

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED
OCT 11 2018
Department of Water Resources
Eastern Region
AMENDED

APPLICATION FOR TRANSFER OF WATER RIGHT PART 1

Name of Applicant(s) Frank Summers Inc. Phone 208-351-1296
Mailing address 365 Eagle Summit Email _____

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

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

☐ No Representative

Name of Representative _____ Phone _____
Mailing address _____ Email _____

- ☐ 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.

F. Kelly Summers
Signature of Applicant or Authorized Representative

F. Kelly Summers Pres.
Print Name and Title if applicable

10/11/18
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**.
Update POU to cover half of the dirt farm in Sec 22 of T6N R40E. The points of diversion are going to updated to represent the current diversion system. No physical changes will be occurring.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

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OCT 11 2013
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Eastern Region
AMENDED

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1 Continued

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

1.	Right Number	Amount (cfs/ac-ft)	Nature of Use	Period of Use	Source & Tributary
All or Part ☒ ☐	22-2219	5.57	IRRIGATION	04/01 to 10/31	GROUND WATER
☒ ☐	22-4091	4.33	IRRIGATION	04/01 to 10/31	GROUND WATER
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	

Total authorized under rights 5.57 cfs and/or _____ acre-feet.

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

3. Point(s) of Diversion:

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

New ?	Lot	¼	¼	¼	Sec	Twp	Rge	County	Source	Local name or tag #
			NW	SW	27	06N	40E	MADISON	GROUND WATER	
			SW	SW	27	06N	40E	MADISON	GROUND WATER	

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	
06N	40E	22		10	30						39	39	29	37		19	18		221
		27		8.1	17		39	24	28	35	35	34	32	29		27	38	0.4	346.5
		34		38	33	28	39	33	34		25	35	1.2						266.2
Total Acres (for irrigation use)																			833.7

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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.

1.	Right Number	Amount (cfs/ac-ft)	Nature of Use	Period of Use	Source & Tributary
All or Part ☒ ☐	22-7491	7	IRRIGATION	04/01 to 10/31	GROUND WATER
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	

Total authorized under rights 7 cfs and/or _____ acre-feet.

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

3. Point(s) of Diversion:

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			NW	SW	27	06N	40E	MADISON	GROUND WATER	
			SW	SW	27	06N	40E	MADISON	GROUND WATER	

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			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06N	40E	22		10.5	30						39	40	31	37		20	20		227.5
		26									40	39	38	40					157
		27	39	17	19	20	39	26	30	36	35	36	36	30	28	38			429
		34		38	32.5	1.3	29	40	35	36		26	35	1.3					274.1
Total Acres (for irrigation use)																			1087.6

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED
AUG 10 2018
Department of Water Resources
Eastern Region

SUPERCEDED

**APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1**

Name of Applicant(s) Frank Summers Inc Phone 2083511296

Mailing address 365 Eagle Summit Email _____

- ☐ If applicant is not an individual and not registered to do business in the State of Idaho, attach documentation identifying officers authorized to sign or act on behalf of the applicant. Label it **Attachment #1**.
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Signature of Applicant or Authorized Representative

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Print Name and Title if applicable

8/14/18
Date

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- ☐ Change point of diversion
☐ Change nature of use
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☐ Other _____
- 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**.
Update POU to cover half of the dirt farm in Sec 22 of T6N R40E.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

SUPERCEDED

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1 Continued

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

1.	Right Number	Amount (cfs/ac-ft)	Nature of Use	Period of Use	Source & Tributary
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☐ ☐				to	
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☐ ☐				to	
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 Label it **Attachment #5**.

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			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
6N	40E	22		10	30						39	39	29	37		19	18		221
		27		8.1	17		39	24	28	35	35	34	32	29		27	38	0.4	346.5
		34		38	33		28	39	33	34		25	35	1.2					266.2
Total Acres (for irrigation use)																			833.7

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APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1 Continued

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☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
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		26									40	39	38	40					157
		27	39	17	19	20	39	26	30	36	35	36	36	30		28	38		429
		34		38	32.5	1.3	29	40	35	36		26	35	1.3					274.1
Total Acres (for irrigation use)																			1087.6

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:

2 wells into one mainline.

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

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

- c. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts?

If yes, ☐ attach a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes on official letterhead signed by an authorized representative. Label it **Attachment #6**. List the name of the entity and type of lien: 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:

Corners will be dried to cover the new place of use.

- 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:

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

Yes No

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

If yes, describe:

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

8/27/2018

Water Right 22-2219

Owner Type **Name and Address**
Current Owner FRANK SUMMERS INC
C/O KELLY SUMMERS
365 EAGLE SUMMIT ST
REXBURG, ID 83440
(208) 351-1296

Priority Date: 1/26/1962

Basis: Decreed

Status: Active

Source
GROUND WATER

Tributary

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/01	10/31	5.570 CFS	1,642.0 AF
	<u>Total Diversion</u>		5.570 CFS	1,642.0 AF

Source and Point(s) of Diversion

GROUND WATER	NESWSW	Sec. 27, Twp 06N, Rge 40E, MADISON County
GROUND WATER	NWNWNW	Sec. 34, Twp 06N, Rge 40E, MADISON County

Place Of Use

IRRIGATION within MADISON County

			NE				NW				SW				SE				
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
06N	40E	22		9.9	26.0						39.0	39.0	29.0	37.0		17.0	18.0		214.9
06N	40E	27		8.1	17.0		39.0	24.0	28.0	35.0	35.0	34.0	32.0	29.0		27.0	38.0	0.4	346.5
06N	40E	34		38.0	39.0		28.0	39.0	33.0	34.0		25.0	35.0	1.3					272.3

Right Acre Limit: 469.0

POU Total Acres: 833.7

Conditions of Approval:

1. C18 This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.
2. E60 Right Nos. 22-2219 and 22-4091 are limited to a total combined diversion rate of 5.57 cfs and to a total combined annual diversion volume of 2918 AF.
3. E56 The rights listed below are limited to the irrigation of a combined total of 833.7 acres in a single irrigation season. Combined Right Nos.: 22-2219 and 22-4091.
4. K01 Right No. 22-4091 is an enlargement of this right pursuant to Section 42-1426, Idaho Code.
5. F05 Right No. 22-4091 is also diverted through point of diversion described above.
6. C05 Right includes accomplished change in place of use pursuant to Section 42-1425, Idaho Code.

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

8/27/2018

7. K06 This right is limited to the irrigation of 469 acres within the place of use described above in a single irrigation season.
8. C03 Right includes accomplished change in point of diversion pursuant to Section 42-1425, Idaho Code.

Dates and Other Information

Decreed Date: 11/24/2008
Civil Case Number: 39576
Judicial District: FIFTH
State or Federal: S
Water District Number: 100
Mitigation Plan: False

Combined Use Limits

<u>Rate</u>	<u>Volume</u>	<u>Acres</u>
5.570	2,918.0	833.7
22-4091 ,22-2219		

SubCase:

N/A

Water Supply Bank:

N/A

8/27/2018

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	FRANK SUMMERS INC C/O KELLY SUMMERS 365 EAGLE SUMMIT ST REXBURG, ID 83440 (208) 351-1296

Status: Active

Tributary

1,276.0 AF

Sec. 34, Twp 06N, Rge 40E, MADISON County
Sec. 27, Twp 06N, Rge 40E, MADISON County

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06N	40E	22		9.9	26.0						39.0	39.0	29.0	37.0		17.0	18.0		214.9
06N	40E	27		8.1	17.0		39.0	24.0	28.0	35.0	35.0	34.0	32.0	29.0		27.0	38.0	0.4	346.5
06N	40E	34		38.0	39.0		28.0	39.0	33.0	34.0		25.0	35.0	1.3					272.3

1.	C18	This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.
2.	E60	Right Nos. 22-2219 and 22-4091 are limited to a total combined diversion rate of 5.57 cfs and to a total combined annual diversion volume of 2918 AF.
3.	E56	The rights listed below are limited to the irrigation of a combined total of 833.7 acres in a single irrigation season. Combined Right Nos.: 22-2219 and 22-4091.
4.	K09	This right is for an enlargement of 364.7 acres within the place of use described for this right.
5.	F05	Right No. 22-2219 is also diverted through point of diversion described above.
6.	K02	This right is based upon an enlargement of Right No. 22-2219 pursuant to Section 42-1426, Idaho Code.
7.	C11	This water right is subordinate to all water rights with a priority date earlier than April 12,

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

8/27/2018

1994, that are not decreed as enlargements pursuant to Section 42-1426, Idaho Code. As between water rights decreed as enlargements pursuant to Section 42-1426, Idaho Code, the earlier priority right is the superior right.

Dates and Other Information

Decreed Date: 11/24/2008
Enlargement Statute Priority Date: 4/12/1994
Civil Case Number: 39576
Judicial District: FIFTH
State or Federal: S
Water District Number: 100
Mitigation Plan: False

Combined Use Limits

<u>Rate</u>	<u>Volume</u>	<u>Acres</u>
5.570	2,918.0	833.7
22-4091 ,22-2219		

SubCase:

N/A

Water Supply Bank:

N/A

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

8/27/2018

Water Right 22-7491

Owner Type **Name and Address**
Current Owner FRANK SUMMERS INC
C/O KELLY SUMMERS
365 EAGLE SUMMIT ST
REXBURG, ID 83440
(208) 351-1296

Priority Date: 5/20/1985

Basis: License

Status: Active

Source **Tributary**
GROUND WATER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/01	10/31	7.000 CFS	
	<u>Total Diversion</u>		7.000 CFS	

Source and Point(s) of Diversion

GROUND WATER	SWSW	Sec. 27, Twp 06N, Rge 40E,	MADISON County
GROUND WATER	NWSW	Sec. 27, Twp 06N, Rge 40E,	MADISON County

Place Of Use

IRRIGATION within MADISON County

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06N	40E	22		10.0	26.0						39.0	40.0	31.0	37.0		18.0	20.0		221.0
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06N	40E	34		38.0	39.0	1.3	29.0	40.0	35.0	36.0		26.0	35.0	1.3					280.6

POU Total Acres: 1,087.6

Conditions of Approval:

1. 048 The use of water under this right shall not give rise to any claim against the holder of a senior water right based upon the theories of forfeiture, abandonment, adverse possession, waiver, equitable estoppel, estoppel by laches or customary preference.
2. X36 Right 22-2219 is also diverted through the point of diversion located within the NWSW, S27, T06N, R40E.
3. X35 Rights 22-2183, 22-2219 and 22-7491 when combined shall not exceed a total annual maximum diversion volume of 3810.0 af at the field headgate, and the irrigation of 1087.6 acres.
4. R63 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.

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

8/27/2018

Dates and Other Information

Licensed Date: 3/28/2006
Water District Number: 100
Generic Max Rate Per Acre: 0.020
Generic Max Volume Per Acre: 3.5
Swan Falls Trust or Nontrust: N
Mitigation Plan: False

Combined Use Limits

<u>Rate</u>	<u>Volume</u>	<u>Acres</u>
22-2183 ,22-2219 ,22-7491	3,810.0	1,087.6

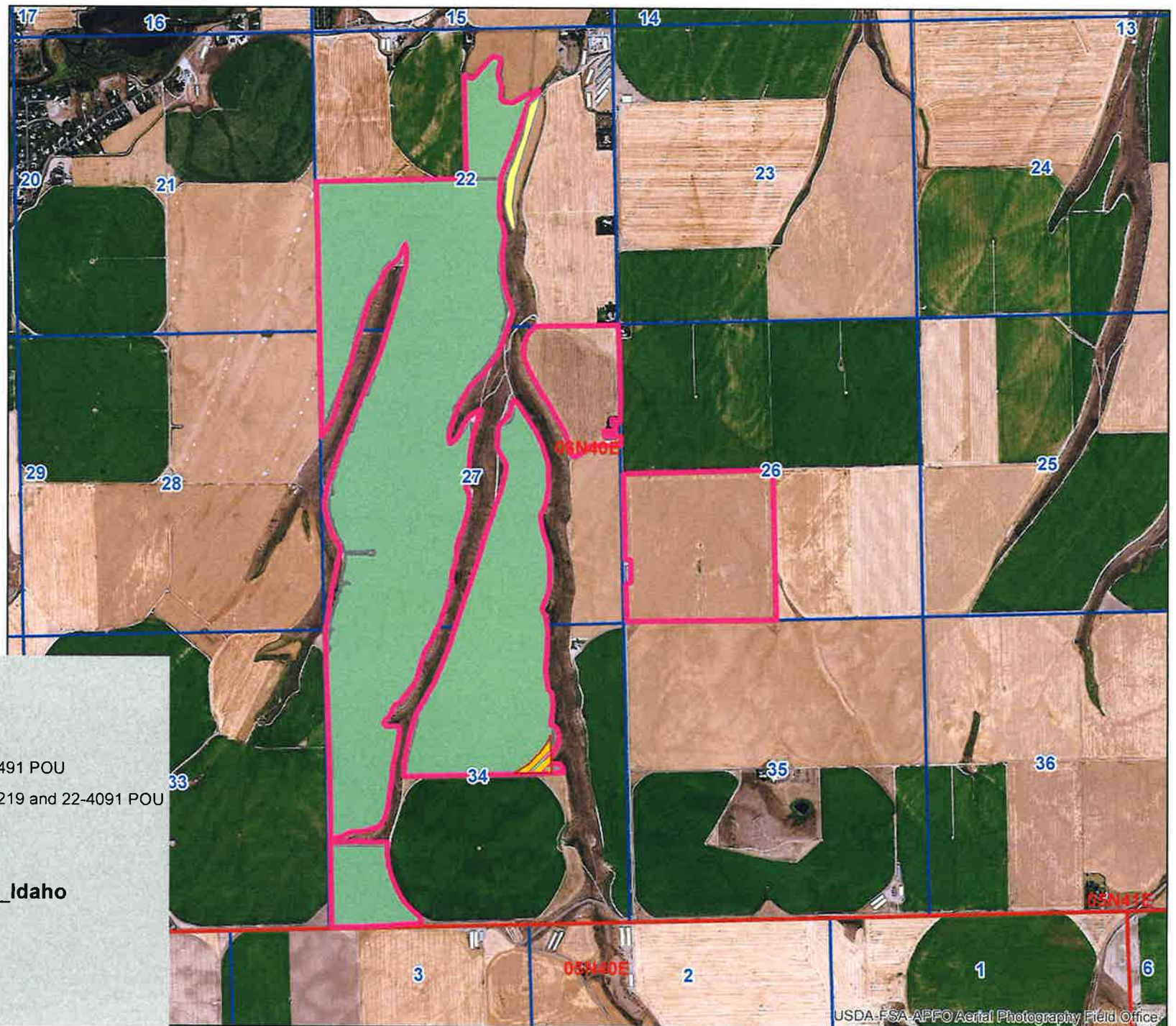
SubCase:

N/A

Water Supply Bank:

N/A

Water Right 22-2219, 22-4091 and 22-7491 Transfer POU



60288
82709