

RECEIVED

AUG 20 2018
COMPLETE
WATER RESOURCES
WESTERN REGION

Rev 01/15

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No. 82639

**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 www.idwr.idaho.gov.

Name of Applicant(s) Frank J. McCann, 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 www.idwr.idaho.gov/WaterManagement/WaterRights/WaterRightTransfersResources.htm.
- ☐ ☒ #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: _____

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DEPARTMENT OF WATER RESOURCES

AUG 20 2018

WATER RESOURCES
WESTERN REGIONAUG 10 2018
INCOMPLETE
WATER RESOURCES
WESTERN REGIONAPPLICATION FOR TRANSFER OF WATER RIGHT
PART 1Name of Applicant(s) Frank J. McCann, LLCPhone 406-241-9290Mailing address 153 Livingston, Missoula, MT 59801Email frankjmccann@yahoo.com

- ☐ 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 RepresentativeName of Representative Michael C. Creamer (attorney)Phone 208-388-1247Mailing address P.O. Box 2720, Boise, ID 83701Email mcc@givenspursley.com(ORIGINALS TO APPLICANT, COPIES TO REPRESENTATIVE)

- ☐ 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.

X Frank J. McCann
Signature of Applicant or Authorized Representative

Frank J., McCann, Member
Print Name and Title if applicable

7/25/18
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. 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.2**.
All water under this right has been stored in Herrick Reservoir and delivered to, and beneficially used on, requested POU by the Applicant's lessee to the full extent water has been available for storage and necessary for irrigation each year. Storage space in reservoir typically fills and is fully utilized on requested POU by September in most years.

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DEPARTMENT OF WATER RESOURCES

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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.

I.	Right Number	Amount (cfs/ac-ft)	Nature of Use	Period of Use	Source & Tributary
All or Part ☒ ☐	65-22289	60.5 AF	Irrigation	01/01 to 12/31	Skunk Cr./Clear Cr.
☐ ☐				4/15 to 10/15	(Irrigation from storage)
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	

Total authorized under rights _____ cfs and/or 60.5 AF acre-feet.

2. Total amount of water proposed to be transferred or changed _____ cubic feet per second and/or 60.5 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	
12N	04E	4												21.0					21.0
12N	04E	9	30.0	39.0			39.0												107.0
Total Acres (for irrigation use)																			128.0

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Superseded by Amended Application RCD 12/12/18 JA

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 from Skunk Creek stored in Herrick Reservoir and delivered through irrigation ditches to Frank J. McCann, LLC property for irrigation. Water available for and delivered from storage is measured and controlled at Herrick Reservoir outlet works by reservoir owners.

- b. Who owns the property at the point(s) of diversion? DF Development and State of Idaho

If other than the applicant, describe the arrangement enabling the applicant to access the property for the diversion system:
Herrick Reservoir and existing water delivery system are operated and maintained by spaceholders/reservoir owners under long-standing easements, both written and prescriptive. See attached easement grants.

- 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: N/A

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:

No change. Storage water under this right historically has been delivered to the proposed place of use in Sec 4 and Sec 9, T12NR04E for irrigation together with water under water right 65-23763, which originally also was a part of 65-22289. 30 acres in Sec 8, T12NR04E will remain non-irrigated.

- 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:

Storage right 65-23763 also is used on the proposed place of use and delivers maximum of 1.6 AF/acre/yr. Total authorized diversion volume available to Sec 4 and Sec. 9 post-transfer place of use will be 2.06 AF/acre/yr. Currently authorized place of use has no other appurtenant water rights and will not be irrigated.

- 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:

[Close](#)

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report

6/11/2018

WATER RIGHT NO. 65-22289

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	JANICE MCCANN LLC 10568 HIGHWAY 55 CASCADE, ID 83611-5300 2093824417
Director's Report Owner	MYRTLE I HERRICK TRUST 10574 HWY 55 CASCADE, ID 83611 2083824421
Original Owner	HERRICK BROTHERS 10574 HWY 55 CASCADE, ID 83611 2083824421

Priority Date: 02/14/1950

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
SKUNK CREEK	CLEAR CREEK

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION STORAGE	01/01	12/31		60.5 AFA
IRRIGATION FROM STORAGE	04/15	10/15		60.5 AFA
Total Diversion			60.5 AFA	

Location of Point(s) of Diversion:

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SKUNK CREEK|SENE|Sec. 16|Township 12N|Range 04E|VALLEY County

Place(s) of use:

Place of Use Legal Description: IRRIGATION FROM STORAGE VALLEY County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
12N	04E	8		SWNE	25		SENE	13						

Total Acres: 38

Dates:

Licensed Date:

Decreed Date: 10/31/2000

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: 65

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

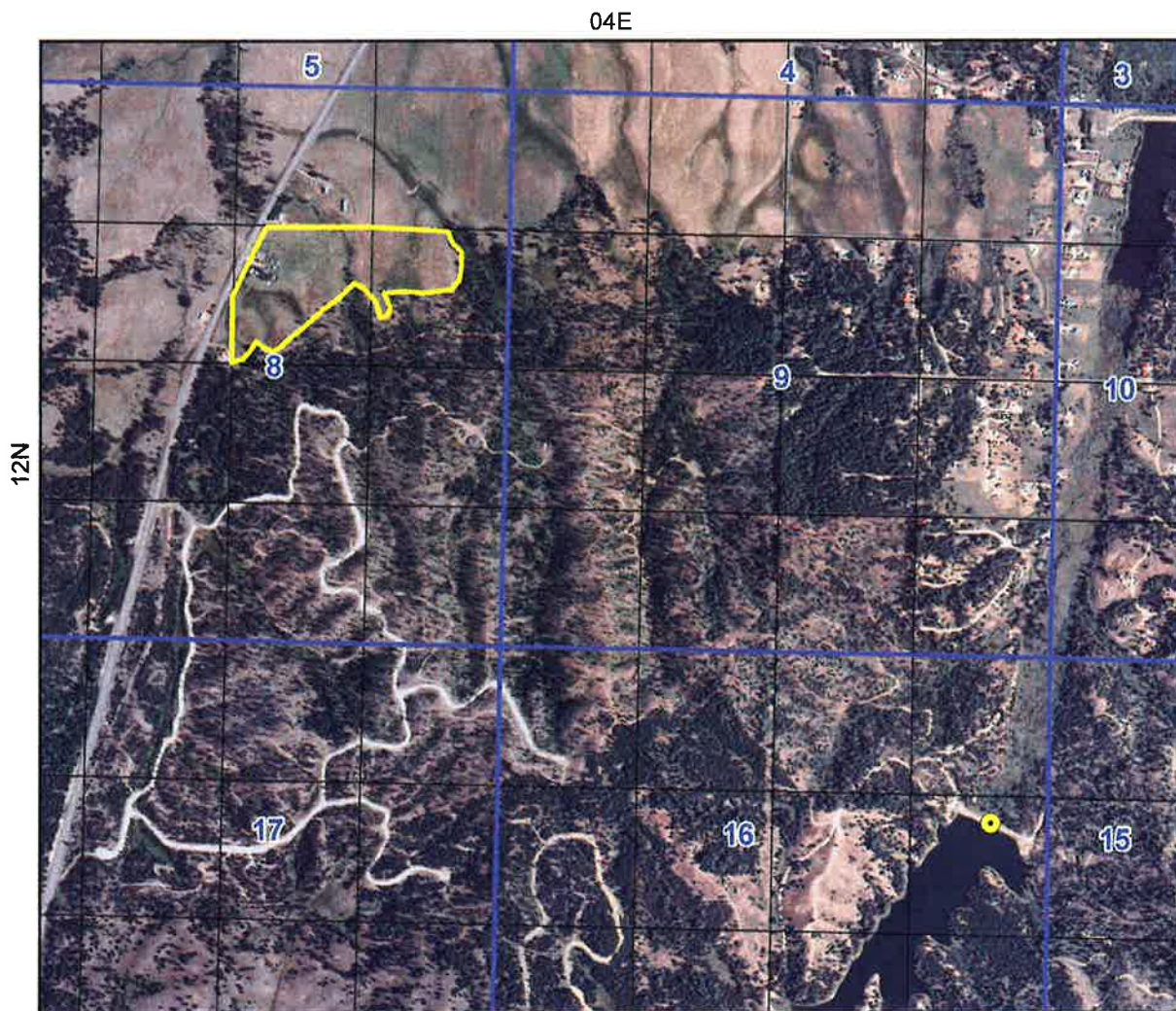
Close

State of Idaho
Department of Water Resources

Water Right
65-22289

IRRIGATION FROM STORAGE

The map depicts the place of use for the water use listed above and point(s) of diversion of this right as currently derived from interpretations of the paper records and is used solely for illustrative purposes. Discrepancies between the computer representation and the permanent document file will be resolved in favor of the actual water right documents in the water right file.



-  Point of Diversion
-  Place Of Use Boundary
-  Townships
-  PLS Sections
-  Quarter Quarters

0 0.2 0.4 0.8 Miles



Map produced on June 11, 2018

82639

ACCOMMODATION
RECORDING

Instrument # 413216
VALLEY COUNTY, CASCADE, IDAHO
06-04-2018 15:24:06 No. of Pages: 1
Recorded for: TITLEONE BOISE
DOUGLAS A. MILLER Fee: \$10.00
Ex-Officio Recorder Deputy: RRA
Electronically Recorded by Simplifile

After Recording Return To:

Michael C. Creamer
Givens Pursley LLP
601 W. Bannock Street
Boise, Idaho 83702

WATER RIGHTS QUITCLAIM DEED

FOR VALUE RECEIVED, Janice McCann LLC, an Idaho limited liability company, whose address is 10568 Highway 55, Cascade, Idaho 83611 ("Grantor"), does hereby convey, release, remise and forever quitclaim unto Frank J. McCann, LLC, an Idaho limited liability company, whose address is 153 Livingston, Missoula, Montana 59801 ("Grantee"), all of Grantor's right, title and interest in and to that certain water right and all appurtenances thereto represented by decreed Water Right No. 65-22289 in the records of the Idaho Department of Water Resources.

IN WITNESS WHEREOF, the undersigned has caused her name to be hereunto subscribed this
23 day of April, 2018.

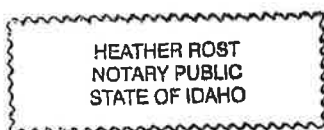
JANICE MCCANN, LLC an Idaho limited liability company

By Janice McCann
Print: Janice McCann
Its: Member

STATE OF IDAHO)
County of Valley) ss.

On this 23 day of April, 2018, before me, a Notary Public for said County and State, personally appeared Janice McCann, known or identified to me, to a member of the limited liability company of JANICE MCCANN, LLC, and the member who subscribed said limited liability company name to the foregoing instrument, and acknowledged to me that she executed the same in said limited liability company name.

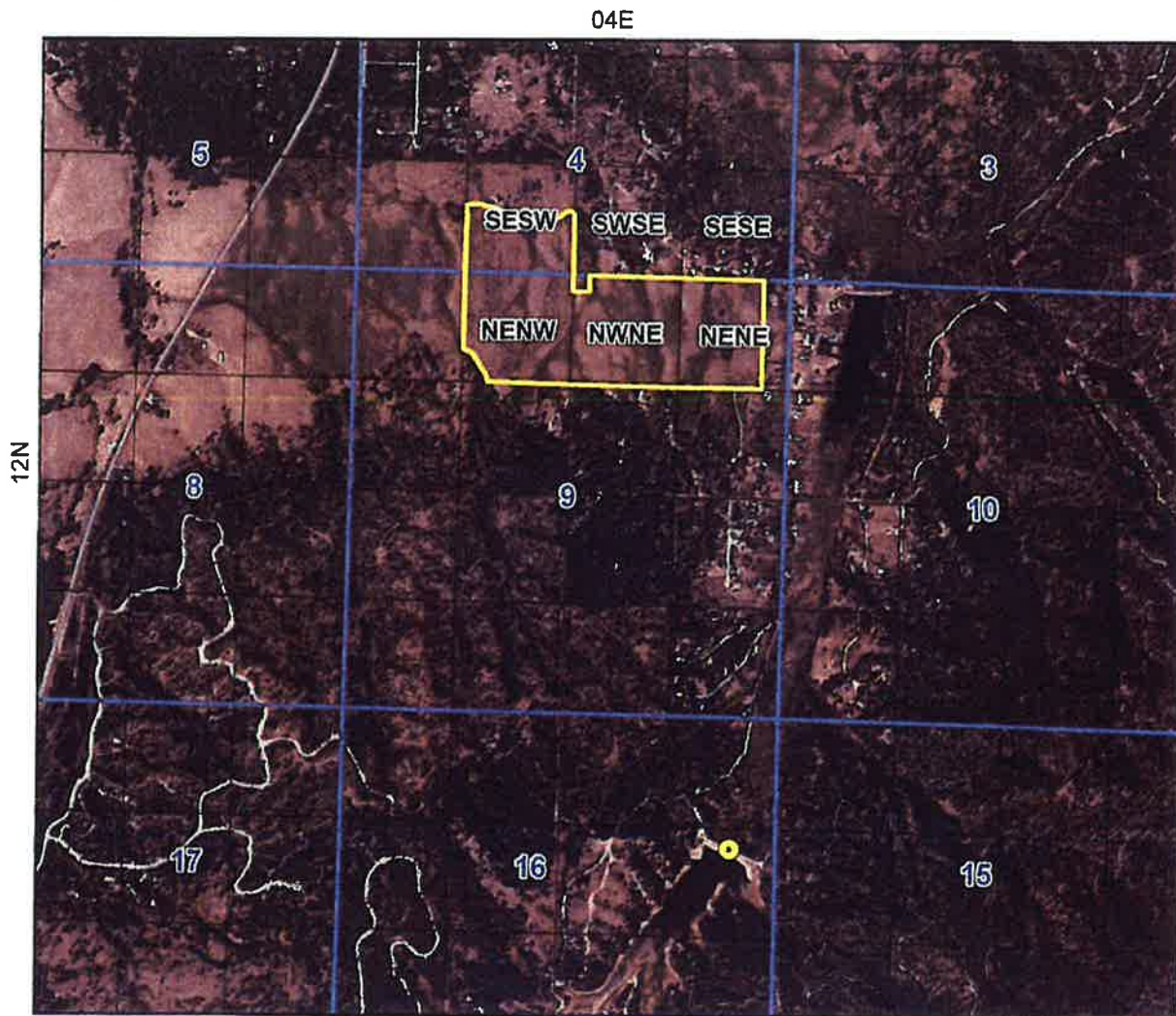
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



Heather Rost
NOTARY PUBLIC FOR IDAHO
Residing at: Cascade
My commission expires: 01-11-2019

State of Idaho
Department of Water Resources

FRANK J. MCCANN Post-TRANSFER POU
65-22289



-  Point of Diversion
-  Place Of Use Boundary
-  Townships
-  PLS Sections

0 0.25 0.5 1 Miles



82639

W A S E M E N T

No. 987

P. 01/1

THIS INDENTURE, Made this 28th day of August, 1950, by and between the State of Idaho, acting by and through the State Board of Land Commissioners, as party of the first part; and C. E. Herrick, as party of the second part;

WITNESSETH: That for and in consideration of One hundred eighty-one and 80/100 (\$181.80) Dollars, lawful money of the United States, receipt whereof is hereby acknowledged, the party of the first part does hereby convey and grant a right of way for reservoir purposes, being the following described land situated in Valley County, State of Idaho, to-wit:

Notes and bounds description of the 30' countour of Skunk Creek Reservoir Site:

Beginning at a point 667' N. of the SE corner of the SW $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 16, Twp. 12 N., Rge. 4 E., 260' S. 17°35' W. thence, 1194' S. 32°30' W. thence, 534' S. 86°05' W. thence, 185' S. 26°30' E. thence, 350' S. 15°30' W. thence 291' N. 65°30' E. thence, 310' S. 10°30' E. thence, 188' E. along south boundary of NW $\frac{1}{4}$ SE $\frac{1}{4}$ of said section thence, 365' N. 22°20' E. thence, 595' N. 30°30' E. thence, 755' S. 8°0' E. thence, 412' N. 30°45' E. to east boundary of NW $\frac{1}{4}$ SE $\frac{1}{4}$ of said section thence, 1535' N. to point of beginning, enclosing 16.21 acres in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of said section and 1.97 acres in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ in said section.

IN WITNESS WHEREOF, the State Board of Land Commissioners has caused these presents to be executed by its President, the Governor of the State of Idaho and countersigned by the Secretary of State and State Land Commissioners.

STATE BOARD OF LAND COMMISSIONERS
as party of the first part.

Countersigned:

Secretary of State

State Land Commissioner

Governor of the State of Idaho

00 MAY 11 AM 9 59
REQUESTED BY
RECORDED

TYPE: *Free*
LEADERSHIP
VALLEY COUNTY RECORDER
BY: *J. J. J.*
FEE: *9.00*

247229

State of Idaho)
) S.
County of Ada)

On this 28th day of August, 1950, before me a known Notary Public in and for said State, personally appeared C. A. Robins, known to me to be the Governor of the State of Idaho and President of the State Board of Land Commissioners, J. D. "Cy" Price, known to me to be the Secretary of the State of Idaho, and Edward Woolley, known to me to be the State Land Commissioner of the State of Idaho, that executed the said instrument and acknowledged to me that such State Board of Land Commissioners and State of Idaho executed the same.

In Witness Whereof, I have hereunto set my hand and seal on the day and year last above written.


Notary Public Residing at Boise,
Idaho

My commission expires
November 5, 1951.

Affidavit

I, **Florence E. Herrick**, do hereby swear and affirm that the attached document titled "Kasement" No. 987 is a true and exact copy of the original document received by the Herrick Family. Further this Affidavit sayeth naught.

Florence E. Herrick
Florence E. Herrick

Subscribed and sworn before me this 11 day of May, 2000.

State of Idaho)

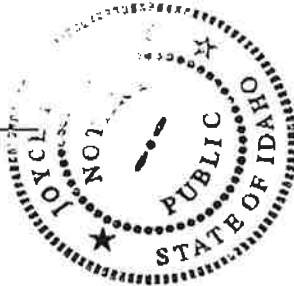
) ss

County of valley

Lyn Navaty
Notary Public

Residing at: Carleton, Id

Comm. Expires: 002



63

E A S E M E N T

THIS INDENTURE Made this 5th day of July, 1950, by and between BOISE PAYETTE LUMBER COMPANY, a corporation, party of the first part, hereinafter called "Owner, and C. E. HERRICK, M. L. HERRICK and DORSEY HERRICK, doing business under the name and style of C. E. HERRICK & SONS, A Copartnership of Alpha, County of Valley, State of Idaho, party of the second part, hereinafter called "Grantee",

WITNESSETH THAT:

For and in consideration of the promises hereinafter contained and the payments hereinafter specified, and upon the conditions subsequently hereinafter set forth, Owner hereby grants to Grantee a right-of-way for reservoir purposes on and over the following described land situated in Valley County, Idaho, to-wit:

That part of the Southeast Quarter of the Northeast Quarter (SE $\frac{1}{4}$ NE $\frac{1}{4}$), Northeast Quarter of the Southeast Quarter (NE $\frac{1}{4}$ SE $\frac{1}{4}$), and Southwest Quarter of the Southeast Quarter (SW $\frac{1}{4}$ SE $\frac{1}{4}$), of Section Sixteen (16), in Township Twelve (12) North of Range Four (4), East, B. M., lying south of the toe of the slope of the north face of the proposed dam, and lying within the flow lines of the thirty (30') foot level of the proposed reservoir, as more particularly shown on plat attached hereto, marked "Exhibit A", and made a part hereof.

The conditions of this easement are as follows, to-wit:

(a) That the easement granted herein shall be only for a dam and reservoir for the storage of the waters of Skunk Creek, reserving, however, to the Owner, its successors and assigns, lessees, licensees and permittees, all other rights and privileges, including grazing, except on dam and spillway, and the right to enter in or upon the above described lands for any purpose, and to look after, care for, protect, cut and remove any and all timber now situated upon said premises and also the right and privilege to construct, operate and maintain any road or other way over and upon any and all parts of said described lands by said Owner, its agents, successors or assigns, construction of such road to be made without damaging use or operation of dam, reservoir or spillway;

(b) Grantee shall pay to said Owner for such easement the sum of \$30.00 upon the execution of this agreement and a like sum of \$30.00 on the first day of August of each year thereafter, and also to pay during the continuance of such easement, before the same becomes delinquent, all taxes levied and assessed upon any improvements placed by Grantee upon said property;

(c) Grantee covenants and agrees to build any dam or part thereof that may be constructed by Grantee in a manner acceptable to the Department of Reclamation of the State of Idaho, and to indemnify the Owner against all claims and demands, and hold it harmless of and from any and all damage, caused by or resulting from the use of the above described premises by the said Grantee;

(d) Grantee shall have the right to remove from Grantor's property immediately adjacent the above described property sufficient dirt necessary to construct a dam thereon, provided that the barrow pit or pits from which the same is removed will be sloped to remove hazards to persons or property.

(e) The Grantee agrees to obtain permission of the Board of County Commissioners of Valley County, Idaho, before causing the abandonment of that part of the county road that crosses the above described premises; and, if required to so do by such Board of Commissioners, to relocate and rebuild the said county road satisfactorily to the Board of County Commissioners of Valley County, Idaho;

(f) In the event Grantee fences any portion of the above described premises, it is expressly agreed that only the proposed dam shall be fenced and that Owner, its agents, successors or assigns, or grazing lessees, shall have the right to graze over other parts of the above described premises and to use the water of Skunk Creek or the proposed reservoir for the watering of livestock;

(g) The Grantee further agrees to keep the premises as above described clear of all rubbish or other inflammable material which would

tend to increase the risk of fire, and to burn debris and slash during the closed fire season only on written permit of the state fire warden;

(h) The Grantee agrees to comply fully with the requirements of Chapter 273, 1949 Idaho Session Laws, in connection with the disposal of slash and debris; with the Workmen's Compensation Law of the State of Idaho, all laws of the State of Idaho and proclamations of its governor, relating to highways, farm protection, and all other matters pertaining to the performance by the Grantee of the terms and conditions of this easement or the exercise or enjoyment thereof;

(i) Upon the abandonment of the easement granted herein or the termination of Grantee's rights hereunder, Owner may enter upon and take possession of the above described premises and Grantee agrees to surrender peaceably possession thereof to said Owner.

It is further expressly covenanted and agreed that in the event Grantee abandons said easement or fails to perform all or any of the conditions hereinbefore set forth, or to pay the annual sum hereinbefore specified as and when the same are to be performed by said Grantee, then at the option of said Owner, the grant of said easement shall terminate and the interest granted hereby revert to said Owner and said Owner shall be restored to its former estate in said property, it being expressly agreed and understood that all and each of the conditions hereinbefore set forth are conditions subsequent and that the said easement shall terminate and cease upon the violation of any of such conditions as hereinbefore set forth.

IN WITNESS WHEREOF, the said Owner has caused this instrument to be executed the day and year first above written.

BOISE PAYETTE LUMBER COMPANY

ATTEST:

BY

John L. Ham
Vice President

E. A. Aitchison
Assistant Secretary

STATE OF IDAHO)
 ss.
County of Ada)

On this 5th day of July, A. D. 1950, before me, a Notary
Public in and for the State of Idaho, personally appeared _____
JOHN L. ARAM and E. A. ATCHISON,
known to me to be the Vice President and Assistant Secretary, respectively,
of the Boise Payette Lumber Company, and acknowledged to me that they
executed the within easement on behalf of said company.

IN WITNESS WHEREOF, I have hereunto set my hand and seal on the
day and year first above written.



Notary Public for Idaho;
Residing at Boise, Idaho.

Affidavit

I, **Florence E. Herrick**, do hereby swear and affirm that the attached document titled Easement is a true and exact copy of the original document received by the Herrick Family. Further this Affidavit sayeth naught.

Florence Herrick
Florence E. Herrick

Subscribed and sworn before me this 11 day of May, 2000.

State of Idaho)

) ss

County of valley

Jane Novaty
Notary Public

Residing at: Carroll, ID

Comm. Expires: 002



247228
TYPE: me
LELAND HERRICK
VALLEY COUNTY RECORDER
BY: J Novaty
FEE: 15.00
'00 MAY 11 AM 9 57
REQUESTED BY Herrick
RECORDED

82639

247352

TYPE: 15340 HERRICK
VALLEY COUNTY RECORDER
BY: J. W. Perry
FEE: 6.00
RECORDED
REQUESTED BY White, Florence
'00 MAY 17 PM 1 50

CORRECTION QUITCLAIM DEED

DORSEY C. HERRICK and FLORENCE E. HERRICK, husband and wife, hereinafter "Grantors," do release and forever quitclaim unto HERRICK RESERVOIR, LLC, an Idaho limited liability company, whose address is 10568 Highway 55, Cascade, Idaho 83611, hereinafter "Grantee," and to its assigns, all right, title and interest which Grantors now have or may hereafter acquire in the following described real property situated in Valley County, State of Idaho, to-wit:

T12N, R4E, Section 16, Valley County, Idaho, to wit:
SE1/4NE1/4; NE1/4SE1/4; SW1/4SE1/4;
SW1/4NE1/4; NE1/4SW1/4; NW1/4SE1/4.

This Correction Quitclaim Deed corrects the legal description set forth in that certain Quitclaim Deed dated March 14, 2000, and recorded as Instrument Number 246825, records of Valley County, Idaho.

TO HAVE AND TO HOLD, all and singular the said premises, together with the appurtenances, unto Grantee, and to its assigns forever.

WITNESS the hand of said Grantors this 12 day of May, 2000.

Dorsey C. Herrick by Florence E. Herrick Attain fact
Dorsey C. Herrick

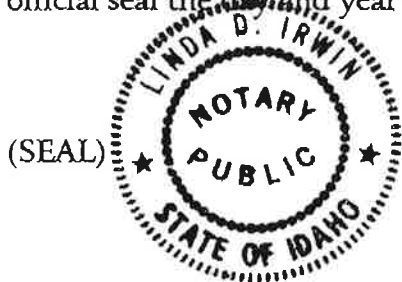
Florence E. Herrick
Florence E. Herrick

CORRECTION QUITCLAIM DEED-1

STATE OF IDAHO)
 : ss
County of Idaho)

On this 12th day of May, 2000, before me,
Linda D. Irwin, personally appeared Florence E. Herrick, known or
identified to me (or proved to me on the oath) to be the person whose name is
subscribed to the within instrument as the attorney in fact for Dorsey C. Herrick and
acknowledged to me that she subscribed the name of Dorsey C. Herrick thereto as
principal and her own name as attorney in fact.

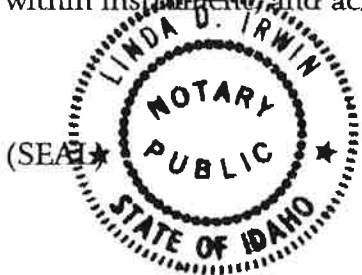
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my
official seal the day and year first above written.



Linda D. Irwin
Notary Public for Idaho
My commission expires: 4-12-2006

STATE OF IDAHO)
 : ss.
County of Idaho)

On this 12th day of May, 2000, before me
Linda D. Irwin, a Notary Public, personally appeared Florence E.
Herrick, known or identified to me to be the person whose name is subscribed to the
within instrument, and acknowledged to me that she executed the same.



Linda D. Irwin
Notary Public for Idaho
Commission expires: 4-12-2006

vm\Z:\Work\H\Herrick,Dorsey-ep\CorrectionQCDeed-LLC.frm

CORRECTION QUITCLAIM DEED-2



State of Idaho

DEPARTMENT OF WATER RESOURCES

WESTERN REGION • 2735 W AIRPORT WAY • BOISE ID 83705-5082

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Website: idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

December 13, 2018

MICHAEL C CREAMER
GIVENS PURSLEY LLP
PO BOX 2720
BOISE, ID 83701-2720

FRANK J MCCANN LLC
153 LIVINGSTON AVE
MISSOULA, MT 59801-8103

Transfer No: 82639
Water Right No: 65-22289

Dear Applicants:

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 STAR NEWS on 12/20/2018 and 12/27/2018. 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,

Anna Kaiser
Administrative Assistant

Kaiser, Anna

From: Kaiser, Anna
Sent: Thursday, December 13, 2018 9:35 AM
To: 'starclass@frontier.com'
Subject: Valley Legal Ad
Attachments: Cover Letter.docx; Legal Notice.docx

Good Morning Legal Clerk,

My name is Anna. I will be sending you legal notices, please send confirmation to my email.

Please see the attached ad for publication on 12/20/2018 & 12/27/2018.

Please confirm these are okay to publish as shown.

Anna Kaiser | Administrative Assistant I
IDWR-Western Region
2735 W Airport Way, Boise ID 83705
(208).334.2190 | anna.kaiser@idwr.idaho.gov

December 13, 2018

LEGAL NOTICE DEPARTMENT
STAR NEWS
1000 1ST ST
MC CALL, ID 83638

RE: Transfer No. 82639,
Water Right No: 65-22289

Dear Legal Notice Department:

Please publish the enclosed legal notice 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 1/7/2019. Your cooperation is appreciated.

Sincerely,

Anna Kaiser
Administrative Assistant

Enclosures

The following application has been filed to appropriate the public waters of the State of Idaho:

**NOTICE OF PROPOSED CHANGE OF WATER RIGHT
TRANSFER NO. 82639**

MICHAEL C CREAMER, GIVENS PURSLEY LLP PO BOX 2720, BOISE, ID 83701-2720; FRANK J MCCANN LLC, 153 LIVINGSTON AVE, MISSOULA, MT 59801-8103; has filed Application No. 82639 for changes to the following water rights within VALLEY County(s): Right No(s). 65-22289; to see a full description of these rights and the proposed transfer, please see www.idwr.idaho.gov/apps/wr/QueryNewTransfers/QueryNewTransfers.aspx. The purpose of the transfer is to change a portion of the above rights as follows: The transfer proposes to move 38.0 acres and 60.5 acre feet of storage water for irrigation purposes to adjacent 128 acre place of use to the NE near the intersection of Coyote Trail Rd and Clear Creek Rd, Alpha, ID. No proposed changes to point of diversion. Current authorized place of use will not be irrigated.

For additional information concerning the property location, contact Western Region office at (208) 334-2190. 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, Western Region, 2735 W AIRPORT WAY, BOISE ID 83705-5082 together with a protest fee of \$25.00 for each application on or before 1/7/2019. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Published on 12/20/2018 and 12/27/2018

Kaiser, Anna

From: Kaiser, Anna
Sent: Thursday, December 13, 2018 9:56 AM
To: 'waterdist65@srvinet.com'
Subject: Applications for Transfer No 82639
Attachments: Watermaster Recommendation Form.docx; Application for Transfer no 82639.pdf

December 13, 2018

RON SHURTLEFF
WATER DISTRICT #65
102 N MAIN
PAYETTE, ID 83661

RE: Applications for Transfer No: 82639

Dear Watermaster:

The Idaho Department of Water Resources (IDWR) is seeking written comment and/or recommendations from you regarding the above referenced water right applications. Copies of the applications are enclosed with this email for your reference. Please review the applications, complete a recommendation form, and submit your reply, if any, to this office by **January 7, 2018**.

IDWR will assume you do not object to these applications if a timely response is not received. Please contact me if you have any questions in this matter. Thank you for your help.

Sincerely,

Anna Kaiser | Administrative Assistant I
IDWR-Western Region
2735 W Airport Way, Boise ID 83705
(208).334.2190 | anna.kaiser@idwr.idaho.gov

Grimm, Angie

From: Michael C Creamer <mcc@givenspursley.com>
Sent: Monday, August 20, 2018 8:53 AM
To: Grimm, Angie
Subject: Pgs 1 and 1 (McCann Transfer).PDF [IWOV-GPDMS.FID834647]
Attachments: Pgs 1 and 1 (McCann Transfer).PDF

Angie,

Per our conversation this morning please see attached page 1 and substitution page 3 for the Frank J. McCann, LLC transfer application.

Please let me know if you need anything further or have any questions concerning the application.

Sincerely,

Mike Creamer

MICHAEL C. CREAMER
GIVENS PURSLEY LLP
601 W Bannock St, Boise, ID 83702
main 208-388-1200
direct 208-388-1247
fax 208-388-1300
mcc@givenspursley.com
www.givenspursley.com

CONFIDENTIALITY NOTICE: This communication is confidential and may contain privileged information. If you have received it in error, please advise the sender by reply email and immediately delete the message and any attachments without copying or disclosing the contents. Thank you.

GIVENS PURSLEY^{LLP}

Attorneys and Counselors at Law

601 W. Bannock Street
PO Box 2720
Boise, ID 83701
Telephone: 208-388-1200
Facsimile: 208-388-1300
www.givenspursley.com

Michael C. Creamer
208-388-1247
MCC@givenspursley.com

Gary G. Allen
Christopher J. Beeson
Jason J. Blakley
Clint R. Bolinder
Jeff W. Bower
Preston N. Carter
Jeremy C. Chou
William C. Cole
Michael C. Creamer
Amber N. Dina
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Kersti H. Kennedy

Neal A. Koskella
Debora K. Kristensen
Michael P. Lawrence
Franklin G. Lee
David R. Lombardi
Kimberly D. Maloney
Kenneth R. McClure
Kelly Greene McConnell
Alex P. McLaughlin
Melodie A. McQuade
Christopher H. Meyer
L. Edward Miller
Patrick J. Miller
Judson B. Montgomery
Emily G. Mueller
Deborah E. Nelson

W. Hugh O'Riordan, LL.M.
Randall A. Peterman
Jack W. Relf
Michael O. Roe
Jamie Caplan Smith
P. Mark Thompson
Jeffrey A. Warr
Robert B. White

Kenneth L. Pursley (1940-2015)
James A. McClure (1924-2011)
Raymond D. Givens (1917-2008)

RECEIVED

AUG 10 2018

WATER RESOURCES
WESTERN REGION

August 8, 2018

Nick Miller, P.E.
Regional Manager
Western Regional Office
Idaho Department of Water Resources
2735 Airport Way
Boise ID 83705-5082
Email: nick.miller@idwr.idaho.gov

RE: Application for Transfer of Water Right in the Name of Frank J. McCann, LLC
Right Number: 65-22289

Dear Nick:

I am enclosing for the Department's review and action an original and copy for conforming of the water right transfer application and check in the amount of \$525 to cover the Department's filing fee for water right no. 65-22289. This right is now owned by Frank McCann, LLC (copy of Water Right Quitclaim Deed also enclosed).

The application seeks to change the place of use of 65-22289 which is the original and residual portion of this irrigation storage right in Herrick Reservoir. Ms. McCann previously conveyed the portion of this right authorized for use in Sections 4 and 9 to Frank McCann, LLC ("McCann LLC"). This application would move the balance of the right to be authorized for irrigation of up to 128 acres owned by McCann LLC in Sections 4 and 9. As indicated by the application, all of storage right 65-22289 has historically been delivered to and used for irrigation on the McCann LLC property.

The original water right 65-22289 was decreed to allow for storage of 264.3 acre-feet of water per year and diversion from storage for irrigation of 166 total acres. 60.5 acre-feet of the original 264.3 acre-foot right were allocated for use on 38 acres within the Janice McCann, LLC Section 8 property, and the balance of 203.8 acre-feet was allocated for use on the 128 acres

Nick Miller, IDWR
August 8, 2018
Page 2

within McCann LLC's Section 4 and 9 property). Since Mr. Frank McCann acquired this property, *all* of the original right has been stored and delivered to irrigation on the McCann LLC Sections 4 and 9 property and this transfer is being filed to reflect that. Currently the McCann LLC acres receive only 1.6 acre-feet of irrigation storage per acre under the "child" portion of 65-22289 (now 65-23763). Even with the change of place of use of this remaining portion of 65-22289, the 128 acres in Sections 4 and 9 would still receive a maximum of only 2.06 acre-feet per acre of irrigation water from storage, or 2.44 acre-feet less than the maximum permissible per-acre duty of water.

Please let me know if you need any additional information.

Sincerely,



Michael C. Creamer

MCC/tma

Encls.

cc: Frank McCann