

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**EXCHANGE OF WATER RIGHT
EXCHANGE NO. 83641**

This is to certify that: **JUNE PLAYFAIR AND
MARIE MAHAFFEY
PO BOX 38
LEMHI, ID 83465-0038**

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 42-240, 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>
74-15535	WR/DECREED	2/12/1875	0.140 cfs	N/A	N/A	4.0	UNNAMED STREAM

Purpose of Exchange (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>
74-15535	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>Exchange Rate</u>	<u>Exchange 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>
74-15535	74-15535	0.140 cfs	N/A	N/A	4.0	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		0.140 cfs	N/A	N/A	4.0		N/A	N/A	N/A	N/A

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 10th day of JUNE, 2020.


Angela M. Grimm, Water Rights Section Manager

WATER RIGHT NO. 74-15535**As Modified by Exchange No. 83641**

In accordance with the approval of Exchange No. 83641, Water Right No. 74-15535 is now described as follows:

Right Holder: JUNE PLAYFAIR AND
MARIE MAHAFFEY
PO BOX 38
LEMHI, ID 83465-0038

Priority Date: 2/12/1875

Source: LEMHI RIVER
Source: LITTLE SAWMILL CREEK

Tributary: SALMON RIVER
Tributary: LEMHI RIVER

BENEFICIAL USE

IRRIGATION
STOCKWATER

From

03/15
01/01

To

to 11/15
to 12/31

Diversion Rate

0.120 cfs
0.020 cfs
0.140 cfs

LOCATION OF POINT(S) OF DIVERSION

LEMHI RIVER SWNW
LITTLE SAWMILL CREEK SWNW

Sec 33 Twp 18N Rge 24E LEMHI County
Sec 33 Twp 18N Rge 24E 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	
18N	24E	33						4.0											4.0
								L 4											

POU Total Acres: 4.0

PLACE OF USE: STOCKWATER

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
18N	24E	33						X											
								L 4											

CONDITIONS OF APPROVAL

1. 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).
2. This right when combined with all other rights shall provide no more than 0.03 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the place of use.

Exchange No. 83641

WATER RIGHT NO. 74-15535

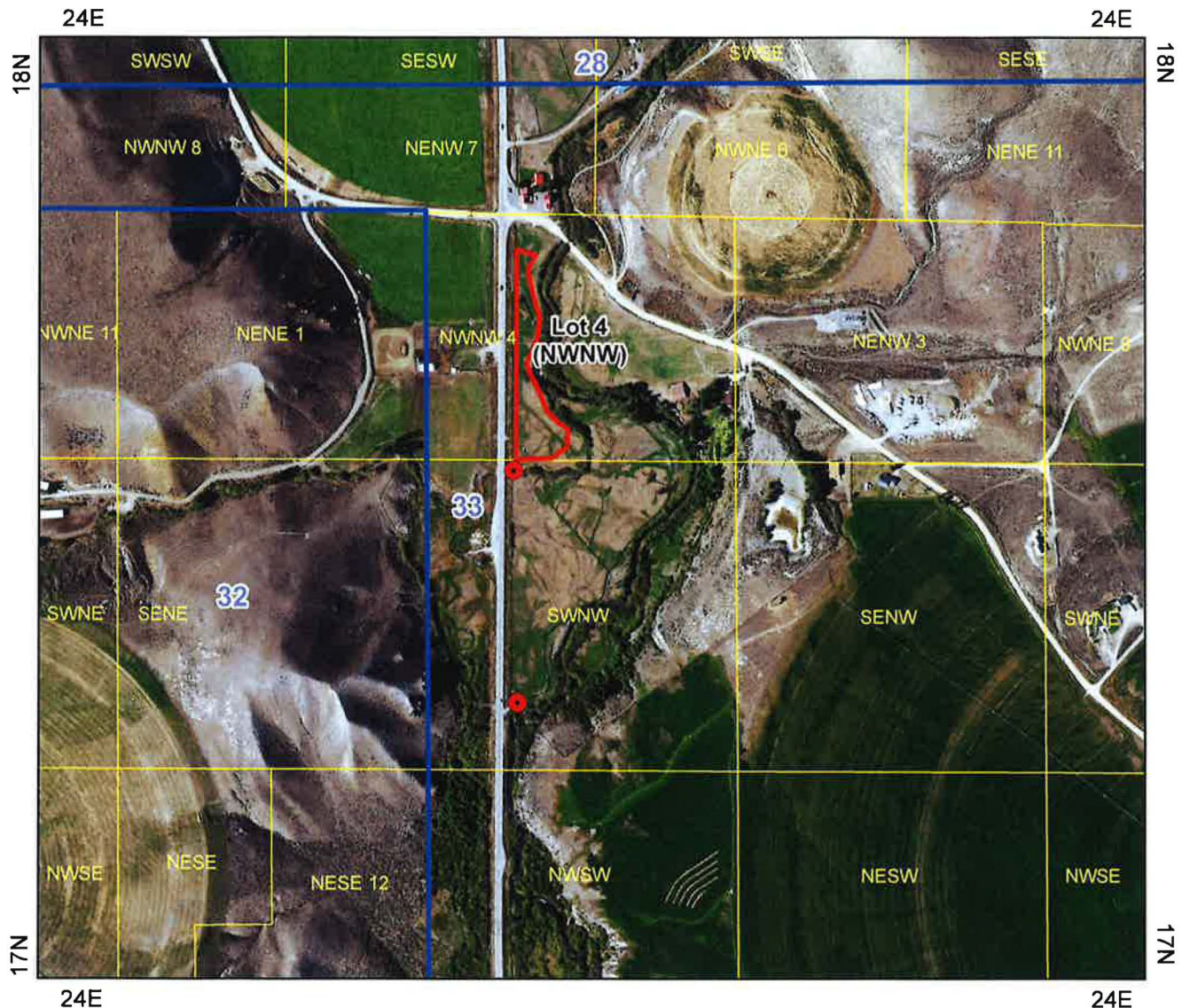
As Modified by Exchange No. 83641

CONDITIONS OF APPROVAL

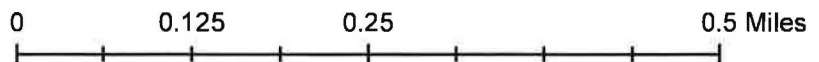
3. Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 74.
4. Failure of the right holder to comply with the conditions of this exchange is cause for the Director to rescind approval of the exchange.
5. 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.
6. Diversions of water for this right from the Lemhi River at the point of diversion described above, also known as the L-43B, is limited to those times water is available for diversion under this right and priority from the unnamed stream, known locally as Indian Springs Creek, at the historic point of diversion.
7. Prior to diversion of water under this approval, the right holder shall provide a measurement plan to the Department for quantifying the flow in the unnamed stream (Indian Springs Creek) near the historic point of diversion, in Little Sawmill Creek below the confluence with Indian Springs Creek, and from the Lemhi River at the L-43B point of diversion. The measurement plan must be approved by Water District No. 74 and Water District No. 170 watermasters.

State of Idaho
Department of Water Resources
Attachment to Exchange 83641
Water Right 74-15535

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.

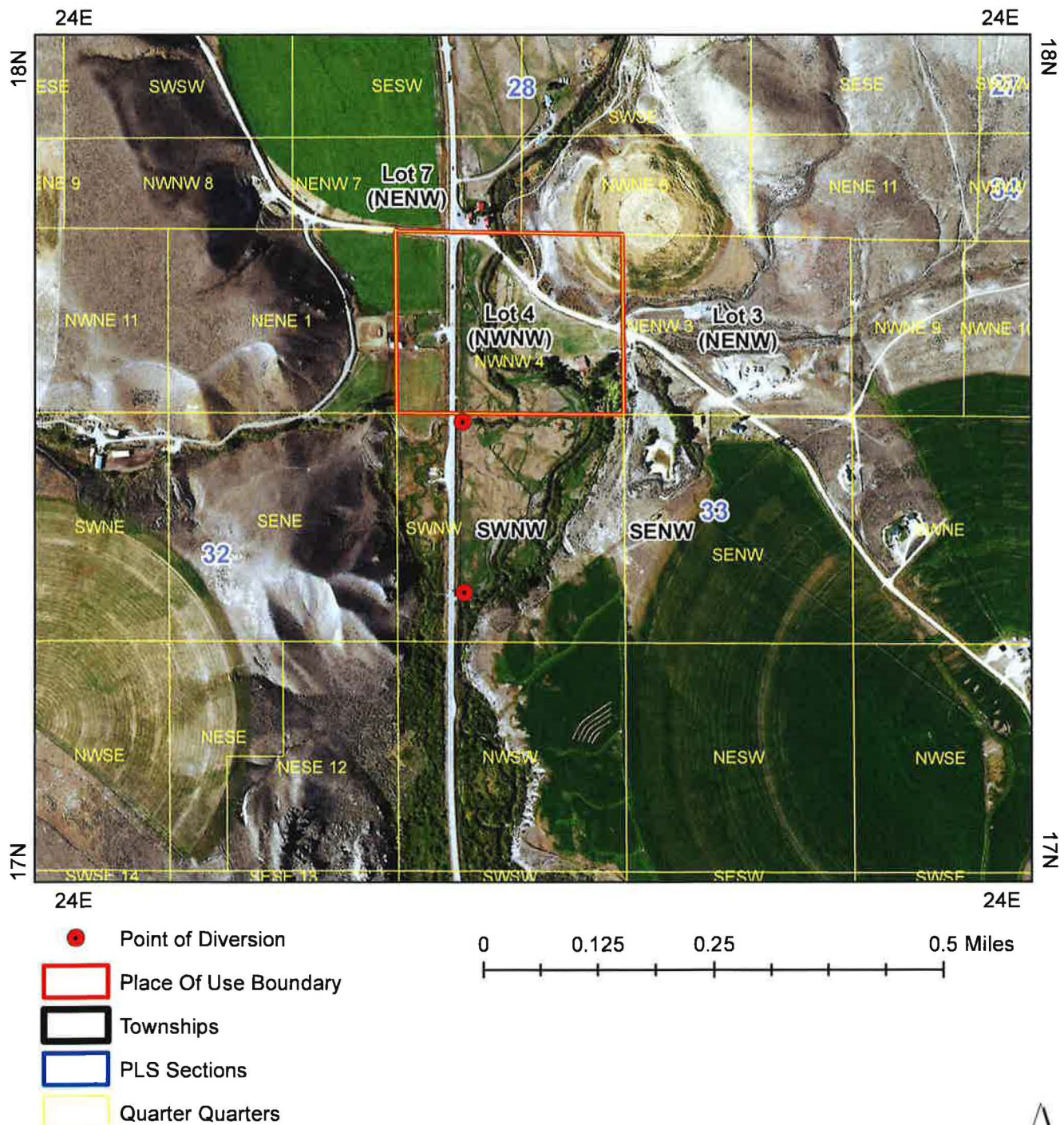


- Point of Diversion
- Place Of Use Boundary
- Townships
- PLS Sections
- Quarter Quarters



State of Idaho
Department of Water Resources
Attachment to Exchange 83641
Water Right 74-15535

This map depicts the STOCKWATER 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.





State of Idaho

DEPARTMENT OF WATER RESOURCES

322 E Front Street, Suite 648 • PO Box 83720 • Boise ID 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700

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

BRAD LITTLE
Governor

GARY SPACKMAN
Director

June 10, 2020

JUNE PLAYFAIR
MARIE MAHAFFEY
PO BOX 38
LEMHI ID 83465-0038

Re: Exchange No: 83641
Water Right No(s): 74-15535

Exchange Approval Notice

Dear Water Right Holder:

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

The Exchange 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 exchange 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) 287-4800.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jan Husky".

for Angela M Grimm
Water Right Section Manager

Enclosure

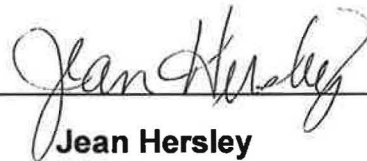
CERTIFICATE OF SERVICE

I hereby certify that on June 11, 2020 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (Approved Exchange) to the person(s) listed below:

**Re: Exchange No.: 83641
Water Right No(s): 74-15535**

**JUNE PLAYFAIR
PO BOX 38
LEMHI ID 83465-0038**

**MARIE MAHAFFEY
PO BOX 38
LEMHI ID 83465-0038**

A handwritten signature in cursive script, reading "Jean Hersley", is positioned above a horizontal line.

**Jean Hersley
Technical Records Specialist**

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: June 9, 2020
To: Exchange 83641
From: Alex Dalgleish
Re: Review & Evaluation of Sufficiency of Information

Purpose:

On September 23, 2019, the Department received an exchange application from June Playfair. The application proposes to move the point of diversion (POD) for right 74-15535 from an unnamed stream (known locally as Indian Springs Creek) to the L-43B, a screened diversion on the Lemhi River. The application states the proposal would remove an unscreened diversion and a barrier to fish passage up Little Sawmill Creek and equivalent amount of water will enter the Lemhi below the L-43B at the confluence of Little Sawmill Creek and the Lemhi River.

Although the current POD on Indian Springs Creek is located at a point above the new POD on the Lemhi, this application is considered an exchange since the POD is proposed to be moved from Indian Springs Creek to the Lemhi River at a point upstream from the confluence of the two.

Upon further review of the application, a discrepancy was discovered between the decreed source/POD and the actual source/POD. Right 74-15535 was decreed with a POD from an unnamed stream (Indian Springs Creek) in the SWSWSW QQQ, Twp. 18N, Rge. 24E, Sec. 33. The exchange application suggests that the POD is on Little Sawmill Creek, not the unnamed stream where the POD was decreed.

On 4/23/20, I called the applicant requesting clarification on the location of the POD and source. I spoke with June Playfair and Marie Mahaffey. They stated that the water under right 74-15535 has been diverted for many years from Little Sawmill Creek at an existing headgate in the NWSWNW QQQ, Twp. 18N, Rge. 24E, Sec. 33. During the phone conversation, I requested a map or document clarifying their exchange proposal. The document was sent to Chris Gaughan at the Upper Salmon Basin Watershed Program. He emailed the document to me on 4/24/2020 and it plainly represented the POD on Little Sawmill Creek.

This exchange approval document will list two separate sources and POD's. One POD will be at the actual POD location on Little Sawmill Creek, tributary to the Lemhi River and the other will be described at the L-43B on the Lemhi River tributary to the Salmon River. The exchange document will list these two sources and POD's as a result of the language in Idaho Statute 42-240. Section (1) states in part "any person holding a right for the use of surface water may make application....to exchange water authorized to be diverted under the right with the same or a different source..." Additionally, 42-240 (5) partially discusses instances when water is not available to satisfy the exchange and as a result, the right to use the water automatically reverts to what was previously authorized under the right. Accordingly, keeping both the current and new POD/source will maintain the legitimacy and viability of the right 74-15535.

Furthermore, although the POD/source may have been decreed incorrectly on Indian Springs Creek, for this exchange the Department will recognize the POD on Little Sawmill Creek as the existing POD/source for right 74-15535. In the future, if the exchange is discontinued, right 74-15535 will be authorized to divert from the location on Little Sawmill Creek as claimed by Mrs. Playfair and Mrs. Mahaffey.

POUs:

The place of use will not change under this proposed exchange. Right 74-15535 authorizes water use for irrigation and stockwater.

PODs:

Department records reflect the decreed POD location on Indian Springs Creek in the SWSWSW QQQ, Twp. 18N, Rge. 24E and Sec. 33. However, the POD for right 74-15535 has supposedly been located on Little Sawmill Creek in the SWNW quarter-quarter, Sec. 33, T18N R24E. This proposed new location for the POD is also in the SWNW quarter-quarter in the same Section, Township and Range but will divert from the Lemhi River at the L-43B.

Authority to File:

This application was signed by June Playfair. According to Department records, June Playfair owns the parcel at the (new) proposed POD. Department records indicate that right 74-15535 is owned by June Playfair and Marie Mahaffey. The application did not have Marie's name or signature on it. On 10/15/019, I sent a letter requesting Mrs. Mahaffey's name and signature be added to the application. The amended application was received 11/4/19.

Water Right Validity:

Right 74-15535 was originally split from parent right 74-1081. It was partially decreed in the SRBA to Velma Mahaffey on July 9, 2007 with the Lemhi River as the source. An amended decree was filed on January 22, 2008. The court granted the amendment in order to adjust the acreage in different quarter-quarters, to change the source from the Lemhi River to an unnamed stream and to change the legal description of the POD. The original decreed POD location on the Lemhi was in the NWSW QQ, Twp. 18N, Rge. 24E, Sec. 33 and the amended decreed POD location from the unnamed stream was in the SWSWSW QQQ, Same Township, Range and Section. The ownership of the right changed from Velma Mahaffey or Velma Mahaffey Irrevocable Trust to June L. Playfiar and Marie Mahaffey in May of 2019. It is not clear from the ownership change document if the new ownership name connector was and, or, or and/or. However, the deeds were granted to June *and* Marie. A review of aerial imagery indicates that irrigation use is consistent in the last 5 years. Forfeiture is not an issue and there are no concerns with the validity of the right.

Injury to Other Water Rights:

After the exchange, the water right record will more accurately reflect irrigation use. Rights 74-1722 for fish propagation and 74-1080 for irrigation divert water at the proposed new POD on the Lemhi River. Right 74-1080 is also owned by the applicants of this exchange proposal. Based on a phone conversation on 4/23/2020, the applicants claim that Indian Springs Creek flows into Little Sawmill Creek which then merges with the Lemhi River below the new POD location at the L-43B. Regardless of the POD location for right 74-15535, whether it has been at the decreed location on Indian Springs Creek or the "actual" location on Little Sawmill Creek, water will merge with the Lemhi River at the same location. There are no water rights that divert from the Lemhi River between the new POD location and the downstream confluence of Little Sawmill Creek with the Lemhi. The proposed exchange of water does not appear to cause injury to the existing rights that will be shared at the proposed L-43B POD or other rights on the Lemhi River.

When moving a POD from a tributary stream to the main stem that it is tributary to, a measurement plan may be submitted to the Department to quantify that adequate flows will reach the main stem and consequently

prevent injury to other water users. Cindy Yenter, Watermaster of Water District 170, noted in an email on 5/15/2020 that from her anecdotal observations, there is always sufficient flow in Indian Springs Creek, flowing into Little Sawmill Creek, and that it is reaching the Lemhi River. Her observations and confidence that water will reach the Lemhi River from Indian Springs Creek will help decrease the concerns for injury. The applicants will be required to submit a measurement plan to gauge flows at the decreed POD on Indian Springs Creek, the actual POD on Little Sawmill Creek and the new POD on the Lemhi River at the L-43B diversion. This measurement plan will further decrease the possibility of injury to other water users.

Enlargement of Use:

The application does not request to increase the rate, volume or acres. Due to the nature of the exchange proposal, enlargement may be a concern since the POD will be moved from Indian Springs Creek to the Lemhi River which has more water available. Therefore, conditional language will be added to the proposal to limit diversions of water at the L-43B on the Lemhi River to times when water is available and in priority at the original POD on Indian Springs Creek. With this language, no enlargement concerns are present.

Local Public interest:

The application was advertised and no protests were received. Comments were requested from the watermasters Rick Sager of district 74 and Cindy Yenter of water district 170 to identify any local public interest concerns. Cindy responded with no objections to the proposal on 5/15/2020. She expressed some support for the change in the POD as it would remove an unscreened, unmeasured and uncontrolled diversion which poses a fish barrier to migration in Little Sawmill Creek/Indian Creek. The proposed new POD would be within the control of Watermaster of Water District 74. There are no apparent issues with local public interest.

Beneficial Use/Conservation of Water Resources:

This exchange appears to be consistent with the conservation of water resources in Idaho.

Effect on Economy the Local Area:

No adverse impacts are anticipated.

Effect on Agricultural Base of the Local Area:

The exchange shows no negative impacts on the local agriculture.

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.

**NOTICE OF PROPOSED CHANGE
OF WATER RIGHT
EXCHANGE NO. 83641**

JUNE PLAYFAIR and MARIE MAHAFFEY, PO BOX 38, LEMHI, ID 83465-0038 have filed Application No. 83641 for changes to the following water rights within LEMHI County(s): Right No(s). 74-15535; The purpose of the exchange is to change a portion of the above rights as follows:

To move a point of diversion for right 74-15535 from an unnamed stream tributary to Little Sawmill Creek, to the L-43B on the Lemhi River in the SWNW, Sec. 33, T18N, R24E. The current location of the point of diversion on record is in the SWSW QQ, Sec. 33, T18N, R24E from an unnamed stream known locally as Indian Springs Creek. The POD is currently diverted in the SWNW QQ, Sec. 33, T18N, R24E at a physical headgate on Little Sawmill Creek below the confluence with Indian Springs Creek. The new POD location would be at the L-43B, a screened diversion on the Lemhi River which is at a point upstream of the confluence of Little Sawmill Creek and the Lemhi River.

For additional information concerning the property location, contact IDWR State office at (208) 287-4800; or for a full description of the transfer, please see <http://www.idwr.idaho.gov/water-rights/transfers/search.html>.

Protests may be submitted based on the criteria of Idaho Code Sec. 42-240.

Any protest against the proposed change must be filed with the Department of Water Resources, 322 E Front St, PO Box 83720, Boise ID 83720-0098 together with a protest fee of \$25.00 for each application on or before 5/26/2020. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director
05-07-2tc

Affidavit of Publication

STATE OF IDAHO

County of Lemhi

ss.

RICKY G. HODGES being first duly sworn, deposes and says he is one of the publishers (printers) of The Recorder Herald, a newspaper published weekly at Salmon, Lemhi County, Idaho, and of general circulation therein. That the **NOTICE OF PROPOSED CHANGE OF WATER RIGHT EXCHANGE #83641**, a true printed copy of which is attached to the margin hereof, has been and was correctly printed and published in the regular and entire issue of every number of said newspaper and not in any supplement thereof or thereto for **TWO (2)** consecutive issue(s), commencing with the issue dated **05-07-2020** and ending with the issue dated **05-14-2020**.

STATE OF IDAHO

County of Lemhi

ss.

On this **14th day of May** in this year of 2020 before me, A Notary Public, personally appeared RICKY G. HODGES, known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that he executed the same.

Residing At Salmon, Idaho

Notary Public for Idaho



Publication Fee \$104.40

RECEIVED

MAY 18 2020

Department of Water Resources
Eastern Region

RECEIVED

JUN 01 2020

DEPARTMENT OF
WATER RESOURCES

State of Idaho
Department of Water Resources
Exchange of Water Right(s)
RECOMMENDATION FORM

RECEIVED
MAY 20 2020
Department of Water Resources
Eastern Region

RE: Exchange No. 83641
Water Right No(s). 74-15535

RECEIVED
MAY 26 2020
DEPARTMENT OF
WATER RESOURCES

Transfer Applicant's Name:

JUNE PLAYFAIR
PO BOX 38
LEMHI, ID 83465-0038

MARIE MAHAFFEY
PO BOX 38
LEMHI, ID 83465-0038

Watermaster's Recommendation:

- a) X I do not oppose approval of this application.
- b) I do not oppose approval of this application if it is conditioned as follows:
- c) I oppose approval of this application for the following reasons:
- d) Additional comments:

Dated this 17 day of May, 2020


Watermaster's Signature

Dalglish, Alex

From: Yenter, Cindy
Sent: Friday, May 15, 2020 3:04 PM
To: Hersley, Jean; Dalglish, Alex
Cc: rick375@centurytel.net
Subject: Playfair exchange 83641

WD170 has no objections to this approval, subject to considerations discussed below. This proposal is a highly desirable improvement to the Little Sawmill channel as it will remove an unscreened, unmeasured and uncontrolled diversion which poses a fish barrier to migration in Little Sawmill/Indian Creek, and move the water right POD to an existing diversion which is under the control of the watermaster of WD74.

Because of the inconsistency between the recorded right POD, the recorded source and the "actual" POD and source in use for many years, it will be tricky to conduct the required analysis of the flows historically available to this right. In all fairness to the water user, that analysis should occur not at the decreed POD but at the point where the water has actually been diverted, near highway 28. Whether the right was historically filled with Indian Creek water or Little Sawmill Creek water is of little significance, provided we acknowledge that the Lemhi Decree and subsequently the SRBA appear to have decreed the right at the incorrect POD. If flows at the "actual" POD are adequate to have filled the right and can be shown to be reaching the Lemhi to compensate for diversions at L43B, that is sufficient to allow the exchange without injury. From my anecdotal observations, there is always sufficient flow in Indian Creek, flowing into lower Sawmill Creek, to allow the approval.

Regarding conditioning of the approval, the unnamed stream at the decreed POD is a marshy area that is simply not measurable. Standard exchange conditions which require measurement of flows at the original POD will not be administerable and will never be satisfied. Standard measuring devices are themselves fish barriers and would completely defeat the purpose of the project if required in specific locations. Still, it is important to ensure that an equivalent amount of flow is available from the exchanged source, and that it is reaching the Lemhi River.

WD170 suggests incorporation of condition language, which requires submittal and approval of a measurement plan which describes how flows will be quantified in Indian Creek and in lower Sawmill Creek, to ensure that adequate exchange flows are available and are entering the Lemhi River. The measurement plan must be approved by WD74 and 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*