

February 6, 2020
502 Fourth of July Creek Road
North Fork, Idaho

Idaho Department of Water Resources
ATTN: Angie Grimm, Water Rights Section Manager
322 E Front Street Suite 648
PO Box 83720
Boise, ID 83720-0098

RECEIVED
FEB 14 2020
DEPARTMENT OF
WATER RESOURCES

RECEIVED
FEB 10 2020
DEPT OF WATER RESOURCES
SALMON OFFICE

Re: Petition for Reconsideration
Transfer No. 83534
Water Right Nos. 75-14313 and 75-14641

We are filing this Petition for Reconsideration of the preliminary order issued by IDWR January 28, 2020 on the above referenced Transfer and Water Rights to remove Condition No. 2.

The basis for this petition is found in the Fourth of July court decree (Decree No. 75-L, Brown v Nelson, 12.16.1982) for 75-14313 and 75-14641 which was upheld in the SRBA decree.

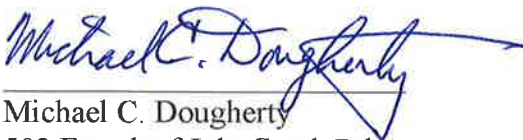
Condition No. 2 on both of these water rights establishes a new, limited rate per acre. The 1982 decree first established the higher rates per acre from both April 1 to August 1 and August 2 to November 1 based on a thorough investigation and court proceedings. We refer you to the actual Stipulation for Entry of Judgement Case No. 5235 Brown vs. Nelson, et al filed December 16, 1982. Note the court determined in Section 4 the rates established in the Decree are "the minimum amount of water **necessary for the irrigation of the lands** of the parties" (see attached). **NOTE: The stipulation is specifically worded to say the decreed amount of water is necessary for the irrigation of the land, not for ditch or conveyance loss.** Furthermore, the SRBA agreed and maintained the rates as in the original court decree with no changes or conditions.

IDWR has issued this new boilerplate condition limiting our decreed water right's rate per acre at the field headgate on the basis of I.C. 42-202 (6) requirements. The findings of the court, after lengthy investigation and proceedings determined a greater amount is necessary for irrigation of these lands, thus providing IDWR satisfactory proof that requirements under I.C 42-202 (6) have been met.

It is important to note that this transfer was ONLY made to correct the records to reflect the actual and historical location of the POD in 75-14313 and 75-14641. No physical changes or changes to any irrigation practices are being made.

If you need further information or have questions please call.

Sincerely yours,



Michael C. Dougherty
502 Fourth of July Creek Rd
North Fork, ID 83466
(208) 865-1118



Jane E. Dougherty Sandstrom
502 Fourth of July Creek Rd
North Fork, ID 83466
(208) 865-1118

1 JAMES C. HERNDON
2 ATTORNEY AT LAW
3 P. O. BOX 769
4 SALMON, IDAHO 83467
5 AREA CODE (208) 756-2412

Filed in District Court Lemhi County
Idaho, Dec 16 1982
at 15 minutes past 1 o'clock P. M.
Alberta H. Hargrett Clerk
By Dorothy J. Hargrett Deputy

8 IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF
9 THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LEMHI

10 MERRILL M. BROWN and VIRGINIA :
11 K. BROWN, husband and wife, :

12 Plaintiffs, :

13 vs. :

14 FRANK R. NELSON and LOUISE C. :
15 NELSON, husband and wife, et al, :

16 Defendants. :

Case No. 5235

STIPULATION FOR ENTRY OF
JUDGMENT

17 This matter having come on for hearing on the 15th day of
18 January, 1981, before the Honorable Milton A. Slavin, Magistrate
19 sitting as Master, and the parties having appeared as follows:

20 C. Walker Lyon, Esq. appeared representing Ivan H. and
21 Wilma Bolander and the Estate of Mary Sharkey, Dec., James C.
22 Herndon, Esq., appeared representing Dorsey and Barbara D.
23 McLaughlin, Frank R. and Louise C. Nelson; Jack R. and Shirley
24 Copeland; Glen M. and Irene L. May; Billie J. Bloodgood, individu-
25 ally and as successor of Mark H. Bloodgood, deceased; Glenn C.
26 Janss, contract purchaser from Billie J. Bloodgood; Richard William
27 Nelson and Devon Denny, husband and wife, successors in interest to
28 Richard M. and Barbara W. Young; Richard and Jennie H. Smith; Robert
29 and Jean Vehn, and Muriel Hemmingway, contract purchaser from Jack
30 R. and Shirley Copeland. Fred Snook, Esq. appeared represent-
31 ing Peter M. and Lila L. Hanson, James R. and Gwen B. Moorehead
32 selling to Melvin and Glenda Wilde; Robert H. and Frances

1 Appleman; Clarence and Madge L. Seher, selling to F. Wilmer
2 and Ruth B. Rigby; and Bill McCook, United Outdoors Investments.

3 The parties, by and through their attorneys of record
4 having stipulated as follows:

5 1. Fourth of July Creek is a perennial stream of water
6 located in Lemhi County, State of Idaho, arising in the
7 mountains thereof, and the waters of which flow westerly and
8 discharge into the Salmon River at a point westerly of the
9 lands hereinafter described.

10 2. The flow of the water in said stream varies in amount
11 during two seasons of the year, known as high and low water
12 season; the flow of the water of the stream during the low
13 water season is much less and barely sufficient to meet the
14 requirements of the parties hereto for proper irrigation of
15 their lands.

16 3. Each of the parties, Plaintiffs, Defendants and Counter-
17 claimants take water from said stream by means of ditches or
18 diversion works which were at the time of the construction
19 thereof, and now are, of sufficient size and capacity to carry
20 and convey the quantity water appropriated by said parties and
21 their predecessors to and upon their several tracts of lands for
22 the irrigation thereof.

23 4. During the portion of the irrigation season ending
24 August 1 of each calendar year, two miner's inches of water
25 per acre, measured under a four inch pressure, or its equivalent
26 in cubic feet per second, is the minimum amount of water necessary
27 for the irrigation of the lands of the parties hereinafter de-
28 scribed; and during the portion of the irrigation season com-
29 ing after August 1 of each calendar year, one and one-half
30 miner's inches of water per acre, measured under a four inch
31 pressure, or its equivalent in cubic feet per second is the
32 minimum amount of water necessary for the irrigation of the
lands of the parties hereinafter described.