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APR 04 2019

DEPARTMENT OF
WATER RESOURCES

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Attorney General

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Attorneys for the Idaho Department of Fish and Game

**BEFORE THE IDAHO DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN THE MATTER OF	)	
APPLICATION FOR PERMIT NO.	)	
73-12175 and TRANSFER NOS.	)	JOINT STIPULATION FOR
81963 AND 81964 (FLYING	)	WITHDRAWAL OF PROTESTS
JOSEPH RANCH LLC)	)	
	)	

Applicant Flying Joseph Ranch LLC ("FJR") and protestant the Idaho Department of Fish and Game ("IDFG") by and through their undersigned counsel of record, and pursuant to IDAPA 37.01.01.204, .260, .557 and .612, hereby stipulate to a settlement of IDFG's protests in the above-entitled matters, the terms and conditions of which are set forth herein.

Water Right Application 73-12175

FJR agrees to withdraw water right application 73-12175. FJR will file a water right transfer application for water right 73-02147 as shown in Exhibit A. FJR will also file a new water right application for water as set forth in Exhibit B. IDFG agrees not to protest the water right transfer and application set forth in Exhibit A and B. FJR further agrees to install a headgate and measurement device on the Pahsimeroi River at the following location: SW1/4SE1/4, Section 20, Township 13 North, Range 23 East, Boise Meridian, Custer County, Idaho.

Water Right Transfers 81963 and 81964

IDFG agrees to withdraw its protests to Application for Water Right Transfers 81963 and 81964. Provided that the Application for Water Right Transfers 81963 and 81964 are not subsequently amended from their current form, except as may be required by IDWR to continue processing, the withdrawal of IDFG's protests shall be with prejudice.

The parties respectfully request the entry of an Order approving the stipulated settlement set forth herein; each party to bear its own costs, expenses, and attorney's fees.

DATED this 2nd day of April, 2019.

A handwritten signature in dark ink, appearing to read 'Tom Curet', is written over a horizontal line.

Tom Curet
IDFG Regional Supervisor, Salmon Region

DATED this 20 day of March, 2019.



JAMES SPECK
Attorney for Flying Joseph Ranch LLC

CERTIFICATE OF SERVICE

I hereby certify that on the 16th day of March, 2019, a true and correct copy of the foregoing was filed and/or served upon the following individual(s) by the means indicated:

Clay Webster Idaho Department of Water Resources PO Box 83720 Boise ID 83720-0098	☒ U.S. Mail, postage prepaid ☐ Hand Delivery ☐ Federal Express ☐ Facsimile: _____ ☐ Email
James Cefalo Idaho Department of Water Resources Eastern Region 900 North Skyline Dr Ste. A Idaho Falls ID 83402-1718	☒ U.S. Mail, postage prepaid ☐ Hand Delivery ☐ Federal Express ☐ Facsimile: _____ ☐ Email
James Speck Speck & Aanestad, PC PO Box 987 Ketchum ID 83340	☒ U.S. Mail, postage prepaid ☐ Hand Delivery ☐ Federal Express ☐ Facsimile: _____ ☐ Email

By: _____

Ann Y. Vonde

Deputy Attorney General

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No. _____

MINIMUM REQUIREMENTS CHECKLIST
TO BE SUBMITTED WITH APPLICATION FOR TRANSFER

An application for transfer must be prepared in accordance with the minimum requirements listed below to be acceptable for processing by the Department. Incomplete applications will be returned. The instructions, fee schedule, Part 2A reports and additional Part 2B forms are available from any Department office or on the Department's website at idwr.idaho.gov.

Name of Applicant(s) Flying Joseph Ranch, LLC

Check whether each item below is *attached* (Yes) or *not applicable* (N/A) for the proposed transfer.

Yes N/A * Means the item is always required and must be included with the application.

- ☒ * Completed Application for Transfer of Water Right form, Part 1.
- ☒ * Signature of applicant(s) or applicant's authorized representative on Application for Transfer Part 1. Include evidence of authority labeled Attachment #3 (see below) if signed by representative.
- ☒ * Application for Transfer Part 2A. Attach a Part 2A report describing each water right in the transfer as currently recorded.
- ☐ ☒ Complete and attach an Application for Transfer Part 2B for each water right for which only a portion is proposed to be changed through this transfer application.
- ☒ * Application for Transfer Part 3A is always required (see Attachment #7a below); Parts 3B and 3C must be completed for transfer applications proposing to change the nature of use of the water right(s) or proposing changes to supplemental right(s).
- ☒ * Correct fee submitted with transfer application form. (Fee schedule is on website and instructions for application for transfer.)

Attachments to Application - Label each attachment with the corresponding number shown below as Attachment #1-10.

- ☐ ☒ #1 If the applicant is a business, partnership, organization, or association, and not currently registered in the State of Idaho as a business entity, attach documentation identifying officers authorized to sign or act on behalf of right holder. (See Part 1.)
- ☐ ☒ #2a Water Right ownership documentation if Dept. records do not show the applicant as the current water right owner. **
- ☐ ☒ #2b If the ownership of the water right will change as a result of the proposed transfer to a new place of use, attach documentation showing land and water right ownership at the new place of use. Include documentation for all affected land and owner(s).**
** Additional fee(s) required for water right ownership changes; see fee schedule.
- ☐ ☒ #3 Documentation of authority to make the change if the applicant is not the water right owner.
- ☐ ☒ #4 Power of Attorney or documentation providing authority to sign or act on the applicant's behalf. (See Part 1.)
- ☐ ☒ #5 If the transfer application proposes to change the point of diversion for a water right affecting the Eastern Snake Plain Aquifer (ESPA), attach the results of an ESPA analysis and a detailed mitigation plan to offset any depletions to hydraulically connected reaches of the Snake River. ESPA transfer spreadsheet and model grid labeled cells are available on the Department's website at idwr.idaho.gov/water-rights/transfers/resources.html.
- ☐ ☒ #6 Notarized statement of agreement or a statement on official letterhead signed by an authorized representative from each lien holder or other entity with financial interest in the water right(s) or land affected by the proposed transfer. (See Part 1.5.c.)
- ☒ * #7a Attach a map identifying the proposed point(s) of diversion, place(s) of use, and water diversion and distribution system details as described on the application. Include legal description labels. If only a portion of the right is proposed to be changed, identify the current location of the part of the existing right(s) proposed to be changed. (See Part 3A.)
- ☐ ☒ #7b If the transfer application proposes to change the place or purpose of use of an irrigation right attach a Geographic Information System (GIS) shape file, or an aerial photo or other image clearly delineating the location and extent of existing acres and changes to the place of use. If some or all of any right is leased to the Water Supply Bank, you must also show the the specific location and/or acres to be idled at the new, proposed place of use to satisfy lease requirements.
- ☐ ☒ #8a If the transfer application proposes to change the nature of use or period of use for one or more rights, provide documentation describing the extent of historic beneficial use for the water rights proposed to be transferred and document how enlargement will be avoided. (See Part 3B.) Additional fee required for proposed changes to nature of use; see fee schedule.
- ☐ ☒ #8b If the transfer application proposes to change the place of use of a supplemental irrigation right, provide documentation regarding the historic use of the supplemental right(s) and availability or reliability of the primary right(s) being supplemented, both before and after the proposed change. (See Part 3C.)
- ☐ ☒ #9 Water Supply Bank information for all rights proposed for transfer and currently leased to the Bank. (Attachment WSB)
- ☐ ☒ #10 Other. Please describe: _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT PART 1

Name of Applicant(s) Flying Joseph Ranch, LLC Phone _____
Mailing address 7299 Perimeter Rd. S., Seattle, WA 98108 Email _____

- ☐ If applicant is not an individual and not registered to do business in the State of Idaho, attach documentation identifying officers authorized to sign or act on behalf of the applicant. Label it **Attachment #1**.
- ☐ Attach water right ownership documentation if Department records do not show the transfer applicant as the current water right owner. Label it **Attachment #2a**.
- ☐ If the ownership of the water right will change as a result of the proposed transfer to a new place of use, attach documentation showing land and water right ownership at the new place of use. Include documentation for all affected land and owner(s). Label it **Attachment #2b**.
- ☐ Attach documentation of authority to make the proposed change if the applicant is not the water right owner. Label it **Attachment #3**.

Provide contact information below if a consultant, attorney, or any other person is representing the applicant in this transfer process.

☐ No Representative

Name of Representative SPF Water Engineering, Roxanne Brown Phone (208) 383-4140
Mailing address 300 E. Mallard Dr., Ste. 350, Boise, ID 83706 Email rbrown@spfwater.com

- ☐ Send all correspondence for this application to the representative and not to the applicant.
OR
- ☒ Send original correspondence to the applicant and copies to the representative.
- ☒ The representative may submit information for the applicant but is not authorized to sign for the applicant.
OR
- ☐ The representative is authorized to sign for the applicant. Attach a Power of Attorney or other documentation providing authority to sign for the applicant and label it **Attachment #4**.

I hereby assert that no one will be injured by the proposed changes and that the proposed changes do not constitute an enlargement in use of the original right(s). The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval.

Signature of Applicant or Authorized Representative	Joe Clark, Member Print Name and Title if applicable	Date
Signature of Applicant or Authorized Representative	Print Name and Title if applicable	Date

A. PURPOSE OF TRANSFER

1. ☐ Change point of diversion ☐ Add diversion point(s) ☒ Change place of use
☐ Change nature of use ☐ Change period of use ☐ Other _____
2. Is this a transfer for changes pursuant to Idaho Code § 42-221.O.8?
 If yes, ☐ attach an explanation and any supporting documentation labeled as **Part1A.2**.
3. Describe your proposal in narrative form, including a detailed description of non-irrigation uses to justify amounts transferred (i.e. number of stock, etc.), and provide additional explanation of any other items on the application. Attach additional pages if necessary and label it **Part 1A.3**.
This application is presented to define the current place of use for water right 73-2147 in a pond constructed on applicant's property.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1 Continued

B. DESCRIPTION OF RIGHTS AFTER THE REQUESTED CHANGES. IF THE RIGHTS ARE BEING SPLIT, DESCRIBE PORTIONS TO BE CHANGED AS THEY WOULD APPEAR AFTER THE REQUESTED CHANGES.

1.	Right Number	Amount (cfs/ac-ft)	Nature of Use	Period of Use	Source & Tributary
All or Part ☒ ☐	73-2147	5.04 cfs	fish propagation	1/1 to 12/31	springs/sinks
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	

Total authorized under rights 5.04 cfs and/or _____ acre-feet.

2. Total amount of water proposed to be transferred or changed 5.04 cubic feet per second and/or _____ acre-feet per year.

3. Point(s) of Diversion:

- ☒ No changes to point(s) of diversion are proposed - the following chart is therefore not completed. (Proceed to #4.)
☐ Attach Eastern Snake Plain Aquifer analysis if this transfer proposes to change a point of diversion affecting the ESPA.
 Label it **Attachment #5**.

New ?	Lot	¼	¼	¼	Sec	Twp	Rge	County	Source	Local name or tag #

4. Place of use: (If irrigation, identify with number of acres irrigated per ¼ ¼ tract.)

- ☐ No changes to place of use are proposed - the following chart is therefore not completed. (Proceed to #5.)

Twp	Rge	Sec	NE ¼				NW ¼				SW ¼				SE ¼				Acre Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
13N	23E	19													X			X	
13N	23E	20											X						
Total Acres (for irrigation use)																			

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1 Continued

5. General Information:

- a. Describe the complete diversion system, including how you will accommodate a measuring device and lockable controlling works should they be required now or in the future:

Water is conveyed from springs (4) through ditches and pipes to the location of the pond. A measuring device and controlling works can be accommodated in the future as required by IDWR.

- b. Who owns the property at the point(s) of diversion? applicant

If other than the applicant, describe the arrangement enabling the applicant to access the property for the diversion system:

- c. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? If yes, ☐ attach a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes on official letterhead signed by an authorized representative. Label it **Attachment #6**. List the name of the entity and type of lien: not applicable

It is the applicant's responsibility to provide notice to lien holder, trustee, mortgagor, or contract holder of the proposed changes that may impact or change the value of the water rights or affected real property. Any misrepresentation of legal encumbrance on this application may result in rejection of the application or cancellation of an approval.

- d. Are any of the water rights proposed for transfer currently leased to the Water Supply Bank?

If yes, ☐ complete Attachment WSB.

- e. Describe the effect on the land now irrigated if the place or purpose of use is changed pursuant to this transfer:

not applicable

- f. Describe the use of any other water right(s) for the same purpose or land, or the same diversion system as right(s) proposed to be transferred at both the existing and proposed point(s) of diversion and place(s) use:

The pond is described by water right 73-12146.

Mitigation for losses from the pond are provided by water rights 73-147A, 73-10041, and 73-12110 and pending applications for transfer for those same rights.

- g. To your knowledge, has/is any portion of the water right(s) proposed to be changed:

Yes No

- ☐ ☒ undergone a period of five or more consecutive years of non-use,
☐ ☒ currently leased to the Water Supply Bank,
☐ ☒ currently used in a mitigation plan limiting the use of water under the right, or
☐ ☒ currently enrolled in a Federal set-aside program limiting the use of water under the rights?

If yes, describe:

**IDAHO DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 2A**

Current Water Right No.: 73-2147

Current Owner: FLYING JOSEPH RANCH LLC

Priority Date: 8/8/1956

Origin: Water Right

Status: Active

Basis: Decreed

Source

SPRINGS

Tributary

SINKS

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>
FISH PROPAGATION	1/01	12/31
	<u>Total Diversion</u>	

<u>Diversion Rate</u>	<u>Annual Volume</u>
5.04 CFS	
5.04 CFS	

Location of Point(s) of Diversion

SPRINGS

NW1/4NW1/4 Sec. 33, Twp 13N, Rge 23E B.M.

CUSTER County

SPRINGS

SE1/4SE1/4 Sec. 29, Twp 13N, Rge 23E B.M.

CUSTER County

SPRINGS

SE1/4SW1/4 Sec. 29, Twp 13N, Rge 23E B.M.

CUSTER County

SPRINGS

SW1/4SE1/4 Sec. 29, Twp 13N, Rge 23E B.M.

CUSTER County

Place of Use

FISH PROPAGATION Within CUSTER County

T13N R23E S29

NESE

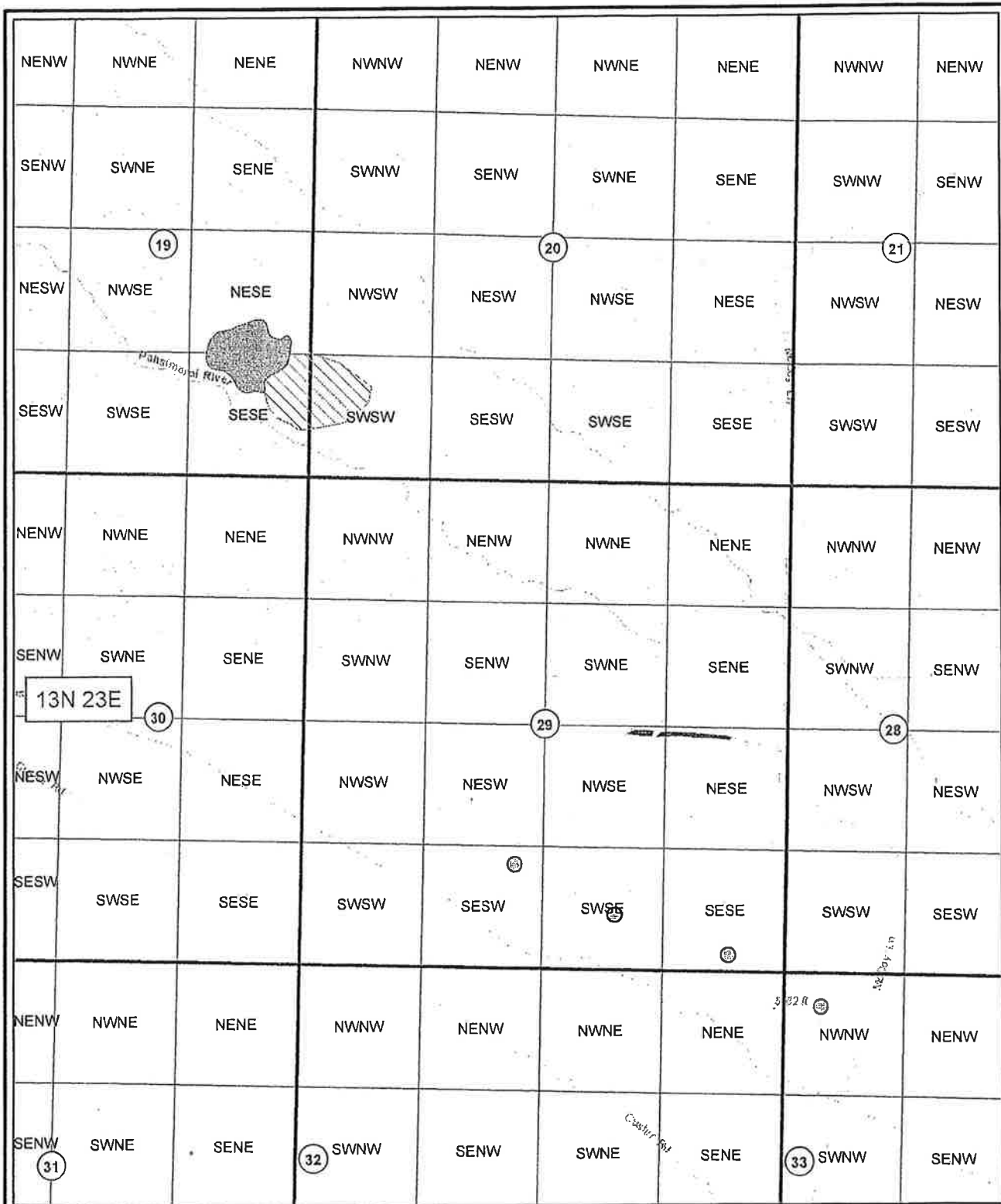
T13N R23E S29

NWSE

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.

Decreed Date: 3/4/2011



- ⊙ Existing Point of Diversion (unchanged)
- Existing Place of Use (to be abandoned)
- ▨ Existing Pond and Proposed Place of Use (73-12146)
- ▤ Proposed Pond Expansion (Transfer 81964)

Attachment 7a
Application for Transfer of Water Right 73-2147

N
A

0.25

Miles



SPF WATER
 ENGINEERING

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT
To appropriate the public waters of the State of Idaho

Ident. No. _____

1. Name of applicant(s) Flying Jospheh Ranch, LLC Phone _____
 Name connector (check one): ☐ and ☐ or ☐ and/or
 Mailing address 7299 Perimeter Rd. S. City Seattle
 State WA ZIP 98108 Email _____
2. Name of representative, if any SPF Water Engineering, Roxanne Brown Phone (208) 383-4140
 Mailing address 300 Mallard Dr., Ste. 350 City Boise
 State ID ZIP 83706 Email rbrown@spfwater.com
- a. ☐ Send all correspondence for this application to the representative and not to the applicant OR
☒ Send original correspondence to the applicant and copies to the representative.
- b. ☒ The representative may submit information for the applicant but is not authorized to sign for the applicant OR
☐ The representative is authorized to sign for the applicant. Attach a Power of Attorney or other documentation.
3. Source of water supply springs which is a tributary of sinks
4. Location of point(s) of diversion:

Twp	Rge	Sec	Govt Lot	1/4	1/4	1/4	County	Source	Local name or tag #
13N	23E	29			SW	SE	Custer	springs	
					SE	SW	Custer	springs	
					SE	SE	Custer	springs	
		33			NW	NW	Custer	springs	

5. Water will be used for the following purposes:
 Amount 2.96 cfs for fish propagation purposes from 1/1 to 12/31 (both dates inclusive)
 (cfs or acre-feet per year)
 Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
 (cfs or acre-feet per year)
 Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
 (cfs or acre-feet per year)
 Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
 (cfs or acre-feet per year)
6. Total quantity to be appropriated is (a) 2.96 cubic feet per second (cfs) and/or (b) _____ acre-feet per year (af).
7. Proposed diverting works:
- a. Describe type and size of devices used to divert water from the source. existing diversion ditches and pipelines
 (see Water Right 73-2147)
- b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet. If the reservoir will be filled more than once each year, describe the refill plan in item 12. For dams 10 feet or more in height AND having a storage capacity of 50 acre-feet or more, submit a separate Application for Construction or Enlargement of a New or Existing Dam. Application required? ☐ Yes ☐ No
- c. Proposed well diameter is _____ inches; proposed depth of well is _____ feet.
- d. Is ground water with a temperature of greater than 85°F being sought? ☐ Yes ☐ No
- e. If well is already drilled, when? _____; drilling firm _____;
 well was drilled for (well owner) _____; Drilling Permit No. _____.

For Department Use

Received by _____ Date _____ Time _____ Preliminary check by _____
 Fee \$ _____ Received by _____ Receipt No. _____ Date _____

EXHIBIT B

8. Description of proposed uses (if irrigation only, go to item 9):

- Hydropower; show total feet of head and proposed capacity in kW. _____
- Stockwatering; list number and kind of livestock. _____
- Municipal; must complete and attach the Municipal Water Right Application Checklist.
- Domestic; show number of households _____
- Other; describe fully. Proposed use is for habitat improvement (flow-through) in a fish pond described by water right 73-12146 and Transfer Application 81964.

9. Description of place of use:

- If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- If water is used for other purposes, place a symbol of the use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
13N	23E	19													X			X	
		20											X						

Total number of acres to be irrigated: _____

10. Describe any other water rights used for the same purposes as described above. Include water delivered by a municipality, canal company, or irrigation district. If this application is for domestic purposes, do you intend to use this water, water from another source, or both, to irrigate your lawn, garden, and/or landscaping? 73-2147 (pending transfer); 73-12146; water rights described in pending transfer 81964.

11. a. Who owns the property at the point of diversion? applicant

b. Who owns the land to be irrigated or place of use? applicant

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: _____

12. Describe your proposal in narrative form, and provide additional explanation for any of the items above. Attach additional pages if necessary. Proposed water use will contribute flow-through water for habitat improvement in an existing trout pond.

13. Time required for completion of works and application of water to proposed beneficial use is 5 years (minimum 1 year).

14. **MAP OF PROPOSED PROJECT REQUIRED** - Attach an 8½" x 11" map or maps clearly identifying the proposed point of diversion, place of use, section #, township & range. The map scale shall not be less than two (2) inches equal to one (1) mile.

The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval.

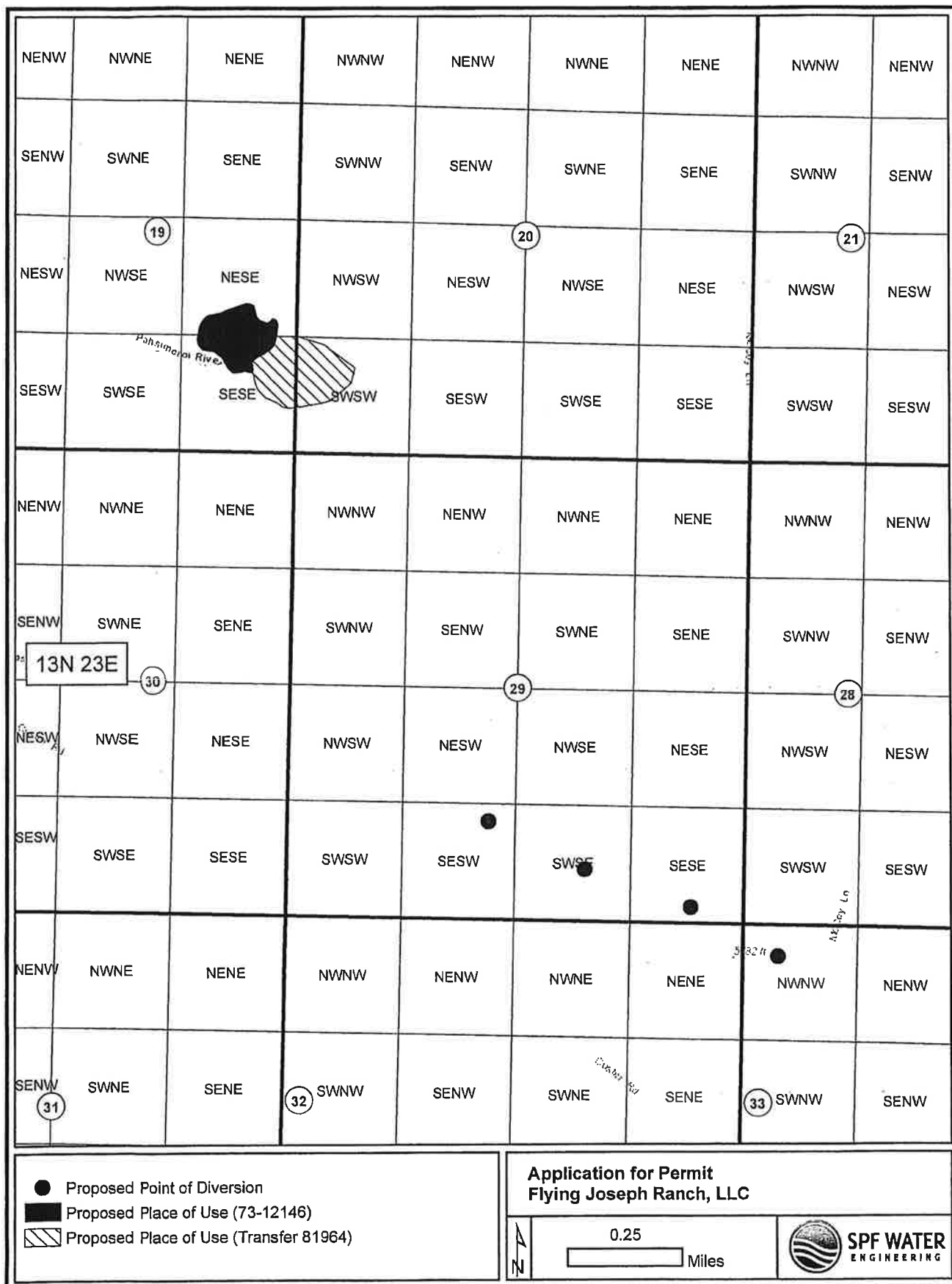
Signature of Applicant

Joe Clark, Member

Print Name (and title, if applicable)

Signature of Applicant

Print Name (and title, if applicable)





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APR 04 2019
DEPARTMENT OF
WATER RESOURCES

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
LAWRENCE G. WASDEN

April 3, 2019

Clay Webster
IDWR
PO Box 83720
Boise, ID 83720-0098

James Cefalo
IDWR
Eastern Region
900 North Skyline Dr. Ste. A
Idaho Falls, ID 83402-1718

James Speck
Speck & Aanestad, PC
PO Box 987
Ketchum, ID 83340

Sirs:

Attached please find the CORRECTED Joint Stipulation for Withdrawal of Protests, the only change being on page 2, paragraph one. The corrected page includes the legal description of the property location which had previously been inadvertently omitted.

Our apologies for any confusion this omission may have caused.

Sincerely,

A handwritten signature in blue ink, appearing to read "M Bouldin".

Melinda Bouldin
Legal Secretary

/mb