

RECEIVED

OCT 06 2017

WITHDRAWN

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCESTransfer No. 81981WATER RESOURCES
WESTERN REGIONMINIMUM REQUIREMENTS CHECKLIST
TO BE SUBMITTED WITH APPLICATION FOR TRANSFER

An application for transfer must be prepared in accordance with the minimum requirements listed below to be acceptable for processing by the Department. Incomplete applications will be returned. The instructions, fee schedule, Part 2A reports and additional Part 2B forms are available from any Department office or on the Department's website at www.idwr.idaho.gov.

Name of Applicant(s) Cheryl Harvey (Lee Margrave)Check whether each item below is *attached* (Yes) or *not applicable* (N/A) for the proposed transfer.Yes N/A * Means the item is always required and must be included with the application.

- ☒ * Completed Application for Transfer of Water Right form, Part 1.
- ☒ * Signature of applicant(s) or applicant's authorized representative on Application for Transfer Part 1. Include evidence of authority labeled Attachment #3 (see below) if signed by representative.
- ☒ * Application for Transfer Part 2A. Attach a Part 2A report describing each water right in the transfer as currently recorded.
- ☐ ☐ Complete and attach an Application for Transfer Part 2B for each water right for which only a portion is proposed to be changed through this transfer application.
- ☐ * Application for Transfer Part 3A is always required (see Attachment #7a below); Parts 3B and 3C must be completed for transfer applications proposing to change the nature of use of the water right(s) or proposing changes to supplemental right(s).
- ☐ * Correct fee submitted with transfer application form. (Fee schedule is on website and instructions for application for transfer.)

Attachments to Application - Label each attachment with the corresponding number shown below as Attachment #1-10.

- ☐ ☒ #1 If the applicant is a business, partnership, organization, or association, and not currently registered in the State of Idaho as a business entity, attach documentation identifying officers authorized to sign or act on behalf of right holder. (See Part 1.)
- ☒ ☐ #2a Water Right ownership documentation if Dept. records do not show the applicant as the current water right owner. **
- ☐ ☐ #2b If the ownership of the water right will change as a result of the proposed transfer to a new place of use, attach documentation showing land and water right ownership at the new place of use. Include documentation for all affected land and owner(s). **
- ** Additional fee(s) required for water right ownership changes; see fee schedule.
- ☐ ☐ #3 Documentation of authority to make the change if the applicant is not the water right owner.
- ☐ ☐ #4 Power of Attorney or documentation providing authority to sign or act on the applicant's behalf. (See Part 1.)
- ☐ ☐ #5 If the transfer application proposes to change the point of diversion for a water right affecting the Eastern Snake Plain Aquifer (ESPA), attach the results of an ESPA analysis and a detailed mitigation plan to offset any depletions to hydraulically connected reaches of the Snake River. ESPA transfer spreadsheet and model grid labeled cells are available on the Department's website at www.idwr.idaho.gov/WaterManagement/WaterRights/WaterRightTransfers/resources.htm.
- ☐ ☒ #6 Notarized statement of agreement or a statement on official letterhead signed by an authorized representative from each lien holder or other entity with financial interest in the water right(s) or land affected by the proposed transfer. (See Part 1.5.c.)
- ☒ * #7a Attach a map identifying the proposed point(s) of diversion, place(s) of use, and water diversion and distribution system details as described on the application. Include legal description labels. If only a portion of the right is proposed to be changed, identify the current location of the part of the existing right(s) proposed to be changed. (See Part 3A.)
- ☐ ☐ #7b If the transfer application proposes to change the place or purpose of use of an irrigation right attach a Geographic Information System (GIS) shape file, or an aerial photo or other image clearly delineating the location and extent of existing acres and changes to the place of use. If some or all of any right is leased to the Water Supply Bank, you must also show the the specific location and/or acres to be idled at the new, proposed place of use to satisfy lease requirements.
- ☐ ☐ #8a If the transfer application proposes to change the nature of use or period of use for one or more rights, provide documentation describing the extent of historic beneficial use for the water rights proposed to be transferred and document how enlargement will be avoided. (See Part 3B.) Additional fee required for proposed changes to nature of use; see fee schedule.
- ☐ ☐ #8b If the transfer application proposes to change the place of use of a supplemental irrigation right, provide documentation regarding the historic use of the supplemental right(s) and availability or reliability of the primary right(s) being supplemented, both before and after the proposed change. (See Part 3C.)
- ☐ ☐ #9 Water Supply Bank information for all rights proposed for transfer and currently leased to the Bank. (Attachment WSB)
- ☐ ☐ #10 Other. Please describe: _____

81981

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT PART 1

Name of Applicant(s) Cheryl Harvey Phone 209-480-7200
Mailing address ~~5500~~ 4233 ANTIQUITY WAY MODESTO CA 95356 Email cheryl@castle-re.ca

- ☐ 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.

Cheryl A. Harvey Cheryl A. Harvey 10-1-17
Signature of Applicant or Authorized Representative Print Name and Title if applicable Date

Signature of Applicant or Authorized Representative Print Name and Title if applicable Date

A. PURPOSE OF TRANSFER

- ☒ Change point of diversion
☐ Change nature of use
 ☐ Add diversion point(s)
☐ Change period of use
 ☐ Change place of use
☐ 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**.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

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	65-4891B	.17	irrigation	3/15 to 11/15	waste water
☐				to	
☐				to	
☐				to	
☐				to	
☐				to	
☐				to	
☐				to	
☐				to	

Total authorized under rights .17 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 #
									waste 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	
07N	04W	12			1.9					14.0									14.0
07N	04W	12			2.0														2.0
					(2.1)														
Total Acres (for irrigation use)																			16

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:

Will just be using the ditch when needed
will accomodate as needed

- b. Who owns the property at the point(s) of diversion? self (Cheryl Harvey)
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:

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. No
- e. Describe the effect on the land now irrigated if the place or purpose of use is changed pursuant to this transfer:

No

- 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:

Noble Ditch Shares

- 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:

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

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 65-04891B

NAME AND ADDRESS: LEE F MARGRAVE
SUSAN M MARGRAVE
5807 SE 1ST AVE
NEW PLYMOUTH, ID 83655

SOURCE: WASTE WATER TRIBUTARY: PAYETTE RIVER

QUANTITY: 0.17 CFS

THIS RIGHT WHEN COMBINED WITH RIGHTS OF NOBLE DITCH CO., LTD.
SHALL PROVIDE NO MORE THAN .02 CFS/ACRE

PRIORITY DATE: 04/01/1903

POINT OF DIVERSION: T07N R04W S12 NESW Within Payette County
SESW
S13 NWNW

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	0.17 CFS

PLACE OF USE: Irrigation Within Payette County
T07N R04W S12 NWSE 16.0
16.0 Acres Total

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

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.



Roger Burdick
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

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM.

CIVIL CASE NUMBER: 39576

Ident. Number: **A65-04891**
Date Received: 4/12/1990
Receipt No: X999999
Received By: _____

**COPY FOR
YOUR FILES**

**NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW**

**COPY FOR
YOUR FILES**

1. Name: LEE F MARGRAVE 208-278-3714
Address: 5807 SE 1ST AV
NEW PLYMOUTH ID 83655
AND
Name: SUSAN M MARGRAVE 208-278-3714
Address: 5807 SE 1ST AV
NEW PLYMOUTH ID 83655

2. Date of Priority: APR 1, 1903

3. Source: WASTE WATER Trib. to: PAYETTE RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
07N	04W	12		NE	SW		PAYETTE
				SE	SW		PAYETTE
		13		NW	NW		PAYETTE

5. Description of diverting works:

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	03/15	11/15	1.080		

7. Total Quantity Appropriated is:
1.080 C.F.S. (and/or) A.F.A.

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
07N	04W	12	SW	NE	2	IRR	24.0
			NE	SW		IRR	33.0
			NW	SW		IRR	2.0
			SE	SW		IRR	3.0
			NW	SE		IRR	38.0

Section Acres 100.0

Total Acres 100.0

11. Place of use in counties: PAYETTE

12. Do you own the property listed above as place of use? YES

13. Other Water Rights Used:

14. Remarks:

THIS RIGHT WHEN COMBINED WITH RIGHTS OF NOBLE DITCH CO., LTD.
SHALL PROVIDE NO MORE THAN .02 CFS/ACRE.
OWNERSHIP CHANGE BY DB 4/14/98.

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date: 1/21/1986

STATE OF IDAHO

Decree Plaintiff

A & C CORP., ET AL.

vs

Decree Defendant

FILED
THIRD JUDICIAL DISTRICT COURT
PAYETTE COUNTY, IDAHO

FEB 04 2014

BETTY J. DRESSEN, CLERK
BY [Signature] DEPUTY

REECE M. HRIZUK
Attorney at Law
1511 N. Whitley Drive
Fruitland, ID 83619-2266
ISB #9015
Telephone: (208) 452-4000
Fax: (208) 452-3044

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF PAYETTE

MAGISTRATE DIVISION

In the Matter of the Estate	)	Case No. CV 2014- <u>125</u>
of	)	
FRANK LEE MARGRAVE, III	)	LETTERS TESTAMENTARY
Deceased.	)	

The Will of FRANK LEE MARGRAVE, III having been
admitted to informal probate, CHERYL ANN HARVEY is hereby
appointed Personal Representative of the estate of FRANK LEE
MARGRAVE, III, deceased.

WITNESS: Robert L Jackson, Magistrate of
the above-entitled Court, with the seal thereof affixed the 4th
day of February, 2014.

/s/ ROBERT L. JACKSON
LAWYER MAGISTRATE

Magistrate

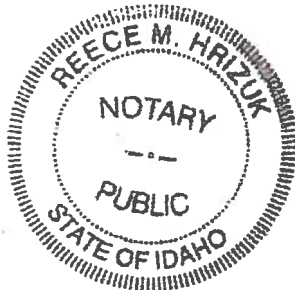
LETTERS TESTAMENTARY - 1

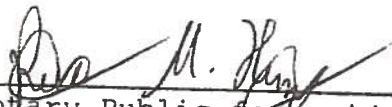
STATE OF IDAHO)
) ss.
County of Payette)

I hereby accept the duties of Personal Representative of the estate of **FRANK LEE MARGRAVE, III**, deceased, and do solemnly swear that I will perform, according to law, the duties of Personal Representative.


CHERYL ANN HARVEY

Subscribed and sworn to before me, this 3rd day of February, 2014.



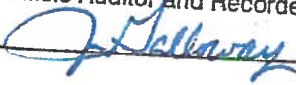

Notary Public for said State
Residing at: 11912020 Fruitland
Commission Expires: 3

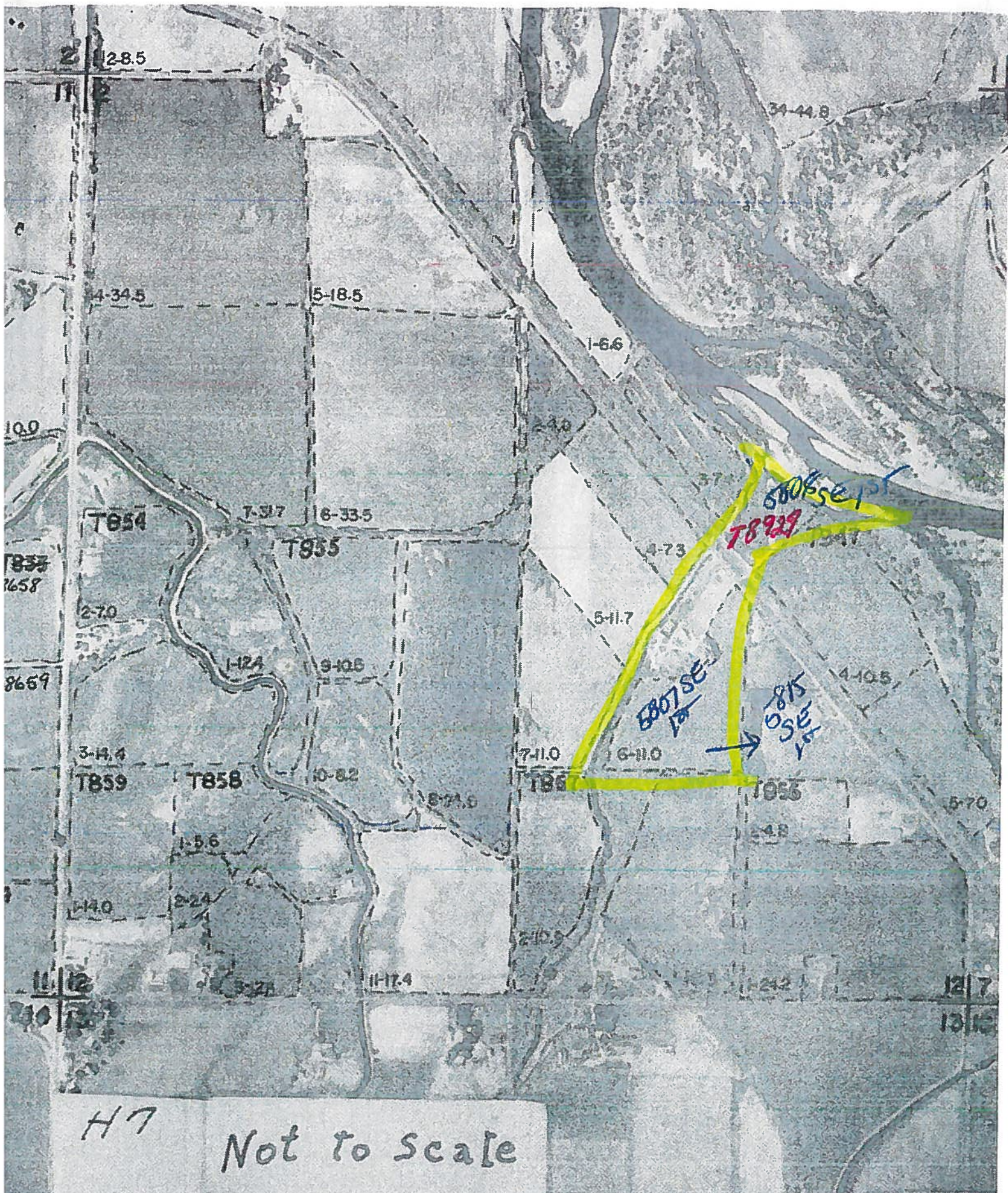
State of Idaho
County of Payette ss

I hereby certify that the foregoing instrument is a true and correct copy of the original on file in this office.

Dated 2-4-2014
BETTY J. DRESSEN

Clerk of the District Court and
Ex-Officio Auditor and Recorder

By  Deputy



1996



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region • 2735 Airport Way • Boise, Idaho 83705-5082

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

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

December 12, 2017

CHERYL A HARVEY
4233 ANTIQUITY WAY
MODESTO CA 95356

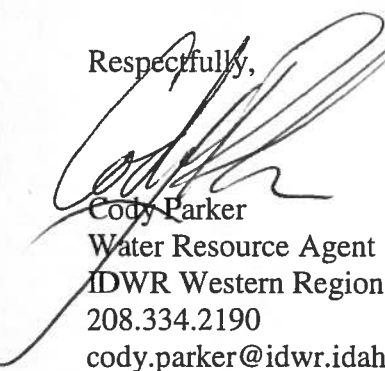
RE: Refund of fees following withdrawal of transfer application and change in ownership

Ms. Harvey,

On October 6, 2017, you submitted both a notice of change in water right ownership and an application for transfer for water right no. 65-4891B. On December 7, 2017, you requested that both of these be withdrawn. Both submissions are now void. I have requested that your payment of \$325 be refunded (see enclosed memo). You may expect to see those fees refunded within the next two weeks. I have enclosed the original forms you submitted with this letter.

Please let me know if you have any questions or concerns regarding the content of this letter. You may reach me at 208-334-2190, or by email at cody.parker@idwr.idaho.gov. Thank you for your time.

Respectfully,



Cody Parker
Water Resource Agent
IDWR Western Region
208.334.2190
cody.parker@idwr.idaho.gov

MEMORANDUM

TO: Sascha Marston
FROM: Cody Parker
DATE: December 8, 2017
RE: Refund for transfer application and ownership change

Cheryl Harvey paid \$325 for an application for transfer and notice of change in water right ownership on October 6, 2017. Both were withdrawn by the applicant by means of email on December 7, 2017 which reduced the required processing fee. A full refund should be issued.

Please issue a \$325 refund as follows:

TO

CHERYL A HARVEY
4233 ANTIQUITY WAY
MODESTO CA 95356

TEL. 209-480-7200

RECEIPT

Receipt nos.

W045723
W045724
W045725

Copy: App 81981 and Change in Ownership Form

State of Idaho

Dept. of Water Resources

Boise, Idaho

RECEIVED

OCT 06 2017

WATER RESOURCES
WESTERN REGION

Enclosed please find my application to make a change to my water rights. I own 3 parcels in New Plymouth, Idaho. Their respective addresses and parcel numbers are below.

1.	5807 SE 1 st Ave.	Township	Range	Section	¼ of ¼ of ¼	County
		07N	04W	12	NE SW	Payette
		Legal: TAX 7 IN NWSE SEC 12-7-4				PIN: 07N04W127810
2.	5815 SE 1 st Ave.	Legal SEC 1 GOV LOT 1 S& W of Co RD Less S491.01'				PIN: 07N04W127460

These two properties are right next door to each other.

3. 5808 SE 1st Ave. (THIS PROPERTY IS NOT ADDRESSED IN THIS DISCUSSION)

My Water right Claim No. 65-4891 B is good for 16 acres of water rights. I would like to take 2 or 3 of those rights and move to the property at 5815 SE 1st. I am selling the property at 5807 SE 1st and I am keeping the 5815 SE 1st property. To keep the value I will need to make this change.

If you have any questions regarding this or you need any additional information please contact me at 209-480-7200.

I have attached the following:

- Notice of Change in Water Rights ownership form
- Copy of the original paperwork from 5/23/2001 when Lee was got the shares.
- Lee's death certificate & Court documents showing Lee died & I own the property. (we have already gone through probate & the deed is now in my name).
- A plat map/aerial view showing where the right will move to
- My filing fee in two checks because I wasn't sure what amount needed to be paid.

These rights are NOT leased so there is no form for those.

Sincerely,
Cheryl Harvey

Since I am unsure of correct
forms I did 2
I have mailed 3 checks
Please use the appropriate
1 & mail others back or
VOID & throw away
Please disregard whichever
is incorrect. Thanks