

Cefalo, James

From: Cefalo, James
Sent: Friday, November 03, 2017 9:46 AM
To: 'Vonde, Ann'; 'Rob Harris'; Clark, Cynthia Bridge
Subject: Application for Transfer 80150 (Herbst)
Attachments: Draft Transfer Approval 80150.pdf

Dear Parties,

On August 31, 2017, Lynn Herbst filed an amended transfer application, seeking to make the application consistent with Permit 74-16008. The amended application was advertised and no additional protests were filed. The only protest against the original application was filed by IWRB. The protest stated: "This protest is intended to allow the IWRB to participate in ensuring that any authorized transfer is consistent with a final settlement of the protest on Application 74-16008."

Attached is a draft transfer approval. We incorporated the relevant conditions from Permit 74-16008 verbatim. Please review the draft approval. If it addresses the issues of protest, IWRB can withdraw its protest by referencing the draft approval.

James Cefalo
Water Resources Program Manager
IDWR Eastern Region
(208) 525-7161

DRAFT

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 80150**

This is to certify that: **LYNN A HERBST AND
ROBIN R HERBST
26 PINE CREEK RANCH RD
SALMON, ID 83467**

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>
74-7147	WR/DECREED	11/16/1981	0.880 cfs	N/A	N/A	44.1	LEMHI RIVER
74-740	WR/DECREED	4/1/1961	0.200 cfs	N/A	N/A	7.0	LEMHI RIVER
74-741	WR/DECREED	1/8/1908	4.300 cfs	N/A	N/A	143.0	LEMHI RIVER
74-742	WR/DECREED	6/1/1871	0.380 cfs	N/A	N/A	12.5	LEMHI RIVER

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>
74-7147	NO	YES	YES	YES	NO	NO
74-740	NO	NO	YES	YES	NO	NO
74-741	NO	NO	YES	YES	NO	NO
74-742	NO	NO	YES	YES	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>
74-7147	74-7147	0.880 cfs	N/A	44.1	186.2	N/A	N/A	N/A	N/A	N/A
74-740	74-740	0.200 cfs	N/A	7.0	186.2	N/A	N/A	N/A	N/A	N/A
74-741	74-741	4.300 cfs	N/A	143.1	186.2	N/A	N/A	N/A	N/A	N/A
74-742	74-742	0.380 cfs	N/A	12.5	186.2	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		5.350 cfs	N/A	186.2	186.2		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 _____ day of _____, _____.

Chief, Water Allocation Bureau

Transfer No. 80150

DRAFT**WATER RIGHT NO. 74-740****As Modified by Transfer No. 80150**

In accordance with the approval of Transfer No. 80150, Water Right No. 74-740 is now described as follows:

Right Holder: ROBIN R HERBST OR
LYNN A HERBST
26 PINE CREEK RANCH RD
SALMON, ID 83467

Priority Date: 4/1/1961

Source: LEMHI RIVER

Tributary: SALMON RIVER

BENEFICIAL USE

IRRIGATION

From

3/15

To

to 11/15

Diversion Rate

0.200 cfs

0.200 cfs

LOCATION OF POINT(S) OF DIVERSION

LEMHI RIVER	NESW	Sec 20 Twp 19N Rge 24E	LEMHI County	(R)
LEMHI RIVER	NESW	Sec 20 Twp 19N Rge 24E	LEMHI County	(I)
LEMHI RIVER	NWSW	Sec 20 Twp 19N Rge 24E	LEMHI County	(R)
LEMHI RIVER	SENW	Sec 29 Twp 19N Rge 24E	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	
19N	24E	17			0.2					17.4	31.4			36.1		3.2	1.6		89.9
19N	24E	20					33.9	15.0	12.1	27.9	6.2	1.2							96.3

Right Acre Limit: 7.0

POU Total Acres: 186.2

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 7.0 acres within the authorized place of use in a single irrigation season.
2. Rights 74-740, 74-741, 74-742 and 74-7147 when combined shall not exceed shall not exceed a total diversion rate of 5.35 cfs and the irrigation of 186.2 acres.
3. Rights 74-740, 74-741, 74-742, 74-7147, and 74-16008 when combined shall not exceed a total diversion rate of 5.35 cfs and the irrigation of 186.2 acres. However, when Rights 74-740, 74-741, and/or 74-742 are completely or partially unavailable for use, Right 74-16008 shall provide only two-thirds (0.67%) of the diversion rate unavailable from those rights.
4. This right authorizes the diversion of water from the Lemhi River, injection of diverted water into Agency Creek, and points of redirection of the injected water from Agency Creek.

Transfer No. 80150

DRAFT

WATER RIGHT NO. 74-740

As Modified by Transfer No. 80150

CONDITIONS OF APPROVAL

5. 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 Nos. 74 and 74-M.
6. The right holder shall maintain the lockable control structure currently located at the Agency Creek point of diversion east of Hwy 28. Prior to diversion of water under this right, the right holder shall install and/or maintain a measuring device and lockable control structure at the following locations: 1) on the point of rediversion from Agency Creek located west of Hwy 28, and 2) on the L-31 ditch where L-31 crosses Tendoy Lane at a location that can be easily viewed by the watermaster.
7. This right when combined with all other rights shall provide no more than 3.5 afa per acre at the field headgate for irrigation of the place of use.
8. This right does not grant any right-of-way or easement across the land of another.
9. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
10. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
11. 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.

DRAFT**WATER RIGHT NO. 74-741****As Modified by Transfer No. 80150**

In accordance with the approval of Transfer No. 80150, Water Right No. 74-741 is now described as follows:

Right Holder: LYNN A HERBST OR
ROBIN R HERBST
26 PINE CREEK RANCH RD
SALMON, ID 83467

Priority Date: 1/8/1908

Source: LEMHI RIVER

Tributary: SALMON RIVER

BENEFICIAL USE

	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>
IRRIGATION	03/15	to 11/15	4.300 cfs
STOCKWATER	01/01	to 12/31	0.060 cfs
			4.300 cfs

LOCATION OF POINT(S) OF DIVERSION

LEMHI RIVER	NESW	Sec 20 Twp 19N Rge 24E	LEMHI County	(R)
LEMHI RIVER	NESW	Sec 20 Twp 19N Rge 24E	LEMHI County	(I)
LEMHI RIVER	NWSW	Sec 20 Twp 19N Rge 24E	LEMHI County	(R)
LEMHI RIVER	SENW	Sec 29 Twp 19N Rge 24E	LEMHI County	

PLACE OF USE: IRRIGATION

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
19N	24E	17			0.2					17.4	31.4			36.1		3.2	1.6		89.9
19N	24E	20					33.9	15.0	12.1	27.9	6.2	1.2							96.3

Right Acre Limit: 143.1

POU Total Acres: 186.2

PLACE OF USE: STOCKWATER

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
19N	24E	17			X					X	X			X		X	X		
19N	24E	20					X	X	X	X	X	X							

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 143.1 acres within the authorized place of use in a single irrigation season.
2. Rights 74-741 and 74-7147 when combined shall not exceed a total diversion rate of 4.77 cfs and the irrigation of 166.7 acres.

Transfer No. 80150

DRAFT

WATER RIGHT NO. 74-741

As Modified by Transfer No. 80150

CONDITIONS OF APPROVAL

3. Rights 74-740, 74-741, 74-742 and 74-7147 when combined shall not exceed shall not exceed a total diversion rate of 5.35 cfs and the irrigation of 186.2 acres.
4. Rights 74-740, 74-741, 74-742, 74-7147, and 74-16008 when combined shall not exceed a total diversion rate of 5.35 cfs and the irrigation of 186.2 acres. However, when Rights 74-740, 74-741, and/or 74-742 are completely or partially unavailable for use, Right 74-16008 shall provide only two-thirds (0.67%) of the diversion rate unavailable from those rights.
5. 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 Nos. 74 and 74-M.
6. The right holder shall maintain the lockable control structure currently located at the Agency Creek point of diversion east of Hwy 28. Prior to diversion of water under this right, the right holder shall install and/or maintain a measuring device and lockable control structure at the following locations: 1) on the point of redirection from Agency Creek located west of Hwy 28, and 2) on the L-31 ditch where L-31 crosses Tendoy Lane at a location that can be easily viewed by the watermaster.
7. This right authorizes the diversion of water from the Lemhi River, injection of diverted water into Agency Creek, and points of redirection of the injected water from Agency Creek.
8. 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.
9. This right does not grant any right-of-way or easement across the land of another.
10. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
11. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
12. 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.

DRAFT**WATER RIGHT NO. 74-742****As Modified by Transfer No. 80150**

In accordance with the approval of Transfer No. 80150, Water Right No. 74-742 is now described as follows:

Right Holder: ROBIN R HERBST OR
LYNN A HERBST
26 PINE CREEK RANCH RD
SALMON, ID 83467

Priority Date: 6/1/1871

Source: LEMHI RIVER

Tributary: SALMON RIVER

BENEFICIAL USE

IRRIGATION

From

3/15

To

to 11/15

Diversion Rate

0.380 cfs

0.380 cfs

LOCATION OF POINT(S) OF DIVERSION

LEMHI RIVER	NESW	Sec 20 Twp 19N Rge 24E	LEMHI County	(R)
LEMHI RIVER	NESW	Sec 20 Twp 19N Rge 24E	LEMHI County	(I)
LEMHI RIVER	NWSW	Sec 20 Twp 19N Rge 24E	LEMHI County	(R)
LEMHI RIVER	SENW	Sec 29 Twp 19N Rge 24E	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	
19N	24E	17			0.2					17.4	31.4			36.1		3.2	1.6		89.9
19N	24E	20					33.9	15.0	12.1	27.9	6.2	1.2							96.3

Right Acre Limit: 12.5

POU Total Acres: 186.2

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 12.5 acres within the authorized place of use in a single irrigation season.
2. Rights 74-740, 74-741, 74-742 and 74-7147 when combined shall not exceed shall not exceed a total diversion rate of 5.35 cfs and the irrigation of 186.2 acres.
3. Rights 74-740, 74-741, 74-742, 74-7147, and 74-16008 when combined shall not exceed a total diversion rate of 5.35 cfs and the irrigation of 186.2 acres. However, when Rights 74-740, 74-741, and/or 74-742 are completely or partially unavailable for use, Right 74-16008 shall provide only two-thirds (0.67%) of the diversion rate unavailable from those rights.
4. 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 Nos. 74 and 74-M.

Transfer No. 80150

DRAFT

WATER RIGHT NO. 74-742

As Modified by Transfer No. 80150

CONDITIONS OF APPROVAL

5. The right holder shall maintain the lockable control structure currently located at the Agency Creek point of diversion east of Hwy 28. Prior to diversion of water under this right, the right holder shall install and/or maintain a measuring device and lockable control structure at the following locations: 1) on the point of redirection from Agency Creek located west of Hwy 28, and 2) on the L-31 ditch where L-31 crosses Tendoy Lane at a location that can be easily viewed by the watermaster.
6. This right authorizes the diversion of water from the Lemhi River, injection of diverted water into Agency Creek, and points of redirection of the injected water from Agency Creek.
7. This right when combined with all other rights shall provide no more than 3.5 afa per acre at the field headgate for irrigation of the place of use.
8. This right does not grant any right-of-way or easement across the land of another.
9. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
10. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
11. 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.

DRAFT**WATER RIGHT NO. 74-7147****As Modified by Transfer No. 80150**

In accordance with the approval of Transfer No. 80150, Water Right No. 74-7147 is now described as follows:

Right Holder: LYNN A HERBST OR
ROBIN R HERBST
26 PINE CREEK RANCH RD
SALMON, ID 83467

Priority Date: 11/16/1981

Source: LEMHI RIVER

Tributary: SALMON RIVER

BENEFICIAL USE

IRRIGATION

From

4/01

To

to 11/01

Diversion Rate

0.880 cfs

0.880 cfs

Diversion Volume

132.0 af

LOCATION OF POINT(S) OF DIVERSION

LEMHI RIVER	NESW	Sec 20 Twp 19N Rge 24E	LEMHI County	(R)
LEMHI RIVER	NESW	Sec 20 Twp 19N Rge 24E	LEMHI County	(I)
LEMHI RIVER	NWSW	Sec 20 Twp 19N Rge 24E	LEMHI County	(R)
LEMHI RIVER	SENW	Sec 29 Twp 19N Rge 24E	LEMHI County	

PLACE OF USE: IRRIGATION

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
19N	24E	17			0.2					17.4	31.4			36.1		3.2	1.6		89.9
19N	24E	20					33.9	15.0	12.1	27.9	6.2	1.2							96.3

Right Acre Limit: 44.1

POU Total Acres: 186.2

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 44.1 acres within the authorized place of use in a single irrigation season.
2. Rights 74-741 and 74-7147 when combined shall not exceed a total diversion rate of 4.77 cfs and the irrigation of 166.7 acres.
3. Rights 74-740, 74-741, 74-742 and 74-7147 when combined shall not exceed shall not exceed a total diversion rate of 5.35 cfs and the irrigation of 186.2 acres.
4. Rights 74-740, 74-741, 74-742, 74-7147, and 74-16008 when combined shall not exceed a total diversion rate of 5.35 cfs and the irrigation of 186.2 acres. However, when Rights 74-740, 74-741, and/or 74-742 are completely or partially unavailable for use, Right 74-16008 shall provide only two-thirds (0.67%) of the diversion rate unavailable from those rights.

Transfer No. 80150

DRAFT

WATER RIGHT NO. 74-7147
As Modified by Transfer No. 80150

CONDITIONS OF APPROVAL

5. 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 Nos. 74 and 74-M.
6. The right holder shall maintain the lockable control structure currently located at the Agency Creek point of diversion east of Hwy 28. Prior to diversion of water under this right, the right holder shall install and/or maintain a measuring device and lockable control structure at the following locations: 1) on the point of rediversion from Agency Creek located west of Hwy 28, and 2) on the L-31 ditch where L-31 crosses Tendoy Lane at a location that can be easily viewed by the watermaster.
7. This right authorizes the diversion of water from the Lemhi River, injection of diverted water into Agency Creek, and points of rediversion of the injected water from Agency Creek.
8. 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.
9. This right does not grant any right-of-way or easement across the land of another.
10. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
11. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
12. 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.