

Cefalo, James

From: Cefalo, James
Sent: Friday, August 07, 2020 10:33 AM
To: ann.vonde@ag.idaho.gov; 'Richards, Jeff'
Cc: 'ludy ranches@gmail.com'; Hummer, Phill
Subject: Application for Transfer 82751 (Udy)
Attachments: Udy Map of 72 Acres.pdf

Ann,

In October 2018, David L Udy filed Application for Transfer 82751, proposing to create a 132-acre permissible place of use for water rights 74-49, 74-379, and 74-1856. These three rights, in combination, authorize the irrigation of 72 acres. The application states "A total of 72 acres under these rights will be irrigated within the permissible place of use. Other lands will remain dry or will be irrigated under a new water right." In October 2018, David L Udy also filed Application for Permit 74-16205, seeking a new permit to divert 1.0 cfs from Little Timber Creek to irrigate 60 acres within a 132-acre permissible place of use. Application 74-16205 was intended to cover the additional 60 acres not covered by the existing water rights described above.

Idaho Department of Fish & Game filed a protest against Application 82751 and Application 74-16205. The same protest letter was used for both applications. As I read through the IDFG protest, it appears most of the listed concerns are directed to the proposed permit (Application 74-16205). Only one of the paragraphs was directed to the transfer application:

"3. The places of use of the three rights are overlapping and limited to a 72-acre boundary. If the transfer is approved, water rights 74-49, 74-379, and 74-1856 should have a combined use limit of 72 acre to prevent enlargement. The applicant states that the remaining 60 acres within the proposed PPU will be irrigated by the proposed water right (Application for Permit 74-16205). Has this overlap been addressed with the applicant?"

I recently contact Mr. Udy and discussed the pending applications. He understands that Application for Permit 74-16205 is linked together with all of the other pending, protested applications for permit in the basin and that there is a chance the application for permit will be denied. Mr. Udy still wants to move forward with creating a permissible place of use for his existing water rights. This will provide him some flexibility to rearrange his irrigation system from year to year to support the planting and reseeding of pasture crops.

The Department has developed the following condition for water rights included in a permissible place of use. I have added the information from Application 82751 into the condition:

This right is limited to the irrigation of a specific 72 acres within the 132 acre place of use authorized by this right in a single irrigation season. The specific 72 acres to be irrigated by the right holder are shown in the electronic shape file associated with this right in the geographic information system component of the water rights database maintained by the department. Before changing the 72 acres to be irrigated within the 132 acre place of use, the right holder shall submit a new land list and representative electronic shape file or map to the Department prior to the irrigation season in which the change will occur.

I discussed this condition with Mr. Udy and he understands that the existing rights can only be used to irrigated 72 acres in an irrigation season. I worked with Mr. Udy to create a map depicting the 72 irrigated acres to be irrigated in 2021. The 72 acres will remain in this configuration until Mr. Udy provides the Department a map of a different configuration. Changes to the 72 irrigated acres can only occur in the non-irrigation season.

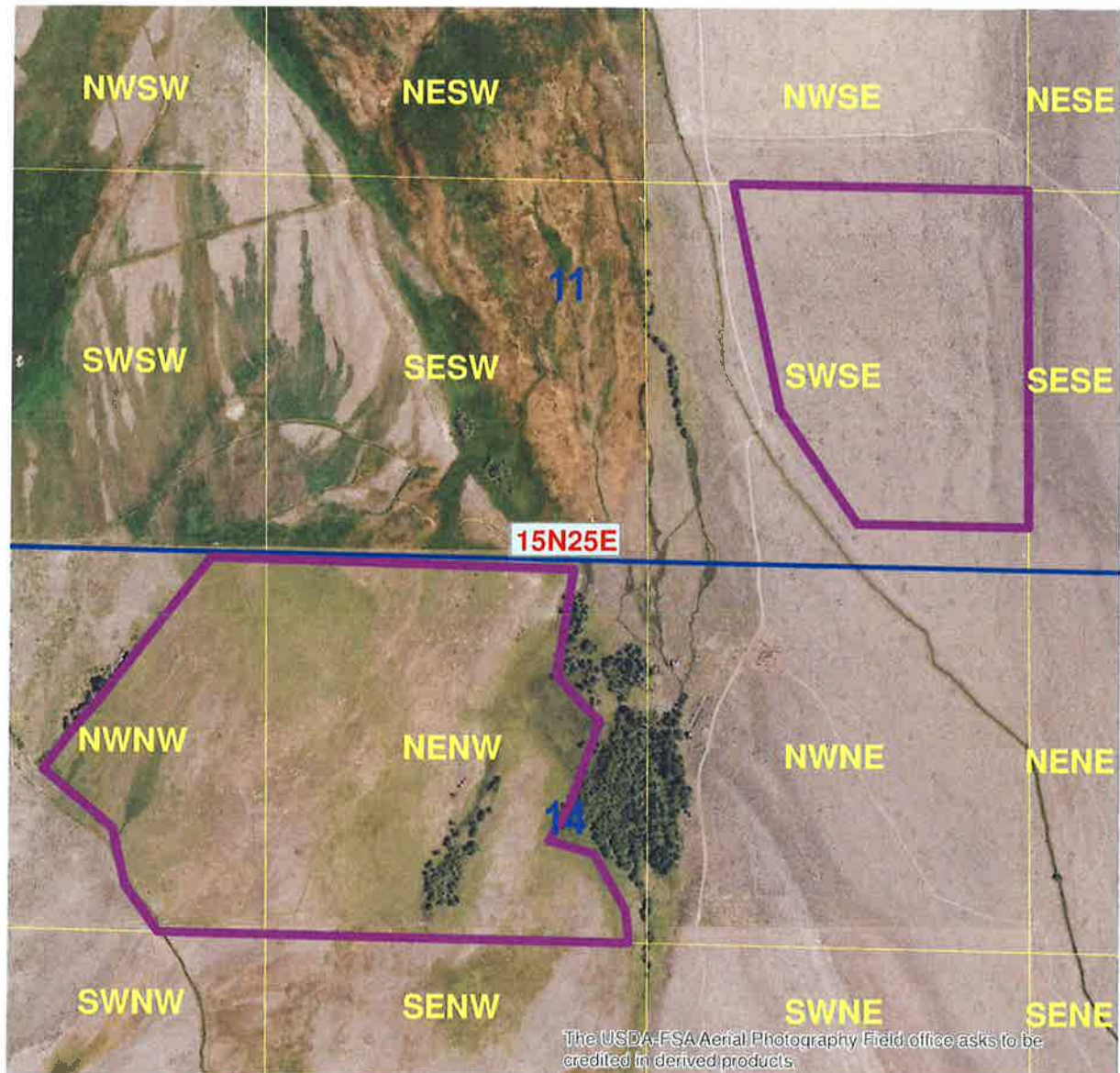
I believe the proposed condition and the attached map address IDFG's concerns with Application 82751. If the issues of protest have been resolved, you can file a withdrawal of protest referencing the proposed condition and the attached

map. Please let me know if there are other concerns with Application 82751. If there are other concerns, we can schedule a pre-hearing conference. Application for Permit 74-16205 was protested by multiple entities and continues to be a contested case before the Department. IDFG's withdrawal of the protest against Application 82751 will not affect IDFG's protest against Application 74-16205.

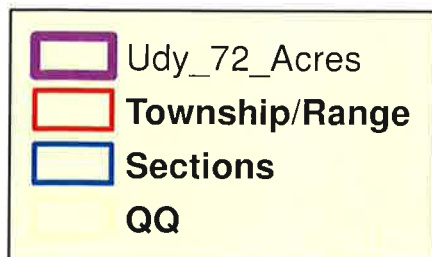
James Cefalo
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Application for Transfer 82751

72 Acres to be Irrigated with Senior Rights



2013 Aerial Photo



0 750 1,500 Feet

