

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 82138**

This is to certify that: YERDEN LIVING TRUST
PO BOX 98
NORTH FORK, ID 83466-0098

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. A summary of the changes is also listed below. 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 Changes

<u>Water Right</u>	<u>Origin/Basis</u>	<u>Priority Date</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>Source</u>
75-13964	WR/DECREED	4/1/1896	0.320 cfs	N/A	N/A	8.0	FOURTH OF JULY CREEK

Purpose of Transfer (Changes Proposed)

<u>Current Number</u>	<u>Split</u>	<u>POD</u>	<u>POU</u>	<u>Add POD</u>	<u>Period of Use</u>	<u>Nature of Use</u>
75-13964	NO	NO	YES	NO	NO	NO

Summary Of Water Rights After the Approved Change

<u>Existing Right</u>	<u>New No. (Changed Portion)</u>	<u>Transfer Rate</u>	<u>Transfer Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>New No. (remaining portion)</u>	<u>Remaining Rate</u>	<u>Remaining Volume</u>	<u>Remaining Acre Limit</u>	<u>Remaining Total Acres</u>
75-13964	75-13964	0.320 cfs	N/A	N/A	8.0	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		0.320 cfs	N/A	N/A	8.0		N/A	N/A	N/A	N/A

This water right(s) 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. Detailed Water Right Description(s) attached.

Dated this 21ST day of March, 2018.



PAMELA S. SKAGGS, Water Rights Supervisor

WATER RIGHT NO. 75-13964
As Modified by Transfer No. 82138

In accordance with the approval of Transfer No. 82138, Water Right No. 75-13964 is now described as follows:

Right Holder: YERDEN LIVING TRUST
PO BOX 98
NORTH FORK, ID 83466-0098

Priority Date: 4/1/1896

Source: FOURTH OF JULY CREEK **Tributary:** SALMON RIVER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>
IRRIGATION	04/01	to 08/01	0.320 cfs
IRRIGATION	08/02	to 11/01	0.240 cfs
			0.320 cfs

LOCATION OF POINT(S) OF DIVERSION

FOURTH OF JULY CREEK SWSE Sec 20 Twp 24N Rge 22E LEMHI County

PLACE OF USE: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
24N	22E	20															1.9		1.9
24N	22E	29		6.1															6.1

POU Total Acres: 8.0

CONDITIONS OF APPROVAL

1. Prior to the diversion and use of water under this approval, the right holder shall comply with all fish screening and/or fish passage requirements of the Idaho Department of Fish and Game.
2. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
3. 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 place of use.
4. The place of use does not include federal land.
5. The point of diversion does not include federal land.
6. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.

Transfer No. 82138

WATER RIGHT NO. 75-13964
As Modified by Transfer No. 82138

CONDITIONS OF 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. 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 determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

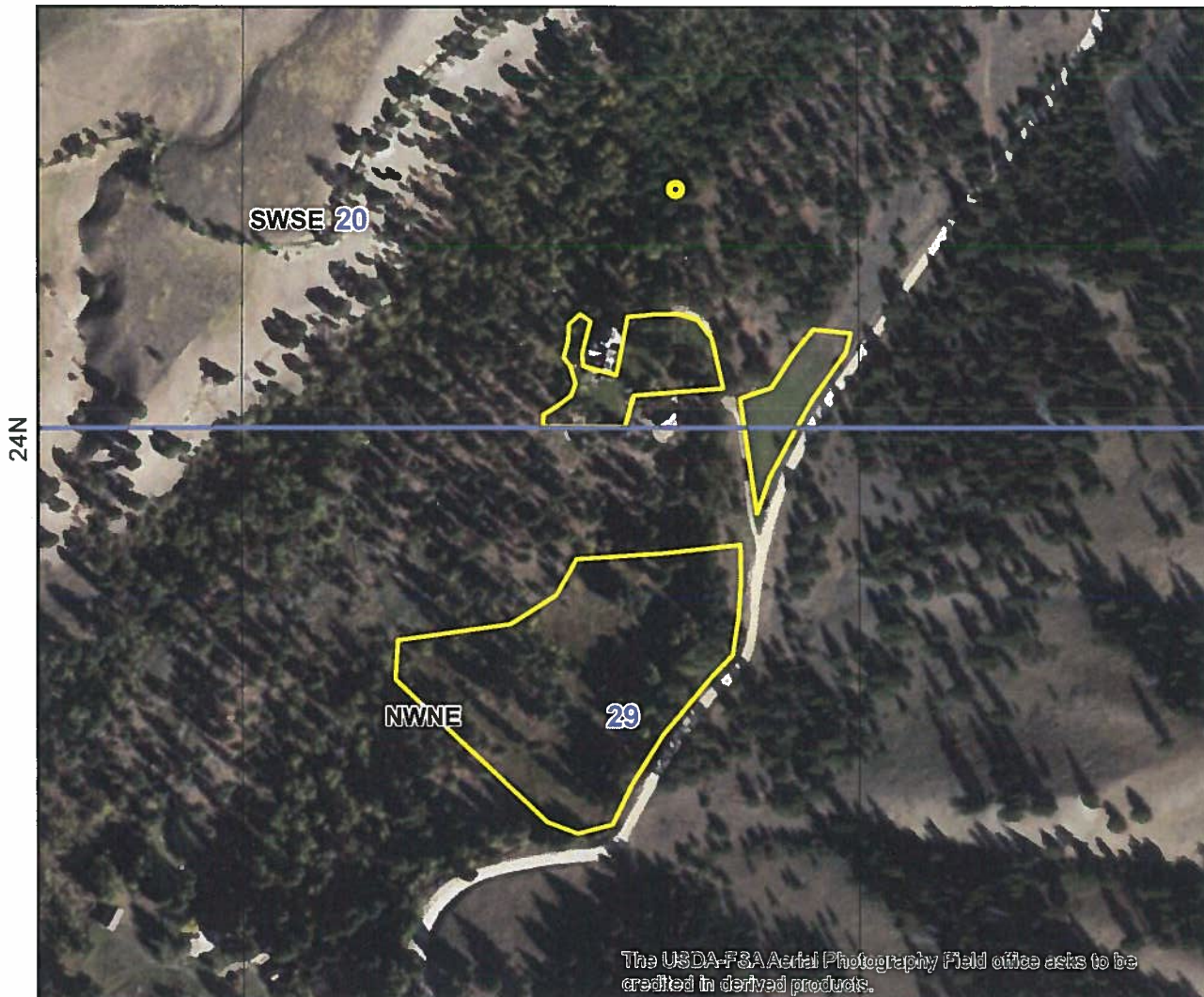


State of Idaho
Department of Water Resources
Attachment to Transfer No. 82138

75-13964

This map depicts the IRRIGATION place of use boundary for this water right at the time of this approval and is attached to the approval document solely for illustrative purposes.

22E



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



0 200 400 600 800 Feet



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Web Site: www.idwr.idaho.gov

GARY SPACKMAN
Director

C.L. "BUTCH" OTTER
Governor

March 22, 2018

YERDEN LIVING TRUST
PO BOX 98
NORTH FORK ID 83466-0098

Re: Transfer No: 82138
Water Right No(s): 75-13964

Transfer Approval Notice

Dear Water Right Holder:

The Department of Water Resources has issued the enclosed approved Transfer of Water Right(s). Please be sure to thoroughly review the conditions of approval and remarks listed on the approval document.

The Transfer of Water Right(s) is a PRELIMINARY ORDER issued by the Department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action by the Department unless the APPLICANT petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date as described in the enclosed information sheet.

ANY PERSON aggrieved by any decision, determination, order or action of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Department and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

If the transfer approval includes a condition requiring measuring and recording devices, such devices shall comply with specifications established by the Department. Detailed specifications are available on the Department's home page on the Internet, or you can request a copy by contacting any office of the Department. Please be sure to thoroughly review the specifications to avoid unnecessary costs for reinstallation or modification due to non-conforming or improperly installed devices.

Please note that water right owners are required to report any change of water right ownership and/or mailing address to the Department within 120 days of the change. Failure to report these changes could result in a \$100 late filing fee. Contact any office of the Department or visit the Department's homepage on the Internet to obtain the proper forms and instructions.

If you have any questions, please contact me at (208) 287-4951.

Sincerely,

A handwritten signature in blue ink that reads "Pamela S. Skaggs". The signature is fluid and cursive, with the first name "Pamela" being more prominent.

Pamela S. Skaggs

Water Rights Supervisor

Enclosure

c:

THOMAS R YERDEN
PO BOX 98
NORTH FORK ID 83466

CERTIFICATE OF SERVICE

I hereby certify that on March 23, 2018 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (Approved Transfer) to the person(s) listed below:

**Re: Transfer No.: 82138
Water Right No(s): 75-13964**

**YERDEN LIVING TRUST
PO BOX 98
NORTH FORK ID 83466-0098**

**THOMAS R YERDEN
PO BOX 98
NORTH FORK ID 83466**



**Darla Block
Technical Records Specialist**

EXPLANATORY INFORMATION TO ACCOMPANY A PRELIMINARY ORDER

(To be used in connection with actions when a hearing was not held)

(Required by Rule of Procedure 730.02)

The accompanying order or approved document is a "Preliminary Order" issued by the department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action of the Department of Water Resources ("department") unless a party petitions for reconsideration, files an exception and brief, or requests a hearing as further described below:

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the department within fourteen (14) days of the service date of this order. **Note: the petition must be received by the department within this fourteen (14) day period.** 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 67-5243(3) Idaho Code.

EXCEPTIONS AND BRIEFS

Within fourteen (14) days after: (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding with the Director. Otherwise, this preliminary order will become a final order of the agency.

REQUEST FOR HEARING

Unless a right to a hearing before the Department or the Water Resource Board is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Director and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

ORAL ARGUMENT

If the Director grants a petition to review the preliminary order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with IDAPA Rules 37.01.01302 and 37.01.01303 (Rules of Procedure 302 and 303).

FINAL ORDER

The Director will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Director may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its service date 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.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case 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 of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

RECEIVED

MAR 12 2018

DEPARTMENT OF
WATER RESOURCES

Affidavit of Publication

STATE OF IDAHO

County of Lemhi

ss.

RICKY G. HODGES being first duly sworn, deposes and says he is one of the publishers (printers) of The Recorder Herald, a newspaper published weekly at Salmon, Lemhi County, Idaho, and of general circulation therein. That the **PROPOSED CHANGE**, a true printed copy of which is attached to the margin hereof, has been and was correctly printed and published in the regular and entire issue of every number of said newspaper and not in any supplement thereof or thereto for **TWO (2)** consecutive issue(s), commencing with the issue dated **3-1-2018** and ending with the issue dated **3-8-2018**.

STATE OF IDAHO

County of Lemhi

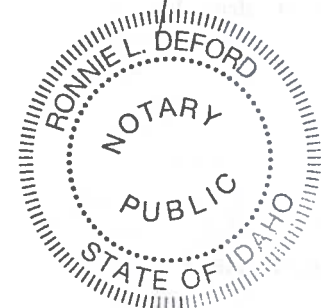
ss.

On this **8th day of March** in this year of 2018 before me, A Notary Public, personally appeared RICKY G. HODGES, known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that he executed the same.

Residing At Salmon, Idaho

Notary Public for Idaho

My Commission expires: 4-10-2023



Publication Fee \$86.40

NOTICE OF PROPOSED CHANGE OF WATER RIGHT TRANSFER NO. 82138

YERDEN LIVING TRUST, PO BOX 98, NORTH FORK, ID 83466-0098; has filed Application No. 82138 for changes to the following water rights within LEMHI County(s): Right No(s). 75-13964; to see a full description of these rights and the proposed transfer, please see www.idwr.idaho.gov/apps/wrQueryNewTransfers/QueryNewTransfers.aspx. The purpose of the transfer is to change a portion of the above rights as follows:

to change the irrigation place of use description to be consistent with the existing 8.0 acres of irrigated on the applicant's property located approximately 4 miles NW of US Hwy 93 on Fourth of July Creek Rd within the NWNE, Sec 29, T24N, R22E.

For additional information concerning the property location, contact IDWR State office at (208) 287-4800; or for a full description of the transfer, please see <http://www.idwr.idaho.gov/water-rights/transfers/search.html>.

Protests may be submitted based on the criteria of Idaho Code Sec. 42-222.

Any protest against the proposed change must be filed with the Department of Water Resources, 322 E Front St, PO Box 83720, Boise ID 83720-0098 together with a protest fee of \$25.00 for each application on or before 3/19/2018. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director 3-1-2tc

Q
jmh
3-13-18

AN

Smith, Rachael

From: Spencer, Steven M -FS <sspencer@fs.fed.us>
Sent: Tuesday, February 27, 2018 2:26 PM
To: Smith, Rachael
Subject: Transfer 82138
Attachments: USGS Map Yerden Transfer.pdf; BLM MTP Yerden Transfer.pdf; Lemhi County Assessor Yerden Property.pdf

Rachael,

I understand you are handling Transfer 82138 for 75-13964. It is clear to me that the intention is to have the water right remain entirely on private land. However, because the NWNE Sec 29 is involved and since transfers usually result in updated water right information when approved I have a request. The NWNE has a little National Forest System land, shown highlighted in yellow on two of the attached maps. It might be prudent to add the phrase we've been using in similar situations – that the water right does not include any federal land – as a condition of the water right. It just seems timely to do that at this time so that it is on record and there is no confusion in the future.

The BLM MTP also shows that the Yerden property is part of Homestead Entry Patent 472419 and Homestead Entry Patent 712188.

The third attachment is a couple of images from the Lemhi County Assessor's site. Yerden's come up as the owners of the parcel in the center of the image with the 'Fourth of July Creek' label. They also apparently own the adjoining parcel to the south west.

If you have any questions about this matter please contact me.

Thank you,

Steve



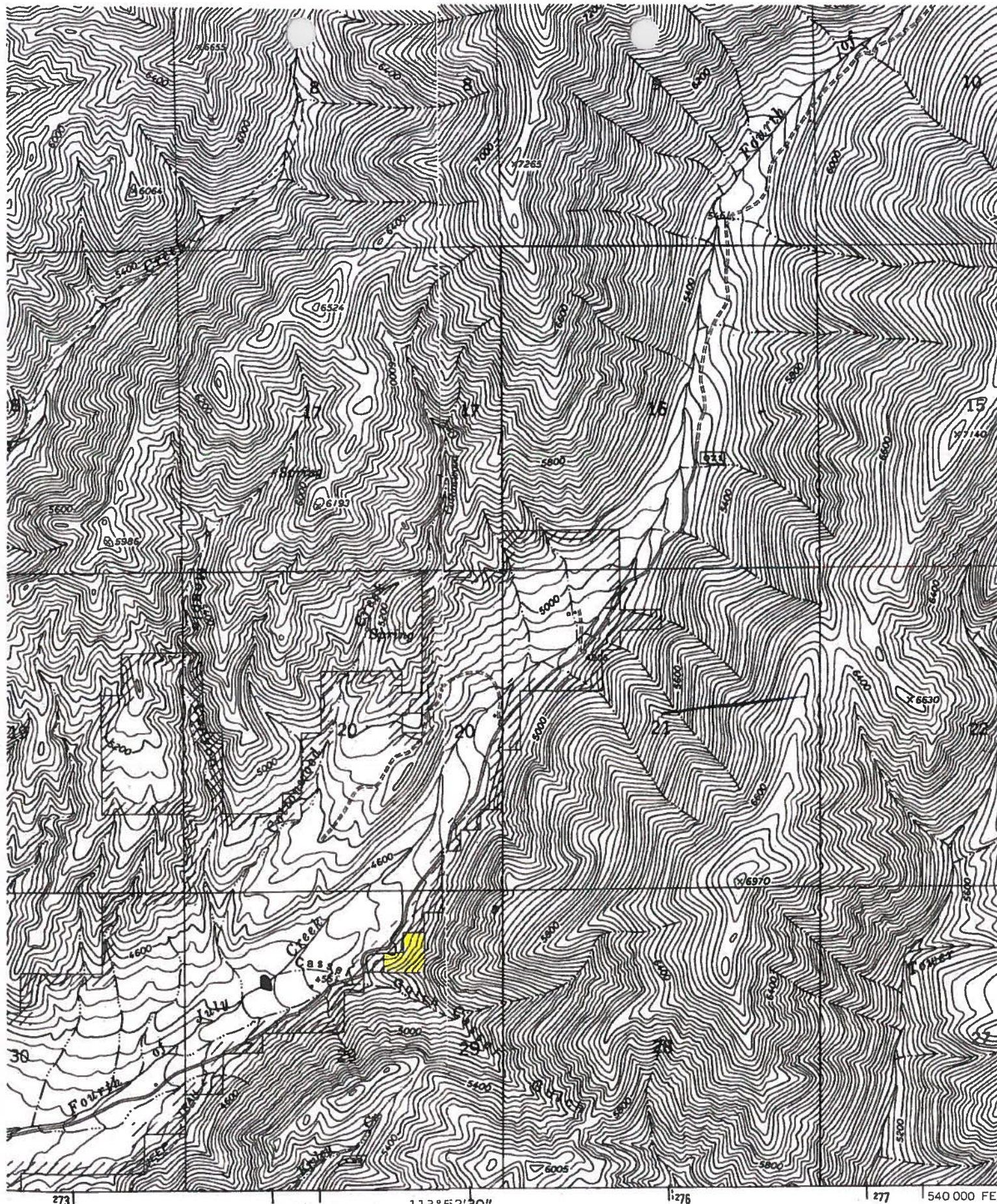
Steven M. Spencer
Water Use Specialist
Idaho Water Right Coordinator
Forest Service
Intermountain & Northern Regions
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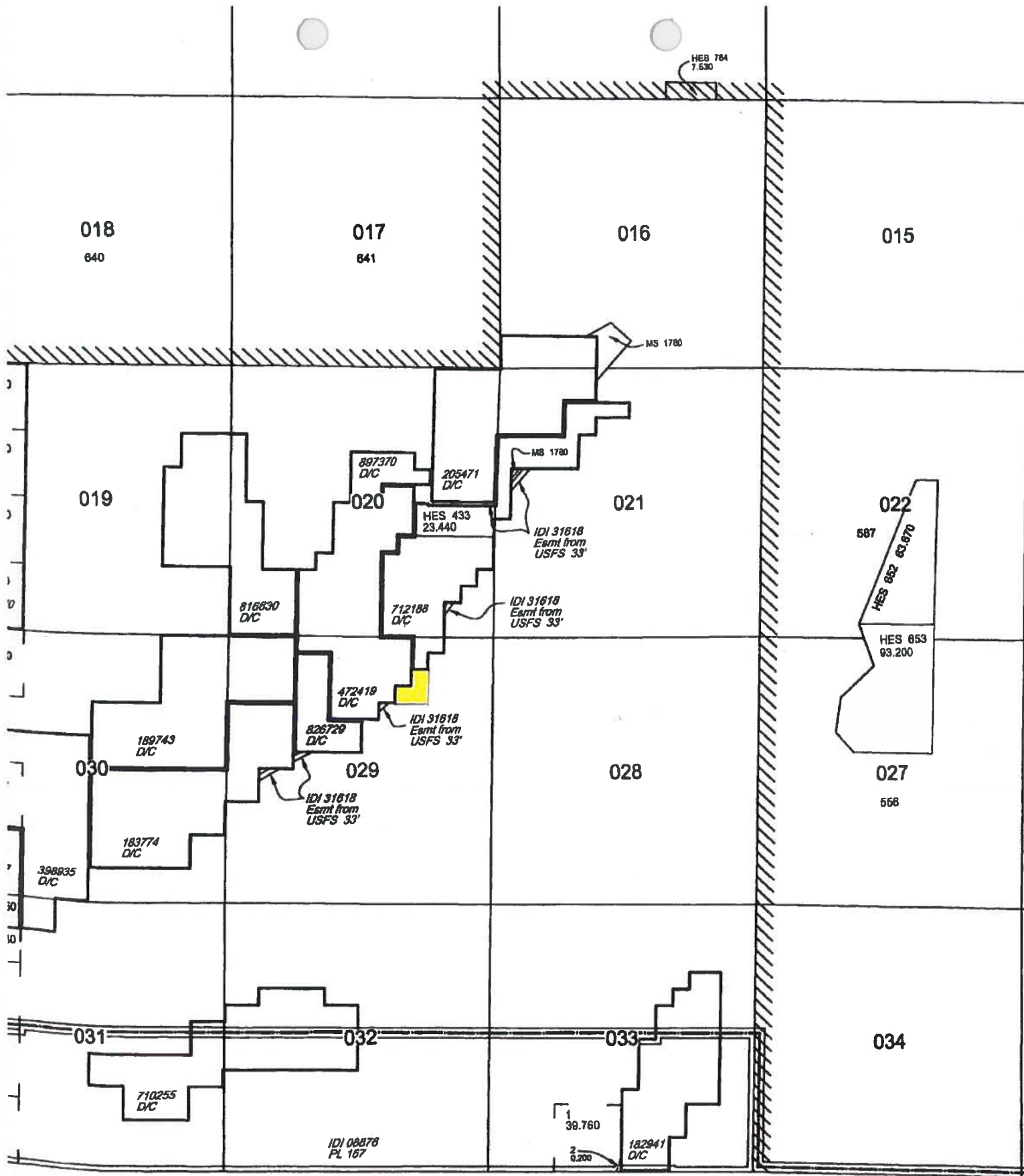
Caring for the land and serving people



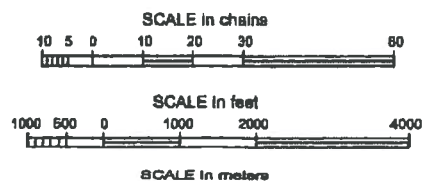
**NORTH FORK
SALMON NATIONAL FOREST
NORTH FORK AND SALMON**

Mapped, edited, and published by the Geological Survey 1966
Control by USGS and IUSG&S





S. Bureau of Land Management - Idaho State Office
1387 S. Vinnell Way Boise, Idaho 83709
(208) 373-4000



DISCLAIMER

This plat is c
do not reflect
for official in

The notation
of original w

