

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

NOTICE OF PROTEST
Application for Permit 65-23867

June 18, 2020

RECEIVED

JUN 18 2020

WATER RESOURCES
WESTERN REGION

1. Matter being protested

Application for Permit 65-23867, Big Willow Ranch, LLC

2. Name of protestant

United States Department of the Interior
Bureau of Land Management
Idaho State Office
1387 South Vinnell Way
Boise, Idaho 83709-1657

3. Protestant's Representative for service (if different than protestant)

Fredric W. Price (contact person)

4. Service mailing address

same as above

5. Service telephone no.

(208) 373-3831

6. Basis of protest (including statement of facts and law upon which the protest is based).

On April 13, 2020, Big Willow Ranch, LLC ("Applicant") filed Application for Permit 65-23867 and amended it on May 20, 2020. The applicant is seeking to appropriate water for irrigation use (40 cfs over 5,411.8 acres) from surface water (Payette River). The application contains a Place of Use ("POU") legal land description that entirely describes federal land managed by BLM (T08N, R03W, S09, SWSW). The applicant is not authorized to disturb federal land nor conduct agricultural activities on federal land.

A water right cannot be established in trespass (See e.g., *In RE General Determination of Rights to Use of Surface and Ground Waters of Payette River*, 107 Idaho 221, 687 P.2d 1348, 1353 (1984); citing, *Lemmon v. Hardy*, 95 Idaho 778, 519 P.2d 1168 (1974); *Jones v. McIntire*, 60 Idaho 338, 91 P.2d 373 (1939); *Bachman v. Reynolds Irrigation Dist.*, 56 Idaho 507, 55 P.2d 1314 (1936); *Short v. Praisewater*, 35 Idaho 691, 208 P. 844 (1922); *Rabido v. Furey*, 33 Idaho 56, 190 P. 73 (1920); *Bassett v. Swenson*, 51 Idaho 256, 5 P.2d 722 (1931)).

BLM's attachments to this protest identify possible typographical errors or omissions in the application. BLM is not concerned with any errors affecting private lands and is only bringing them to your attention in case they are of interest or assistance to the Applicant or IDWR.

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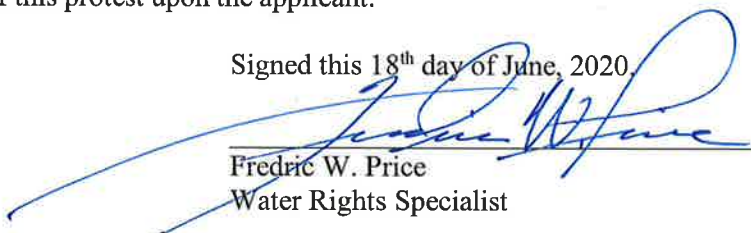
7. What would resolve your protest?

BLM's protest can be resolved by:

- 1.) Withdraw the application; or
- 2.) A. Applicant amends the application to remove federal land from the place of use and the shapefile (T08N, R03W, S09, SWSW); and
B. Include the following limiting remarks to any issued permit and/ or license:
 - i) "The place of use does not include federal land."

I hereby, acknowledge that if I, or my designated representative, fail to appear at any regularly scheduled conference or hearing in the matter of which I have been notified at the address above, the department may issue a notice of proposed default against me in this matter for failure to appear. I also verify that I have served a copy of this protest upon the applicant.

Signed this 18th day of June, 2020.


Fredric W. Price
Water Rights Specialist

Attachments:

- ◆Maps prepared by BLM for illustrative purposes.
- ◆Master Title Plat: T08N, R03W

FOR DEPARTMENT USE ONLY

Received by LE Date 06/18/2020
Fee Paid \$25.00 Date 06/18/2020 Received by LE Receipt # W048404

CERTIFICATE OF SERVICE

I certify that on June 18, 2020, I served a true and correct copy of the "**Protest of Application for Permit 65-23867**" with enclosures upon the following individuals by placing the documents in the United States mail in Boise, Idaho, postage paid, and addressed as follows:

Original to:

Nick Miller, P. E., Regional Manager
Idaho Department of Water Resources
Western Regional Office
2735 Airport Way
Boise, Idaho 83702-5082

Copies to:

Big Willow Ranch, LLC
c/o J G Schwarz
1 Dixie Lane
Payette, Idaho 83661-5030

Brent Ralston, Four Rivers Field Office Manager
Al Tarter, Natural Resource Specialist
U.S.D.I., Bureau of Land Management
Four Rivers Field Office
3948 Development Avenue
Boise, Idaho 83705-5339

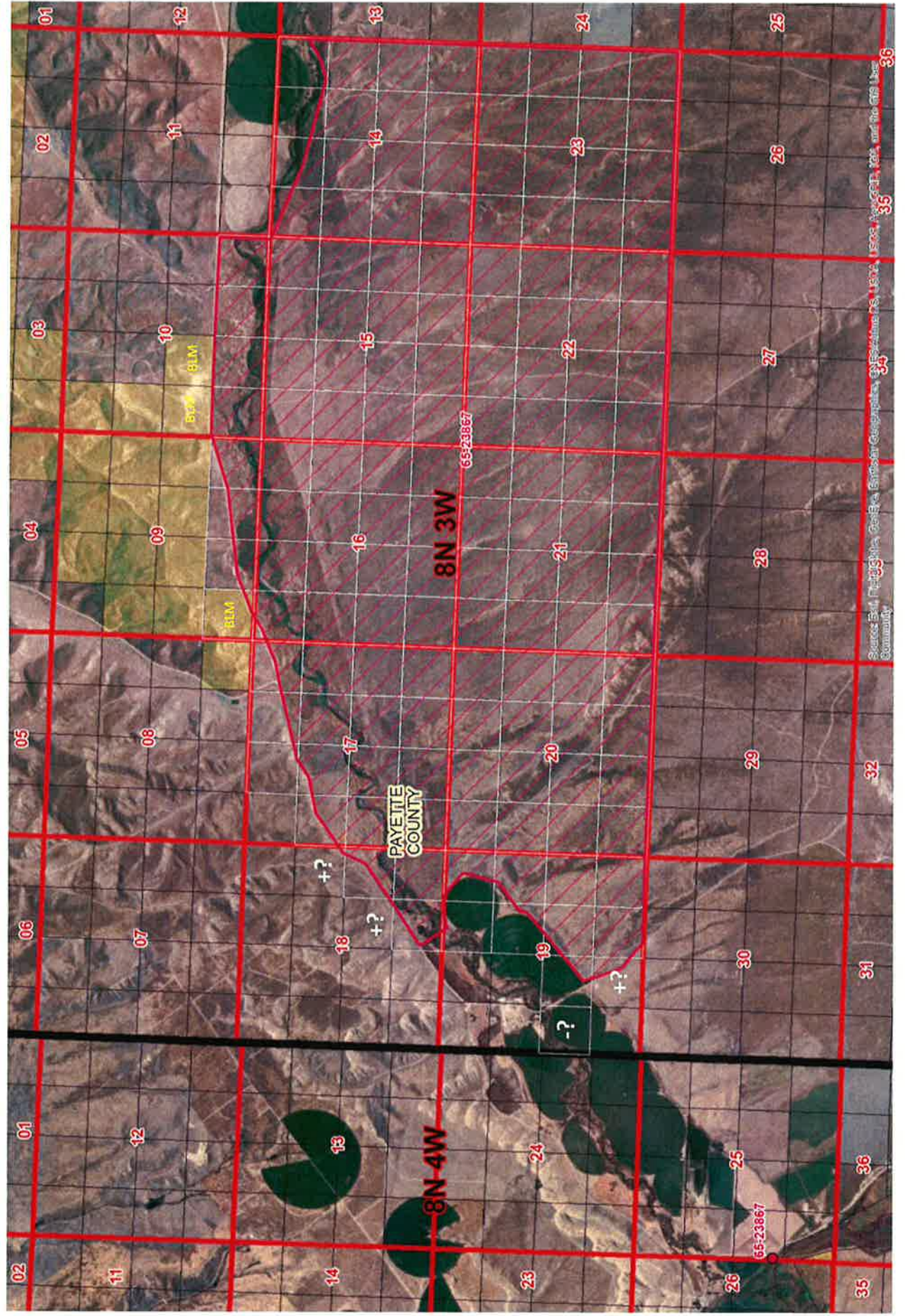
SANDRA MCCREA

Person Serving Documents (print name)



Signature of Person Serving Documents

65-23867, Big Willow Creek Ranch, LLC



65-23867, Big Willow Creek Ranch, LLC

-Remove Place of Use (POU) on BLM: T08N, R03W, S09, SWSW (2.6 ac)

-Reduce total acres by 2.6 ac

Place(s) of use: IDWR Water Right Report

Place of Use Legal Description: IRRIGATION PAYETTE County

-remove BLM

According to the map attached to the application, it appears a couple POUs owned by Applicant are missing: T08N, R03W, S18, SENE, NWSW. Also there appears to be a typographical error in a POU, where T08N, R03W, S19, NWSW should be SENE.

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
08N	03W	9		SWSW 2.59999990463257	15	SESW					
		10		SWSE 22	33	SESE					
				SWSW 40	40	SESW					
		14		SWSE 40	40	SESE					
				NENE 7.5	9.60000038146973	NWNE		SWNE 40		SENE 39	
				NENW 15	32	NWNW		SWNW 40		SENE 40	
				NESW 40	40	NWSW		SWSW 40		SESE 40	
				NESE 40	40	NWSE		SWSE 40		SESE 40	
		15		NENE 40	40	NWNE		SWNE 40		SENE 40	
				NENW 40	40	NWNW		SWNW 40		SENE 40	
				NESW 40	40	NWSW		SWSW 40		SESE 40	
				NESE 40	40	NWSE		SWSE 40		SESE 40	
		16		NENE 40	40	NWNE		SWNE 40		SENE 40	
				NENW 40	37	NWNW		SWNW 40		SENE 40	
				NESW 40	40	NWSW		SWSW 40		SESE 40	
				NESE 40	40	NWSE		SWSE 40		SESE 40	
		17		NENE 22	11	NWNE		SWNE 40		SENE 40	
				NENW 1.10000002384186	20	SWNW		SENE 35			
				NESW 40	40	NWSW		SWSW 40		SESE 40	
				NESE 40	40	NWSE		SWSE 40		SESE 40	
		18		NESE 19	18	SWSE		SESE 40		SENE 40	
		19		NENE 21	0.5	NWNE		SWNE 3.70000004768372		SENE 37	
				NESW 8.60000038146973	9.19999980926514	NWSW		SENE 40 -add SENE, NWSW?			
				NESE 40	35	NWSE		SWSE 38		SESE 40	

-should be SENE?

65-23867, Big Willow Creek Ranch, LLC
 Amended Application for Permit (filed 05-20-2020)
 -Remove Place of Use (POU) on BLM: T08N, R03W, S09, SWSW (2.6 ac)
 -Reduce total acres by 2.6 ac

-remove BLM

Place of Use: IRRIGATION

Twp	Rng	Sec	NE			NW			SW			SE			Totals
			NE	NW	SE	NE	NW	SE	NE	NW	SE	NE	NW	SE	
08N	03W	9							2.6		15.0				72.6
08N	03W	10							40.0		40.0				160.0
08N	03W	14	7.5	9.6	39.0	15.0	32.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	543.1
08N	03W	15	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	640.0
08N	03W	16	40.0	40.0	40.0	40.0	37.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	637.0
08N	03W	17	22.0	11.0	40.0	1.1		20.0	40.0	40.0	40.0	40.0	40.0	40.0	489.1
08N	03W	18			+							19.0	+		77.0
08N	03W	19	21.0	0.5	3.7				8.6	9.2		40.0	35.0	38.0	233.0
08N	03W	20	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	640.0
08N	03W	21	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	640.0
08N	03W	22	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	640.0
08N	03W	23	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	640.0

Total Acres: 5,411.8

According to the map attached to the application, it appears a couple POUs owned by Applicant are missing: T08N, R03W, S18, SENE, NWSE.
 Also there appears to be a typographical error in a POU, where T08N, R03W, S19, NWSW should be SESW.

65-23867, Big Willow Creek Ranch, LLC

-are POUs missing from Application in T08N, R03W, S18, SENE and NWSE?



65-23867, Big Willow Creek Ranch, LLC

-POU listed in T08N, R03W, S19, Lot 3 (NWSW) appears to be a typographical error and should be listed as SESW.



65-23867, Big Willow Creek Ranch, LLC

-POU listed in T08N, R03W, S09, SWSW is owned by BLM.

-Remove this POU from the Application.



65-23867, Big Willow Creek Ranch, LLC

-Road is on BLM land in T08N, R03W, S10, NWSW and NESW, therefore keep irrigation activity within S1/2 S1/2 of the section.



Properties with parcel numbers shown in **red text** are owned by Big Willow Creek Ranch LLC.

Lone Pine Farms

**Lone Pine Farms
Canyon County LLC**

BLM: 08N03W103000



**Lone Pine Farms
Canyon County LLC**

State of Idaho

PAYETTE COUNTY 075
BOISE DISTRICT SEC 3

STATUS OF PUBLIC DOMAIN
LAND AND MINERAL TITLES

MT PLAT

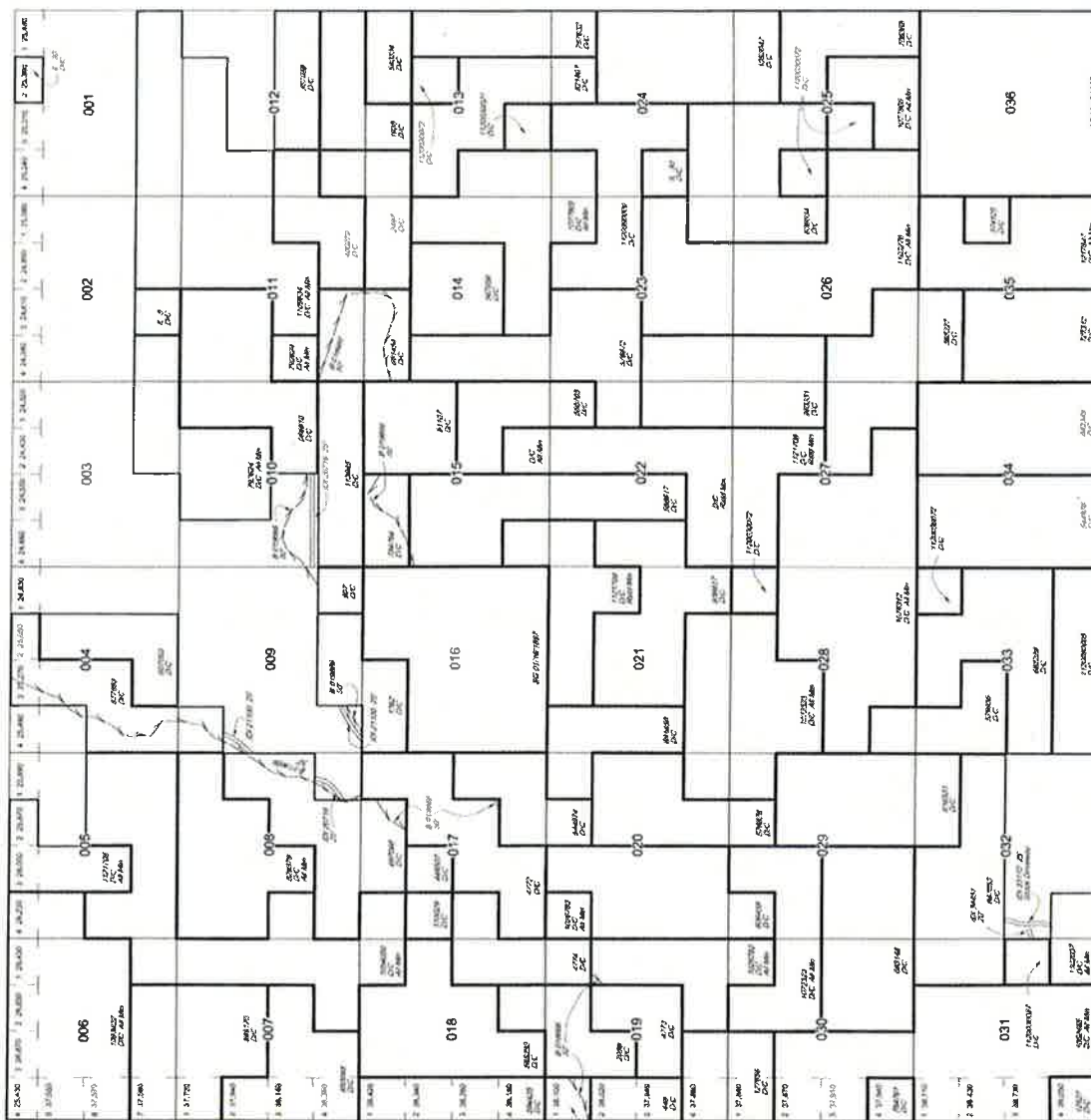
[illegible]

Site Coordinated Plan approved 05/25/2016 for official review. All other plans and specifications are subject to review and approval by the City of San Francisco.

FOR ORDERS EFFECTING DISPOSAL OR USE OF
UNIDENTIFIED LANDS REFER TO INDEX OF
MISCELLANEOUS DOCUMENTS

FILE #	134869274	DATE	04/22/2017
COMPILED BY	02132027	REV	1.0
LAST UPDATED	04/22/2017	BY	CD
GROUP #	040240	DATE ACQ	
APPLIED TO PUBLIC RELEASE	May 4, 2017		
PUBLICATION NUMBER	PTC135134	ACQUISITION	
FILE ACQUISITION	134869274	FILE	
PRODUCED COORDINATE SYSTEM	UTM 22Q UTM 14Q 14Q		
METRIC			
LINE SEPARATE			

T. J. N.
R. J. V.



$M_{CO} = 56.54$, $M_{O7} = 107$
 $N_{CO} = 85$, $N_{O7} = 77$

ACKNOWLEDGMENTS

[illegible]

The reduction strategy of a two-dimensional degenerate film can be used for the design of a single-layered metamaterial.



U.S. Bureau of Land Management • Idaho State Office
9307 S. Vinland Way • Boise, Idaho 83709
(208) 273-4000

