

**STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT  
TRANSFER NO. 84799**

This is to certify that: **MAMMOTH PROPERTIES INC DEFINED BENEFIT PENSION PLAN  
JOHN E THILL TRUSTEE  
C/O GARRETT THILL  
5233 N FIFESHIRE PL  
BOISE, ID 83713-1828**

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> |
|--------------------|---------------------|----------------------|-----------------------|-------------------------|-------------------|--------------------|---------------|
| 63-35046           | WR/DECREED          | 11/4/1948            | 0.220 cfs             | N/A                     | N/A               | 15.0               | GROUND WATER  |
| 63-35047           | WR/DECREED          | 2/27/1971            | 0.230 cfs             | N/A                     | N/A               | 26.0               | GROUND WATER  |

**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> |
|-----------------------|--------------|------------|------------|----------------|----------------------|----------------------|
| 63-35046              | NO           | YES        | NO         | NO             | NO                   | NO                   |
| 63-35047              | 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> |
|------------------------|----------------------------------|----------------------|------------------------|-------------------|--------------------|------------------------------------|-----------------------|-------------------------|-----------------------------|------------------------------|
| 63-35046               | 63-35046                         | 0.220 cfs            | N/A                    | N/A               | 15.0               | N/A                                | N/A                   | N/A                     | N/A                         | N/A                          |
| 63-35047               | 63-35047                         | 0.230 cfs            | N/A                    | N/A               | 26.0               | N/A                                | N/A                   | N/A                     | N/A                         | N/A                          |
| <b>COMBINED TOTALS</b> |                                  | <b>0.450 cfs</b>     | <b>N/A</b>             | <b>N/A</b>        | <b>N/A</b>         |                                    | <b>N/A</b>            | <b>N/A</b>              | <b>N/A</b>                  | <b>N/A</b>                   |

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 25<sup>th</sup> day of June, 2021.

  
Nick Miller, Western Regional Manager

**SUPPORT DATA**

**IN FILE # 63-35046**

Transfer No. 84799

**WATER RIGHT NO. 63-35046****As Modified by Transfer No. 84799**

In accordance with the approval of Transfer No. 84799, Water Right No. 63-35046 is now described as follows:

**Right Holder:** MAMMOTH PROPERTIES INC DEFINED BENEFIT PENSION PLAN  
JOHN E THILL TRUSTEE  
C/O GARRETT THILL  
5233 N FIFESHIRE PL  
BOISE, ID 83713-1828

**Priority Date:** 11/4/1948

**Source:** GROUND WATER

|                              |                    |                  |                              |
|------------------------------|--------------------|------------------|------------------------------|
| <b><u>BENEFICIAL USE</u></b> | <b><u>From</u></b> | <b><u>To</u></b> | <b><u>Diversion Rate</u></b> |
| IRRIGATION                   | 03/01              | to 11/15         | 0.220 cfs<br>0.220 cfs       |

**LOCATION OF POINT(S) OF DIVERSION**

GROUND WATER                      NESW                      Sec 17 Twp 03N Rge 03W CANYON 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 |        |
| 03N | 03W | 17  |    |    |    |    |    |    |    |    | 15.0 |    |    |    |    |    |    |    | 15.0   |

POU Total Acres:                      15.0

**CONDITIONS OF APPROVAL**

1. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the lands above.
2. Rights 63-35046 and 63-35047 when combined shall not exceed a total annual maximum diversion volume of 117 af at the field headgate, and the irrigation of 26 acres.
3. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.
4. Right holder shall comply with the drilling permit requirements of Idaho Code § 42-235 and applicable Well Construction Rules of the Department.
5. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.

Transfer No. 84799

**WATER RIGHT NO. 63-35046**  
**As Modified by Transfer No. 84799**

**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. 63-35047**  
**As Modified by Transfer No. 84799**

In accordance with the approval of Transfer No. 84799, Water Right No. 63-35047 is now described as follows:

**Right Holder:** MAMMOTH PROPERTIES INC DEFINED BENEFIT PENSION PLAN  
 JOHN E THILL TRUSTEE  
 C/O GARRETT THILL  
 5233 N FIFESHIRE PL  
 BOISE, ID 83713-1828

**Priority Date:** 2/27/1971

**Source:** GROUND WATER

|                              |                    |                  |                              |
|------------------------------|--------------------|------------------|------------------------------|
| <b><u>BENEFICIAL USE</u></b> | <b><u>From</u></b> | <b><u>To</u></b> | <b><u>Diversion Rate</u></b> |
| IRRIGATION                   | 03/01              | to 10/01         | 0.230 cfs                    |
|                              |                    |                  | 0.230 cfs                    |

**LOCATION OF POINT(S) OF DIVERSION**

GROUND WATER                      SESW                      Sec 17 Twp 03N Rge 03W CANYON 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 |        |
| 03N | 03W | 17  |    |    |    |    |    |    |    |    | 16.0 |    |    | 10.0 |    |    |    |    | 26.0   |

POU Total Acres:                      26.0

**CONDITIONS OF APPROVAL**

1. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the lands above.
2. Rights 63-35046 and 63-35047 when combined shall not exceed a total annual maximum diversion volume of 117 af at the field headgate, and the irrigation of 26 acres.
3. The period of use for the irrigation described in this approval may be extended to an ending date of 11/15 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water after 10/01 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than 04/29/2009.
4. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.
5. Right holder shall comply with the drilling permit requirements of Idaho Code § 42-235 and applicable Well Construction Rules of the Department.

Transfer No.    84799

**WATER RIGHT NO. 63-35047**  
**As Modified by Transfer No. 84799**

**CONDITIONS OF APPROVAL**

6. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
7. 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. 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.

State of Idaho  
Department of Water Resources

# Attachment to Water Right Transfer 84799

63-35046

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

03W



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

0 0.0375 0.075 0.15 Miles



State of Idaho  
Department of Water Resources

# Attachment to Water Right Transfer 84799

63-35047

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



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

0 0.0425 0.085 0.17 Miles





Brad Little  
Governor

State of Idaho

## DEPARTMENT OF WATER RESOURCES

Western Region • 2735 W AIRPORT WAY • BOISE, ID 83705-5082

Phone: (208)334-2190 • Fax: (208)334-2348 • Website: [www.idwr.idaho.gov](http://www.idwr.idaho.gov)

Gary Spackman  
Director

June 25, 2021

MAMMOTH PROPERTIES INC DEFINED BENEFIT PENSION PLAN JOHN E THILL  
TRUSTEE  
C/O GARRETT THILL  
5233 N FIFESHIRE PL  
BOISE ID 83713-1828

RE: Transfer No: 84799  
Water Right Nos.: 63-35046, 63-35047

### Transfer Approval Notice

Dear Water Right Holders and other Interested Persons:

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) 334-2190.

Sincerely,

  
DENISE LAUERMAN

for Nick Miller  
Western Regional Manager

Enclosure

CC:

SPF WATER ENGINEERING LLC  
C/O LORI GRAVES  
300 E MALLARD DR STE 350  
BOISE ID 83706

## CERTIFICATE OF SERVICE

I hereby certify that on June 25, 2021 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (Approved Transfer) to the persons listed below:

Re: Transfer No.: 84799  
Water Right Nos.: 63-35046, 63-35047

MAMMOTH PROPERTIES INC DEFINED BENEFIT PENSION PLAN JOHN E THILL  
TRUSTEE  
C/O GARRETT THILL  
5233 N FIFESHIRE PL  
BOISE ID 83713-1828

SPF WATER ENGINEERING LLC  
C/O LORI GRAVES  
300 E MALLARD DR STE 350  
BOISE ID 83706-6660



Denise Lauerman  
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.

**AFFIDAVIT OF PUBLICATION  
STATE OF IDAHO**

**County of Canyon and Ada**

23100 96943

1 IDWR - WESTERN REGION

2735 AIRPORT WAY  
BOISE, ID 83705

**RECEIVED**

**MAY 17 2021**

WATER RESOURCES  
WESTERN REGION

**SHARON JESSEN**

**of the State of Idaho, being of first duly sworn, deposes  
and says:**

1. That I am a citizen of the United States, and at all times hereinafter mentioned was over the age of eighteen years, and not a party to the above entitled action.
2. That I am the Principle Clerk of the Idaho Press-Tribune, a daily newspaper published in the Counties of Canyon and Ada, State of Idaho; that the said newspaper is in general circulation in the said counties of Canyon and Ada, and in the vicinity of Nampa, Caldwell, and Boise, and has been uninterruptedly published in said Counties during a period of seventy -eight consecutive weeks prior to the first publication of this notice, a copy of which is hereto attached.
3. That the notice, of which the annexed is a printed copy, was published in said newspaper 2 times(s) in the regular and entire issue of said paper, and was printed in the newspaper proper, and not in a supplement

That said notice was published the following: 05/06/2021,  
05/13/2021



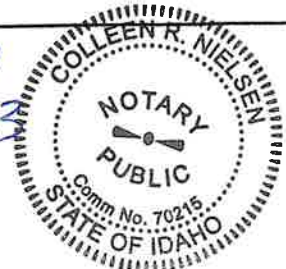
SHARON JESSEN  
STATE OF IDAHO

County of Canyon and Ada

On this 13th day of May, in the year of 2021 before me a Notary Public, personally appeared. SHARON JESSEN, known or identified to me to be the person whose name is subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledge to me that he/she executed the same.



Notary Public of Idaho  
My commission expires 6/28/23



**LEGAL NOTICE**

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

**63-35034**

DIANE E RICE  
10161 LILAC PL  
MIDDLETON, ID 83644-5408  
Point of Diversion SENE S8 T04N R02W CANYON County  
Source GROUND WATER  
Use: DOMESTIC 01/01 to 12/31 0.04 CFS  
Use: IRRIGATION 03/01 to 11/15 0.01 CFS  
Total Diversion: 0.05 CFS  
Date Filed: 03-15-2021  
Place Of Use: DOMESTIC, IRRIGATION  
T04N R02W S8 SENE  
Water bearing zone to be appropriated is from 38 to 105 feet.

✓ OK  
05.17.2021  
DL

**63-35042**

JEFF SUTTON CHERYL SUTTON  
PO BOX 790  
PARMA, ID 83660-0790  
Point of Diversion SWSE S10 T05N R05W CANYON County  
Source UNNAMED DRAIN Tributary SNAKE RIVER  
Use: IRRIGATION 03/01 to 11/15 0.26 CFS  
Total Diversion: 0.26 CFS  
Date Filed: 04-02-2021  
Place Of Use: IRRIGATION  
T05N R05W S10 SWSE Total Acres: 13

✓ OK  
05.17.2021  
DL

**NOTICE OF PROPOSED CHANGE OF WATER RIGHT  
TRANSFER NO. 84799**

MAMMOTH PROPERTIES INC DEFINED BENEFIT PENSION PLAN JOHN E THILL TRUSTEE, C/O GARRETT THILL 5233 N FIFESHIRE PL, BOISE, ID 83713-1828 has filed Application No. 84799 for changes to the following water rights within CANYON County(s): Right No(s). 63-35046, 63-35047; 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:

✓ OK  
05.17.2021  
DL

Mammoth Properties Inc. (Company) is a property owner and developer near the Northwest edge of Lake Lowell in Canyon County. The Company filed transfer no. 84799 to split ownership of water rights 63-32429 and 63-32432 and change the point of diversion for the applicant's split portions. The point of diversion will be a new well on the applicant's property.

Lori Graves of SPF Water Engineering is the representative for the transfer. Ms. Graves can be reached at 208-383-4140 or [lgraves@spfwater.com](mailto:lgraves@spfwater.com).

Permits will be subject to all prior water rights. For additional information concerning the property location, contact the Western office at (208)334-2190; or for a full description of the right(s), please see <https://idwr.idaho.gov/apps/ExtSearch/WRApplicationResults/>. Protests may be submitted based on the criteria of Idaho Code § 42-203A. Any protest against the approval of this application must be filed with the Director, Dept. of Water Resources, Western Region, 2735 W AIRPORT WAY, BOISE ID 83705-5082 together with a protest fee of \$25.00 for each application on or before 5/24/2021. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

May 6, 13, 2021

96943

## MEMORANDUM

TO: Transfer No. 84799  
FROM: Tyler Smith  
DATE: April 19, 2021  
RE: Evaluation of Application

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### **Summary of Information Submitted**

Mammoth Properties Inc. (Company) is a property owner and developer near the Northwest edge of Lake Lowell in Canyon County. The Company filed transfer no. 84799 to split ownership of water rights 63-32429 and 63-32432 and change the point of diversion for the applicant's split portions. Water rights 63-32429 and 63-32432 were split prior to the processing of the transfer application. The split resulted in child rights 63-35046 and 63-35047 going to Mammoth Properties. The new point of diversion will be a new well on the applicant's property.

Lori Graves of SPF Water Engineering is the representative for the transfer. Ms. Graves can be reached at 208-383-4140 or lgraves@spfwater.com.

### **Authority to File**

The application was filed in the name of Mammoth Properties Inc, Defined Benefit Pension Plan, John E. Thill Trustee. The application was signed by John E. Thill. According to the California Secretary of State Mr. Thill is the CEO of Mammoth Properties Inc. and therefore has the authority to file on behalf of the company. The deeds for properties where the water rights to be split were submitted with the application and confirm the applicant has the authority to request an ownership change.

### **Water Right Validity**

The application states that the portion of the water right proposed to be changed has undergone a period of five or more consecutive years of non-use. The application states the reason for this non-use as due to the fact that the "Applicant does not own and/or control the current shared well. The well is controlled by Barrett Hills Estates HOA and has significantly decreased in production resulting in the applicant not receiving irrigation water." This defense to forfeiture indicates the cause of non-use was outside of the user's control, and is therefore a legitimate defense. A comment letter will be sent to the HOA during advertising to ensure this statement is accurate.

### **Injury to Other Water Rights**

None anticipated. A comment letter will be sent to Barrett Hills Estates HOA to answer possible injury concerns. An opportunity to claim injury will be presented to the water users through public advertisement.

### **Enlargement of Use**

The water rights will be split proportionally, and will contain a combined use limit consistent with the original water rights to ensure that the water rights are not enlarged. The cfs/acre rates for both split water rights will also remain the same as the parent rights to ensure there is no enlargement.

### **Local Public Interest**

No information has been made available to suggest a conflict with local public interest.

**Beneficial Use/Conservation of Water Resources**

The application proposes beneficial use consistent with conservation of water resources in Idaho. The water rights to be split were decreed without supplemental use conditions, making primary use of surface water a non-issue.

**The application is consistent with criteria of I. C. § 42-222 and should be processed.**

**Summary**

**Water Right Overlap**

The water rights are within Wilder Irrigation District. There does not appear to be any historical use of surface water on the property, suggesting that the applicants do not hold shares with the district. A comment letter will be sent to Wilder Irrigation District to confirm that no shares are held.

The split rights 63-35046 and 63-35047 shall have a combined use volume of 117 af at the field headgate and the irrigation of 26.0 acres. This is consistent with the decreed parent rights.