



State of Idaho

DEPARTMENT OF WATER RESOURCES

Eastern Region • 900 North Skyline Drive, Suite A • Idaho Falls, ID 83402-1718
Phone: (208) 525-7161 • Fax: (208) 525-7177 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

March 29, 2018

Rob Harris
Holden Kidwell Hahn & Crapo, PLLC
PO Box 50130
Idaho Falls, ID 83405

RE: Application for Exchange of Water (Smith Teton Ranch, LLC)

Dear Rob:

On March 19, 2018, you filed an Application for Exchange of Water on behalf of Smith Teton Ranch, LLC. You signed the application as the attorney for Smith Teton Ranch. The application proposes to exchange water rights 22-160 and 22-545 (held by Smith Teton Ranch) with water stored in Island Park Reservoir and Grassy Lake under water rights 21-2156, 21-10560, 21-13161 and 21-4155 (held by the U.S. Bureau of Reclamation ("USBR")). Our application form does not require a signature by the co-applicant. Instead, the department requires the applicant to provide a copy of the exchange agreement between the parties, as evidence of the co-applicant's consent to make the proposed changes. Your application included a copy of an unsigned exchange agreement with Fremont Madison Irrigation District, but did not include any agreement with the USBR.

Idaho Code § 42-240(1) describes two types of exchange. The first type is where water rights are diverted from a different source. Water is exchanged by ceasing diversion from the source of water described on the water right. The exchange usually takes place where the water right source and the exchange source meet. The second type of exchange is where water rights are exchanged between water users on the same or different water sources.

The exchange proposed in your application appears to be the first type, where a water right will be diverted (or re-diverted) from a different source. Instead of re-diverting storage water from the Henrys Fork or the Fall River or a downstream source, Smith Teton Ranch proposes to re-divert storage water from South Leigh Creek, a tributary to the Teton River. Smith Teton is simply proposing to re-divert storage from a different source. The exchange would take place at the location where storage water from the Cross-Cut Canal is injected into the Teton River.

Your characterization of the proposal as an exchange of water rights between two water users is incorrect. The application states: "The exchange would allow the applicant to divert water at the applicant's property to irrigate crops/landscaping when the applicant's water rights on South Leigh Creek are all out of priority." If the applicant's water rights are out of priority, then there cannot be an exchange of water rights between two water users.

Admittedly, our application form can be difficult to navigate. It does, however, distinguish between the two types of exchanges. There is a separate section (Part B) for exchanges involving a single water user – where a water right will simply be diverted (or re-diverted) from a different source. This would be the appropriate section to complete for your proposal. You do not need to include any information about a co-applicant and do not need to complete Part A. Finally, because the Island Park and Grassy Lake water rights are held by the USBR, the application must be signed by a representative of the USBR.

Because the application will require significant changes and will have to be filed by another entity, I have decided to return the application and refund the associated filing fee (Receipt No. E043007, \$820). A refund check will be issued by the State of Idaho in the coming weeks. Please contact me if you would like to discuss the proposal in greater detail.

Sincerely,

A handwritten signature in dark ink, appearing to read 'J. Cefalo', written in a cursive style.

James Cefalo

Encl: Original Application for Exchange of Water

Cox, Sharla

From: Cox, Sharla
Sent: Thursday, March 29, 2018 1:54 PM
To: Pline, Treva
Subject: Refund Please

Please refund the following:

Receipt #E043807
Amount of Refund \$820.00
Payable to:
Holden Kidwell Hahn & Crapo
PO Box 50130
Idaho Falls ID 83405-0130

Reason: Returned Application for Exchange of Water Right.

Thank you

Sharla

*Sharla Cox
Administrative Assistant
Idaho Dept of Water Resources
900 N Skyline Dr. Ste A.
Idaho Falls ID 83402
sharla.cox@idwr.idaho.gov
208-525-7161 phone
208-525-7177 fax*



Holden Kidwell
Hahn & Crapo P.L.L.C.
L A W O F F I C E S

1000 Riverwalk Drive, Suite 200
PO Box 50130
Idaho Falls, Idaho 83405

RECEIVED
MAR 19 2018

Department of Water Resources
Eastern Region

Tel: (208) 523-0620
Fax: (208) 523-9518
www.holdenlegal.com

Email: rharris@holdenlegal.com

March 14, 2018

James Cefalo
Idaho Department of Water Resources
900 N. Skyline Drive, Suite A
Idaho Falls, Idaho 83402-1718

Re: *Application for Exchange of Fremont Madison Irrigation District Storage Water with Smith Teton Ranch, LLC Property Located in Teton County.*

Dear James:

Enclosed for processing is a completed *Application for Exchange of Water* submitted by the Applicant, Smith Teton Ranch, LLC. Given your familiarity with Water District 01, you are aware that storage water is often delivered on an exchange basis in various locations throughout Eastern Idaho. Those existing exchanges, in our view, are memorialized by the inclusion of certain areas within irrigation district or canal company service areas that are not capable of physical delivery of storage water from the reservoirs from which such irrigation district or canal company storage water is stored. This is the case with Fremont Madison Irrigation District's contract for storage space in Island Park Reservoir and Grassy Lake Reservoir. Water released from these reservoirs is not physically able to be delivered to property located in the Teton Basin. However, water is diverted in the Teton Basin and then replaced with storage water delivered through the Cross-Cut Canal which diverts water from the Henry's Fork below where both water from Island Park Reservoir and Grassy Lake Reservoir is stored and released.

The Smith Teton Ranch, LLC property has portions of it located within the service area of the Fremont Madison Irrigation District, which areas already have entitled to it the delivery of 85 acre-feet of Fremont Madison Irrigation District storage that has a first priority position in the Cross-Cut Canal. Many years ago, Smith Teton Ranch, LLC purchased 220 acre feet of Fremont Madison Irrigation District Storage Water that was originally delivered around the Twin Groves area near St. Anthony. Smith Teton Ranch, LLC now desires to allow the 220 acre feet to be delivered for use at its property in Teton Valley. This has required Smith Teton Ranch, LLC to go through an annexation process with the Fremont Madison Irrigation District. Fremont Madison has an annexation policy that lays out the procedure for the annexation of property. At this point, we are comfortable that we have received verbal assurances and authorization from Fremont Madison and the Bureau of Reclamation to allow additional acreage within the Smith Teton Ranch, LLC property to be included within the service area of the Fremont Madison Irrigation District. For your information, the area to be added is depicted in red on Exhibit 1 to the *Exchange Agreement* included with this *Application for Exchange of Water*.

Established in 1896

In addition, as part of Fremont Madison's Annexation Policy, it is a requirement to receive an approved *Application for Exchange of Water*. While it appears to us that storage water may be delivered anywhere within Water District 01 under the supervision of the water master, nevertheless, in order to comply with Fremont Madison's Annexation Policy, we are submitting the enclosed *Application for Exchange of Water*. I am providing this to you at your attention because I am not familiar with others in your office who may have processed exchange applications previously. I trust that you will assign the *Application* to the agent that is most familiar with these applications.

We should note that the *Application for Exchange of Water* form is not necessarily the best fit for the exchange of storage water. This is because, in our view, we are not really exchanging storage water with any other natural low right owned by Smith Teton Ranch, LLC. Rather, we are calling for delivery of storage when water rights are out of priority. However, in order to make the form fit, we have listed two of Smith Teton Ranch, LLC's water rights, Water Right No. 22-160 and 22-545, which collectively authorized the diversion of 5.0 cfs. For purposes of the filing fee, because the main intent of this exchange is for the delivery of storage water in the amount of 220 acre feet, we have used that value in reviewing the fee schedule, and accordingly, we have submitted a filing fee in the amount of \$820.00. Even though the main intent is for the exchange of storage water, without a diversion limitation, the form requires inclusion of other water rights to be exchanged, which we have included in the amount of 5 cfs. Based on the instructions, we are to pay the greater of the two fees, which is why we have included a check in the amount of \$820.00.

We anticipate that once the *Application for Exchange of Water* is approved, Fremont Madison can move forward with the finalization of the annexation process. It has been determined at this point to move forward with the enclosed *Application*, and given the long standing exchanges that exist on the Teton Basin, we do not anticipate any concerns or protests, but understand that the application will need to be advertised under Idaho law.

Finally, please note that we have submitted an unsigned version of the exchange agreement which is required under the *Application for Exchange of Water*. We understand that Fremont Madison is in the process of getting that document signed, after which we will also sign, and submit to the Department. We have submitted the unsigned version at this point simply to get the process moving forward on this *Application*.

James Cefalo
March 14, 2018
Page 3 of 3

We appreciate your attention to this matter. If you have any questions concerning the *Application*, please do not hesitate to call me at 208-523-0620.

Best regards,



Robert L. Harris
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

RLH/rew
Enclosures

g:\wpdata\rlh\8527 smith, boyd\31 fremont-madison\2018-03-14, cefalo.docx

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR EXCHANGE OF WATER

RECEIVED
MAR 19 2018

Department of Water Resources
Eastern Region

Under the provisions of Section 42-240, *Idaho Code*, any person holding a surface water right may apply to exchange such water for the use of water from the same source or a different surface water source. Surface water right holders may also apply to exchange for the use of water authorized for diversion under one or more other valid water rights from the same source or a different surface water source.

1. INFORMATION ABOUT THE APPLICANT

Applicant: Smith Teton Ranch, LLC

Telephone No: (208) 523-0620

(Name of Applicant)

c/o Holden Kidwell Hahn & Crapo, P.L.L.C., P.O. Box 50130, Idaho Falls, ID 83405 Email: harris@holdenlegal.com

(Mailing Address)

(Zip Code)

Applicant's Water Right(s) to be exchanged 22-160 and 22-545

Attach a photocopy of the License, Permit, Transfer, Decree, or Claim evidencing the right(s) or attach a printout obtained from IDWR.

2. INFORMATION ABOUT THE CO-APPLICANT

Complete this portion if the applicant proposes to exchange for water diverted under a water right held by another party. The co-applicant is the holder of the right to be exchanged for the applicant's right. If more space is needed, please attach another sheet containing information about each co-applicant.

Co-applicant Fremont Madison Irrigation District

Telephone No: 208-624-3381

(Name of Co-applicant)

P.O. Box 15, St. Anthony, ID

83445

Email: _____

(Mailing Address)

(Zip Code)

Co-applicant's Water Right(s) to be exchanged 21-2156, 21-10560, and 21-13161 (Island Park); 21-4155 (Grassy Lake)

Attach a photocopy of the License, Permit, Transfer, Decree, or Claim evidencing the right(s) or attach a printout obtained from IDWR.

3. EXCHANGE AGREEMENT -- Attach a copy of the written agreement between the applicant and the co-applicant(s).

4. EXCHANGE INFORMATION -- Complete Part A or Part B to explain how the proposed exchange will operate.

Part A -- For an exchange involving two or more water right holders.

The applicant proposes to divert 5.0 cfs and/or 220 acre feet per year of water authorized to be diverted under the co-applicant's water right(s) listed above at NW $\frac{1}{4}$ of NE $\frac{1}{4}$, Govt. Lot 1 Sec. 32 Township 6N Range 46E B.M., Teton County. This is the location of where the water enters Idaho. For a description of where it is diverted in Wyoming, see the attached water right reports.

Additional points of diversion, if any: _____

In exchange for authorization to divert water as described above, 5 cfs and/or 220 acre feet per year of water authorized for diversion under the applicant's water right(s) listed above will be (complete 1 or 2 below):

1. made available to the co-applicant for diversion at _____ $\frac{1}{4}$ of _____ $\frac{1}{4}$, Govt. Lot _____ Sec. _____ Township _____ Range _____ B.M., _____ County.

Additional points of diversion, if any: _____

OR

2. released from storage by the co-applicant into the Cross-cut Canal (then injected into the Teton River) at SW $\frac{1}{4}$ of _____ SE $\frac{1}{4}$, Govt. Lot 3 Sec. 14 Township 8N Range 41E B.M., Fremont County.

Part B -- For an exchange involving only the applicant's water right(s).

The applicant proposes to divert _____ cfs and/or _____ acre feet per year of water at _____ $\frac{1}{4}$ of _____ $\frac{1}{4}$, Govt. Lot _____ Sec. _____ Township _____ Range _____ B.M., _____ County. Additional points of diversion, if any: _____ In exchange for authorization to divert water as described above, _____ cfs and/or _____ acre feet per year of water authorized for diversion under the applicant's water right(s) listed above will be (*complete 1 or 2 below*):

1. diverted from _____ at _____ $\frac{1}{4}$ of _____ $\frac{1}{4}$, Govt. Lot _____ Sec. _____ Township _____ Range _____ B.M., _____ County and injected into _____ at _____ $\frac{1}{4}$ of _____ $\frac{1}{4}$, Govt. Lot _____ Sec. _____ Township _____ Range _____ B.M., _____ County.
OR

2. released from storage by the applicant into _____ at _____ $\frac{1}{4}$ of _____ $\frac{1}{4}$, Govt. Lot _____ Sec. _____ Township _____ Range _____ B.M., _____ County.

Additional Explanation – Attach additional sheets if necessary. _____ The applicant is working to annex the entirety of its property into the Fremont-Madison Irrigation District. The exchange would allow the applicant to divert water at the applicant's property to irrigate crops/landscaping when the applicant's water rights on South Leigh Creek are all out of priority. The exchange storage water from Island Park Reservoir would be delivered through the Cross-cut Canal when space is available, which injects water from the Henry's Fork into the Teton River. The methodology for the exchange is similar to numerous exchanges of Fremont Madison Irrigation District water in the Teton Basin of Idaho. The applicant already has the ability to exchange 85 acre-feet of Fremont-Madison Irrigation District storage water on the applicant's property. This exchange will add 220 acre-feet of storage purchased by the applicant.

If this exchange is not intended to be a permanent arrangement, please describe the circumstances under which the proposed exchange will terminate. _____ The exchange is intended to be permanent.

5. MAPS --Attach two maps, one showing the water right(s) as it is (they are) now used, and another showing how the water right(s) will be used under the proposed exchange. Each map should be on an 8 $\frac{1}{2}$ "x11" sheet and should clearly identify the locations of the point(s) of diversion, injection, and re-diversion of water and the place(s) of use by 40-acre subdivisions, section, township and range of the public land survey. Photocopies of USGS 7 $\frac{1}{2}$ -minute topographic quadrangles are preferred as base maps.

SIGNATURE

Applicant hereby asserts that no one will be injured by such exchange of water and acknowledges that the applicant and/or the co-applicant will be responsible for all actions taken pursuant to this exchange. I understand that any willful misrepresentations made in this application may result in voiding its approval.

Robert L. Harris, Attorney for Smith Teton Ranch, LLC March 14, 2018
Applicant's Signature (and title if application is for an organization) Date

FOR DEPARTMENT USE ONLY

This exchange application contains _____ pages, including attachments.
Received by se Date 3/19/18 Fee 820
Received by se Date 3/19/18 Receipt No. ED43807
Preliminary review by _____
Published in _____
Publication dates _____
Protests filed by _____
Copies of protests forwarded by _____
Watermaster recommendation requested on _____
Watermaster recommendation received on _____
Hearing held by _____ Date _____
Recommended for Approval _____ Denial _____ By _____

WATER RIGHT DOCUMENTS

Close

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report

3/14/2018

WATER RIGHT NO. 22-160

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	SMITH TETON RANCH LLC 3260 ASH ST PALO ALTO, CA 94306 6503277878
Original Owner	SUSAN TWINING
Original Owner	EDMUND S TWINING III PO BOX 101 TETONIA, ID 83452 2084562310

Priority Date: 06/01/1891

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
SOUTH LEIGH CREEK	TETON RIVER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/15	10/31	3.2 CFS	
Total Diversion			3.2 CFS	

Location of Point(s) of Diversion:

SOUTH LEIGH CREEK | NENWNE Lt 1 | Sec. 32 | Township 06N | Range 46E | TETON County

IRRIGATION Use:

Acre Limit: 160

Place(s) of use:

Place of Use Legal Description: IRRIGATION TETON County

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>
06N	45E	25		NESE	14		NWSE	27		SWSE	39		SESE	37
				NENE	37		NWNE	34		SWNE	15		SENE	22
				NENW	36		NWNW	34		SWNW	7.6		SENW	13
	46E	30		NESW	22	3	NWSW	24	4	SWSW	32		SESW	37
				NESE	34		NWSE	26		SWSE	39		SESE	39
				NENE	40		NWNE	40		SWNE	38		SENE	22
		31		NENW	40	1	NWNW	38	2	SWNW	22		SENW	33
				NWNE	14	2	SWNE	28						
				NENW	32		NWNW	36		SWNW	14		SENW	15
		32	1	NWNE	14	2	SWNE	28						
				NENW	32		NWNW	36		SWNW	14		SENW	15
			3	NWSE	25									

Total Acres: 1005.6

Conditions of Approval:

1. X27 This right is limited to the irrigation of 160 acres within the authorized place of use in a single irrigation season.
2. X35 Rights 22-42, 22-160, 22-545, 22-616, and 22-13160 when combined shall not exceed the irrigation of 688.9 acres.
3. X35 Rights 22-312, 22-487C, 22-13016, 22-42, 22-160, 22-545, 22-616, and 22-13160 when combined shall not exceed the irrigation of 736.3 acres.
4. X35 Rights 22-312, 22-487C, 22-13016, 22-42, 22-160, 22-545, 22-616, 22-13160, 22-13144, 22-13148, 22-130B, 22-481A, 22-482A, 22-483A, 22-2029D, 22-130D, 22-136C, 22-515B, 22-516B, 22-517B, and 22-7609 when combined shall not exceed a total diversion rate of 32.31 cfs and the irrigation of 1005.6 acres.
5. 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 place of use.
6. R43 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(s). Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 1.
7. R05 The quantity of water diverted under this water right shall be from the portion awarded to IDAHO and deducted there from as set forth in Roxana Canal Co. v. Daniels, Equity No. 2447 (D. Wy. Feb. 4, 1941).
8. 158 This water right is subject to the delivery provisions contained in Roxana Canal Co. v. Daniels, Equity No. 2447 (D. Wy. Feb. 4, 1941) ("Roxana decree"). Nothing in this Partial Decree is intended to relieve or alter the state of Idaho nor the state of Wyoming from their obligations contained in the Roxana decree.
9. 160 The point of diversion for this water right is in Wyoming, T44N, R118W, Sec. 6 NESENE (L2), 6PM. The point of diversion shown above is where the conveyance system enters Idaho.
10. F15 Water is delivered through Killpack Pipeline.
11. F01 The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
12. T07

13. T08 Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
14. T19 Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.

Dates:

Licensed Date:

Decreed Date: 11/28/2008

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: 01

Generic Max Rate per Acre: 0.02

Generic Max Volume per Acre: 3.5

Combined Acres Limit: 688.9

Combined Volume Limit:

Combined Rate Limit:

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

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report

3/14/2018

WATER RIGHT NO. 22-545

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	SMITH TETON RANCH LLC 3260 ASH ST PALO ALTO, CA 94306 6503277878

Priority Date: 06/01/1896

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
SOUTH LEIGH CREEK	TETON RIVER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/15	10/31	1.8 CFS	
Total Diversion			1.8 CFS	

Location of Point(s) of Diversion:

SOUTH LEIGH CREEK | NENWNE Lt 1 | Sec. 32 | Township 06N | Range 46E | TETON County

IRRIGATION Use:

Acre Limit: 90

Place(s) of use:

Place of Use Legal Description: IRRIGATION TETON County

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>

06N	45E	25	NESE	14	NWSE	27	SWSE	39	SESE	37
		36	NENE	37	NWNE	34	SWNE	15	SENE	22
			NENW	36	NWNW	34	SWNW	7.6	SENW	13
	46E	30	NESW	22	NWSW	24	SWSW	32	SESW	37
			NESE	34	NWSE	26	SWSE	39	SESE	39
		31	NENE	40	NWNE	40	SWNE	38	SENE	22
			NENW	40	NWNW	38	SWNW	22	SENW	33
		32	NWNE	14	SWNE	28				
			NENW	32	NWNW	36	SWNW	14	SENW	15
			NWSE	25						

Total Acres: 1005.6

Conditions of Approval:

1. X27 This right is limited to the irrigation of 90 acres within the authorized place of use in a single irrigation season.
2. X35 Rights 22-42, 22-160, 22-545, 22-616, and 22-13160 when combined shall not exceed the irrigation of 688.9 acres.
3. X35 Rights 22-312, 22-487C, 22-13016, 22-42, 22-160, 22-545, 22-616, and 22-13160 when combined shall not exceed the irrigation of 736.3 acres.
4. X35 Rights 22-312, 22-487C, 22-13016, 22-42, 22-160, 22-545, 22-616, 22-13160, 22-13144, 22-13148, 22-130B, 22-481A, 22-482A, 22-483A, 22-2029D, 22-130D, 22-136C, 22-515B, 22-516B, 22-517B, and 22-7609 when combined shall not exceed a total diversion rate of 32.31 cfs and the irrigation of 1005.6 acres.
5. 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 place of use.
6. R43 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(s). Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 1.
7. R05 The quantity of water diverted under this water right shall be from the portion awarded to IDAHO and deducted there from as set forth in Roxana Canal Co. v. Daniels, Equity No. 2447 (D. Wy. Feb. 4, 1941).
8. 158 This water right is subject to the delivery provisions contained in Roxana Canal Co. v. Daniels, Equity No. 2447 (D. Wy. Feb. 4, 1941) ("Roxana decree"). Nothing in this Partial Decree is intended to relieve or alter the state of Idaho nor the state of Wyoming from their obligations contained in the Roxana decree.
9. 160 The point of diversion for this water right is in Wyoming, T44N, R118W, Sec. 6 NESENE (L2), 6PM. The point of diversion shown above is where the conveyance system enters Idaho.
10. F15 Water is delivered through Killpack Pipeline.
11. F01 The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
12. T07 Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
13. T08 Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as may be
14. T19

determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.

Dates:

Licensed Date:

Decreed Date: 11/28/2008

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:

Owner Name Connector:

Water District Number: 01

Generic Max Rate per Acre: 0.02

Generic Max Volume per Acre: 3.5

Combined Acres Limit: 688.9

Combined Volume Limit:

Combined Rate Limit:

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

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

AMENDED

RECEIVED

MAR 30 2017

DEPARTMENT OF
WATER RESOURCES

In Re SRBA)
Case No. 39576)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR

Water Right 21-02156

DISTRICT COURT - SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho

MAR 29 2017

By

Clerk

Deputy Clerk

NAME AND ADDRESS: UNITED STATES OF AMERICA
BUREAU OF RECLAMATION
REGIONAL DIRECTOR PN CODE-3100
1150 N CURTIS RD STE 100
BOISE, ID 83706-1234

SOURCE: HENRYS FORK TRIBUTARY: SNAKE RIVER

QUANTITY: 90000.00 AFY

Total reservoir capacity is 135,000 acre feet when filled to elevation 6303 and measured at the upstream face of the dam. Water right nos. 21-2156, 21-10560, and 21-13161 are limited to the total combined annual diversion volume necessary to allocate a total of 135,000 acre-feet of irrigation storage water per year to the consumers or users of the irrigation storage water.

PRIORITY DATE: 03/14/1935

POINT OF DIVERSION: T13N R43E S28 LOT 3 () Within Fremont County

PURPOSE AND

PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
Irrigation Storage	01-01 TO 12-31	90000.00 AFY
Irrigation from Storage	04-01 TO 10-31	90000.00 AFY

PLACE OF USE:

Place of use for irrigation from storage is within the boundary of Fremont Madison Irrigation District pursuant to Section 43-323, Idaho Code.

Place of use does not include federal public lands unless authorized in writing by the United States Bureau of Reclamation.

The boundary encompassing the place of use for this water right is described with a digital boundary as defined by I.C. Section 42-202B(2) and authorized pursuant to I.C. Section 42-1411(2)(h). The data comprising the digital boundary are incorporated herein by reference and are stored on a CD-ROM disk issued in duplicate originals on file with the SRBA District Court and the Idaho Department of Water Resources. A map depicting the place of use is attached hereto to illustrate the place of use described by the digital boundary.

Place of use for irrigation storage is Island Park Reservoir, provided, however, that water under this right may be temporarily held in the unoccupied space of any of the reservoirs upstream of Milner Dam, located at township 10S, range 21E, sections 28 and 29, when determined by the Water District 01 Watermaster (as supervised by the Director of the Department of Water Resources), the Water District 01 advisory committee, and the United States Bureau of Reclamation that such temporary storage will maximize the storage of water upstream of Milner Dam.

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

1. The name of the United States of America acting through the Bureau of Reclamation appears in the name and address sections of this partial decree. However, as a matter of Idaho Constitutional and Statutory Law, title to the use of the water is held by the consumers or users of the water. The irrigation organizations

OTHER PROVISIONS (continued)

act on behalf of the consumers or users to administer the use of the water for the landowners in the quantities and/or percentages specified in the contracts between the Bureau of Reclamation and the irrigation organizations for the benefit of the landowners entitled to receive distribution of this water from the respective irrigation organizations. The interest of the consumers or users of the water is appurtenant to the lands within the boundaries of or served by such irrigation organizations, and that interest is derived from law and is not based exclusively on the contracts between the Bureau of Reclamation and the irrigation organizations.

2. The allocation of storage to federal contractors and the location of that storage, including carryover storage, in the reservoir system shall be determined by the United States Bureau of Reclamation pursuant to federal reclamation law and contracts entered into between the United States and federal contractors. The Water District 01 Watermaster (as supervised by the Director of the Department of Water Resources) shall distribute the stored water in accordance with allocation instructions from the United States Bureau of Reclamation. "Reservoir system" shall mean all Federal reservoirs on the Snake River and its tributaries down to and including Lake Walcott, which store water for distribution pursuant to water right nos. 1-219, 1-2064, 1-2068, 1-4055, 1-10042, 1-10043, 1-10044, 1-10045, 01-10620, 01-10621A, 01-10621B, 01-10622, 01-10623, 21-2156, 21-4155, 21-10560, 21-13161, 21-13194, 25-7004, 25-14413A, and 25-14413B.

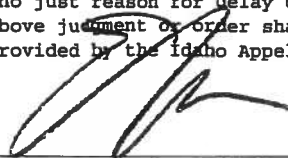
3. This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

4. This decree does not alter, amend, or modify the contracts entered into between various federal contractors and the United States Bureau of Reclamation, as amended, in connection with the Palisades project and the Minidoka project, which contracts remain binding among the parties.

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. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.


Eric J. Wildman
Presiding Judge of the
Snake River Basin Adjudication

RECEIVED

MAR 30 2017

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

AMENDED

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR

Water Right 21-10560

DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT - SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho

MAR 29 2017

By

Clerk

Deputy Clerk

In Re SRBA)
Case No. 39576)
_____)

NAME AND ADDRESS: UNITED STATES OF AMERICA
BUREAU OF RECLAMATION
REGIONAL DIRECTOR PN CODE-3100
1150 N CURTIS RD STE 100
BOISE, ID 83706-1234

SOURCE: HENRYS FORK TRIBUTARY: SNAKE RIVER

QUANTITY: 45000.00 AFY

Total reservoir capacity is 135,000 acre feet when filled to elevation 6303 and measured at the upstream face of the dam. Water right nos. 21-2156, 21-10560, and 21-13161 are limited to the total combined annual diversion volume necessary to allocate a total of 135,000 acre-feet of irrigation storage water per year to the consumers or users of the irrigation storage water.

PRIORITY DATE: 06/12/1940

The storage of water under this right shall be administered with a priority date of 03/29/1921.

POINT OF DIVERSION: T13N R43E S28 LOT 3 () Within Fremont County

PURPOSE AND

PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation Storage	01-01 TO 12-31	45000.00 AFY
	Irrigation from Storage	04-01 TO 10-31	45000.00 AFY

PLACE OF USE:

Place of use for irrigation storage is Island Park Reservoir, provided, however, that water under this right may be temporarily held in the unoccupied space of any of the reservoirs upstream of Milner Dam, located at township 10S, range 21E, sections 28 and 29, when determined by the Water District 01 Watermaster (as supervised by the Director of the Department of Water Resources), the Water District 01 advisory committee, and the United States Bureau of Reclamation that such temporary storage will maximize the storage of water upstream of Milner Dam.

Place of use does not include federal public lands unless authorized in writing by the United States Bureau of Reclamation. Place of use for irrigation from storage is within the boundary of Fremont Madison Irrigation District pursuant to Section 43-323, Idaho Code.

The boundary encompassing the place of use for this water right is described with a digital boundary as defined by I.C. Section 42-202B(2) and authorized pursuant to I.C. Section 42-1411(2)(h). The data comprising the digital boundary are incorporated herein by reference and are stored on a CD-ROM disk issued in duplicate originals on file with the SRBA District Court and the Idaho Department of Water Resources. A map depicting the place of use is attached hereto to illustrate the place of use described by the digital boundary.

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

1. The name of the United States of America acting through the

OTHER PROVISIONS (continued)

Bureau of Reclamation appears in the Name and Address section of this partial decree. However, as a matter of Idaho Constitutional and Statutory Law, title to the use of the water is held by the consumers or users of the water. The irrigation organizations act on behalf of the consumers or users to administer the use of the water for the landowners in the quantities and/or percentages specified in the contracts between the Bureau of Reclamation and the irrigation organizations for the benefit of the landowners entitled to receive distribution of this water from the respective irrigation organizations. The interest of the consumers or users of the water is appurtenant to the lands within the boundaries of or served by such irrigation organizations, and that interest is derived from law and is not based exclusively on the contracts between the Bureau of Reclamation and the irrigation organizations.

2. The allocation of storage to federal contractors and the location of that storage, including carryover storage, in the reservoir system shall be determined by the United States Bureau of Reclamation pursuant to federal reclamation law and contracts entered into between the United States and federal contractors. The Water District 01 Watermaster (as supervised by the Director of the Department of Water Resources) shall distribute the stored water in accordance with allocation instructions from the United States Bureau of Reclamation. "Reservoir system" shall mean all Federal reservoirs on the Snake River and its tributaries down to and including Lake Walcott, which store water for distribution pursuant to water right nos. 1-219, 1-2064, 1-2068, 1-4055, 1-10042, 1-10043, 1-10044, 1-10045, 1-10620, 1-10621A, 1-10621B, 1-10622, 1-10623, 21-2156, 21-4155, 21-10560, 21-13161, 21-13194, 25-7004, 25-14413A and 25-14413B.

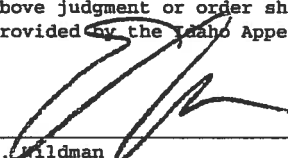
3. This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

4. This decree does not alter, amend, or modify the contracts entered into between various federal contractors and the United States Bureau of Reclamation, as amended, in connection with the Palisades project and the Minidoka project, which contracts remain binding among the parties.

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. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.


Eric J. Wildman
Presiding Judge of the
Snake River Basin Adjudication

RECEIVED

MAR 30 2017

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS DEPARTMENT OF
WATER RESOURCES

AMENDED

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR

Water Right 21-13161

DISTRICT COURT - SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho

MAR 29 2017

By

Clerk

Deputy Clerk

In Re SRBA)
)
Case No. 39576)
_____)

NAME AND ADDRESS: UNITED STATES OF AMERICA
BUREAU OF RECLAMATION
REGIONAL DIRECTOR PN CODE 3100
1150 N CURTIS STE 100
BOISE, ID 83706-1234

SOURCE: HENRYS FORK TRIBUTARY: SNAKE RIVER

QUANTITY: 569000.00 AFY

Water right nos. 21-2156, 21-10560, and 21-13161 are limited to the total combined annual diversion volume necessary to allocate a total of 135,000 acre-feet of irrigation storage water per year to the consumers or users of the irrigation storage water.

PRIORITY DATE: 10/31/1969

This water right is subordinate to all existing and future water rights established pursuant to Idaho law for use within the Snake River Basin above Milner.

POINT OF DIVERSION: T13N R43E S28 LOT 3 () Within Fremont County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation Storage	01-01 TO 12-31	569000.00 AFY

Water accruing to this water right supplements water accrued under water right nos. 21-2156 and 21-10560, and water available under this water right will be allocated for end use as provided in contracts entered into between the United States and federal contractors referenced in provision 2 as if it had accrued under water right nos. 21-2156 and 21-10560.

PLACE OF USE:

Place of use is on those lands identified under water right nos. 21-2156 and 21-10560.
Place of use for storage is Island Park Reservoir, provided, however, that water under this right may be temporarily held in the unoccupied space of any of the reservoirs upstream of Milner Dam, located at Township 10S, Range 21E, Sections 28 and 29, when determined by the Water District 01 Watermaster (as supervised by the Director of the Department of Water Resources), the Water District 01 advisory committee, and the United States Bureau of Reclamation that such temporary storage will maximize the storage of water upstream of Milner Dam.

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

1. The name of the United States of America acting through the Bureau of Reclamation appears in the Name and Address sections of this partial decree. However, as a matter of Idaho Constitutional and Statutory Law, title to the use of the water is held by the consumers or users of the water. The irrigation organizations act on behalf of the consumers or users to administer the use of the water for the landowners in the quantities and/or percentages specified in the contracts between the Bureau of Reclamation and the irrigation organizations for

SRBA -Partial Decree Pursuant to I.R.C.P. 54(b) (continued)

OTHER PROVISIONS (continued)

the benefit of the landowners entitled to receive distribution of this water from the respective irrigation organizations. The interest of the consumers or users of the water is appurtenant to the lands within the boundaries of or served by such irrigation organizations, and that interest is derived from law and is not based exclusively on the contracts between the Bureau of Reclamation and the irrigation organizations.

2. The allocation of storage to federal contractors and the location of that storage, including carryover storage, in the reservoir system shall be determined by the United States Bureau of Reclamation pursuant to federal reclamation law and contracts entered into between the United States and federal contractors. The Water District 01 Watermaster (as supervised by the Director of the Department of Water Resources) shall distribute the stored water in accordance with the allocation instructions from the United States Bureau of Reclamation. "Reservoir system" shall mean all Federal reservoirs on the Snake River and its tributaries down to and including Lake Walcott, which store water for distribution pursuant to water right nos. 1-219, 1-2064, 1-2068, 1-4055, 1-10042, 1-10043, 1-10044, 1-10045, 1-10620, 1-10621A, 1-10621B, 1-10622, 1-10623, 21-2156, 21-4155, 21-10560, 21-13161, 21-13194, 25-7004, 25-14413A and 25-14413B.

3. 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 ultimately be 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.

4. The operation, use and administration of this water right is subject to the terms and conditions of the Settlement Agreement signed on February 14, 2006 with Minidoka Irrigation District, Burley Irrigation District, Twin Falls Canal Company, North Side Canal Company and American Falls Reservoir District #2.

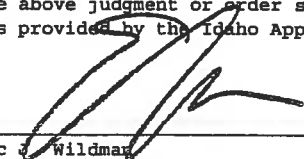
5. This decree does not alter, amend, or modify the contracts entered into between the various federal contractors and the United States Bureau of Reclamation, as amended, including but not limited to the the contractual storage exchanges, in connection with the Palisades project and the Minidoka project, which contracts remain binding among the parties.

6. The exercise and administration of this water right is subject to the terms and conditions of the Stipulation effective November 16, 2015, which is incorporated herein by reference.

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. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.


Eric J. Wildman
Presiding Judge of the
Snake River Basin Adjudication

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

AMENDED

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54 (b) FOR

Water Right 21-04155

RECEIVED

MAR 30 2017

DEPARTMENT OF
WATER RESOURCES

In Re SRBA)
Case No. 39576)

DISTRICT COURT - SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho

MAR 29 2017

By

Clerk

Deputy Clerk

NAME AND ADDRESS: UNITED STATES OF AMERICA
BUREAU OF RECLAMATION
REGIONAL DIRECTOR PN CODE-3100
1150 N CURTIS RD STE 100
BOISE, ID 83706-1234

SOURCE: CASCADE CREEK TRIBUTARY: FALL RIVER
GRASSY SPRING TRIBUTARY: FALL RIVER

QUANTITY: 15204.00 AFY

The quantity for this water right represents the maximum quantity of storage water that may be put to beneficial use under this right after the storage released from Grassy Lake enters the State of Idaho.

Water right nos. 21-4155 and 21-13194 are limited to the total combined annual diversion volume necessary to allocate a total of 15,204 acre-feet of irrigation storage water per year to the consumers or users of the irrigation storage water.

PRIORITY DATE: 02/13/1936

The priority date for this water right represents the priority associated with the storage water put to beneficial use under this right after storage released from Grassy Lake enters the State of Idaho.

POINT OF DIVERSION: T09N R46E S17 LOT 3 () Within Fremont County

The point of diversion shown above is where Fall River enters the State of Idaho, recognizing, however, the storage water is physically stored in and released from Grassy Lake which is located within the State of Wyoming.

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
Irrigation from Storage	04-01 TO 10-31	15204.00 AFY
Irrigation Storage	01-01 TO 12-31	15204.00 AFY

PLACE OF USE:

Place of use for irrigation from storage is within the boundary of Fremont Madison Irrigation District pursuant to Section 43-323, Idaho Code.
Place of use does not include federal public lands unless authorized in writing by the United States Bureau of Reclamation. The boundary encompassing the place of use for this water right is described with a digital boundary as defined by I.C. Section 42-202B(2) and authorized pursuant to I.C. Section 42-1411(2)(h). The data comprising the digital boundary are incorporated herein by reference and are stored on a CD-ROM disk issued in duplicate originals on file with the SRBA District Court and the Idaho Department of Water Resources. A map depicting the place of use is attached hereto to illustrate the place of use described by the digital boundary.

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

1. The name of the United States of America acting through the

OTHER PROVISIONS (continued)

Bureau of Reclamation appears in the Name and Address sections of this partial decree. However, as a matter of Idaho Constitutional and Statutory Law, title to the use of the water is held by the consumers or users of the water. The irrigation organizations act on behalf of the consumers or users to administer the use of the water for the landowners in the quantities and/or percentages specified in the contracts between the Bureau of Reclamation and the irrigation organizations for the benefit of the landowners entitled to receive distribution of this water from the respective irrigation organizations. The interest of the consumers or users of the water is appurtenant to the lands within the boundaries of or served by such irrigation organizations, and that interest is derived from law and is not based exclusively on the contracts between the Bureau of Reclamation and the irrigation organizations.

2. The allocation of storage to federal contractors and the location of that storage, including carryover storage, in the reservoir system shall be determined by the United States Bureau of Reclamation pursuant to federal reclamation law and contracts entered into between the United States and federal contractors. The Water District 01 Watermaster (as supervised by the Director of the Department of Water Resources) shall distribute the stored water in accordance with the allocation instructions from the United States Bureau of Reclamation. "Reservoir system" shall mean all Federal reservoirs on the Snake River and its tributaries down to and including Lake Walcott, which store water for distribution pursuant to water right nos. 1-219, 1-2064, 1-2068, 1-4055, 1-10042, 1-10043, 1-10044, 1-10045, 1-10620, 1-10621A, 1-10621B, 1-10622, 1-10623, 21-2156, 21-4155, 21-10560, 21-13161, 21-13194, 25-7004, 25-14413A and 25-14413B.

3. 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.

4. Irrigation storage occurs within the State of Wyoming pursuant to Certificate No. 4631-R, and pursuant to the laws of that state and consistent with the Snake River Compact. The listing of irrigation storage is for information purposes only.

5. Storage water referenced herein may be temporarily held in the unoccupied space of any of the reservoirs upstream of Milner Dam, located at township 10S, range 21E, sections 28 and 29, when determined by the Water District 01 Watermaster (as supervised by the Director of the Department of Water Resources), the Water District 01 advisory committee, and the United States Bureau of Reclamation that such temporary storage will maximize the storage of water upstream of Milner Dam.

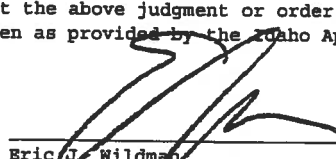
6. This decree does not alter, amend, or modify the contracts entered into between various federal contractors and the United States Bureau of Reclamation, as amended, in connection with the Palisades project and the Minidoka project, which contracts remain binding among the parties.

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. I.C. SECTION 42-1412(6).

SRBA -Partial Decree Pursuant to I.R.C.P. 54(b) (continued)

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.


Eric J. Wildman
Presiding Judge of the
Snake River Basin Adjudication

EXCHANGE AGREEMENT

(UNSIGNED)

AGREEMENT FOR EXCHANGE OF WATER

THIS AGREEMENT FOR EXCHANGE OF WATER (this "Agreement") is made by and between **Fremont Madison Irrigation District**, an irrigation district organized and existing by virtue of the laws of the State of Idaho, whose address is 350 North 6th West, St. Anthony, ID 83445 ("Fremont Madison"), and **Smith Teton Ranch, LLC**, whose address is 3260 Ash Street, Palo Alto, CA 94306-2240 ("Smith").

RECITALS:

A. Fremont Madison is a contract holder with the United States Bureau of Reclamation for irrigation water storage space in Island Park Reservoir and Grassy Lake Reservoir. Pursuant to these contract, Fremont Madison is entitled to release storage water accrued to the storage space in these reservoirs for the benefit of its patrons.

B. Fremont Madison owns and operates the Cross-cut Canal, which directly delivers storage water and exchange water from the Henry's Fork of the Snake River near Chester, Idaho, to the Teton River at a location on the Teton River north of Newdale, Idaho. Different "classes" of water are delivered through the Cross-cut Canal, with first class rights associated with lands which were included during the time period of the original organization of Fremont Madison, and second-class rights associated with lands annexed later in time since the original organization of Fremont Madison. Additionally, there exists a priority structure within the second-class rights, where those that annexed first after the original organization are entitled to Cross-cut space before later in time annexations.

C. Smith is the owner of real property located in Teton County, Idaho, which is depicted in yellow outline on the map attached at **Exhibit 1** (the "Smith Property"). Smith possesses and utilizes numerous water rights from North Leigh Creek and South Leigh Creek for the irrigation of the Smith Property.

D. A portion of the Smith Property is currently located within the boundaries of Fremont Madison, which is depicted on Exhibit 1 and consists of the Smith property located with Section 32 of Township 6N, Range 46E B.M. Eighty (80) acre-feet of Fremont Madison storage water is currently associated with this portion of the Smith Property. Smith has first class rights for delivery of this eighty (80) acre-feet of storage, which was originally obtained for this portion of the Smith Property by Edna White in 1950, as evidenced by **Exhibit 2** attached hereto. Smith is also the owner of five (5) acre-feet of storage associated with the purchase of property from William Hansen located on the far western portion of the Smith Property. In total, Smith already has the right to exchange 85 acre-feet of storage water.

E. Smith desires to have Fremont Madison annex within its boundaries the property described in Exhibit 3 (the "Annex Property"), which consists of the remaining portion of the Smith property not located within Fremont Madison's service area, except for lots owned by Smith in the Galloway Hills Subdivision (which are not proposed for annexation).

F. In 2007, Smith purchased two hundred and twenty (220) acre-feet of additional storage water from David Head, which was originally used in the Twin Groves area and not delivered through the Cross-cut Canal. Smith now desires to use the purchased two hundred and twenty (220) acre-feet on the Annex Property.

G. Inclusion of the Annex Property within Fremont Madison's service area will allow Smith, when approved by Water District 01, to divert water from South Leigh Creek for use on the Annex Property in exchange for delivery of storage water through the Cross-cut Canal.

H. Fremont Madison has adopted an annexation policy and indicated its desire to have the Annex Property included within Fremont Madison's service area. The current exchange arrangement for the use of eighty-five (85) acre-feet of storage already associated with portions of the Smith Property remains unchanged by this Agreement.

I. As a prerequisite to annexation under Fremont Madison's annexation policy, Smith must first receive approval from the Idaho Department of Water Resources ("IDWR") for this exchange of water, at Smith's sole cost and expense, which approval requires a written exchange agreement between the parties to the exchange. Fremont Madison and Smith therefore desire to enter into this written exchange agreement to satisfy the requirements of IDWR.

IN CONSIDERATION of the mutual representations, warranties, and covenants contained herein, the Parties, intending to be legally bound hereby, agree as follows:

AGREEMENTS:

1. Exchange of Water. Subject to the provisions of this Agreement, Fremont Madison agrees to allow Smith to exchange two hundred and twenty (220) acre-feet of water diverted from North Leigh Creek and South Leigh Creek with Fremont Madison storage water delivered through the Cross-cut Canal, to be used on the Annex Property. The Parties agree that the exchange water under this Agreement (220 acre-feet) shall have second class rights for delivery space through the Cross-cut Canal, and that such second-class rights shall be assigned a priority within the priority structure of second class rights as described in Paragraph B above. Nothing herein shall impact the currently existing exchange arrangement for the eighty-five (85) acre-feet of exchange water already permitted on the Smith Property, or the first-class status of said eighty-five (85) acre-feet.

2. Contingencies. Delivery of exchange water to the Annex Property under this Agreement is expressly subject to and contingent upon Smith obtaining both of the following:

(a) Smith must receive approval of an *Application for Exchange of Water* from IDWR.

(b) A favorable decision on the annexation process with Fremont Madison, including incidental authorizations required in that process, such as federal and/or state authorizations.

In the event these contingencies are not met, this Agreement shall be null and void and of no further effect.

3. Supervision of Water District 01. The exchange of water under this Agreement between Fremont Madison and Smith must be done with the supervision of Water District 01 consistent with their policies and procedures and other applicable Idaho law. Smith agrees to install measuring devices and undertake other reasonable accounting measures that may be required by Water District 01.

4. Coordination with Fremont Madison. Smith understands and agrees that delivery of exchange water under this Agreement will require coordination and supervision of Fremont Madison's watermasters/managers and agrees to cooperate and communicate with them to ensure appropriate delivery and accounting. Smith further understands and agrees that the ability to deliver exchange water for the Annex Property is dependent upon the space available in the Cross-cut Canal, which is subject to the sole control and regulation of Fremont Madison. Fremont Madison agrees that it will work with Smith in good faith to provide water through the Cross-cut as space becomes available.

5. Cooperation. Both Parties agree to cooperate and act in good faith through the various processes that must be undertaken to finalize the annexation.

6. Miscellaneous.

(a) Attorneys' Fees. If either party commences any legal action or proceeding to enforce any of the terms of this Agreement (or for damages by reason of an alleged breach hereof), the prevailing party therein shall be entitled to recover from the other, in addition to any other relief granted, its reasonable attorney's fees, costs and expenses incidental to such legal action.

(b) Merger. This Agreement supersedes any and all other written or verbal agreements between the Parties. Neither Buyer nor Seller shall be bound by any understanding, agreement, promise, representation or stipulation, express or implied, not specifically contained herein.

(c) Further Documents. The Parties hereby agree that they shall sign such other and further documents as may be required to carry into effect the terms and conditions of this Agreement.

(d) Enforceability. The validity or enforceability of any term, phrase, clause, paragraph, restriction, covenant, agreement or other provision hereof, shall in no way affect the validity or enforcement of the remaining provisions, or any part hereof.

(e) Counterparts. This Agreement may be executed in any number of counterparts for all the convenience of the Parties, all of which, when taken together and after execution by all Parties hereto, shall constitute one and the same Agreement.

(f) Governing Law. This Agreement shall be governed by the laws of the State of Idaho.

(g) Successors. This Agreement is for the benefit only of the Parties hereto and shall inure to the benefit of and bind their respective heirs, agents, personal representatives, successors and assigns.

IN WITNESS WHEREOF, the undersigned have duly executed this Agreement effective on the date set forth above.

“FREMONT MADISON”

**FREMONT MADISON IRRIGATION
DISTRICT**

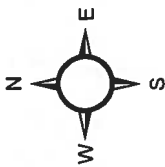
By: _____
Its: _____

“SMITH”

SMITH TETON RANCH, LLC

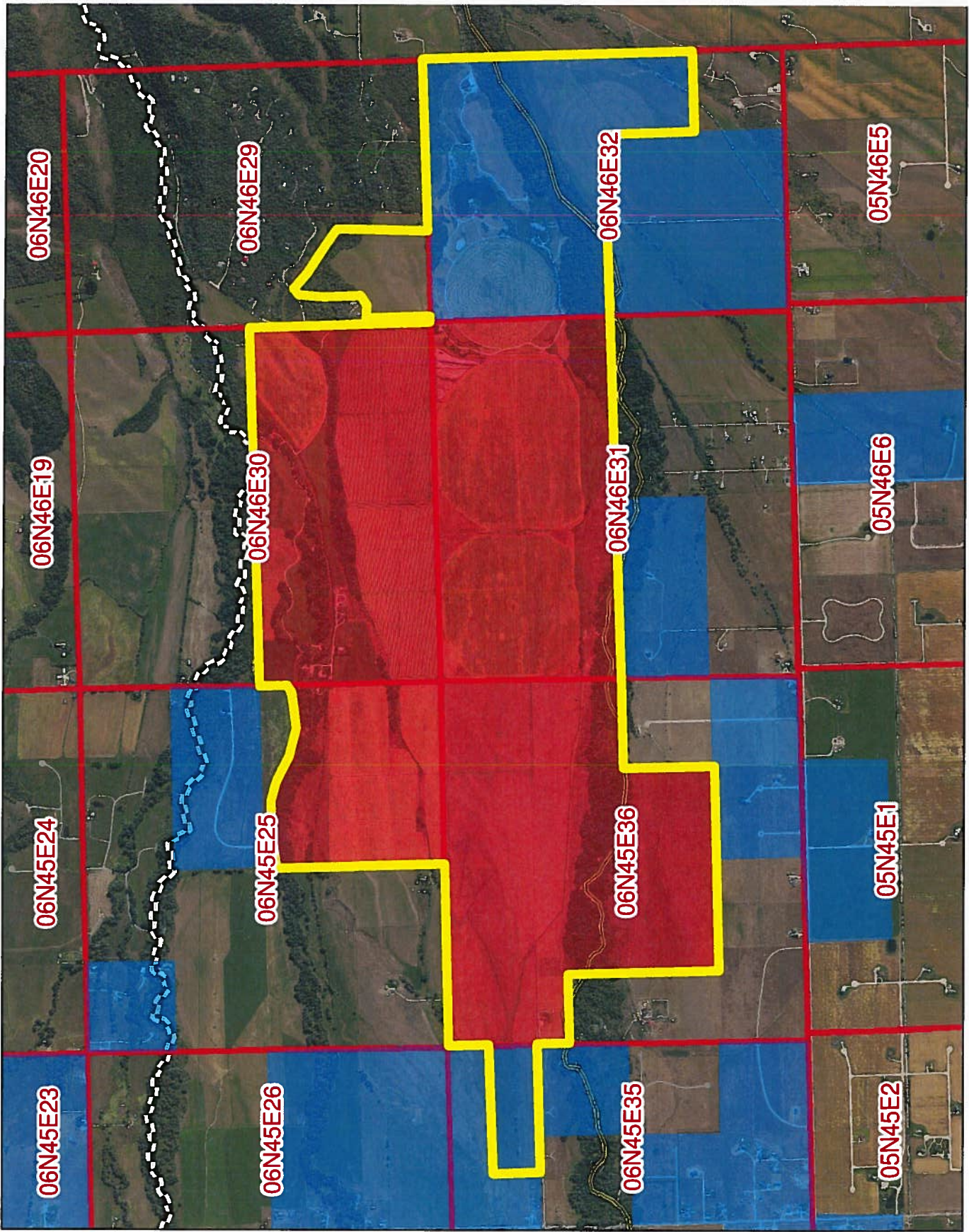
By: _____
Its: _____

SMITH TETON RANCH, LLC



legend

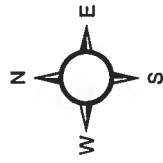
- Smith Teton Ranch Boundary
- FMID Annex Property
- FMID_Service_Area
- Section Lines
- S.Leigh.Creek
- N.Leigh.Creek



Prepared by:
Robert L. Harris
2015 NAIP Aerial Photo

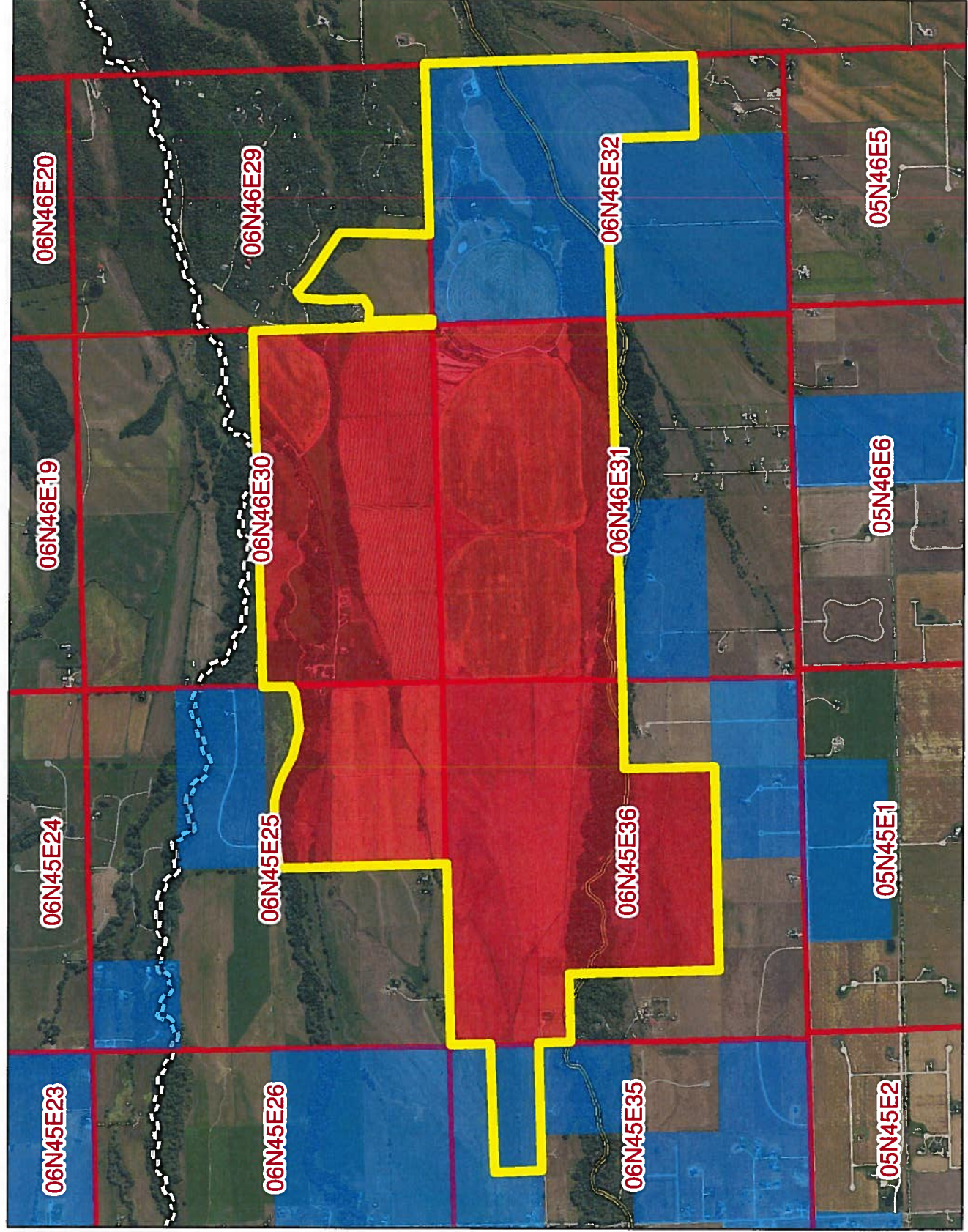
EXHIBIT 1

SMITH TETON RANCH, LLC



Legend

-  Smith Teton Ranch Boundary
-  FMID Annex Property
-  FMID Service Area
-  Section Lines
-  S. Leigh Creek
-  N. Leigh Creek



0 0.5 1 2 Miles

Prepared by:
Robert L. Harris
2015 NAIP Aerial Photo

EXHIBIT 2

	ASSESSED	LAND	BENEFITS	ACRE	ACRE					ASSESSMENT	ASSESSMENT	FEET	NUMBER
1950	80	225	2100	1440	4800					6240	1948	80	
1951			5	960	4320					5280			
1952				1200	4560					5760			
1953				1200	4320					5520			
1954				1200	4320					5520			
1955				840	4080					4920			
1956				840	4080					4920			
1957				840	4080					4920			
1958				880	4080					4960			
1959				960	3960					4920			
1960				1080	3840					4920			
1961				2400	3840					6240			
1962													
1963													

NAME:

White, Edna H.

ADDRESS:

Tetonia, Ida. Drugs

DESCRIPTION:

NW $\frac{1}{4}$; L 1-2-3

CANAL:

South Leigh

1

SEC: 32

TWP: 6

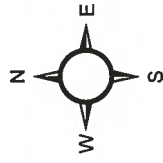
RNG: 46

ACCT. NO:

2256

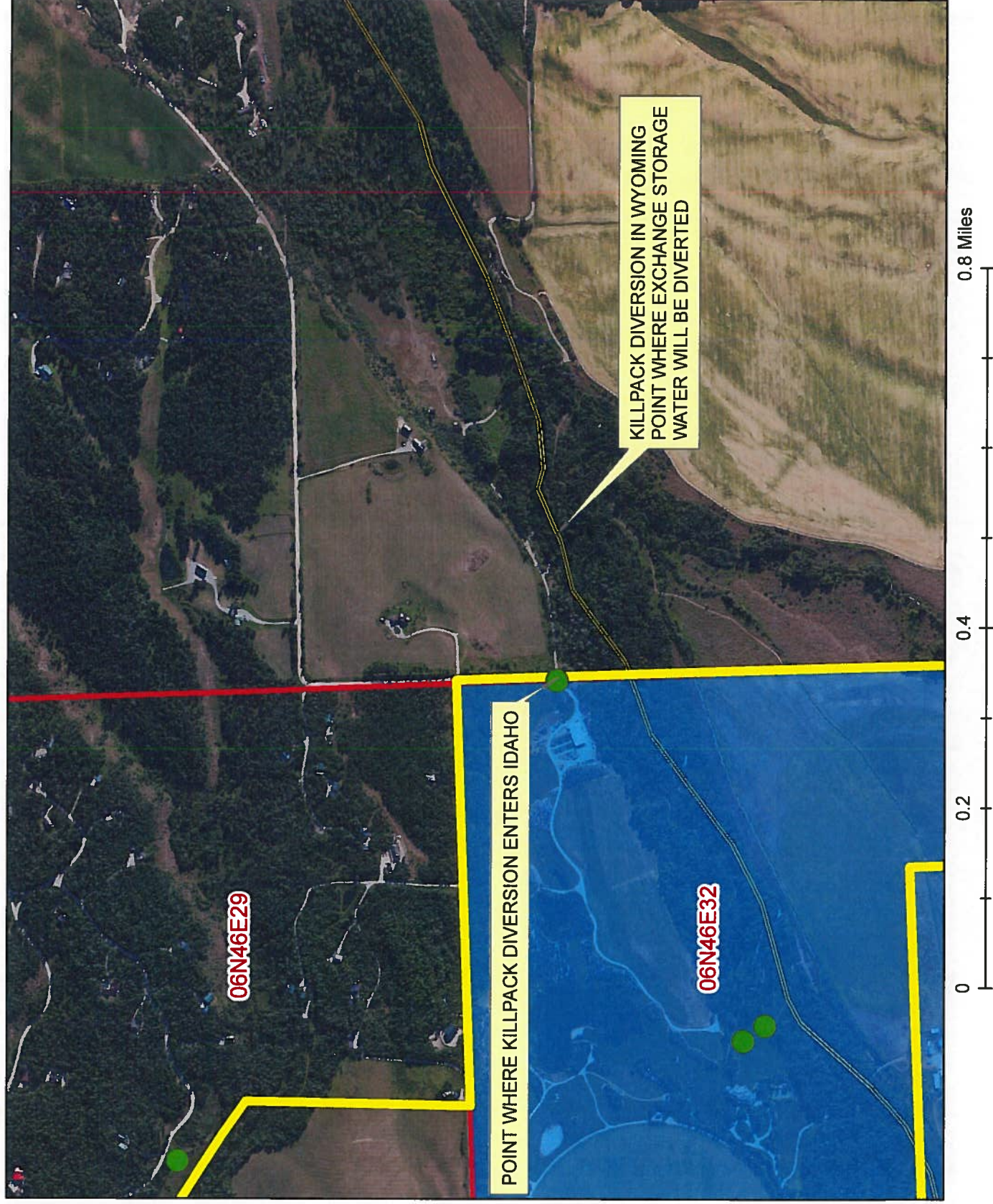
MAPS

SMITH TETON RANCH, LLC



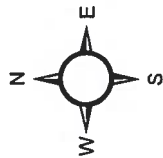
Legend

- wrpod
- Smith Teton Ranch Boundary
- FMID Annex Property
- FMID_Service_Area
- Section Lines
- S. Leigh Creek
- N. Leigh Creek



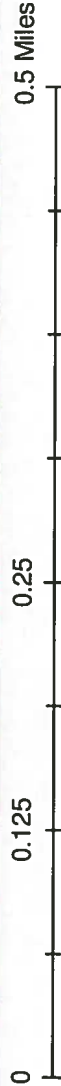
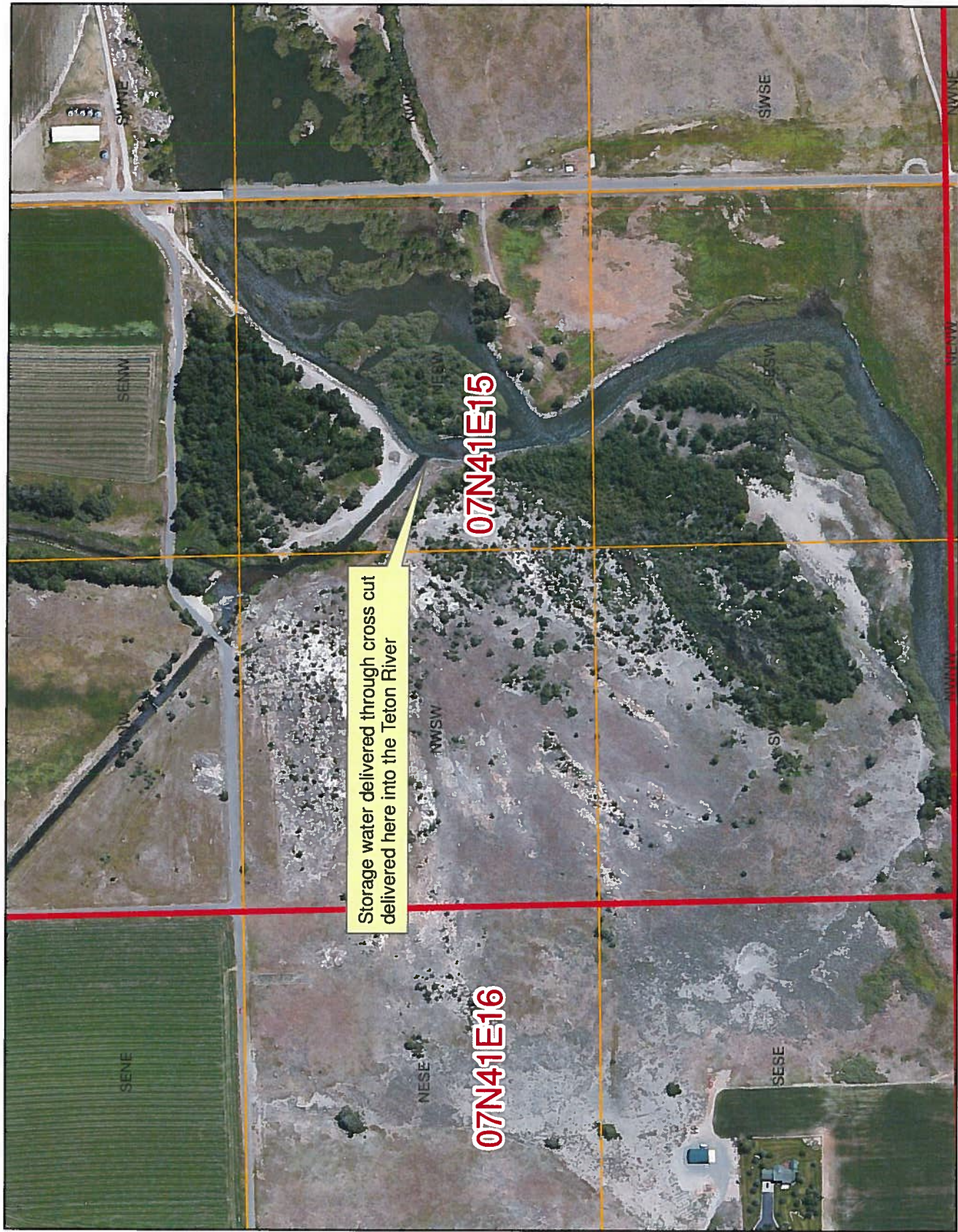
Prepared by:
Robert L. Harris
2017 NAIP Aerial Photo

BOYD SMITH EXCHANGE APPLICATION



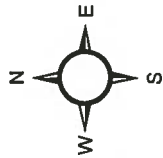
Legend

- Teton_Ranch_Property_Line
- N.Leigh.Creek
- S.Leigh.Creek
- Section Lines
- Quarter-quarters



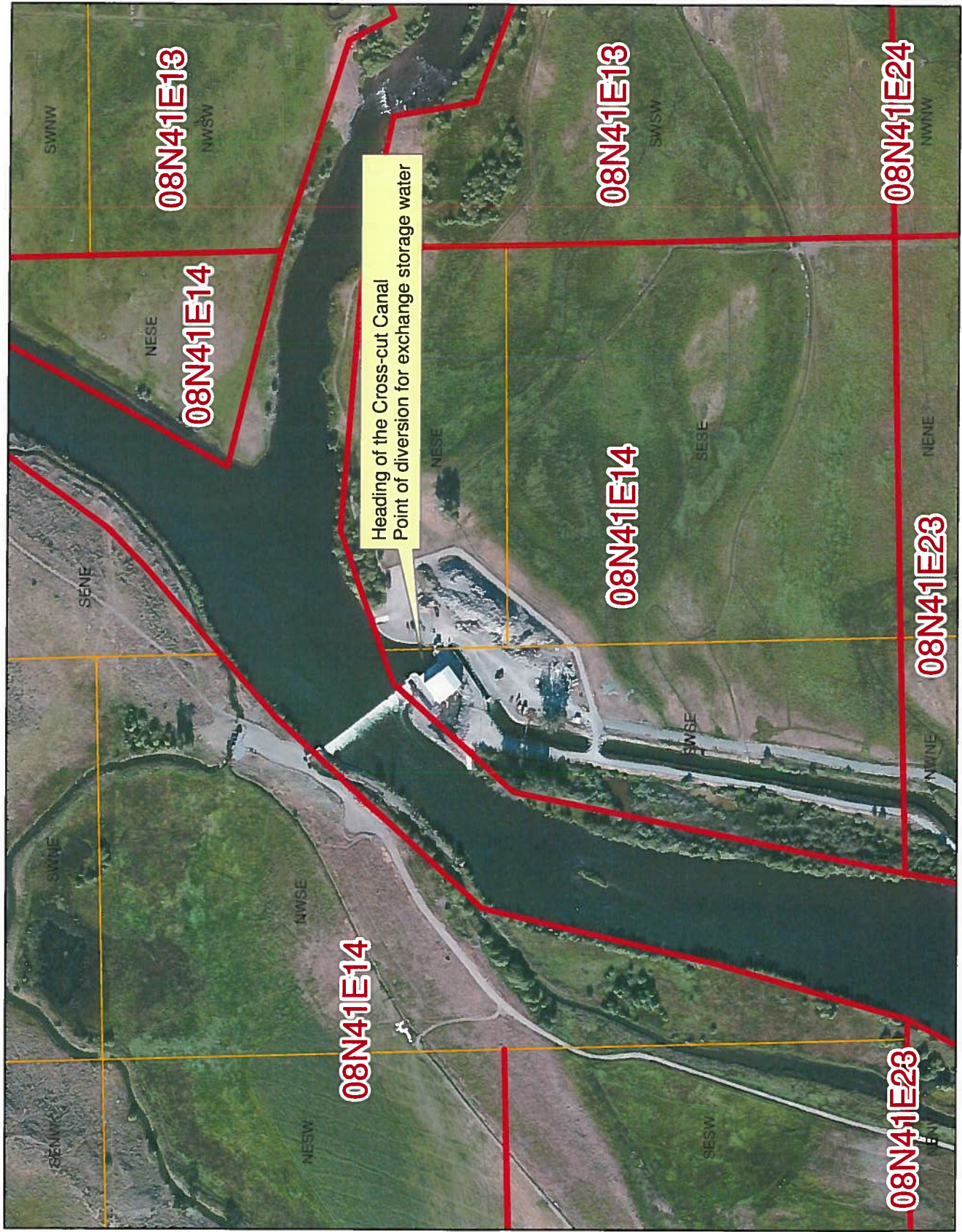
Prepared by:
Robert L. Harris

BOYD SMITH EXCHANGE APPLICATION



Legend

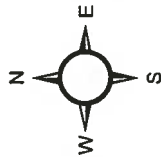
- Teton_Ranch_Property_Line
- N.Leigh.Creek
- S.Leigh.Creek
- Section Lines
- Quarter-quarters



0 0.1 0.2 0.4 Miles

Prepared by:
Robert L. Harris

BOYD SMITH EXCHANGE APPLICATION



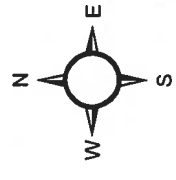
Legend

- Township Lines
- fremont_madison_bndy
- Teton_Ranch_Property_Line
- S.Leigh.Creek



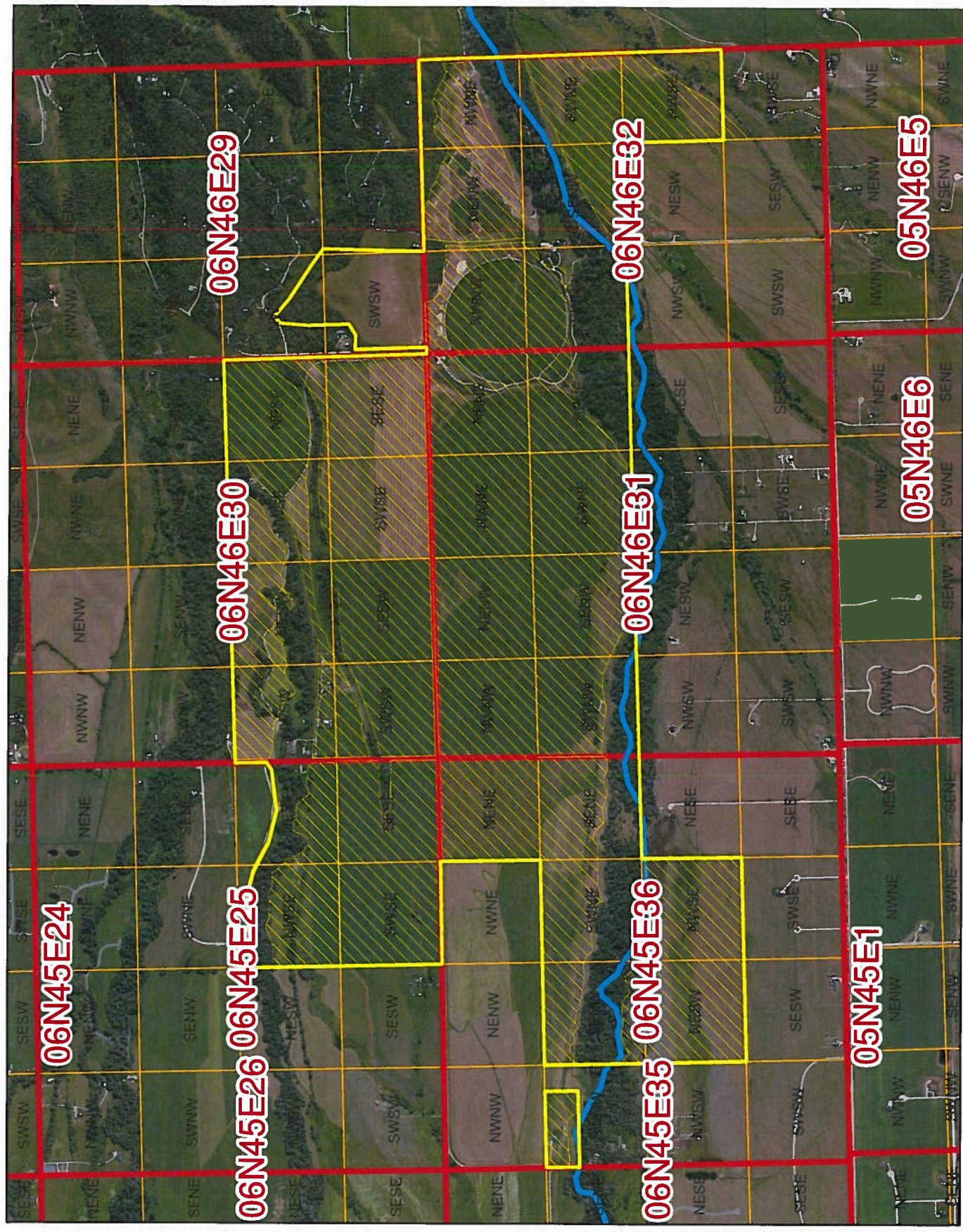
Prepared by:
Robert L. Harris

BOYD SMITH EXCHANGE APPLICATION



Legend

- Teton_Ranch_Property_Line
- Water_Right_POU
- S.Leigh.Creek
- Section Lines
- Quarter-quarters



1.8 Miles

0.9

0.45

0

Prepared by:
Robert L. Harris