

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT
TRANSFER NO. 81188

This is to certify that: SEVEN HIGH RANCH INC
C/O JERRY L HOAGLAND
13528 REYNOLDS CREEK RD
WILSON, ID 83641

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>
57-1064	WR/DECREED	9/21/1911	0.800 cfs	N/A	N/A	40.0	REYNOLDS CREEK
57-1065	WR/DECREED	9/21/1911	0.160 cfs	N/A	N/A	35.0	REYNOLDS CREEK
57-253	WR/DECREED	6/1/1911	0.180 cfs	N/A	N/A	35.0	REYNOLDS CREEK
57-268	WR/DECREED	6/1/1883	0.360 cfs	N/A	N/A	35.0	REYNOLDS 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>
57-1064	NO	NO	NO	YES	NO	NO
57-1065	NO	NO	NO	YES	NO	NO
57-253	NO	NO	NO	YES	NO	NO
57-268	NO	NO	NO	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>
57-1064	57-1064	0.800 cfs	N/A	N/A	40.0	N/A	N/A	N/A	N/A	N/A
57-1065	57-1065	0.160 cfs	N/A	N/A	35.0	N/A	N/A	N/A	N/A	N/A
57-253	57-253	0.180 cfs	N/A	N/A	35.0	N/A	N/A	N/A	N/A	N/A
57-268	57-268	0.360 cfs	N/A	N/A	35.0	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		1.500 cfs	N/A	N/A	75.0		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 10th day of August, 2017.

SUPPORT DATA

IN FILE #

57-253

Transfer No. 81188


Chief, Water Allocation Bureau

WATER RIGHT NO.**As Modified by Transfer No. 81188**

In accordance with the approval of Transfer No. 81188, Water Right No. 57-253 is now described as follows:

Right Holder: SEVEN HIGH RANCH INC
C/O JERRY L HOAGLAND
13528 REYNOLDS CREEK RD
WILSON, ID 83641

Priority Date: 6/1/1911

Source: REYNOLDS CREEK

Tributary: SNAKE RIVER

BENEFICIAL USE
IRRIGATION

From
3/15

To
to 11/15

Diversion Rate
0.180 cfs
0.180 cfs

LOCATION OF POINT(S) OF DIVERSION

REYNOLDS CREEK
REYNOLDS CREEK

NESE
SWNE

Sec 12 Twp 03S Rge 04W OWYHEE County
Sec 24 Twp 03S Rge 04W OWYHEE 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	
02S	04W	25												8.0			3.0		11.0
02S	04W	36					12.0	1.0	11.0										24.0

POU Total Acres: 35.0

CONDITIONS OF APPROVAL

1. 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.
2. Rights 57-253, 57-261, 57-268, 57-1064, 57-1065, 57-1067, 57-2170 and 57-2187 when combined shall not exceed a total diversion rate of 3.78 cfs and the irrigation of 189 acres.
3. Rights 57-253, 57-268 and 57-1065 when combined shall not exceed the irrigation of 35 acres.
4. 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).
5. Use of water under this right may 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. 57R.

Transfer No. 81188

WATER RIGHT NO.
As Modified by Transfer No. 81188

CONDITIONS OF APPROVAL

6. The right holder shall accomplish the change authorized by this transfer within one year of the date of this 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.

WATER RIGHT NO.**As Modified by Transfer No. 81188**

In accordance with the approval of Transfer No. 81188, Water Right No. 57-268 is now described as follows:

Right Holder: SEVEN HIGH RANCH INC
C/O JERRY L HOAGLAND
13528 REYNOLDS CREEK RD
WILSON, ID 83641

Priority Date: 6/1/1883

Source: REYNOLDS CREEK

Tributary: SNAKE RIVER

BENEFICIAL USE

IRRIGATION

From

3/15

To

to 11/15

Diversion Rate

0.360 cfs

0.360 cfs

LOCATION OF POINT(S) OF DIVERSION

REYNOLDS CREEK
REYNOLDS CREEK

NESE
SWNE

Sec 12 Twp 03S Rge 04W OWYHEE County
Sec 24 Twp 03S Rge 04W OWYHEE 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	
02S	04W	25												8.0			3.0		11.0
02S	04W	36					12.0	1.0	11.0										24.0

POU Total Acres: 35.0

CONDITIONS OF APPROVAL

1. 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.
2. Rights 57-253, 57-261, 57-268, 57-1064, 57-1065, 57-1067, 57-2170 and 57-2187 when combined shall not exceed a total diversion rate of 3.78 cfs and the irrigation of 189 acres.
3. Rights 57-253, 57-268 and 57-1065 when combined shall not exceed the irrigation of 35 acres.
4. 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).
5. Use of water under this right may 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. 57R.

WATER RIGHT NO.
As Modified by Transfer No. 81188

CONDITIONS OF APPROVAL

6. The right holder shall accomplish the change authorized by this transfer within one year of the date of this 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.

WATER RIGHT NO. 57-1064**As Modified by Transfer No. 81188**

In accordance with the approval of Transfer No. 81188, Water Right No. 57-1064 is now described as follows:

Right Holder: SEVEN HIGH RANCH INC
C/O JERRY L HOAGLAND
13528 REYNOLDS CREEK RD
WILSON, ID 83641

Priority Date: 9/21/1911

Source: REYNOLDS CREEK

Tributary: SNAKE RIVER

BENEFICIAL USE
IRRIGATION

From
3/15

To
to 11/15

Diversion Rate
0.800 cfs
0.800 cfs

LOCATION OF POINT(S) OF DIVERSION

REYNOLDS CREEK
REYNOLDS CREEK

NESE
SWNE

Sec 12 Twp 03S Rge 04W OWYHEE County
Sec 24 Twp 03S Rge 04W OWYHEE 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	
02S	04W	25															30.0		30.0
02S	04W	36					2.0	6.0	2.0										10.0

POU Total Acres: 40.0

CONDITIONS OF APPROVAL

1. 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.
2. Rights 57-253, 57-261, 57-268, 57-1064, 57-1065, 57-1067, 57-2170 and 57-2187 when combined shall not exceed a total diversion rate of 3.78 cfs and the irrigation of 189 acres.
3. 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).
4. Use of water under this right may 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. 57R.
5. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.

Transfer No. 81188

WATER RIGHT NO. 57-1064

As Modified by Transfer No. 81188

CONDITIONS OF APPROVAL

6. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
7. 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.

WATER RIGHT NO. 57-1065**As Modified by Transfer No. 81188**

In accordance with the approval of Transfer No. 81188, Water Right No. 57-1065 is now described as follows:

Right Holder: SEVEN HIGH RANCH INC
C/O JERRY L HOAGLAND
13528 REYNOLDS CREEK RD
WILSON, ID 83641

Priority Date: 9/21/1911

Source: REYNOLDS CREEK

Tributary: SNAKE RIVER

BENEFICIAL USE
IRRIGATION

From 3/15
To to 11/15

Diversion Rate
0.160 cfs
0.160 cfs

LOCATION OF POINT(S) OF DIVERSION

REYNOLDS CREEK
REYNOLDS CREEK

NESE
SWNE

Sec 12 Twp 03S Rge 04W OWYHEE County
Sec 24 Twp 03S Rge 04W OWYHEE 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	
02S	04W	25												8.0			3.0		11.0
02S	04W	36					12.0	1.0	11.0										24.0

POU Total Acres: 35.0

CONDITIONS OF APPROVAL

1. 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.
2. Rights 57-253, 57-261, 57-268, 57-1064, 57-1065, 57-1067, 57-2170 and 57-2187 when combined shall not exceed a total diversion rate of 3.78 cfs and the irrigation of 189 acres.
3. Rights 57-268, 57-1065, and 57-263 when combined shall not exceed the irrigation of 35 acres.
4. 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).
5. Use of water under this right may 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. 57R.

Transfer No. 81188

WATER RIGHT NO. 57-1065

As Modified by Transfer No. 81188

CONDITIONS OF APPROVAL

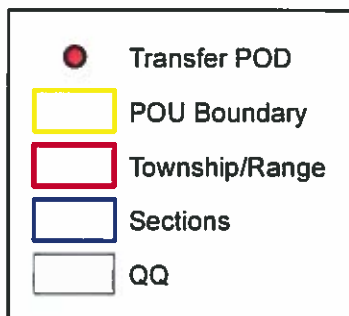
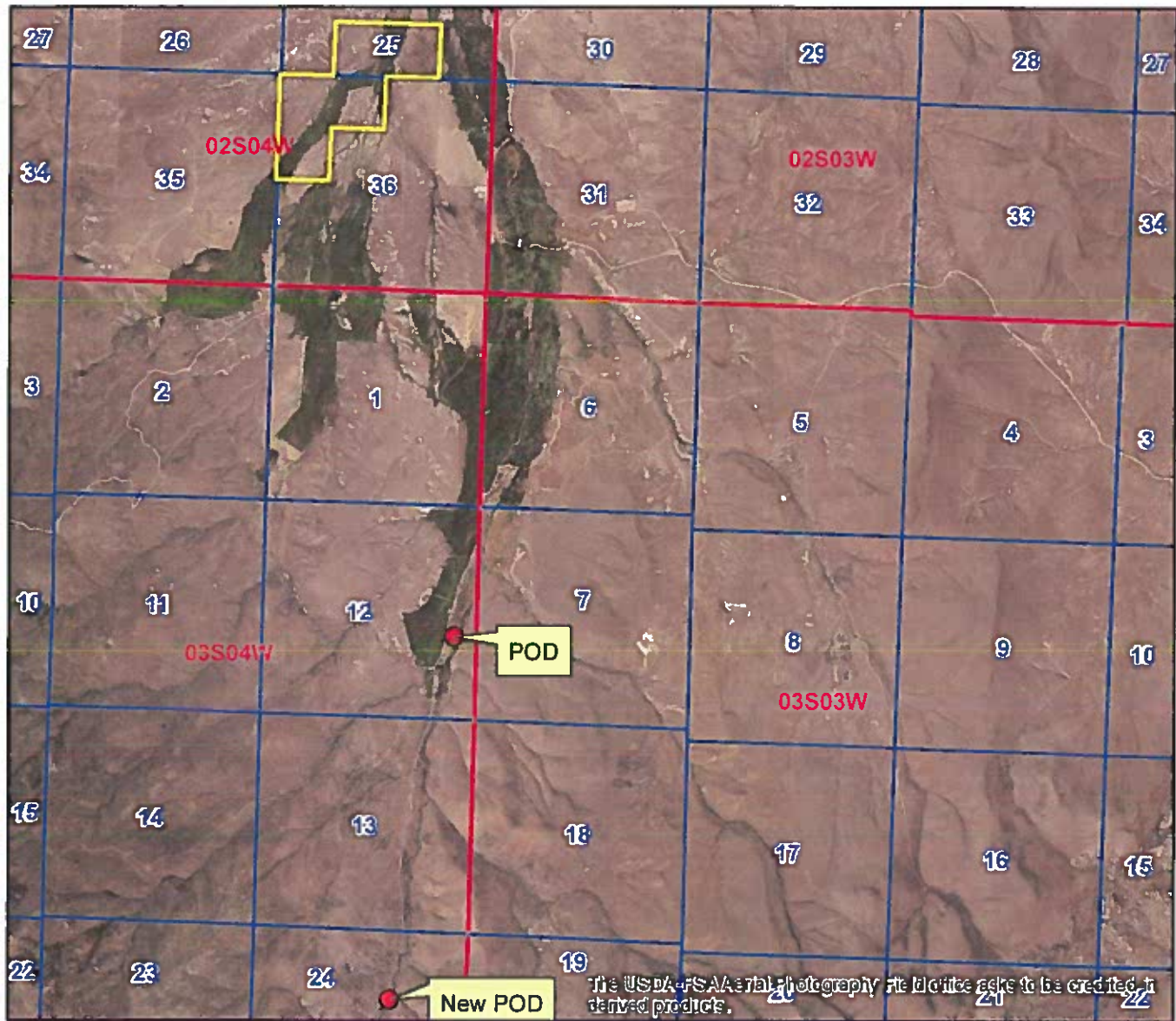
6. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
7. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
8. Pursuant to Section 42-1412(6), Idaho 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. 81188

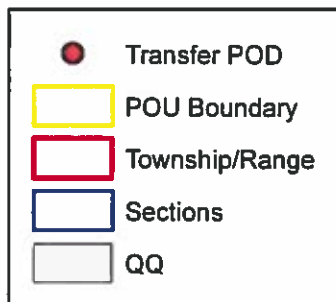
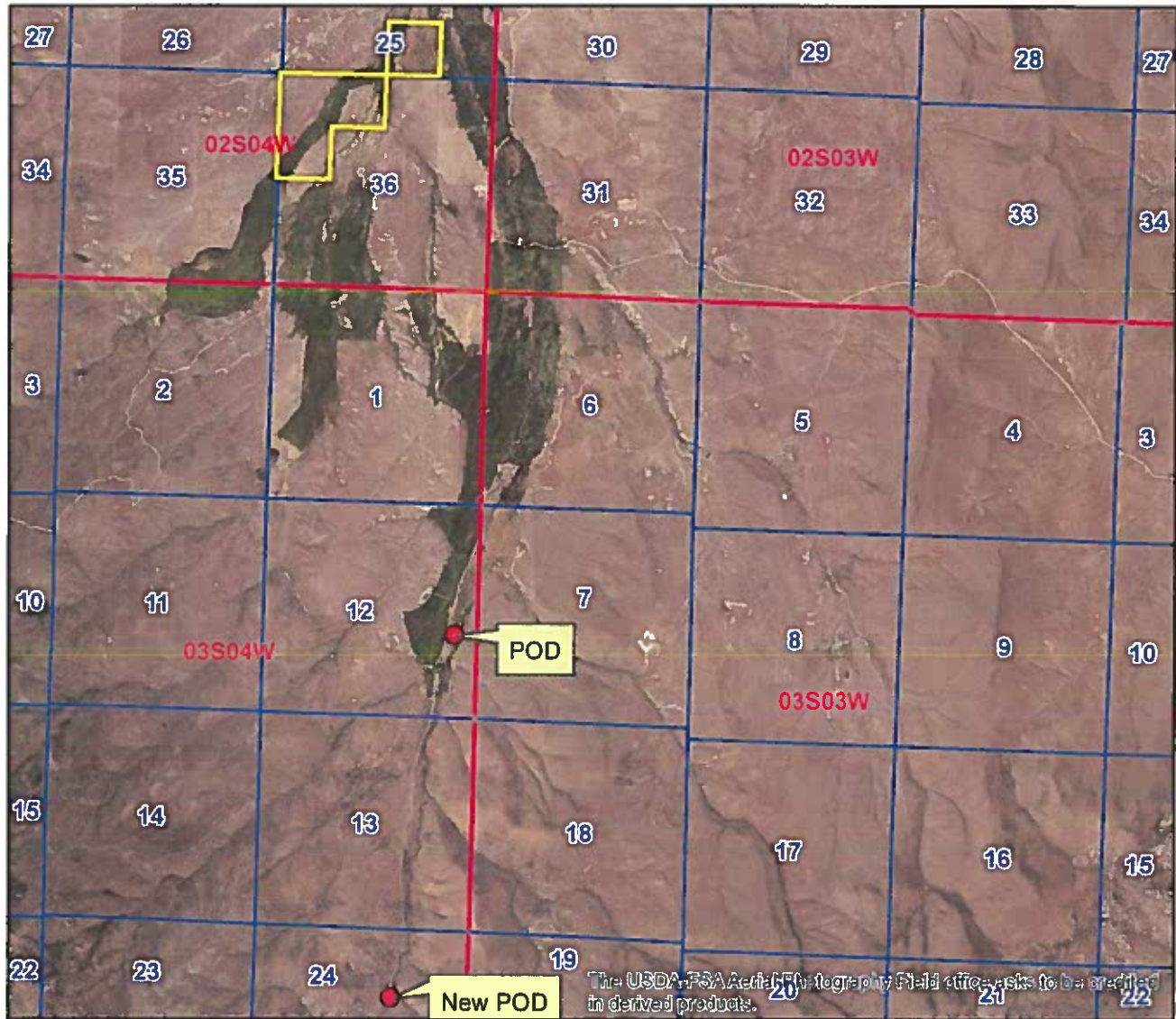
Water Right(s) No.: 57-253, 57-268, and 57-1065

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.



State of Idaho
Department of Water Resources
Attachment to Transfer No. 81188
Water Right(s) No.: 57-1064

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.



0 0.5 1 2 Miles



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED
SEP 01 2016

WATER RESOURCES
WESTERN REGION

APPLICATION FOR TRANSFER OF WATER RIGHT – POINT(S) OF DIVERSION

This form may be used to apply to change and/or add points of diversion for existing water rights and to report an ownership change for a water right(s) in connection with the proposed point of diversion change(s). Do not use this form to apply for changes to other elements of a water right. See the Department offices where your application can be submitted. for help completing this form and for mailing addresses of

Check all that apply:

- ☐ Change diversion point(s)
 ☒ Add diversion point(s)
 ☐ Ownership change
 ☐ Ownership split

1. **APPLICANT(S)** Seven High Ranch Inc Phone (208) 318-8308

2. **MAILING ADDRESS** C/O Jerry Hoagland, 13528 Reynolds Creek Rd City Wilson

State ID Zip 83641 Email shrjwhy@gmail.com

- ☐ If the applicant is not an individual and not registered to do business in the State of Idaho, attach documentation identifying officers authorized to sign for the applicant.
☐ If the applicant is not the current water right(s) owner, attach documentation of authority to file the application.
☐ If the application includes a change in ownership of water right(s), attach a copy of the conveyance document, such as a warranty deed, court decree, contract of sale, etc. The conveyance document must include a legal description of the property conveyed or description of the water right if no land is conveyed. Additional fee(s) are required for water right ownership changes; see Item 9 for the

If the ownership change resulted in the water right(s) being split, how did the division occur? Mark one:

- ☐ The water rights or claims were divided as specifically identified in a deed, contract, or other conveyance document.
☐ The water rights or claims were divided proportionately based on the portion of their place(s) of use acquired by the new owner.

- ☐ If the application is not signed by the applicant, attach a Power of Attorney or other documentation providing authority to sign for the applicant.

3. **LIST WATER RIGHT NUMBER(S)** 57-253, 57-268, 57-1064, 57-1065

- ☒ Attach a copy of the water right(s) as recorded, available at _____, Water Right Transfers, Step 1, or by contacting any Department office.

4. **TOTAL AMOUNT OF WATER** transferred is 1.50 cubic feet per second and/or _____ acre-feet per annum.
(diversion rate) (storage volume)

5. **POINT OF DIVERSION** – Describe all the point(s) of diversion to be included on the water right(s) after the proposed change.

- ☐ Attach Eastern Snake Plain Aquifer (ESPA) analysis if this transfer proposes to change a point of diversion affecting the ESPA. ESPA analysis information is available at _____, Water Right Transfers, Online Resources.

New?	Lot	¼	¼	¼	Sec	Twp	Rge	County	Source	Local name or tag #
Yes			SW	NE	24	3S	4W	Owyhee	Reynolds Creek	High Ditch
No			NE	SE	12	3S	4W	Owyhee	Reynolds Creek	Community Ditch

6. 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:

The High Ditch is an existing ditch for other water rights and is currently regulated by the Watermaster. The rights on this transfer inadvertently omitted the Section 24 POD at the time the rights were claimed in the SRBA.

- b. Who owns the property at the point(s) of diversion? Public Land for new POD, existing POD on private land
If other than the applicant, describe the arrangement enabling the applicant to access the property for the diversion system:
The new POD in sec 24 is on an existing ROW, the existing POD in sec 12 is on an existing use ROW.

- c. 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 used in a mitigation plan limiting the use of water under the right(s), or
☐ ☒ currently enrolled in a Federal set-aside program limiting the use of water under the right(s)?

If yes, describe:

- d. Is any portion of the water right(s) proposed to be changed currently leased to the Water Supply Bank? ☐ Yes ☒ No

- ☐ If yes and there are multiple owners, attach a _____ form.
☐ If yes, the individual owner or designated lessor must complete, sign and attach an _____
(Disregard if these items are on file and ownership has not changed.)

7. **MAP** - ☒ Attach a map of the diversion, measurement, control and distribution system. Include the place of use if a split of the water right occurred. Clearly label the map with township, range, section and $\frac{1}{4}$ $\frac{1}{4}$ of section information. The *Map Tool*, available at _____ provides a satisfactory template for creating the required map.

8. **SIGNATURE** - The information in this application is true to the best of my knowledge. I understand any willful misrepresentations in this application may result in rejection of the application or cancellation of an approval.

[Signature]
Signature of applicant or authorized agent

Serry L. Hoagland president
Print name and title if applicable

8/22/16
Date

[Signature]
Signature of applicant or authorized agent

Serry L. Hoagland president
Print name and title if applicable

8/22/16
Date

9. **FEE** - ☒ The application filing fee provided in Section 42-221, Idaho Code, must be submitted with the application for transfer. The Application fee is based on the total amount of water proposed for transfer in Item 4: the larger fee for either cubic feet per second (diversion rate) or acre-feet per annum (storage volume). The _____ is available at www.idwr.idaho.gov, *Water Right Transfers, Step 4* and in the _____

FOR DEPARTMENT USE ONLY

Transfer includes 11 pages of attachments.

Received by CJ

Date 9-1-16

Fee paid \$580⁰⁰ Date 9/1/16

Received by CJ

Receipt # W044578

Preliminary review by PH

Date 11/10/17

Active in the Water Supply Bank? Yes ☐ No ☒

W-9 received? Yes ☐ No ☒

Name on W-9 _____

W-9 forwarded to fiscal? Yes ☐ No ☒

(Do NOT scan the W-9 – confidential information is held by fiscal only)

Seven High Ranch Inc Application for Transfer



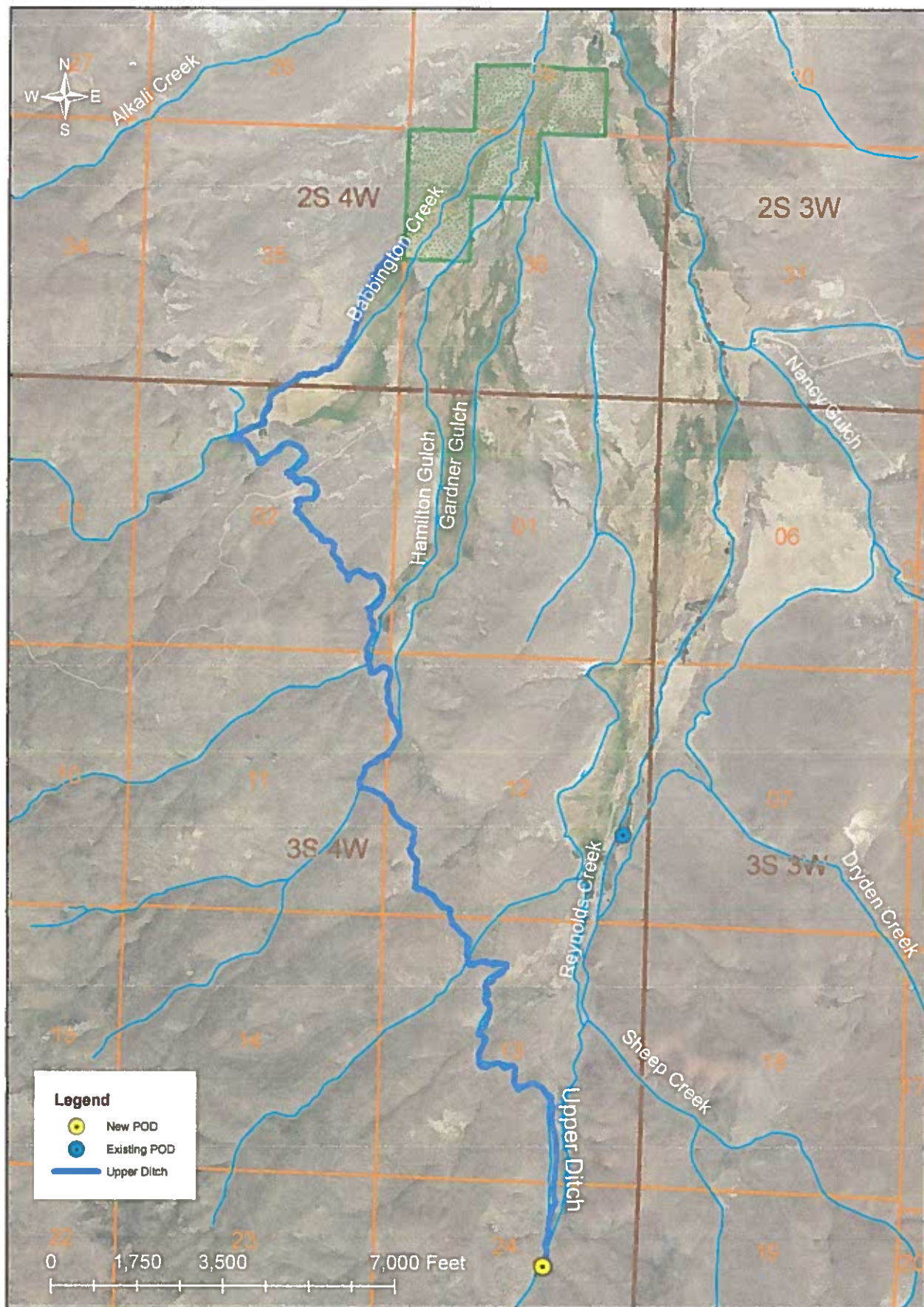
Based on 2013 NAIP Photography

Prepared for Seven High Ranch Inc by ERO 8-2016

81188

Attachments pg 1- Map

Seven High Ranch Inc Application for Transfer



Based on 2013 NAIP Photography

Prepared for Seven High Ranch Inc by ERO 8-2016

Close

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report

8/29/2016

WATER RIGHT NO. 57-253

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	SEVEN HIGH RANCH INC C/O JERRY L HOAGLAND 13528 REYNOLDS CREEK RD WILSON, ID 83641 (208)495-2810
Directors Report Owner	BRUCE REUCK
Directors Report Owner	TERRY L REUCK 1077 DESERT GLEN RD ADRIAN, OR 97901-5307 (541)339-3019
Original Owner	AVONA P RUSSI
Original Owner	RALPH RUSSI RT 3 BOX 337 CALDWELL, ID 83605 (208)454-0623

Priority Date: 06/01/1911

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
REYNOLDS CREEK	SNAKE RIVER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	3/15	11/15	0.18 CFS	
Total Diversion			0.18 CFS	

81188

Attachment Pg3 - Profit Report

Location of Point(s) of Diversion:

REYNOLDS CREEK|NESE|Sec. 12|Township 03S|Range 04W|OWYHEE County

Place(s) of use:

Place of Use Legal Description: IRRIGATION OWYHEE County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
02S	04W	25		SESW	8									
				SWSE	3									
		36		NENW	12		NWNW	1		SWNW	11			

Total Acres: 35

Conditions of Approval:

- USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL
1. COMBINED DIVERSION RATE OF 3.78 CFS. COMBINED RIGHT NOS.: 57-00261, 57-01067, 57-02187, 57-00268, 57-01065, 57-02170 & 57-01064.
DIVERTING WATER BEFORE OR AFTER THE PERIOD OF USE UNDER THIS RIGHT IS ALLOWED PROVIDED: A. THE WATERS SO DIVERTED ARE APPLIED TO A
 2. BENEFICIAL USE, AND B. THE EXISTING RIGHTS AND FUTURE APPROPRIATIONS ARE FIRST SATISFIED.
USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 189 ACRES IN A SINGLE IRRIGATION
 3. SEASON. COMBINED RIGHT NOS.: 57-00261, 57-01067, 57-02187, 57-00268, 57-01065, 57-02170 & 57-01064. USE OF THIS RIGHT WITH RIGHTS 57-00268 & 57-01065 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 35 ACRES IS A SINGE IRRIGATION SEASON.
 4. THE FOLLOWING RIGHTS ARE ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE: 57-00268, 57-01064 & 57-01065

Dates:

Licensed Date:

Decreed Date: 12/23/2002

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: AND
Water District Number: 57R
Generic Max Rate per Acre:
Generic Max Volume per Acre:
Combined Acres Limit: 189
Combined Volume Limit:
Combined Rate Limit: 3.78
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

Close

Close

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report

8/29/2016

WATER RIGHT NO. 57-268

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	SEVEN HIGH RANCH INC C/O JERRY L HOAGLAND 13528 REYNOLDS CREEK RD WILSON, ID 83641 (208)495-2810
Directors Report Owner	BRUCE REUCK
Directors Report Owner	TERRY L REUCK 1077 DESERT GLEN RD ADRIAN, OR 97901-5307 (541)339-3019
Original Owner	AVONA P RUSSI
Original Owner	RALPH RUSSI RT 3 BOX 337 CALDWELL, ID 83605 (208)454-0623

Priority Date: 06/01/1883

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
REYNOLDS CREEK	SNAKE RIVER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	3/15	11/15	0.36 CFS	
Total Diversion			0.36 CFS	

81188

Attachments pg 5 - Proof Report

Location of Point(s) of Diversion:

REYNOLDS CREEK|NESE|Sec. 12|Township 03S|Range 04W|OWYHEE County

Place(s) of use:

Place of Use Legal Description: IRRIGATION OWYHEE County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
02S	04W	25		SESW	8									
				SWSE	3									
		36		NENW	12		NWNW	1		SWNW	11			

Total Acres: 35

Conditions of Approval:

1. USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 3.78 CFS. COMBINED RIGHT NOS.: 57-00261, 57-01067, 57-02187, 57-00253, 57-01065, 57-02170 & 57-01064.
DIVERTING WATER BEFORE OR AFTER THE PERIOD OF USE UNDER THIS RIGHT IS ALLOWED PROVIDED: A. THE WATERS SO DIVERTED ARE APPLIED TO A BENEFICIAL USE, AND B. THE EXISTING RIGHTS AND FUTURE APPROPRIATIONS ARE FIRST SATISFIED.
2. USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 189 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 57-00261, 57-01067, 57-00253, 57-01065, 57-02170, 57-02187 & 57-01064. USE OF THIS RIGHT WITH RIGHTS 57-00253 AND 57-01065 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 35 ACRES IN A SINGLE IRRIGATION SEASON.
3. THE FOLLOWING RIGHTS ARE ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE: 57-00253, 57-01064 & 57-01065

Dates:

Licensed Date:

Decreed Date: 12/23/2002

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: AND
Water District Number: 57R
Generic Max Rate per Acre:
Generic Max Volume per Acre:
Combined Acres Limit: 189
Combined Volume Limit:
Combined Rate Limit: 3.78
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

Close

Close

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report

8/29/2016

WATER RIGHT NO. 57-1064

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	SEVEN HIGH RANCH INC C/O JERRY L HOAGLAND 13528 REYNOLDS CREEK RD WILSON, ID 83641 (208)495-2810
Directors Report Owner	BRUCE REUCK
Directors Report Owner	TERRY L REUCK 1077 DESERT GLEN RD ADRIAN, OR 97901-5307 (541)339-3019
Original Owner	AVONA P RUSSI
Original Owner	RALPH RUSSI RT 3 BOX 337 CALDWELL, ID 83605 (208)454-0623

Priority Date: 09/21/1911

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
REYNOLDS CREEK	SNAKE RIVER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	3/15	11/15	0.8 CFS	
Total Diversion			0.8 CFS	

81188 Attachments pg 7 - Proof Report

Location of Point(s) of Diversion:

REYNOLDS CREEK|NESE|Sec. 12|Township 03S|Range 04W|OWYHEE County

Place(s) of use:

Place of Use Legal Description: IRRIGATION OWYHEE County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
02S	04W	25		SWSE	30									
		36		NENW	2		NWNW	6		SWNW	2			

Total Acres: 40

Conditions of Approval:

1. USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 3.78 CFS. COMBINED RIGHT NOS.: 57-00261, 57-01067, 57-02187, 57-00253, 57-00268, 57-01065 & 57-02170.
DIVERTING WATER BEFORE OR AFTER THE PERIOD OF USE UNDER THIS RIGHT IS ALLOWED PROVIDED: A. THE WATERS SO DIVERTED ARE APPLIED TO A BENEFICIAL USE, AND B. THE EXISTING RIGHTS AND FUTURE APPROPRIATIONS ARE FIRST SATISFIED.
2. USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 189 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 57-00261, 57-01067, 57-02187, 57-00253, 57-00268, 57-01065, 57-02170.
3. THE FOLLOWING RIGHTS ARE ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE: 57-00253, 57-00268 & 57-01065

Dates:

Licensed Date:

Decreed Date: 12/23/2002

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: AND

Water District Number: 57R

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Combined Acres Limit: 189

Combined Volume Limit:

Combined Rate Limit: 3.78

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

Close

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report

8/29/2016

WATER RIGHT NO. 57-1065

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	SEVEN HIGH RANCH INC C/O JERRY L HOAGLAND 13528 REYNOLDS CREEK RD WILSON, ID 83641 (208)495-2810
Directors Report Owner	BRUCE REUCK
Directors Report Owner	TERRY L REUCK 1077 DESERT GLEN RD ADRIAN, OR 97901-5307 (541)339-3019
Original Owner	AVONA P RUSSI
Original Owner	RALPH RUSSI RT 3 BOX 337 CALDWELL, ID 83605 (208)454-0623

Priority Date: 09/21/1911

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
REYNOLDS CREEK	SNAKE RIVER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	3/15	11/15	0.16 CFS	
Total Diversion			0.16 CFS	

81188 Attachments pg 9- Print Report

Location of Point(s) of Diversion:

REYNOLDS CREEK|NESE|Sec. 12|Township 03S|Range 04W|OWYHEE County

Place(s) of use:

Place of Use Legal Description: IRRIGATION OWYHEE County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
02S	04W	25		SESW	8									
				SWSE	3									
		36		NENW	12		NWNW	1		SWNW	11			

Total Acres: 35

Conditions of Approval:

- USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL
1. COMBINED DIVERSION RATE OF 3.78 CFS. COMBINED RIGHT NOS.: 57-00261, 57-01067, 57-02187, 57-00253, 57-00268, 57-02170 & 57-01064.
DIVERTING WATER BEFORE OR AFTER THE PERIOD OF USE UNDER THIS RIGHT IS ALLOWED PROVIDED: A. THE WATERS SO DIVERTED ARE APPLIED TO A
 2. BENEFICIAL USE, AND B. THE EXISTING RIGHTS AND FUTURE APPROPRIATIONS ARE FIRST SATISFIED.
USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 189 ACRES IN A SINGLE IRRIGATION
 3. SEASON. COMBINED RIGHT NOS.: 57-00261, 57-01067, 57-00253, 57-00268, 57-02187, 57-02170, 57-01064. USE OF THIS RIGHT WITH RIGHTS 57-00253 & 57-00268 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 35 ACRES IN A SINGLE IRRIGATION SEASON.
 4. THE FOLLOWING RIGHTS ARE ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE: 57-00253, 57-00268 & 57-01064

Dates:

Licensed Date:

Decreed Date: 12/23/2002

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: AND
Water District Number: 57R
Generic Max Rate per Acre:
Generic Max Volume per Acre:
Combined Acres Limit: 189
Combined Volume Limit:
Combined Rate Limit: 3.78
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

Close

No. C 46823	Due no later than Feb 29, 2016 Annual Report Form		2. Registered Agent and Address (NO PO BOX)			
Return to: SECRETARY OF STATE 700 WEST JEFFERSON PO BOX 83720 BOISE, ID 83720-0080 NO FILING FEE IF RECEIVED BY DUE DATE	1. Mailing Address: Correct in this box if needed. SEVEN HIGH RANCH, INC. JERRY L HOAGLAND 13528 REYNOLDS CREEK RD WILSON ID 83641-4173		JERRY L HOAGLAND 13528 REYNOLDS CREEK RD WILSON ID 83641-4173			
			3. <u>New</u> Registered Agent Signature:*			
4. Corporations: Enter Names and Business Addresses of President, Secretary, and Directors. Treasurer (optional).						
Office Held	Name	Street or PO Address	City	State	Country	Postal Code
DIRECTOR	RHONDA M HUFF	13201 BOULDER PASTURE LN.	GUFFY	ID	USA	83641
SECRETARY	MARJORIE J HOAGLAND	13528 REYNOLDS CREEK RD.	WILSON	ID	USA	83641-4173
PRESIDENT	JERRY L HOAGLAND	13528 REYNOLDS CREEK RD.	WILSON	ID	USA	83641-4173
5. Organized Under the Laws of: ID C 46823		6. Annual Report must be signed.* Signature: Jerry L. Hoagland Name (type or print): Jerry L. Hoagland Date: 12/22/2015 Title: President				
Processed 12/22/2015		* Electronically provided signatures are accepted as original signatures.				

81188

Attachments pg 11 - Authorized Signatar

1/9/2017



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

August 10, 2017

SEVEN HIGH RANCH INC
C/O JERRY L HOAGLAND
13528 REYNOLDS CREEK RD
WILSON ID 83641

Re: Transfer No: 81188
Water Right No(s): 57-253, 57-268, 57-1064, 57-1065
Transfer Approval Notice

Dear Water Right Holder and other Interested Persons:

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) 334-2190.

Sincerely,

Handwritten signature of Rachel Neely in black ink.

Nick Miller
Regional Manager

Enclosure

CC:

ERO RESOURCES CORP
C/O DAVID SHAW
4001 E MAIN ST
EMMETT ID 83617

CONNIE M. BRANDAU
WATERMASTER OF DISTRICT 57R
9902 WILSON CEMETERY LN
WILSON ID 83641

CERTIFICATE OF SERVICE

I hereby certify that on August 10, 2017 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.: 81188
Water Right No(s): 57-253, 57-268, 57-1064, 57-1065

SEVEN HIGH RANCH INC
C/O JERRY L HOAGLAND
13528 REYNOLDS CREEK RD
WILSON ID 83641

ERO RESOURCES CORP
C/O DAVID SHAW
4001 E MAIN ST
EMMETT ID 83617

CONNIE M. BRANDAU
9902 WILSON CEMETERY LN
WILSON ID 83641



Rachel Neely
Administrative Assistant

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.

MEMORANDUM

TO: Transfer No. 81188

FROM: Phill Hummer

DATE: 08/09/17

RE: Evaluation of Application

The transfer proposes to add a point of diversion to water right nos. 57-253, 57-268, 57-1064, and 57-1065. The diversion is an existing ditch known locally as "High Ditch." It currently serves some of the applicants other water rights and is regulated by the watermaster of water district 57R. The new point of diversion is about 45 kilometers south of Marsing Idaho along Reynolds Creek near the junction of Reynolds Creek and Wood Road Gulch. The place of use about 36 kilometers south of Marsing Idaho near where Figure Four Creek drains into Babbington Creek.

The representative for the applicant is David Shaw with ERO Resource Group. He is authorized to submit information on behalf of the applicant but is not authorized to sign any documents.

Summary of Information Submitted

Authority to File:

The application is signed by Jerry Hoagland. The Idaho Secretary of State website shows he is the president of Seven High Ranch INC and is authorized to sign and submit documents on behalf of the company.

Enlargement of Use

The application proposes to add a point of diversion, this will not change the amount of water diverted annually. The application does not propose a change that will create an enlargement of use.

Water Right Validity:

Right presumed to be valid because the partial decree was issued within the past five year period.

Forfeiture:

The partial decrees for water right nos. 57-253, 57-268, 57-1064, and 57-1065 were issued on 12/23/02. Aerial imagery and Landsat images shows full beneficial use on most of the property except in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of section 25, township 02S, range 04W. Water rights no. 57-1065, 57-253, and 57-268 combined are limited to the irrigation of 35 acres, each right authorizes 3.0 acres within the SW $\frac{1}{4}$ SE $\frac{1}{4}$. Water right no. 57-1064 is not part of the 35 acre limit and authorizes 30 acres within the SW $\frac{1}{4}$ SE $\frac{1}{4}$. My analyses of the Landsat images showing the place of use indicate that in last 5 years only about 7 acres in the QQ have being irrigated. It is my opinion the water right no. 57-1064 should be reduced by 23 acres due to the portion lost by non-use. I notified the applicant via letter on 01/10/17 that the transfer could be approved but right no. 57-1064 is at risk of being reduced due to forfeiture. The applicant submitted their forfeiture defense via email on 02/09/17.

In the letter they argue that precipitation and streamflow have been less than average in the last 5 years (precipitation has been less than the 30 year average only two of the last five years while streamflow has been consistently less than the 30 year average. The predicted May-July streamflow is 64% of the 30 year average) causing fluctuating water levels in Reynolds Creek which is beyond their control. They indicated that portion of the place of use is lower priority and they have planted crested wheatgrass as a water conservation practice because it can compete with white top and produce when they are short of water. They have submitted images from Google Earth that show the place of use has been irrigated. Attachment 4 shows the SW¼SE¼ on 04/11/14. According to the applicant this aerial imagery was taken a few days before the irrigation water would have reached the edges of the field. The applicant argues that these images show they have made the fullest possible beneficial use of these water rights despite circumstances beyond their control (low water levels) and their use of crested wheatgrass as a conservation species protects these water rights from forfeiture.

Since findings of forfeiture are not favored and the applicant has submitted some evidence in defense of forfeiture the application for transfer should be approved without any reduction to the authorized acres. It should be noted that the watermaster of water district 57R (Reynolds Creek) does not object to the proposed transfer.

Local Public Interest:

The text condition allowing the use of water outside the irrigation season should be removed, see “conditions” section below for more details.

Injury to Water Users:

It is my understanding the point of diversion is currently in use and this transfer will change the records to match the actual use. No change to the source will occur if the application is approved.

Beneficial Use/Conservation of Water Resources:

The text condition allowing the use of water outside the irrigation season should be removed, see “conditions” section below for more details.

The application is consistent with criteria of I. C. § 42-222 and should be processed.

Summary

Pursuant to Section 42-222, Idaho Code, the Department has discretion to provide public notice as deemed appropriate. The water right changes proposed through this transfer application do not appear to change the effect on the original or hydraulically connected water source or affect other water rights. Therefore, staff review of the transfer application found no cause to require public notice. This application will continue processing without advertisement and be forwarded for approval consideration.

Watermaster comments were received on 01/31/17, Connie Brandau does not oppose approval of this transfer application.

Data entry affected the correct records: water right no. 57-253 rightid 421286, water right no. 57-268 rightid 421302, water right no. 57-1064 rightid 421320, and water right no. 57-1065 rightid 421321.

Water Right Overlap

There are several water rights with a point of diversion in the same QQ as the proposed new point of diversion. Water right nos. 57-1063, 57-1067, 57-11560, and 57-261 are all owned by the applicant and may also be diverted from the proposed point of diversion. Water right nos. 57-1066, 57-11559, 57-254B, 57-255B, and 57-256 are owned by Jerry Hoagland who is the president of Seven High Ranch Inc.

Water Bank

None of the water rights are leased to the water supply bank.

Conditions

If approved the following changes should be made to the conditions of the water rights.

- Replace the text conditions with two X35 for the two combined limits.
- Add R43 and R05 per measuring device flow chart.
- Add R63 to limit the rate and volume.
- Add the standard transfer conditions T07 and T08.
- The text condition regarding use out of season needs to remain since it was on the decree.
- Add T19, even though C18 is not on any of the rights it was on the partial decree for each.

On 12/15/97 partial decrees for water right nos. 57-253, 57-268, 57-1064, and 57-1065 were issued, these partial decrees did not have specific seasons of use but instead had the season of use described as the "irrigation season". Then *A&B Irrigation District v Idaho Conservation League*, 131 Idaho 411, 423 P.2d 568, 580 (1998) concluded water rights should include specific dates for seasons of use. Following the ruling IDWR filed a *Supplemental Director's Report, Reporting Area 2, IDWR Basin 57, Regarding Revision of Period of Use (For Irrigation Water Uses) and Conjunctive Management General Provisions* that contained a recommended season of use and a condition to be used on rights to allow the use of "excess water". On 10/28/02 Special Master's Reports were filed that recommended the season of use from the *Supplemental Director's Report* and found that the use of the condition allowing the use of "excess water" water is no longer necessary. The Amended Partial Decree attached to the Special Master's Report did not have this condition and the season of use is 3/15 to 11/15. However, on 12/23/02 amended partial decrees were filed that still contained this condition. Since the Special Master's Report recommends this condition be removed as the use of "excess water" is no longer department policy it is likely the amended partial decrees issued on 12/23/02 that still contain that condition were done in error. Whether it was an error or not, the department can remove the condition as part of the transfer approval process because this does not enlarge the right. This condition should be removed from these water rights to make these rights consistent with the others from the same source that had the condition removed by the SRBA and to promote conservation of water resources by limiting diversion to the standard irrigation season when plants can use the water.

Assuming other information does not contradict the above analysis, the application can be approved as reflected by the draft approval.

Seven High Ranch, Inc.
Jerry L. Hoagland, President
13528 Reynolds Creek Road
Wilson, Idaho 83641-4173

RECEIVED
FEB 09 2017
WATER RESOURCES
WESTERN REGION

February 6, 2017

Phill Hummer, Water Resource Agent
Idaho Department of Water Resources, Western Region
2735 Airport Way
Boise, Idaho 83705-5082
Telephone: 208-334-2190
Email: phill.hummer@idwr.idaho.gov

Re: Application for Transfer of Water Rights Nos. 57-253, 57-268, 57-1064, and 57-1065, dated August 22, 2016

Dear Mr. Hummer,

We are in receipt of your letter dated January 10, 2017, regarding the above-noted application. In your January 10th letter, you speak that the “application for transfer is likely approvable as it is now”, but you also speak of a portion of Water Right No. 57-1064 being at risk of forfeiture for nonuse over the last 5 years. To that end, you state that an “initial review within the place of use shows that much less than 30 acres with the SW¼SE¼ of section 25, township 02S, range 04W has been irrigated within the last 5 years.” In an e-mail, you further opine that “evaluation of aerial imagery and satellite imagery shows only about 7 or 8 acres have been irrigates since 2011.”

We understand that we are obligated to respond to your January 10th letter on or before February 9, 2017. We submit our response.

Summary:

We disagree that IDWR has clear and convincing evidence that “*much* less” than 30 acres has been irrigated over the consecutive five-year statutory period under Idaho Code § 42-422(2). We have generally made the fullest possible beneficial use of the applicable water right, but fluctuating water levels over time present a circumstance that is beyond our control. Moreover, some of our work at reseeding crested wheatgrass could constitute a statutorily protected conservation method. If any of our water right has been forfeited at all, the amount of non-use is minimal.

Factual Background:

The basic location and layout of the 30 irrigated acres in question is shown on maps in Attachment # 1. Attachment #1 shows the *upper area* that we refer to as “the bench” as being 22.2 acres, and Attachment #1 also shows the *lower area* that comprises 7.5 acres; *totally 29.7 acres*. [Note that these acreages do not include a house and buildings and driveways which are close to 1 acre]. In addition, this aerial photograph shows that there are ditches still in place and the field is still being managed as agricultural land. We also have irrigation season photography between 2011 and 2015, which shows substantial irrigation and the field area. See Attachment No. 2 (8/3/2011), No. 3 (8/29/2013), No. 4 (4/11/2014), and No. 5 (6/13/2015).

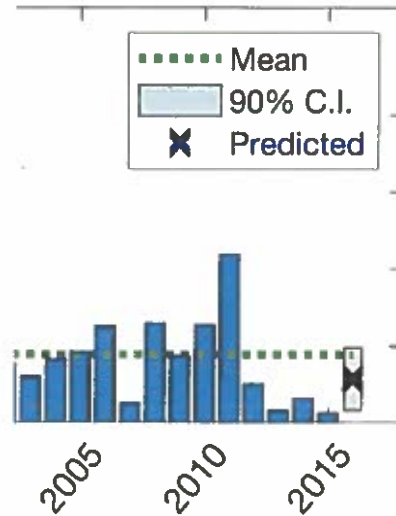
There is a ditch which connects to the upper area on the bench. The ditch starts out at the diversion point in T3S R4W S12 SESE. It then travels as a community ditch to a divide in T3S R4W S1 NWSE. From that point, it flows down what is called Figure 4 Creek to T2S R4W S36 NESE where it can be diverted to a ditch to the bench or continue on to the top of the field in T2S R4W S36 NENW to irrigate the lower area on the east side of Figure 4 Creek and Babbington Creek -- all the way to the northern property boundary on SWSE of Section 25. There is another point we collect water from the upper area to supplement the water in question where the point of diversion is for the waste as per Water Right No. 57-2170. The .8 cfs is not very much water to travel the distance from the creek diversion point.

Historically speaking, we sometimes collect a small amount of waste water from the neighboring properties that drains into Figure 4 Creek; however, this waste water occurs briefly, usually only about one week in dry years.

Precipitation levels have fluctuated for the last five years, and for a number of years were lower than average. The 30 year normal precipitation at our location is 10.07 inches based on PRISM data from Oregon State University. According to this same PRISM data, the annual precipitation for the last five years is as follows:

- 2011: 11.01
- 2012: 9.8
- 2013: 7.54
- 2014: 12.99
- 2015: 10.48

Similarly, runoff levels have been significantly below average. According to the Tollgate Watershed Outlook provided by the USDA’s Northwest Watershed Research Center, runoff levels (indicated in blue) since 2010 have been well below mean levels for the last 30 years, as excerpted below:



See also Attachment #6 (fuller description of streamflow data).

Finally, one important detail to note is our use of crested wheatgrass seeding relative to our water use. Most of that ground in SWSE of T2S R4W S25 is what we informally refer to as “the bench.” The bench has some good soil in the center but shallower soils around the edges. See Attachment #1. We planted crested wheat grass in about 1998 in order to control the dominant white top and to use it as productive sacrifice ground when we are short of water. The lower northwest ground is irrigated pasture and has been irrigated every year since we purchased the property in 1995. Since 2011, we have made marginally successful attempts to irrigate after the rest of the better ground is wet. This last year, 2016, we irrigated more than 85% of the bench. Unfortunately, the photographic evidence of this last summer on Google Earth does not cover the field to show the irrigation last year; this photographic evidence would have shown that dry conditions existed but that the planted crested wheat grass yielded fairly well. [As a side note, our spray treatment this last two years are working on the white top].

Discussion:

Per the Idaho Code, there is a consecutive five-year statutory term for the forfeiture of a water right:

All rights to the use of water acquired under this chapter or otherwise shall be lost and forfeited by a failure for the term of five (5) years to apply it to the beneficial use for which it was appropriated and when any right to the use of water shall be lost through nonuse or forfeiture such rights to such water shall revert to the state and be again subject to appropriation under this chapter; except that any right to the use of water shall not be lost through forfeiture by the failure to apply the water to beneficial use under certain circumstances as specified in section 42-223, Idaho Code.

Idaho Code § 42-222(2). Idaho Code § 42-223 lists defenses to forfeiture, one of which provides that:

No portion of any water right shall be lost or forfeited for nonuse if the nonuse results from a water conservation practice, which maintains the full beneficial use authorized by the water right, as defined in section 42-250, Idaho Code.

Idaho Code § 42-223(9).¹ See also Idaho Code § 42-223(6) (“No portion of any water right shall be lost or forfeited for nonuse if the nonuse results from circumstances over which the water right owner has no control. Whether the water right owner has control over nonuse of water shall be determined on a case-by-case basis.”).

Common law defenses apply to claims of forfeiture as well. The Idaho Supreme Court states that as a general matter, “[t]his Court has held, however, that abandonments and forfeitures are not favored.” *Sagewillow, Inc. v. Idaho Dept. of Water Resources*, 70 P.3d 669, 674 (2003) (citing *Zezi v. Lightfoot*, 68 P.2d 50 (1937)). This disinclination to find that rights are forfeited gave rise to resumption of use doctrine, which holds that “although statutory abandonment did actually occur, the forfeiture is not effective if, after the five-year period, the original owner or appropriator resumed the use of the water prior to the claim of right by a third party.” *Id.* (quoting *Carrington v. Crandall*, 531-32, 147 P.2d 1009, 1011 (1944)). More basically, Idaho recognizes that “failure to use the water because of circumstances over which the water right holder has no control have been recognized as [a] defense[].” *Jenkins v. Idaho Department of Water Resources*, 647 P.2d 1256, 1261 (1982); see also Idaho Code § 42-223(6). Finally, water rights may be forfeited in whole or only in part depending (on the degree to which beneficial use is made. *State v. Hagerman Water Right Owners, Inc.*, 947 P.2d 400, 403 (1997). In terms of burden of proof, “[t]he party asserting that a water right has been forfeited by nonuse for a period of five years has the burden of proving the forfeiture by clear and convincing evidence.” *Sagewillow*, 70 P.3d at 680 (citing *Carrington v. Crandall*, 147 P.2d 1009 (1944) *et al.*); see also *McCray v. Rosenkrance*, 20 P.3d 693 (2001).

Here, IDWR has not shown by clear and convincing evidence that our beneficial use of the water has been applied to “much less” than 30 acres, let alone an area as low as only 7 or 8 acres. To begin with, the April 11, 2014 photograph (Attachment #4) shows substantial irrigation throughout the entire acreage in question; to the extent that not quite all the field is covered in this one snapshot, this photograph was taken on a day when the irrigation water had not made it to all the edges of the field, but would have occurred a few days later. Moreover, the photographs from 2011 to 2015 (Attachment Nos. 2, 3, 4, 5) demonstrate that even when the land is outside of irrigation system, there are still ditches in place and the field is still being managed and has not reverted to native vegetation.

¹ Idaho Code § 42-250 states:

For purposes of this section, “water conservation practice” means any practice, improvement, project or management program, that results in the diversion of less than the authorized quantity of water while maintaining the full beneficial use(s) authorized by the water right. Water conservation practices include, but are not limited to, practices that result in reductions in consumptive use as defined in section 42-202B, Idaho Code, reductions in conveyance losses, and reductions in surface and seepage losses occurring at the place of use.

This photographic evidence alone is sufficient to rebut any claim of forfeiture within the statutory 5-year period, which courts generally disfavor as a rule. No forfeiture has occurred during this time. But even if it may be true that less than full beneficial use was made during this time period, this was due to circumstances beyond our control. As described above, the precipitation *and* runoff levels for the last 5-year period were notably lower than average. See Attachment #6. We therefore made as much beneficial use as we could have of what water was available. Finally, our use of crested wheatgrass plantings as a means of surviving lean water years constitutes a "water conservation practice," which is protected from forfeiture by statute.

In short, we have done our best to make full beneficial use of whatever water resources were available to us in an effort to be proper stewards of the resources we manage.

If you have any questions, please call or write. Otherwise, please approve our Transfer Application, as submitted.

Very truly yours,

Seven High Ranch, Inc.

By 
Jerry L. Hoagland, President

Attachments

cc: David Shaw
ERO Resource Group
4001 East Main Street
Emmett, Idaho 83617

Attachment #1 – Acres Platted on Aerial Photograph

SWSE S25 Twp2S Rge 4W



Based on 2015 NAIP Photography

Prepared by ERO 2-2017

Attachment #2 – Aerial Photograph of T2S R4W S25 SWSE (August 3, 2011)



Attachment #3 – Aerial Photograph of T2S R4W S25 SWSE (August 29, 2013)



Attachment #4 – Aerial Photograph of T2S R4W S25 SWSE (April 11, 2014)

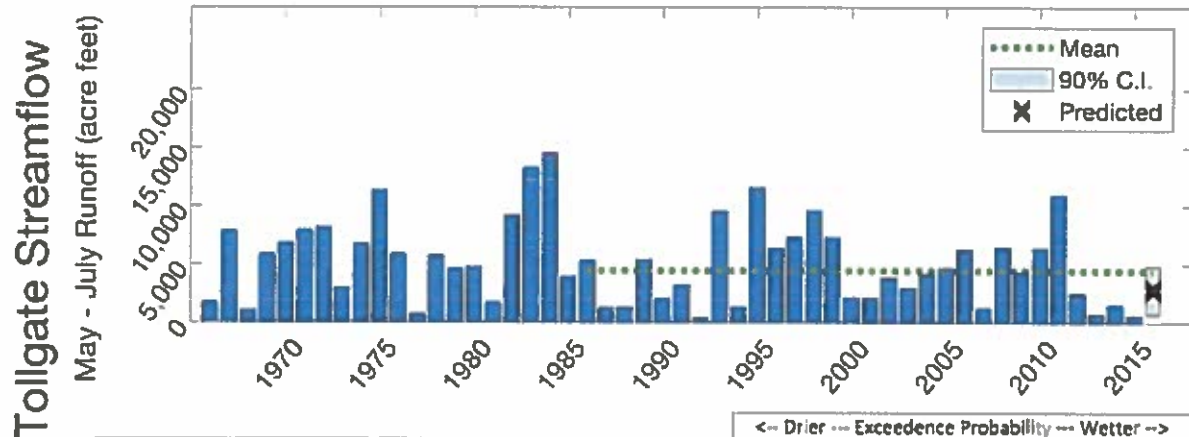
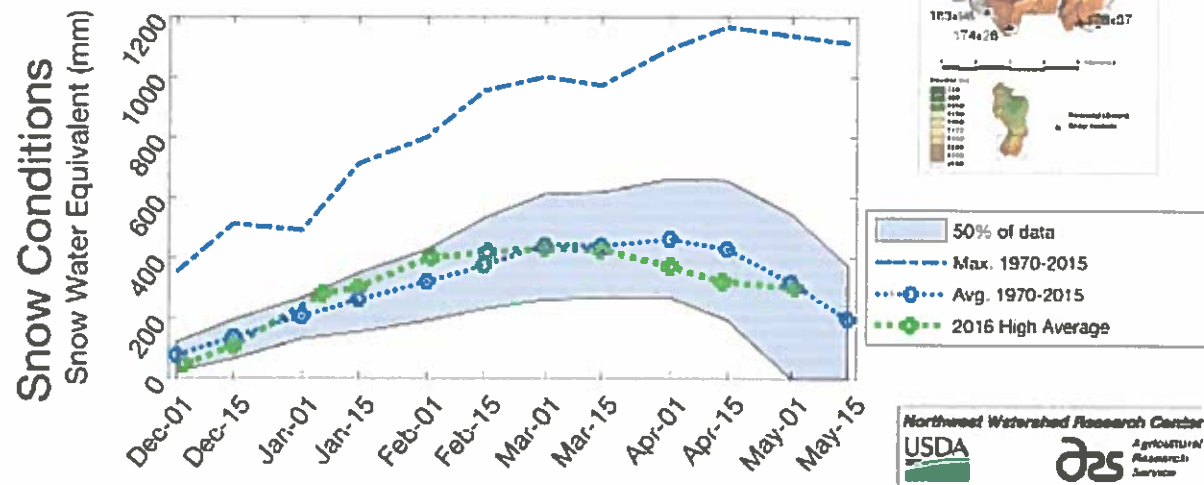


Attachment #5 – Aerial Photograph of T2S R4W S25 SWSE (June 13, 2015)



Attachment #6 – Tollgate Watershed Outlook (May 1, 2016)

Tollgate Watershed Outlook May 01, 2016



Forecast Point	Forecast Period	Predicted (acre-feet)	30 year average (acre-feet)	Percent of Average	<-- Drier -- Exceedence Probability -- Wetter -->				
					90% (acre-feet)	70% (acre-feet)	50% (acre-feet)	30% (acre-feet)	10% (acre-feet)
Tollgate	May - July	2,833	4,433	64%	768	1,996	4,433	3,671	4,899

This is the Tollgate Streamflow Outlook Report for May 1, 2016 provided by the ARS Northwest Watershed Research Center. The predicted May-July stream yield is 2,833 acre feet of water, which is only 64% of the 30-year average. There have been declines in SWE at all snow course sites. The two highest elevation sites still have 126% and 94% of the long term averages. Other snow courses are only 35% of the long term averages. The 2 lowest elevation sites have no snow. The best model is retaining 3 principal components that are strong functions of fall streamflow, the low elevation snow courses, and some of the high elevation snow courses. The model is not putting much weight on the 163x020 site, which has the most snow. In addition, the Climate Prediction Center is showing continued above normal air temperatures, but above normal precipitation for the one and three month outlooks. For these reasons, I would expect the slightly more flow than we predict. Thanks to Zane Cram for conducting the snow surveys, and processing some preliminary streamflow data. As always, thanks for your interest. Feel free to send feedback on the report to patrick.kormos@ars.usda.gov or give Patrick a call at (208)-422-0739.

State of Idaho

Department Of Water Resources

RECEIVED

JAN 31 2017

WATER RESOURCES
WESTERN REGION

WATERMASTER RECOMMENDATION FORM

Water District # REYNOLDS CREEK DIST 57R

Application # TRANSFER NO. 81188

Applicant Name SEVEN HILL RANCH INC.

Watermaster Recommendation:

- a) X I do not oppose approval of this application.
- b) _____ I do not oppose approval of this application if it is conditioned as follows:
- c) _____ I oppose approval of this application for the following reasons:
- d) _____ Additional comments:

Dated this 30th day of JANUARY, 2017

Connie M. Brandon

Watermaster Signature

CONNIE M. BRANDON

Printed Name



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

01/11/17

CONNIE BRANDAU
WATERMASTER 57R
9902 WILSON CEMETERY LN
MELBA ID 83641

Re: Application for Transfer of Water Right No(s). 57-253, 57-268, 57-1064, 57-1065

Dear Watermaster:

Attached are copies of one or more applications that may be of interest to you.

Please provide your Watermaster recommendations by 02/11/17.

Please contact this office at 334-2190 if you have any questions regarding the application(s).

Sincerely,

Phill Hummer

Water Resource Agent

Idaho Department of Water Resources

Phone: (208) 334-2190

Email: phill.hummer@idwr.idaho.gov

Enclosure

Copy of Applications(s)
Watermaster Recommendation Form(s)



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

01/10/2017

SEVEN HIGH RANCH INC
C/O JERRY HOAGLAND
13528 REYNOLDS CREEK RD
WILSON ID 83641

Re: Application for Transfer of Water Rights No. 57-253, 57-268, 57-1064, and 57-1065

Dear Applicant:

While reviewing your application it has come to my attention that water right no. 57-1064 is at risk of forfeiture. An initial review within the place of use shows that much less than 30 acres with the SW¹/₄SE¹/₄ of section 25, township 02S, range 04W has been irrigated within the last 5 years. The application for transfer is likely approvable as it is now but the right would be reduced by those acres lost due to nonuse. There are three options available:

1. Withdraw the application for transfer.
2. Submit information demonstrating protection from forfeiture.
3. Proceed with the application for transfer with the understanding this right will be reduced.

Please let me know how you would like to proceed. A response or a request for more time must be received within thirty (30) days. Application processing can be suspended to allow additional time to provide a defense against forfeiture. An extension of up to 6 months can be granted upon request.

Please let me know if need more information. Thank you for your attention to these matters.

Sincerely,

Phill Hummer
Water Resource Agent
Idaho Department of Water Resources
Phone: (208) 334-2190
Email: phill.hummer@idwr.idaho.gov

Cc: David Shaw, ERO Resource Group



RECEIVED
SEP 01 2016
WATER RESOURCES
WESTERN REGION

August 29, 2016

Nick Miller
Western Region Manager
Idaho Department of Water Resources
2725 Airport Way
Boise, ID 83705-5082

RE: Application for Transfer for Seven High Ranch, Inc

Dear Nick:

Attached is a completed Application for Transfer to add the point of diversion at an existing ditch that was omitted during the SRBA. The application seeks to correct the record of these 4 water rights by retaining the existing point of diversion that was included in the decree and adding the omitted point of diversion.

Please let me know if you have any questions or if I can provide you with any additional information. Thank you in advance.

Yours truly,

A handwritten signature in blue ink that reads "Dave".

David Shaw

Enc.

cc: Seven High Ranch
Alan Schroeder

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1842 Clarkson St.
Denver, CO 80218
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