

## Cefalo, James

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**From:** Lori Graves <LGraves@spfwater.com>  
**Sent:** Wednesday, May 27, 2020 12:01 PM  
**To:** Cefalo, James  
**Cc:** Hersley, Jean; Kevin Kohtz - Idaho Water Company (kevin@idahowatercompany.com)  
**Subject:** RE: ownership update and split of water rights 35-2122 and 35-7417 - question

You're awesome James. Thanks so much for your consideration.

**From:** Cefalo, James <James.Cefalo@idwr.idaho.gov>  
**Sent:** Wednesday, May 27, 2020 11:08 AM  
**To:** Lori Graves <LGraves@spfwater.com>; Kevin Kohtz - Idaho Water Company (kevin@idahowatercompany.com) <kevin@idahowatercompany.com>  
**Cc:** Hersley, Jean <Jean.Hersley@idwr.idaho.gov>  
**Subject:** RE: ownership update and split of water rights 35-2122 and 35-7417 - question

Lori,

Your proposal to complete Part 2.B based on the acres listed on water right 35-7417 is acceptable. Feel free to include my email with the transfer application. If you direct the transfer application to me, I will make sure the agent assigned to work on the application is aware of the place of use issues.

James Cefalo  
Regional Manager  
IDWR Eastern Region  
(208) 525-7161

**From:** Lori Graves [<mailto:LGraves@spfwater.com>]  
**Sent:** Wednesday, May 27, 2020 10:58 AM  
**To:** Cefalo, James <[James.Cefalo@idwr.idaho.gov](mailto:James.Cefalo@idwr.idaho.gov)>; Kevin Kohtz - Idaho Water Company ([kevin@idahowatercompany.com](mailto:kevin@idahowatercompany.com)) <[kevin@idahowatercompany.com](mailto:kevin@idahowatercompany.com)>  
**Cc:** Hersley, Jean <[Jean.Hersley@idwr.idaho.gov](mailto:Jean.Hersley@idwr.idaho.gov)>  
**Subject:** RE: ownership update and split of water rights 35-2122 and 35-7417 - question

Thank you for your analysis James. I will note the discrepancy on the transfer applications, however rather than trying to dissect each right accordingly, Since the discrepancy is considered inconsequential, I will make matching Part Bs that reflect 35-7417 acre allocation since both are applicable to the same 55.8 acres. I will also include your email below as a transfer attachment unless you advise otherwise.

**From:** Cefalo, James <[James.Cefalo@idwr.idaho.gov](mailto:James.Cefalo@idwr.idaho.gov)>  
**Sent:** Wednesday, May 27, 2020 10:01 AM  
**To:** Lori Graves <[LGraves@spfwater.com](mailto:LGraves@spfwater.com)>  
**Cc:** Hersley, Jean <[Jean.Hersley@idwr.idaho.gov](mailto:Jean.Hersley@idwr.idaho.gov)>  
**Subject:** RE: ownership update and split of water rights 35-2122 and 35-7417 - question

Lori,

The partial decrees for water rights 35-2122 and 35-7417 included a similar discrepancy in the place of use. In fact, I think the place of use issues in the partial decrees is likely the source of the place of use issues in Transfer 78473. The

agent didn't catch the errors in his calculations. I just reviewed the water right split between the City of Heyburn and Idaho Water Company. The split was done correctly. A 281.7/337.5 proportional split of all of the water right elements went to the City of Heyburn. A 55.8/337.5 proportional split of all of the water right elements went to Idaho Water Company. There are no place of use discrepancies with the City of Heyburn rights. There are minor differences in the places of use for the Idaho Water Company rights. These differences are inconsequential, however, because the elements and the combined use limits are correct. The Idaho Water Company rights, in combination, can be used to irrigate 55.8 acres. I don't see the need to go back and correct Transfer 78473 (which would be a huge process and would require undoing the splits for the City of Heyburn), especially if the Idaho Water Company rights are ultimately going to be transferred to new places of use. I know you are concerned about being able to complete Part 2.B of the transfer application. Please note in the application that there is a discrepancy in the places of use and do the best you can on Part 2.B. The critical question is how many of the 55.8 acres are being moved in the proposed transfer. We can correct the remaining portion of the rights in the proposed transfer application, making it easier to complete Part 2.B in future applications.

James

**From:** Hersley, Jean

**Sent:** Tuesday, May 26, 2020 3:45 PM

**To:** Cefalo, James <[James.Cefalo@idwr.idaho.gov](mailto:James.Cefalo@idwr.idaho.gov)>

**Subject:** FW: ownership update and split of water rights 35-2122 and 35-7417 - question

The number of acres per QQ of these water rights were decreed slightly different. There was a transfer (78473) completed in 2013 that was filed to update the place of use. Can you explain to me why the acres per QQ were not updated to be the same for each water right? There is nothing in the review memo. IWC is trying to file another transfer but the acre discrepancy is making it difficult for their consultant.

*Jean Hersley*

*Technical Records Specialist II*

*Idaho Dept Water Resources*

*(208) 287-4942*

**From:** Lori Graves [<mailto:LGraves@spfwater.com>]

**Sent:** Thursday, May 21, 2020 10:46 AM

**To:** Hersley, Jean <[Jean.Hersley@idwr.idaho.gov](mailto:Jean.Hersley@idwr.idaho.gov)>

**Cc:** [kevin@idahowatercompany.com](mailto:kevin@idahowatercompany.com); Steve Hannula <[SHannula@spfwater.com](mailto:SHannula@spfwater.com)>

**Subject:** RE: ownership update and split of water rights 35-2122 and 35-7417 - question

Jean,

As you know, Idaho Water Co. (IWC) purchased overlapping rights 35-2122 and 35-7417 and are in the process of selling portions to different parties. The majority of the acres authorized under the rights have been sold to the City of Heyburn leaving 55.8 acres still owned by IWC. The table below correctly reflects IWC's 55.8 acres and water right record 36-7417. Below the table are the 55.8 acres currently listed on overlapping water right 35-2122, which do not match 35-7417, but should. IWC has sold portions of the 55.8 acres to various parties and I am in the process of preparing transfers applications. Thank you for addressing and resolving the discrepancy with Eastern Region. Please let me know when fixed and I will print out a new Part 2s for the transfer applications.

35-2122, 35-7417 / T3S R33E BINGHAM COUNTY							
SEC 21		HEYBURN		IWC	SEC 22		HEYBURN IWC
NENE	33.8	33.8	0		NENE	1.2	0
NWNE	33.2	33.2	0		NWNE	33.5	2.6
SWNE	40	32	8		SWNE	4.6	0
SENE	38.1	36	2.1		NENW	28.4	25.5
NENW	33.1	33.1	0		NWNW	34	34
SENW	15.9	15.9	0		SWNW	34.3	29.3
					SENW	7.4	6.3
194.1		184	10.1		143.4		97.7

**Place of Use**

IRRIGATION Within BINGHAM County

T03S R33E S21	SWNE	8.00	T03S R33E S21	SENE	2.10
T03S R33E S22	NENE	1.30	T03S R33E S22	NWNE	30.70
T03S R33E S22	SWNE	1.40	T03S R33E S22	NENW	3.70
T03S R33E S22	SWNW	5.00	T03S R33E S22	SENW	3.60

Total Acres: 55.8

**From:** Hersley, Jean <[Jean.Hersley@idwr.idaho.gov](mailto:Jean.Hersley@idwr.idaho.gov)>

**Sent:** Monday, May 18, 2020 3:40 PM

**To:** [kevin@idahowatercompany.com](mailto:kevin@idahowatercompany.com)

**Subject:** RE: ownership update and split of water rights 35-2122 and 35-7417 - question

Sorry. I fixed it.

*Jean Hersley*

*Technical Records Specialist II*

*Idaho Dept Water Resources*

*(208) 287-4942*

**From:** [kevin@idahowatercompany.com](mailto:kevin@idahowatercompany.com) [<mailto:kevin@idahowatercompany.com>]

**Sent:** Monday, May 18, 2020 3:29 PM

**To:** Hersley, Jean <[Jean.Hersley@idwr.idaho.gov](mailto:Jean.Hersley@idwr.idaho.gov)>

**Subject:** RE: ownership update and split of water rights 35-2122 and 35-7417 - question

Hi Jean,

On the two water rights we updated and split recently, I think condition 1 on 35-7417 is copied from the identical condition on 35-2122.

I believe it should read, " 1. X27 This right is limited to the irrigation of 33.1 acres within the authorized place of use in a single irrigation season."

I highlighted this on the attached water right reports. I apologize for not noticing this before.

I hope you're having a great Monday!

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**Kevin G. Kohtz, J.D.**  
**IDAHO WATER CO. LLC.**  
**WATER RIGHTS & TRANSFERS**  
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Boise, ID 83719  
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**From:** Hersley, Jean <[Jean.Hersley@idwr.idaho.gov](mailto:Jean.Hersley@idwr.idaho.gov)>  
**Sent:** Monday, May 4, 2020 2:45 PM  
**To:** Kevin G. Kohtz, J.D. <[kevin@myidaho.law](mailto:kevin@myidaho.law)>  
**Subject:** RE: ownership update and split of water rights 35-2122 and 35-7417

Yes. I carried the wrong numbers when I did the math. I will update the combined volumes on all rights. Thank you for bringing that to my attention.

*Jean Hersley*  
*Technical Records Specialist II*  
*Idaho Dept Water Resources*  
*(208) 287-4942*

**From:** Kevin G. Kohtz, J.D. [<mailto:kevin@myidaho.law>]  
**Sent:** Monday, May 4, 2020 1:39 PM  
**To:** Hersley, Jean <[Jean.Hersley@idwr.idaho.gov](mailto:Jean.Hersley@idwr.idaho.gov)>  
**Subject:** ownership update and split of water rights 35-2122 and 35-7417

Hi Jean,

Shouldn't condition #2 on these rights read, "Rights 35-2122 and 35-7417 when combined shall not exceed a total annual maximum diversion volume of 223.2 af at the field headgate, and the irrigation of 55.8 acres?"

The combined diversion volume should be **223.2AF** for the irrigation of **55.8** acres (or 4AF/ac).

On the Heyburn rights, it should be **1126.8AF** for the irrigation of **281.7** acres.

The two original rights when combined authorized a volume and acre limitation of 337.5 acres at 1350 AF. Here's a spreadsheet that shows the calculated splits. Right 7417 indicated in red, is overstated given the original volume limitations on the rights.

<b>Idaho Water Co</b>							
		RATE	VOLUME	ACRES	VOL. LIMIT	Acre Limit	Fraction of total
35-2122	12/24/1948	0.53	105.8	26.5	223.20	<b>55.80</b>	0.1653333333
35-7417	5/27/1974	0.29	<b>124.2</b>	<b>33.1</b>			
		0.82		59.6	223.20		
<b>Heyburn</b>							
35-2122	12/24/1948	2.67	534.2	133.5	1126.8	<b>281.7</b>	0.8346666671
35-7417	5/27/1974	1.48	<b>627.1</b>	<b>166.9</b>			
		4.15		300.4	1126.8		

Thanks for your work on this.

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**Kevin G. Kohtz, J.D.**  
**IDAHO WATER CO. LLC.**  
**WATER RIGHTS & TRANSFERS**  
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Hi Jean,

Can you remove the notice of security interest on these rights? According to documents indexed in IDWR water right records, the expiration date of the notification period has passed.



Additionally, the security interest held by Delwyn & Jane Mickelsen is fully satisfied. If you need more documentation, other than the expiration date on the original filing, I can ask the recorded mortgage release be sent to you.

Have a great Monday!

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**Kevin G. Kohtz, J.D.**  
**IDAHO WATER CO. LLC.**  
**WATER RIGHTS & TRANSFERS**  
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**From:** Hersley, Jean <[Jean.Hersley@idwr.idaho.gov](mailto:Jean.Hersley@idwr.idaho.gov)>  
**Sent:** Monday, May 4, 2020 7:58 AM  
**To:** Jordan, Blake <[Blake.Jordan@idwr.idaho.gov](mailto:Blake.Jordan@idwr.idaho.gov)>; [kevin@idahowatercompany.com](mailto:kevin@idahowatercompany.com)  
**Subject:** ownership update and split of water rights 35-2122 and 35-7417

For your information and records. Please let me know if you have any questions. Thank you.

*Jean Hersley  
Technical Records Specialist II  
Idaho Dept Water Resources  
(208) 287-4942*