



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 North Skyline Drive, Suite A Idaho Falls Idaho 83402-1718

Phone: (208) 525-7161 FAX: (208) 525-7177 www.idwr.idaho.gov

C.L. "BUTCH" OTTER - Governor
Gary Spackman - IDWR Director

May 9, 2016

RE: Written Notice of Application for Transfer 80793 (Meadowlark Ranch LLC)

On March 29, 2016, Meadowlark Ranch LLC filed Application for Transfer 80793 with the Idaho Department of Water Resources, seeking to change elements of water rights 13-885A, 13-886A, 13-887A and 13-889C from Cottonwood Creek. The Department will publish notice of the application in the Idaho State Journal (Pocatello) on May 12 and 19, 2016, as required by Idaho Code § 42-222. Any person desiring to protest the application must file a protest with the appropriate filing fee (\$25) on or before May 31, 2016. Application 80793 can be viewed in its entirety at:

<http://www.idwr.idaho.gov/apps/ExtSearch/RelatedDocs.asp?Basin=13&Sequence=885&SplitSuffix=A>

Idaho Code § 42-222 allows the Department to provide additional public notice of a transfer application as it deems appropriate. In this case, I have decided to provide written notice of the transfer application to all property owners with parcels west of the Bear River in Section 36, T12S, R40E and in the SW1/4 of Section 31, T12S, R41E. You are receiving notice of the application because you own property in this area. As stated above, if you believe you have an ownership interest in the water rights included in the application or the associated water rights described below, your protest against Application 80793 must be filed with the Department on or before May 31, 2016.

I hope this short summary of the history of the water rights involved in the application will help clarify the changes proposed by Meadowlark Ranch. The 1920 Bear River Decree included the following water rights in the name of Edwin Bennion:

Entry # 458 Edwin Bennion

(a) June 1, 1870	1.50 cfs	Springs	(water right 13-884)
(b) June 1, 1879	2.00 cfs	Cottonwood Creek	(water right 13-885)
(c) June 1, 1887	1.50 cfs	Cottonwood Creek	(water right 13-886)
(d) June 1, 1895	1.40 cfs	Cottonwood Creek	(water right 13-887)
(e) June 1, 1870	5.00 cfs	Cottonwood Creek	(water right 13-888)
(f) January 1, 1904	14.00 cfs	Cottonwood Creek	(water right 13-889)

These six water rights, in combination, were used to irrigate 624 acres in Section 36, T12S, R40E, and the SW1/4 of Section 31, T12S, R41E. In November 1955, the State Reclamation Engineer (now known as the Department of Water Resources) approved Transfer 864, which moved water rights 13-885, 13-886, 13-887 and 10.00 cfs of water right 13-889 to the Stockton Creek drainage. Water was delivered to Stockton

Creek through the Treasureton Canal. The transfer did not specify how many of the 624 acres authorized by decree were moved to Stockton Creek. It should be noted, however, that the new place of use described in Transfer 864 covered 1,520 acres. Water rights 13-885, 13-886, 13-887 and 10.00 cfs of water right 13-889 have been delivered to Stockton Creek through the Treasureton Canal since at least 1955.

The water rights diverted into the Stockton Creek drainage are split between two current owners. Meadowlark Ranch owns 30% of the water (identified as water rights 13-885A, 13-886A, 13-887A and 13-889C). Merrill Ranch owns 70 % of the water (identified as water rights 13-885B, 13-886B, 13-887B and 13-889D).

Application for Transfer 80793 proposes to change the nature of use for water rights 13-885A, 13-886A, 13-887A, and 13-889C. Within the transfer application, Meadowlark Ranch asserts a right to irrigate 182 acres. This equates to approximately 30% of the 624 acres described in the original decree. In essence, Meadowlark Ranch asserts that all of the 624 authorized irrigated acres were moved to Stockton Creek in 1955. If all of the 624 acres authorized by the 1920 Decree are now owned and irrigated by Merrill Ranch and Meadowlark Ranch, there are no acres remaining for use in the lower Cottonwood Creek drainage, and the remaining Edwin Bennion water rights (13-884, 13-888 and 13-889A) can no longer be used.

In order to prevent enlargement of water rights, before the Department can approve Application 80793, it must find water rights 13-884, 13-888 and 13-889A have been forfeited and lost for non-use, thereby eliminating the risk of the total irrigation under all of the Edwin Bennion rights exceeding 624 acres. Water delivery records for Water District 13M do not show any delivery of water rights 13-884, 13-888 or 13-889A in recent years. Aerial photos available to the Department do not show any visible signs of diversion. It appears these water rights may not have been used since Transfer 864 was approved in 1955.

This letter is meant to notify you that water rights 13-884, 13-888 and 13-889A, which are still in the name of Edwin Bennion, will be declared forfeited for non use, if Application 80793 is approved as proposed. If you believe you are the owner of all or a portion of water rights 13-884, 13-888 or 13-889A and can demonstrate continuous delivery and use of your portion of these water rights, please contact me on or before the protest deadline (May 31, 2016). You are also free to contact me if you have questions about the transfer application.

Sincerely,

A handwritten signature in black ink, appearing to read 'James Cefalo', written in a cursive style.

James Cefalo

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 9th day of May, 2016, a true and correct copy of this letter was served by placing a copy of the same with the United States Postal Service, postage prepaid and properly addressed, to the following:

Paul and Bobbie Miller RP00204.01
13025 N Hwy 34
Preston, ID 83263

Alex and Denise Harvey RP00204.02
766 N Starcrest Dr
Salt Lake City, UT 84116

Larry and Peggy Kanno RP00204.03
5970 N Hwy 38
Brigham City, UT 84302

Marvin Paul Miller RP00204.04
690 S 1st East
Preston, ID 83263

TLC of Idaho RP00206.00, RP00211.00, RP00290.00
238 Lauralin Dr
Logan, UT 84321

PacifiCorp (Utah Power & Light) RP00294.00
c/o Claudia Conder
1407 W North Temple, Suite 110
Salt Lake City, UT 84140

Rulon Dean Burton RP 00208.00, RP00210.00
14172 N Cleveland Rd
Preston, ID 83263

Larry Higgins RP00210.01
13585 N Cleveland Rd
Preston, ID 83263

Treasure Canyon Calcium Co. RP00209.00
13479 N Hwy 34
Preston, ID 83263

Randy Smith RP00210.02
13466 N Cleveland Rd
Preston, ID 83263

RP00210.03

RP00203.00

RP00202.00

RP00207.00

RP00204.00

RP00201.00

RP00201.00

Cc: Kristin Moore
Rocky Mountain Environmental Associates Inc.
482 Constitution Way, Suite 303
Idaho Falls, ID 83402


James Cefalo