

NOV 08 2013

DEPARTMENT OF
WATER RESOURCES

Page 1

Ident. No. 73-12257

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**AMENDED****APPLICATION FOR PERMIT****AMENDED**

To appropriate the public water of the State of Idaho

1. Name: STANLEY M DOWTON
AND
PATRICIA DOWTON
700 BURSTEDT LN
ELLIS ID 83235
(208)876-4200

2. Source: WASTE WATER Tributary to: SINKS

3. Location of Point of Diversion:

#1 WASTE WATER SW1/4SE1/4 Sec. 31, Twp 16N, Rge 21E, B.M.LEMHI County

#2 WASTE WATER SE1/4NW1/4 Sec. 31, Twp 16N, Rge 21E, B.M.LEMHI County

4. Water will be used for the following purposes:

Purpose	From	To	RATE OF DIVERSION
IRRIGATION	04/01	to 10/31	0.52 CFS

5. Total quantity to be appropriated is: 0.52 CFS

6. Proposed diverting works:

POINT OF DIVERSION #1

- a. Type and size of devices used to divert water from the source: Headgate in ditch for gravity irrigation.

- b. Height of storage dam _____ feet;
Active reservoir capacity _____ acre-feet;
Total reservoir capacity _____ acre-feet;

- c. Proposed well diameter is _____ inches;
Proposed depth of well is _____ feet.

- d. Is ground water with a temperature of greater than 85F being sought?

- e. If well is already drilled, when? _____;
Drilling Firm _____;
Drilling Permit No. _____.

POINT OF DIVERSION #2

- a. Type and size of devices used to divert water from the source: Headgate in ditch for gravity irrigation.

- b. Height of storage dam _____ feet;
Active reservoir capacity _____ acre-feet;
Total reservoir capacity _____ acre-feet;

- c. Proposed well diameter is _____ inches;
Proposed depth of well is _____ feet.

- d. Is ground water with a temperature of greater than 85F being sought?

- e. If well is already drilled, when? _____;
Drilling Firm _____;

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

APPLICATION FOR PERMIT

To appropriate the public water of the State of Idaho

7. Time required for the completion of the works and application of the water to the proposed beneficial use is 1 year(s).

8.

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
16N 21E 31							3.0	12.0	4.0	2.0					5.0		26.0
							L 4			L 1							

Total Acres: 26

9a. Who owns the property at the point of diversion? If other than applicant, describe the arrangement enabling the applicant to make this filing.

APPLICANT

9b. Who owns the land to be irrigated or place of use? If other than applicant, describe the arrangement enabling the applicant to make this filing.

APPLICANT

10. Remarks:

THIS APPLICATION IS FOR WASTEWATER. THE PROPERTY IS AT THE END OF THE CARTER DITCH. WHEN THERE IS ENOUGH EXCESS WATER THESE PARCELS ARE IRRIGATED.

11. Map of proposed point of diversion and place of use attached? ☒ [X]

BE IT KNOWN that the undersigned hereby makes application for permit to appropriate the public waters of the State of Idaho as herein set forth.


Applicant


Applicant

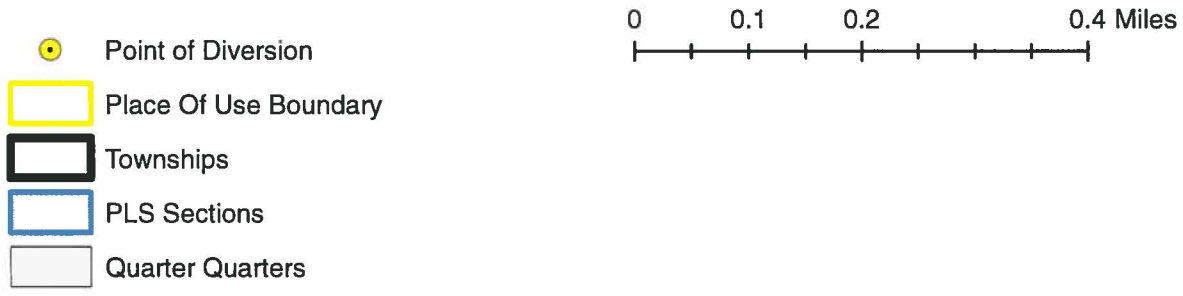
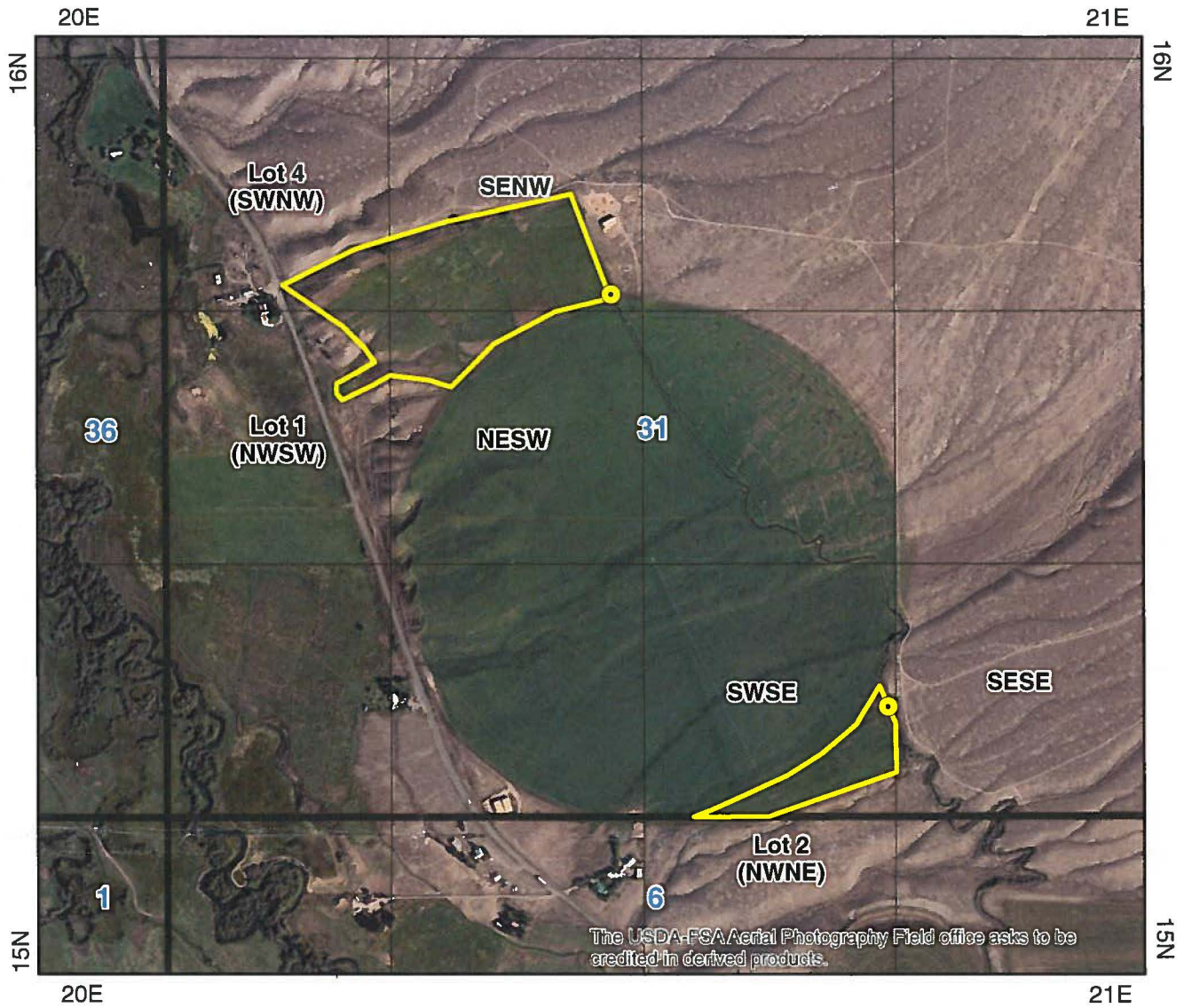
Received by  Date 11-8-16 Time 10:43 Preliminary check by _____
Publication prepared by _____ Date _____ Published in _____
Publication approved _____ Date _____

Receipt No. C102488

Date: 09-14-2016

Received by: jmh

State of Idaho
Department of Water Resources
Application For Permit
73-12257



RECEIVED

AUG 15 2016

RECEIVED

AUG 10 2016

FORM 202 Rev. 07/10

STATE OF IDAHO

DEPARTMENT OF
WATER RESOURCES

Ident. No.

73-12257

Department of Water Resources
Eastern Region

DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

SEP 14 2016

DEPARTMENT OF
WATER RESOURCES

1. Name of applicant(s) Stanley M. Downton Trish A. Downton Phone 208-876-4200
 Name connector (check one): ☐ and ☒ or ☐ and/or
 Mailing address 700 Burstedt Ln. Ellis, ID 83235 Email downton3x@custertel.net
2. Name of representative, if any _____ Phone _____
 Mailing address _____ Email _____
- a. ☐ 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.
- b. ☐ 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.
3. Source of water supply Patterson/Big Spring Creek which is a tributary of Pahsimeroi River
4. Location of point(s) of diversion: (one and the same) - just like it says on the existing right 73-109

Twp	Rge	Sec	Govt Lot	1/4	1/4	1/4	County	Source	Local name or tag #
14N	22E	06		NW	SW		Lemhi		Carter ditch
15N	21E	08		NW	NW		Lemhi		Carter ditch
15N	21E	26		SW	SE		Lemhi		Carter ditch

5. Water will be used for the following purposes:

Amount 0.92 cfs for irrigation purposes from 4-01 to 10-31 (both dates inclusive)
 (cfs or acre-feet per year)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
 (cfs or acre-feet per year)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
 (cfs or acre-feet per year)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
 (cfs or acre-feet per year)

6. Total quantity to be appropriated is (a) 0.92 cubic feet per second (cfs) and/or (b) _____ acre-feet per year (af).

7. Proposed diverting works:

- a. Describe type and size of devices used to divert water from the source. existing diversion structure
- b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet. If the reservoir will be filled more than once each year, describe the refill plan in item 11. For dams 10 feet or more in height AND having a storage capacity of 50 acre-feet or more, submit a separate [Application for Construction or Enlargement of a New or Existing Dam](#). Application required? ☐ Yes ☐ No
- c. Proposed well diameter is _____ inches; proposed depth of well is _____ feet.
- d. Is ground water with a temperature of greater than 85°F being sought? ☐ Yes ☐ No
- e. If well is already drilled, when? _____; drilling firm _____;
 well was drilled for (well owner) _____; Drilling Permit No. _____

For Department Use

Received by gmk Date 9-14-16 Time 10:58 Preliminary check by _____
 Fee \$ 250 Received by gmk Receipt No. C102488 Date 9-14-16

* superceded by Amended Application received 11-08-2016

SCANNED
 5-11-2016

8. Description of proposed uses (if irrigation only, go to item 9):

- Hydropower; show total feet of head and proposed capacity in kW. _____
- Stockwatering; list number and kind of livestock. _____
- Municipal; must complete and attach the [Municipal Water Right Application Checklist](#).
- Domestic; show number of households _____
- Other; describe fully. _____

9. Description of place of use:

- If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- If water is used for other purposes, place a symbol of the use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
16N	21E	31												X					4.72
					X														4.02
																X			11.30
											X								2.18
									X										.74 + .33

Total number of acres to be irrigated: 24

10. Describe any other water rights used for the same purposes as described above. Include water delivered by a municipality, canal company, or irrigation district. If this application is for domestic purposes, do you intend to use this water, water from another source, or both, to irrigate your lawn, garden, and/or landscaping? 73-109 water right for existing pivot on property.

- Who owns the property at the point of diversion? Beartooth Capital - existing access by road right of way.
- Who owns the land to be irrigated or place of use? Stanley M. or Trish A. Downton
- If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: _____

12. Describe your proposal in narrative form, and provide additional explanation for any of the items above. Attach additional pages if necessary. This application is for wastewater. The property is at the end of the carter ditch. When there is enough excess water these parcels are irrigated.

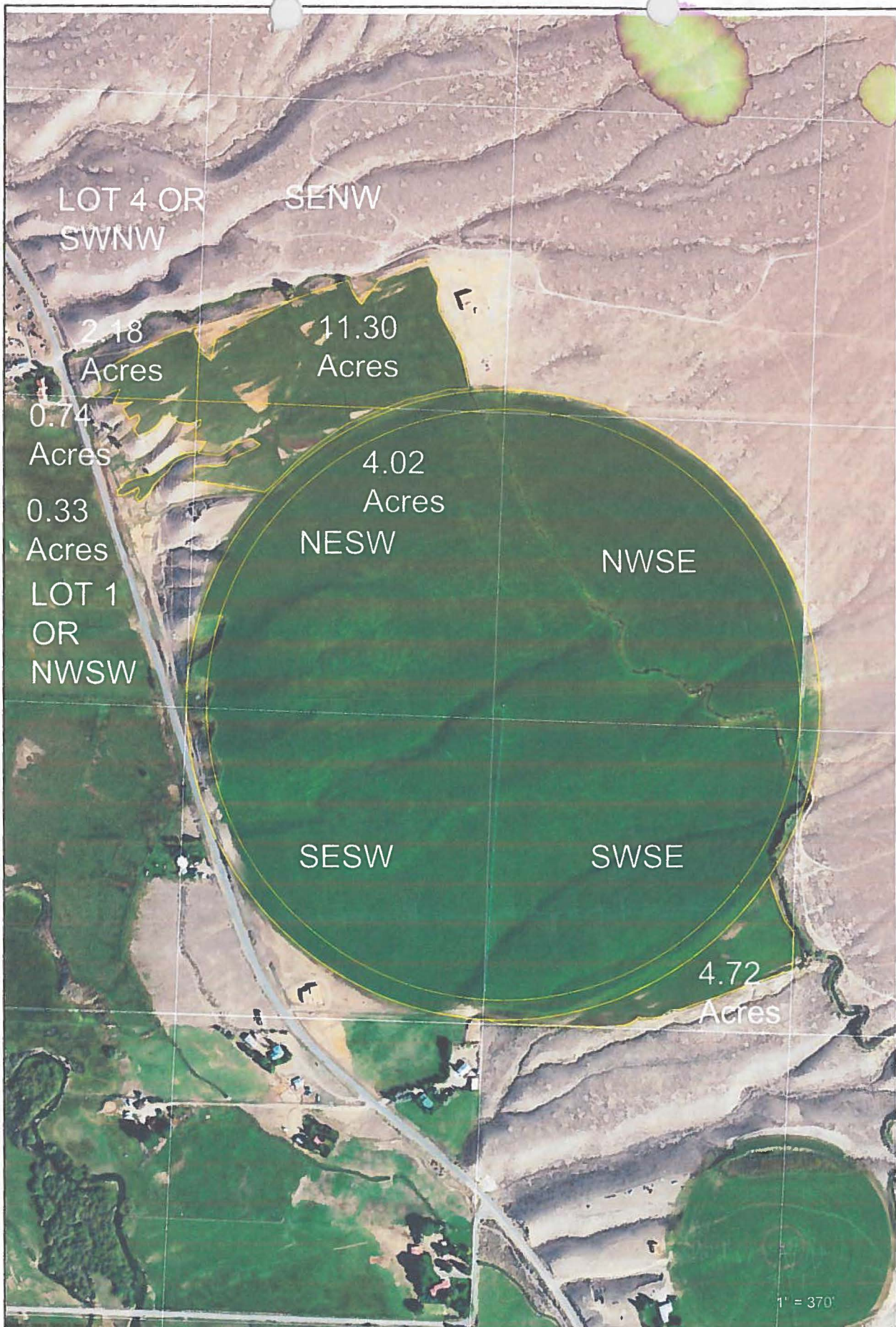
13. Time required for completion of works and application of water to proposed beneficial use is 1 years (minimum 1 year).

14. **MAP OF PROPOSED PROJECT REQUIRED** - Attach an 8½" x 11" map or maps clearly identifying the proposed point of diversion, place of use, section #, township & range. The map scale shall not be less than two (2) inches equal to one (1) mile.

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.

Stanley M. Downton
Signature of Applicant
Stanley M. Downton, owner
Print Name (and title, if applicable)

Trish A. Downton
Signature of Applicant
Trish A. Downton, owner
Print Name (and title, if applicable)



Stan and Trish Dowton
Irrigated Acres by QQ Sections
Sec 31 T16N R21E

Designed	TED	Date	05/31/2016
Drawn	TED	Date	05/31/2016
Checked			
Approved			

SCANNED
2016

73-12257 Dowton

Hersley, Jean

From: Hersley, Jean
Sent: Thursday, November 10, 2016 7:53 AM
To: rhlegals@custertel.net
Subject: Legal Notice 73-12257

A COPY WILL BE FAXED TO YOU ALSO. Thank you. Jean
November 10, 2016

208-756-2222 Page 1

Legal Notice Department

Recorder Herald
PO Box 310
Salmon ID 83467

RE: Legal Ad for your paper

Dear LEGAL NOTICE DEPARTMENT:

Enclosed you will find a legal notice which we wish to have published in your newspaper on the dates indicated (once a week for two consecutive weekly issues). If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office, PO Box 83720, Boise, Idaho, 83720-0098 before December 5, 2016. Your cooperation is appreciated.

Sincerely

Jean Hersley
Technical Records Specialist II
IDWR State Office
322 E Front St
Boise ID 83720
208-287-4942
jean.hersley@idwr.idaho.gov

.....
The following application(s) have been filed to appropriate the public waters of the State of Idaho:

73-12257
STANLEY M DOWTON
PATRICIA DOWTON
700 BURSTEDT LN
ELLIS, ID 83235
Point of Diversion SWSE S31 T16N R21E LEMHI County
Source WASTE WATER Tributary SINKS
Point of Diversion SENW S31 T16N R21E LEMHI County
Source WASTE WATER Tributary SINKS
Use: IRRIGATION
04/01 to 10/31
0.52 CFS
Total Diversion:
0.52 CFS
Date Filed: 9/14/2016
Place Of Use: IRRIGATION
T16N R21E S31 L4(SWNW) SENW NESW L1(NWSW) SWSE
Total Acres: 26

This application proposes the diversion and use of waste water tributary to the Pahsimeroi River a tributary of the Salmon Wild & Scenic River. The decreed minimum stream flow rights for the federal Wild & Scenic Rivers are subordinate to certain categories of water use and to specific amounts of water use established after the minimum stream flow. The water use proposed in this application will benefit from the subordination provision because the diversion rate 0.52 cfs and 26.0 acres will be applied to the subordination amounts specified in the decree for the Wild & Scenic River listed above.

Permits will be subject to all prior water rights. For additional information concerning the property location, contact the State office at (208) 287-4800; or for a full description of the right(s), please see www.idwr.idaho.gov/apps/ExtSearch/WRFiling.asp. Protests may be submitted based on the criteria of Idaho Code § 42-203A. Any protest against the approval of this application must be filed with the Director, Dept. of Water Resources, State Office, 322 E Front St, PO Box 83720, Boise, ID 83720 together with a protest fee of \$25.00 for each application on or before 12/5/2016. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Published on 11/17/2016 and 11/24/2016



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

GARY SPACKMAN
Director

C.L. "BUTCH" OTTER
Governor

November 10, 2016

STANLEY M DOWTON
PATRICIA DOWTON
700 BURSTEDT LN
ELLIS, ID 83235

Application For Permit No. 73-12257

Dear Applicant(s):

The Department of Water Resources has received your water right application. Please refer to the number referenced above in all future correspondence regarding this application.

A legal notice of the application has been prepared and is scheduled for publication in the RECORDER HERALD on 11/17/2016 and 11/24/2016. Protests to this application may be submitted for a period ending ten (10) days after the second publication.

If the application is protested, you will be sent a copy of each protest. All protests must be resolved before the application can be considered for approval. If the protest(s) cannot be resolved voluntarily, the Department will conduct a conference and/or hearing on the matter.

If the application is not protested, the Department will process your application and notify you of any action taken on the application. If your application is approved, the Department will send you a copy of the permit.

Please contact this office if you have any questions regarding the application.

Sincerely,

A handwritten signature in black ink that reads "Jean Hersley". The signature is written in a cursive, flowing style.

Jean Hersley
Technical Records Specialist



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

GARY SPACKMAN
Director

C.L. "BUTCH" OTTER
Governor

November 10, 2016

TED ONEAL
81 FUREY LN
MAY ID 83253

RE: Application for Permit: 73-12257

Dear Watermaster:

The Department of Water Resources is seeking written comment and/or recommendations from you regarding the above referenced water right application for permit. You can find copies of the application at: <http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx>. Please review the application, then complete the enclosed recommendation form and return it to this office within 21 days of the date of this letter.

If the application is approved, IDWR will include appropriate standard conditions of approval for a water right located within a water district, such as regulation by the watermaster, lockable controlling works, and/or measuring devices. Any special conditions or other concerns you have related to this application should be specifically addressed in your recommendation.

IDWR's offices can finish reviewing an unprotested application as soon as the protest period has past. Your prompt response to this request will ensure that your recommendation can be considered. If IDWR has not received your written recommendation within 21 days from the date of this letter, IDWR will presume that you do not oppose approval of the application and that you have no comments for IDWR to consider.

Sincerely,

Jean Hersley
Technical Records Specialist

Enclosure(s)



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

GARY SPACKMAN
Director

C.L. "BUTCH" OTTER
Governor

November 10, 2016

IDAHO DEPARTMENT OF ENVIRONMENTAL QUALITY
900 NORTH SKYLINE SUITE B
IDAHO FALLS ID 83402

RE: Application for Permit No.: 73-12257

Dear Interested Party:

The Department of Water Resources is seeking written comment and/or recommendations from your agency regarding the above referenced water right application for permit. You can find a copy of the application at: <http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx>.

This office can publish notice of the application as soon as the initial review is completed; therefore, your prompt response to this request is appreciated. If your agency desires to formally protest the approval of this application, you may do so after the notice is published by filing a written protest along with a \$25.00 filing fee within 10 days after final publication.

Please contact this office if you have any questions regarding the applications.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jean Hersley', is written over a horizontal line.

Jean Hersley
Technical Records Specialist II

Enclosure(s)



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

GARY SPACKMAN
Director

C.L. "BUTCH" OTTER
Governor

November 10, 2016

IDAHO DEPARTMENT OF FISH & GAME
ATTN: TOM BASSISTA
4279 COMMERCE WAY
IDAHO FALLS ID 83401

RE: Applications for Permit No. 73-12257

Dear Interested Party:

The Department of Water Resources is seeking written comment and/or recommendations from your agency regarding the above referenced water right application for permit. You can find a copy of the application at: <http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx>.

This office can publish notice of the application as soon as the initial review is completed; therefore, your prompt response to this request is appreciated. If your agency desires to formally protest the approval of this application, you may do so after the notice is published by filing a written protest along with a \$25.00 filing fee within 10 days after final publication.

Please contact this office if you have any questions regarding the application.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jean Hersley', is written over a horizontal line.

Jean Hersley
Technical Records Specialist II

Enclosure(s)

c: Dept of Fish & Game- Salmon office

Hersley, Jean

From: Hersley, Jean
Sent: Thursday, November 10, 2016 7:53 AM
To: Yenter, Cindy
Subject: Watermaster comments Application for Permit 73-12257
Attachments: Watermaster recommendation form.docx

Dear Watermaster:

The Department of Water Resources is seeking written comment and/or recommendations from you regarding the above referenced water right application for permit. You can find copies of the application at: <http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx>. Please review the application, then complete the enclosed recommendation form and return it to this office within 21 days of the date of this letter.

If the application is approved, IDWR will include appropriate standard conditions of approval for a water right located within a water district, such as regulation by the watermaster, lockable controlling works, and/or measuring devices. Any special conditions or other concerns you have related to this application should be specifically addressed in your recommendation.

IDWR's offices can finish reviewing an unprotested application as soon as the protest period has past. Your prompt response to this request will ensure that your recommendation can be considered. If IDWR has not received your written recommendation within 21 days from the date of this letter, IDWR will presume that you do not oppose approval of the application and that you have no comments for IDWR to consider.

Sincerely,

Jean Hersley
Technical Records Specialist

Hersley, Jean

From: Hersley, Jean
Sent: Thursday, November 10, 2016 8:39 AM
To: Clark, Cynthia (Bridge)
Subject: application for permit 73-12257

Dear Interested Party:

The Department of Water Resources is notifying you of two applications for permit that may be of interest to you. A full description concerning property location may be found at: <https://idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx>. These applications will be advertised in the Recorder Herald on Nov. 17th and Nov. 24th.

If you have any comments or concerns about these applications, please let us know by **December 5, 2016**. Any formal protests are due on this day also.

Please contact the water rights section at the State Office if you have any questions regarding these applications.

*Jean Hersley
Idaho Dept Water Resources
Technical Records Specialist II
208-287-4942*



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

GARY SPACKMAN
Director

October 19, 2016

RECEIVED
C.L. BUTCHER
Governor

NOV 08 2016

DEPARTMENT OF
WATER RESOURCES

STANLEY M DOWNTON
PATRICIA DOWTON
700 BURSTEDT LN
ELLIS ID 83235

RE: Application to Appropriate Water in the Upper Salmon River Basin 73-12257

Dear Water Right Applicant:

The Department of Water Resources' (IDWR) records show you filed an application to establish a new use of water in the upper Salmon River basin. Idaho Code § 42-203A(5) requires IDWR to determine whether each water right application satisfies all the criteria necessary for appropriating water in Idaho. One statutory criterion requires IDWR to determine the local public interest relative to the proposed water use. Idaho Code § 42-202B(3) defines the local public interest as "the interests that the people in the area directly affected by a proposed water use have in the effects of such use on the public water resource." The local public interest has many facets, including the effects of a proposed water use on aquatic habitat for fish and wildlife resources.

The upper Salmon River basin is home to stocks of chinook salmon, sockeye salmon, steelhead trout, and bull trout, all of which are listed as threatened or endangered under the Endangered Species Act (ESA). Since the early 1990s, local water users, conservation districts, and federal and state agencies have cooperated to implement conservation measures intended to protect and restore habitat for ESA-listed species in the upper Salmon River watershed. For example, at the request of local water users the Idaho Legislature directed the Idaho Water Resource Board (IWRB) to establish a minimum stream flow in the lower Lemhi River for fish passage. The minimum stream flow is maintained through a water supply bank and temporary or permanent acquisition of additional water supplies by willing buyers from willing sellers.

Pursuant to the Snake River Water Rights Agreement of 2004, Idaho has been developing a long term conservation plan for the benefit of ESA-listed species in the Lemhi River basin. Improving conditions in flow-limited river reaches and streams is a fundamental component of the Lemhi plan. In addition to IDWR, numerous state agencies, including the Office of Species Conservation, Idaho Department of Fish and Game, Idaho Department of Environmental Quality, Idaho Soil and Water Conservation Commission, and Idaho Department of Lands, have committed and continue to commit significant resources toward this objective under the following programs:

- Columbia Basin Water Transactions Program
- National Marine Fisheries Service Pacific Coastal Salmon Recovery Fund
- U. S. Fish & Wildlife Service Aquatic Species Conservation Fund
- Salmon and Clearwater River Basins Habitat Fund
- 2008 Columbia Basin Fish Accords

* Applicant's response on page 2. 28

Letter to Upper Salmon River Basin Water Right Applicants
Page 2

A myriad of habitat restoration projects are being constructed/implemented in other parts of the upper Salmon River basin. These projects have been coordinated with the local communities and water users through the Upper Salmon River Basin Watershed Program and predecessor programs, including the model watersheds. Furthermore, the Snake River Water Rights Agreement of 2004 contemplates the development of additional conservation plans for other upper Salmon River basin watersheds. Accordingly, the draft Comprehensive State Water Plan under revision by the IWRB contains policies for the Salmon River basin that focus on the protection and restoration of instream habitat for ESA-listed species through voluntary participation in conservation programs.

Because of the ESA-listed species recovery efforts in the upper Salmon River basin, IDWR must determine on a case-by-case basis whether it is in the local public interest to authorize proposed water uses that would further deplete flow-limited stream reaches.

Pursuant to Rule 40.04.c of the Water Appropriation Rules (IDAPA 37.03.08.040.04.c), the applicant has the ultimate burden of persuasion regarding the items that must be evaluated in connection with each water right application. Before proceeding further with your application, IDWR requests you submit additional information about how your proposal invokes any local public interest concerns for ESA species recovery.

Within 30 days, please submit any additional information you believe IDWR may need to evaluate and determine the local public interest in the water you propose to divert and use. If IDWR has not received a response from you within 30 days, IDWR will assume you have no comment regarding the local public interest, and processing of your application will resume with the information currently on file. Processing will include public notice and the potential for formal protests by other interested parties. Applications that are not in the local public interest will be denied. If you wish to withdraw your application before it is processed, please notify IDWR in writing.

If you have any questions, please call me at 208-287-4951, or email me at pam.skaggs@idwr.idaho.gov.

Sincerely,



Pamela Skaggs
Water Rights Supervisor

Enclosure: Copy of Application

No comment.
Lisa Damb 11-3-16



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

GARY SPACKMAN
Director

C.L. "BUTCH" OTTER
Governor

October 19, 2016

STANLEY M DOWNTON
PATRICIA DOWTON
700 BURSTEDT LN
ELLIS ID 83235

RE: Amended Application for Permit 73-12257

Dear Applicants:

An amended application is enclosed for your review and signatures. The application includes the changes you identified by return letter and my conversation with Trish today. Please initial any changes you make to the application.

I have also enclosed the local public interest letter we are required to send for each application in the Wild and Scenic area. Please read the letter carefully and return any additional comments or a letter noting you have no additional comments along with the signed application. We will hold the application from processing for 30 days or until your comment is received.

If you have any questions, please call me at 208-287-4951, or email me at pam.skaggs@idwr.idaho.gov.

Sincerely,

Pamela Skaggs
Water Rights Supervisor

Enclosure: Copy of Application & LPI Letter



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

GARY SPACKMAN

Director

October 19, 2016

C.L. "BUTCH" OTTER

Governor

STANLEY M DOWNTON

PATRICIA DOWTON

700 BURSTEDT LN

ELLIS ID 83235

RE: Application to Appropriate Water in the Upper Salmon River Basin 73-12257

Dear Water Right Applicant:

The Department of Water Resources' (IDWR) records show you filed an application to establish a new use of water in the upper Salmon River basin. Idaho Code § 42-203A(5) requires IDWR to determine whether each water right application satisfies all the criteria necessary for appropriating water in Idaho. One statutory criterion requires IDWR to determine the local public interest relative to the proposed water use. Idaho Code § 42-202B(3) defines the local public interest as "the interests that the people in the area directly affected by a proposed water use have in the effects of such use on the public water resource." The local public interest has many facets, including the effects of a proposed water use on aquatic habitat for fish and wildlife resources.

The upper Salmon River basin is home to stocks of chinook salmon, sockeye salmon, steelhead trout, and bull trout, all of which are listed as threatened or endangered under the Endangered Species Act (ESA). Since the early 1990s, local water users, conservation districts, and federal and state agencies have cooperated to implement conservation measures intended to protect and restore habitat for ESA-listed species in the upper Salmon River watershed. For example, at the request of local water users the Idaho Legislature directed the Idaho Water Resource Board (IWRB) to establish a minimum stream flow in the lower Lemhi River for fish passage. The minimum stream flow is maintained through a water supply bank and temporary or permanent acquisition of additional water supplies by willing buyers from willing sellers.

Pursuant to the Snake River Water Rights Agreement of 2004, Idaho has been developing a long term conservation plan for the benefit of ESA-listed species in the Lemhi River basin. Improving conditions in flow-limited river reaches and streams is a fundamental component of the Lemhi plan. In addition to IDWR, numerous state agencies, including the Office of Species Conservation, Idaho Department of Fish and Game, Idaho Department of Environmental Quality, Idaho Soil and Water Conservation Commission, and Idaho Department of Lands, have committed and continue to commit significant resources toward this objective under the following programs:

- Columbia Basin Water Transactions Program
- National Marine Fisheries Service Pacific Coastal Salmon Recovery Fund
- U. S. Fish & Wildlife Service Aquatic Species Conservation Fund
- Salmon and Clearwater River Basins Habitat Fund
- 2008 Columbia Basin Fish Accords



A myriad of habitat restoration projects are being constructed/implemented in other parts of the upper Salmon River basin. These projects have been coordinated with the local communities and water users through the Upper Salmon River Basin Watershed Program and predecessor programs, including the model watersheds. Furthermore, the Snake River Water Rights Agreement of 2004 contemplates the development of additional conservation plans for other upper Salmon River basin watersheds. Accordingly, the draft Comprehensive State Water Plan under revision by the IWRB contains policies for the Salmon River basin that focus on the protection and restoration of instream habitat for ESA-listed species through voluntary participation in conservation programs.

Because of the ESA-listed species recovery efforts in the upper Salmon River basin, IDWR must determine on a case-by-case basis whether it is in the local public interest to authorize proposed water uses that would further deplete flow-limited stream reaches.

Pursuant to Rule 40.04.c of the Water Appropriation Rules (IDAPA 37.03.08.040.04.c), the applicant has the ultimate burden of persuasion regarding the items that must be evaluated in connection with each water right application. Before proceeding further with your application, IDWR requests you submit additional information about how your proposal invokes any local public interest concerns for ESA species recovery.

Within 30 days, please submit any additional information you believe IDWR may need to evaluate and determine the local public interest in the water you propose to divert and use. If IDWR has not received a response from you within 30 days, IDWR will assume you have no comment regarding the local public interest, and processing of your application will resume with the information currently on file. Processing will include public notice and the potential for formal protests by other interested parties. Applications that are not in the local public interest will be denied. If you wish to withdraw your application before it is processed, please notify IDWR in writing.

If you have any questions, please call me at 208-287-4951, or email me at pam.skaggs@idwr.idaho.gov.

Sincerely,

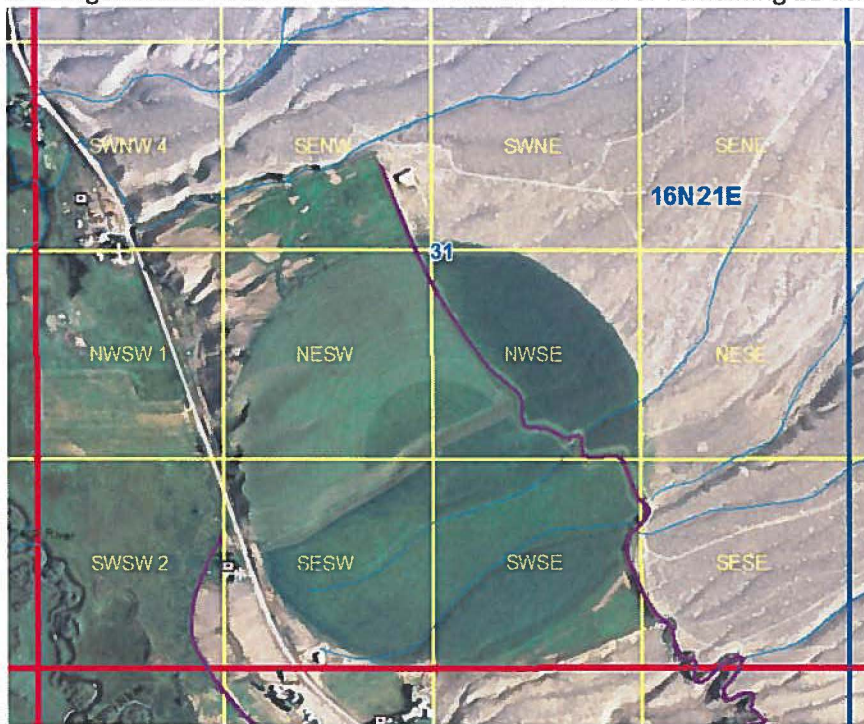


Pamela Skaggs
Water Rights Supervisor

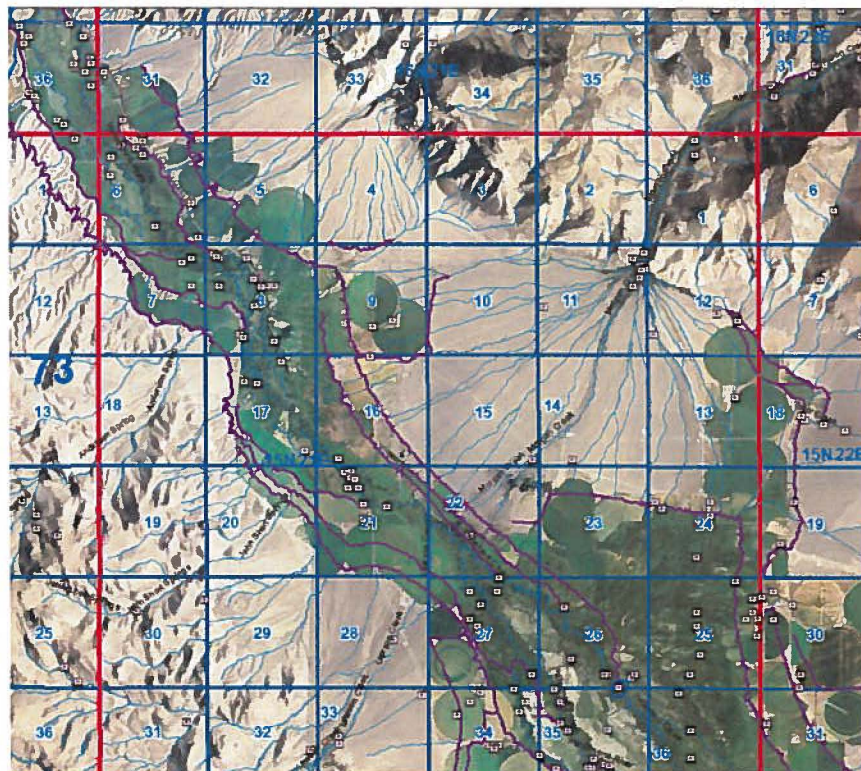
Enclosure: Copy of Application



Application 73-12257 is for waste water with points of diversion from the ditch (purple line) in the SWSE where 5 acres are irrigated and in the SENW where the ditch ends for remaining 21 acres of irrigation.



SWSE, Section 26, T15N, R21E, Lemhi County is the POD for Right 73-109 from Patterson Creek that covers the pivot in Section 31, T16N, R21E, Lemhi County between application place of use parcels. No overlap of these rights is intended.





State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

GARY SPACKMAN
Director

C.L. "BUTCH" OTTER
Governor

September 21, 2016

RECEIVED

OCT 13 2016

DEPARTMENT OF
WATER RESOURCES

STANLEY M DOWTON
PATRICIA DOWTON
700 BURSTEDT LN
ELLIS, ID 83235

RE: Application for Permit 73-12257 Downton - Additional Information Request

Dear Applicant(s):

The Department of Water Resources has received your application for permit and a water right number has been assigned. After an initial review more information is needed before moving forward with processing. Please answer the questions listed below to clarify various items on the application.

1. What is the actual source of water you propose to divert? ~~A new diversion of water from Patterson Creek like the other water right 73-109 on your property, or Waste water returning to the ditch from other users above you on the ditch?~~ If the source is waste water, where would the water go if you didn't divert it; back to the creek, other stream, or sink? *This property is the end of a ditch that begins over 11 miles away. The water would just sink.*
2. Depending on your answer about the source in item #1, is the point of diversion (POD) the existing headgate for the ditch from Patterson Creek serving 73-109 (SWSE, S26, T15N, R21E) ~~or a pump in the ditch near your property for diversion of the waste water?~~ Please identify the POD location by Quarter-Quarter, Section, Township & Range. *Same diversion.*
3. The Place of Use (POU) description on the application does not match location of the acres on the map you provided. It appears the quarter-quarter descriptions are reversed. For instance, the 4.02 acres you listed in the SW of the NE quarter appears to match the 4.02 acres in the NE of the SW quarter identified on the map (SWNE instead of NESW). I have drafted the POU to match the map acres in grid #1 below. Grid #2 is the same POU rounded-up to the next acre. The permitted acres can be reduced at licensing, but not increased if you have defined your POU too closely. I recommend you round to the next whole acre for each entry, but it is your decision. Increasing the number of acres will change your priority date to the date I receive the amendment, but only days at this point.

Please review and identify which POU best describes your proposed irrigation under this application matching the submitted map. Make any corrections you think are necessary and match changes on the copy of the application map enclosed for your reference.

~~#1~~

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
16N	21E	31							2.2	11.3	4.0	1.1					4.7		23.3
									L4			L1							

POU Total Acres 23.3

#2

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
16N	21E	31							3.0	12.0	4.0	2.0					5.0		26.0
									L4			L1							

POU Total Acres 26.0

Please use Grid #2.

4. The proposed diversion rate of 0.92 cfs is nearly double department standards of 0.02 cfs per acre for irrigation use. If you are requesting a higher than standard rate of diversion for delivery from Patterson Creek from the head of the ditch in Section 26, T15N, R21E to your property at the end of the ditch in Section 31, T16N, R21E, the additional rate can be justified by the diversion rate allowed for Right 73-109 confirming the need for conveyance water.

If the source is waste water from the ditch adjacent to your property, only the standard rate of diversion will be authorized. Depending on which POU you selected in item #3, the standard rate should be 0.02 cfs x Total Acres; 0.47 cfs for 23.3 acres, or for 0.52 cfs 26.0 acres. All three rates require the same fee submitted with the application.

- The source is waste water, so I guess the rate would be 0.52 cfs for 26.0 acres,*
5. Please provide a more specific description of the diversion works for whichever source you identified in item #1. Include type and size of devices proposed used. *Existing lockable headgate with measuring device in accordance with Bureau of Reclamation standard.*
6. A copy of the application map was provided for reference in item #3. Please use a contrasting color pen or marker to draw around the specific proposed POU acres. Right 73-109 fully covers the pivot circle.

See Map.

7. Also, you are not listed as the current owners of Right 73-109. I understand from the records that the property was being purchased on contract. Your application notes you own the property at the POU, you should file a change of water right ownership to update the water right record. The form is available on our website at <https://idwr.idaho.gov/forms/water-rights.html#ownership>.

If the property is not formally in your name, provide an explanation enabling you to make this filing (application question 11.c.).

We purchased the property from Roy Ellis in 2006. Roy opted to keep the water right in his name since he is carrying the note. He does not object to clarifying the use of waste water on this property. We are OK with the agreement and how the water rights go with it. The property will be paid for in 2025 if not before and we will transfer the 73-109 right to our name then.

If you have any questions about the information requested above, please contact me directly for clarification. I am available by email at pam.skaggs@idwr.idaho.gov, by phone at (208) 287-4951 or at the address above. I will be happy to clarify any of the questions. Once your application is defined clearly to meet your proposed plan of use, the application will be prepared for public notice. Concurrently you will receive an additional letter addressing Wild and Scenic concerns since you are located within the Wild and Scenic River area.

Please contact me at the State Office in Boise if I can be of assistance.

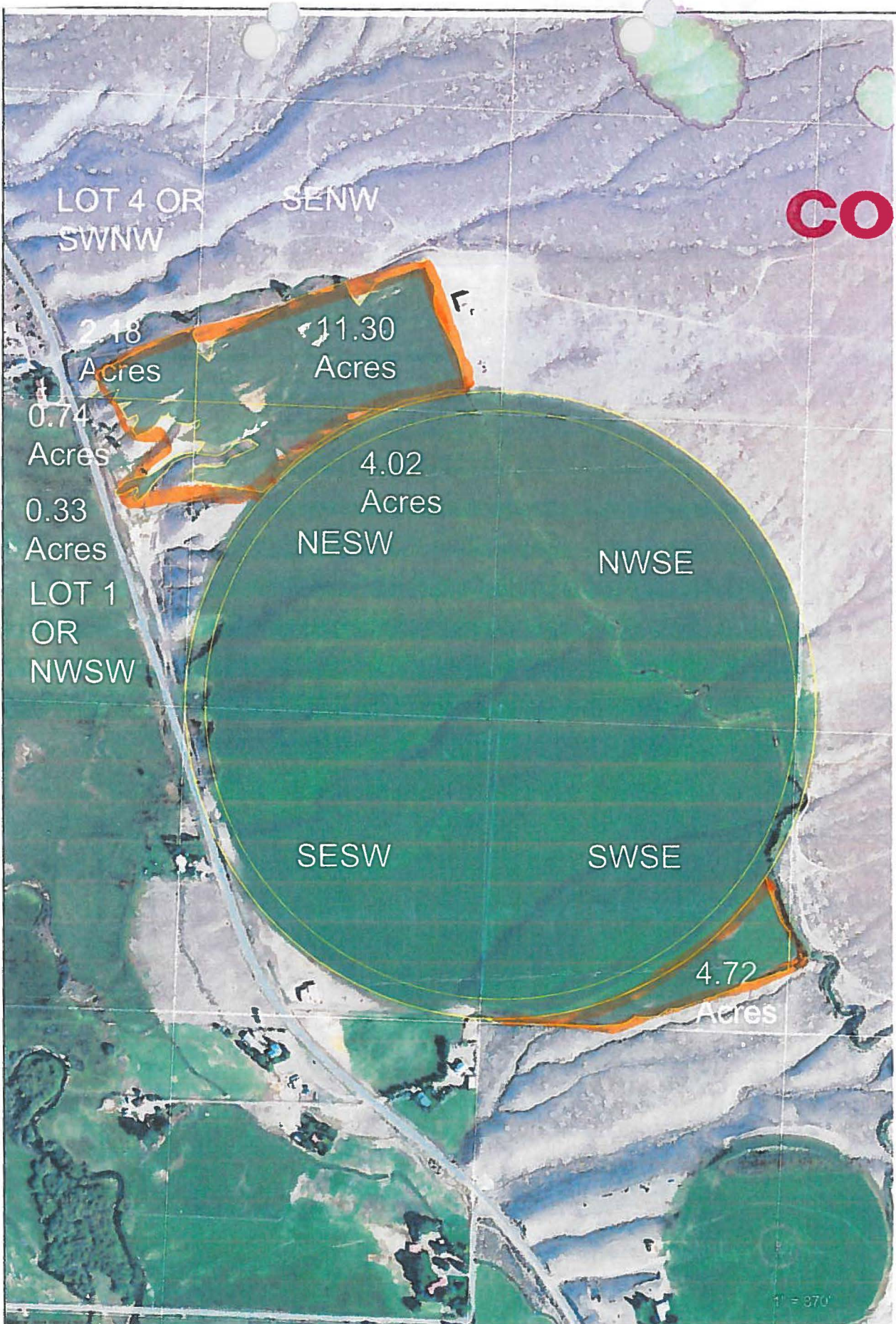
Sincerely,

Pamela S. Skaggs

Pamela S. Skaggs
Water Rights Supervisor

Enclosures

COPY



 NRCS Natural Resources Conservation Service United States Department of Agriculture	Stan and Trish Dowton Irrigated Acres by QQ Sections Sec 31 T16N R21E	Designed: TED Date: 05/31/2016
		Drawn: TED Date: 05/31/2016
		Checked: _____
		Approved: _____

73-12257 Dowton



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

GARY SPACKMAN
Director

C.L. "BUTCH" OTTER
Governor

September 21, 2016

STANLEY M DOWTON
PATRICIA DOWTON
700 BURSTEDT LN
ELLIS, ID 83235

RE: Application for Permit 73-12257 Downton - Additional Information Request

Dear Applicant(s):

The Department of Water Resources has received your application for permit and a water right number has been assigned. After an initial review more information is needed before moving forward with processing. Please answer the questions listed below to clarify various items on the application.

1. What is the actual source of water you propose to divert? A new diversion of water from Patterson Creek like the other water right 73-109 on your property, or waste water returning to the ditch from other users above you on the ditch? If the source is waste water, where would the water go if you didn't divert it; back to the creek, other stream, or sink?
2. Depending on your answer about the source in item #1, is the point of diversion (POD) the existing headgate for the ditch from Patterson Creek serving 73-109 (SWSE, S26, T15N, R21E) or a pump in the ditch near your property for diversion of the waste water? Please identify the POD location by Quarter-Quarter, Section, Township & Range.
3. The Place of Use (POU) description on the application does not match location of the acres on the map you provided. It appears the quarter-quarter descriptions are reversed. For instance, the 4.02 acres you listed in the SW of the NE quarter appears to match the 4.02 acres in the NE of the SW quarter identified on the map (SWNE instead of NESW). I have drafted the POU to match the map acres in grid #1 below. Grid #2 is the same POU rounded-up to the next acre. The permitted acres can be reduced at licensing, but not increased if you have defined your POU too closely. I recommend you round to the next whole acre for each entry, but it is your decision. Increasing the number of acres will change your priority date to the date I receive the amendment, but only days at this point.

Please review and identify which POU best describes your proposed irrigation under this application matching the submitted map. Make any corrections you think are necessary and match changes on the copy of the application map enclosed for your reference.

#1			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
15N	21E	31							2.2	11.3	4.0	1.1					4.7		23.3
									L4			L1							

POU Total Acres 23.3

#2			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
16N	21E	31							3.0	12.0	4.0	2.0					5.0		26.0
									L4			L1							

POU Total Acres 26.0

SCANNED
09/21/2016

4. The proposed diversion rate of 0.92 cfs is nearly double department standards of 0.02 cfs per acre for irrigation use. If you are requesting a higher than standard rate of diversion for delivery from Patterson Creek from the head of the ditch in Section 26, T15N, R21E to your property at the end of the ditch in Section 31, T16N, R21E, the additional rate can be justified by the diversion rate allowed for Right 73-109 confirming the need for conveyance water.

If the source is waste water from the ditch adjacent to your property, only the standard rate of diversion will be authorized. Depending on which POU you selected in item #3, the standard rate should be 0.02 cfs x Total Acres; 0.47 cfs for 23.3 acres, or for 0.52 cfs 26.0 acres. All three rates require the same fee submitted with the application.

5. Please provide a more specific description of the diversion works for whichever source you identified in item #1. Include type and size of devices proposed used.
6. A copy of the application map was provided for reference in item #3. Please use a contrasting color pen or marker to draw around the specific proposed POU acres. Right 73-109 fully covers the pivot circle.
7. Also, you are not listed as the current owners of Right 73-109. I understand from the records that the property was being purchased on contract. Your application notes you own the property at the POU, you should file a change of water right ownership to update the water right record. The form is available on our website at <https://idwr.idaho.gov/forms/water-rights.html#ownership>. If the property is not formally in your name, provide an explanation enabling you to make this filing (application question 11.c.).

If you have any questions about the information requested above, please contact me directly for clarification. I am available by email at pam.skaggs@idwr.idaho.gov, by phone at (208) 287-4951 or at the address above. I will be happy to clarify any of the questions. Once your application is defined clearly to meet your proposed plan of use, the application will be prepared for public notice. Concurrently you will receive an additional letter addressing Wild and Scenic concerns since you are located within the Wild and Scenic River area.

Please contact me at the State Office in Boise if I can be of assistance.

Sincerely,

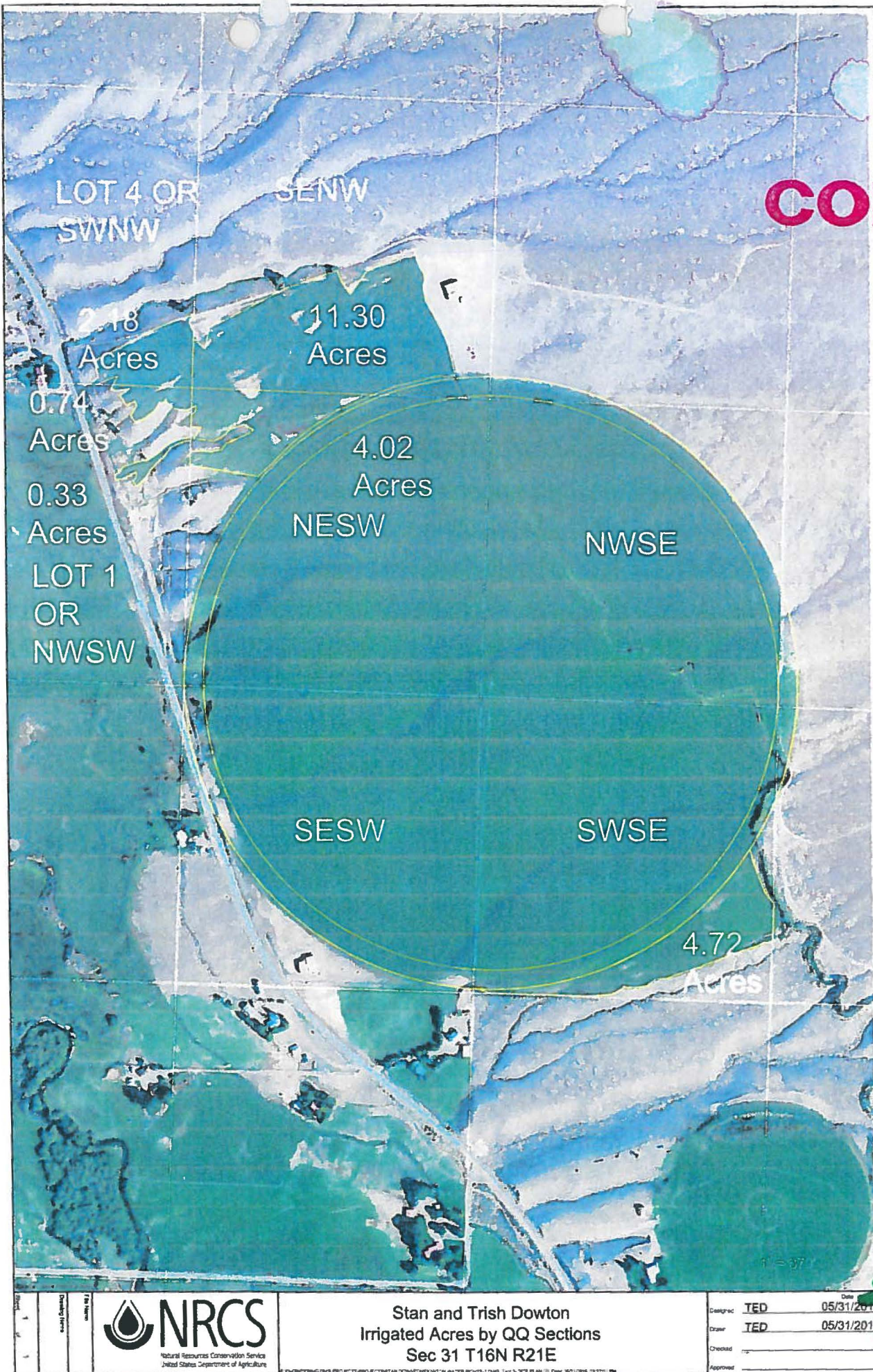


Pamela S. Skaggs
Water Rights Supervisor

Enclosures

SCANNED
SEP 15 2016

COPY



73-12257 Dowton



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

GARY SPACKMAN
Director

C.L. "BUTCH" OTTER
Governor

August 16, 2016

STANLEY M DOWTON
PATRICIA A DOWTON
700 BURSTEDT LN
ELLIS ID 83235

RE: Application for Permit

Dear Applicant(s):

The Department of Water Resources has received your water right application. Preliminary review of the application indicates that it is incomplete and cannot be accepted for processing. We are returning your application to allow you to complete the necessary items. The required information is described below.

- 13. *The Time required for beneficial use of water was not provided correctly.*
- 11a. *Who owns the property at the point of diversion?* You answered Beartooth Capitol. What kind of agreement do you have to access this point of diversion.
- *The Fee was not provided correctly.* Fee for requested cfs is \$250.
- 5. *The Period of Use was not provided correctly.* The period of use for the requested area is 4/01 to 10/31.
- 9. *The Place of Use or acres irrigated was not provided correctly.* The Department prefers whole numbers. This could be 23 or 24 acres.
- 3. *Source of Water Supply-* Is the water coming from Patterson Creek or Big Spring Creek?

Please provide the information requested and make corrections on the application, initial and date any corrections you made and return to the Department.

Please feel free to contact me at (208) 287-4942 if you have any questions.

Sincerely,

Jean Hersley
Technical Records Specialist II

Enclosures

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SEP 21 2016