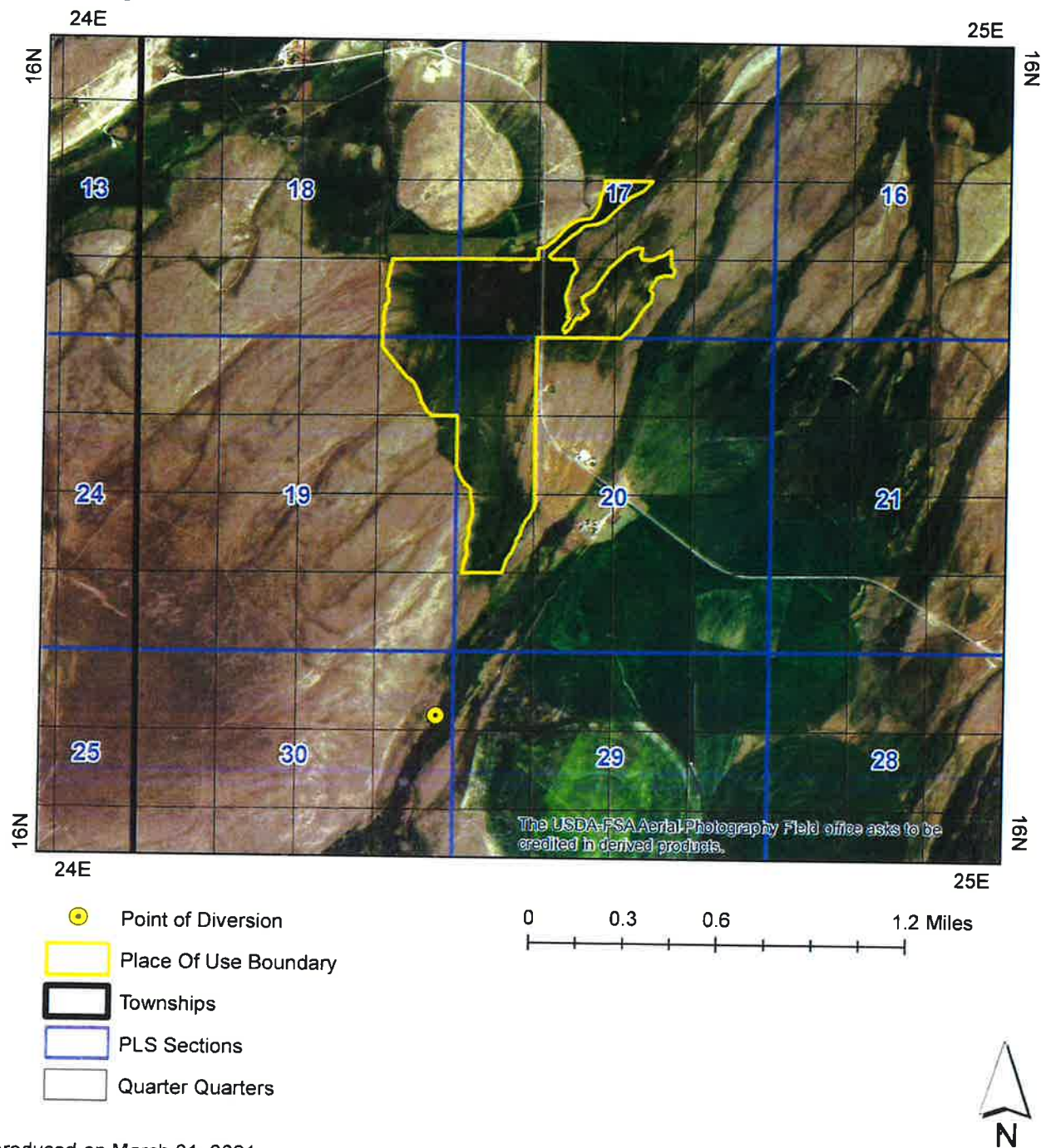
Mitigation Plan: False

State of Idaho
Department of Water Resources

Water Right 74-367

IRRIGATION

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IDAHO Department of Water Resources



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WATER RIGHT REPORT

2/8/2021

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report

WATER RIGHT NO. 74-368

Owner Type	Name and Address
Current Owner	BRUCE MC CONNELL
Current Owner	GLENDIA MC CONNELL
	100 COTTOM LN
	LEADORE, ID 83464
	2087682203
Original Owner	PARLEY A ARAVE
Original Owner	ROBERT T HEMMING
	PO BOX 1
	LEMHI, ID 83465

Priority Date: 11/05/1909

Basis: Decreed

Status: Active

Source	Tributary
LEE CREEK	LEMHI RIVER

Beneficial Use	From	To	Diversion Rate	Volume
IRRIGATION	3/15	11/15	5.8 CFS	
Total Diversion			5.8 CFS	

Location of Point(s) of Diversion:

LEE CREEK|NENE|Sec. 30|Township 16N|Range 25E|LEMHI County

Place(s) of use:

Place of Use Legal Description: IRRIGATION LEMHI County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
16N	25E	17		NESW	8.8		SWSW	40		SESW	28.2			
				NWSE	5.7		SWSE	13.8						
		18		SESE	38.4									
		19		NENE	26.3									
		20		NWNW	40		SWNW	39.1						
				NWSW	28.5									

Total Acres: 268.8

Conditions of Approval:

1. X35 Rights 74-367 and 74-368 when combined shall not exceed the irrigation of 268.8 acres.
2. R05 Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 74Z.
3. R43 The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
4. R59 This right when combined with all other rights shall provide no more than 3.5 afa per acre at the field headgate for irrigation of the place of use.
5. T07 The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
6. T08 Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
7. T19 Pursuant to Idaho Code § 42-1412(6), 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 determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

Dates:

Licensed Date:

Decreed Date: 08/13/2014

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal: S

Owner Name Connector: OR

Water District Number: 74Z

Generic Max Rate per Acre: 0.02

Generic Max Volume per Acre: 3.5

Combined Acres Limit: 268.8

Combined Volume Limit:

Combined Rate Limit:

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

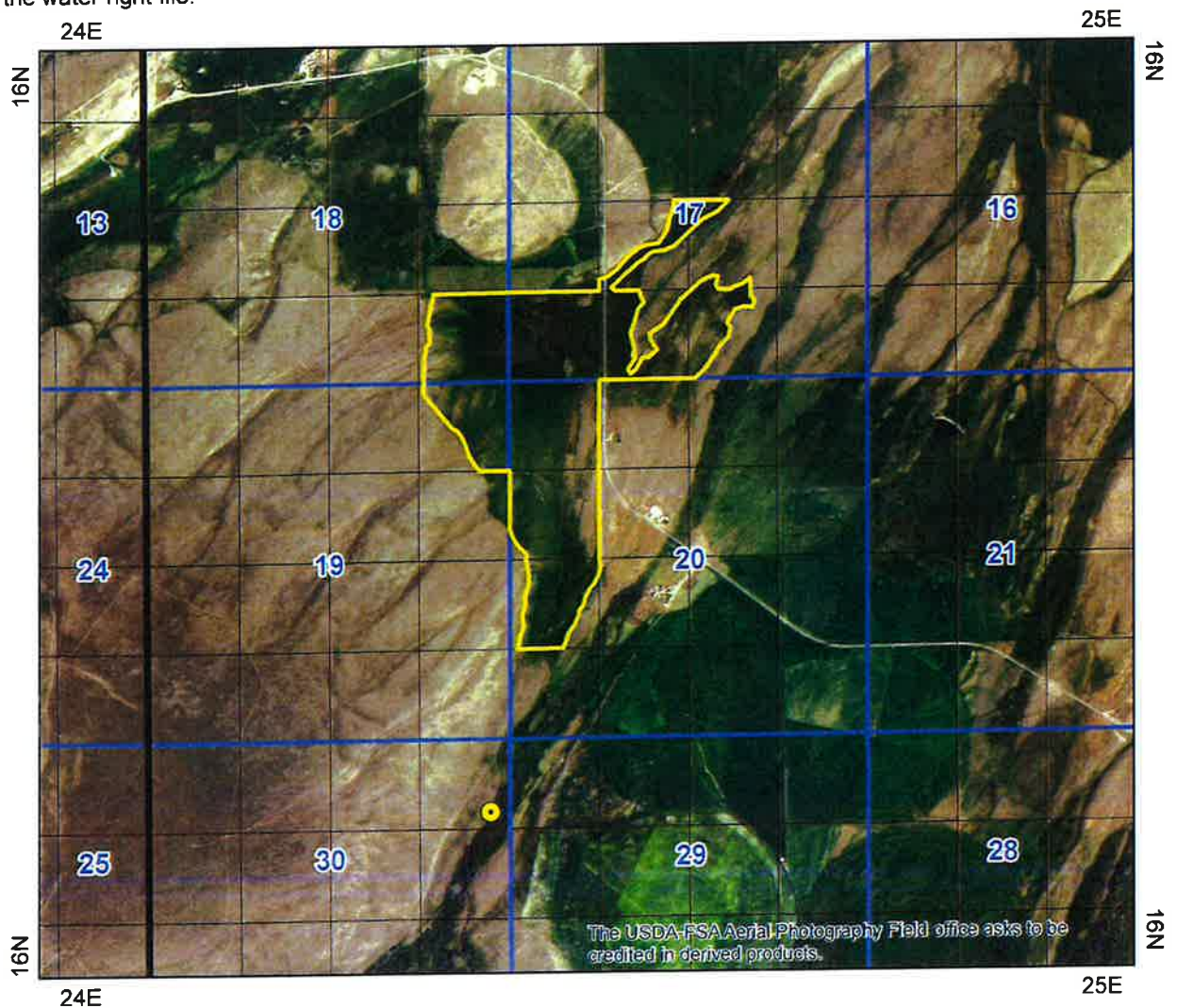
Mitigation Plan: False

State of Idaho
Department of Water Resources

Water Right 74-368

IRRIGATION

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

0 0.3 0.6 1.2 Miles



IDAHO Department of Water Resources



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WATER RIGHT REPORT

2/8/2021

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report

WATER RIGHT NO. 74-1075

Owner Type	Name and Address
Current Owner	BRUCE MC CONNELL
Current Owner	GLENDA MC CONNELL
	100 COTTOM LN
	LEADORE, ID 83464
	2087682203
Original Owner	PARLEY A ARAVE
Original Owner	ROBERT T HEMMING
	PO BOX 1
	LEMHI, ID 83465

Priority Date: 04/01/1913

Basis: Decreed

Status: Active

Source	Tributary
SPRINGS	LEE CREEK

Beneficial Use	From	To	Diversion Rate	Volume
STOCKWATER	01/01	12/31	0.02 CFS	
DOMESTIC	01/01	12/31	0.02 CFS	
Total Diversion			0.02 CFS	

Location of Point(s) of Diversion:

SPRINGS|SWNE|Sec. 09|Township 16N|Range 25E|LEMHI County

STOCKWATER Use:

Number of other uses: 250

DOMESTIC Use:

Number of homes: 1

Place(s) of use:

Place of Use Legal Description: STOCKWATER LEMHI County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
16N	25E	9		NWNE			SWNE							

Place of Use Legal Description: DOMESTIC LEMHI County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
16N	25E	9		SENW										

Conditions of Approval:

1. 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.
2. X02 Stockwater use is for 250 cattle.
3. X01 Domestic use is for 1 home.
4. C04 Right includes accomplished change in purpose of use pursuant to Section 42-1425, Idaho Code.
5. C05 Right includes accomplished change in place of use pursuant to Section 42-1425, Idaho Code.
6. N13 The quantity of water under this right shall not exceed 13,000 gallons per day.
7. PIN Parcel No. RP16N25E090600

Dates:

Licensed Date:

Decreed Date: 11/19/2014

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal: S

Owner Name Connector: OR

Water District Number: TBD

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

State of Idaho
Department of Water Resources

Water Right 74-1075

DOMESTIC

The map depicts the place of use for the water use listed above and point(s) of diversion of this right as currently derived from interpretations of the paper records and is used solely for illustrative purposes. Discrepancies between the computer representation and the permanent document file will be resolved in favor of the actual water right documents in the water right file.



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

0 0.035 0.07 0.14 Miles



State of Idaho
Department of Water Resources

Water Right
74-1075

STOCKWATER

The map depicts the place of use for the water use listed above and point(s) of diversion of this right as currently derived from interpretations of the paper records and is used solely for illustrative purposes. Discrepancies between the computer representation and the permanent document file will be resolved in favor of the actual water right documents in the water right file.



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

0 0.035 0.07 0.14 Miles



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APPENDIX C
Ericsson Water Right Reports

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IDAHO Department of Water Resources



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WATER RIGHT REPORT

3/17/2021

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report

WATER RIGHT NO. 74-370

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	ROSALIE ERICSSON 3738 E 38 N RIGBY, ID 83442-5621 2085694261
Original Owner	CALVIN J WHITTAKER
Original Owner	CAROL L WHITTAKER PO BOX 10 LEADORE, ID 83464

Priority Date: 05/12/1883

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
LEFT FORK LEE CREEK	LEE CREEK

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	03/15	11/15	4 CFS	
Total Diversion			4 CFS	

Location of Point(s) of Diversion:

LEE CREEK|NWNW Lt 4|Sec. 06|Township 15N|Range 25E|LEMHI County

Place(s) of use:

Place of Use Legal Description: IRRIGATION LEMHI County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
16N	25E	31		SENE	11									
				NESE	38		NWSE	18		SWSE	31		SESE	39
		32		SWNW	5									
				NWSW	24		SWSW	20						

Total Acres: 186

Conditions of Approval:

- When the flow of water in Lee Creek is insufficient to supply all rights under the 5-12-1883 date of priority, right 74-369 and right 74-370 shall not be pro-rated with any rights on Lee Creek with that priority date. When the flow in the Left Fork of Lee Creek falls below amounts decreed in rights 74-369 and 74-370, the two rights shall be pro-rated according to the respective amounts of water decreed.
- 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.

Dates:

Licensed Date:

Decreed Date: 07/09/2007

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal: S

Owner Name Connector:

Water District Number: 74Z

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Civil Case Number:

Old Case Number:

Decree Plaintiff:

State of Idaho
Department of Water Resources

Water Right 74-370

IRRIGATION

The map depicts the place of use for the water use listed above and point(s) of diversion of this right as currently derived from interpretations of the paper records and is used solely for illustrative purposes. Discrepancies between the computer representation and the permanent document file will be resolved in favor of the actual water right documents in the water right file.



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

0 0.15 0.3 0.6 Miles



IDAHO Department of Water Resources



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WATER RIGHT REPORT

3/17/2021

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report

WATER RIGHT NO. 74-1017

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	ROSALIE ERICSSON 3738 E 38 N RIGBY, ID 83442-5621 2085694261
Original Owner	CALVIN J WHITTAKER
Original Owner	CAROL L WHITTAKER PO BOX 10 LEADORE, ID 83464

Priority Date: 04/01/1912

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
GROUND WATER	

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
DOMESTIC	1/01	12/31	0.04 CFS	
Total Diversion			0.04 CFS	

Location of Point(s) of Diversion:

GROUND WATER|SENE|Sec. 31|Township 16N|Range 25E|LEMHI County

Place(s) of use:

Place of Use Legal Description: DOMESTIC LEMHI County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
16N	25E	31		SENE										

Conditions of Approval:

1. N13 THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000 GALLONS PER DAY.
2. N11 THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.
3. PARCEL NO. RP16N25E311200A STOCKWATER, 200 RANGE CATTLE

Dates:

Licensed Date:

Decreed Date: 08/25/2000

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal: S

Owner Name Connector:

Water District Number: EXC

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

IDAHO Department of Water Resources



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WATER RIGHT REPORT

3/17/2021

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report

WATER RIGHT NO. 74-1853

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	ROSALIE ERICSSON 3738 E 38 N RIGBY, ID 83442-5621 2085694261
Original Owner	CALVIN J WHITTAKER
Original Owner	CAROL L WHITTAKER PO BOX 10 LEADORE, ID 83464

Priority Date: 04/01/1960

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
SPRINGS	SINKS

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	3/15	11/15	0.1 CFS	
Total Diversion			0.1 CFS	

Location of Point(s) of Diversion:

SPRINGS|NWSESE|Sec. 31|Township 16N|Range 25E|LEMHI County

Place(s) of use:

Place of Use Legal Description: IRRIGATION LEMHI County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
16N	25E	32		SWSW	5									

Total Acres: 5

Conditions of Approval:

1. 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.

Dates:

Licensed Date:

Decreed Date: 03/05/2012

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal: S

Owner Name Connector:

Water District Number: 74Z

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

State of Idaho
Department of Water Resources

Water Right 74-1853

IRRIGATION

The map depicts the place of use for the water use listed above and point(s) of diversion of this right as currently derived from interpretations of the paper records and is used solely for illustrative purposes. Discrepancies between the computer representation and the permanent document file will be resolved in favor of the actual water right documents in the water right file.



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

0 0.0425 0.085 0.17 Miles



IDAHO Department of Water Resources



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WATER RIGHT REPORT

3/17/2021

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report

WATER RIGHT NO. 74-1854

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	ROSALIE ERICSSON 3738 E 38 N RIGBY, ID 83442-5621 2085694261
Original Owner	CALVIN J WHITTAKER
Original Owner	CAROL L WHITTAKER PO BOX 10 LEADORE, ID 83464

Priority Date: 04/01/1916

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
SPRINGS	

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
STOCKWATER	1/01	12/31	0.04 CFS	
Total Diversion			0.04 CFS	

Location of Point(s) of Diversion:

SPRINGS|SWNW|Sec. 32|Township 16N|Range 25E|LEMHI County
 SPRINGS|NWSW|Sec. 32|Township 16N|Range 25E|LEMHI County
 SPRINGS|SWSW|Sec. 32|Township 16N|Range 25E|LEMHI County

Place(s) of use:

Place of Use Legal Description: STOCKWATER LEMHI County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
16N	25E	32		SWNW										
				NWSW			SWSW							

Conditions of Approval:

1. N13 THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000 GALLONS PER DAY.
2. N11 THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.
3. PARCEL NO. 16N25E323600A STOCKWATER, UNSPECIFIED

Dates:

Licensed Date:

Decreed Date: 08/25/2000

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal: S

Owner Name Connector:

Water District Number: EXC

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

IDAHO Department of Water Resources



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WATER RIGHT REPORT

3/17/2021

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report

WATER RIGHT NO. 74-1855

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	ROSALIE ERICSSON 3738 E 38 N RIGBY, ID 83442-5621 2085694261
Original Owner	CALVIN J WHITTAKER
Original Owner	CAROL L WHITTAKER PO BOX 10 LEADORE, ID 83464

Priority Date: 06/28/1912

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
STROUD CREEK	LEE CREEK

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	3/15	11/15	2 CFS	
Total Diversion			2 CFS	

Location of Point(s) of Diversion:

STROUD CREEK|NWNW Lt 4|Sec. 06|Township 15N|Range 25E|LEMHI County

Place(s) of use:

Place of Use Legal Description: IRRIGATION LEMHI County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
16N	25E	31		SENE	11									
				NESE	38		NWSE	18		SWSE	31		SESE	39
		32		SWNW	5									
				NWSW	24		SWSW	20						

Total Acres: 186

Conditions of Approval:

1. E64 This right authorizes the irrigation of 186.7 total acres.
2. 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.

Dates:

Licensed Date:

Decreed Date: 07/09/2007

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal: S

Owner Name Connector:

Water District Number: 74Z

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

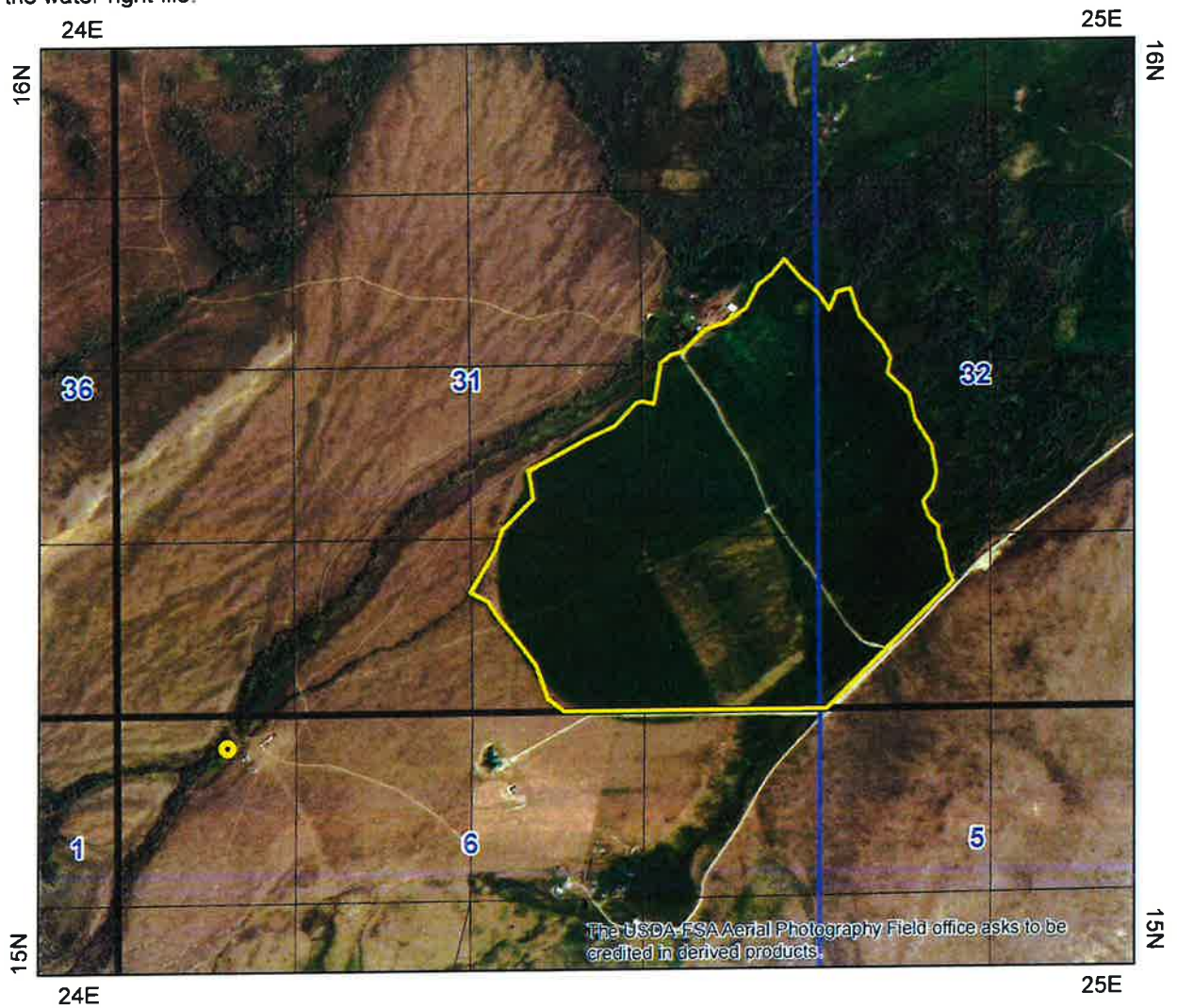
Swan Falls Dismissed:

State of Idaho
Department of Water Resources

Water Right 74-1855

IRRIGATION

The map depicts the place of use for the water use listed above and point(s) of diversion of this right as currently derived from interpretations of the paper records and is used solely for illustrative purposes. Discrepancies between the computer representation and the permanent document file will be resolved in favor of the actual water right documents in the water right file.



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

0 0.15 0.3 0.6 Miles



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APPENDIX D
Johnson Water Right Reports

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IDAHO Department of Water Resources



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WATER RIGHT REPORT

3/17/2021

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report

WATER RIGHT NO. 74-949

Owner Type	Name and Address
Current Owner	STEVEN L JOHNSON
Current Owner	SUSAN JOHNSON
	1019 LEE CREEK RD
	LEADORE, ID 83464-5011
	2083134096
Original Owner	DARRELL J NEF
Original Owner	VERNA M NEF
	1019 LEE CREEK RD
	LEADORE, ID 83464
	2087682402

Priority Date: 12/05/1918

Basis: Decreed

Status: Active

Source	Tributary
LEE CREEK	LEMHI RIVER

Beneficial Use	From	To	Diversion Rate	Volume
IRRIGATION	3/15	11/15	0.02 CFS	
STOCKWATER	1/01	12/31	0.02 CFS	
Total Diversion			0.04 CFS	

Location of Point(s) of Diversion:

LEE CREEK|NESW|Sec. 20|Township 16N|Range 25E|LEMHI County

Place(s) of use:

Place of Use Legal Description: IRRIGATION LEMHI County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
16N	25E	20		NESW 1										

Total Acres: 1

Conditions of Approval:

1. N08 The quantity of water decreed for this water right for stockwater use is not a determination of historical beneficial use.
2. N05 The quantity of water under this right for stockwater use shall not exceed 13,000 gallons per day.
3. 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.

Dates:

Licensed Date:

Decreed Date: 04/03/2012

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal: S

Owner Name Connector: AND

Water District Number: 74Z

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

State of Idaho
Department of Water Resources

Water Right
74-949

IRRIGATION

The map depicts the place of use for the water use listed above and point(s) of diversion of this right as currently derived from interpretations of the paper records and is used solely for illustrative purposes. Discrepancies between the computer representation and the permanent document file will be resolved in favor of the actual water right documents in the water right file.



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

0 0.035 0.07 0.14 Miles



IDAHO Department of Water Resources



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WATER RIGHT REPORT

3/17/2021

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report

WATER RIGHT NO. 74-1831

Owner Type	Name and Address
Current Owner	STEVEN L JOHNSON
Current Owner	SUSAN JOHNSON
	1019 LEE CREEK RD
	LEADORE, ID 83464-5011
	2083134096
Original Owner	DARRELL J NEF
Original Owner	VERNA M NEF
	1019 LEE CREEK RD
	LEADORE, ID 83464
	2087682402

Priority Date: 06/28/1912

Basis: Decreed

Status: Active

Source	Tributary
LEE CREEK	LEMHI RIVER

Beneficial Use	From	To	Diversion Rate	Volume
IRRIGATION	3/15	11/15	0.24 CFS	
Total Diversion			0.24 CFS	

Location of Point(s) of Diversion:

LEE CREEK|NWNWNW|Sec. 29|Township 16N|Range 25E|LEMHI County

Place(s) of use:

Place of Use Legal Description: IRRIGATION LEMHI County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
16N	25E	20		SWSW	12									

Total Acres: 12

Conditions of Approval:

1. 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.
2. R43 The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion.
3. R63 This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the lands above.
4. R05 Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 74Z.

Dates:

Licensed Date:

Decreed Date: 08/14/2007

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal: S

Owner Name Connector: AND

Water District Number: 74Z

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

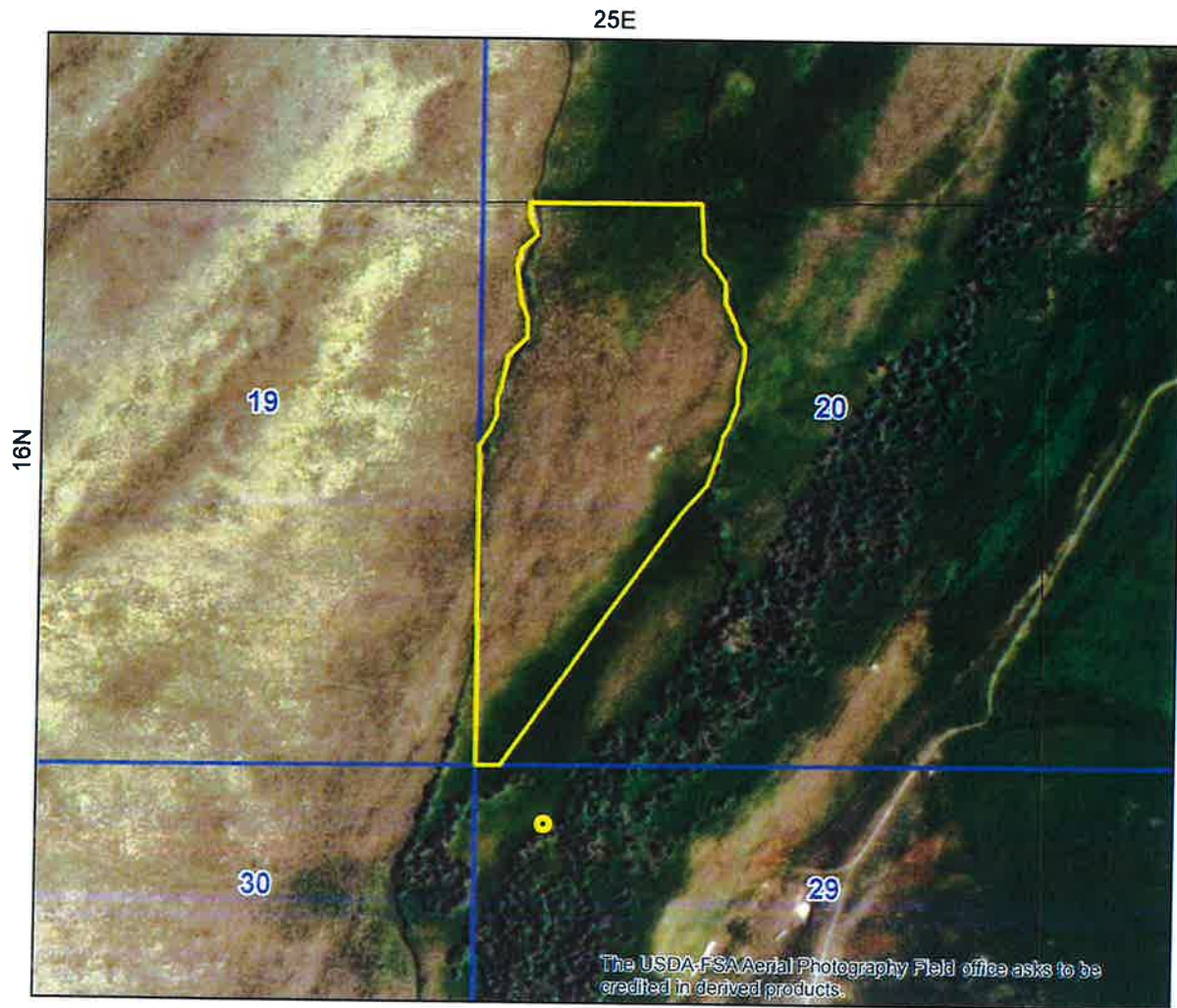
Mitigation Plan: False

State of Idaho
Department of Water Resources

Water Right 74-1831

IRRIGATION

The map depicts the place of use for the water use listed above and point(s) of diversion of this right as currently derived from interpretations of the paper records and is used solely for illustrative purposes. Discrepancies between the computer representation and the permanent document file will be resolved in favor of the actual water right documents in the water right file.



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

0 0.05 0.1 0.2 Miles



IDAHO Department of Water Resources



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WATER RIGHT REPORT

3/17/2021

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report

WATER RIGHT NO. 74-15201

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	STEVEN L JOHNSON
Current Owner	SUSAN JOHNSON 1019 LEE CREEK RD LEADORE, ID 83464-5011 2083134096
Original Owner	HARVEY E PETERSON PO BOX 58 LEADORE, ID 83464 2087682492

Priority Date: 05/08/1990

Basis: License

Status: Active

<u>Source</u>	<u>Tributary</u>
LEE CREEK	LEMHI RIVER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/15	10/15	0.34 CFS	59.5 AFA
Total Diversion			0.34 CFS	59.5 AFA

Location of Point(s) of Diversion:

LEE CREEK|SE|Sec. 20|Township 16N|Range 25E|LEMHI County

Licensed Diversion Capacity: 17.3

Place(s) of use:

Place of Use Legal Description: IRRIGATION LEMHI County

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>
16N	25E	20		NWNE	10		SWNE	7						

Total Acres: 17

Conditions of Approval:

1. X35 Rights 74-15201, 74-15720 and 74-15721 when combined shall not exceed the irrigation of 250.6 acres.
2. 020 Use of water under this right may be affected by an agreement between the protestant and the right holder.
3. R30 This right when combined with all other rights shall provide no more than .02 cfs per acre nor more than 3.5 afa per acre for irrigation of the lands above.
4. R04 Use of water under this water right will be regulated by the watermaster of State Water District No. 74Z.
5. R43 The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion.

Dates:

Licensed Date: 08/01/1997

Decreed Date:

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal:

Owner Name Connector: AND

Water District Number: 74Z

Generic Max Rate per Acre: 0.02

Generic Max Volume per Acre: 3.5

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

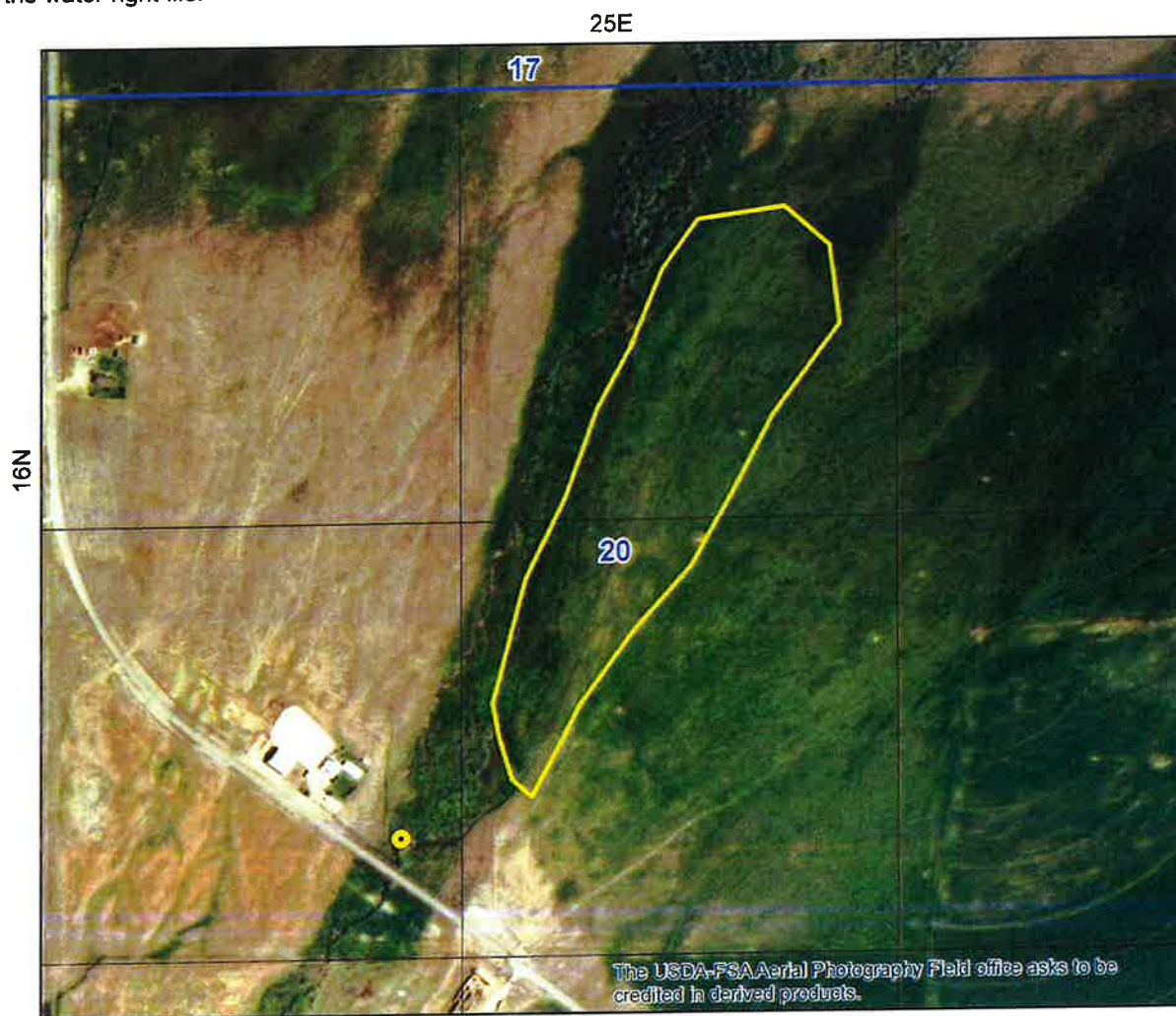
Mitigation Plan: False

State of Idaho
Department of Water Resources

Water Right 74-15201

IRRIGATION

The map depicts the place of use for the water use listed above and point(s) of diversion of this right as currently derived from interpretations of the paper records and is used solely for illustrative purposes. Discrepancies between the computer representation and the permanent document file will be resolved in favor of the actual water right documents in the water right file.



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

0 0.05 0.1 0.2 Miles



IDAHO Department of Water Resources



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WATER RIGHT REPORT

3/17/2021

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report

WATER RIGHT NO. 74-15720

Owner Type	Name and Address
Current Owner	STEVEN L JOHNSON
Current Owner	SUSAN JOHNSON
	1019 LEE CREEK RD
	LEADORE, ID 83464-5011
	2083134096

Priority Date: 05/11/1910

Basis: Decreed

Status: Active

Source	Tributary
BIG EIGHTMILE CREEK	LEMHI RIVER

Beneficial Use	From	To	Diversion Rate	Volume
IRRIGATION	03/15	11/15	1.54 CFS	
Total Diversion			1.54 CFS	

Location of Point(s) of Diversion:

BIG EIGHTMILE CREEK|SWNW|Sec. 33|Township 16N|Range 25E|LEMHI County

IRRIGATION Use:

Acre Limit: 56.3

Place(s) of use:

Place of Use Legal Description: IRRIGATION LEMHI County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
16N	25E	20		NENE	32		NWNE	23.4		SWNE	36		SENE	40
				NESE	25		SESE	5						
		21		NWNW	9.2		SWNW	40						
				NWSW	40									

Total Acres: 250.6

Conditions of Approval:

1. X27 This right is limited to the irrigation of 56.3 acres within the authorized place of use in a single irrigation season.
2. X35 Rights 74-15201, 74-15720 and 74-15721 when combined shall not exceed the irrigation of 250.6 acres.
3. R05 Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 74Z.
4. R43 The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
5. R59 This right when combined with all other rights shall provide no more than 3.5 afa per acre at the field headgate for irrigation of the place of use.
6. T07 The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
7. T08 Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
8. T19 Pursuant to Idaho Code § 42-1412(6), 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 determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

Dates:

Licensed Date:

Decreed Date: 05/31/2011

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal: S

Owner Name Connector: AND

Water District Number: 74Z

Generic Max Rate per Acre: 0.02

Generic Max Volume per Acre: 3.5

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

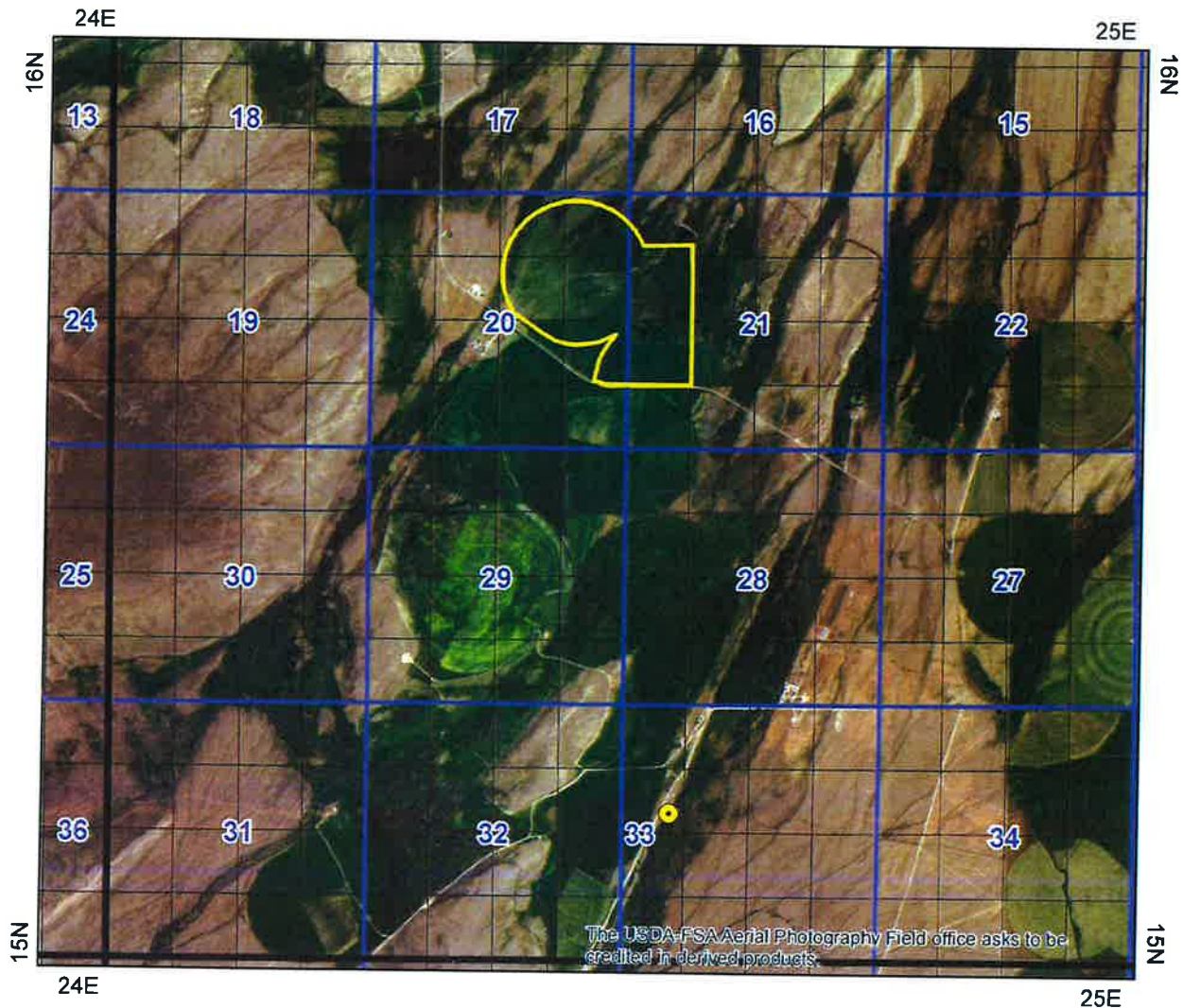
Mitigation Plan: False

State of Idaho
Department of Water Resources

Water Right 74-15720

IRRIGATION

The map depicts the place of use for the water use listed above and point(s) of diversion of this right as currently derived from interpretations of the paper records and is used solely for illustrative purposes. Discrepancies between the computer representation and the permanent document file will be resolved in favor of the actual water right documents in the water right file.



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

0 0.425 0.85 1.7 Miles



IDAHO Department of Water Resources



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WATER RIGHT REPORT

3/17/2021

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report

WATER RIGHT NO. 74-15721

Owner Type	Name and Address
Current Owner	STEVEN L JOHNSON
Current Owner	SUSAN JOHNSON
	1019 LEE CREEK RD
	LEADORE, ID 83464-5011
	2083134096

Priority Date: 05/11/1910

Basis: Decreed

Status: Active

Source	Tributary
BIG EIGHTMILE CREEK	LEMHI RIVER

Beneficial Use	From	To	Diversion Rate	Volume
IRRIGATION	03/15	11/15	5.3 CFS	
Total Diversion			5.3 CFS	

Location of Point(s) of Diversion:

BIG EIGHTMILE CREEK|SWNW|Sec. 33|Township 16N|Range 25E|LEMHI County

IRRIGATION Use:

Acre Limit: 194.3

Place(s) of use:

Place of Use Legal Description: IRRIGATION LEMHI County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
16N	25E	20		NENE	32		NWNE	23.4		SWNE	36		SENE	40
				NESE	25		SESE	5						
		21		NWNW	9.2		SWNW	40						
				NWSW	40									

Total Acres: 250.6

Conditions of Approval:

1. X27 This right is limited to the irrigation of 194.3 acres within the authorized place of use in a single irrigation season.
2. X35 Rights 74-15201, 74-15720 and 74-15721 when combined shall not exceed the irrigation of 250.6 acres.
3. R05 Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 74Z.
4. R43 The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
5. R59 This right when combined with all other rights shall provide no more than 3.5 afa per acre at the field headgate for irrigation of the place of use.
6. T07 The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
7. T08 Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
8. T19 Pursuant to Idaho Code § 42-1412(6), 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 determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

Dates:

Licensed Date:

Decreed Date: 05/31/2011

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal: S

Owner Name Connector: AND

Water District Number: 74Z

Generic Max Rate per Acre: 0.02

Generic Max Volume per Acre: 3.5

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

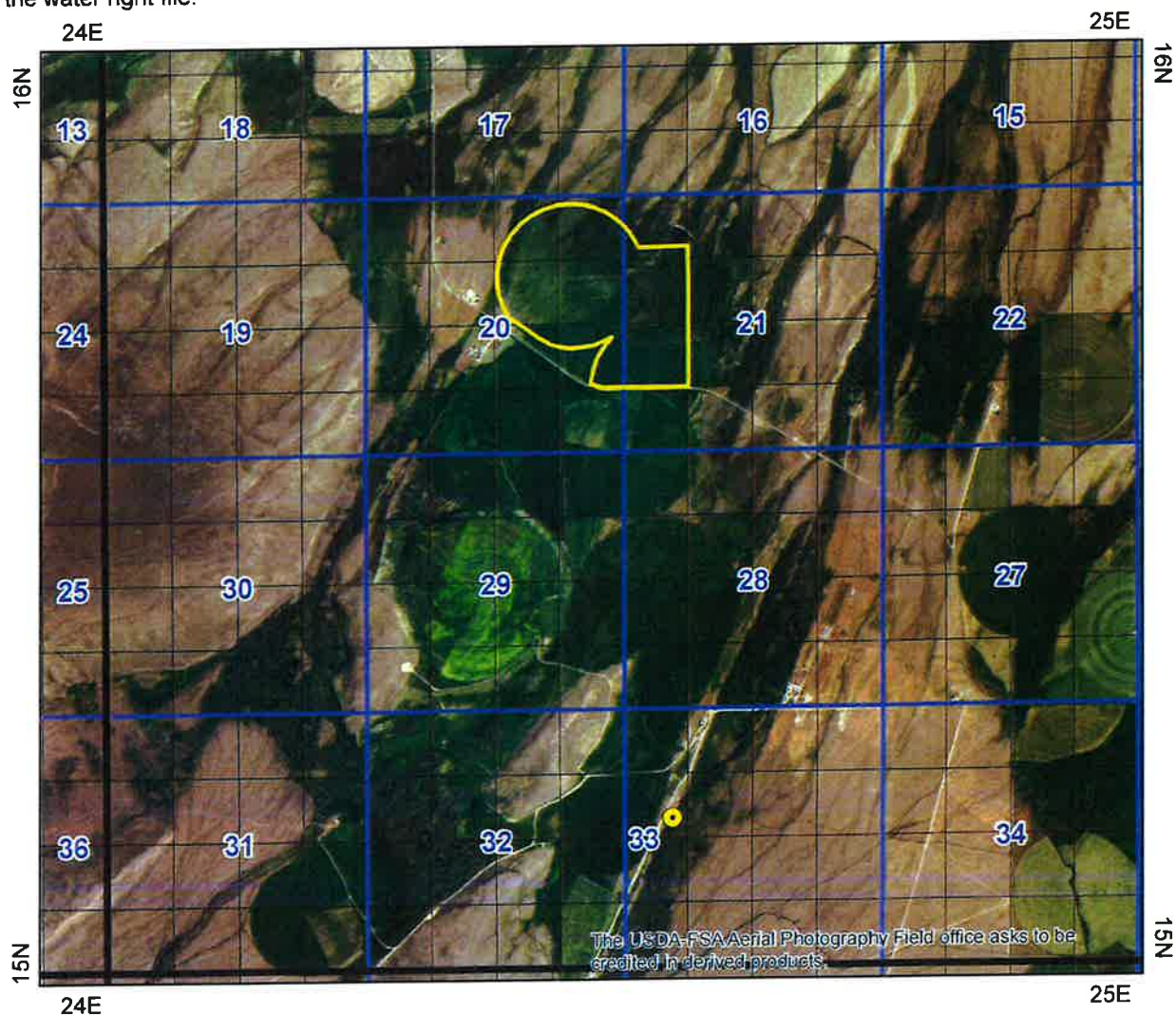
Mitigation Plan: False

State of Idaho
Department of Water Resources

Water Right 74-15721

IRRIGATION

The map depicts the place of use for the water use listed above and point(s) of diversion of this right as currently derived from interpretations of the paper records and is used solely for illustrative purposes. Discrepancies between the computer representation and the permanent document file will be resolved in favor of the actual water right documents in the water right file.



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

0 0.425 0.85 1.7 Miles



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APPENDIX E
Smith 2P Ranch/Foster Water Right Reports

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IDAHO Department of Water Resources



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WATER RIGHT REPORT

3/17/2021

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report

WATER RIGHT NO. 74-1616

Owner Type	Name and Address
Current Owner	JENNIFER JO AYERS 87 HAWLEY CREEK RD LEADORE, ID 83464
Current Owner	SHANNA L FOSTER PO BOX 212 LEADORE, ID 83464 2087682609
Original Owner	ALBERT PETERSON LEADORE, ID 83464

Priority Date: 04/01/1919

Basis: Decreed

Status: Active

Source	Tributary
SPRINGS	

Beneficial Use	From	To	Diversion Rate	Volume
DOMESTIC	1/01	12/31	0.02 CFS	
Total Diversion			0.02 CFS	

Location of Point(s) of Diversion:

SPRINGS|SENE|Sec. 06|Township 15N|Range 25E|LEMHI County

Place(s) of use:

Place of Use Legal Description: DOMESTIC LEMHI County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
15N	25E	6	6											

Dates:

Licensed Date:

Decreed Date: 12/30/1982

Enlargement Use Priority Date:
Enlargement Statute Priority Date:
Water Supply Bank Enrollment Date Accepted:
Water Supply Bank Enrollment Date Removed:
Application Received Date:
Protest Deadline Date:
Number of Protests: 0

Other Information:
State or Federal:
Owner Name Connector: AND
Water District Number: TBD
Generic Max Rate per Acre:
Generic Max Volume per Acre:
Civil Case Number:
Old Case Number:
Decree Plaintiff:
Decree Defendant:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Cary Act Number:
Mitigation Plan: False

IDAHO Department of Water Resources



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WATER RIGHT REPORT

3/17/2021

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report

WATER RIGHT NO. 74-1615

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	JENNIFER JO AYERS 87 HAWLEY CREEK RD LEADORE, ID 83464
Current Owner	SHANNA L FOSTER PO BOX 212 LEADORE, ID 83464 2087682609
Original Owner	ALBERT PETERSON LEADORE, ID 83464

Priority Date: 04/01/1919

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
EVERSON CREEK	LEE CREEK

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	03/15	11/15	2.43 CFS	
STOCKWATER	01/01	12/31	0.02 CFS	
Total Diversion			2.45 CFS	

Location of Point(s) of Diversion:

EVERSON CREEK | SENE | Sec. 01 | Township 15N | Range 24E | LEMHI County

Place(s) of use:

Place of Use Legal Description: IRRIGATION LEMHI County

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>
15N	25E	6	1	NENE	23	2	NWNE	6.7		SWNE	37.3	6	SENE	14
			7	NESE	10		NWSE	30.4						

Total Acres: 121.4

Conditions of Approval:

1. N08 The quantity of water decreed for this water right for stockwater use is not a determination of historical beneficial use.
2. N05 The quantity of water under this right for stockwater use shall not exceed 13,000 gallons per day.
3. PIN Parcel No. RP15N25E060002
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. C04 Right includes accomplished change in purpose of use pursuant to Section 42-1425, Idaho Code.

Dates:

Licensed Date:

Decreed Date: 09/17/2014

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal: S

Owner Name Connector:

Water District Number: 74Z

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

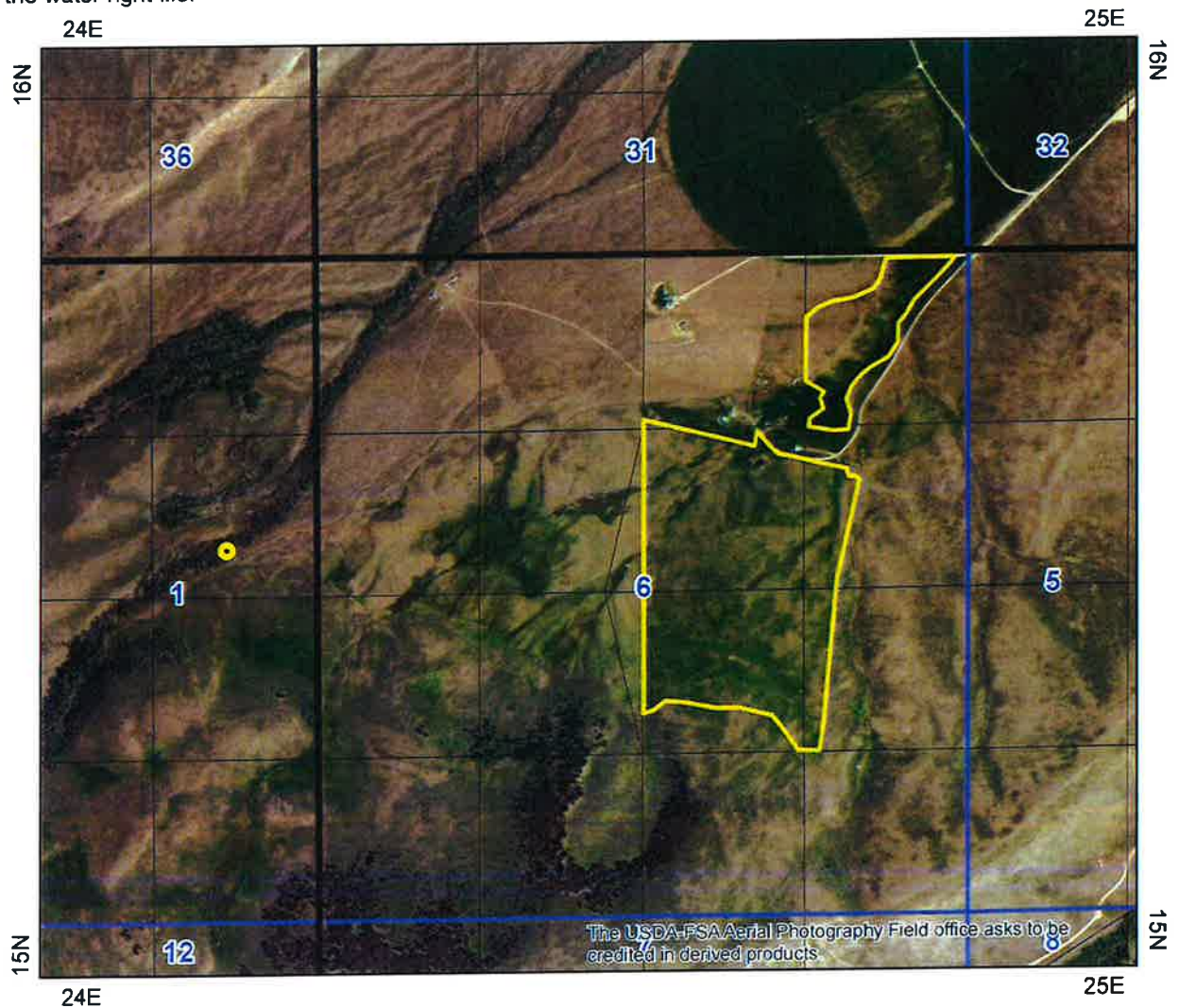
Mitigation Plan: False

State of Idaho
Department of Water Resources

Water Right 74-1615

IRRIGATION

The map depicts the place of use for the water use listed above and point(s) of diversion of this right as currently derived from interpretations of the paper records and is used solely for illustrative purposes. Discrepancies between the computer representation and the permanent document file will be resolved in favor of the actual water right documents in the water right file.



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

0 0.175 0.35 0.7 Miles



IDAHO Department of Water Resources



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WATER RIGHT REPORT

3/17/2021

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report

WATER RIGHT NO. 74-2351

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	JENNIFER JO AYERS 87 HAWLEY CREEK RD LEADORE, ID 83464
Current Owner	SHANNA L FOSTER PO BOX 212 LEADORE, ID 83464 2087682609
Original Owner	ALBERT PETERSON LEADORE, ID 83464

Priority Date: 01/09/1963

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
EVERSON CREEK	LEE CREEK

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	3/15	11/15	0.55 CFS	
Total Diversion			0.55 CFS	

Location of Point(s) of Diversion:

EVERSON CREEK | SENE | Sec. 01 | Township 15N | Range 24E | LEMHI County

Place(s) of use:

Place of Use Legal Description: IRRIGATION LEMHI County

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>
15N	25E	5		SWNW	5.2									
				NWSW	13.7									
		6	1	NENE	3.6	6	SENE	4.8						

Total Acres: 27.3

Conditions of Approval:

1. 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.

Dates:

Licensed Date:

Decreed Date: 09/17/2014

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal: S

Owner Name Connector:

Water District Number: 74Z

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

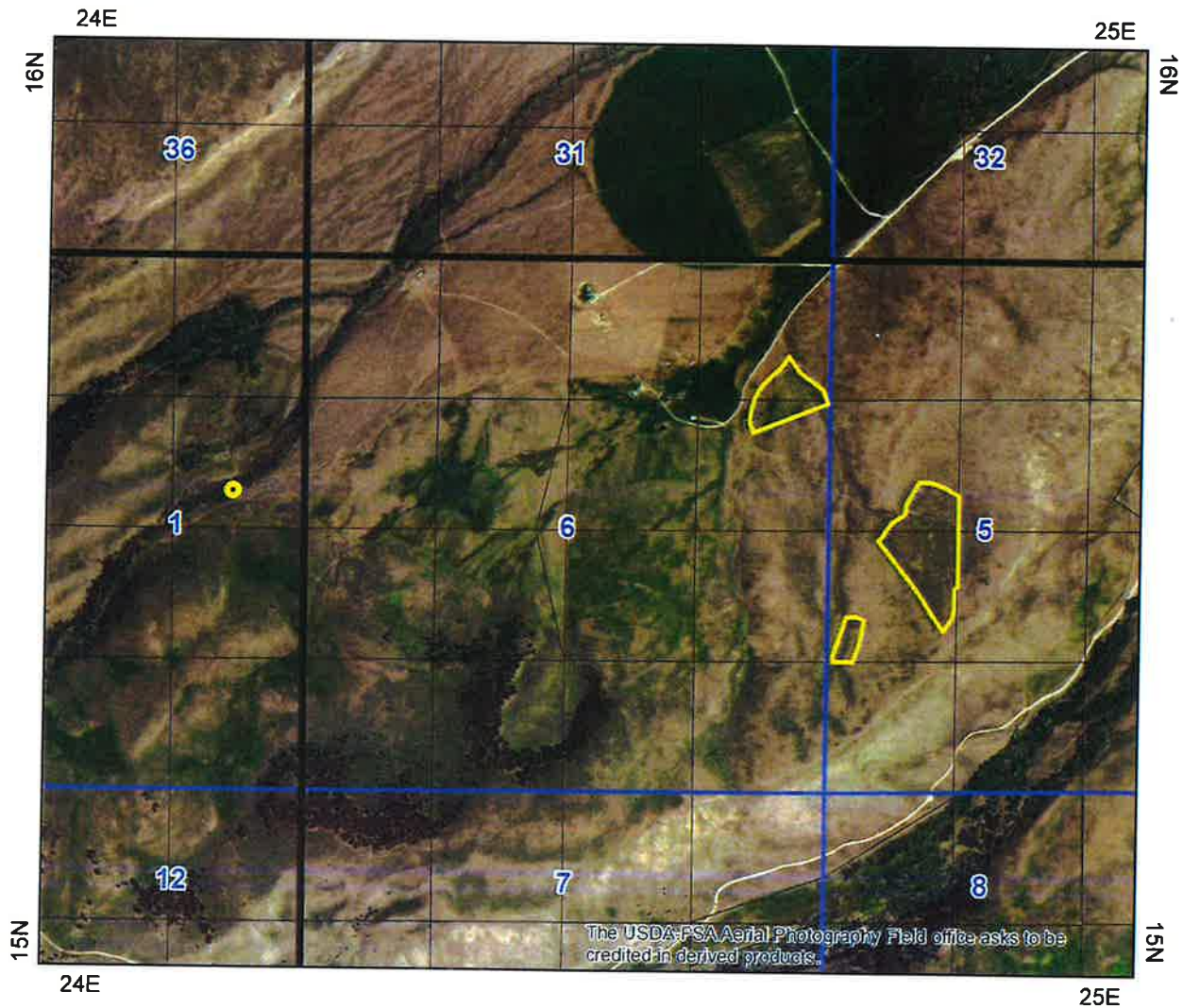
Mitigation Plan: False

State of Idaho
Department of Water Resources

Water Right
74-2351

IRRIGATION

The map depicts the place of use for the water use listed above and point(s) of diversion of this right as currently derived from interpretations of the paper records and is used solely for illustrative purposes. Discrepancies between the computer representation and the permanent document file will be resolved in favor of the actual water right documents in the water right file.



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

0 0.2 0.4 0.8 Miles



APPENDIX F
Tomchak Water Right Reports

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IDAHO Department of Water Resources



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WATER RIGHT REPORT

3/17/2021

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report

WATER RIGHT NO. 74-1057

Owner Type	Name and Address
Current Owner	DAVID R TOMCHAK 1476 LEE CREEK RD LEADORE, ID 83464-5007 2083903017
Original Owner	BOBBIE E ANDERSON
Original Owner	DORIS ANDERSON PO BOX 53 LEADORE, ID 83464

Priority Date: 04/01/1957

Basis: Decreed

Status: Active

Source	Tributary
STROUD CREEK	LEE CREEK

Beneficial Use	From	To	Diversion Rate	Volume
DOMESTIC	1/01	12/31	0.02 CFS	
Total Diversion			0.02 CFS	

Location of Point(s) of Diversion:

STROUD CREEK | NWNW Lt 4 | Sec. 06 | Township 15N | Range 25E | LEMHI County

Place(s) of use:

Place of Use Legal Description: DOMESTIC LEMHI County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
15N	25E	6	4	NWNW										

Conditions of Approval:

1. N13 THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000 GALLONS PER DAY.
2. N11 THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.
3. PARCEL NO. 15N25E062401A

Dates:

Licensed Date:

Decreed Date: 08/25/2000

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal: S

Owner Name Connector: OR

Water District Number: TBD

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

IDAHO Department of Water Resources



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WATER RIGHT REPORT

3/17/2021

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report

WATER RIGHT NO. 74-2195A

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	DAVID R TOMCHAK 1476 LEE CREEK RD LEADORE, ID 83464-5007 2083903017
Original Owner	BOBBIE E ANDERSON
Original Owner	DORIS ANDERSON PO BOX 53 LEADORE, ID 83464

Priority Date: 12/11/1915

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
EVERSON CREEK	STROUD CREEK

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	3/15	11/15	1.4 CFS	
Total Diversion			1.4 CFS	

Location of Point(s) of Diversion:

EVERSON CREEK|SENE|Sec. 01|Township 15N|Range 24E|LEMHI County

Place(s) of use:

Place of Use Legal Description: IRRIGATION LEMHI County

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>
15N	25E	6	3	NENW	1.2	5	SWNW	24.3		SENE	39.5			

Total Acres: 65

Conditions of Approval:

1. 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.

Dates:

Licensed Date:

Decreed Date: 07/09/2007

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal: S

Owner Name Connector: OR

Water District Number: 74Z

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

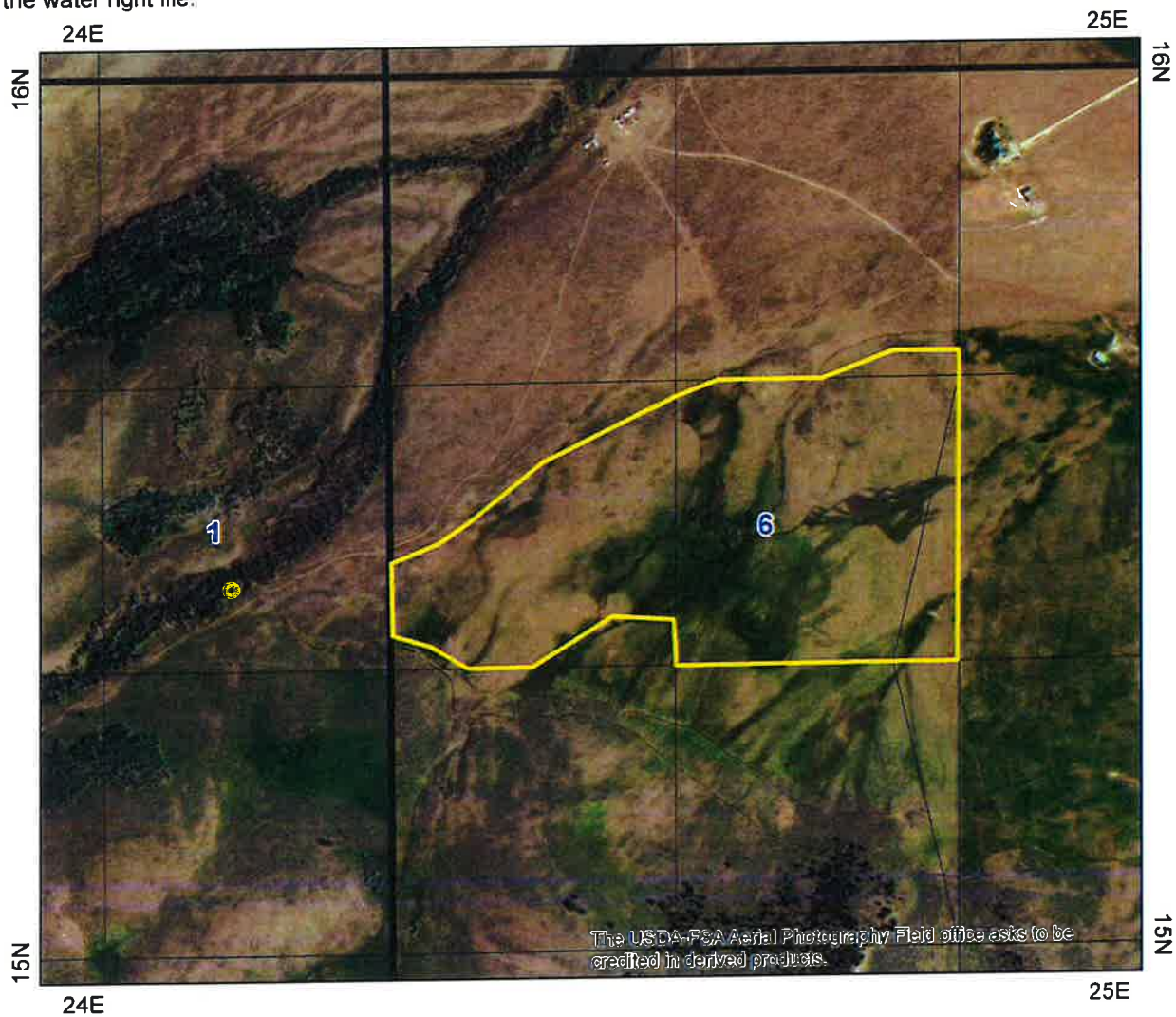
Mitigation Plan: False

State of Idaho
Department of Water Resources

Water Right
74-2195A

IRRIGATION

The map depicts the place of use for the water use listed above and point(s) of diversion of this right as currently derived from interpretations of the paper records and is used solely for illustrative purposes. Discrepancies between the computer representation and the permanent document file will be resolved in favor of the actual water right documents in the water right file.



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

0 0.1 0.2 0.4 Miles



IDAHO Department of Water Resources



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WATER RIGHT REPORT

3/17/2021

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report

WATER RIGHT NO. 74-2261A

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	DAVID R TOMCHAK 1476 LEE CREEK RD LEADORE, ID 83464-5007 2083903017
Original Owner	BOBBIE E ANDERSON
Original Owner	DORIS ANDERSON PO BOX 53 LEADORE, ID 83464

Priority Date: 12/21/1941

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
EVERSON CREEK	STROUD CREEK

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	03/15	11/15	1 CFS	
IRRIGATION STORAGE	01/01	12/31		24 AFA
IRRIGATION FROM STORAGE	03/15	11/15		24 AFA
Total Diversion			1 CFS	

Location of Point(s) of Diversion:

EVERSON CREEK | SENE | Sec. 01 | Township 15N | Range 24E | LEMHI County

Place(s) of use:

Place of Use Legal Description: IRRIGATION LEMHI County

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>
15N	25E	6	3	NENW	1.2	5	SWNW	24.3		SENE	39.5			

Total Acres: 65

Conditions of Approval:

1. E55 USE OF THIS RIGHT WITH RIGHT NO. 74-2339A IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 65.0 ACRES IN A SINGLE IRRIGATION SEASON.
2. E60 USE OF THIS RIGHT WITH RIGHT NO. 74-2339A IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 1 CFS AND TO A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 24 AF.
3. 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.

Dates:

Licensed Date:

Decreed Date: 07/09/2007

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal: S

Owner Name Connector: OR

Water District Number: 74Z

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Combined Acres Limit: 65

Combined Volume Limit: 24

Combined Rate Limit: 1

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

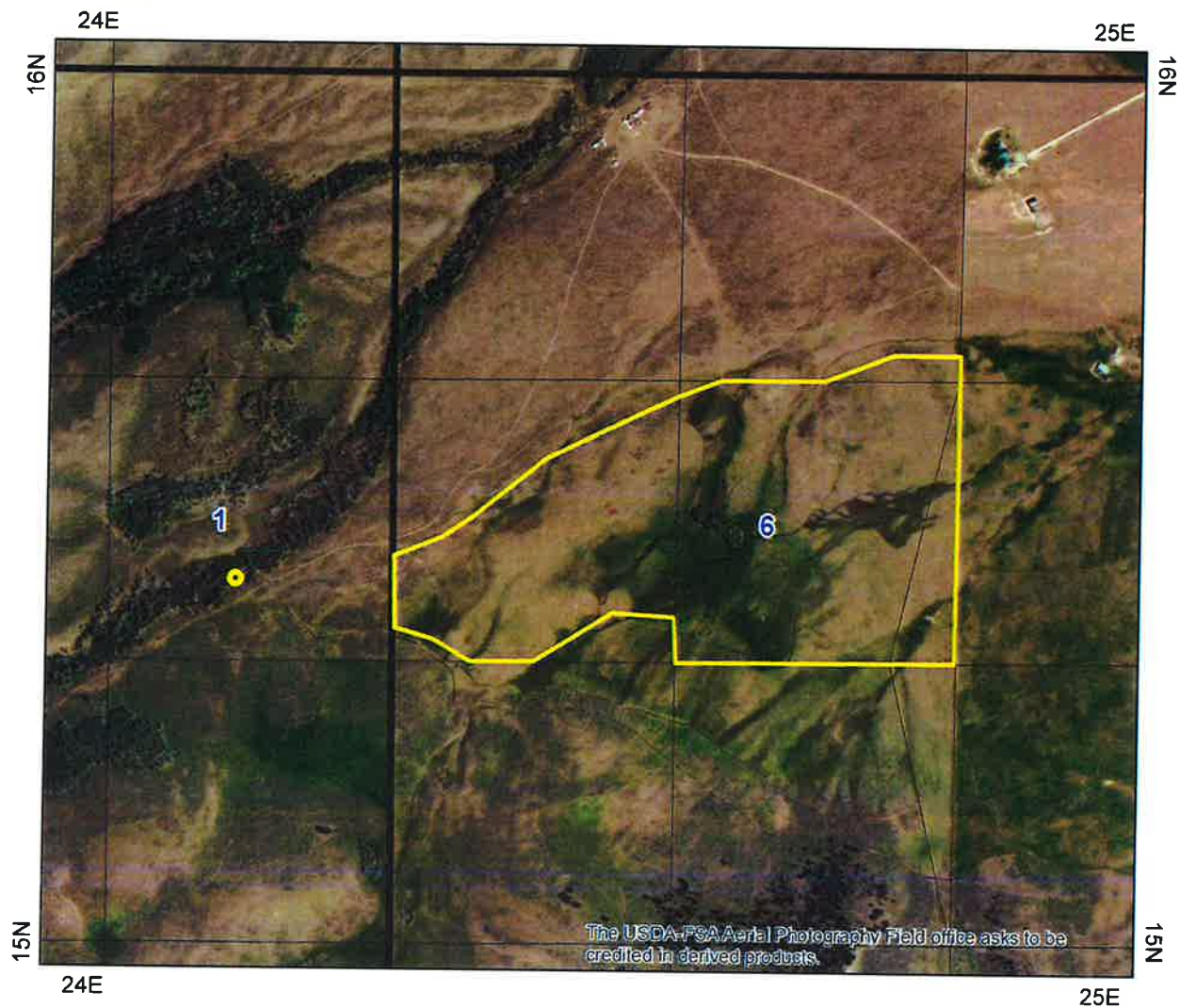
Mitigation Plan: False

State of Idaho
Department of Water Resources

Water Right
74-2261A

IRRIGATION

The map depicts the place of use for the water use listed above and point(s) of diversion of this right as currently derived from interpretations of the paper records and is used solely for illustrative purposes. Discrepancies between the computer representation and the permanent document file will be resolved in favor of the actual water right documents in the water right file.



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

IDAHO Department of Water Resources



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WATER RIGHT REPORT

3/17/2021

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report

WATER RIGHT NO. 74-2339A

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	DAVID R TOMCHAK 1476 LEE CREEK RD LEADORE, ID 83464-5007 2083903017
Original Owner	BOBBIE E ANDERSON
Original Owner	DORIS ANDERSON PO BOX 53 LEADORE, ID 83464

Priority Date: 12/21/1941

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
EVERSON CREEK	STROUD CREEK

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	3/15	11/15	1 CFS	
IRRIGATION STORAGE	1/01	12/31		24 AFA
IRRIGATION FROM STORAGE	3/15	11/15		24 AFA
Total Diversion			1 CFS	24 AFA

Location of Point(s) of Diversion:

EVERSON CREEK | SENE | Sec. 01 | Township 15N | Range 24E | LEMHI County

Place(s) of use:

Place of Use Legal Description: IRRIGATION LEMHI County

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>
15N	25E	6	3	NENW	1	5	SWNW	24		SENW	40			

Total Acres: 65

Conditions of Approval:

1. E55 USE OF THIS RIGHT WITH RIGHT NO. 74-2261A IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 65.0 ACRES IN A SINGLE IRRIGATION SEASON.
2. 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.
3. E60 USE OF THIS RIGHT WITH RIGHT NO. 74-2261A IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 1 CFS AND TO A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 24 AF.

Dates:

Licensed Date:

Decreed Date: 07/09/2007

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal: S

Owner Name Connector: OR

Water District Number: 74Z

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Combined Acres Limit: 65

Combined Volume Limit: 24

Combined Rate Limit: 1

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

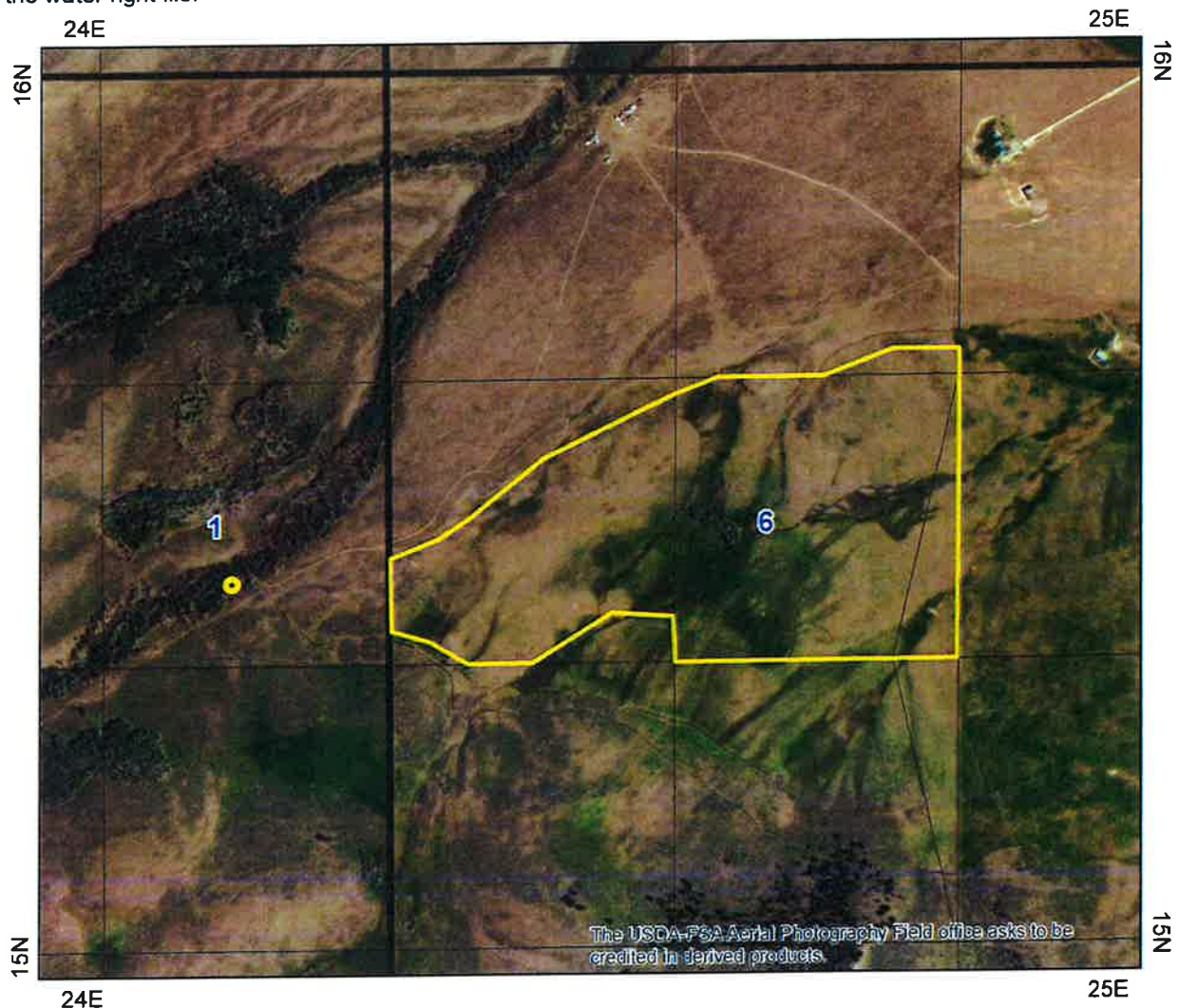
Mitigation Plan: False

State of Idaho
Department of Water Resources

Water Right 74-2339A

IRRIGATION

The map depicts the place of use for the water use listed above and point(s) of diversion of this right as currently derived from interpretations of the paper records and is used solely for illustrative purposes. Discrepancies between the computer representation and the permanent document file will be resolved in favor of the actual water right documents in the water right file.



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

0 0.1 0.2 0.4 Miles



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APPENDIX G
Whittaker Water Right Reports

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IDAHO Department of Water Resources



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WATER RIGHT REPORT

3/18/2021

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report

WATER RIGHT NO. 74-157

Owner Type	Name and Address
Current Owner	F JAMES WHITTAKER
Current Owner	PAULA J WHITTAKER PO BOX 240 LEADORE, ID 83464 2087682491
Attorney	MOFFATT THOMAS BARRETT ROCK & FIELDS CHTD C/O SCOTT L CAMPBELL PO BOX 829 BOISE, ID 83701-0829 2083452000
Original Owner	FLOYD J WHITTAKER PO BOX 177 LEADORE, ID 83464

Priority Date: 04/01/1916

Basis: Decreed

Status: Active

Source	Tributary
SPRINGS	LEE CREEK

Beneficial Use	From	To	Diversion Rate	Volume
IRRIGATION	03/15	11/15	3.2 CFS	
STOCKWATER	01/01	12/31	0.02 CFS	
Total Diversion			3.2 CFS	

Location of Point(s) of Diversion:

SPRINGS	NENE	Sec. 31	Township 16N	Range 25E	LEMHI County
SPRINGS	SWNW	Sec. 32	Township 16N	Range 25E	LEMHI County

Place(s) of use:

Place of Use Legal Description: IRRIGATION LEMHI County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres

Conditions of Approval:

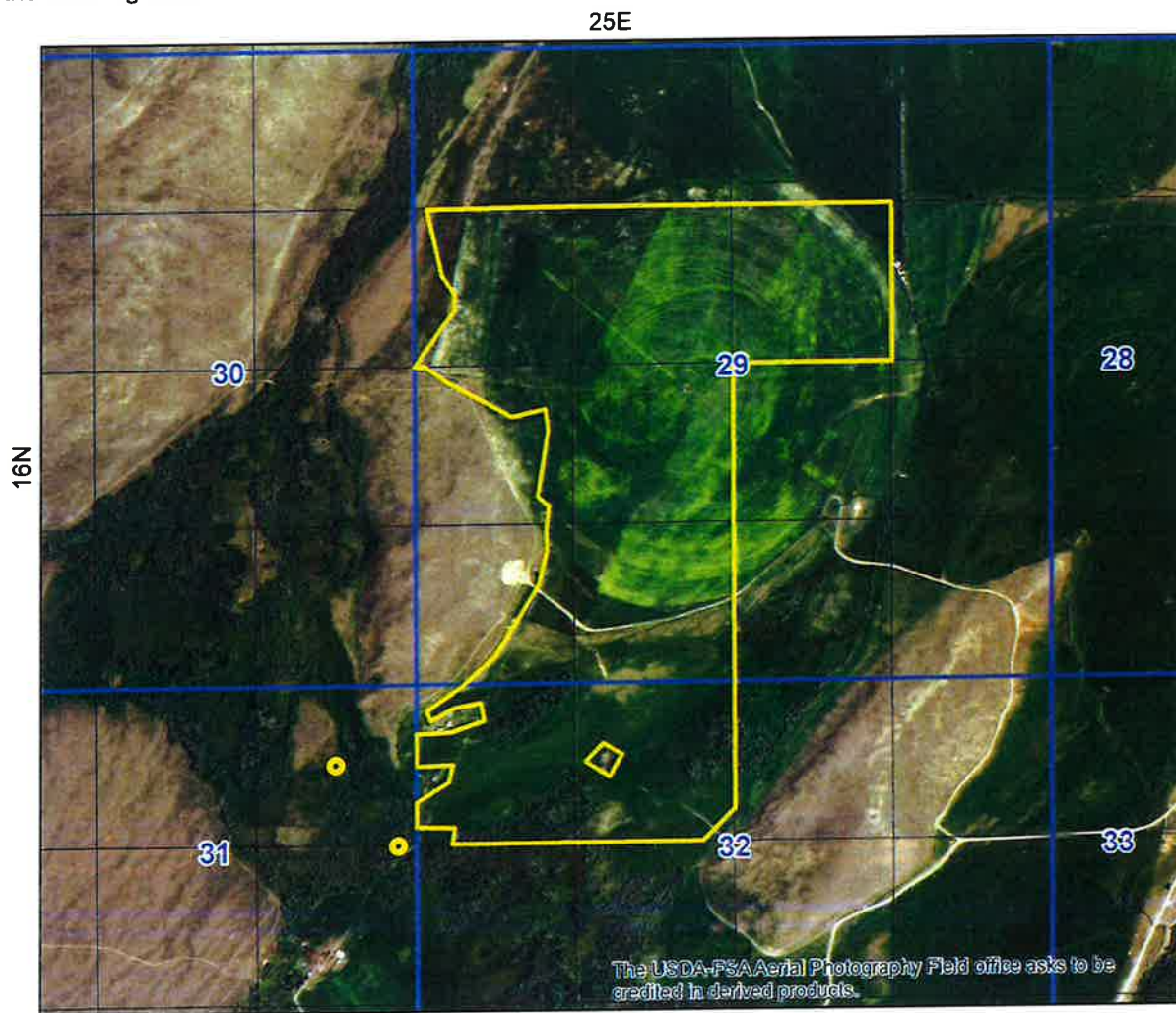
- Mitigation Plan: False

State of Idaho
Department of Water Resources

Water Right 74-157

IRRIGATION

The map depicts the place of use for the water use listed above and point(s) of diversion of this right as currently derived from interpretations of the paper records and is used solely for illustrative purposes. Discrepancies between the computer representation and the permanent document file will be resolved in favor of the actual water right documents in the water right file.



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

0 0.175 0.35 0.7 Miles



IDAHO Department of Water Resources



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WATER RIGHT REPORT

3/18/2021

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report

WATER RIGHT NO. 74-369

Owner Type	Name and Address
Current Owner	F JAMES WHITTAKER
Current Owner	PAULA J WHITTAKER PO BOX 240 LEADORE, ID 83464 2087682491
Original Owner	FLOYD J WHITTAKER PO BOX 177 LEADORE, ID 83464

Priority Date: 05/12/1883

Basis: Decreed

Status: Active

Source	Tributary
LEFT FORK LEE CREEK	LEE CREEK

Beneficial Use	From	To	Diversion Rate	Volume
IRRIGATION	3/15	11/15	2.4 CFS	
Total Diversion			2.4 CFS	

Location of Point(s) of Diversion:

LEE CREEK|SENE|Sec. 31|Township 16N|Range 25E|LEMHI County

IRRIGATION Use:

Acre Limit: 275.4

Place(s) of use:

Place of Use Legal Description: IRRIGATION LEMHI County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
16N	25E	28		SWNW	40		SENE	35						
				NESW	32		NWSW	40		SWSW	36		SESW	14
		29		SWNE	40		SENE	40						
				SWNW	34		SENE	40						
				NESW	40		NWSW	18		SWSW	15		SESW	40

		NESE	40	NWSE	40	SWSE	39	SESE	17
	32	NENW	38	NWNW	36				
	33	NWNW	12						

Total Acres: 686

Conditions of Approval:

1. 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.
2. When the flow of water in Lee Creek is insufficient to supply all rights under the 5-12-1883 date of priority, right 74-369 and right 74-370 shall not be pro-rated with any rights on Lee Creek with that priority date. When the flow in the Left Fork of Lee Creek falls below amounts decreed in rights 74-369 and 74-370, the two rights shall be pro-rated according to the respective amounts of water decreed.
3. E64 This right authorizes the irrigation of 275.4 total acres.
4. K01 Right No. 74-15788 is an enlargement of this right pursuant to Section 42-1426, Idaho Code.
5. K06 This right is limited to the irrigation of 275.4 acres within the place of use described above in a single irrigation season.
6. F05 Right No. 74-369, 74-1136, and 74-15788 is also diverted through point of diversion described above.

Dates:

Licensed Date:

Decreed Date: 02/19/2009

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal: S

Owner Name Connector: AND

Water District Number: 74Z

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Combined Acres Limit: 378

Combined Volume Limit:

Combined Rate Limit: 4.4

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

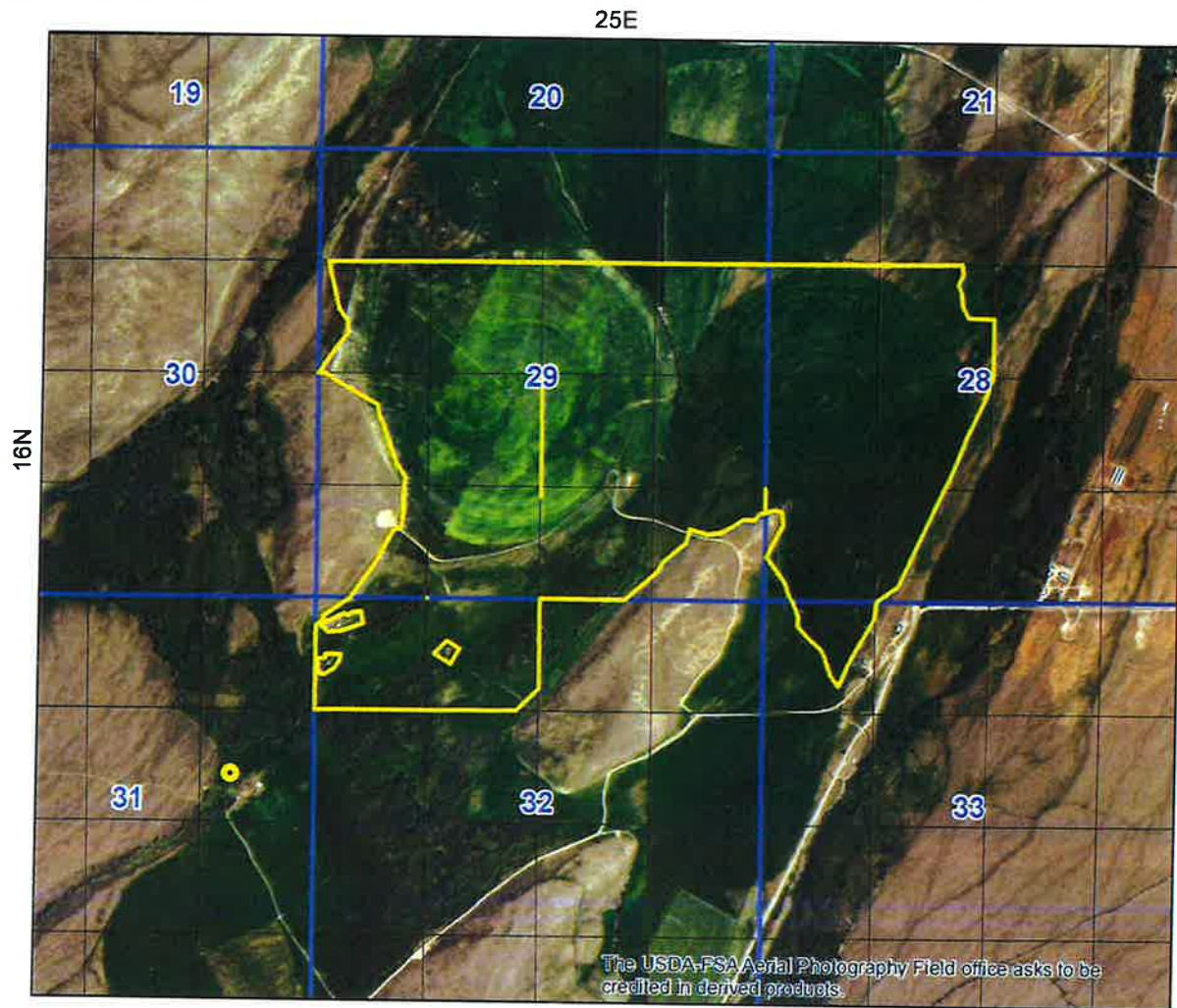
Mitigation Plan: False

State of Idaho
Department of Water Resources

Water Right 74-369

IRRIGATION

The map depicts the place of use for the water use listed above and point(s) of diversion of this right as currently derived from interpretations of the paper records and is used solely for illustrative purposes. Discrepancies between the computer representation and the permanent document file will be resolved in favor of the actual water right documents in the water right file.



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

0 0.25 0.5 1 Miles



IDAHO Department of Water Resources



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WATER RIGHT REPORT

3/18/2021

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report

WATER RIGHT NO. 74-1136

Owner Type	Name and Address
Current Owner	F JAMES WHITTAKER
Current Owner	PAULA J WHITTAKER PO BOX 240 LEADORE, ID 83464 2087682491
Original Owner	FLOYD J WHITTAKER PO BOX 177 LEADORE, ID 83464

Priority Date: 06/28/1912

Basis: Decreed

Status: Active

Source	Tributary
LEFT FORK LEE CREEK	LEE CREEK

Beneficial Use	From	To	Diversion Rate	Volume
IRRIGATION	03/15	11/15	2 CFS	
Total Diversion			2 CFS	

Location of Point(s) of Diversion:

LEE CREEK|SENE|Sec. 31|Township 16N|Range 25E|LEMHI County

IRRIGATION Use:

Acre Limit: 102.6

Place(s) of use:

Place of Use Legal Description: IRRIGATION LEMHI County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
16N	25E	28		SWNW	40		SENE	35						
				NESW	32		NWSW	40		SWSW	36		SESW	14
		29		SWNE	40		SENE	40						
				SWNW	34		SENE	40						
				NESW	40		NWSW	18		SWSW	15		SESW	40

		NESE	40	NWSE	40	SWSE	39	SESE	17
	32	NENW	38	NWNW	36				
	33	NWNW	12						

Total Acres: 686

Conditions of Approval:

1. E64 This right authorizes the irrigation of 102.6 total acres.
2. 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.
3. K01 Right No. 74-15788 is an enlargement of this right pursuant to Section 42-1426, Idaho Code.
4. K06 This right is limited to the irrigation of 102.6 acres within the place of use described above in a single irrigation season.
5. F05 Right No. 74-369 and 74-15788 are also diverted through the point of diversion described above.

Dates:

Licensed Date:

Decreed Date: 02/19/2009

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal: S

Owner Name Connector: AND/OR

Water District Number: 74Z

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Combined Acres Limit: 378

Combined Volume Limit:

Combined Rate Limit: 4.4

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

State of Idaho
Department of Water Resources

Water Right 74-1136

IRRIGATION

The map depicts the place of use for the water use listed above and point(s) of diversion of this right as currently derived from interpretations of the paper records and is used solely for illustrative purposes. Discrepancies between the computer representation and the permanent document file will be resolved in favor of the actual water right documents in the water right file.



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

0 0.25 0.5 1 Miles



IDAHO Department of Water Resources



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WATER RIGHT REPORT

3/18/2021

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report

WATER RIGHT NO. 74-15788

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	F JAMES WHITTAKER
Current Owner	PAULA J WHITTAKER PO BOX 240 LEADORE, ID 83464 2087682491
Attorney	MOFFATT THOMAS BARRETT ROCK & FIELDS CHTD C/O SCOTT L CAMPBELL PO BOX 829 BOISE, ID 83701-0829 2083452000

Priority Date: 12/31/1982

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
STROUD CREEK	LEE CREEK

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	03/15	11/15	1.97 CFS	
Total Diversion			1.97 CFS	

Location of Point(s) of Diversion:

STROUD CREEK|SENE|Sec. 31|Township 16N|Range 25E|LEMHI County

IRRIGATION Use:

Acre Limit: 378

Place(s) of use:

Place of Use Legal Description: IRRIGATION LEMHI County

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>
16N	25E	28		SWNW	40		SENE	35						
				NESW	32		NWSW	40		SWSW	36		SESW	14
		29		SWNE	40		SENE	40						

Total Acres: 686

Conditions of Approval:

1. K02 This right is based upon an enlargement of Right Nos. 74-369 and 74-1136 pursuant to Section 42-1426, Idaho Code.
2. C11 This water right is subordinate to all water rights with a priority date earlier than April 12, 1994, that are not decreed as enlargements pursuant to Section 42-1426, Idaho Code. As between water rights decreed as enlargements pursuant to Section 42-1426, Idaho Code, the earlier priority right is the superior right.
3. E51 Right Nos. 74-1136, 74-369, and 74-15788 are limited to a total combined diversion rate of 4.40 cfs.
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. T18 Prior to diversion of water under this approval, the right holder shall provide a means of measurement and lockable controlling works for all authorized points of diversion. The means of measurement and controlling works must be suitable for control of the diversions and acceptable to the watermaster.
6. K06 This right is limited to the irrigation of 378.0 acres within the place of use described above in a single irrigation season.
7. E56 The rights listed below are limited to the irrigation of a combined total of 378.0 acres in a single irrigation season. Combined Right Nos.: 74-369, 74-1136, and 74-15788.
8. K09 This right is for an enlargement of 308.0 acres within the place of use described for this right.
9. This right and right 74-0370 shall not be obliged to pro-rate with any other parties on Lee Creek, whose appropriation is of equal priority therewith, in case the flow of the waters of the Left Fk. of Lee Creek shall be an insufficient quantity to supply all rights under date of priority of May 12, 1883. When the flow in the Left Fk. of Lee Creek shall fall below the amounts decreed in rights 74-0369 and 74-0370, the two rights shall be pro-rated according to the respective amounts of water decreed.
10. F05 Right No. 74-1136, AND 74-369 is also diverted through point of diversion described above.

Dates:

Licensed Date:

Decreed Date: 01/23/2009

Enlargement Use Priority Date:

Enlargement Statute Priority Date: 4/12/1994

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal:

Owner Name Connector: OR

Water District Number: 74Z

Generic Max Rate per Acre:

Generic Max Volume per Acre:

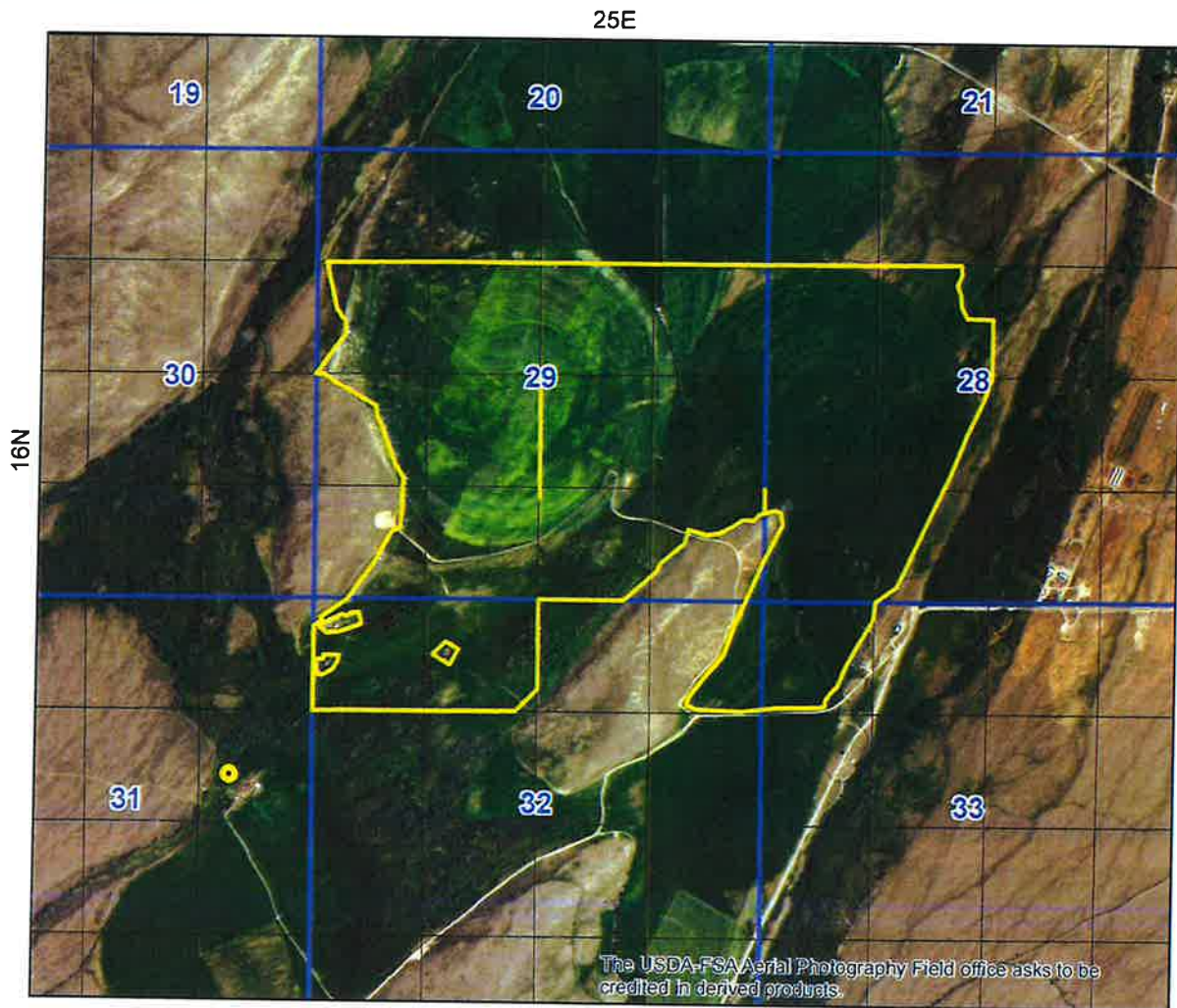
Combined Acres Limit: 378

State of Idaho
Department of Water Resources

Water Right
74-15788

IRRIGATION

The map depicts the place of use for the water use listed above and point(s) of diversion of this right as currently derived from interpretations of the paper records and is used solely for illustrative purposes. Discrepancies between the computer representation and the permanent document file will be resolved in favor of the actual water right documents in the water right file.



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

0 0.25 0.5 1 Miles



IDAHO Department of Water Resources



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WATER RIGHT REPORT

3/18/2021

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report

WATER RIGHT NO. 74-338B

Owner Type	Name and Address
Current Owner	F JAMES WHITTAKER
Current Owner	PAULA J WHITTAKER PO BOX 240 LEADORE, ID 83464 2087682491
Original Owner	FLOYD J WHITTAKER PO BOX 177 LEADORE, ID 83464

Priority Date: 11/01/1887

Basis: Decreed

Status: Active

Source	Tributary
BIG EIGHTMILE CREEK	LEMHI RIVER

Beneficial Use	From	To	Diversion Rate	Volume
IRRIGATION	3/15	11/15	3.2 CFS	
Total Diversion			3.2 CFS	

Location of Point(s) of Diversion:

BIG EIGHTMILE CREEK	NWSE Lt 10	Sec. 05	Township 15N	Range 25E	LEMHI County
BIG EIGHTMILE CREEK	NWSW	Sec. 33	Township 16N	Range 25E	LEMHI County

IRRIGATION Use:

Acre Limit: 128.9

Place(s) of use:

Place of Use Legal Description: IRRIGATION LEMHI County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
16N	25E	28		SWNW	40		SENW	35						
				NESW	32		NWSW	40		SWSW	38		SESW	14
		29		SWNE	40		SENE	40						
				SWNW	34		SENW	40						

		NESW	40		NWSW	18		SWSW	15		SESW	40
		NESE	40		NWSE	40		SWSE	39		SESE	18
	32	NENE	16									
		NENW	38		NWNW	36						
	33	NWNW	31									

Total Acres: 724

Conditions of Approval:

1. 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.
2. C05 Right includes accomplished change in place of use pursuant to Section 42-1425, Idaho Code.
3. K06 This right is limited to the irrigation of 128.9 acres within the place of use described above in a single irrigation season.
4. F05 Right Nos. 74-349, 74-1105, and 74-15787 are also diverted through points of diversion described above.
5. K01 Right No. 74-15787 is an enlargement of this right pursuant to Section 42-1426, Idaho Code.

Dates:

Licensed Date:

Decreed Date: 06/12/2009

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal: S

Owner Name Connector: AND

Water District Number: 74Z

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Combined Acres Limit: 398.6

Combined Volume Limit:

Combined Rate Limit: 9.2

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

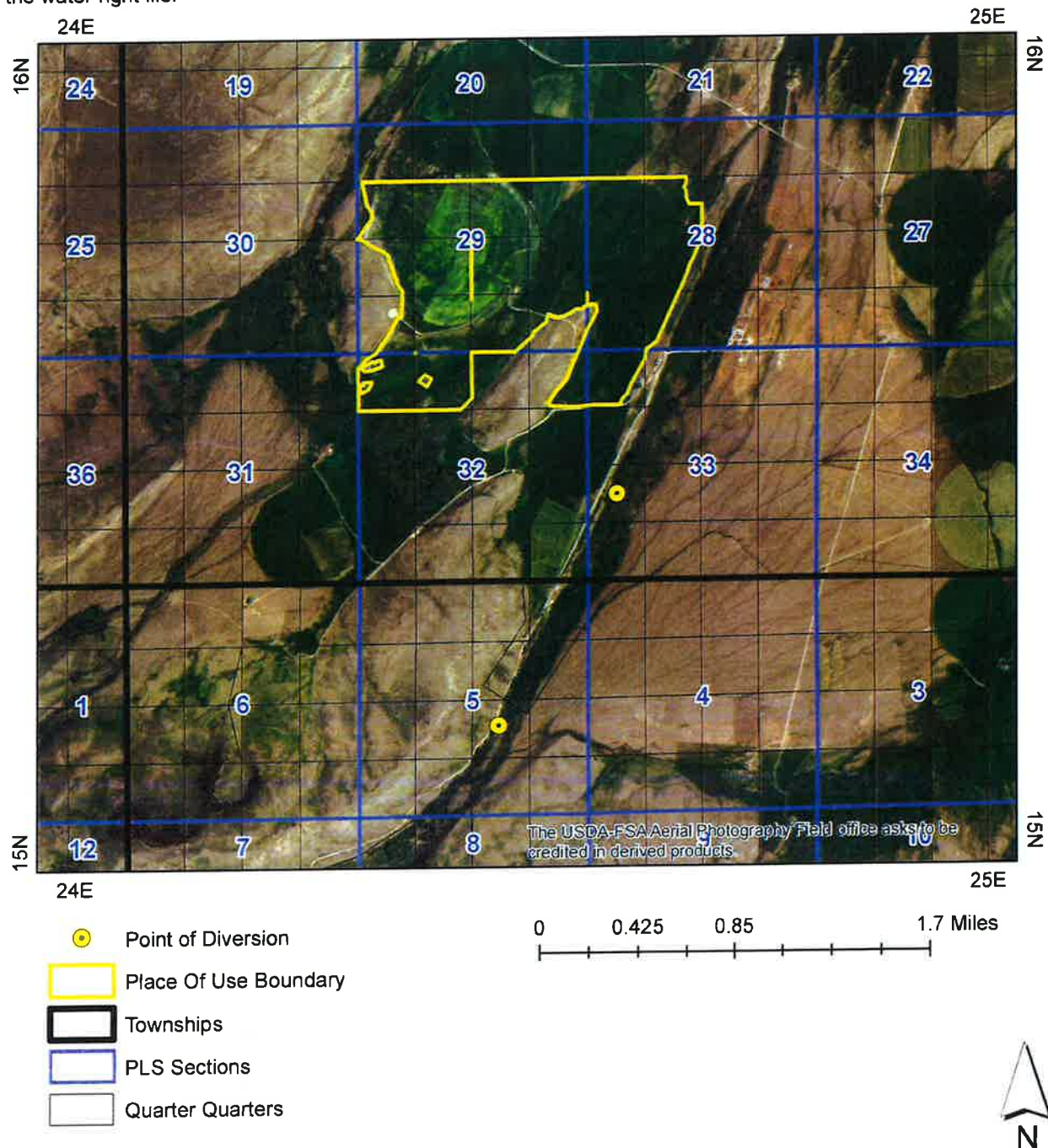
Mitigation Plan: False

State of Idaho
Department of Water Resources

Water Right 74-338B

IRRIGATION

The map depicts the place of use for the water use listed above and point(s) of diversion of this right as currently derived from interpretations of the paper records and is used solely for illustrative purposes. Discrepancies between the computer representation and the permanent document file will be resolved in favor of the actual water right documents in the water right file.



IDAHO Department of Water Resources



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WATER RIGHT REPORT

3/18/2021

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report

WATER RIGHT NO. 74-349

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	F JAMES WHITTAKER
Current Owner	PAULA J WHITTAKER PO BOX 240 LEADORE, ID 83464 2087682491
Original Owner	FLOYD J WHITTAKER PO BOX 177 LEADORE, ID 83464

Priority Date: 07/06/1916

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
BIG EIGHTMILE CREEK	LEMHI RIVER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	3/15	11/15	2 CFS	
Total Diversion			2 CFS	

Location of Point(s) of Diversion:

BIG EIGHTMILE CREEK	NWSE Lt 10	Sec. 05	Township 15N	Range 25E	LEMHI County
BIG EIGHTMILE CREEK	NWSW	Sec. 33	Township 16N	Range 25E	LEMHI County

IRRIGATION Use:

Acre Limit: 72.7

Place(s) of use:

Place of Use Legal Description: IRRIGATION LEMHI County

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>
16N	25E	28		SWNW	40		SENE	35						
				NESW	32		NWSW	40		SWSW	38		SESW	14
		29		SWNE	40		SENE	40						
				SWNW	34		SENE	40						

		NESW	40	NWSW	18	SWSW	15	SESW	40
		NESE	40	NWSE	40	SWSE	39	SESE	18
	32	NENE	16						
		NENW	38	NWNW	36				
	33	NWNW	31						

Total Acres: 724

Conditions of Approval:

1. 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.
2. C05 Right includes accomplished change in place of use pursuant to Section 42-1425, Idaho Code.
3. K06 This right is limited to the irrigation of 72.7 acres within the place of use described above in a single irrigation season.
4. K01 Right No. 74-15787 is an enlargement of this right pursuant to Section 42-1426, Idaho Code.
5. F05 Right Nos. 74-3388, 74-1105, and 74-15787 are also diverted through the points of diversion described above.

Dates:

Licensed Date:

Decreed Date: 02/19/2009

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal: S

Owner Name Connector: AND

Water District Number: 74Z

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Combined Acres Limit: 398.6

Combined Volume Limit:

Combined Rate Limit: 9.2

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

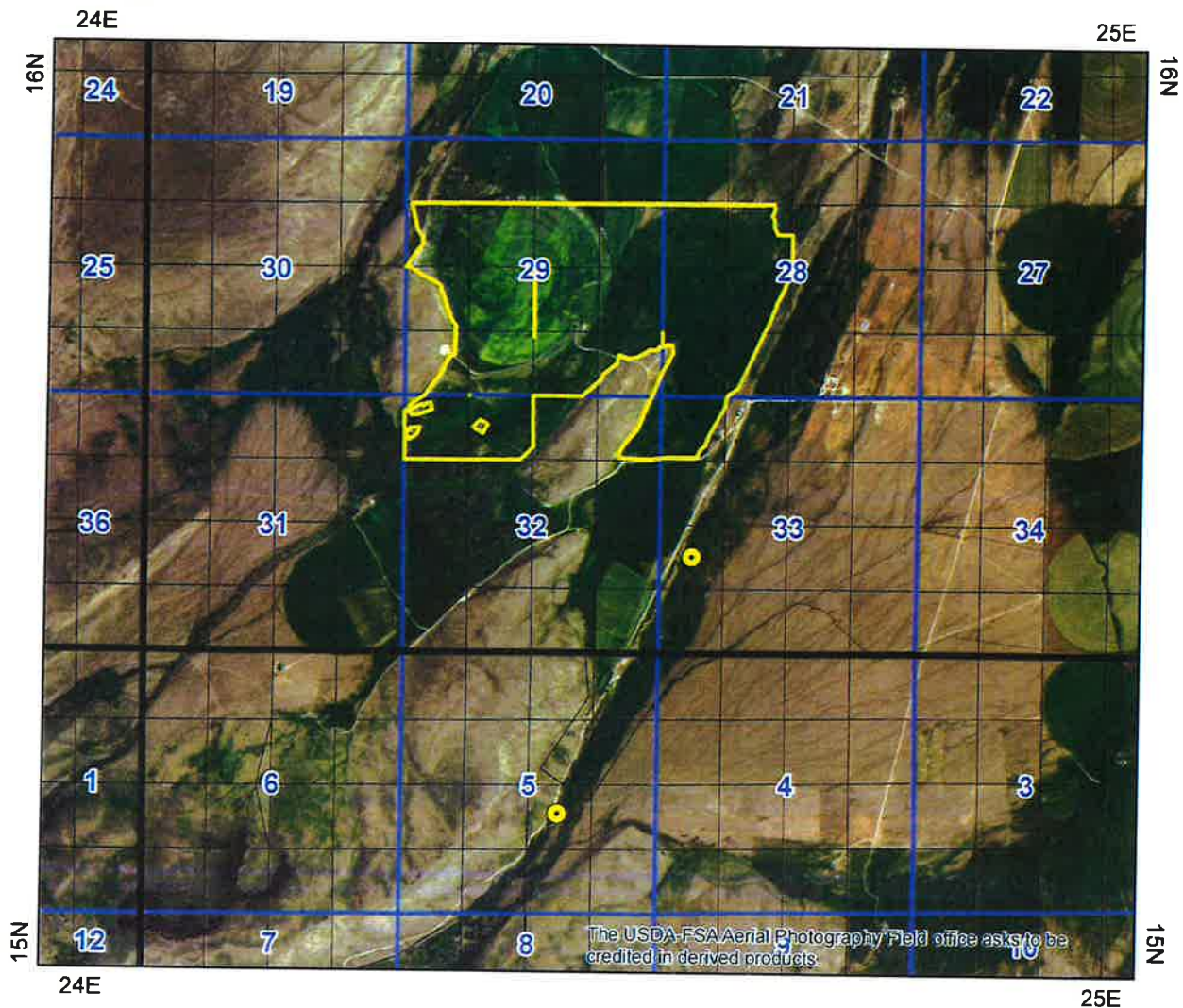
Mitigation Plan: False

State of Idaho
Department of Water Resources

Water Right 74-349

IRRIGATION

The map depicts the place of use for the water use listed above and point(s) of diversion of this right as currently derived from interpretations of the paper records and is used solely for illustrative purposes. Discrepancies between the computer representation and the permanent document file will be resolved in favor of the actual water right documents in the water right file.



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

0 0.425 0.85 1.7 Miles



IDAHO Department of Water Resources



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WATER RIGHT REPORT

3/18/2021

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report

WATER RIGHT NO. 74-1105

Owner Type	Name and Address
Current Owner	F JAMES WHITTAKER
Current Owner	PAULA J WHITTAKER PO BOX 240 LEADORE, ID 83464 2087682491
Original Owner	FLOYD J WHITTAKER PO BOX 177 LEADORE, ID 83464

Priority Date: 03/25/1918

Basis: Decreed

Status: Active

Source	Tributary
BIG EIGHTMILE CREEK	LEMHI RIVER

Beneficial Use	From	To	Diversion Rate	Volume
IRRIGATION	3/15	11/15	4 CFS	
Total Diversion			4 CFS	

Location of Point(s) of Diversion:

BIG EIGHTMILE CREEK	NWSE Lt 10	Sec. 05	Township 15N	Range 25E	LEMHI County
BIG EIGHTMILE CREEK	NWSW	Sec. 33	Township 16N	Range 25E	LEMHI County

IRRIGATION Use:

Acre Limit: 197

Place(s) of use:

Place of Use Legal Description: IRRIGATION LEMHI County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
16N	25E	28		SWNW	40		SENE	35						
				NESW	32		NWSW	40		SWSW	38		SESW	14
		29		SWNE	40		SENE	40						
				SWNW	34		SENE	40						

		NESW	40	NWSW	18	SWSW	15	SESW	40
		NESE	40	NWSE	40	SWSE	39	SESE	18
	32	NENE	16						
		NENW	38	NWNW	36				
	33	NWNW	31						

Total Acres: 724

Conditions of Approval:

1. 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.
2. R05 Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 74-Z
3. R59 This right when combined with all other rights shall provide no more than 3.5 afa per acre at the field headgate for irrigation of the lands above.
4. T18 The right holder shall provide a means of measurement and lockable controlling works for all authorized points of diversion. The means of measurement and controlling works must be suitable for control of the diversions and acceptable to the watermaster.
5. WB4 The total instantaneous diversion of water from all points of diversion shall not exceed 4.0 cfs under right 74-1105
6. X59 The point of diversion located at NWSE, Sec 5, T15N, R25E is located within H.E.S. Lot 146.
7. C05 Right includes accomplished change in place of use pursuant to Section 42-1425, Idaho Code.
8. K06 This right is limited to the irrigation of 197 acres within the place of use described above in a single irrigation season.
9. K01 Right No.74-15787 is an enlargement of this right pursuant to Section 42-1426, Idaho Code.
10. F05 Right Nos. 74-338B, 74-349, and 74-15787 are also diverted through the points of diversion described above.

Dates:

Licensed Date:

Decreed Date: 02/19/2009

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal: S

Owner Name Connector: AND/OR

Water District Number: 74Z

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Combined Acres Limit: 398.6

Combined Volume Limit:

Combined Rate Limit: 9.2

Civil Case Number:

Old Case Number:

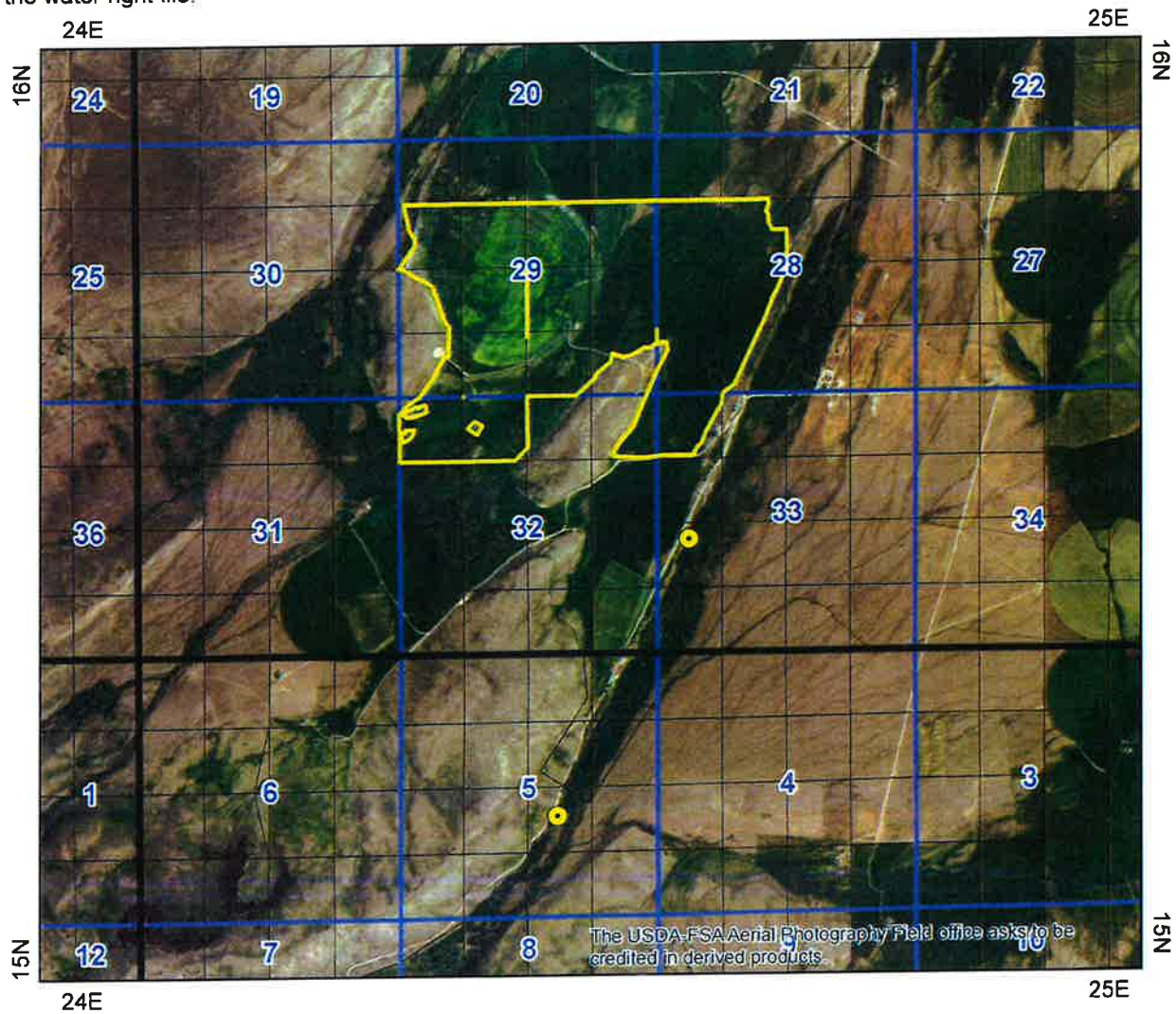
Decree Plaintiff:

State of Idaho
Department of Water Resources

**Water Right
74-1105**

IRRIGATION

The map depicts the place of use for the water use listed above and point(s) of diversion of this right as currently derived from interpretations of the paper records and is used solely for illustrative purposes. Discrepancies between the computer representation and the permanent document file will be resolved in favor of the actual water right documents in the water right file.



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

0 0.425 0.85 1.7 Miles



IDAHO Department of Water Resources



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WATER RIGHT REPORT

3/18/2021

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report

WATER RIGHT NO. 74-15787

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	F JAMES WHITTAKER
Current Owner	PAULA J WHITTAKER PO BOX 240 LEADORE, ID 83464 2087682491
Attorney	MOFFATT THOMAS BARRETT ROCK & FIELDS CHTD C/O SCOTT L CAMPBELL PO BOX 829 BOISE, ID 83701-0829 2083452000

Priority Date: 12/31/1982

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
BIG EIGHTMILE CREEK	LEMHI RIVER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	03/15	11/15	4.13 CFS	
Total Diversion			4.13 CFS	

Location of Point(s) of Diversion:

BIG EIGHTMILE CREEK | NWSE Lt 10 | Sec. 05 | Township 15N | Range 25E | LEMHI County

BIG EIGHTMILE CREEK | NWSW | Sec. 33 | Township 16N | Range 25E | LEMHI County

IRRIGATION Use:

Acre Limit: 398.6

Place(s) of use:

Place of Use Legal Description: IRRIGATION LEMHI County

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>
16N	25E	28		SWNW	40		SENE	35						
				NESW	32		NWSW	40		SWSW	38		SESW	14

**Education**

M.S., Civil Engineering, University of Idaho

B.S., General Engineering, Idaho State University

Professional Certification

Professional Engineer
Idaho No. 7914 (1995)
Oregon No. 84533PE (2010)

Certified Water Right Examiner
Idaho No. 133
Oregon No. 84533CWRE

Professional Affiliations

Idaho Water Users Association, Board Member

Areas of Expertise

- Water rights
 - investigations and analysis
 - permits and transfers
 - marketing and acquisitions
- Expert witness services
- Water resource investigations
- Water well design
- Surface water modeling
- Gravity irrigation systems
- Stream flow measurement
- Pipe flow measurement
- Pumping efficiency evaluations

Experience Summary

Mr. King has over 29 years of professional and academic experience in water resources engineering. He is currently a Project Manager with SPF Water Engineering, LLC and specializes in water right issues, water flow measurement, open-channel flow, pumping system design, water well design, and geographic information systems (GIS). Prior work includes 14 years experience in a broad variety of Idaho Department of Water Resources' (IDWR) programs including water rights adjudication, water rights administration, safety of dams, and energy efficiency. He also has experience developing surface water models and providing consulting engineering services while employed at DHI, Inc, formerly known as the Danish Hydraulic Institute.

SPF Water Engineering, LLC – 2005 to present

Mr. King is currently a Project Manager with SPF Water Engineering, LLC. SPF was founded in March 2004 to provide hydrologic characterization, water resource development, and public water system design and regulatory compliance. Mr. King provides consulting services on water rights issues, pump design, irrigation system evaluation, surface water hydrology, surface water modeling, and river hydraulics. His recent project experience includes the following:

- Extensive water right experience including
 - permit and transfer applications
 - mitigation plans
 - investigations and analysis
 - acquisitions and sales
 - beneficial use field examinations
 - adjudication claim preparation and support
- Gravity irrigation system design and analysis
- Stream flow measurement and monitoring
- Conveyance capacity determinations for streams, culverts, and other open-channel systems
- Water well design including designs to municipal public drinking water supply standards
- Well capacity determination
- Pumping system design

DHI, INC – 2004 to 2005

Mr. King worked as a senior project engineer responsible for development of various surface water models. Project experience includes the following:

Modeling – MIKE 11. Developed hydrodynamic 1-D MIKE 11 model of the Little Claggett Creek storm water drainage system, a part of Marion County's

EXHIBIT**2**

T.84441

exhibitstickers.com

East Salem Service District, Oregon. Produced flood maps for SCS Type 1A design storms and for the February 1996 flood event. This model includes 8.5 km of streams in two branches, over 100 cross-sections extracted from a 2 ft vertical resolution DEM, and 23 culverts with corresponding broad-crested weirs representing roadways over culvert crossings. Inflow boundary conditions are represented by 21 catchments contributing point-source and distributed inflows simulated in MIKE 11's rainfall / runoff module.

Modeling – MIKE BASIN. Project lead on MIKE BASIN surface water distribution models developed for the Idaho Department of Water Resources. These models are used by IDWR for three primary purposes: flow enhancement tools to address flow-limited stream reaches; decision making tools to assist in selecting effective mitigation and restoration projects; and communication tools for educating decision makers and stimulating discussion among stakeholders. Developed systems include the Pahsimeroi River and East Fork Salmon River, and experiences with Lemhi River and Stanley Basin models. These models operate on a daily time step and represent the water distribution system within the basins including the stream networks, points of diversion, places of use, and locations of return flow. Time series information includes records of stream gaging, diversion measurements, precipitation, and evapotranspiration. Provided training to IDWR staff, contractors, and watermasters on the operation of MIKE BASIN through a series of hands-on sessions. Presented proposals to local waterusers and stakeholders for new model applications in Morgan Creek and Carmen Creek.

Modeling – Rainfall / Runoff. Developed lumped conceptual rain/snow/runoff models of the Stanley and East Fork Salmon River Basins for the Idaho Department of Water Resources using DHI's lumped conceptual rainfall/runoff module. The developed models are used to supply tributary inflow boundary conditions to the East Fork Salmon River and Stanley Basin MIKE BASIN models.

Developed rainfall/runoff models of 21 catchments supplying inflow boundary conditions for the Little Claggett Creek MIKE 11 model described above. Rainfall/runoff is simulated using DHI's URBAN module. Four storm events are modeled including the February 1996 observed event and SCS Type-1A 2-, 10-, and 50-year design storms.

Idaho Department of Water Resources – 1990 to 2004

During 14 years with the Idaho Department of Water Resources, Mr. King held four engineering positions and gained experience in a wide range of IDWR activities. These positions included Technical Engineer in the Adjudication Bureau, and Staff Engineer positions in the Water Distribution Section, in Western Region's Safety of Dams unit, and in the Energy Division. Relevant experience includes the following:

Program Management

Managed Western Region's Safety of Dams program. Inspected dams and made recommendations for maintenance and operation to improve safety and meet state standards. Issued storage certificates and authorizations to fill.

Lead technical consultant in statewide water measurement program. Defined water measurement standards and implemented a program for measuring and reporting ground-water withdrawals. Coordinated field work performed by department staff and various measuring districts. Inspected contractor projects for adequacy and compliance with department standards. Designed and managed water measurement databases.

Water Rights

Reviewed complex water right claims and prepared water right recommendations for the Director's Report to the Snake River Basin Adjudication court. Provided technical analysis and recommendations for nonstandard water right claims, such as claims for diversion rates exceeding the standard allocation, and for claims to the use of water outside of the standard seasons of use.

Provided training and direction to new employees, water districts, water measurement districts, groundwater districts, and private consultants on water rights, water measurement programs, and adjudication procedures.

Worked with water users and their legal representatives on various water right enforcement issues, including excessive and illegal water diversions.

Experienced with all aspects of IDWR regional office operations including water rights, transfers, well drilling, adjudication, water district operation, violations, enforcement, and customer complaints.

Irrigation and Pumping Systems

Performed pumping system evaluations including determinations of municipal, industrial, and agricultural pumping plant efficiencies and recommended measures for improved efficiency and reduced operating costs. Provided recommendations and designs for conversions to low-pressure irrigation systems for reduced operating costs and improved yields.

Technical Expert to Snake River Basin Adjudication (SRBA) Court

Provided technical engineering support to department staff in the ongoing SRBA.

Designated as department expert to the SRBA court regarding irrigation requirements, evapotranspiration, and crop water requirements. and how this information is utilized for preparing recommendations.

Public Relations

Presentations at public meetings to explain laws and regulations relating to water measurement and water appropriation.

Provided conflict resolution support for several water related disputes.

Trained IDWR employees, state Watermasters and Hydrographers, contractors, and consultants on water measurement standards, equipment, practices, and procedures through regular training sessions and individual assistance.

Guest lecturer in 1996 and 1998 for College of Southern Idaho's Water Measurement course, and in 1998 for Boise State University's Water Measurement lab.

Presented Selection and Installation of Pipe Flow Water Measurement Devices at the 1997 Idaho Irrigation Equipment Show and Exhibition, Shilo Inn, Idaho Falls, January 8-9.

Technical

Developed and proposed to department administration and to the general public technically sound methods of using power records for estimation of pumped water diversions.

Determined acceptability and provided professional opinions for numerous non-standard water measurement methods and devices proposed to IDWR by engineering consultants and water users.

Determined conveyance capacity of pumps, diversions, pipelines, open channels, turbines, etc.

Led IDWR efforts to utilize global positioning systems (GPS). Developed standards for use, trained staff and consultants, and integrated GPS data collection into GIS work.

Report Development

Authored various reports including annual reports of ground water diversions, reports to individual water users, flowmeter accuracy reports, and various other reports relating to water measurement.

Co-author of Eastern Snake Plain Aquifer Water Measurement Program, A Summary of Measurement Activity & Results from Basin 36 Project Area, 1995-1996 and a Review of Program Expansion in 1997, IDWR, May 1998.

University of Idaho – 1999 to 2002

Masters of Science in Civil Engineering Thesis: The Effective Discharge Concept in Gravel Bed Stream Restoration: The Twelve Mile Reach of the Salmon River at Challis, Idaho.

Project Manager

Scott King, P.E.

Determined channel effective discharge based on sediment transport measurements and flow records. Compared effective discharge to bankfull discharge and stated implications of findings in regards to channel restoration. Completed hydraulic, hydrologic, and geomorphologic characteristics of the study reach. Presented findings and recommendations to technical groups and local property owners.

Developed hydrodynamic pseudo 2-D MIKE 11 model of the Twelve Mile Reach, Salmon River, near Challis, ID. Produced animated flood maps of primary flooding events from 1974 (100-yr), 1996, and 1997. This model includes 27-km of mainstem river including braided sections and split flows. Over-bank discharge into Hannah Slough and across One-Mile Island is represented by link-channels. The model includes 68 surveyed cross-sections and utilizes a 2-ft interval contour map for flood mapping.

From: Glenda Montana
To: Chris Bromley
Subject: Fw: Lee Creek Water Administration
Date: Tuesday, March 9, 2021 9:29:29 AM
Attachments: image002.png
image003.png

From: Yenter, Cindy <Cindy.Yenter@idwr.idaho.gov>
Sent: Friday, August 7, 2020 1:34 PM
To: bar11ranch@hotmail.com <bar11ranch@hotmail.com>
Subject: FW: Lee Creek Water Administration

Bruce and Glenda – here are the initial emails between IDWR's deputy AG and Rob Harris, Whittaker's attorney. Your attorney may be interested in these but I didn't want to send them directly. It's up to you if you want to share.

From: Baxter, Garrick
Sent: Tuesday, July 28, 2020 5:06 PM
To: Rob Harris <rharris@holdenlegal.com>
Cc: Yenter, Cindy <Cindy.Yenter@idwr.idaho.gov>
Subject: RE: Lee Creek Water Administration

Rob,

On July 16, 2020, you sent the Idaho Department of Water Resources ("Department") an email regarding water right administration on Lee Creek in Water District 74Z ("WD 74Z"). In your email, you raise a number of issues regarding the administration of water right 74-157, held by James Whittaker ("Whittaker"). In your email, you take issue with instructions issued by Ms. Yenter on June 23, 2020, to the watermaster for WD 74Z regarding administration of water right 74-157 and other water rights from Lee Creek. In her June 23, 2020 letter to the watermaster, Ms. Yenter instructed the watermaster to administer water right 74-157 in priority with other water rights on Lee Creek. In your email, you make a number of arguments, the primary argument being that water right 74-157 should be administered separately from other water rights on Lee Creek because of the Idaho Supreme Court case *Whittaker v. Kauer*, 78 Idaho 94, 298 P.2d 745 (1956). After review of your email and the information you provided, the Department respectfully disagrees with your assertion that water right 74-157 should be administered separately.

Decrees entered in a general adjudication are conclusive as to the nature and extent of all water rights in the adjudicated water system. I.C. § 42-1420(1); *City of Blackfoot v. Spackman*, 162 Idaho 302, 308, 396 P.3d 1184, 1190 (2017). Upon entry of a decree, the Director of IDWR must administer the water rights by distributing water in accordance with the decree. I.C. § 42-1413(2); *Sylte v. Idaho Dep't of Water Res.*, 165 Idaho 238, 244, 443 P.3d 252, 258 (2019). The Idaho Supreme Court has expressed this in no uncertain terms, stating that it is the Director's "clear legal duty to distribute water according to decreed water rights." *City of Blackfoot v. Spackman*, 162 Idaho 302, 309, 396 P.3d 1184, 1191 (2017) (quotations omitted).

The Snake River Basin Adjudication ("SRBA") District Court issued a partial decree for water right 74-157 on April 3, 2012. Regarding source, the partial decree is clear. The source of water right 74-157 is as follows:

SOURCE: SPRINGS TRIBUTARY: LEE CREEK

There is no language in the partial decree for water right 74-157 or the general provisions for Basin 74 that suggests water right 74-157 should be administered separately from other water rights on Lee Creek. In fact, the plain language of the decree suggests the opposite. The decree expressly identifies the springs as being tributary to Lee Creek. The SRBA Final Unified Decree was signed on August 26, 2014, effectively finalizing the SRBA.

The Department has reviewed the case *Whittaker v. Kauer* and disagrees with your interpretation of the case. The *Whittaker v. Kauer* court expressly affirmed the district court's decree of 80 miners inches of water from the West Springs to Whittaker. *Whittaker v. Kauer*, 78 Idaho at 99, 298 P.2d at 748. The *Whittaker v. Kauer* case does not support the proposition that Whittaker is entitled to "whatever water was present" coming from the springs. Moreover, the claim for the water right from the West Spring recognized in *Whittaker v. Kauer* and the claim for Whittaker's water right from the East Spring was combined in the Lemhi Adjudication and was carried forward in the SRBA. The combined water right (74-157) was decreed with a diversion quantity of 3.2 cfs. This is a fixed quantity. The subsequent decrees that have been issued since the *Whittaker v. Kauer* case do not support the proposition that Whittaker is entitled to "whatever water was present" coming from the springs. The bottom line is that Whittaker is only entitled to a combined 3.2 cfs with a delivery priority of 4/1/1916, from the two spring complexes.

In your email, you discuss what the *Whittaker v. Kauer* court described as an oral contract between Whittaker and Kauer on how the water would be delivered. You discuss how Whittaker and McConnell agreed for McConnell to only use the upper diversion and then for Whittaker to capture and use the entire spring. The problem is that any such agreement is not reflected in the current water right decrees. As discussed above, the SRBA decree is conclusive as to the nature and extent of the water right and the Director has a clear legal duty to distribute water according to decreed water rights. *City of Blackfoot v. Spackman*, 162 Idaho at 308-09, 396 P.3d at 1190-91. The SRBA partial decrees for the McConnell water rights list their point of diversion as being downstream from the Whittaker water rights, not upstream as you suggest they should be. The SRBA partial decrees do not suggest that the McConnell water rights should be subordinated to the Whittaker water right. The SRBA partial decree for 74-157 does not suggest the West Springs is a separate source. In fact, the SRBA decree for the Whittaker right expressly states that the springs are tributary to Lee Creek. Because your interpretation is inconsistent with the SRBA decrees, the Department cannot legally administer the rights as suggested in your email. If Whittaker wanted the McConnell rights to be diverted upstream and wanted the West Springs water to be administered separate from Lee Creek, Whittaker could have and should have made these arguments in the SRBA. *Rangen, Inc. v. Idaho Dep't of Water Res.*, 159 Idaho 798, 806, 367 P.3d 193, 201 (2016). The SRBA Final Unified Decree superseded all prior water rights decrees within the Snake River Basin water system. *First Sec. Corp. v. Belle Ranch, LLC*, 165 Idaho 733, 739, 451 P.3d 446, 452 (2019). Whittaker's suggestion that the Department must administer the rights inconsistent with the decrees represent an impermissible collateral attack on the partial decrees. *City of Blackfoot v. Spackman*, 162 Idaho at 307, 396 P.3d at 1189. In your email you suggest that Whittaker may bring a breach of contract claim against McConnell. To the extent you believe there is a breach of contract claim, that is a private matter and not subject to IDWR's jurisdiction.

In your email, you also allege that McConnell is using Whittaker's ditches to receive his water. It is the Department's understanding that that McConnell is diverting his water from Lee Creek, not the Floyd J. Whittaker ditch. The Department has reviewed the report submitted by Bryce Contor regarding the West Springs, the engineer's map you submitted with your initial correspondence, and more recent topographic maps and aerial images. There are certain discrepancies between these documents which suggest that changes have been made to the Whittaker distribution system over time. The Department will send representatives to conduct

another site visit to get a better understanding of the distribution system. Please be advised that pursuant to Idaho Code § 42-701 and the Lemhi Basin Measurement Order, the Whittakers are still required to install and maintain suitable and lockable controlling works and standard measuring devices on both the East and West spring diversions. *Final Order in the Matter of Requiring Controlling Works and Measuring Devices on Surface and Ground Water Diversions*, September 28, 2018.

I hope this email help clarify the Department's position in this matter. If you have any questions, please do not hesitate to reach out.

Sincerely,
Garrick



Garrick Baxter | Deputy Attorney General
Office of the Idaho Attorney General | Water Resources Section
Ph: (208) 287-4811 | Fax: (208) 287-6700
322 East Front Street | PO Box 83720 | Boise, ID 83720-0098

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From: Rob Harris [<mailto:rharris@holdenlegal.com>]
Sent: Thursday, July 16, 2020 9:21 AM
To: Baxter, Garrick <Garrick.Baxter@idwr.idaho.gov>; Yenter, Cindy <Cindy.Yenter@idwr.idaho.gov>
Cc: 'fjwhitt@yahoo.com' <fjwhitt@yahoo.com>
Subject: Lee Creek Water Administration

Cindy and Garrick:

I have been asked by James Whittaker and Jordan Whittaker to represent them and to review and respond to Cindy's letter dated June 23, 2020 (RE: *Water Sources Subject to Administration in Water District 74Z*). In a separate email, I will send a scanned map prepared by an engineer in 1954, including its associated legend. The map and legend depict features referred to in this email are useful to refer to while reviewing this email.

As described below, we disagree with the conclusions of the letter as it fails to recognize the Idaho Supreme Court's decision upholding the district court's decision that, as to the West Springs, it is *res judicata* that Bruce and Glenda McConnell (the successors-in-interest to the Kauer Ranch), the senior right holders on Lee Creek, by agreement allow Whittaker to capture and use the water that McConnell would otherwise be entitled to (by virtue of their senior priority dates) from West Springs. This is because McConnell have abandoned any right to such West Springs water, irrespective of whether the waters from the West Springs are public or private. Additionally, the letter's conclusion necessarily implicates easement law, as the water from West Springs flows into Whittaker's ditch and McConnell has no right to use this particular ditch or other Whittaker ditches. In fact, Kauer was given originally given a ditch easement by John Whittaker to construct the Kauer Ditch across his property—a ditch that apparently was not correctly claimed in the SRBA by McConnell and one that is not currently being allowed to deliver water through since 2016 (I believe because Cindy will not allow it to be used). Finally, as to the East Springs, we are preparing a forthcoming report with technical information clearly indicating that these springs are private springs under Idaho law.

Attached is the ISC's decision of *Whittaker v. Kauer*, which is reported to be a "quiet title action" between water users. Attached is a copy of the an annotation describing the holding of this case:

"Plaintiffs, who established beneficial use of spring waters for a period in excess of 40 years, which beneficial use had been known to the defendants, were entitled to have title quieted in the springs, regardless of whether the springs were public or private."

In my view this summary captures the essential holding of this case, although if written today, I am confident it would contain greater detail and longer analysis portions of the opinion. The opinion describes that Kauer entered into an oral contract—an agreement—with Whittaker where Kauer would take water from the Kauer Ditch (upstream from West Springs) through land owned by Whittaker. In exchange and in reliance on this agreement, a flume that carried West Springs water across the Left Fork of Lee Creek channel, and apparently for the benefit of all parties for ease of administration purposes, an earthen dam was placed to divert whatever water was present (coming from West Springs or any undiverted water making its way past the Kauer Ditch) into the Floyd J. Whittaker Ditch. This arrangement was straightforward—Kauer would take his water up higher, and any water in the Left Fork of Lee Creek channel was diverted and use by Whittaker. However, eventually, Kauer tried to go back on the agreement, and as described in the ISC opinion, the watermaster cut the dam to allow water to go down and eventually into another ditch to Kauer's property. This was challenged by Whittaker in court and Whittaker prevailed.

The ISC notes that the district court set forth matters "indicative of the public classification of the waters of the West Springs, but the trial court did not make a finding thereon." The ISC went on to state "the fact that said waters are public in character, will not affect the judgment of the trial court." This led to the following conclusion:

Under the facts and circumstances as related, respondents' right to the use of the waters of the West Springs, though they be public waters, must be held to have been abandoned by appellants' predecessors:

Id. at 98, 298 P.2d at 748. The ISC applies to all of McConnell's water rights from Lee Creek—which were described in the ISC decision earlier in the opinion.

While the district court's decision to quiet title to the West Springs water in Whittaker's name is what was ultimately held, which arguably indicates that the district court was holding the West Springs to be "private waters," the ISC essentially upheld the district court on other grounds (on the basis of an agreement), and did not make a determination on the public/private nature of the West Springs water: "A finding, if made by the trial court, that the waters of the West Springs are public waters, would not change such result nor affect the trial court's decree." *Id.* at 99, 298 P.2d at 748.

Accordingly, the holding of this case upheld an agreement between Kauer and Whittaker, which is now binding their successors-in-interest. In my view, this is similar to a private subordination where Kauer gave up a right to West Springs water (even if it is arguably tributary to the Left Fork of Lee Creek), and they cannot now call for it. The watermaster should respect this prior ISC precedent and not disrupt how the West Springs water has been administered for nearly a century.

Additionally, the only way West Springs water can currently get to the McConnell property is through the Floyd J. Whittaker ditch as any channel of the Left Fork of Lee Creek is no longer existing below the diversion dam. This channel has naturally filled in after decades of nonuse because all the water from West Springs is diverted into the Floyd J. Whittaker ditch. No water user, including McConnell, has a right to use the Floyd J. Whittaker ditch. This raises an easement issue, and even though the right to use water and the right to deliver water are tied together, these rights are not the same. On many different occasions, the Idaho Supreme Court has been quite clear that easement matters and water rights matters are **separate**: "In Idaho, ditch rights and water rights are separate and independent from one another." *Zingiber Inv., LLC v. Hagerman Highway Dist.*, 150 Idaho 675, 249 P.3d 868 (2011); See also *Beach Lateral Water Users Ass'n v. Harrison*, 142 Idaho 600, 130 P.3d 1138 (2006) ("Although a ditch easement typically concerns the conveyance of water, it is 'a property right apart from and independent of questions of water rights.'") (quoting *Savage Lateral Ditch Water Users' Ass'n v. Pulley*, 125 Idaho 237, 242, 869 P.2d 554, 559 (1993)). Thus, the "right for the conveyance of water is recognized as a property right apart from and independent of the right to the use of the water conveyed therein" and "[e]ach may be owned, held and conveyed independently of the other." *Simonsen v. Moon*, 72 Idaho 39, 47, 237 P.2d 93, 98 (1951).

In light of the foregoing, please be advised that no watermaster is authorized to deliver McConnell's water through any of the Whittaker ditches. McConnell is the largest water user on Lee Creek, and would utilize all such water coming from West Springs if it were to make its way into the creek channel. Water should not be provided to the creek for a generic water user under general prior appropriation principles—McConnell will divert and use this water, which is contrary to the agreement.

Given the ISC decision, which is *res judicata* on this matter, and the system configuration consisting of the private Whittaker ditches, we request that you revise your letter which incorrectly instructs Meritt Udy to deliver water in violation of the agreement between Whittaker and McConnell as successors-in-interest to the prior agreement.

It appears from the contents of your letter that this is viewed as a decree interpretation matter—that the denoted tributary of "Lee Creek" means you have no choice but let water flow into the creek to be diverted in priority, which will be by McConnell. We strongly disagree. This is an agreement issue that must be respected by the watermaster as it has been since 1956 (after the ISC decision). Otherwise, this may lead to further litigation just like the litigation in the original case where the watermaster removed the dam in violation of the agreement, and the ISC held the agreement to be valid. The elements of the water right decrees affected by the agreement did not trump the enforcement of the agreement in 1956, and they do not now with SRBA decrees. After the ISC case was decided, the watermaster administered water consistent with the agreement, irrespective of the decrees, and the watermaster should do the same now. If the agreement were ever changed by the parties, then the water rights would be administered as you describe, but not unless and until the agreement is changed.

My hope is to avoid further litigation, but if the administration of Whittaker's water changes, it is likely that litigation will ensue against McConnell for breach of contract because he is obligated to take his water through the Kauer ditch. It is McConnell's issue with IDWR if this ditch is not an authorized POD on his water rights. We suggest that you instruct McConnell to file a transfer to comply with the agreement, which of course, we will not protest. If water is not delivered consistent with the agreement at IDWR's instruction, it is also probable that IDWR will be a party to any forthcoming litigation.

James Whittaker has lived in the Leadore area nearly his entire life, and never would have imagined this would be an issue. Others agree and can verify the historic administration as contained in the attached affidavits. The agreement is not an element of the water right, and it is not necessary for it to be included in any court decrees to be followed by the watermaster as a private subordination agreement.

It is worth noting that McConnell did not file his SRBA claims until 2014 after getting leave from the court, two years after Whittaker received partial decrees for his rights. By filing such claims and not including reference to this agreement—and if IDWR determines that such an agreement should have been included McConnell's partial decrees—it is also possible for us to file a Rule 60(b) motion with Judge Wildman to set aside these decrees. None of this discussion of litigation should be necessary, however, given the ISC decision.

Finally, relative to East Springs, without the Floyd J. Whittaker ditch, water from these springs will not make it to Lee Creek. Bryce Contor is in the process of preparing a report in support of this. The East Springs are private waters and are delivered only because of the Floyd J. Whittaker ditch. Such water is not subject to administration. In the alternative, even if such water are, it is my view that water from East Springs is also affected by the agreement because, as described, Kauer agreed to take his Lee Creek water at the Kauer diversion, and any water making its way to the Lee Creek channel below the Kauer diversion was to be utilized by Whittaker.

Because of limited water supplies, time is of the essence on this matter. Please respond as soon as you are able to the contents of this email and whether you agree or disagree and intend to change the historic pre-2020 administration. If you do, then we will have to proceed quickly with litigation on this. My preference would be to maintain the historic pre-2020 administration also for this year, and then consider other alternatives to litigation, such as a water district meeting or other meeting to discuss this matter between the parties. If you are interested in this approach, please let me know.

Please call or email with any questions or if you would like to visit further about this matter. Because of the attachments, please confirm that you received this email.



Robert L. Harris
HOLDEN, KIDWELL, HAHN & CRAPO, PLLC
1000 Riverwalk Drive, Suite 200
P.O. Box 50130
Idaho Falls, ID 83405-0130
Phone: (208) 523-0520
Fax: (208) 523-9518
E-Mail: rharris@holdenlegal.com

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State of Idaho

DEPARTMENT OF WATER RESOURCES

Salmon Field Office • 102 South Warpath • Salmon, Idaho 83467
Phone: (208) 742-0658 • Website: www.idwr.idaho.gov

BRAD LITTLE
Governor

GARY SPACKMAN
Director

August 6, 2020

BRUCE AND GLENDA MC CONNELL
100 COTTOM LN
LEADORE ID 83464

RE: CLOSURE OF UNAUTHORIZED DIVERSION, LEE CREEK

Bruce and Glenda:

It has come to the attention of Water Districts 74Z and 170 (WD74Z and WD170) that an unauthorized diversion on Lee Creek is being used to make diversions under all or part of water rights 74-361, 74-362, 74-363, 74-364, 74-365, 74-367 and 74-368. These rights authorize a single point of diversion. An investigation by watermasters of WD74Z and WD170 found two diversions along Lee Creek serving your property. Only the upper diversion is associated with the above water rights. The lower diversion, found within SWSW Section 20, 16N 25E, must be closed immediately.

In accordance with our phone call this morning, you have agreed to close the lower diversion and direct available flow to the upper ditch only. All obstructions in the natural channel at the lower ditch must be removed.

The upper diversion is also required to have a controllable, lockable headgate installed. Compliance with that requirement may be delayed until fall of this year, and not later than the start of irrigation season 2021.

Please complete the closure no later than Friday, August 7, 2020, and coordinate with the WD74Z watermaster who will be instructed by separate letter to confirm the closure. The lower ditch may be closed with a temporary earth plug, boards and tarp, etc, but the seal must prevent flows from entering the ditch.

WD170 and the Department of Water Resources greatly appreciate your cooperation in this matter. Please contact me if you have any questions.

Regards,

Cindy Yenter
Watermaster, WD170
IDWR Salmon Field Office

cc: Merritt Udy, WD74Z watermaster
Rob Whitney, IDWR
Garrikk Baxter, Deputy Attorney General

EXHIBIT

4

T.84441

exhibitsticker.com



State of Idaho

DEPARTMENT OF WATER RESOURCES

Salmon Field Office • 102 South Warpath • Salmon, Idaho 83467

Phone: (208) 742-0658 • Website: www.idwr.idaho.gov

BRAD LITTLE
Governor

GARY SPACKMAN
Director

August 6, 2020

MERRITT UDY
WATERMASTER, WD74Z
PO BOX 145
LEADORE ID 83464-0145

RE: WATERMASTER INSTRUCTIONS REGARDING MC CONNELL UNAUTHORIZED DIVERSION
AND WHITTAKER RESUMPTION OF DELIVERY, LEE CREEK

Merritt:

Bruce and Glenda McConnell received the attached letter which requires closure of the unauthorized diversion on Lee Creek. Based on our field inspections, the lower of the two diversions is not authorized on the McConnell water rights.

Mr. McConnell has agreed verbally to close the diversion, and has been instructed in writing to complete the closure no later than Friday, August 7, 2020.

Please coordinate with Mr. McConnell as soon as possible and complete the following:

- confirm that the lower diversion in Lee Creek has been closed, and that all obstructions in the natural channel at that location have been removed
- forward a confirmation of the closure to the WD170 watermaster

Based on the investigation conducted yesterday, it appears that water from Stroud Creek may flow into Lee Creek below McConnell's authorized point of diversion. If McConnell cannot currently access this water from his authorized point of diversion, delivery of water right 74-157 held by James Whittaker may resume. Please complete the following:

- obtain a measurement of total flows available to McConnell at his authorized point of diversion
- make a measurement or estimate of flow in the side channel that is bypassing McConnell's authorized point of diversion
- resume delivery of water right 74-157 from the West Spring
- 12 to 24 hours after delivery to Whittaker is resumed, obtain another measurement of total flows available to McConnell at his authorized point of diversion and make another measurement or estimate of flow in the side channel that is bypassing McConnell's authorized point of diversion
- forward measurements of the diverted and bypassed flow to the WD170 watermaster

over



Thank you for your assistance, and please contact me if you have additional questions.

Regards,

A handwritten signature in blue ink that reads "Cindy Yenter". The signature is written in a cursive style with a large initial 'C' and a stylized 'Y'.

Cindy Yenter
Watermaster, WD170
IDWR Salmon Field Office

cc: Rob Whitney, IDWR
Garrick Baxter, Deputy Attorney General

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 84367**

This is to certify that: **BRUCE MC CONNELL AND
GLENDA MC CONNELL
100 COTTOM LN
LEADORE, ID 83464**

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 Changes

<u>Water Right</u>	<u>Origin/Basis</u>	<u>Priority Date</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>Source</u>
74-361	WR/DECREED	5/12/1883	1.200 cfs	N/A	N/A	211.7	LEE CREEK
74-362	WR/DECREED	5/1/1906	4.100 cfs	N/A	N/A	211.7	LEE CREEK
74-363	WR/DECREED	5/12/1883	1.000 cfs	N/A	N/A	46.1	LEE CREEK
74-364	WR/DECREED	6/1/1900	1.300 cfs	N/A	N/A	46.1	LEE CREEK
74-365	WR/DECREED	5/12/1883	1.200 cfs	N/A	N/A	20.8	LEE CREEK
74-367	WR/DECREED	5/12/1883	0.600 cfs	N/A	N/A	268.8	LEE CREEK
74-368	WR/DECREED	11/5/1909	5.800 cfs	N/A	N/A	268.8	LEE CREEK

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>
74-361	NO	YES	NO	NO	NO	NO
74-362	NO	YES	NO	NO	NO	NO
74-363	NO	YES	NO	NO	NO	NO
74-364	NO	YES	NO	NO	NO	NO
74-365	NO	YES	NO	NO	NO	NO
74-367	NO	YES	NO	NO	NO	NO
74-368	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>
74-361	74-361	1.200 cfs	N/A	N/A	211.7	N/A	N/A	N/A	N/A	N/A
74-362	74-362	4.100 cfs	N/A	N/A	211.7	N/A	N/A	N/A	N/A	N/A
74-363	74-363	1.000 cfs	N/A	N/A	46.1	N/A	N/A	N/A	N/A	N/A
74-364	74-364	1.300 cfs	N/A	N/A	46.1	N/A	N/A	N/A	N/A	N/A
74-365	74-365	1.200 cfs	N/A	N/A	20.8	N/A	N/A	N/A	N/A	N/A
74-367	74-367	0.600 cfs	N/A	N/A	268.8	N/A	N/A	N/A	N/A	N/A
74-368	74-368	5.800 cfs	N/A	N/A	268.8	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		15.200 cfs	N/A	N/A	547.4		N/A	N/A	N/A	N/A

Transfer No. 84367

**Support Data
In File # 74-361**

EXHIBIT

6

T.84441

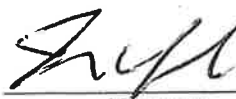
exhibits.tracker.com

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT
TRANSFER NO. 84367

This water right(s) 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. Detailed Water Right Description(s) attached.

Dated this 8th day of October, 2020.



Regional Manager

Transfer No. 84367

Support Data
In File # 74-361

WATER RIGHT NO. 74-361
As Modified by Transfer No. 84367

In accordance with the approval of Transfer No. 84367, Water Right No. 74-361 is now described as follows:

Right Holder: BRUCE MC CONNELL OR
 GLENDA MC CONNELL
 100 COTTOM LN
 LEADORE, ID 83464

Priority Date: 5/12/1883

Source: LEE CREEK

Tributary: LEMHI RIVER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>
IRRIGATION	03/15	to 11/15	1,180 cfs
STOCKWATER	01/01	to 12/31	0.020 cfs
			1,200 cfs

LOCATION OF POINT(S) OF DIVERSION

LEE CREEK NENE Sec 30 Twp 16N Rge 25E LEMHI County

PLACE OF USE: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
16N	25E	8															34.0	35.0	69.0
16N	25E	17	9.0	39.8	26.9		40.0			27.0									142.7

POU Total Acres: 211.7

CONDITIONS OF APPROVAL

1. Rights 74-361 and 74-362 when combined shall not exceed the irrigation of 211.7 acres.
2. Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 74Z.
3. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
4. This right when combined with all other rights shall provide no more than 3.5 afa per acre at the field headgate for irrigation of the place of use.
5. Stockwater use is for 200 head cattle.
6. The quantity of water under this right for stockwater use shall not exceed 13,000 gallons per day.

Transfer No. 84367

WATER RIGHT NO. 74-361
As Modified by Transfer No. 84367

CONDITIONS OF APPROVAL

7. The quantity of water decreed for this water right for stockwater use is not a determination of historical beneficial use.
8. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
9. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
10. Pursuant to Idaho Code § 42-1412(6), 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 determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

WATER RIGHT NO. 74-363
As Modified by Transfer No. 84367

In accordance with the approval of Transfer No. 84367, Water Right No. 74-363 is now described as follows:

Right Holder: BRUCE MC CONNELL OR
 GLENDA MC CONNELL
 100 COTTOM LN
 LEADORE, ID 83464

Priority Date: 5/12/1883

Source: LEE CREEK

Tributary: LEMHI RIVER

BENEFICIAL USE

IRRIGATION

From

3/15

To

to 11/15

Diversion Rate

1.000 cfs

1.000 cfs

LOCATION OF POINT(S) OF DIVERSION

LEE CREEK

NENE

Sec 30 Twp 16N Rge 25E LEMHI County

PLACE OF USE: IRRIGATION

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
16N	25E	9							3.1			34.7	8.3						46.1

POU Total Acres: 46.1

CONDITIONS OF APPROVAL

1. Rights 74-363 and 74-364 when combined shall not exceed the irrigation of 46.1 acres.
2. Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 74Z.
3. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
4. This right when combined with all other rights shall provide no more than 3.5 afa per acre at the field headgate for irrigation of the place of use.
5. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
6. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

Transfer No. 84367

WATER RIGHT NO. 74-363
As Modified by Transfer No. 84367

CONDITIONS OF APPROVAL

7. Pursuant to Idaho Code § 42-1412(6), 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 determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

WATER RIGHT NO. 74-364
As Modified by Transfer No. 84367

In accordance with the approval of Transfer No. 84367, Water Right No. 74-364 is now described as follows:

Right Holder: BRUCE MC CONNELL Or
 GLENDA MC CONNELL
 100 COTTOM LN
 LEADORE, ID 83464

Priority Date: 6/1/1900

Source: LEE CREEK

Tributary: LEMHI RIVER

BENEFICIAL USE

IRRIGATION

From

3/15

To

to 11/15

Diversion Rate

1,300 cfs

1,300 cfs

LOCATION OF POINT(S) OF DIVERSION

LEE CREEK NENE Sec 30 Twp 16N Rge 25E LEMHI County

PLACE OF USE: IRRIGATION

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
16N	25E	9							3.1				34.7	8.3					46.1

POU Total Acres: 46.1

CONDITIONS OF APPROVAL

1. Rights 74-363 and 74-364 when combined shall not exceed the irrigation of 46.1 acres.
2. Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 74Z.
3. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
4. This right when combined with all other rights shall provide no more than 3.5 afa per acre at the field headgate for irrigation of the place of use.
5. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
6. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

Transfer No. 84367

WATER RIGHT NO. 74-364
As Modified by Transfer No. 84367

CONDITIONS OF APPROVAL

7. Pursuant to Idaho Code § 42-1412(6), 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 determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

WATER RIGHT NO. 74-362**As Modified by Transfer No. 84367**

In accordance with the approval of Transfer No. 84367, Water Right No. 74-362 is now described as follows:

Right Holder: GLENDA MC CONNELL OR
BRUCE MC CONNELL
100 COTTOM LN
LEADORE, ID 83464

Priority Date: 5/1/1906

Source: LEE CREEK

Tributary: LEMHI RIVER

BENEFICIAL USE

IRRIGATION

From

3/15

To

to 11/15

Diversion Rate

4.100 cfs

4.100 cfs

LOCATION OF POINT(S) OF DIVERSION

LEE CREEK

NENE

Sec 30 Twp 16N Rge 25E LEMHI County

PLACE OF USE: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
16N	25E	8															34.0	35.0	69.0
16N	25E	17	9.0	39.8	26.9		40.0			27.0									142.7

POU Total Acres: 211.7

CONDITIONS OF APPROVAL

1. Rights 74-361 and 74-362 when combined shall not exceed the irrigation of 211.7 acres.
2. Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 74Z.
3. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
4. This right when combined with all other rights shall provide no more than 3.5 afa per acre at the field headgate for irrigation of the place of use.
5. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
6. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

Transfer No. 84367

WATER RIGHT NO. 74-362
As Modified by Transfer No. 84367

CONDITIONS OF APPROVAL

7. Pursuant to Idaho Code § 42-1412(6), 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 determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

WATER RIGHT NO. 74-365

As Modified by Transfer No. 84367

In accordance with the approval of Transfer No. 84367, Water Right No. 74-365 is now described as follows:

Right Holder: BRUCE MC CONNELL OR
GLEND A MC CONNELL
100 COTTOM LN
LEADORE, ID 83464

Priority Date: 5/12/1883

Source: LEE CREEK

Tributary: LEMHI RIVER

BENEFICIAL USE

IRRIGATION

From

3/15

To

to 11/15

Diversion Rate

1.200 cfs

1.200 cfs

LOCATION OF POINT(S) OF DIVERSION

LEE CREEK

NENE

Sec 30 Twp 16N Rge 25E LEMHI County

PLACE OF USE: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
16N	25E	9									14.5	6.3							20.8

POU Total Acres: 20.8

CONDITIONS OF APPROVAL

1. Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 74Z.
2. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
3. This right when combined with all other rights shall provide no more than 3.5 afa per acre at the field headgate for irrigation of the place of use.
4. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
5. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

Transfer No. 84367

WATER RIGHT NO. 74-365
As Modified by Transfer No. 84367

CONDITIONS OF APPROVAL

6. Pursuant to Idaho Code § 42-1412(6), 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 determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

WATER RIGHT NO. 74-367**As Modified by Transfer No. 84367**

In accordance with the approval of Transfer No. 84367, Water Right No. 74-367 is now described as follows:

Right Holder: BRUCE MC CONNELL OR
GLENDIA MC CONNELL
100 COTTOM LN
LEADORE, ID 83464

Priority Date: 5/12/1883

Source: LEE CREEK

Tributary: LEMHI RIVER

BENEFICIAL USE

IRRIGATION

From

3/15

To

to 11/15

Diversion Rate

0.600 cfs

0.600 cfs

LOCATION OF POINT(S) OF DIVERSION

LEE CREEK

NENE

Sec 30 Twp 16N Rge 25E LEMHI County

PLACE OF USE: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
16N	25E	17									8.8		40.0	28.2		5.7	13.8		96.5
16N	25E	18																38.4	38.4
16N	25E	19	26.3																26.3
16N	25E	20						40.0	39.1			28.5							107.6

POU Total Acres: 268.8

CONDITIONS OF APPROVAL

1. Rights 74-367 and 74-368 when combined shall not exceed the irrigation of 268.8 acres.
2. Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 74Z.
3. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
4. This right when combined with all other rights shall provide no more than 3.5 afa per acre at the field headgate for irrigation of the place of use.
5. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.

Transfer No. 84367

WATER RIGHT NO. 74-367
As Modified by Transfer No. 84367

CONDITIONS OF APPROVAL

6. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
7. Pursuant to Idaho Code § 42-1412(6), 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 determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

WATER RIGHT NO. 74-368
As Modified by Transfer No. 84367

In accordance with the approval of Transfer No. 84367, Water Right No. 74-368 is now described as follows:

Right Holder: BRUCE MC CONNELL OR
 GLENDA MC CONNELL
 100 COTTOM LN
 LEADORE, ID 83464

Priority Date: 11/5/1909

Source: LEE CREEK

Tributary: LEMHI RIVER

BENEFICIAL USE
 IRRIGATION

From 3/15 **To** 11/15

Diversion Rate
 5,800 cfs
 5,800 cfs

LOCATION OF POINT(S) OF DIVERSION

LEE CREEK NENE Sec 30 Twp 16N Rge 25E LEMHI County

PLACE OF USE: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
16N	25E	17									8.8		40.0	28.2		5.7	13.8		96.5
16N	25E	18																38.4	38.4
16N	25E	19	26.3																26.3
16N	25E	20						40.0	39.1			28.5							107.6

POU Total Acres: 268.8

CONDITIONS OF APPROVAL

1. Rights 74-367 and 74-368 when combined shall not exceed the irrigation of 268.8 acres.
2. Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 74Z.
3. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
4. This right when combined with all other rights shall provide no more than 3.5 afa per acre at the field headgate for irrigation of the place of use.
5. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.

Transfer No. 84367

WATER RIGHT NO. 74-368
As Modified by Transfer No. 84367

CONDITIONS OF APPROVAL

6. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
7. Pursuant to Idaho Code § 42-1412(6), 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 determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

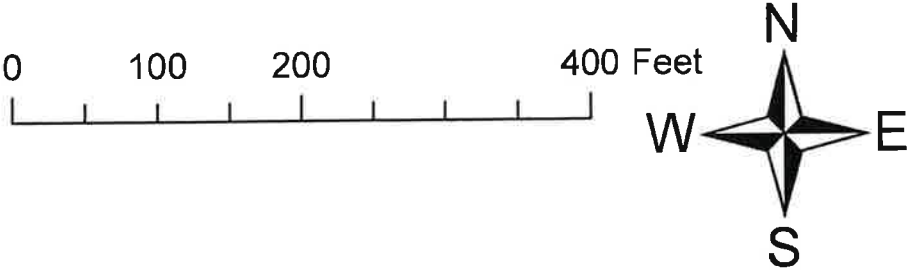
Attachment to Transfer Approval 84367

This map depicts the place of use boundary at the time of this transfer approval and is attached to the approval document solely for illustrative purposes.



Legend

- WR POD
- Township/Range
- Sections
- QQ



Date: 10/8/2020



State of 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

Website: idwr.idaho.gov • Email: easterninfo@idwr.idaho.gov

BRAD LITTLE
Governor

GARY SPACKMAN
Director

October 8, 2020

BRUCE MC CONNELL
GLENDA MC CONNELL
100 COTTOM LN
LEADORE ID 83464

Re: Transfer No: 84367

Water Right No(s): 74-361, 74-362, 74-363, 74-364, 74-365, 74-367, 74-368

Transfer Approval Notice

Dear Water Right Holder:

The Department of Water Resources has issued the enclosed approved Transfer of Water Right(s). Please be sure to thoroughly review the conditions of approval and remarks listed on the approval document.

The Transfer of Water Right(s) 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 the APPLICANT 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.

ANY PERSON aggrieved by any decision, determination, order or action 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 Department and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

If the transfer approval includes a condition requiring measuring and recording devices, such devices shall comply with specifications established by the Department. Detailed specifications are available on the Department's home page on the Internet, or you can request a copy by contacting any office of the Department. Please be sure to thoroughly review the specifications to avoid unnecessary costs for reinstallation or modification due to non-conforming or improperly installed devices.

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) 525-7161.

Sincerely,



Christina Henman
Administrative Assistant

Enclosure

CC:

CHRIS M BROMLEY
MC HUGH BROMLEY PLLC
380 S 4TH ST STE 103
BOISE ID 83702

CERTIFICATE OF SERVICE

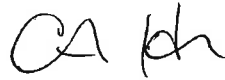
I hereby certify that on October 8, 2020 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (Approved Transfer) to the person(s) listed below:

Re: Transfer No.: 84367

Water Right No(s): 74-361, 74-362, 74-363, 74-364, 74-365, 74-367, 74-368

**BRUCE MC CONNELL
GLENDA MC CONNELL
100 COTTOM LN
LEADORE ID 83464**

**CHRIS M BROMLEY
MC HUGH BROMLEY PLLC
380 S 4TH ST STE 103
BOISE ID 83702**



**Christina Henman
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.

MEMORANDUM

Date: October 5, 2020
To: Transfer 84367
From: James Cefalo
Re: Review & Evaluation of Sufficiency of Information

This transfer proposes to change the point of diversion description for water rights 74-361, 74-362, 74-363, 74-364, 74-365, 74-367 and 74-368. These rights are diverted through the same headgate. The point of diversion currently listed on the water rights is located in the SENE of Section 30. The proposed point of diversion is located in the NENE of Section 30. Applicant argues that the point of diversion for the water rights was described incorrectly in the SRBA. The point of diversion listed in the SRBA partial decrees for the rights matches the description set forth in the Lemhi Decree. The map shape for the water rights is a centroid, suggesting that IDWR did not field verify the point of diversion during the SRBA. Earlier this summer, IDWR watermaster, Cindy Yenter, confirmed that the current (actual) point of diversion is located in the NENE of Section 30. There is no evidence that the point of diversion has been changed or moved since partial decrees were issued in the SRBA. This transfer will correct the legal description of the point of diversion, to list the NENE of Section 30.

Authority to File: Application was filed by Bruce and Glenda McConnell. McConnells are the owners of record for the water rights and are the owners of record for the existing places of use.

Water Right Validity: Water rights were decreed in 2014. Aerial photos show consistent irrigation of the respective places of use since 2014.

Injury to Other Water Rights: No issues identified. Applicant provided persuasive evidence that the SRBA points of diversion were in error. There will be no physical change to the point of diversion. Water has been diverted from the ditch headgate in the NENE of Section 30 since at least 2014.

Enlargement of Use: No issues identified. Combined limit conditions will be carried forward.

Local Public interest: No issues identified.

Beneficial Use/Conservation of Water Resources: No issues identified.

Review of the application finds there is no clear inconsistency with criteria set forth in Section 42-222 Idaho Code preventing processing of this application.

EXHIBIT

7

T.84441

exhibitstick.com

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT – POINT(S) OF DIVERSION

This form may be used to apply to change and/or add points of diversion for existing water rights and to report an ownership change for a water right(s) in connection with the proposed point of diversion change(s). Do not use this form to apply for changes to other elements of a water right. See the [Application for Transfer Instructions](#) for help completing this form and for mailing addresses of Department offices where your application can be submitted.

Check all that apply:

- ☐ Change diversion point(s) ☒ Add diversion point(s) ☐ Ownership change ☐ Ownership split
- ☐ Transfer is for changes pursuant to Idaho Code § 42-221.O.8. Attach an explanation and any supporting documentation.

1. **APPLICANT(S)** Bruce and Glenda McConnell Phone 208-768-2203

2. MAILING ADDRESS 100 Cotton Lane City Leadore
State Idaho Zip 83464 Email bar11ranch@hotmail.com

- ☐ If the applicant is not an individual and not registered to do business in the State of Idaho, attach documentation identifying officers authorized to sign for the applicant.
- ☐ If the applicant is not the current water right(s) owner, attach documentation of authority to file the application.
- ☐ If the application includes a change in ownership of water right(s), attach a copy of the conveyance document, such as a warranty deed, court decree, contract of sale, etc. The conveyance document must include a legal description of the property conveyed or description of the water right if no land is conveyed. Additional fee(s) are required for water right ownership changes; see Item 9 for the [fee schedule](#).

If the ownership change resulted in the water right(s) being split, how did the division occur? Mark one:

- ☐ The water rights or claims were divided as specifically identified in a deed, contract, or other conveyance document.
- ☐ The water rights or claims were divided proportionately based on the portion of their place(s) of use acquired by the new owner.
- ☐ If the application is not signed by the applicant, attach a Power of Attorney or other documentation providing authority to sign for the applicant.

3. LIST WATER RIGHT NUMBER(S) 74-361, 74-362, 74-363, 74-364, 74-365, 74-367, 74-368

- ☐ Attach a copy of the water right(s) as recorded, available at idwr.idaho.gov, *Water Right Transfers, Step 1*, or by contacting any Department office.

4. **TOTAL AMOUNT OF WATER** transferred is 15.2 cubic feet per second and/or acre-feet per annum.
(diversion rate) (storage volume)

5. **POINT OF DIVERSION** – Describe all the point(s) of diversion to be included on the water right(s) after the proposed change.

- ☐ Attach Eastern Snake Plain Aquifer (ESPA) analysis if this transfer proposes to change a point of diversion affecting the ESPA. ESPA analysis information is available at idwr.idaho.gov, *Water Rights, Water Right Transfers, Modeling Resources*.

[illegible]**EXHIBIT**

8

T 8444

6. GENERAL INFORMATION

- a. Describe the complete diversion system, including how you will accommodate a measuring device and lockable controlling works should they be required now or in the future:

Historic diversion from Lee Creek to property

- b. Who owns the property at the point(s) of diversion? Steven Johnson

If other than the applicant, describe the arrangement enabling the applicant to access the property for the diversion system:
Historic use

- c. To your knowledge, has/is any portion of the water right(s) proposed to be changed:

Yes No

- ☐ ☒ undergone a period of five or more consecutive years of non-use,
☐ ☒ currently used in a mitigation plan limiting the use of water under the right(s), or
☐ ☒ currently enrolled in a Federal set-aside program limiting the use of water under the right(s)?

If yes, describe:

- d. Is any portion of the water right(s) proposed to be changed currently leased to the Water Supply Bank? ☐ Yes ☒ No

- ☐ If yes and there are multiple owners, attach a [Lessor Designation](#) form.
☐ If yes, the individual owner or designated lessor must complete, sign and attach an [IRS Form W-9](#).
(Disregard if these items are on file and ownership has not changed.)

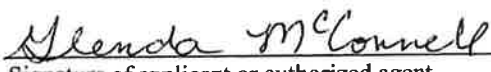
7. **MAP** – ☒ Attach a map of the diversion, measurement, control and distribution system. Include the place of use if a split of the water right occurred. Clearly label the map with township, range, section and ¼ ¼ of section information. You may create a map at idwr.idaho.gov, *Water Rights*, *Water Right Transfers*, *File a Transfer Application*, *Step 2C*.

8. **SIGNATURE** – The information in this application is true to the best of my knowledge. I understand any willful misrepresentations in this application may result in rejection of the application or cancellation of an approval.


Signature of applicant or authorized agent

Bruce McConnell
Print name and title if applicable

9-23-2020
Date


Signature of applicant or authorized agent

Glenda McConnell
Print name and title if applicable

9-23-2020
Date

9. **FEE** – ☒ The application filing fee provided in Idaho Code § 42-221.O, must be submitted with the application for transfer. Applications for changes pursuant to Idaho Code § 42-221.O.8. require a filing fee of \$50 per water right. All other application fees are based on the total amount of water proposed for transfer in Item 4: the larger fee for either cubic feet per second (diversion rate) or acre-feet per annum (storage volume). The [Fee Schedule](#) is available at www.idwr.idaho.gov, *Water Right Transfers*, *Step 4* and in the [Application for Transfer Instructions](#).

FOR DEPARTMENT USE ONLY

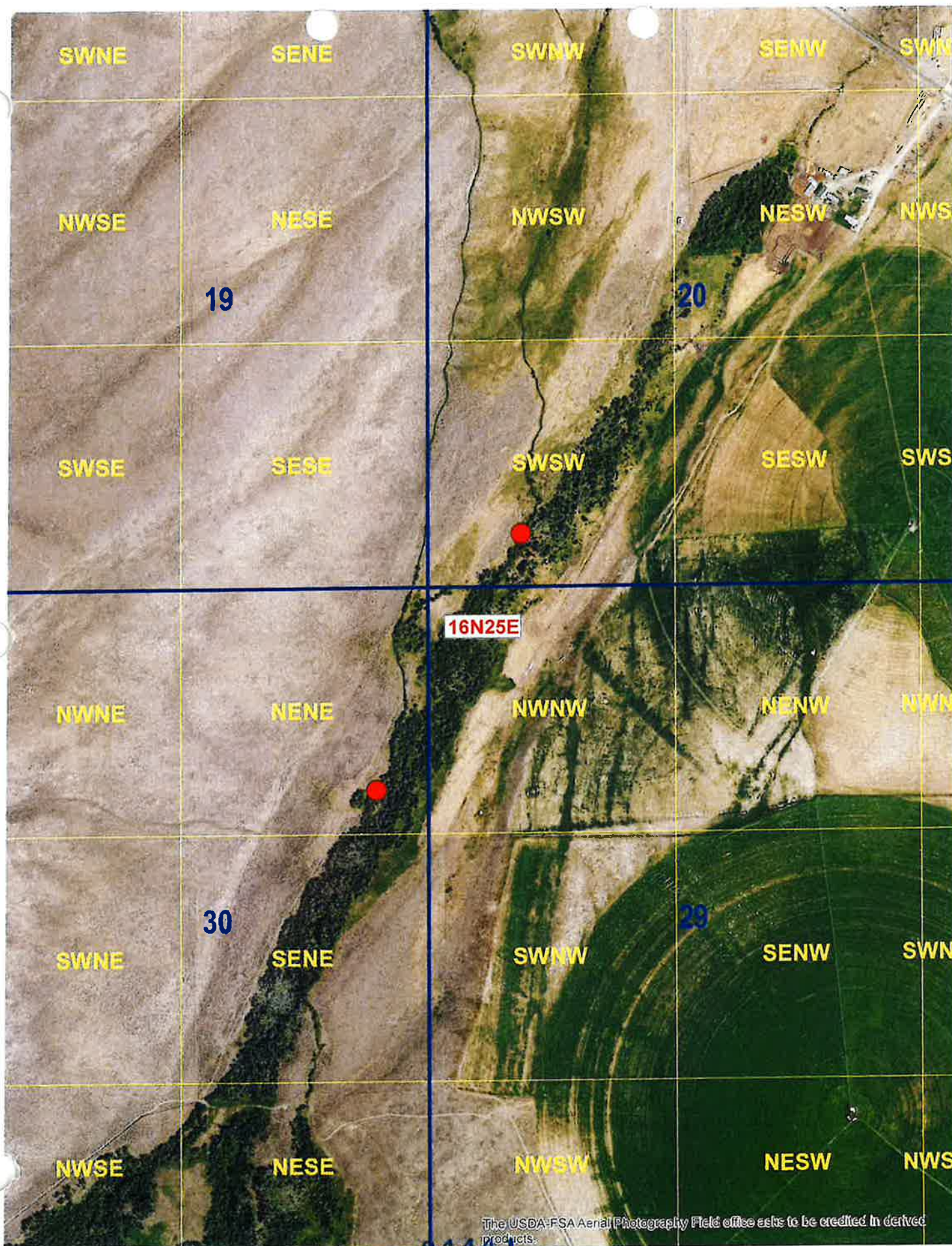
Transfer includes _____ pages of attachments. Received by _____ Date _____

Fee paid \$1,700.00 Date 10/5/2020 Received by Cx H Receipt # E046336

Preliminary review by _____ Date _____ Active in the Water Supply Bank? Yes ☐ No ☐

W-9 received? Yes ☐ No ☐ Name on W-9 _____ W-9 forwarded to fiscal? Yes ☐ No ☐

(Do NOT scan the W-9 – confidential information is held by fiscal only)



McHUGH BROMLEY
ATTORNEYS AT LAW, PLLC

cmchugh@mchughbromley.com
208-287-0991

380 S. 4th St., Ste. 103
Boise, ID 83702

9/29/2020

IDAHO DEPARTMENT OF WATER RESOURCES
JAMES CEFALO
900 N SKYLINE DR STE A
IDAHO FALLS ID 83402-1718

RE: McConnell

To Whom It May Concern:

Enclosed please find an Application for Transfer submitted on behalf of Bruce and Glenda McConnell.

I appreciate your attention to this matter; please call or email me with any questions.

Very Truly Yours,



Candice M. McHugh

Enclosures

84441



State of Idaho

DEPARTMENT OF WATER RESOURCES

EASTERN Region • 900 N SKYLINE DR STE A • IDAHO FALLS, ID 83402-1718
Phone: (208)525-7161 • Fax: (208)525-7177 • Website: www.idwr.idaho.gov

Brad Little
Governor

Gary Spackman
Director

October 21, 2020

BRUCE MC CONNELL
GLENDA MC CONNELL
100 COTTOM LN
LEADORE, ID 83464

RE: Transfer No. 84441
Water Right No(s). 74-361, 74-362, 74-363, 74-364, 74-365, 74-367, 74-368

Dear Applicant(s):

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

A legal notice of the application has been prepared and is scheduled for publication in the POST REGISTER on 10/28/2020 and 11/4/2020, and in the RECORDER HERALD, TIMES NEWS, IDAHO STATESMAN, and LEWISTON TRIBUNE on 10/29/2020 and 11/5/2020. 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 approval document.

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

Sincerely,

A handwritten signature in blue ink, appearing to read 'CH' or similar initials.

Christina Henman
Administrative Assistant

CC:
CHRIS M BROMLEY
MC HUGH BROMLEY PLLC
380 S 4TH ST STE 103
BOISE, ID 83702



State of Idaho

DEPARTMENT OF WATER RESOURCES

EASTERN Region • 900 N SKYLINE DR STE A • IDAHO FALLS, ID 83402-1718
Phone: (208)525-7161 • Fax: (208)525-7177 • Website: www.idwr.idaho.gov

Brad Little
Governor

Gary Spackman
Director

October 21, 2020

MERRITT UDY
PO BOX 145
LEADORE, ID 83464-0145

RE: Transfer No. 84441

Dear Watermaster:

The Idaho Department of Water Resources (IDWR) is seeking written comment and/or recommendations from you regarding the above referenced water right application. You can find a copy of the application at:

<https://idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx>. Please review the application, then complete the enclosed recommendation form and return it to this office within 21 days of the date of this letter.

If the application is approved, IDWR will include appropriate standard conditions of approval for a water right located within a water district, such as regulation by the watermaster, lockable controlling works, and/or measuring devices. Any special conditions or other concerns you have related to this application should be specifically addressed in your recommendation.

IDWR can finish reviewing an untested application as soon as the protest period has past. Your prompt response to this request will ensure that your recommendation can be considered. If IDWR has not received your written recommendation within 21 days from the date of this letter, IDWR will presume that you do not oppose approval of the application and that you have no comments for IDWR to consider.

Sincerely,

Christina Henman
Administrative Asst. I

Enclosure(s)

Henman, Christina

From: Henman, Christina
Sent: Wednesday, October 21, 2020 2:44 PM
To: POST REGISTER (legalnotices@postregister.com)
Subject: Legal Notice for Post Register
Attachments: 84441 Post Register.docx

LEGAL NOTICE DEPARTMENT
POST REGISTER
PO BOX 1800
IDAHO FALLS, ID 83403-1800

RE: Transfer No. 84441
Water Right No(s). 74-361, 74-362, 74-363, 74-364, 74-365, 74-367, 74-368

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 11/16/2020. Your cooperation is appreciated.

Thank You,

Christina Henman
Administrative Assistant
Idaho Dept. of Water Resources, Eastern Region
900 N Skyline Ste. A
Idaho Falls, ID 83402
Phone: (208) 497-3793

**NOTICE OF PROPOSED CHANGE OF WATER RIGHT
TRANSFER NO. 84441**

BRUCE MC CONNELL and GLENDA MC CONNELL, 100 COTTOM LN, LEADORE, ID 83464 has filed Application No. 84441 for changes to the following water rights within LEMHI County(s): Right No(s). 74-361, 74-362, 74-363, 74-364, 74-365, 74-367, 74-368; 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: add point of diversion. Proposed points of diversion are in SWSW Sec 20 T16N R25E (new) and NENE Sec 30 T16N R25E (existing) for 15.20 cfs from Lee Creek.

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 11/16/2020. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Published on 10/28/2020 and 11/4/2020

Henman, Christina

From: Henman, Christina
Sent: Wednesday, October 21, 2020 2:45 PM
To: LEWISTON MORNING TRIBUNE (legals@lmtribune.com)
Subject: Legal Notice for Lewiston Tribune
Attachments: 84441 RH, TN, IS, LT.docx

LEGAL NOTICE DEPARTMENT
LEWISTON TRIBUNE
505 C ST
PO BOX 957
LEWISTON, ID 83501

RE: Transfer No. 84441
Water Right No(s). 74-361, 74-362, 74-363, 74-364, 74-365, 74-367, 74-368

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 11/16/2020. Your cooperation is appreciated.

Thank You,

Christina Henman
Administrative Assistant
Idaho Dept. of Water Resources, Eastern Region
900 N Skyline Ste. A
Idaho Falls, ID 83402
Phone: (208) 497-3793

Henman, Christina

From: Henman, Christina
Sent: Wednesday, October 21, 2020 2:45 PM
To: IDAHO STATESMAN (legals@idahostatesman.com)
Subject: Legal Notice for Idaho Statesman
Attachments: 84441 RH, TN, IS, LT.docx

LEGAL NOTICE DEPARTMENT
IDAHO STATESMAN
PO BOX 40
BOISE, ID 83707

RE: Transfer No. 84441
Water Right No(s). 74-361, 74-362, 74-363, 74-364, 74-365, 74-367, 74-368

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 11/16/2020. Your cooperation is appreciated.

Thank You,

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Administrative Assistant
Idaho Dept. of Water Resources, Eastern Region
900 N Skyline Ste. A
Idaho Falls, ID 83402
Phone: (208) 497-3793

Henman, Christina

From: Henman, Christina
Sent: Wednesday, October 21, 2020 2:45 PM
To: TIMES NEWS (legals@magicvalley.com)
Subject: Legal Notice for Times News
Attachments: 84441 RH, TN, IS, LT.docx

LEGAL NOTICE DEPARTMENT
TIMES NEWS
PO BOX 548
TWIN FALLS, ID 83303-0548

RE: Transfer No. 84441
Water Right No(s). 74-361, 74-362, 74-363, 74-364, 74-365, 74-367, 74-368

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 11/16/2020. Your cooperation is appreciated.

Thank You,

Christina Henman
Administrative Assistant
Idaho Dept. of Water Resources, Eastern Region
900 N Skyline Ste. A
Idaho Falls, ID 83402
Phone: (208) 497-3793

Henman, Christina

From: Henman, Christina
Sent: Wednesday, October 21, 2020 2:44 PM
To: RECORDER HERALD (Rhlegals@custertel.net)
Subject: Legal Notice for Recorder Herald
Attachments: 84441 RH, TN, IS, LT.docx

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

RE: Transfer No. 84441
Water Right No(s). 74-361, 74-362, 74-363, 74-364, 74-365, 74-367, 74-368

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 11/16/2020. Your cooperation is appreciated.

Thank You,

Christina Henman
Administrative Assistant
Idaho Dept. of Water Resources, Eastern Region
900 N Skyline Ste. A
Idaho Falls, ID 83402
Phone: (208) 497-3793

**NOTICE OF PROPOSED CHANGE OF WATER RIGHT
TRANSFER NO. 84441**

BRUCE MC CONNELL and GLENDA MC CONNELL, 100 COTTOM LN, LEADORE, ID 83464 has filed Application No. 84441 for changes to the following water rights within LEMHI County(s): Right No(s). 74-361, 74-362, 74-363, 74-364, 74-365, 74-367, 74-368; 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: add point of diversion. Proposed points of diversion are in SWSW Sec 20 T16N R25E (new) and NENE Sec 30 T16N R25E (existing) for 15.20 cfs from Lee Creek.

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 11/16/2020. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Published on 10/29/2020 and 11/5/2020

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

AMENDED

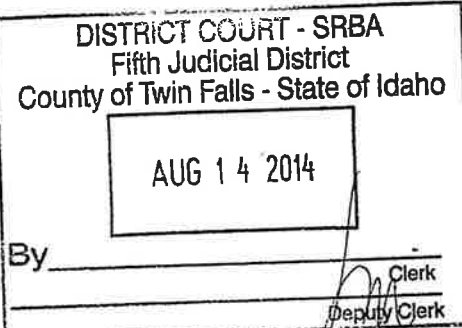
In Re SRBA)
)
Case No. 39576)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 74-00361

NAME AND ADDRESS: BRUCE MC CONNELL
GLENDIA MC CONNELL
100 COTTON LANE
LEADORE, ID 83464

SOURCE: LEE CREEK TRIBUTARY: LEMHI RIVER

QUANTITY: 1.20 CFS



The quantity of water under this right for stockwater use shall
not exceed 13,000 gallons per day.

PRIORITY DATE: 05/12/1883

POINT OF DIVERSION: T16N R25E S30 SENE Within Lemhi County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	1.18 CFS
	Stockwater	01-01 TO 12-31	0.02 CFS

PLACE OF USE:	Irrigation	Within Lemhi County
	T16N R25E S08	SESE 35.0
	S17	NENE 9.0
		SWNE 26.9
		NENW 40.0
		SENE 27.0

211.7 Acres Total

Stockwater	Within Lemhi County
Same as Irrigation	

Right Nos. 74-361 and 74-362 are limited to the irrigation of a
combined total of 211.7 acres in a single irrigation season.

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

The quantity of water decreed for this water right for stockwater
use is not a determination of historical beneficial use.

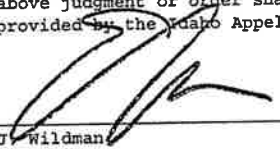
THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS
NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT
ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY
DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE
ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

RECEIVED
AUG 15 2014
DEPARTMENT OF
WATER RESOURCES



RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.


Eric J. Wildman
Presiding Judge of the
Snake River Basin Adjudication

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

Case No. 39576

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR

Water Right 74-00362

NAME AND ADDRESS: BRUCE MC CONNELL
GLENDIA MC CONNELL
100 COTTON LANE
LEADORE, ID 83464

SOURCE: LEE CREEK TRIBUTARY: LEMHI RIVER

QUANTITY: 4.10 CFS

PRIORITY DATE: 05/01/1906

POINT OF DIVERSION: T16N R25E S30 SENE Within Lemhi County

PURPOSE AND PERIOD OF USE: PURPOSE OF USE PERIOD OF USE QUANTITY
Irrigation 03-15 TO 11-15 4.10 CFS

PLACE OF USE: Irrigation Within Lemhi County
T16N R25E S08 SESE 34.0 SESE 35.0
S17 NENE 9.0 NWNE 39.8
SWNE 26.9 NENW 40.0
SENE 27.0
211.7 Acres Total

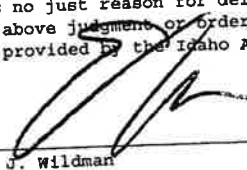
Right Nos. 74-361 and 74-362 are limited to the irrigation of a combined total of 211.7 acres in a single irrigation season.

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. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.


Eric J. Wildman
Presiding Judge of the
Snake River Basin Adjudication

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)

Case No. 39576)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR

Water Right 74-00364

NAME AND ADDRESS: BRUCE MC CONNELL
GLENDIA MC CONNELL
100 COTTOM LANE
LEADORE, ID 83464

SOURCE: LEE CREEK TRIBUTARY: LEMHI RIVER

QUANTITY: 1.30 CFS

PRIORITY DATE: 06/01/1900

POINT OF DIVERSION: T16N R25E S30 SENE Within Lemhi County

PURPOSE AND PERIOD OF USE: PURPOSE OF USE PERIOD OF USE QUANTITY
Irrigation 03-15 TO 11-15 1.30 CFS

PLACE OF USE: Irrigation Within Lemhi County
T16N R25E S09 SWNW 3.1 NWSW 34.7
SWSW 8.3
46.1 Acres Total

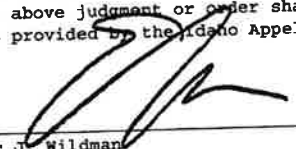
Right Nos. 74-363 and 74-364 are limited to the irrigation of a
combined total of 46.1 acres in a single irrigation season.

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. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

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with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a
final judgment and that the court has and does hereby direct that the above judgment or order shall be a final
judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.


Eric J. Wildman
Presiding Judge of the
Snake River Basin Adjudication

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

Case No. 39576

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR

Water Right 74-00365

NAME AND ADDRESS:

BRUCE MC CONNELL
GLENDA MC CONNELL
100 COTTON LANE
LEADORE, ID 83464

SOURCE:

LEE CREEK TRIBUTARY: LEMHI RIVER

QUANTITY:

1.20 CFS

PRIORITY DATE:

05/12/1983

POINT OF DIVERSION:

T16N R25E S30

SENE Within Lemhi County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE
Irrigation

PERIOD OF USE
03-15 TO 11-15

QUANTITY
1.20 CFS

PLACE OF USE:

Irrigation
T16N R25E S09
20.8 Acres Total

SENW 14.5

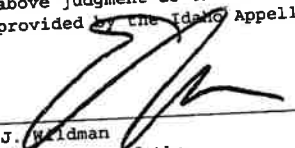
Within Lemhi County
NESW 6.3

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. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.


Eric J. Waldman
Presiding Judge of the
Snake River Basin Adjudication

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)

Case No. 39576)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR

Water Right 74-00367

NAME AND ADDRESS: BRUCE MC CONNELL
GLENDA MC CONNELL
100 COTTON LANE
LEADORE, ID 83464

SOURCE: LEE CREEK TRIBUTARY: LEMHI RIVER

QUANTITY: 0.60 CFS

PRIORITY DATE: 05/12/1883

POINT OF DIVERSION: T16N R25E S30 SENE Within Lemhi County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	0.60 CFS

PLACE OF USE:	Irrigation		Within Lemhi County
	T16N R25E S17	NESW 8.8	SWSW 40.0
		SESW 28.2	NWSE 5.7
		SWSE 13.8	
	S18	SESE 38.4	
	S19	NENE 26.3	
	S20	NWNW 40.0	SWNW 39.1
		NWSW 28.5	
	268.8 Acres Total		

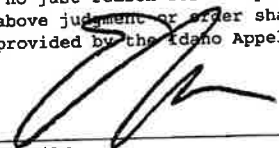
Right Nos. 74-367 and 74-368 are limited to the irrigation of a
combined total of 268.8 acres in a single irrigation season.

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. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

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final judgment and that the court has and does hereby direct that the above judgment or order shall be a final
judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.


Eric J. Wildman
Presiding Judge of the
Snake River Basin Adjudication

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

Case No. 39576

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR

Water Right 74-00368

NAME AND ADDRESS:

BRUCE MC CONNELL
GLENDA MC CONNELL
100 COTTOM LANE
LEADORE, ID 83464

SOURCE:

LEE CREEK TRIBUTARY: LEMHI RIVER

QUANTITY:

5.80 CFS

PRIORITY DATE:

11/05/1909

POINT OF DIVERSION:

T16N R25E S30

SENE Within Lemhi County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE
Irrigation

PERIOD OF USE
03-15 TO 11-15

QUANTITY
5.80 CFS

PLACE OF USE:

Irrigation
T16N R25E S17

NESW 8.8
SESW 28.2
SWSE 13.8
SESE 38.4
NENE 26.3
NWNW 40.0
NWSW 28.5

Within Lemhi County
SWSW 40.0
NWSE 5.7

S18

S19

S20

SWNW 39.1

268.8 Acres Total

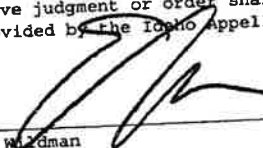
Right Nos. 74-367 and 74-368 are limited to the irrigation of a
combined total of 268.8 acres in a single irrigation season.

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. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

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final judgment and that the court has and does hereby direct that the above judgment or order shall be a final
judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.


Eric J. Waldman
Presiding Judge of the
Snake River Basin Adjudication

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

DISTRICT COURT - SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho

In Re SRBA
Case No. 39576

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR

Water Right 74-01075

NOV 19 2014

By

Clerk
Deputy Clerk

NAME AND ADDRESS: BRUCE MC CONNELL
GLENDA MC CONNELL
100 COTTON LN
LEADORE, ID 83464

SOURCE: SPRINGS TRIBUTARY: LEE CREEK

QUANTITY: 0.02 CFS

The quantity of water under this right shall not exceed 13,000
gallons per day.

PRIORITY DATE: 04/01/1913

POINT OF DIVERSION: T16N R25E S09 SWNE Within Lemhi County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Stockwater	01-01 TO 12-31	0.02 CFS
	Domestic	01-01 TO 12-31	0.02 CFS

Domestic use is for 1 home.

PLACE OF USE:	Stockwater		Within Lemhi County
	T16N R25E S09	NWNE SENE	SWNE
	Domestic		Within Lemhi County
	T16N R25E S09	SENE	

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. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

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Eric J. Wildman
Presiding Judge of the
Snake River Basin Adjudication

Henman, Christina

From: Yenter, Cindy
Sent: Tuesday, November 24, 2020 10:48 AM
To: Henman, Christina
Cc: Cefalo, James
Subject: McConnell transfer 84441

The second diversion proposed by applicant has been in use for at least several decades, as evidenced by aerial images and even the USGS topo map. The diversion was not included in the Lemhi Decree or in the SRBA partial decrees for the McConnell rights. This does not justify approval of the transfer. However, protestants upstream on Stroud Creek seem to be well aware of the ongoing use of the unauthorized diversion but were not concerned about it until McConnell made calls for water during 2020.

The downstream McConnell rights are among the most senior in the Lee Creek basin, and McConnell may call for up to 14 cfs of natural flow, until flows are not sufficient to fill 1883 priority rights. At that time, McConnell 1883 rights are subordinated to upstream 1883 right nos 74-369 and 74-370 on Left Fork Lee Creek (aka Stroud Creek). Past WD74Z watermasters have reported that delivering a full 14 cfs to McConnell has not been possible even during high flow when there is sufficient water in upper Stroud Creek that should be flowing down to Lee Creek. An investigation by WD170 over the summer of 2020 revealed that certain waters tributary to Stroud and Lee Creek were being diverted out of priority and diversions were not controlled, measured, or appropriately administered. Efforts by WD170 and IDWR to correct this resulted in a complaint about the McConnell unauthorized diversion, and ultimately a futile call by upstream water users based on the assertion that Stroud Creek is tributary to Lee creek below the lower McConnell diversion, rather than above both diversions as indicated by topographic flow lines.

I am not convinced that the lower McConnell diversion is below the historic confluence of Stroud Creek and Lee Creek. The lower diversion is below the confirmed confluence of an unidentified stream and Lee Creek. The undefined stream enters Lee Creek from the south and seems to be coming out of the Stroud Creek drainage, but does not appear to be the historic channel of Stroud Creek. Rather, it could be a side channel that developed over time and is presently conveying most of the water from Stroud Creek. The historic channel could not be definitively located. Viewed as a natural hydrologic change, the altered flow path of Stroud Creek does have the potential to affect administration of Lee and Stroud Ck water rights under the principal of futile call. However, futile call was not conclusively determined during the 2020 irrigation season, and certain upstream diversions remain out of compliance with control and measurement requirements.

WD170 does not object to the approval of this transfer adding a point of diversion. Both the existing and new POD are required to be controlled and measured pursuant to the Basin 74 measurement order. With adequate watermaster control, the diversions will be able to be appropriately administered by the watermaster of WD74Z to satisfy any transfer conditions of approval, and to protect existing diversions on Stroud and Lee Creeks.

WD Flag = 74Z

*Cindy Yenter
Watermaster, Water District 170
IDWR Salmon Field Office
102 S Warpath, Salmon ID 83467
cindy.yenter@idwr.idaho.gov
208-742-0655
208-731-0901 cell*



S F A T E J F I D A M J
DEPARTMENT OF WATER RESOURCES
WATER RIGHTS ABSTRACT

WHD416

05/04/93

TRIBUTARY TO: LEE CREEK

SOURCE: SPRINGS

INDICATES TOTAL

RIGHT NUMBER	NAME AND ADDRESS	PRIORITY DATE	USE FROM TO	MAX AMOUNT MAX RATE	DIVERSION POINT	PLACE OF USE AND ACREAGE	BASIS FOR RIGHT

74-1665 MAHAFFEY, TAYLOR 12-22-1903 IRRIGATION 03-15 11-15 SWSE S04 S4NE(02) NESW(03) DECREE
MAHAFFEY, JESSIE W. .54 CFS T16N R25E N4SE(23)
P.O. BOX 36 ID 83467 S04 T16N R25E

LEWIS
REMARKS: AC. IRR.=27.

74-1075 ARAVE, PARLEY A. 04-01-1913 DOMESTIC 01-01 12-31 SWNE S09 S4VE DECREE
HEWING, ROBERT T. .02 CFS T16N R25E S09 T16N R25E
P.O. BOX 1 ID 83467

LEWIS

74-0157 WHITTAKER, FLOYD J. 04-01-1916 IRRIGATION 03-15 11-15 NENE S31 NENW(37) N4NW(33) DECREE
P.O. BOX 177 ID 83464 S32 T16N R25E
LEADORE S4N4 S32 S4NE(40) S4NW(33)
T16N R25E NESW(40) SWSW(16)
SESW(39) N4SW(13)
SESW(40)
S29 T16N R25E

REMARKS: AC. IRR.= 291.7.

STOCKWATER 01-01 12-31

.02 CFS

---+AFA
3.20+CFS

*
*

SAVE AS OTHER USE

* 291 ACRES*

EXHIBIT

11

T.84441

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: 74-00157
DATE RECEIVED: 5-2-90/91
RECEIPT NO: X999999/80
RECEIVED BY: -----

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. NAME: FLOYD J. WHITTAKER
ADDRESS: P.O. BOX 177
LEADORE, ID

83464

2. DATE OF PRIORITY: APR 01, 1916

3. SOURCE: SPRINGS

TRIB. TO: LEE CREEK

4. POINT OF DIVERSION:

TOWNSHIP	RANGE	SECTION	1/4 OF	1/4 OF	1/4	LOT	COUNTY
16N	25E	31		NE	NE		LEMHI
		32		SW	NW		LEMHI

5. DESCRIPTION OF DIVERTING WORKS:

6. WATER IS USED FOR THE FOLLOWING PURPOSES:

PURPOSE	FROM	TO	C.F.S.	(OR)	A.F.A.
IRRIGATION	03/15	11/15	3.200		
STOCKWATER	01/01	12/31	0.020		

7. TOTAL QUANTITY APPROPRIATED IS:
3.200 C.F.S. (AND/OR)

A.F.A.

8. TOTAL CONSUMPTIVE USE IS

ACRE FEET PER ANNUM.

9. NON-IRRIGATION USES:

10. PLACE OF USE:

TOWNSHIP	RANGE	SECTION	1/4 OF	1/4	LOT	USE	ACRES
16N	25E	29	SW	NE		IRR	40.0
			SW	NW		IRR	33.0

74-00157

PAGE 1

DATE: 02/08/90

385

MICROFILMED

DEC 14 1992

EXHIBIT

12

T.84441



10. PLACE OF USE: CONTINUED

TOWNSHIP	RANGE	SECTION	1/4 OF 1/4	LOT	USE	ACRES
16N	25E	29	SE	NW	IRR	39.0
			NE	SW	IRR	40.0
			NW	SW	IRR	13.0
			SW	SW	IRR	16.0
			SE	SW	IRR	40.0
			SECTION		ACRES	221.0
		32	NE	NW	IRR	37.0
			NW	NW	IRR	33.0
			SECTION		ACRES	70.0
			TOTAL		ACRES	291.0

11. PLACE OF USE IN COUNTIES: LEMHI, LEMHI

12. DO YOU OWN THE PROPERTY LISTED ABOVE AS PLACE OF USE? YES

13. OTHER WATER RIGHTS USED:

14. REMARKS:

AC. IRR.= 291.7.

15. BASIS OF CLAIM: DECREE

CASE NUMBER:

COURT :

DECREE DATE:

DECREE PLAINTIFF

VS

DECREE DEFENDANT

16. SIGNATURE(S)

(A.) BY SIGNING BELOW, I/WE ACKNOWLEDGE THAT I/WE HAVE RECEIVED, READ AND UNDERSTAND THE FORM ENTITLED "HOW YOU WILL RECEIVE NOTICE IN THE SNAKE RIVER BASIN ADJUDICATION." (B.) I/WE DO ____ DO NOT ☒ WISH TO RECEIVE AND PAY A SMALL ANNUAL FEE FOR MONTHLY COPIES OF THE DOCKET SHEET.

NUMBER OF ATTACHMENTS: ✓

FOR INDIVIDUALS:

I/WE DO SOLEMNLY SWEAR OR AFFIRM THAT THE STATEMENTS CONTAINED IN THE FOREGOING DOCUMENT ARE TRUE AND CORRECT.

SIGNATURE OF CLAIMANT(S): James W. Whitaker DATE: 5/1/90

DATE: _____

FOR ORGANIZATIONS:

I DO SOLEMNLY SWEAR OR AFFIRM THAT I AM _____ OF

TITLE
_____, THAT I HAVE SIGNED THE FOREGOING
ORGANIZATION
DOCUMENT IN THE SPACE BELOW AS _____ OF

TITLE
_____ AND THAT THE STATEMENTS CONTAINED IN THE
ORGANIZATION
FOREGOING DOCUMENT ARE TRUE AND CORRECT.

SIGNATURE OF AUTHORIZED AGENT

TITLE AND ORGANIZATION

DATE

STATE OF IDAHO)
COUNTY OF Donnerville) SS.

SUBSCRIBED AND SWORN (OR AFFIRMED) BEFORE ME THIS 1st DAY
OF May 19 90

John A. Felt
NOTARY PUBLIC

SEAL

RESIDING AT Clark Fork, Idaho

MY COMMISSION EXPIRES 2/13/95
DATE: 02/08/90

74-00157

PAGE 3

MICROFILMED

DEC 14 1992

NOTICE OF ERROR
REPLY

05/05/2004
RECEIVED
MAY 27 2004

Department of Water Resources

Please type or print clearly, fill out this form completely and mail.

Return this reply form to IDWR by the deadline date printed below if you want IDWR to change your recommendation or you want to let IDWR know that you agree with its recommendation.

YOUR DEADLINE FOR RETURNING A NOTICE OF ERROR REPLY IS: May 21, 2004

Water right number: 74-157

PAULA J WHITTAKER
TWO DOT RANCH
PO BOX 240
LEADORE ID 83464
Telephone Number: (208)768-2491

F JAMES WHITTAKER
TWO DOT RANCH
PO BOX 240
LEADORE ID 83464
Telephone Number: (208)768-2491

1. Describe the portion of the proposed recommendation with which you disagree (e.g. priority date, period of use, source):
2. Describe the changes you wish to make in the proposed recommendation:
3. Give a brief explanation as to why you disagree with these portions:

☒ I AGREE with this proposed recommendation: no changes need to be made.

DATE:

5/17/04

SIGNATURE:

James Whittaker

Please print your name:

JAMES WHITTAKER

IDWR State Office, 1301 N Orchard St, Boise, ID 83706, 208-327-7925

EXHIBIT

13

T.84441

whittaker.com

2012 APR 03 PM 02:00
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED _____

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

RECEIVED

APR 04 2012

DEPARTMENT OF
WATER RESOURCES

In Re SRBA
Case No. 39576

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 74-00157

NAME AND ADDRESS: F JAMES WHITTAKER
PAULA J WHITTAKER
PO BOX 240
LEADORE, ID 83464

SOURCE: SPRINGS TRIBUTARY: LEE CREEK

QUANTITY: 3.20 CFS

PRIORITY DATE: 04/01/1916

POINT OF DIVERSION: T16N R25E S31 NENE Within Lemhi County
S32 SWNW

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	3.20 CFS
	Stockwater	01-01 TO 12-31	0.02 CFS

PLACE OF USE:	Irrigation	Within Lemhi County
	T16N R25E S29	SWNE 40.0 SWNW 33.0 SENE 39.0 NENE 40.0 NWSW 13.0 SWSW 16.0 SESW 40.0 NENW 37.0 NWNW 33.0
	S32	
	291.0 Acres Total	

Stockwater Within Lemhi County
Same as Irrigation

This right authorizes the irrigation of 291.7 total acres.

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. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

Eric J. Wildman
Presiding Judge of the
Snake River Basin Adjudication

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No. 84508

MINIMUM REQUIREMENTS CHECKLIST
TO BE SUBMITTED WITH APPLICATION FOR TRANSFER

RECEIVED

NOV 06 2020

An application for transfer must be prepared in accordance with the minimum requirements listed below to be acceptable for processing by the Department. Incomplete applications will be returned. The instructions, fee schedule, Part 2A reports and additional Part 2B forms are available from any Department office or on the Department's website at idwr.idaho.gov.

Name of Applicant(s) James Whittaker and Paula Whittaker

Check whether each item below is attached (Yes) or not applicable (N/A) for the proposed transfer.

Yes N/A * Means the item is always required and must be included with the application.

- ☒ * Completed Application for Transfer of Water Right form, Part 1.
- ☐ * Signature of applicant(s) or applicant's authorized representative on Application for Transfer Part 1. Include evidence of authority labeled Attachment #3 (see below) if signed by representative.
- ☒ * Application for Transfer Part 2A. Attach a Part 2A report describing each water right in the transfer as currently recorded.
- ☐ ☒ Complete and attach an Application for Transfer Part 2B for each water right for which only a portion is proposed to be changed through this transfer application.
- ☒ * Application for Transfer Part 3A is always required (see Attachment #7a below); Parts 3B and 3C must be completed for transfer applications proposing to change the nature of use of the water right(s) or proposing changes to supplemental right(s).
- ☒ * Correct fee submitted with transfer application form. (Fee schedule is on website and instructions for application for transfer.)

Attachments to Application - Label each attachment with the corresponding number shown below as Attachment #1-10.

- ☐ ☒ #1 If the applicant is a business, partnership, organization, or association, and not currently registered in the State of Idaho as a business entity, attach documentation identifying officers authorized to sign or act on behalf of right holder. (See Part 1.)
- ☐ ☒ #2a Water Right ownership documentation if Dept. records do not show the applicant as the current water right owner. **
- ☐ ☒ #2b If the ownership of the water right will change as a result of the proposed transfer to a new place of use, attach documentation showing land and water right ownership at the new place of use. Include documentation for all affected land and owner(s). **
** Additional fee(s) required for water right ownership changes; see fee schedule.
- ☐ ☒ #3 Documentation of authority to make the change if the applicant is not the water right owner.
- ☐ ☒ #4 Power of Attorney or documentation providing authority to sign or act on the applicant's behalf. (See Part 1.)
- ☐ ☒ #5 If the transfer application proposes to change the point of diversion for a water right affecting the Eastern Snake Plain Aquifer (ESPA), attach the results of an ESPA analysis and a detailed mitigation plan to offset any depletions to hydraulically connected reaches of the Snake River. ESPA transfer spreadsheet and model grid labeled cells are available on the Department's website at idwr.idaho.gov/water-rights/transfers/resources.html.
- ☐ ☒ #6 Notarized statement of agreement or a statement on official letterhead signed by an authorized representative from each lien holder or other entity with financial interest in the water right(s) or land affected by the proposed transfer. (See Part 1.5.c.)
- ☒ * #7a Attach a map identifying the proposed point(s) of diversion, place(s) of use, and water diversion and distribution system details as described on the application. Include legal description labels. If only a portion of the right is proposed to be changed, identify the current location of the part of the existing right(s) proposed to be changed. (See Part 3A.)
- ☐ ☒ #7b If the transfer application proposes to change the place or purpose of use of an irrigation right attach a Geographic Information System (GIS) shape file, or an aerial photo or other image clearly delineating the location and extent of existing acres and changes to the place of use. If some or all of any right is leased to the Water Supply Bank, you must also show the specific location and/or acres to be idled at the new, proposed place of use to satisfy lease requirements.
- ☐ ☒ #8a If the transfer application proposes to change the nature of use or period of use for one or more rights, provide documentation describing the extent of historic beneficial use for the water rights proposed to be transferred and document how enlargement will be avoided. (See Part 3B.) Additional fee required for proposed changes to nature of use; see fee schedule.
- ☐ ☒ #8b If the transfer application proposes to change the place of use of a supplemental irrigation right, provide documentation regarding the historic use of the supplemental right(s) and availability or reliability of the primary right(s) being supplemented, both before and after the proposed change. (See Part 3C.)
- ☐ ☒ #9 Water Supply Bank information for all rights proposed for transfer and currently leased to the Bank. (Attachment WSB)
- ☐ ☒ #10 Other. Please describe: _____

EXHIBIT

15

T.84441

whittaker.com

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1**

Name of Applicant(s) James Whittaker and Paula Whittaker Phone 2087682491
Mailing address PO BOX 240 LEADORE, ID 83464 Email _____

- ☐ If applicant is not an individual and not registered to do business in the State of Idaho, attach documentation identifying officers authorized to sign or act on behalf of the applicant. Label it **Attachment #1**.
- ☐ Attach water right ownership documentation if Department records do not show the transfer applicant as the current water right owner. Label it **Attachment #2a**.
- ☐ If the ownership of the water right will change as a result of the proposed transfer to a new place of use, attach documentation showing land and water right ownership at the new place of use. Include documentation for all affected land and owner(s). Label it **Attachment #2b**.
- ☐ Attach documentation of authority to make the proposed change if the applicant is not the water right owner. Label it **Attachment #3**.

Provide contact information below if a consultant, attorney, or any other person is representing the applicant in this transfer process.

☐ No Representative

Name of Representative Rob Harris Phone (208) 523-0620
Mailing address P.O. Box 50130 Idaho Falls, ID 83405 Email rharris@holdenlegal.com

☐ 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.

☒ 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 providing authority to sign for the applicant and label it **Attachment #4**.

I hereby assert that no one will be injured by the proposed changes and that the proposed changes do not constitute an enlargement in use of the original right(s). 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.

Robert L. Harris
Signature of Applicant or Authorized Representative

ROBERT L. HARRIS, ATTORNEY
Print Name and Title if applicable

Nov. 5, 2020
Date

Signature of Applicant or Authorized Representative

Print Name and Title if applicable

Date

A. PURPOSE OF TRANSFER

1. ☐ Change point of diversion ☐ Add diversion point(s) ☐ Change place of use
☐ Change nature of use ☐ Change period of use ☒ Other Correct Tributary

2. Is this a transfer for changes pursuant to Idaho Code § 42-221.0.3?
If yes, ☐ attach an explanation and any supporting documentation labeled as **Part 1A.2**.

3. Describe your proposal in narrative form, including a detailed description of non-irrigation uses to justify amounts transferred (i.e. number of stock, etc.), and provide additional explanation of any other items on the application. Attach additional pages if necessary and label it **Part 1A.3**.

This transfer proposes to update the identified tributary. This water right utilizes water from the identified source of Springs to extinction. The source, Springs does not naturally flow into a tributary water stream. No change to the PODs, diversion rate, stock water amounts or irrigation acres will be changing with this transfer.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1 Continued

B. DESCRIPTION OF RIGHTS AFTER THE REQUESTED CHANGES. IF THE RIGHTS ARE BEING SPLIT, DESCRIBE PORTIONS TO BE CHANGED AS THEY WOULD APPEAR AFTER THE REQUESTED CHANGES.

1.	Right Number	Amount (cfs/ac-ft)	Nature of Use	Period of Use	Source & Tributary
All or Part ☒ ☐	74-157	3.2/	Irrigation	3/15 to 11/15	Springs
☐ ☐		0.02/	Stockwater	1/01 to 12/31	Springs
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	

Total authorized under rights 3.2 cfs and/or _____ acre-feet.

2. Total amount of water proposed to be transferred or changed 3.2 cubic feet per second and/or _____ acre-feet per year.

3. Point(s) of Diversion:

- ☒ No changes to point(s) of diversion are proposed - the following chart is therefore not completed. (Proceed to #4.)
☐ Attach Eastern Snake Plain Aquifer analysis if this transfer proposes to change a point of diversion affecting the ESPA.
 Label it **Attachment #5**.

New ?	Lot	¼	¼	¼	Sec	Twp	Rge	County	Source	Local name or tag #

4. Place of use: (If irrigation, identify with number of acres irrigated per ¼ ¼ tract.)

- ☒ No changes to place of use are proposed - the following chart is therefore not completed. (Proceed to #5.)

Twp	Rge	Sec	NE ¼				NW ¼				SW ¼				SE ¼				Acre Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
Total Acres (for irrigation use)																			

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1 Continued

5. General Information:

- a. Describe the complete diversion system, including how you will accommodate a measuring device and lockable controlling works should they be required now or in the future:

Existing point of diversion and delivery system

- b. Who owns the property at the point(s) of diversion? _____
If other than the applicant, describe the arrangement enabling the applicant to access the property for the diversion system:

- c. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? If yes, ☐ attach a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes on official letterhead signed by an authorized representative. Label it **Attachment #6**. List the name of the entity and type of lien: N/A

It is the applicant's responsibility to provide notice to lien holder, trustee, mortgagor, or contract holder of the proposed changes that may impact or change the value of the water rights or affected real property. Any misrepresentation of legal encumbrance on this application may result in rejection of the application or cancellation of an approval.

- d. Are any of the water rights proposed for transfer currently leased to the Water Supply Bank?
If yes, ☐ complete Attachment WSB.
- e. Describe the effect on the land now irrigated if the place or purpose of use is changed pursuant to this transfer:
No change to the land now irrigated.

- f. Describe the use of any other water right(s) for the same purpose or land, or the same diversion system as right(s) proposed to be transferred at both the existing and proposed point(s) of diversion and place(s) use:
None

- g. To your knowledge, has/is any portion of the water right(s) proposed to be changed:

Yes No

- ☐ ☒ undergone a period of five or more consecutive years of non-use,
☐ ☒ currently leased to the Water Supply Bank,
☐ ☒ currently used in a mitigation plan limiting the use of water under the right, or
☐ ☒ currently enrolled in a Federal set-aside program limiting the use of water under the rights?

If yes, describe:

**IDAHO DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 2A**

Current Water Right No.: 74-157

Current Owner: PAULA J WHITTAKER
F JAMES WHITTAKER

Priority Date: 4/1/1916

Origin: Water Right

Status: Active

Basis: Decreed

<u>Source</u>		<u>Tributary</u>			
SPRINGS		LEE CREEK			
<u>Beneficial Use</u>	<u>From To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>		
IRRIGATION	03/15 to 11/15	3.2 CFS			
STOCKWATER	01/01 to 12/31	0.02 CFS			
<u>Total Diversion</u>		3.2 CFS			
<u>Location of Point(s) of Diversion</u>					
SPRINGS		NE1/4NE1/4	Sec. 31,	Twp 16N,	Rge 25E B.M.
LEMHI County					
SPRINGS		SW1/4NW1/4	Sec. 32,	Twp 16N,	Rge 25E B.M.
LEMHI County					

Place of Use

IRRIGATION Within LEMHI County

T16N R25E S29	SWNE	40.00	T16N R25E S29	SWNW	33.00
T16N R25E S29	SENE	39.00	T16N R25E S29	NESW	40.00
T16N R25E S29	NWSW	13.00	T16N R25E S29	SWSW	16.00
T16N R25E S29	SESW	40.00	T16N R25E S32	NENW	37.00
T16N R25E S32	NWNW	33.00			

Total Acres: 291

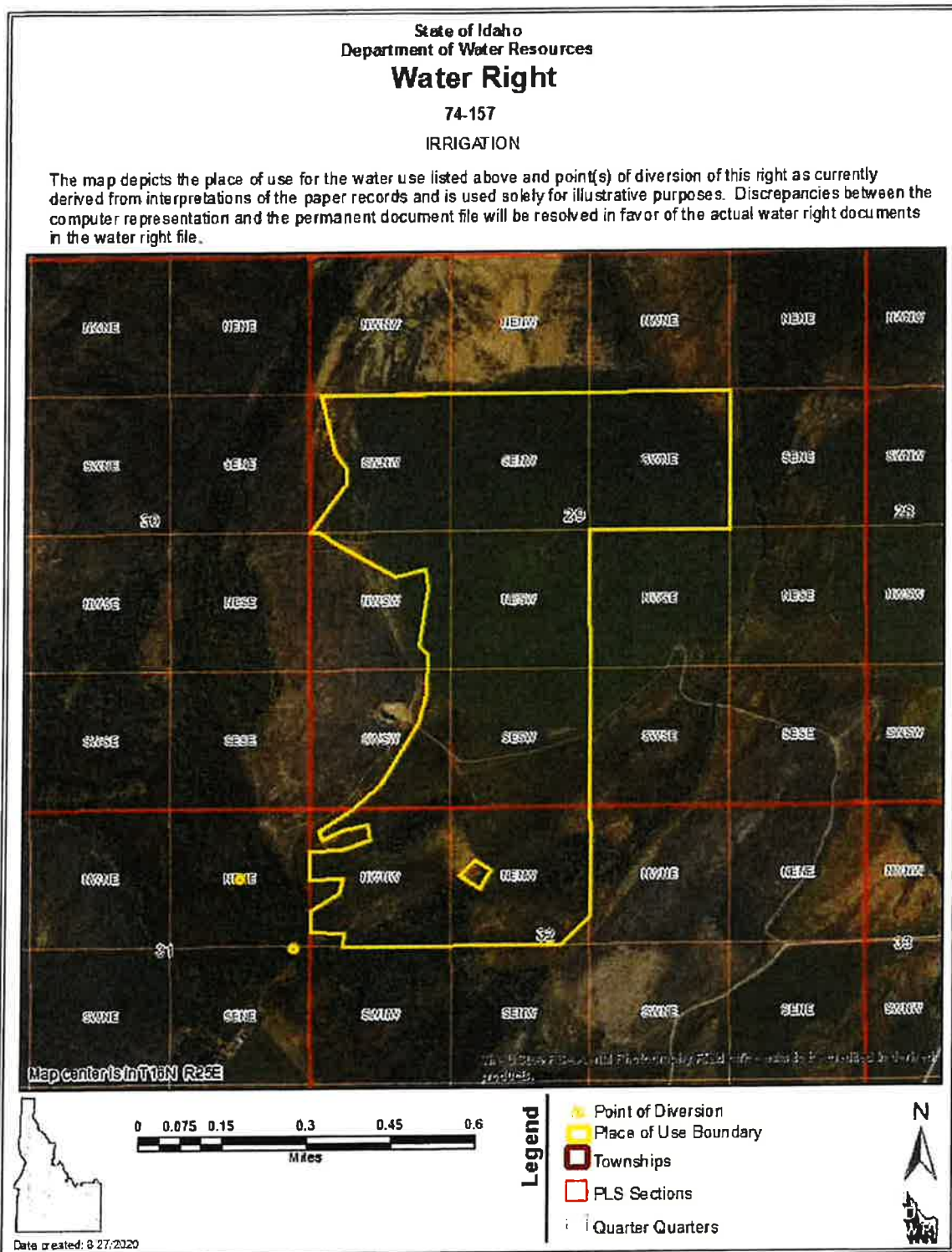
Place of Use: STOCKWATER same as IRRIGATION

Conditions of Approval:

1. E64 This right authorizes the irrigation of 291.7 total acres.
2. 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.

Decreed Date: 4/3/2012

84508





State of Idaho

DEPARTMENT OF WATER RESOURCES

EASTERN Region • 900 N SKYLINE DR STE A • IDAHO FALLS, ID 83402-1718
Phone: (208)525-7161 • Fax: (208)525-7177 • Website: www.idwr.idaho.gov

Brad Little
Governor

Gary Spackman
Director

November 12, 2020

F JAMES WHITTAKER
PAULA J WHITTAKER
PO BOX 240
LEADORE, ID 83464-0240

RE: Transfer No. 84508
Water Right No(s). 74-157

Dear Applicant(s):

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

A legal notice of the application has been prepared and is scheduled for publication in the RECORDER HERALD on 11/19/2020 and 11/26/2020. 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 approval document.

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

Sincerely,

Christina Henman
Administrative Assistant

CC:
ROBERT L HARRIS
HOLDEN KIDWELL HAHN & CRAPO PLLC
PO BOX 50130
IDAHO FALLS, ID 83405-0130

Henman, Christina

From: Henman, Christina
Sent: Thursday, November 12, 2020 3:56 PM
To: RECORDER HERALD (Rhlegals@custertel.net)
Subject: Legal Notice for Recorder Herald
Attachments: 84508 Recorder Herald.docx

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

RE: Transfer No. 84508
Water Right No(s). 74-157

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 12/7/2020. Your cooperation is appreciated.

Sincerely,

Thank You,

Christina Henman
Administrative Assistant
Idaho Dept. of Water Resources, Eastern Region
900 N Skyline Ste. A
Idaho Falls, ID 83402
Phone: (208) 497-3793

**NOTICE OF PROPOSED CHANGE OF WATER RIGHT
TRANSFER NO. 84508**

F JAMES WHITTAKER, PO BOX 240, LEADORE, ID 83464; PAULA J WHITTAKER, PO BOX 240, LEADORE, ID 83464-0240 has filed Application No. 84508 for changes to the following water rights within LEMHI County(s): Right No(s). 74-157; 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: change tributary. The water right source is currently Springs tributary to Lee Creek. The transfer proposes to remove the tributary designation. The application says the source, Springs, does not naturally flow into a tributary water stream. No other changes are proposed.

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 12/7/2020. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Published on 11/19/2020 and 11/26/2020



State of Idaho

DEPARTMENT OF WATER RESOURCES

EASTERN Region • 900 N SKYLINE DR STE A • IDAHO FALLS, ID 83402-1718
Phone: (208)525-7161 • Fax: (208)525-7177 • Website: www.idwr.idaho.gov

Brad Little
Governor

Gary Spackman
Director

November 12, 2020

BRUCE & GLENDA MCCONNELL
100 COTTOM LANE
LEADORE, ID 83464

RE: Transfer No. 84508

Dear Interested Party:

The Department of Water Resources (IDWR) has identified you as an interested party regarding the above referenced water right application in the name of James & Paula Whittaker. You can find a copy of the application at:
<https://idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx>.

If you desire 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 of the final publication.

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

Sincerely,

Christina Henman
Administrative Asst. I

Enclosure(s)
CC

CHRIS BROMLEY
380 S 4TH ST., STE. 103
BOISE, ID 83702



State of Idaho

DEPARTMENT OF WATER RESOURCES

EASTERN Region • 900 N SKYLINE DR STE A • IDAHO FALLS, ID 83402-1718

Phone: (208)525-7161 • Fax: (208)525-7177 • Website: www.idwr.idaho.gov

Brad Little
Governor

Gary Spackman
Director

November 12, 2020

MERRITT UDY
PO BOX 145
LEADORE, ID 83464-0145

RE: Transfer No. 84508

Dear Watermaster:

The Idaho Department of Water Resources (IDWR) is seeking written comment and/or recommendations from you regarding the above referenced water right application. You can find a copy of the application at:

<https://idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx>. Please review the application, then complete the enclosed recommendation form and return it to this office within 21 days of the date of this letter.

If the application is approved, IDWR will include appropriate standard conditions of approval for a water right located within a water district, such as regulation by the watermaster, lockable controlling works, and/or measuring devices. Any special conditions or other concerns you have related to this application should be specifically addressed in your recommendation.

IDWR can finish reviewing an unprotested application as soon as the protest period has past. Your prompt response to this request will ensure that your recommendation can be considered. If IDWR has not received your written recommendation within 21 days from the date of this letter, IDWR will presume that you do not oppose approval of the application and that you have no comments for IDWR to consider.

Sincerely,

Christina Henman
Administrative Asst. I

Enclosure(s)

Henman, Christina

From: Henman, Christina
Sent: Thursday, November 12, 2020 3:39 PM
To: Yenter, Cindy
Subject: Application for Transfer No. 84508
Attachments: RecommendationForm Transfer5.docx

Watermaster:

The Idaho Department of Water Resources (IDWR) is seeking written comment and/or recommendations from you regarding the above referenced water right application. You can find a copy of the application at: <https://idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx>. Please review the application, then complete the enclosed recommendation form and return it to this office within 21 DAYS of the date of this letter.

If the application is approved, IDWR will include appropriate standard conditions of approval for a water right located within a water district, such as regulation by the watermaster, lockable controlling works, and/or measuring devices. Any special conditions or other concerns you have related to this application should be specifically addressed in your recommendation.

IDWR can finish reviewing an untested application as soon as the protest period has past. Your prompt response to this request will ensure that your recommendation can be considered. If IDWR has not received your written recommendation within 21 DAYS from the date of this letter, IDWR will presume that you do not oppose approval of the application and that you have no comments for IDWR to consider.

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

CHRIS M. BROMLEY ISB #6530
CANDICE M. MCHUGH ISB #5908
MCHUGH BROMLEY, PLLC
380 South 4th Street, Suite 103
BOISE, ID 83702
Telephone (208) 287-0991
Facsimile (208) 287-0864
Email: cbromley@mchughbromley.com
cmchugh@mchughbromley.com

Attorneys for Bruce and Glenda McConnell

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN RE TRANSFER NO. 84508

In the Name of James Whittaker and Paula
Whittaker

NOTICE OF PROTEST

Filing Fee: \$25.00

COME NOW Bruce and Glenda McConnell ("Protestant"), by the through their attorneys of record, McHugh Bromley, PLLC, and hereby submit this Notice of Protest to Transfer No. 84508 ("Transfer"), filed by James Whittaker and Paula Whittaker ("Applicant"). The initial bases for the Protest are as follows:

1. The Applicant has not explained how the Idaho Department of Water Resources, pursuant to Idaho Code § 42-222(1) and through this Transfer of water right no. 74-157, has the authority to alter or amend a partial decree of the Snake River Basin Adjudication ("SRBA") district court as to the elements of "Source" and "Tributary."
2. The Applicant has not explained how removal of the "Tributary" element through this an IDWR transfer proceeding will not constitute a collateral attack of the SRBA partial

NOTICE OF PROTEST



decree for water right no. 74-157 when the partial decree recites the "Source" element as "Springs" and the "Tributary" element as "Lee Creek."

3. The Applicant has not explained how the Transfer will not enlarge water right no. 74-157 when it will now be "used to extinction."
4. If there is insufficient water and/or improper administration, the Applicant has not explained how the Transfer will not cause injury to water rights.
5. The Applicant has not explained how the Transfer will not conflict with the local public interest, not be contrary to the conservation of water resources within the State of Idaho, and will not adversely affect the local economy of the watershed.
6. This Protest may be resolvable with additional information from Applicant.
7. For such other and further reasons as may be discovered or set forth at the hearing on this matter.

RESPECTFULLY SUBMITTED this 17th day of November, 2020.

MCHUGH BROMLEY, PLLC



CHRIS M. BROMLEY

Attorneys for Bruce and Glenda McConnell

\$25.00 - 2000 11/20/2020 - E046458 - CLK/ldh

CERTIFICATE OF SERVICE

I certify that on this 17th day of November, 2020, I caused to be served a true and correct copy of the foregoing *Notice of Protest* upon the following persons by the method(s) indicated:

Idaho Department of Water Resources
900 N. Skyline Dr., Ste. A
Idaho Falls, ID 83402-1718

☒ U.S. Mail, Postage Prepaid
☐ Hand Delivered

James and Paula Whittaker
PO Box 240
Leadore, ID 83464

☒ U.S. Mail, Postage Prepaid
☐ Hand Delivered

Robert L. Harris
Holden Kidwell
PO Box 50130
Idaho Falls, ID 83405

☒ U.S. Mail, Postage Prepaid
☐ Hand Delivered


CHRIS M. BROMLEY

MC HUGH BROMLEY

ATTORNEYS AT LAW, PLLC

Candice M. McHugh
cmchugh@mchughbromley.com

380 S. 4th Street, Ste. 103
Boise, Idaho 83702
(208) 287-0991

Chris M. Bromley
cbromley@mchughbromley.com

November 17, 2020

Idaho Dept. of Water Resources
900 Skyline Dr., Ste. A
Idaho Falls, ID 83402-1718

Re: Protest to Transfer No. 84508

Dear Clerk:

Please find enclosed a protest in the name of Bruce and Glenda McConnell along with an enclosed check for \$25.00 in response to Transfer No. 84508 filed by James and Paula Whittaker.

When you receive the protests, if you would please confirm the receipt with a phone call to my office or an email to either Candice or me, I would greatly appreciate it.

Sincerely,



CHRIS M. BROMLEY

Encls.

Henman, Christina

From: Yenter, Cindy
Sent: Tuesday, November 24, 2020 4:49 PM
To: Henman, Christina
Cc: Cefalo, James
Subject: Watermaster Comment, transfer 84508, Whittaker

The two spring sources identified by right no. 74-157 do not appear to be hydraulically connected and should not have been decreed in a single right. For both springs, the named tributary, 'Lee Creek', is not completely correct and water right administration would be improved by clarification of the tributary. The location of the springs should be updated to a 10-acre tract. Water Appropriation Rule 35.0 3.b.ii requires that for an unnamed source, "the system or river to which it is tributary shall be identified. . . Only one source shall be listed on an application unless the application is for a single system which will have more than one source." Further, Rule 35.03.b.iii requires that "The location of springs shall be described to the nearest ten (10) acre tract." IDAPA 37.03.08.35. Even though this is not a new application, the Water Appropriation Rules provide minimum standards so that water right records meet statutory requirements and remain consistent, and the intent of the rules should be followed during transfer processing.

I am inclined to agree that, in the absence of development, flows from the "East Spring" in SWNW Sec 32 would run generally to the east/northeast and would sink long before reaching a named tributary. An appropriate tributary designation would be 'SINKS'. The lower end of the spring complex arises on NWSWNW S32. Applicant has developed a collection ditch to intercept numerous individual springs. The ditch may be artificially routed to the west, to commingle with Stroud Creek, or it may be routed to the northeast, as it was on the day of my last visit, where it encounters a dry channel and flows into applicant's diversion ditches from Stroud Creek.

The "West Spring" in NENE Sec 31 is clearly tributary to Stroud Creek. Stroud Creek was originally identified in some SRBA decrees as Left Fork Lee Creek, but appears on USGS quad maps as Stroud Creek, tributary to Lee Creek. As Stroud Creek is the first named stream below the West Spring, it is the appropriate tributary designation. The lower end of this spring complex arises in NENENE S31. A collection ditch has been developed to intercept spring flows. The spring collection ditch flows directly into applicant's ditch. The original Stroud Creek/ Left Fork Lee Creek channel has been manipulated below applicant's Stroud Creek diversion so that all flows of both Stroud Creek and the West Spring flow to applicant's ditches. Applicant has recently modified his ditch system so that flows may be bypassed back to lower Stroud Creek.

WD170 objects to the removal of the tributary designation entirely. Correct tributary designations are essential in proper administration of water rights from common or hydraulically related sources. 74-157 was decreed in both the Lemhi Adjudication and the SRBA as tributary to Lee Creek, and was not decreed as a separately administered right. Right holder cannot now claim exclusive use of the spring waters or leverage administration of the right simply by changing the tributary designation.

WD170 does not oppose approval of this application subject to the following conditions:

- 74-157 must be split so that a single spring system is shown on each right. Applicant can specify the proportion of the decreed flow rate that accompanies each split.
- Each spring must designate an appropriate tributary, as suggested above.
- Each spring must be identified to a 10-acre tract
- Both springs are within WD74Z, Big Eightmile and Lee Creeks. The resulting split rights will remain under the jurisdiction of this water district.
- An acceptable measuring device is required for both spring collection ditches, prior to the confluence of the collection ditch with a tributary stream or with any private ditch.



- An adjustable lockable control device is required on the Stroud Creek bypass from applicant's ditches, so that the WD74Z watermaster may control and regulate bypass of Stroud Creek and West Spring flows.
- Other measuring devices and lockable controls may be required as needed for administration by WD74Z or WD170.

*Cindy Yenter
Watermaster, Water District 170
IDWR Salmon Field Office
102 S Warpath, Salmon ID 83467
cindy.yenter@idwr.idaho.gov
208-742-0655
208-731-0901 cell*



State of 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

Website: idwr.idaho.gov • Email: easterninfo@idwr.idaho.gov

BRAD LITTLE
Governor

GARY SPACKMAN
Director

February 18, 2021

JAMES WHITTAKER
PAULA WHITTAKER
PO BOX 240
LEADORE, ID 83464

RE: Application for Transfer No. 84508

Withdrawal of Application

Dear Applicants:

The Department of Water Resources acknowledges receipt of your withdrawal of the application for transfer referenced above. The withdrawal removes your application from any further consideration or action by the Department.

By copy of this letter, the protestants have been informed of this action.

Please feel free to contact this office if you have any questions regarding this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read 'CH' followed by a stylized flourish.

Christina Henman
Administrative Assistant

CC:
ROB HARRIS
PO BOX 50130
IDAHO FALLS, ID 83405

MCHUGH BROMLEY PLLC
380 SOUTH 4TH STREET, STE 103
BOISE, ID 83702

EXHIBIT

19

T.84441

exhibitstickers.com



State of Idaho

DEPARTMENT OF WATER RESOURCES

Salmon Field Office • 102 South Warpath • Salmon, Idaho 83467
Phone: (208) 742-0658 • Website: www.idwr.idaho.gov

BRAD LITTLE
Governor

GARY SPACKMAN
Director

June 23, 2020

JORDAN WHITTAKER
PO BOX 177
LEADORE ID 83464-177

F JAMES WHITTAKER
PO BOX 240
LEADORE ID 83464-240

RE: Notice of Requirement to Install Controlling Works and Measuring Devices – West and East Springs,
Water Right No. 74-157

Water Users:

On September 28, 2018 the Idaho Department of Water Resources (IDWR or Department) issued a *Final Order in the Matter of Requiring Controlling Works and Measuring Devices on Surface and Ground Water Diversions* (Measurement Order) for the entire Lemhi River Basin, including tributary streams. The deadline for compliance with the Measurement Order was prior to the 2019 irrigation season for all irrigation diversions.

On June 10, 2020 I met with Jordan Whittaker and the WD74Z watermaster Merritt Udy at the West Spring, which is one of two spring sources for irrigation water right 74-157. The West Spring flows into Lee Creek and is rediverted from Lee Creek into a ditch. Two weirs have been installed in Lee Creek, one above and one below the spring inflow, which enable a measurement of the West Spring. An orifice plate is installed at the head of the spring rediversion ditch which Mr. Whittaker estimated would limit the total flow entering the ditch to 80 inches, or 1.6 cfs. Based on area of the orifice opening and the upstream head over the opening, I calculated a free-flow discharge through the orifice of approximately 93.5 inches (1.87 cfs).

The flumes in the creek are acceptable for measuring the total spring discharge. An orifice plate of standard dimensions could be used to quantify the rediverted spring flow from Lee Creek, but the ditch lacks a sufficient control structure or headgate. Whittaker indicated that the East spring had no control structure or measuring device. Both springs are tributaries to Lee Creek under right 74-157, and required to be administered in priority with Lee Creek water rights. The watermaster must have adequate control of the diversions, including the ability to close the ditches and allow the spring flows to return to Lee Creek when the right is not in priority.

Pursuant to Idaho Code § 42-701 and the Lemhi Basin Measurement Order, you are hereby required to install and maintain suitable and lockable controlling works, and standard measuring devices on both the East and West springs within 30 days of the date of this letter.

Cindy Yenter
IDWR Water Distribution Section
Watermaster, WD170

cc: Merritt Udy, WD74Z Watermaster
Rob Whitney, IDWR Water Distribution Section Manager
Garrick Baxter, Idaho Deputy Attorney General

EXHIBIT

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T.84441

exhibitsticker.com

WARRANTY DEED

THIS INDENTURE, made this _____ day of April, 1993
between Jack E. Horton A Single Man

of Idaho Falls, County of Bonneville, State of Idaho
the party of the first part and Bruce L. McConnell and Glenda L. McConnell,
Husband and Wife

of _____, County of Lincoln, State of Montana
the party of the second part.

WITNESSETH, that said party of the first part, for and in consideration of the sum of _____
Ten and 00/100 * * * * * Dollars

lawful money of the United States of America _____ paid
to party of the first part in hand paid by the party of the second part, the receipt whereof is hereby acknowledged,
has granted, bargained, sold, and by these presents, does grant, bargain, sell and convey and confirm unto the said
party of the second part, and to party of the second part's heirs and assigns, forever, all of the following described
real estate situated in _____, County of Lemhi
State of Idaho, to-wit:

See "Legal Description" Attached Hereto.

Exhibit "A"

TOGETHER with all and singular the tenements, hereditaments and appurtenances therunto belonging
or in anywise appertaining, and the reversions, remainder and remainders, and rents, issues and profits thereof;
and all estate, right, title and interest in and to the said property, as well in law as in equity, of the said party of the
first part.

TO HAVE AND TO HOLD, all and singular the above mentioned and described premises together with the
appurtenances unto the party of the second part, and to party of the second part's heirs and assigns forever. And the
said party of the first part, and said party of the first part's heirs shall and will warrent and by these presents
forever defend the said premises in the quiet and peaceable possession of the said party of the second part, and party
of the second part's heirs and assigns, against the said party of the first part, and party of the first part's heirs, and
against all and every person and persons whomsoever, lawfully claiming or to claim the same.

In construing this deed and where the context so requires, the singular includes the plural.
IN WITNESS WHEREOF the said party of the first part hereunto has set his hand.

Jack E. Horton
Jack E. Horton

ss.

STATE OF IDAHO,

County of Lemhi

On this 2nd day of April in the year 1993, before me
Erin C. Robie a Notary Public in and for said State, personally appeared
Jack E. Horton

known to me to be the person whose name _____ subscribed to the within
Instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official
seal the day and year in this certificate first above written.

Erin C. Robie
Notary Public for the State of Idaho,

Residing at Idaho, Idaho.



EXHIBIT

22

T 84441

LEGAL DESCRIPTION

EXHIBIT "A"

The South Half of the Southeast Quarter ($S\frac{1}{2}SE\frac{1}{4}$), Northeast Quarter of the Northeast Quarter of the Southeast Quarter ($NE\frac{1}{4}NE\frac{1}{4}SE\frac{1}{4}$), South Half of the Northeast Quarter of the Southeast Quarter ($S\frac{1}{2}NE\frac{1}{4}SE\frac{1}{4}$), Southeast Quarter of the Southeast Quarter of the Southwest Quarter ($SE\frac{1}{4}SE\frac{1}{4}SW\frac{1}{4}$) of Section Eight (8), The West half of the Southwest Quarter ($W\frac{1}{2}SW\frac{1}{4}$), The West half of the Northeast Quarter ($W\frac{1}{2}NE\frac{1}{4}$), The Southeast Quarter of the Northwest Quarter ($SE\frac{1}{4}NW\frac{1}{4}$), The West half of the Southeast Quarter ($W\frac{1}{2}SE\frac{1}{4}$) and the East half of the Southwest Quarter ($E\frac{1}{2}SW\frac{1}{4}$) of Section Nine (9), The Northeast Quarter ($NE\frac{1}{4}$), The East half of the Northwest Quarter ($E\frac{1}{2}NW\frac{1}{4}$), The Southeast Quarter ($SE\frac{1}{4}$), The East half of the Southwest Quarter ($E\frac{1}{2}SW\frac{1}{4}$), and the Southwest Quarter of the Southwest Quarter ($SW\frac{1}{4}SW\frac{1}{4}$) of Section Seventeen (17), The Southeast Quarter of the Southeast Quarter ($SE\frac{1}{4}SE\frac{1}{4}$) of Section Eighteen (18), The Northeast Quarter of the Northeast Quarter ($NE\frac{1}{4}NE\frac{1}{4}$), The East half Southeast Quarter of the Northeast Quarter ($E\frac{1}{2}SE\frac{1}{4}NE\frac{1}{4}$) of Section Nineteen (19), The West half of the Northwest Quarter ($W\frac{1}{2}NW\frac{1}{4}$), The Northwest Quarter of the Southwest Quarter ($NW\frac{1}{4}SW\frac{1}{4}$) of Section Twenty (20), all in Township Sixteen (16) North, Range 25 East, Boise Meridian, County of Lemhi, State of Idaho.

State of Idaho
County of Lemhi

218218

ss No. _____

This instrument was filed for record at
the request of Lemhi Title
at 3:13 o'clock p m 4-5 1993
and duly filed and indexed in the
records of Lemhi County

Alberta Wiederrick

Ex-Officio Recorder

By Terry J. Morton Deputy

Fees: 6.00

Form No. 1402-87
(4-6-90)
ALTA Owner's Policy

POLICY OF TITLE INSURANCE



First American Title Insurance Company

SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE EXCEPTIONS FROM COVERAGE CONTAINED IN SCHEDULE B AND THE CONDITIONS AND STIPULATIONS, FIRST AMERICAN TITLE INSURANCE COMPANY, a California corporation, herein called the Company, insures, as of Date of Policy shown in Schedule A, against loss or damage, not exceeding the Amount of Insurance stated in Schedule A, sustained or incurred by the insured by reason of:

1. Title to the estate or interest described in Schedule A being vested other than as stated therein;
2. Any defect in or lien or encumbrance on the title;
3. Unmarketability of the title;
4. Lack of a right of access to and from the land.

The Company will also pay the costs, attorneys' fees and expenses incurred in defense of the title, as insured, but only to the extent provided in the Conditions and Stipulations.



EXHIBIT

23

T.84441

First American Title Insurance Company

BY *Parker S. Kennedy* PRESIDENT

753947 ATTEST *William C. Zaayen* SECRETARY

H

(e) "mortgage" mortgage, deed or other security instrument.
(f) "public records": records established under state statutes at Date of Policy for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without knowledge. With respect to Section 1(a)(iv) of the Exclusions From Coverage, "public records" shall also include environmental protection liens filed in the records of the clerk of the United States district court for the district in which the land is located.
(g) "unmarketability of the title": an alleged or apparent matter affecting the title to the land, not excluded or excepted

for examination under with production to secure necessary information, or grant permission to secure necessary information from third parties as required in this paragraph, unless prohibited by law or governmental regulation, shall terminate any liability of the Company under this policy as to that claim.

12. PAYMENT OF LOSS.
(a) No payment shall be made without producing the policy to substantiate the payment unless the policy has been lost or destroyed, in which case proof of loss or destruction shall be furnished to the satisfaction of the Company.
(b) When liability and the extent of loss or damage has been definitely fixed in accordance with these Conditions and Stipulations, the loss or damage shall be payable within 30 days thereafter.

**6. OPTIONS TO PAY OR OTHERWISE SETTLE CLAIMS;
TERMINATION OF LIABILITY.**

In case of a claim under this policy, the Company shall have the following additional options:

**13. SUBROGATION UPON PAYMENT
OF SETTLEMENT.**

SCHEDULE A

File No.

Policy No. 753947

Amount of Insurance \$ 385,000.00

Premium \$ 1,381.25

Date of Policy APRIL 8, 1993

a.m.

4:00 p.m.

1. Name of Insured

BRUCE L. MCCONNELL and GLENDA L. MCCONNELL, husband and wife.

2. The estate or interest in the land which is covered by this policy is:

FEE SIMPLE

3. Title to the estate or interest in the land is vested in:

BRUCE L. MCCONNELL and GLENDA L. MCCONNELL, husband and wife.

4. The land referred to in this policy is described as follows:

THE S $\frac{1}{2}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ AND THE SE $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ OF SECTION 8; THE NW $\frac{1}{4}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$ AND THE E $\frac{1}{2}$ SW $\frac{1}{4}$ OF SECTION 9; THE NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$ AND THE E $\frac{1}{2}$ SW $\frac{1}{4}$ OF SECTION 17; THE SE $\frac{1}{2}$ SE $\frac{1}{4}$ OF SECTION 18; THE NE $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ OF SECTION 19; THE W $\frac{1}{2}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$ OF SECTION 20; ALL IN TOWNSHIP 16 NORTH, RANGE 25 EAST, BOISE MERIDIAN COUNTY OF LEMHI, STATE OF IDAHO.

SW / SW of sec 17

SCHEDULE B - Section 2

Exceptions

Any policy we issue will have the following exceptions unless they are taken care of to our satisfaction.

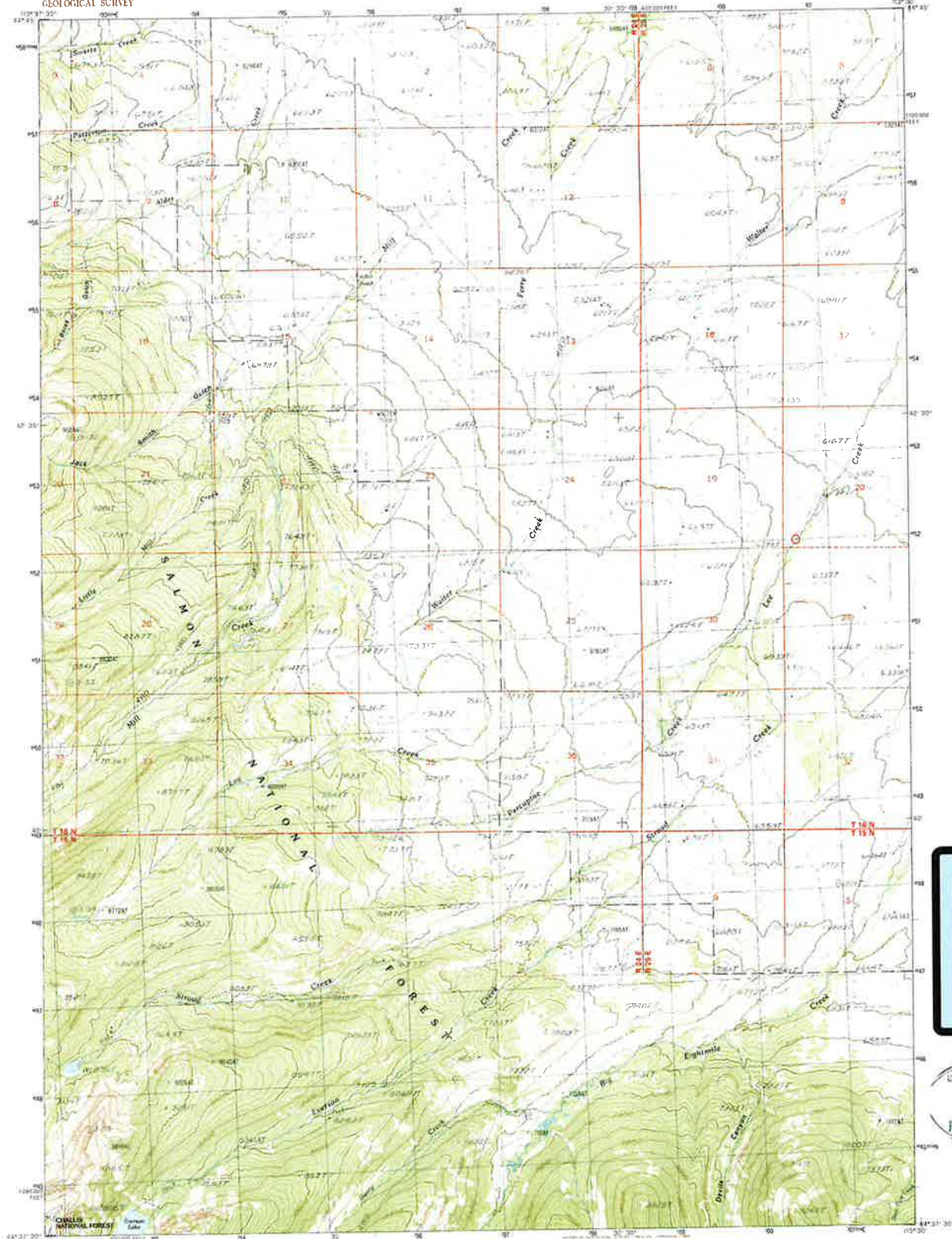
PART I:

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records.
 2. Any facts, rights, interests or claims which are not shown by the public records but which could be ascertained by an inspection of said land or by making inquiry of persons in possession thereof.
 3. Easements, claims of easement or encumbrances which are not shown by the public records.
 4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments or any other facts which a correct survey would disclose, and which are not shown by the public records.
 5. Unpatented mining claims, reservations or exceptions in patents or in acts authorizing the issuance thereof, water rights, claims, or title to water.
 6. Any lien, or right to a lien, for services, labor or material theretofore or hereafter furnished, imposed by law and not shown by the public records.
 7. General taxes and assessments for the year 1991 are paid in full; General taxes and assessments for the year 1992 are an accruing lien. 1991 taxes were \$1,782.24.
 8. Power line easement dated March 10, 1947 from Hyrum Keppner, a widower, to the Idaho Power Company, recorded April 27, 1948 in Book D of Agreements at Page 38, records of Lemhi County, Idaho.
 9. Right-of-way Deed dated November 9, 1953, from Fern Kauer and John D. Kauer, husband and wife, to the United States of America, recorded December 24, 1953, in Book 44 of Deeds, at page 292, records of Lemhi County, Idaho.
 10. Telephone Easement, dated March 3, 1969, from Parley A. and Lila A. Arave, husband and wife, to Lemhi Telephone Company, recorded March 6, 1969 in file of Agreements under Instrument No. 110757, records of Lemhi County, Idaho.
 11. Power line easement, dated September 25, 1980, from The Corporation of the President of the Church of Jesus Christ of Latter-Day-Saints, to Idaho Power Company, Recorded January 26, 1981 in file of Agreements under Instrument No. 155958, Records of Lemhi County, Idaho.
 12. Power line easement, dated September 25, 1980, from The Corporation of the President of the Church of Jesus Christ of Latter-Day-Saints, to Idaho Power Company, Recorded January 26, 1981, in file of Agreements under Instrument No. 155959, Records of Lemhi County, Idaho.
 13. Power Line Easement, dated September 25, 1980, from the Corporation of the President of the Church of Jesus Christ of Latter-Day-Saints, to Idaho Power Company, Recorded January 26, 1981, in file of Agreements under Instrument No. 155960, Records of Lemhi County, Idaho.
 14. Power Line Easement, dated September 25, 1980, from The Corporation of the President of the Church of Jesus Christ of Latter-Day-Saints, to Idaho Power Company, Recorded January 26, 1981, in file of Agreements under Instrument
- The following numbered exceptions_____will be eliminated in an ALTA Extended Coverage Policy.

EXCEPTIONS CONTINUED:

No. 155961, Records of Lemhi County, Idaho.

15. Power Line Easement, dated April 30, 1984, from Parley A. Arave and Lila A. Arave, husband and wife to Idaho Power Co., recorded January 2, 1985, in file of Agreements under Instrument No., 174542, Records of Lemhi County, Idaho.
16. Parley A. Arave, died owner of a community interest in the above described premises and no probate or administration of his estate is of record in Lemhi County. The title is subject to all rights in or claims upon or against said real estate which would or may be revealed, by a complete administration of the estate of such decedent.



PRODUCED BY THE UNITED STATES GEOLOGICAL SURVEY
UNITED STATES GEOLOGICAL SURVEY
WASHINGTON, D.C. 20508
This map was prepared by the U.S. Geological Survey
from the original manuscript drawings of the
topographic features shown on the map. The
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the U.S. Geological Survey from the original
manuscript drawings of the topographic features
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Survey from the original manuscript drawings of
the topographic features shown on the map.

PROVISIONAL MAP
Produced from original
manuscript drawings. Infor-
mation shown as of date of
photography.

SCALE 1:24,000
CARTOGRAPHIC SCALE
1 inch = 2 miles
1 centimeter = 200 meters
1 kilometer = 0.62 miles
1 mile = 1.61 kilometers
1 nautical mile = 1.15 statute miles
1 statute mile = 0.87 nautical miles
1 foot = 0.30 meters
1 meter = 3.28 feet
1 yard = 0.91 meters
1 kilometer = 0.62 miles
1 mile = 1.61 kilometers
1 nautical mile = 1.15 statute miles
1 statute mile = 0.87 nautical miles
1 foot = 0.30 meters
1 meter = 3.28 feet
1 yard = 0.91 meters

QUADRANGLE SYMBOL	QUADRANGLE NAME
1	Stroud Creek
2	Little Lost Creek
3	Challis National Forest
4	Challis National Forest
5	Challis National Forest
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ROAD LEGEND
Improved Road
Unimproved Road
Trail
Interstate Route
U.S. Route
State Route
STROUD CREEK, IDAHO
PROVISIONAL EDITION 1989
4411-15-17-24

EXHIBIT
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MAY 27 1990
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