

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

DEC 20 2018

DEPARTMENT OF
WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT – POINT(S) OF DIVERSION

This form may be used to apply to change and/or add points of diversion for existing water rights and to report an ownership change for a water right(s) in connection with the proposed point of diversion change(s). Do not use this form to apply for changes to other elements of a water right. See the [Application for Transfer Instructions](#) for help completing this form and for mailing addresses of Department offices where your application can be submitted.

Check all that apply:

- ☐ Change diversion point(s) ☒ Add diversion point(s) ☐ Ownership change ☐ Ownership split
☐ Transfer is for changes pursuant to [Idaho Code § 42-221.O.8](#). Attach an explanation and any supporting documentation.

1. **APPLICANT(S)** Robert P. Sullivan III Phone 208-876-4256

2. **MAILING ADDRESS** 1150 Big Creek Road City May

State ID Zip 83253 Email sully5537@msn.com

- ☐ If the applicant is not an individual and not registered to do business in the State of Idaho, attach documentation identifying officers authorized to sign for the applicant.
☐ If the applicant is not the current water right(s) owner, attach documentation of authority to file the application.
☐ If the application includes a change in ownership of water right(s), attach a copy of the conveyance document, such as a warranty deed, court decree, contract of sale, etc. The conveyance document must include a legal description of the property conveyed or description of the water right if no land is conveyed. Additional fee(s) are required for water right ownership changes; see Item 9 for the [fee schedule](#).

If the ownership change resulted in the water right(s) being split, how did the division occur? Mark one:

- ☐ The water rights or claims were divided as specifically identified in a deed, contract, or other conveyance document.
☐ The water rights or claims were divided proportionately based on the portion of their place(s) of use acquired by the new owner.
☐ If the application is not signed by the applicant, attach a Power of Attorney or other documentation providing authority to sign for the applicant.

3. **LIST WATER RIGHT NUMBER(S)** 73-12037

- ☒ Attach a copy of the water right(s) as recorded, available at [idwr.idaho.gov](#), *Water Right Transfers, Step 1*, or by contacting any Department office.

4. **TOTAL AMOUNT OF WATER** transferred is 4.6 cubic feet per second and/or _____ acre-feet per annum.
(diversion rate) (storage volume)

5. **POINT OF DIVERSION** – Describe all the point(s) of diversion to be included on the water right(s) after the proposed change.

- ☐ Attach Eastern Snake Plain Aquifer (ESPA) analysis if this transfer proposes to change a point of diversion affecting the ESPA. ESPA analysis information is available at [idwr.idaho.gov](#), *Water Rights, Water Right Transfers, Modeling Resources*.

New?	Lot	¼	¼	¼	Sec	Twp	Rge	County	Source	Local name or tag #
x			NW	NE	20	13N	24E	Custer	Big Creek	pump
		SE	SE	NE	21	13N	24E	Custer	Big Creek	A000764 Big Creek

6. 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:

See Attachment A for description

- b. Who owns the property at the point(s) of diversion? Robert P Sullivan

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

- c. 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 used in a mitigation plan limiting the use of water under the right(s), or
☐ ☒ currently enrolled in a Federal set-aside program limiting the use of water under the right(s)?

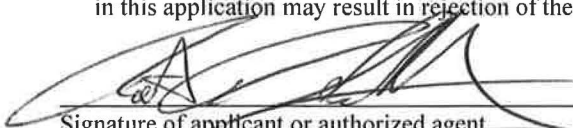
If yes, describe:

- d. Is any portion of the water right(s) proposed to be changed currently leased to the Water Supply Bank? ☒ Yes ☐ No

- ☐ If yes and there are multiple owners, attach a Lessor Designation form.
☐ If yes, the individual owner or designated lessor must complete, sign and attach an IRS Form W-9.
(Disregard if these items are on file and ownership has not changed.)

7. **MAP** – ☒ Attach a map of the diversion, measurement, control and distribution system. Include the place of use if a split of the water right occurred. Clearly label the map with township, range, section and ¼ ¼ of section information. You may create a map at idwr.idaho.gov, *Water Rights, Water Right Transfers, File a Transfer Application, Step 2C*.

8. **SIGNATURE** – The information in this application is true to the best of my knowledge. I understand any willful misrepresentations in this application may result in rejection of the application or cancellation of an approval.


Signature of applicant or authorized agent

Robert P. Sullivan III
Print name and title if applicable

10/29/18
Date

Signature of applicant or authorized agent

Print name and title if applicable

Date

9. **FEE** – ☒ The application filing fee provided in Idaho Code § 42-221.O, must be submitted with the application for transfer. Applications for changes pursuant to Idaho Code § 42-221.O.8. require a filing fee of \$50 per water right. All other application fees are based on the total amount of water proposed for transfer in Item 4: the larger fee for either cubic feet per second (diversion rate) or acre-feet per annum (storage volume). The Fee Schedule is available at www.idwr.idaho.gov, *Water Right Transfers, Step 4* and in the Application for Transfer Instructions.

FOR DEPARTMENT USE ONLY

Transfer includes _____ pages of attachments.

Received by kw

Date 12-20-18

Fee paid 820 Date 12-20-18

Received by kw

Receipt # C106002

Preliminary review by _____

Date _____

Active in the Water Supply Bank? Yes ☐ No ☐

W-9 received? Yes ☐ No ☒

Name on W-9 _____

W-9 forwarded to fiscal? Yes ☐ No ☐

(Do NOT scan the W-9 – confidential information is held by fiscal only)

Close

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report

4/18/2018

WATER RIGHT NO. 73-12037

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	ROBERT P SULLIVAN III 1150 BIG CREEK RD MAY, ID 83253-4920 2088764256
Original Owner	M LINDEN WRING HC 62 BOX 1130 ELLIS, ID 83235 2088764404
Original Owner	BIG CREEK RANCH LLC PO BOX 3823 KETCHUM, ID 83340 2087264276

Priority Date: 05/10/1911

Basis: Decreed

Status: Active

Water Supply Bank Status: Active

<u>Source</u>	<u>Tributary</u>
BIG CREEK	PAHSIMEROI RIVER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/01	10/31	4.6 CFS	
Total Diversion			4.6 CFS	

Location of Point(s) of Diversion:

82909

BIG CREEK|SESENE|Sec. 21|Township 13N|Range 24E|CUSTER County

Place(s) of use:

Place of Use Legal Description: IRRIGATION CUSTER County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
13N	24E	19		SWNE	40		SENE	40						
				NWSE	33									
		20		NWNE	15		SWNE	38						
				NENW	22		SWNW	40		SENE	40			

Total Acres: 268

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.

Dates:

Licensed Date:

Decreed Date: 06/30/2010

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal: S

Owner Name Connector:

Water District Number: 73

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Civil Case Number:

Old Case Number:

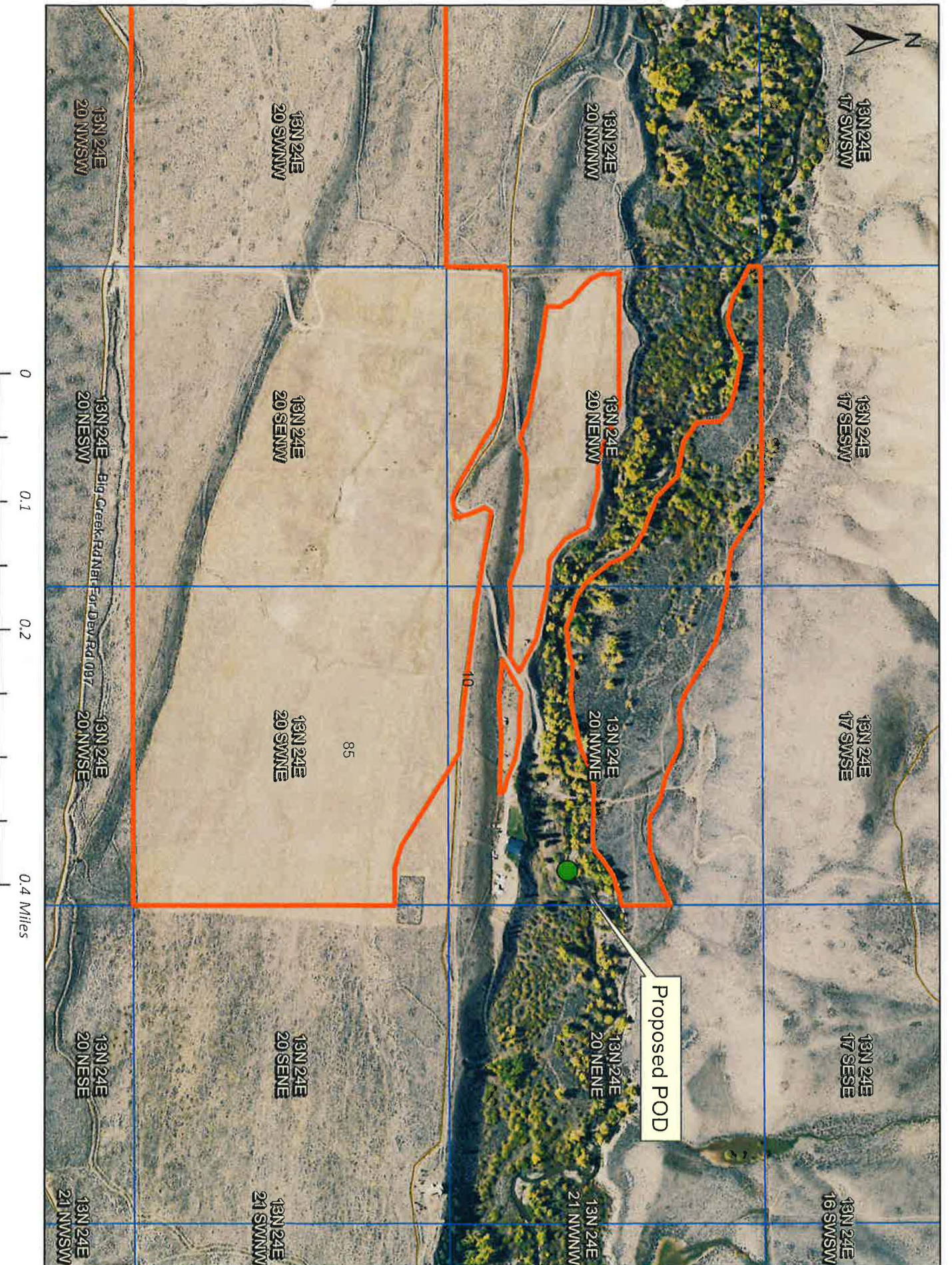
82909

Decree Plaintiff:
Decree Defendant:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Cary Act Number:
Mitigation Plan: False

Water Supply Bank:
Lessor Name(s): ROBERT P SULLIVAN III
Lease Status: Active
Lease Amount: 605.50 af
Rental Availability: 605.50 af
Date Received: 11/8/2016
Lease Begin Date: 1/1/2016
Expiration Date: 12/31/2020

Close

WR No. 73-12037 Sullivan



Attachment A

Water right 73-12037 is currently in the water supply bank but a portion (approximately 35 acres) will be removed from the bank and irrigated under this new irrigation system. A map of the new irrigation design and the description are described in Attachment B.

Robert Sullivan CTA

Fish Screen and Pump Station and Pipelines

Legend

- 10 Acres sections lines
- Pipe Lines
- Screens and Outlets

Screen at:
44.447163N
113.633756W
SE1/4 NW1/4 NE1/4
Section 20
T13N R24E
Boise Meridian
Custer County Idaho

Outlet- Elev 6352

440' of Pipe

3-5 HP Pump

Fish Screen and Pump Station Elev 635

Elev 6355

Approx 925' of Pipe

Tee

Outlet Elev 6370

Google Earth

© 2018 Google

600 ft



60628

Attachment B

From: Dodds, Tim - NRCS, Salmon, ID Tim.Dodds@id.usda.gov
Subject: Concept for Pump to Flood System
Date: Oct 16, 2018 at 10:58:16 AM
To: sully5537@msn.com
Cc: Rieth, Rosana - NRCS, Challis, ID rosana.rieth@id.usda.gov,
Hasson, William - NRCS, Salmon, ID Bill.Hasson@id.usda.gov

Robert,

It was great meeting with you yesterday. I've put together a little map from google earth of a concept for you. The important stuff for you at this time is the location of the screen
In Lat and Long 44.447163N
113.633756W

By quarter quarter section SE1/4 NW1/4 NE1/4 Section 20 T13N R24E, Boise
Meridian, Custer County Idaho

I just got some preliminary elevations from Goggle Earth The lift is about 15'. Using 9
gpm/acre yields a flow of 126 gpm

You can deliver this to the ditch with a 3 hp pump. Let me know how else I can help you!

Tim Dodds
Soil Conservation Technician
USDA-NRCS
945 Riverfront Drive
Salmon, Idaho 83467
208-756-3211 x 106
Go Vandals!

"Golf is the only game in which a precise knowledge of the rules can earn one a
reputation for bad sportsmanship"
---Patrick Campbell, writer

This electronic message contains information generated by the USDA solely
for the intended recipients. Any unauthorized interception of this message or
the use or disclosure of the information it contains may violate the law and
subject the violator to civil or criminal penalties. If you believe you have



82909

received this message in error, please notify the sender and delete the email immediately.



Sullivan CT...Notes.pdf

13.9 MB



82909

Hersley, Jean

From: Hersley, Jean
Sent: Thursday, April 11, 2019 9:04 AM
To: 'The Challis Messenger'
Subject: Legal Notice for your paper

Legal Notice Department

Challis Messenger
PO Box 405
Challis ID 83226

RE: Legal Ad for your paper

Dear LEGAL NOTICE DEPARTMENT:

Enclosed you will find a legal notice which we wish to have published in your newspaper on the dates indicated (once a week for two consecutive weekly issues). If you cannot publish the notice on the proposed dates, please contact us immediately. An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before May 6, 2019. Your cooperation is appreciated.

Sincerely

Jean Hersley
Idaho Department of Water Resources
320 E Front St
PO Box 83720
Boise ID 83720-0098
208-287-4942 – telephone
208-287-6700 – Fax
jean.hersley@idwr.idaho.gov

**NOTICE OF PROPOSED CHANGE OF WATER RIGHT
TRANSFER NO. 82909**

ROBERT P SULLIVAN III, 1150 BIG CREEK RD , MAY, ID 83253-4920; has filed Application No. 82909 for changes to the following water rights within CUSTER County(s): Right No(s). 73-12037; The purpose of the transfer is to change a portion of the above rights as follows: add a new point of diversion from Big Creek in the NWNE of S20T13NR24E on the parcel owned by Raghorn Ranch Land & Cattle. 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. 42-222. 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 5/6/2019. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Published on 4/18/2019 and 4/25/2019



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

April 11, 2019

ROBERT P SULLIVAN III
1150 BIG CREEK RD
MAY, ID 83253-4920

RE: Transfer No. 82909
Water Right No(s). 73-12037

Dear Applicant(s):

The Department of Water Resources has received your water right transfer application. Please refer to the transfer number referenced above in all future correspondence regarding this transfer.

A legal notice of the application has been prepared and is scheduled for publication in the CHALLIS MESSENGER on 4/18/2019 and 4/25/2019. Protests to this application may be submitted for a period ending ten (10) days after the second publication.

If the application is protested, you will be sent a copy of each protest. All protests must be resolved before the application can be considered for approval. If the protest(s) cannot be resolved voluntarily, the Department will conduct a conference and/or hearing on the matter.

If the application is not protested, the Department will process your application and notify you of any action taken on the application. If your application is approved, the Department will send you a copy of the approval document.

Please contact this office if you have any questions regarding the application.

Sincerely,

Jean Hersley
Technical Records Specialist



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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BRAD LITTLE
Governor

GARY SPACKMAN
Director

April 11, 2019

IDAHO DEPARTMENT OF ENVIRONMENTAL QUALITY
900 NORTH SKYLINE SUITE B
IDAHO FALLS ID 83402

RE: Application for Transfer No. 82909
Water Right No. 73-12037

Dear Interested Party:

The Department of Water Resources is seeking written comment and/or recommendations from your agency regarding the above referenced water right application. You can find copies of the applications at:

<http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx>.

This office can publish notice of the application as soon as the initial review is completed; therefore, your prompt response to this request is appreciated. If your agency desires to formally protest the approval of this application, you may do so after the notice is published by filing a written protest along with a \$25.00 filing fee within 10 days after final publication.

Please contact this office if you have any questions regarding the applications.

Sincerely,

A handwritten signature in cursive script that reads 'Jean Hersley'.

Jean Hersley
Technical Records Specialist II



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

April 11, 2019

WATER DISTRICT #73
TED O NEAL
11 O NEAL LN
MAY ID 83253

RE: Application for Transfer: 82909
Water Right No. 73-12037

Dear Watermaster:

The Department of Water Resources is seeking written comment and/or recommendations from you regarding the above referenced water right application for permit. You can find a copy of the application at: <http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx>. Please review the application, then complete the enclosed recommendation form and return it to this office within 21 days of the date of this letter.

If the application is approved, IDWR will include appropriate standard conditions of approval for a water right located within a water district, such as regulation by the watermaster, lockable controlling works, and/or measuring devices. Any special conditions or other concerns you have related to this application should be specifically addressed in your recommendation.

IDWR's offices can finish reviewing an unprotested application as soon as the protest period has past. Your prompt response to this request will ensure that your recommendation can be considered. If IDWR has not received your written recommendation within 21 days from the date of this letter, IDWR will presume that you do not oppose approval of the application and that you have no comments for IDWR to consider.

Sincerely,

Jean Hersley
Technical Records Specialist

Enclosure(s)

State of Idaho
Department of Water Resources
Application for Transfer

RECOMMENDATION FORM

Application No.: 82909

Applicant's Name: ROBERT P SULLIVAN III
1150 BIG CREEK RD
MAY ID 83253-4920

Watermaster's Recommendation:

- a) _____ 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 _____ day of _____, 2019

Water District No. 73

Watermaster's Signature _____

Printed Name: _____

Hersley, Jean

From: Hersley, Jean
Sent: Thursday, April 11, 2019 9:19 AM
To: Jeff Richards
Subject: Comments for Application for Transfer 82909

Dear Interested Party:

The Department of Water Resources is seeking written comment and/or recommendations from your agency regarding the above referenced water right application. You can find a copy of the application at: <http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx>.

This office can publish notice of the application as soon as the initial review is completed; therefore, your prompt response to this request is appreciated. If your agency desires to formally protest the approval of this application, you may do so after the notice is published by filing a written protest along with a \$25.00 filing fee within 10 days after final publication.

Please contact this office if you have any questions regarding the applications.

Sincerely,

Jean Hersley
Idaho Dept Water Resources
Technical Records Specialist II
208-287-4942

Hersley, Jean

From: Hersley, Jean
Sent: Thursday, April 11, 2019 9:19 AM
To: Yenter, Cindy; Clark, Cynthia Bridge; Skoro, Emily; Cassel, Amy
Subject: Application for Transfer 82909 Water Right 73-12037

This application will be advertised on the 18th and 25th with the protest end date of May 6. Please let me know if you have any comments or concerns. Documents will be scanned by the end of the day. Thank you.

*Jean Hersley
Idaho Dept Water Resources
Technical Records Specialist II
208-287-4942*

MEMORANDUM

Date: January 8, 2019
To: Transfer 82909
From: Scott Storms
Re: Review & Evaluation of Sufficiency of Information

The department received this Application for Transfer from Robert P. Sullivan III on December 20, 2018. The application proposes to add a point of diversion (POD) to right # 73-12037. The proposed source is Big Creek, tributary to the Pahsimeroi River. The proposal is to add a pump, with proper fish screen, and run pipe for irrigation of 35 acres of the original place of use (POU). The acreage is currently in the Water Supply Bank (the Bank) and the applicant included a statement that, once developed, he would like to release the 35 acres to be irrigated from the bank. I sent correspondence via email to explain that the entire acreage would need to be released from the bank before irrigating and a new application submitted for the remaining acreage. An administrative hold was placed on the lease in order to prevent rental of those acres which would block the applicant from releasing them from the Bank.

Authority to File:

The Department files show Mr. Robert P. Sullivan III as the current owner of this right. The parcel data shown the land owner as Raghorn Ranch Land and Cattle company and the Secretary of State (SOS) Business Search database shows this company as owned by Robert P. Sullivan Jr. with Robert P. Sullivan holding signing rights. On November 08, 2016, the Department received a Notice of Change of Ownership for the right from Garney B and Victoria F. Hall to Robert P. Sullivan III and acknowledgement of ownership change was sent out by the Department on December 14, 2016. In review of both Department documents and SOS business search documents, it appears Robert P. Sullivan III has been signing his name as Robert P. Sullivan. I do not believe there is any issue with authority to file.

Water Right Validity:

Water right 73-12037 was decreed by the SRBA on June 30, 2010.

In 2016, 173 acres of the 268 total acres was leased into the Bank for 5 years, ending in 2020. The remaining 95 acres was placed in the Bank in 2018 with a lease end date of 2020 in order to align with the lease on the first 173 acres. At this point the right remains valid.

Injury to Other Water Rights:

There is no change in the POU however there is the proposed addition of a POD from Big Creek about 1.5 miles downstream from the original POD. There is one other irrigation right also sourced from the current POD and one stock water right sourced from Big Creek in between the original POD and the proposed new POD.

Right 73-12038 is an irrigation right for 3.2 cfs and is sourced from the same POD as the original for the transfer application right. The priority date is the same, 05/10/1911 and is for a total of 96.5 acres. The POU is directly adjacent and upstream of the transfer POU and the proposed POD. There is nothing in the Department's records indicating whether or not 73-12038 is able to obtain water from the ditch at this time. Because the proposed POD is downstream of 73-12038 and they have the same priority date there should be no risk of injury.

73-11503 is a stock water right currently held by the BLM, sourced from Big Creek for 0.02 cfs. This right lists 10 different PODs and the POU includes 38 quarter-quarters (QQ). With the extent of the POU of this right, the multitude of POD's and the minimal amount of diversion (0.02 cfs), there should be no threat of

injury to this right by this transfer.

Enlargement of Use:

The proposed POD will still only be authorized for the maximum diversion rate of 4.6 cfs as assigned in the original right. If the owners were to ever reestablish the ditch from the original POD, the right will still be held to a total diversion rate of 2.6 cfs. Therefore enlargement is not a concern.

Local Public interest:

There are no apparent issues identified. This application will be advertised to allow local concerns to be addressed.

Beneficial Use/Conservation of Water Resources:

This application proposes beneficial use consistent with the conservation of water resources in Idaho.

Effect on Economy the Local Area: No effect anticipated

Effect on Agricultural Base of the Local Area: No effect anticipated.

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.