



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](http://idwr.idaho.gov) • Email: [idwrinfo@idwr.idaho.gov](mailto:idwrinfo@idwr.idaho.gov)

BRAD LITTLE  
Governor

GARY SPACKMAN  
Director

January 22, 2020

MICHAEL HARRIS  
PEPIN CORSO-HARRIS  
11 PURPLE SAGE LN  
BELLEVUE ID 83313-5271

**RE: DENIAL OF APPLICATION(S) TO LEASE A PORTION OF WATER RIGHT NO(S).  
37-114C & 37-7609 TO THE WATER SUPPLY BANK**

Dear Applicant:

On December 2, 2019, the Department of Water Resources (Department) received your application(s) to lease a portion of water right(s) 37-114C & 37-7609 to the Water Supply Bank (Bank). Water Supply Bank Rule 25 (also known as IDAPA 37.02.03.025) requires the Department to evaluate whether the water right has been lost through abandonment or forfeiture as defined by Section 42-222(2), Idaho Code. Section 42-222(2) states, in part, "All rights to the use of water acquired under this chapter or otherwise shall be lost and forfeited by a failure for the term of five (5) years to apply it to the beneficial use for which it was appropriated."

A review of aerial photography between 2010 when the right was partially decreed in the Snake River Basin Adjudication and 2019 shows no evidence of irrigation on the acres proposed to be leased to the Bank. The proposed acres are commonly called the pivot corners, or corners that would no longer be irrigated when a pivot is installed.

Because of this evidence of more than five years of non-use, the requirements of Water Supply Bank Rule 25 cannot be met and the attached lease application(s) is **denied**. If you can provide additional information to show beneficial use has occurred, please resubmit the application with the additional information. A refund has been requested and will be sent to you under separate cover from the State Controller's Office.

Please note that a water right is not protected from forfeiture unless it is accepted into the Bank or unless an exception or defense to forfeiture applies as described under Idaho Code § 42-223.

If you have any questions regarding this matter, please contact the Department at (208) 287-4800.

Sincerely,

Jean Hersley

Technical Records Specialist II

C: Corey Skinner – IDWR Southern Regional Office  
Triangle Irrigation District  
Wood River Valley Irrigation District No. 45

STATE OF IDAHO  
WATER RESOURCE BOARD

RECEIVED

DEC 02 2019

DEPARTMENT OF  
WATER RESOURCESAPPLICATION TO SELL OR LEASE A WATER RIGHT  
TO THE WATER SUPPLY BANK

Designated Applicant

Michael A. Harris  
(Select one owner - see item 1A on the application)

Water Right No.

37-114C  
(One water right per application)

Is this application being submitted with a rental application as a lease/rental package?

Yes ☐ No ☒

This application must be prepared in accordance with the minimum requirement checklist below. Use this checklist to ensure all necessary documentation has been provided. This checklist is part of the lease application and must be included with the lease application. Applications that do not meet the minimum requirements will not be processed and may be returned or denied.

## MINIMUM REQUIREMENT CHECKLIST

All items must be checked as either *Attached (Yes)* or *Not Applicable (N/A)*

Yes

Completed *Application to Sell or Lease a Water Right to the Water Supply Bank*.

Application filing fee of \$250.00 per water right. If you are submitting more than one lease application and the water rights have an overlapping, common place of use, or a common diversion rate or volume, the total fee for all water rights is \$500.00. For places of use, multiple water rights must be used to irrigate the same lands in order to qualify for the joint filing fee. Individual filing fees are required for water rights that share a common permissible place of use but which cover separate acres within the permissible place of use.

Confirmation this form has been printed **single sided**, per requirement of the Water Supply Bank.

Attachment

N/A

Yes

1A

Signatures and contact information for *all owners* of the water right to be leased or sold on this application.

1B

An Internal Revenue Service (IRS) Form W-9 for the Designated Applicant.

1C

*Notice of Change in Water Right Ownership* form (accessible from [www.idwr.idaho.gov](http://www.idwr.idaho.gov)).

1D



Contact information for an authorized representative and documentary proof they are authorized to represent the Designated Applicant on this application. If the Designated Applicant is a business, partnership, municipality, organization or association, include documents identifying officers authorized to sign or act on behalf of the entity.

2



Description of a water right portion offered to the Water Supply Bank.

3



A map that clearly outlines the specific location where irrigated acres will be dried up, or where a beneficial use of water will be suspended. You have the option of printing a map using the map tool on IDWR's website at: [www.idwr.idaho.gov](http://www.idwr.idaho.gov).

4A



Written consent from irrigation district or water delivery company.

4G

Evidence demonstrating the water right has not been forfeited pursuant to Section 42-222(2), Idaho Code.

## Department Use Only

Fee Amount \$ 250.00Received By: JHDate Received: 12-2-19Receipt # C108037W-9 received? Yes ☒ No ☐ (Route W-9 to Fiscal)Name on W-9: Michael A. Harris

DENIED

11/19

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STATE OF IDAHO  
WATER RESOURCE BOARD

**APPLICATION TO SELL OR LEASE A WATER RIGHT**  
(Continued)

**1. CONTACT INFORMATION**

- A. This application must be completed by a Designated Applicant who is a current owner of the water right being sold or leased to the Water Supply Bank. If there are additional current owners, those individuals must authorize the Designated Applicant to represent them on this application by completing and signing Attachment 1A of this application package.

Designated Applicant Michael A. Harris  
Mailing Address 11 Purple Sage Ln Bellevue ID 83313  
Street City State Zip Code  
Email Address pepin1776@gmail.com Phone Number 208-721-0173

☐ The Designated Applicant is the sole owner of the water right being sold or leased to the Water Supply Bank.

OR

☒ The Designated Applicant is representing additional water right holders who have completed Attachment 1A.

- B. Has the Designated Applicant submitted an IRS Form W-9 to this Department within the last 2 years? Yes ☐ No ☒  
If no, complete the form and attach to this application (Attachment 1B).

- C. Are all applicants on this form listed in IDWR's records as the current owners of the water right? Yes ☒ No ☐  
If no, attach a *Notice of Change in Water Right Ownership* form along with the required documentation and fee (Attachment 1C).

- D. Is this application being completed by an authorized representative of the Designated Applicant? Yes ☐ No ☒  
If yes, representatives (includes employees of Designated Applicant companies) must complete this section and submit documentary proof of their authority to represent the Designated Applicant (Attachment 1D).

Name of Representative \_\_\_\_\_ Organization \_\_\_\_\_  
Professional Title \_\_\_\_\_ Email Address \_\_\_\_\_  
Mailing Address \_\_\_\_\_ Phone Number \_\_\_\_\_

☐ Send all correspondence for this application to the representative and not to the Designated Applicant.

OR

☐ Send original correspondence to the Designated Applicant and copies to the representative.

**2. DESCRIPTION OF WATER RIGHT OFFERED TO THE BANK**

☐ The full water right is being offered to the Bank.

OR

☒ A part of the water right is being offered to the Bank.

If a portion of the water right is being offered, complete Attachment 2.

**3. MAP**

Attach a map of the point(s) of diversion and place(s) of use proposed to be idled by this lease application. Make sure the idled place of use is outlined and annotated with legal land descriptions (Township, Range, Section and Quarter-Quarters) or with GPS coordinates. For irrigation purposes, mark the number of acres you desire to idle. If the water right proposed for lease is located within a permissible place of use (PPU) and portions of the PPU will continue to receive water from non-leased water rights, clearly outline on a map the acres within the PPU that will continue to be irrigated, as well as acres that will be idled during the lease term. Label the map **Attachment 3**.

3

STATE OF IDAHO  
WATER RESOURCE BOARD

**APPLICATION TO SELL OR LEASE A WATER RIGHT**  
(Continued)

**4. GENERAL INFORMATION**

- A. Is the diversion works or system owned or managed by an irrigation district or water delivery company? Yes ☒ No ☐  
If yes, provide written consent from the company, corporation or irrigation district authorizing the proposed sale or lease (Attachment 4A).

If your water right is delivered through a canal, lateral or ditch operated by a canal company, irrigation district, or similar delivery entity, your lease request must include written consent from the company, district, or similar entity for your removal of water from its system pursuant to Section 42-108, Idaho Code and IDAPA WSB Rule 37.02.03.25.02e.

- B. Please provide a description of the current water diversion and delivery system.

Delivery of 37-114C from the river to the field headgate is controlled by Wood River BOC for the Triangle II & the Wood River Valley ID #4/5.  
From our field headgate the sump collects for pressurizing pivot & wheel lines or to ditches for flood irrigation.

- C. Describe any other water rights used for the same purpose at the same place of use as the water right being offered to the Bank. A portion of GW right 37-7609

- D. Are any of the water rights identified in Section 4C stacked with the water right proposed for lease? Yes ☒ No ☐

Stacked water rights are used together to achieve a common beneficial use, such as irrigation of the same lands. Stacked water rights cannot be separated and must be jointly leased to the Water Supply Bank. Stacked water rights qualify for the multiple fee payment of \$500.

- E. Will the present place of use continue to receive water from any other source? Yes ☐ No ☒

If yes, explain the relationship between the different water sources and how enlargement of the authorized use will not occur if this water right is leased.

- F. Identify annual volumes and/or rates of water diverted in the last 5 years to accomplish the beneficial use authorized by this water right. Full use of right every year.

- G. Has any portion of this water right undergone a period of five or more consecutive years of non-use? Yes ☐ No ☒

If yes, describe the circumstances and attach evidence to demonstrate how the water right has not been lost through forfeiture (Attachment 4G). See Section 42-223, Idaho Code for exceptions to forfeiture. Your application may be denied if forfeiture concerns are not addressed.

- H. Is this water right involved in any other IDWR process, such as an application for transfer or a mitigation plan?

If yes, describe.

Yes ☐ No ☒

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STATE OF IDAHO  
WATER RESOURCE BOARD

**APPLICATION TO SELL OR LEASE A WATER RIGHT**  
(Continued)

**5. SALE/LEASE AGREEMENT**

A. Is the water right, or portion thereof, offered to the Idaho Water Resource Board (IWRB) for sale ☐ or lease ☒.

If lease, specify the years when the use of water will be suspended: \_\_\_\_\_ to \_\_\_\_\_ (maximum lease period 5 calendar years).  
(Year) (Year)

B. Show the minimum payment acceptable to the seller/lessor. The minimum payment may be shown as the "current rental rate" as established by the IWRB. Include the method of determining the minimum payment if other than the current rental rate.

Current rental rate

I hereby assert that the information contained in this application is true to the best of my knowledge, and that I have the authorities necessary to offer this water right for sale or lease to the Idaho Water Resource Board.

The Designated Applicant acknowledges the following:

1. Payment to the Designated Applicant is contingent upon the sale or rental of the water right from the Bank.
2. While a water right is in the Bank, the seller/lessor of the water right may not use the water right, even if the water right is not rented from the Bank.
3. A water right accepted into the Bank stays in the Bank until the Designated Applicant receives written confirmation from the Board or Water Supply Bank that the water right has been released from the Bank.
4. While a water right is in the Bank, forfeiture is stayed.
5. Acceptance of a water right into the Bank does not, in itself, confirm the validity of the water right or any element of the water right.

Michael A. Harris  
Signature of Designated Applicant

Michael A. Harris  
Printed Name

11-4-2019  
Date

Pepin Corso-Harris  
Signature of Authorized Representative

Pepin Corso-Harris  
Printed Name

11-4-2019  
Date

**Mail to:**  
Idaho Department of Water Resources  
P.O. Box 83720  
Boise, ID 83720-0098

STATE OF IDAHO  
WATER RESOURCE BOARD

**ATTACHMENT 1A**

**Additional Water Right Holders Party to the Lease Application**

For the water right on this application, list all owners (individuals or business entities) of the right or the property to which it is appurtenant. All water right holders must sign a Water Supply Bank Lease Application. However, only the Designated Applicant needs to provide a completed IRS Form W-9 (Attachment 1B). All correspondence and any financial payment associated with the rental of this water right will be directed to the Designated Applicant. If additional space is needed to list any other water right holders, attach a second copy of Attachment 1A.

If submitting multiple applications, it is only necessary to complete one Attachment 1A for the group of applications. List each water right below.

Water Right No(s). 37-114C & 37-7609

	Designated Applicant	Applicant #2	Applicant #3
Name	Michael A. Harris Pepin Corso-Harris		
Mailing Address	11 Purple Sage Ln, Bellevue, ID 83313		
Phone Number	208-721-0173		
Email Address	pepin1776@gmail.com		
Applicant Declaration	As Designated Applicant, I submit this lease application on behalf of all other water right holders.	I authorize the Designated Applicant to submit this application on my behalf.	I authorize the Designated Applicant to submit this application on my behalf.
Signature	Michael A. Harris Pepin Corso-Harris		

	Applicant #4	Applicant #5	Applicant #6
Name			
Mailing Address			
Phone Number			
Email Address			
Applicant Declaration	I authorize the Designated Applicant to submit this application on my behalf.	I authorize the Designated Applicant to submit this application on my behalf.	I authorize the Designated Applicant to submit this application on my behalf.
Signature			

**STATE OF IDAHO  
WATER RESOURCE BOARD**

Complete Attachment 2 if only a portion of the water right is offered to the Bank.

**ATTACHMENT 2**

**DESCRIPTION OF A WATER RIGHT PORTION OFFERED TO THE WATER SUPPLY BANK**

1. <u>Water Right Number</u>	<u>Nature of Use</u>	<u>Leased Rate</u> (cfs)	<u>Leased Volume</u> (af)	<u>Leased Acres</u> (ac)
<u>37-114C</u>	<u>Irrigation</u>	<u>.40</u>		<u>20.22</u>
<u>Irrigation Dist</u>	<u>Conveyance loss</u>	<u>- .30</u>		
	<u>Total Amounts:</u>	<u>.10</u>		<u>20.22</u>

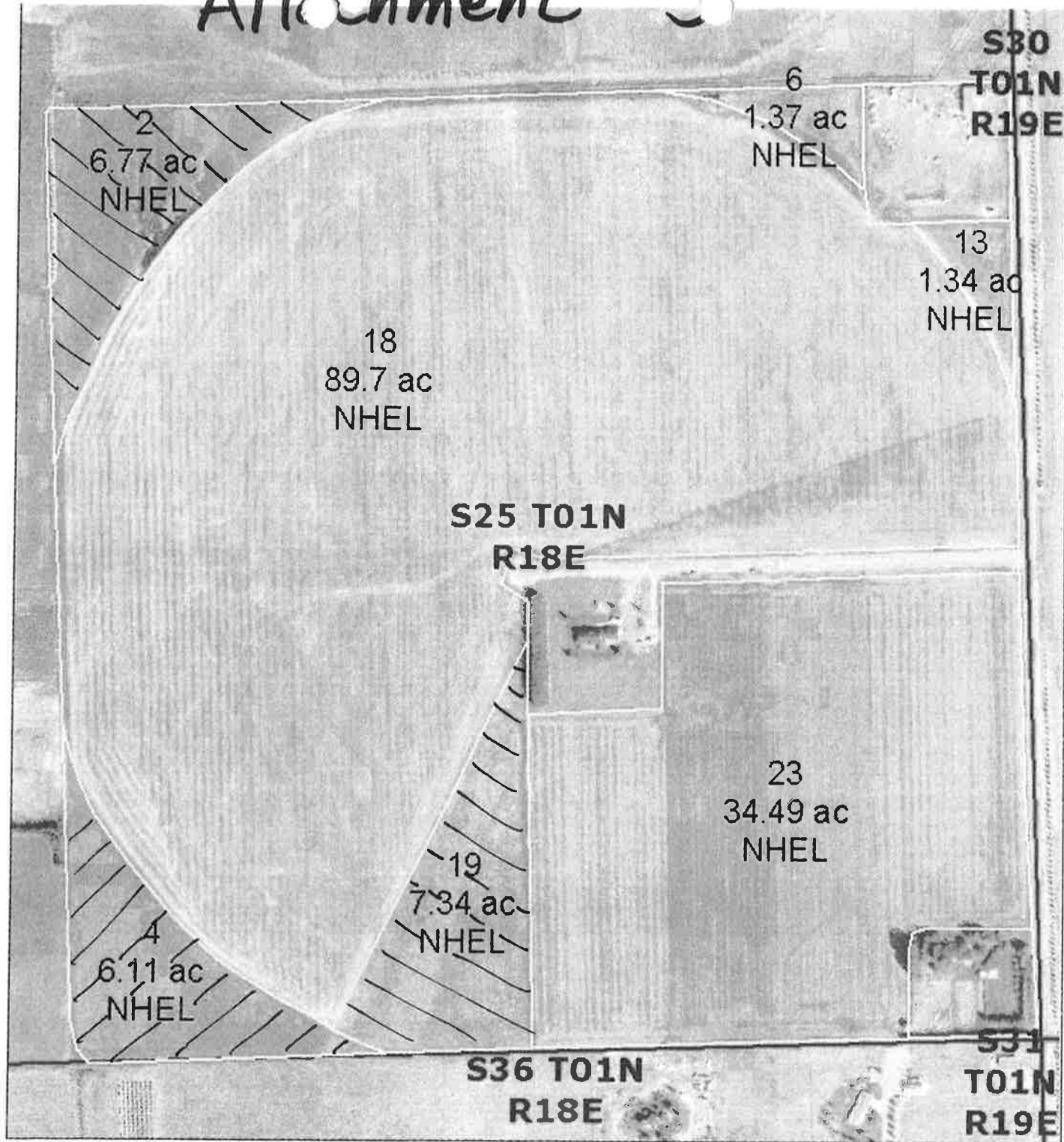
2. Source of water Big Wood River tributary to Mallad River

3. Point(s) of diversion:

Twp	Rge	Sec	Lot	1/4	1/4	1/4	County
<u>02N</u>	<u>18E</u>	<u>36</u>			<u>SW</u>	<u>NW</u>	<u>Blaine</u>

# Attachment #3

(8)



Farm: 15  
Tract: 75

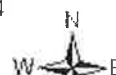
United States Department of Agriculture  
Farm Service Agency  
**Blaine County**  
**2013 Imagery**

January 24, 2014



1 inch equals 372 feet

*Acres offered  
to Water Bank*



**2022**

Disclaimer: Wetland identifiers do not represent the size, shape or specific determination of the area. Refer to your original determination (CPA-026 and attached maps) for exact wetland boundaries and determinations, or contact NRCS. This map and acreage is for FSA purposes only. No warranty is made for any other use.

**37-114C1**



## MEMORANDUM

**TO:** File 37-00114

**FROM:** Pam Skaggs/State Office

**SUBJECT:** Transfer 4909

**DATE:** May 18, 1998

OK *JS*

Transfer 4909 changes the recorded place of use under a portion of Right 37-00114 to reflect the current and actual place of use, splitting the right into Parts A & B.

This right has been used at the current property at least since 1979 according to previous research of the right by staff and watermaster records. The transfer only provides a correction to the record, no physical change, and review of the high rate of diversion identified. This right was overclaimed in the SRBA. Review by SRBA staff confirmed ownership of the transferred portion of the right by the applicant.

The transfer identifies 152 irrigated acres and a rate of 12.52 cfs. Both Chuck Brockway, for the applicant, and Allen Merrit, for the department, thoroughly evaluated the need for excess flow. (See file.) Region recommendations include the entire flow rate, identifying 9.72 cfs for conveyance purposes and 3.39 cfs as the field headgate requirement. 20 acres in the corners are irrigated using a flood system at a rate of 0.0372 cfs/acre and the remaining 132 acres are irrigated by a pivot with sprinklers at 0.02 cfs/acre.

$$\begin{aligned} 0.75 \text{ cfs} + 2.64 \text{ cfs} &= 3.39 \text{ cfs} \\ 12.52 \text{ cfs} - 3.39 \text{ cfs} &= 9.72 \text{ cfs} \end{aligned}$$

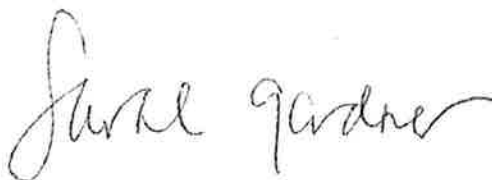
Season of use and diversion volume were adjusted to current standards. Recommended conditions include watermaster and irrigation district control, measuring devices/lockable controlling works, conveyance losses, right-of-way, irrigation overlap, and standard transfer conditions.

TRIANGLE IRRIGATION DISTRICT

P.O. BOX 424

BELLEVUE, IDAHO 83313

At the Triangle Irrigation District Board meeting on November 13, 2019, the directors accepted the water bank application from Michael Harris and Pepin Corso-Harris, subject to and with the condition of a 75 % hold back in the system and on the further condition that there be no adverse impact on the minimum stream flow in the river and that carriage loss sufficient to convey water to the Triangle Irrigation District head gate must be left in the river if the water right is to be leased upstream.



Sarah Gardner

President and Director

(11)

**CERTIFICATE OF ACTION TAKEN BY  
THE WOOD RIVER VALLEY IRRIGATION DISTRICT #45**

**P.O. Box 2223  
Hailey, Id 83333**

The undersigned hereby certifies that at the Wood River Valley Irrigation District #45 meeting on November 12<sup>th</sup>, 2019, The directors accepted the water bank application for Water Right # 37-114C from Michael A. Harris subject to and with the continuing condition of a 75% percent hold back in the system and on the further condition that there be no adverse impact on the minimum stream flow in the river and that carriage loss sufficient to convey water to the Wood River Valley Irrigation District #45 head gate must be left in the river if the water is to be leased upstream.

DATED: November 12<sup>th</sup>, 2019



Signature

David Johnson, President and Director



Signature

Greg Clark, Director

IDAHO DEPARTMENT OF WATER RESOURCES  
Proof Report

8/13/2019

Water Right 37-114C

**Owner Type**      **Name and Address**  
Attorney      ALBERT P BARKER  
BARKER ROSHOLT & SIMPSON LLP  
1010 W JEFFERSON ST STE 102  
PO BOX 2139  
BOISE, ID 83701-2139  
(208) 336-0700

Current Owner      MICHAEL A HARRIS  
11 PURPLE SAGE LN  
BELLEVUE, ID 83313-5271  
(208) 788-2277

Current Owner      PEPIN CORSO-HARRIS  
11 PURPLE SAGE LN  
BELLEVUE, ID 83313-5271  
(208) 721-0173

**Priority Date:** 5/1/1886

**Basis:** Decreed

**Status:** Active

**Source**  
BIG WOOD RIVER

**Tributary**  
MALAD RIVER

<b><u>Beneficial Use</u></b>	<b><u>From</u></b>	<b><u>To</u></b>	<b><u>Diversion Rate</u></b>	<b><u>Volume</u></b>
IRRIGATION	04/15	10/31	12.520 CFS	532.0 AF
	<b><u>Total Diversion</u></b>		12.520 CFS	532.0 AF

**Source and Point(s) of Diversion**

BIG WOOD RIVER      SWNW      Sec. 36, Twp 02N, Rge 18E, BLAINE County

**Place Of Use**

IRRIGATION within BLAINE County

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
01N	18E	25													35.0	40.0	40.0	37.0	152.0

POU Total Acres: 152.0

**Conditions of Approval:**

1.      C18      This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.
2.      T08      Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

## IDAHO DEPARTMENT OF WATER RESOURCES

8/13/2019

## Proof Report

3. T07 The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
4. R59 This right when combined with all other rights shall provide no more than 3.5 afa per acre at the field headgate for irrigation of the lands above.
5. Approval of Transfer 4909 does not grant any right-of-way or easement for use of a delivery system owned by person(s) other than the right owner.
6. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department at both the diversion from the river and the redirection from the canal that will provide suitable control of the diversions.
7. Use of water under this water right will be regulated by the watermaster of State Water District No. 37, Big Wood River, and subject to the policies and procedures of Wood River Valley Irrigation District #45.
8. The portion of Right 37-00114C used for conveyance losses is 9.13 cfs. The remaining 3.39 cfs of Right 37-00114C is the authorized diversion at the field headgate.
9. S38 The use of water for irrigation under this right may begin as early as April 1 and may continue to as late as November 1, provided other elements of the right are not exceeded. The use of water before April 15 and after October 15 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date a partial decree is entered for this right.
10. Property also known as Lots 1, 2, 3, 4, 5, 6 and 7 Cattle-Lack Ranch Subdivision.

**Dates and Other Information**

Decreed Date: 5/5/2010

Civil Case Number: 39576

Judicial District: FIFTH

State or Federal: S

Water District Number: 37

Mitigation Plan: False

## ***MEMORANDUM***

TO: Sascha Marston  
FROM: Jean Hersley  
DATE: January 22, 2020  
RE: **Refund: WSB Lease applications DENIED**

Please refund \$500.

NAME: MICHAEL HARRIS  
PEPIN CORSO-HARRIS  
11 PURPLE SAGE LN  
BELLEVUE ID 83313-5271

RECEIPT #: C108037

Thank you.

Jean

**Hersley, Jean**

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**From:** Hersley, Jean  
**Sent:** Wednesday, January 22, 2020 2:46 PM  
**To:** Financial  
**Subject:** REFUND  
**Attachments:** HARRIS- WSB.doc

Please process the attached refund request. Thank you.

Jean