

T69167

WHITTAKER

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRANSFER OF WATER RIGHT
TRANSFER NO. 69167

RECEIVED
DEC 19 2001

Department of Water Resources
Eastern Region

This is to certify that: PAULA J WHITTAKER Or
F JAMES WHITTAKER
PO BOX 240
LEADORE ID 83464
(208)768-2491

has requested a change to the water right(s) listed below. This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code. The authorized change for each affected water right, including conditions of approval, is shown on the following pages of this document.

Summary of Water Rights Before the Proposed Change

Right	Origin/Basis	Priority	Rate	Volume	Acres	Total	Source
74-378B	AJC/Decreed	06/01/1884	1.27 cfs		98.0	98.0	WARM SPRING CREEK
74-1774	AJC/Decreed	05/14/1920	6.24 cfs		216.0	216.0	NEZ PERCE CREEK
74-1102	AJC/Decreed	04/01/1947	6.40 cfs		234.0	234.0	BIG TIMBER CREEK

Purpose of Transfer (Changes Proposed)

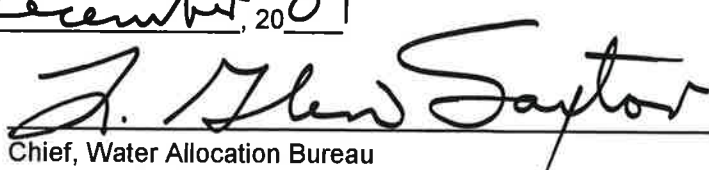
Current Number	Split	POD	POU	Add POD	Period of Use	Nature of Use
74-378B	NO	YES	YES	NO	NO	NO
74-1774	YES	YES	YES	NO	NO	NO
74-1102	NO	YES	YES	NO	NO	NO

Summary of Water Rights After the Approved Change

Existing Right	New No. (changed portion)	Transfer Rate	Transfer Volume	Acre Limit	Total Acres	New No. (remaining portion)	Remaining Rate	Remaining Volume	Remaining Acre Limit	Remaining Total Acres
74-378B	74-378B	1.27 cfs	344.4 af	98.4	137.5		N/A	N/A	N/A	N/A
74-1774	74-15006	1.68 cfs	203.0 af	58.0	137.5	74-15005	4.56 cfs	N/A	157.7	158.0
74-1102	74-15004	2.68 cfs	344.4 af	98.4	137.5	74-15003	3.72 cfs	N/A	136.2	136.0
TOTALS		5.63 cfs	481.3 af	N/A	137.5		N/A	N/A	N/A	N/A

Detailed Water Right Description(s) attached

Dated this 13th day of December, 2001


Chief, Water Allocation Bureau

WATER RIGHT NO. 74-378B
As Modified by Transfer No. 69167

In accordance with the approval of Transfer No. 69167, Water Right No. 74-378B is now described as follows.

Right Holder: PAULA J WHITTAKER And
 F JAMES WHITTAKER
 PO BOX 240
 LEADORE ID 83464

Priority Date: 06/01/1884

Source: UNNAMED STREAM

Tributary: TEXAS CREEK

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	03/15 to	11/15	1.27 CFS	344.4 AF
			1.27 CFS	344.4 AF

LOCATION OF POINT(S) OF DIVERSION:

UNNAMED STREAM SESE Sec. 21 Twp 15N Rge 26E LEMHI County

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
15N 26E 21																13.0	13.0
15N 26E 22									.9	7.0	40.0	22.6					70.5
15N 26E 27					14.0	33.0											47.0
15N 26E 28	7.0																7.0

Total Acres: 137.5

CONDITIONS OF APPROVAL

1. Rights 74-378B and 74-15004 when combined shall not exceed a total annual maximum diversion volume of 344.4 af at the field headgate and the irrigation of 98.4 acres within the place of use described above in a single irrigation season.
2. Rights 74-378B, 74-15004 and 74-15006 when combined shall not exceed a total annual maximum diversion volume of 481.3 af at the field headgate and the irrigation of 137.5 acres.
3. Use of water under this water right will be regulated by the watermaster of State Water District No. 74-W.
4. 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.

WATER RIGHT NO. 74-378B
As Modified by Transfer No. 69167

CONDITIONS OF APPROVAL

5. This right when combined with all other rights shall provide no more than 3.5 afa per acre at the field headgate for irrigation of the lands above.
6. The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
7. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
8. Approval of this transfer does not preclude the opportunity for review of the validity of this water right in the ongoing Snake River Basin Adjudication.
9. Source is known locally as Warm Spring Creek.

This water right is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.

Dated this 13th day of December, 2001


Chief, Water Allocation Bureau

WATER RIGHT NO. 74-15003
As Modified by Transfer No. 69167

In accordance with the approval of Transfer No. 69167, Water Right No. 74-15003 is now described as follows.

Right Holder: TWO DOT : RANCH
 C/O PAULA J WHITTAKER
 C/O F JAMES WHITTAKER
 PO BOX 240
 LEADORE ID 83464

Priority Date: 04/01/1947

Source: BIG TIMBER CREEK **Tributary:** LEMHI RIVER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	03/15 to	11/15	3.72 CFS	
			3.72 CFS	

LOCATION OF POINT(S) OF DIVERSION:

BIG TIMBER CREEK SWNW Sec. 20 Twp 15N Rge 26E LEMHI County

PLACE OF USE: IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
15N	26E	27			40.0		15.0		36.0	8.0						37.0			136.0

Total Acres: 136

CONDITIONS OF APPROVAL

1. Irrigation of 136.2 acres are authorized under Right 74-15003.
2. Approval of this transfer does not preclude the opportunity for review of the validity of this water right in the ongoing Snake River Basin Adjudication.

This water right is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.

Dated this 13th day of December, 2001



Chief, Water Allocation Bureau

WATER RIGHT NO. 74-15004**As Modified by Transfer No. 69167**

In accordance with the approval of Transfer No. 69167, Water Right No. 74-15004 is now described as follows.

Right Holder: PAULA J WHITTAKER And
F JAMES WHITTAKER
PO BOX 240
LEADORE ID 83464

Priority Date: 04/01/1947

Source: UNNAMED STREAM

Tributary: TEXAS CREEK

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	03/15	to 11/15	2.68 CFS	344.4 AF
			2.68 CFS	344.4 AF

LOCATION OF POINT(S) OF DIVERSION:

UNNAMED STREAM SESE Sec. 21 Twp 15N Rge 26E LEMHI County

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
15N 26E 21																13.0	13.0
15N 26E 22									.9	7.0	40.0	22.6					70.5
15N 26E 27					14.0	33.0											47.0
15N 26E 28	7.0																7.0

Total Acres: 137.5

CONDITIONS OF APPROVAL

1. Rights 74-378B and 74-15004 when combined shall not exceed a total annual maximum diversion volume of 344.4 af at the field headgate and the irrigation of 98.4 acres within the place of use described above in a single irrigation season.
2. Rights 74-378B, 74-15004 and 74-15006 when combined shall not exceed a total annual maximum diversion volume of 481.3 af at the field headgate and the irrigation of 137.5 acres.
3. Use of water under this water right will be regulated by the watermaster of State Water District No. 74-W.
4. 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.

WATER RIGHT NO. 74-15004
As Modified by Transfer No. 69167

CONDITIONS OF APPROVAL

5. Prior to diversion of water under Right 74-15004, the right holder shall provide and maintain a means of measurement acceptable to the watermaster for measuring the flow in Big Timber Creek at the original point of diversion in SWNW, S20, T15N, R26E.
6. Diversion of water under Right 74-15004 from the Unnamed Stream, also known as Warm Spring Creek, is limited to those times water is available for diversion under this right and priority from Big Timber Creek.
7. This right when combined with all other rights shall provide no more than 3.5 afa per acre at the field headgate for irrigation of the lands above.
8. The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
9. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
10. Approval of this transfer does not preclude the opportunity for review of the validity of this water right in the ongoing Snake River Basin Adjudication.
11. Source is known locally as Warm Spring Creek.

This water right is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.

Dated this 13th day of December, 2001


Chief, Water Allocation Bureau

WATER RIGHT NO. 74-15005
As Modified by Transfer No. 69167

In accordance with the approval of Transfer No. 69167, Water Right No. 74-15005 is now described as follows.

Right Holder: TWO DOT : RANCH
 C/O F JAMES WHITTAKER
 C/O PAULA J WHITTAKER
 PO BOX 240
 LEADORE ID 83464

Priority Date: 05/14/1920

Source: NEZ PERCE CREEK

Tributary: TEXAS CREEK

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	03/15 to	11/15	4.56 CFS	
			4.56 CFS	

LOCATION OF POINT(S) OF DIVERSION:

NEZ PERCE CREEK NESW Sec. 15 Twp 14N Rge 26E LEMHI County

NEZ PERCE CREEK NESW Sec. 22 Twp 14N Rge 26E LEMHI County

PLACE OF USE: IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
14N	26E	10									40.0	13.0			38.0	28.0			119.0
14N	26E	11											39.0						39.0

Total Acres: 158

CONDITIONS OF APPROVAL

- Right 74-15005 is limited to the irrigation of 157.7 acres within the place of use described above in a single irrigation season.
- Approval of this transfer does not preclude the opportunity for review of the validity of this water right in the ongoing Snake River Basin Adjudication.

This water right is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.

Dated this 13th day of December, 2001



Chief, Water Allocation Bureau

WATER RIGHT NO. 74-15006
As Modified by Transfer No. 69167

In accordance with the approval of Transfer No. 69167, Water Right No. 74-15006 is now described as follows.

Right Holder: PAULA J WHITTAKER And
 F JAMES WHITTAKER
 PO BOX 240
 LEADORE ID 83464

Priority Date: 05/14/1920

Source: UNNAMED STREAM

Tributary: TEXAS CREEK

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	03/15 to	11/15	1.68 CFS	203.0 AF
			1.68 CFS	203.0 AF

LOCATION OF POINT(S) OF DIVERSION:

UNNAMED STREAM SESE Sec. 21 Twp 15N Rge 26E LEMHI County

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
15N 26E 21																13.0	13.0
15N 26E 22									.9	7.0	40.0	22.6					70.5
15N 26E 27					14.0	33.0											47.0
15N 26E 28	7.0																7.0

Total Acres: 137.5

CONDITIONS OF APPROVAL

- Right 74-15006 is limited to the irrigation of 58.0 acres within the place of use described above in a single irrigation season.
- Rights 74-378B, 74-15004 and 74-15006 when combined shall not exceed a total annual maximum diversion volume of 481.3 af at the field headgate, and the irrigation of 137.5 acres.
- Use of water under this water right will be regulated by the watermaster of State Water District No. 74-W.
- 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.

WATER RIGHT NO. 74-15006
As Modified by Transfer No. 69167

CONDITIONS OF APPROVAL

5. Prior to diversion of water under Right 74-15006, the right holder shall provide and maintain a means of measurement acceptable to the watermaster for measuring the flow in Nez Perce Creek at the original points of diversion in NESW, S15 and S22, T14N, R26E.
6. Diversion of water under Right 74-15006 from the Unnamed Stream, also known as Warm Spring Creek, is limited to those times water is available for diversion under this right and priority from Nez Perce Creek, and shall not exceed the amount that remains undiverted in Nez Perce Creek that is ultimately allowed to reach Texas Creek.
7. This right when combined with all other rights shall provide no more than 3.5 afa per acre at the field headgate for irrigation of the lands above.
8. The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
9. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
10. Approval of this transfer does not preclude the opportunity for review of the validity of this water right in the ongoing Snake River Basin Adjudication.
11. Source known locally as Warm Spring Creek.

This water right is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.

Dated this 13th day of December, 2001


Chief, Water Allocation Bureau

protested 4/25/01

#210

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCESTransfer No. 19167APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1Name of Applicant JAMES OR PAULA WHITTAKER Phone (208) 768-2491Post Office address P.O. Box 240 Leadore, ID 83464

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 the reason for the proposed changes I need to fill in 137.5 acres
under my "Warm Springs" Pivot.

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>74-0037813</u>	<u>6-01-1884</u>	<u>1.27 cfs</u>	<u>Irrigation</u>	<u>3-15</u> to <u>11-15</u>
<u>74-01102</u>	<u>4-01-1947</u>	<u>2.68</u>		to
<u>74-01774</u>	<u>5-14-1920</u>	<u>1.68 cfs</u>	" "	to
				to

2. Total amount of water being transferred 5.63 cubic feet per second and/or _____ acre-feet per annum.

3. Source of water Warm Spring Creek tributary to Texas Creek

4. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec	Twp	Rge	County	Local name for diversion
		SE	SE	21	15N	26E	Lemhi	Warm Spring Creek

5. Lands irrigated or place of use:

Twp	Rge	Sec	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
✓ 15N	26E	21																13	13
✓		22									0.9	7	40	22.6					70.5
✓		27					14	33											47
		28	7																7

Total Acres 137.5

6 General Information:

a. Description of diversion system Short open ditch to bubbler and underground pipe.

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:

That land would dry up.

d. Remarks:

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

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

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

Witness my hand this _____ day of _____, 20 _____

For the Director

PART 2

A. DESCRIPTION OF RIGHT AS RECORDED:

Water Right No. 74-00378B

STAGE: DECREED

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>
IRRIGATION	03/15 to 11/15	1.27 CFS

<u>SOURCE</u>	<u>TRIBUTARY OF</u>
WARM SPRING CREEK	TEXAS CREEK

Priority: 06/01/1884

LOCATION OF POINT(S) OF DIVERSION:SESE, Sec. 21, Township 15N, Range 26E
LEMHI CountyPLACE OF USE:

IRRIGATION

		NE				NW				SW				SE									
		NENE	NWNE	SWNE	SENE	:	NENW	NWNW	SWNW	SENW	:	NESW	NWSW	SWSW	SESW	:	NESE	NWSE	SWSE	SESE	:	SUM	
T	R S	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	:	
15N	26E 22 :					:					:			10	40	:					:	50.0	
15N	26E 27 :					:	25	23			:					:					:	48.0	
																					TOTAL ACRES	98.0	

CONDITIONS/REMARKS:

1. AC. IRR.= 98.4.

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 _____

PART 2

TRANS NO. 69167

A. DESCRIPTION OF RIGHT AS RECORDED:

Water Right No. 74-01102 - Split Right

STAGE: DECREED

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>
IRRIGATION	03/15 to 11/15	6.40 CFS

<u>SOURCE</u>	<u>TRIBUTARY OF</u>
BIG TIMBER CREEK	LEMHI RIVER

Priority: 04/01/1947

LOCATION OF POINT(S) OF DIVERSION: SWNW, Sec. 20, Township 15N, Range 26E
LEMHI 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	:	SUM				
-----				-----				:	-----				:	-----				:	-----				:	-----				:	-----	
15N	26E	22	:					:					:			10	40	:						:	50.0					
15N	26E	27	:			40		:	40	23		36	:	08				:			37			:	184.0					
																												TOTAL ACRES		234.0

CONDITIONS/REMARKS:

1. AC. IRR.=234.6

25
with 74-002780

overlap
with
74-001788

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 _____

PART 2

Transfer No. 69167

10. 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 _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

(If the entire right is to be changed by the applicant, omit part B and C.)

1. amount 2.68 cfs for Irrigation purposes from 3-15 to 11-15
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)

2. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec	Twp	Rge	County	Local name for diversion
				<u>SW NW 20</u>	<u>15N</u>	<u>26E</u>	<u>Lemhi</u>	

3. Lands irrigated or place of use:

Twp	Rge	Sec	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
<u>15N</u>	<u>26E</u>	<u>22</u>											<u>10</u>	<u>40</u>					<u>50</u>
		<u>27</u>					<u>25</u>	<u>23</u>											<u>48</u>

C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT (omit if there is no change)

Total Acres 98

1. amount 3.72 cfs for Irrigation purposes from 3-15 to 11-15
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)

2. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec	Twp	Rge	County	Local name for diversion
				<u>SW NW 20</u>	<u>15N</u>	<u>26E</u>	<u>Lemhi</u>	

3. Lands irrigated or place of use:

Twp	Rge	Sec	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
<u>15N</u>	<u>26E</u>	<u>27</u>			<u>40</u>		<u>15</u>			<u>36</u>	<u>8</u>					<u>37</u>			<u>136</u>

Total Acres 136

A. DESCRIPTION OF RIGHT AS RECORDED:

Water Right No. 74-01774 - Split Right

STAGE: DECREED

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>
IRRIGATION	03/15 to 11/15	6.24 CFS

<u>SOURCE</u>	<u>TRIBUTARY OF</u>
NEZ PERCE CREEK	TEXAS CREEK

Priority: 05/14/1920

LOCATION OF POINT(S) OF DIVERSION:NESW , Sec. 15, Township 14N, Range 26E
NESW , Sec. 22, Township 14N, Range 26E
LEMHI CountyPLACE 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	:	SUM
14N	26E	10	:					:						:	40	13	01	08	:	38	28	20	29	:	177.0	
14N	26E	11	:					:						:			39		:					:	39.0	
																							TOTAL ACRES		216.0	

CONDITIONS/REMARKS:

1. AC. IRR.=215.7.

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? N/O 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 _____

10. 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 _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

(If the entire right is to be changed by the applicant, omit part B and C.)

1. amount 1.68 cfs for Irrigation purposes from 3-15 to 11-15
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)

2. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec	Twp	Rge	County	Local name for diversion
		NE	SW	15	14N	20E	Lemhi	
		NE	SW	22	"	"		

3. Lands irrigated or place of use:

Twp	Rge	Sec	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
14N	20E	10											1	8			20	29	58

Total Acres 58

C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT (omit if there is no change)

1. amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)

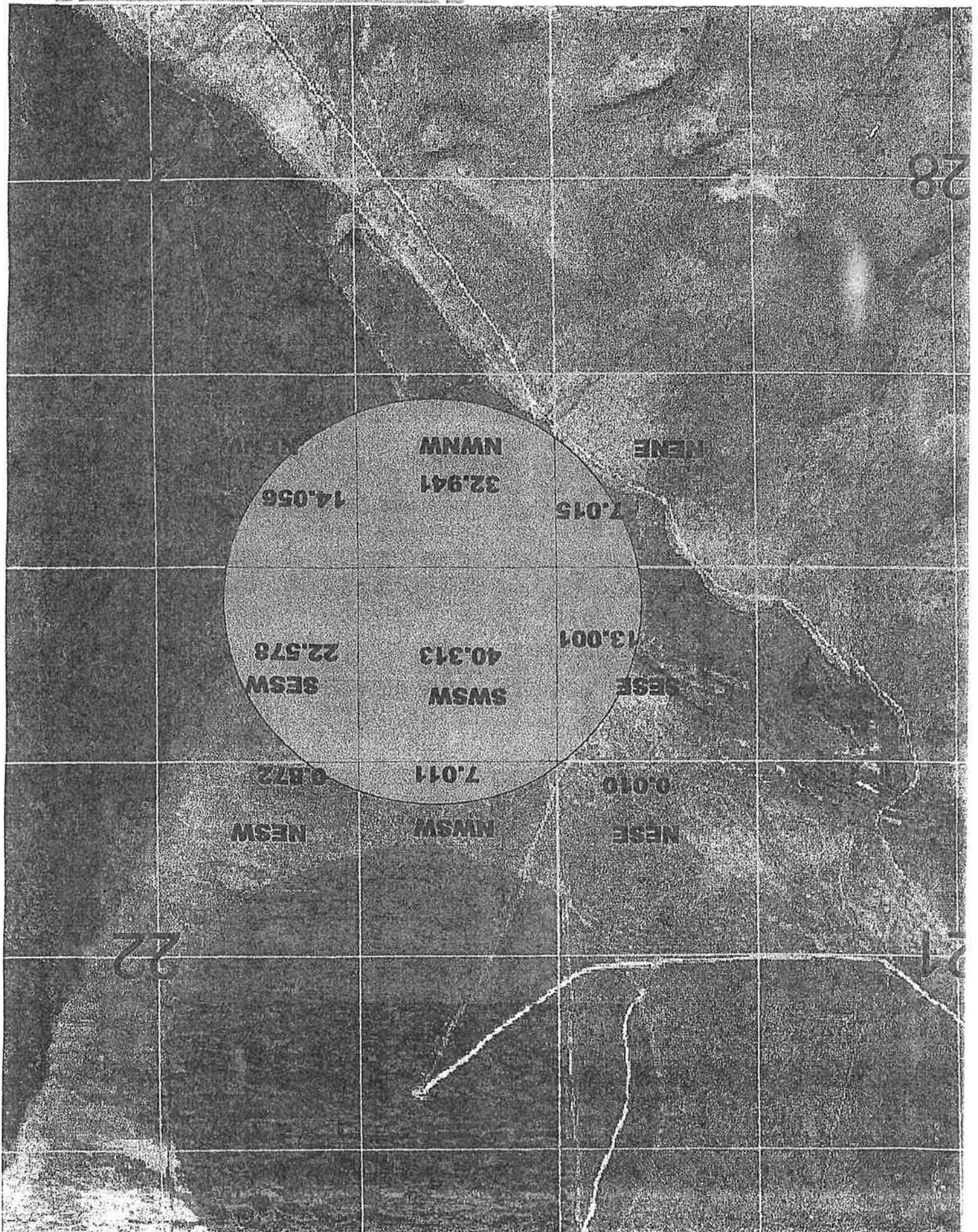
2. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec	Twp	Rge	County	Local name for diversion

3. Lands irrigated or place of use:

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

Total Acres _____



PART 3

B. CHANGES IN NATURE OF USE

1.

<u>New Nature of Use</u>	<u>Amount(cfs/af-ft)</u>	<u>Hours/days/year</u>	<u>Period of Use</u>
_____	_____	_____	_____ to _____
_____	_____	_____	_____ to _____
2. Quantity and quality of return flows and location of discharge:

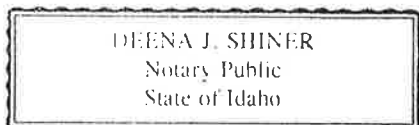
3. Describe effects on other water uses resulting from the proposed change:

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.

James Whittaker
(Signature of Applicant)

Subscribed and sworn to before me this 8th day of May, 2001.



Deena J. Shiner
(Notary Public)

My commission expires Oct. 1 2005

FOR DEPARTMENT USE ONLY

Transfer contains 9 pages and 1 attachments

Received by _____ Date _____ Protest filed by _____

Prelim. Check by Kaw Fee \$50

Received by H6J #E026694 Date _____

Published in Recorder Herald Copies of protest forwarded by _____

Pub. Dates June 7 & 14, 2001 Hearing held by _____ Date _____

Watermaster recommendations requested on _____ Recommended for ☐ approval ☐ denial

_____ received _____ by _____

Copy of transfer sent to lien holder _____

RECEIVED

NOV 05 2001

Department of Water Resources
Eastern Region

BEFORE THE DEPARTMENT OF WATER RESOURCES

IN AND FOR THE STATE OF IDAHO

IN THE MATTER OF APPLICATIONS)
FOR WATER RIGHT TRANSFER)
NOS. 69167 AND 69170 IN THE NAME)
OF JAMES OR PAULA WHITTAKER)
_____)

**RECOMMENDED
DEFAULT ORDER**

On September 18, 2001, the Idaho Department of Water Resources ("IDWR") served on all parties to this matter a *Notice of Prehearing Conference*. That *Notice* was served on Protestant Beva Lue Clark at the address given by her in her protest filed with IDWR. The *Notice* directed the parties to call a teleconference phone number and an access code on October 5, 2001 at 2:00 p.m.

On October 5, 2001, at 2:00 p.m. the Hearing Officer dialed into the teleconference described in the *Notice*. The Applicants, through their attorney Jerry Rigby, had already dialed into the teleconference. The Protestant, Beva Lue Clark, did not dial into the teleconference. Because of the Protestant's failure to attend, the prehearing conference could not proceed.

Based upon these facts IDWR served the Protestant Beva Lue Clark with notice that a default order was proposed to be issued because of a failure of the Protestant to appear at the time and place set for prehearing conference pursuant to IDAPA 37.01.01.700. The Protestant did not challenge the *Notice of Proposed Default Order* within the seven day time period provided by IDAPA 37.01.01.701.

DEFAULT ORDER

Based upon Protestant Beva Lue Clark's failure to appear at the time and place set for prehearing conference and her failure to respond to the *Notice of Proposed Default Order* it is ORDERED that her protest is DENIED. Protestant Beva Lue Clark is DISMISSED from this proceeding.

RECOMMENDED ORDER

This is a recommended order of the hearing officer. It will not become final without action of the Director of the Idaho Department of Water Resources. Any party may file a petition for reconsideration of this recommended order with the hearing officer issuing the order within fourteen (14) days of the service date of this order. The hearing officer issuing this recommended order will dispose of any petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3) Idaho Code.

Within fourteen (14) days after (a) the service date of this recommended order, (b) the service date of a denial of a petition for reconsideration from this recommended order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this recommended order, any party may in writing support or take exceptions to any part of this recommended order and file briefs in support of the party's position with the Director or Director's designee on any issue in the proceeding. If no party files exceptions to the recommended order with the Director or Director's designee, the Director or Director's designee will issue a final order within fifty-six (56) days after:

- i. The last day a timely petition for reconsideration could have been filed with the hearing officer;
- ii. The service date of a denial of a petition for reconsideration by the hearing officer; or
- iii. The failure within twenty-one (21) days to grant or deny a petition for reconsideration by the hearing officer.

Written brief in support of or taking exceptions to the recommended order shall be filed with the Director or Director's designee. Opposing parties shall have fourteen (14) days to respond. The Director or Director's designee may schedule oral argument in the matter before issuing a final order. The Director or Director's designee will issue a final order within fifty-six (56) days of receipt of the written briefs or oral argument, whichever is later, unless waived by the parties or for good cause shown. The agency may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order.

DATED this 2nd day of November, 2001.



Peter R. Anderson
Hearing Officer

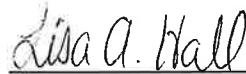
CERTIFICATE OF SERVICE

I DO HEREBY CERTIFY that on this 2nd day of November, 2001, the above and foregoing document was served upon the following by placing a copy of the same in the United States Mail, postage prepaid and properly addressed to the following:

JERRY R RIGBY
RIGBY THATCHER ANDRUS
RIGBY KAM & MOELLER CHTD
25 NORTH SECOND EAST
REXBURG ID 83440

BEVA LUE CLARK
PO BOX 8
LEADORE ID 83464

RON CARLSON
IDWR – EASTERN REGION
900 N SKYLINE DR STE A
IDAHO FALLS ID 83402-1718



Lisa A. Hall
Administrative Assistant

BEFORE THE DEPARTMENT OF WATER RESOURCES

IN AND FOR THE STATE OF IDAHO

IN THE MATTER OF APPLICATIONS)
FOR WATER RIGHT TRANSFER)
NOS. 69167 AND 69170 IN THE NAME)
OF JAMES OR PAULA WHITTAKER)

FINAL DEFAULT ORDER

On September 18, 2001, the Idaho Department of Water Resources ("IDWR") served on all parties to this matter a *Notice of Prehearing Conference*. That *Notice* was served on Protestant Beva Lue Clark at the address given by her in her protest filed with IDWR. The *Notice* directed the parties to call a teleconference phone number and an access code on October 5, 2001, at 2:00 p.m.

On October 5, 2001, at 2:00 p.m. the Hearing Officer dialed into the teleconference described in the *Notice*. The Applicants, through their attorney Jerry Rigby, had already dialed into the teleconference. The Protestant, Beva Lue Clark, did not dial into the teleconference. Because of the Protestant's failure to attend, the prehearing conference could not proceed.

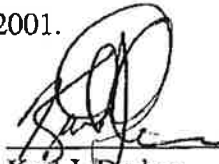
Based upon these facts, IDWR on October 12, 2001, served the Protestant Beva Lue Clark with notice that a default order was proposed to be issued because of a failure of the Protestant to appear at the time and place set for prehearing conference pursuant to IDAPA 37.01.01.700. The Protestant did not challenge the *Notice of Proposed Default Order* within the seven day time period provided by IDAPA 37.01.01.701. On November 2, 2001, IDWR served the Protestant with a Recommended Default Order issued by the Hearing Officer. The Protestant did not file a petition for reconsideration with the Hearing Officer or file exceptions to the recommended order with the Director within the fourteen (14) days provided.

FINAL ORDER

Based upon Protestant Beva Lue Clark's failure to appear at the time and place set for prehearing conference and her failure to respond to the *Notice of Proposed Default Order*, and the failure to file a timely petition for reconsideration or exceptions in response to the Recommended Default Order, it is ORDERED that her protest is DENIED. Protestant Beva Lue Clark is DISMISSED from this proceeding.

Post-it® Fax Note	7671	Date	11-28-01	# of pages	4
To	Skip Jones		From	Lisa Hall	
Co./Dept.	Eastern		Co.	IDWR	
Phone #			Phone #		
Fax #			Fax #		

DATED this 28th day of November, 2001.


Karl J. Dreher
Director

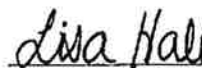
CERTIFICATE OF SERVICE

I DO HEREBY CERTIFY that on this 28th day of November 2001, the above and foregoing document was served upon the following by placing a copy of the same in the United States Mail, postage prepaid and properly addressed to the following:

JERRY R RIGBY
RIGBY THATCHER ANDRUS
RIGBY KAM & MOELLER CHTD
25 NORTH SECOND EAST
REXBURG ID 83440

BEVA LUE CLARK
PO BOX 8
LEADORE ID 83464

RON CARLSON
IDWR – EASTERN REGION
900 N SKYLINE DR STE A
IDAHO FALLS ID 83402-1718


Lisa Hall
Administrative Assistant

Responding To Final Orders Issued By The Idaho Department Of Water Resources

The accompanying order is a **Final Order** issued by the Idaho Department of Water Resources (department) pursuant to section 67-5246 or 67-5247, Idaho Code.

Section 67-5246 provides as follows:

(1) If the presiding officer is the agency head, the presiding officer shall issue a final order.

(2) If the presiding officer issued a recommended order, the agency head shall issue a final order following review of that recommended order.

(3) If the presiding officer issued a preliminary order, that order becomes a final order unless it is reviewed as required in section 67-5245, Idaho Code. If the preliminary order is reviewed, the agency head shall issue a final order.

(4) Unless otherwise provided by statute or rule, any party may file a petition for reconsideration of any order issued by the agency head within fourteen (14) days of the issuance of that order. The agency head shall issue a written order disposing of the petition. The petition is deemed denied if the agency head does not dispose of it within twenty-one (21) days after the filing of the petition.

(5) Unless a different date is stated in a final order, the order is effective fourteen (14) days after its issuance if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

- (a) the petition for reconsideration is disposed of; or
- (b) the petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

(6) A party may not be required to comply with a final order unless the party has been served with or has actual knowledge of the order. If the order is mailed to the last known address of a party, the service is deemed to be sufficient.

(7) A non-party shall not be required to comply with a final order unless the agency has made the order available for public inspection or the nonparty has actual knowledge of the order.

(8) The provisions of this section do not preclude an agency from taking immediate action to protect the public interest in accordance with the provisions of section 67-5247, Idaho Code.

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a final order with the department within fourteen (14) days of the service date of this order. The department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See section 67-5246(4) Idaho Code.

RIGHT TO A HEARING

IDAPA 37.01.01740.02.b (Procedure Rule 740.02.b) provides the following: Pursuant to Section 42-1701A(3), Idaho Code, unless the right to a hearing before the Department or the Board is otherwise provided by statute, any person aggrieved by any decision, determination, order or action of the director of the Department or any applicant for any permit, license, certificate, approval, registration, or similar form of permission required by law to be issued by the director, who is aggrieved by a denial or conditional approval ordered by the director, and who has not previously been afforded an opportunity for a hearing on the matter shall be entitled to a hearing before the director to contest the denial or conditional approval upon filing with the director, within fifteen (15) days after receipt of the denial or conditional approval, a written petition stating the grounds for contesting the action by the director and requesting a hearing.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, any party aggrieved by a final order or orders previously issued in a matter before the department may appeal the final order and all previously issued orders in the matter to district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days a) of the service of the final order, b) of an order denying petition for reconsideration, or c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration, whichever is later. See section 67-5273, Idaho Code and Rule 84 of the Idaho Rules of Civil Procedure. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

Water District 74W
Water Master Dan Smith

December 10, 2001

James Whittaker's water transfer numbers;
69167
69170

We have no problem with these transfers.

A handwritten signature in black ink, appearing to read "Dan Smith", is written over a horizontal line.

Date: December 10, 2001

To: Harold Jones
Department of Water Resources
900 N. Skyline Dr. Suite A
Idaho Falls, Idaho 83402

Fax: 208-525-7177

From: James Whittaker
Leadore, Idaho 83464

Fax: 208-768-2421

Re: Water transfers: Approval of Water Master Dan Smith
for the following transfers:
69169
69170

Copies: 2 (including cover)



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Upper Columbia - Salmon Clearwater District

Salmon Field Office

50 Highway 93 South

Salmon, Idaho 83467

<http://www.id.blm.gov>

In Reply Refer To:

7250 (085)

DEC 11 2001

Idaho Department of Water Resources
900 N Skyline Dr. Suite A
Idaho Falls, ID 83402-1718

Idaho Department of Water Resources:

The Bureau of Land Management (BLM) concurs with the removal of the following Place of Use
from water right number 74-01774:

T14N R26E S10 SESE

Transfer Numbers 69167 and 69170, filed by James and Paula Whittaker, will remove 29 acres
of irrigation use from BLM land.

Sincerely,

Dave Krosting
Salmon Field Office



United States
Department of
Agriculture

Forest
Service

Salmon-Challis
National Forest

Leadore Ranger District
P.O. Box 180, Hwy 28
Leadore, ID 83464

File Code: 2540-1

Date:

Harold Jones
Idaho Department of Water Resources
900 N Skyline Drive, Suite A
Idaho Falls, ID 83402-1718

Dear Mr. Jones:

The Forest Service concurs with the removal of the following Place of Use from water right number 74-01774: T 14N, R 26E, section 10 SWSW.

Transfer Number 69167, filed by James and Paula Whittaker, will remove 1 acre of irrigation use from Forest Service land.

Sincerely,

/s/ J. Richard Ward
J. RICHARD WARD
District Ranger

