

T5621 P4 PRODUCTION

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT

TRANSFER NO. 5621
WATER RIGHT NO(S). 11-00449/11-00531C

RECEIVED

OCT 24 2000

Department of Water Resources
Eastern Region

This is to certify that: P4 PRODUCTION LLC
PO BOX 816
SODA SPRINGS ID 83276

has requested a change to the above captioned water right(s). This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code, provided the conditions listed below are met.

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL VOLUME</u>
Right No. 11-00449 :			
IRRIGATION	04/15 to 10/15	0.20 CFS	72.6 AF
Priority: 05/01/1910 *			
Right No. 11-00531C :			
IRRIGATION	04/15 to 10/15	2.02 CFS	353.5 AF
Priority: 05/01/1892 *			
TOTAL:		** 2.02 CFS	353.5 AF **

SOURCE * BEAR RIVER
TRIBUTARY OF GREAT SALT LAKE

LOCATION OF POINT(S) OF DIVERSION:
SWSE , Sec. 30, Township 09S, Range 41E
NENE , Sec. 1, Township 10S, Range 40E
CARIBOU County

PLACE OF USE: IRRIGATION

TWN RGE SEC

08S 39E 21, 22, 26, 27, 28, 34, 35
09S 39E 2, 3, 4, 9, 10, 13, 14, 15, 16, 21, 22, 23, 24, 25, 26, 36
40E 19, 20, 21, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36
10S 39E 1, 12, 13
40E 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17
18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 33, 34, 35, 36
41E 5, 6, 7, 8, 17, 18, 19, 20, 28, 29, 30, 31, 32, 33
11S 40E 1, 2, 3, 4, 9, 10, 11, 12, 13, 14, 15, 24
41E 4, 5, 6, 7, 8, 9, 18

CONDITIONS OF APPROVAL AND REMARKS

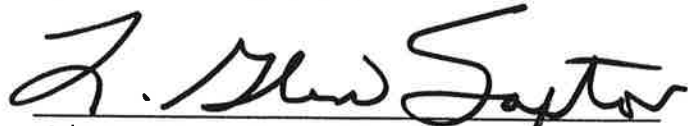
1. Use of water under this water right will be regulated by the watermaster of State Water District No. 11.
2. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion.

TRANSFER NO. 5621
WATER RIGHT NO(S). 11-00449/11-00531C

CONDITIONS OF APPROVAL AND REMARKS

3. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the lands above.
4. The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
5. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
- ** 6. Rights 11-00449 and 11-00531C when combined shall not exceed a total combined diversion rate of 2.02 cfs, a total annual maximum diversion volume of 353.5 af at the field headgate from all authorized points of diversion, and the irrigation of 101.0 acres within the Last Chance Canal Co. Ltd. service area as described above.
- * 7. Diversion of water from the Bear River is limited to those times water is available for diversion under these rights and priorities from the original source, Soda Creek, and the amount of water that is measured flowing into the Bear River from Soda Creek.
8. Prior to diversion of water under this approval, the right holder shall provide a means of measurement acceptable to the department of measuring the flow in Soda Creek below the last diversion on the creek and above the confluence with Bear River.
9. The right holder shall cease irrigation of 101.0 acres previously authorized under Right 11-00499, and consolidate use of water on the remaining 101.0 acres.
10. The right holder shall cease irrigation of 51.0 acres and shall cease the associated diversion of 0.88 cfs and 178.5 af of water previously authorized under Right 11-00531B, and consolidate use of water on the remaining 50.0 acres under Right 11-00531D and 101.0 acres under Right 11-00531C.
11. The period of use for the irrigation described in this approval may be extended to a an ending date of 10/31 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water after 10/15 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date of this approval.

Dated this 19th day of October, 2000.


Chief, Water Allocation Bureau

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCESTransfer No. 5621APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1Name of applicant P4 Production, L.L.C. Phone 208-547-4300
Post Office address P.O. Box 816, Soda Springs, Idaho 83276

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 Change source
2. Describe the reason for the proposed changes Pursuant to a lease agreement between applicant and Last Chance Canal Company.

B. DESCRIPTION OF RIGHT(S) OR PORTION THEREOF, AFTER THE REQUESTED CHANGE

1. Right Number	Priority	Amount (cfs/ac-ft)	Nature of Use	Period of Use
<u>T11-00531C</u>	<u>5/01/1892</u>	<u>1.82 cfs</u>	<u>Irrigation</u>	<u>4/15</u> to <u>10/15</u>
<u>11-00449</u>	<u>5/01/1910</u>	<u>0.20 cfs</u>	<u>Irrigation</u>	<u>4/15</u> to <u>10/15</u>
				to
				to

2. Total amount of water being transferred 2.02 cubic feet per second and/or _____ acre-feet per annum.3. Source of water Bear River tributary to Great Salt Lake

4. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
		SW	SE	30	9S	41E	Caribou	
		NE	NE	1	10S	40E	Caribou	

5. Lands irrigated or place of use: See attached sheet of sections for Last Chance Canal.

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	

*Limited to 101 acres within a permissible place of use. Total acres _____ *

PART 1

6. General Information:

a. Description of diversion system Rock cribbed dam on Bear River commonly known as the "Last Chance Dam".

b. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? Yes ☒ No. If yes, provide a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes.

c. Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer:

d. Remarks:

Water transferred will supplement the existing water rights of Last Chance Canal Company.

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No. _____

And said application is hereby _____, subject to the following limitations and conditions:

Witness my hand this _____ day of _____, 19 _____.

PART 2

TRANS NO. 5621

A. DESCRIPTION OF RIGHT AS RECORDED:

Water Right No. 11-00449

STAGE: DECREED

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL VOLUME</u>
IRRIGATION	04/15 to 10/15	0.20 CFS	72.6 AF

<u>SOURCE</u>	<u>TRIBUTARY OF</u>
SODA CREEK	BEAR RIVER

Priority: 05/01/1910

LOCATION OF POINT(S) OF DIVERSION:

NWNE , Sec. 36, Township 08S, Range 41E
 NESE , Sec. 36, Township 08S, Range 41E
 NESW , Sec. 6, Township 09S, Range 42E
 CARIBOU County

PLACE OF USE:

IRRIGATION

				NE				NW				SW				SE																			
				NENE	NWNE	SWNE	SENE	: NENW				NWNW	SWNW	SENW	: NESW				NWSW	SWSW	SESW	: NESE				NWSE	SWSE	SESE	:						
T	R	S	:	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	:	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	:	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	:	SUM		
09S	42E	6	:											:	03-37	04-32	05-30		39	:	39	06-25			:									:	202.0
																												TOTAL ACRES	202.0						

CONDITIONS/REMARKS:

1. Use of water under this water right will be regulated by the watermaster of State Water District No. 11B.
2. This right when combined with all other rights shall provide no more than 3.5 afa per acre for irrigation of the lands above.
3. The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
4. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
5. Approval of this transfer does not preclude the opportunity for review of the validity of the water right(s) in the ongoing Snake River Basin Adjudication.
6. Prior to diversion of water under this approval, the right holder shall provide a means of measurement acceptable to the Department from all authorized points of diversion which will allow determination of the total rate of diversion.

Water Right No. 11-00449CONDITIONS/REMARKS:

7. The total instantaneous diversion of water from all points of diversion and combined sources under Transfer No. 4887 shall not exceed 7.12 cfs, nor total combined annual volume of 707.0 af for the irrigation of a combined total of 202.0 acres.
8. That portion of the total combined diversion rate authorized under Transfer No. 4887 from combined sources in excess of 4.04 cfs is limited to use for conveyance losses in delivery of these rights.

Describe any other water rights used for the same purpose as described above:

To your knowledge has any portion of this water right undergone a period of five or more consecutive years of non-use? No If yes, describe:

Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

☐ Tax Notice ☒ Warranty Deed ☐ Other _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

- a. Decree No. _____ Decreed to _____
in case of _____ vs. _____
dated _____ in _____ county of _____
- b. License No. _____ issued by the Idaho Department of Water Resources.
- c. Claim No. _____ on file with the Idaho Department of Water Resources.
- d. Transfer No. 5620 / 11-00531 C which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

☐ Tax Notice

☐ Warranty Deed

☐ Other _____

3. Source of water Soda Creek tributary to Bear River

4. Date or priority 5-01-1892

5. Water is used for the following purpose:

amount 1.82 cfs for Irrigation purposes from 4/15 to 10/15
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

6. Total amount of water under right 1.82 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion
		NW	NE	36	8S	41E	Carbon	
		NE	SE	36	"	"	"	
		NE	SW	6	9S	42E	"	

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	

Total acres 101

9. Describe any other water rights used for the same purpose as described above _____

PART 3

B. CHANGES IN NATURE OF USE

1	New Nature of Use	Amount (cfs/ac-ft)	Hours/days/year	Period of Use
				to
				to

2. Quantity and quality of return flows and location of discharge:

3. Describe effects on other water uses resulting from the proposed change:

I hereby assert that no one will be injured by such change and that the change does not constitute an enlargement in use of the original right. 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 voiding its approval.

P4 PRODUCTION, L.L.C.

Paul C. Budge, authorized attorney
(Signature of Applicant)

Subscribed and sworn to before me this 9th day of December, 19 99.

Marie Rogers
(Notary Public)

My commission expires 8/26/00

FOR DEPARTMENT USE ONLY

Transfer contains 6 pages and attachments

Received by HWT Date 12-10-99 Protest filed by

Prelim. check by Fee \$100.00

Receipted by HWT #E025507 Date 12-10-99

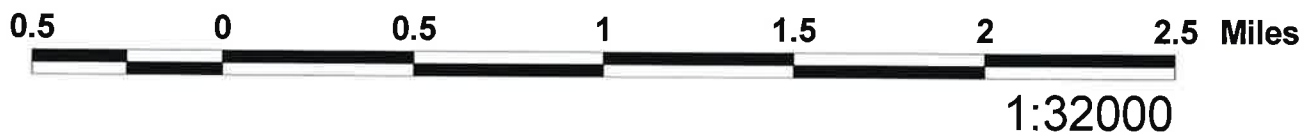
Published in Carbon County Sun Copies of protest forwarded by

Pub. dates 1-12 & 1-19-2000 Hearing held by Date

Watermaster recommendation requested on Recommended for ☐ approval ☐ denial

 rec'd. by

Copy of transfer sent to lien holder



Transfer T5621

P4 Production, LLC

LAW OFFICES OF

**RACINE, OLSON, NYE, BUDGE &
BAILEY
CHARTERED**

CENTER PLAZA-CORNER FIRST & CENTER
POST OFFICE BOX 1391
POCATELLO, IDAHO 83204-1391

TELEPHONE (208) 232-6101
FACSIMILE (208) 232-6109

SENDER'S E-MAIL ADDRESS: rcb@racinelaw.net

LOUIS F. RACINE, JR.
WILLIAM D. OLSON
W. MARCUS W. NYE
RANDALL C. BUDGE
JOHN A. BAILEY, JR.
JOHN R. GOODELL
JOHN B. INGELSTROM
DANIEL C. GREEN
BRENT O. ROCHE
KIRK B. HADLEY
FRED J. LEWIS
MITCHELL W. BROWN
ERIC L. OLSEN
DAVID E. ALEXANDER
LISA M. CHRISTON
RICHARD A. HEARN, M.D.
LANE V. ERICKSON
PATRICK N. GEORGE
SCOTT J. SMITH
LISA A. WOOD, CPA
STEPHEN J. MURKIN

RECEIVED

MAY 02 2003

H.R.O.S.L.C.

CONRAD J. AIKEN
THEODORE C. PETERS
DEBORAH L. LEHOSIT

101 SOUTH CAPITOL
BOULEVARD
U.S. BANK PLAZA, SUITE 202
BOISE, IDAHO 83702
TELEPHONE: (208) 383-0011
FACSIMILE: (208) 433-0167

April 29, 2003

Jody Williams
Holme, Roberts & Owen
2995 Main Street, Suite 1800
Salt Lake City, Utah 84111-2263

Brent Rose
Clyde, Snow & Swenson
201 S. Main Street, Suite 1000
Salt Lake City, Utah 84111

Re: *Last Chance - Soda Creek Lease*
Water Right Nos. 11-00449/11-00531C (Transfer No. 5621)

Dear Jody and Brent:

To follow up on our recent discussions at the Bear River Commission meeting April 15, I am enclosing for each of you a copy of IDWR Transfer No. 5621 pertaining to P4 Production, L.L.C. (Monsanto) Water Right Nos. 11-00449 and 11-00531C leased to Last Chance Canal Company by Lease Agreement dated April 22, 1999. You will note the conditions of approval include number 7, which provides:

"Diversion of water from the Bear River is limited to those times water is available for diversion under these rights and priorities from the original source, Soda Creek, and the amount of water that is measured flowing into the Bear River from Soda Creek."

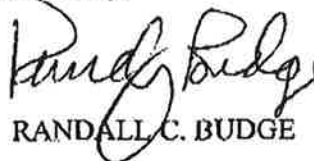
Accordingly, it would seem that the delivery of these rights and their respective priority dates would have no effect or impact on the delivery of other Bear River rights.

Jody Williams
Brent Rose
April 29, 2003
Page 2

Until it was mentioned at the recent Commission meeting, we were unaware that the water masters were having any difficulty in measuring and delivering these rights. Prior to the approval of the transfers, there was an "on site" inspection, based upon which it was Last Chance's understanding that there would be no problem measuring these water rights for delivery at the Farmers Land & Irrigation Company intake structure. Additionally, if that didn't work satisfactorily, all water could be diverted at that point into the canal and then released back into Soda Creek via a cement headgate in the south bank of the canal a short distance downstream. That was a location that was believed to be the place where the long-time former water master, Russ Stoker, took measurements and made sure that the proper amount was cut back out of the canal into Soda Creek, so it would end up in Alexander Reservoir and the Bear River system.

Since the Commission is still trying to sort out the problems raised at the Commission meeting, I am advising Jack Barnett of the foregoing by copy of this letter and the enclosures. If any of you have any questions, give me a call.

Sincerely,



RANDALL C. BUDGE

RCB:π

Enclosures

cc: Jack Barnett (w/cncls.)
Marc Gibbs, President, Last Chance Canal