

42-222 POL-094145
APR 17 2015

WATER RESOURCES
WESTERN REGION

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 [Application for Transfer Instructions](#) for help completing this form and for mailing addresses of Department offices where your application can be submitted.

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

1. APPLICANT(S) Daryl K. & Linda L. Mullinix Phone 208-983-2408

2. MAILING ADDRESS 521 Park Street City Grangeville

State ID Zip 83530 Email dkmullinix@q.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 fee schedule.

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) 79-14232

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

4. TOTAL AMOUNT OF WATER transferred is 0.18 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 www.idwr.idaho.gov, *Water Right Transfers, Online Resources*.

[illegible]

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:

I have pump with a 2" discharge.

- b. Who owns the property at the point(s) of diversion? Daryl Mullinix

If other than the applicant, describe the arrangement enabling the applicant to access the property for the diversion system:

- 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 Lessor Designation form.
☐ If yes, the individual owner or designated lessor must complete, sign and attach an IRS Form W-9.
(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 maps.idwr.idaho.gov/TransferApplicationLayouts/ 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.

Daryl K. Mullinix
Signature of applicant or authorized agent

Daryl k. Mullinix

Print name and title if applicable

4/14/2015

Date

Linda L. Mullinix
Signature of applicant or authorized agent

Linda L. Mullinix

Print name and title if applicable

4/14/2015

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 *Fee Schedule* is available at www.idwr.idaho.gov, *Water Right Transfers, Step 4* and in the *Application for Transfer Instructions*.

FOR DEPARTMENT USE ONLY

Transfer includes _____ pages of attachments.

Received by CS

Date 4/17/15

Fee paid \$200⁰⁰

Date 4/17/15

Received by CS

Receipt # W043022

Preliminary review by PL

Date 7-14-2015

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)

Close

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report

4/14/2015

WATER RIGHT NO. 79-14232

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	DARYL K MULLINIX 521 PARK ST GRANGEVILLE, ID 83530 (208)983-2408
Original Owner	KILLGOES SALMON RIVER FRUIT CO 3252 WATER FRONT DR WHITE BIRD, ID 83554 (208)839-2255

Priority Date: 11/21/1966

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
SALMON RIVER	SNAKE RIVER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	03/01	11/30	0.18 CFS	
Total Diversion			0.18 CFS	

Location of Point(s) of Diversion:

SALMON RIVER	SWNE Lt 5	Sec. 23	Township 27N	Range 01E	IDAHO County
SALMON RIVER	SENE Lt 6	Sec. 23	Township 27N	Range 01E	IDAHO County

Place(s) of use:

Place of Use Legal Description: IRRIGATION IDAHO County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
27N	01E	23		SWNE 1										
				SENE 3	9		SENE 4.5							
			9	NESW 10										
			8	NWSE 1.2										

Total Acres: 19.7

Conditions of Approval:

1. E60 USE OF THIS RIGHT WITH RIGHT NO. 79-14234 IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 0.42 CFS AND TO A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 80 AF.
After specific notification by the Department, the right holder shall measure the diversion or
2. 01Q shall enter into an agreement with the Department to determine the amount of water diverted from power records and shall annually report the information to the Department.
This partial decree is subject to such general provisions necessary for the definition of the
3. C18 rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412 (6), Idaho Code.
4. 029 The right holder shall comply with all fish screening requirements of the Idaho Department of Fish and Game.
5. E55 USE OF THIS RIGHT WITH RIGHT NO. 79-14234 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 20 ACRES IN A SINGLE IRRIGATION SEASON.
Prior to diversion of water under this approval, the right holder shall provide a means of
6. T17 measurement acceptable to the Department from all authorized points of diversion which will allow determination of the total rate of diversion.
7. C05 RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.

Dates:

Licensed Date:

Decreed Date: 02/06/2008

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:

Water District Number:

Generic Max Rate per Acre: 0.02

Generic Max Volume per Acre: 4

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

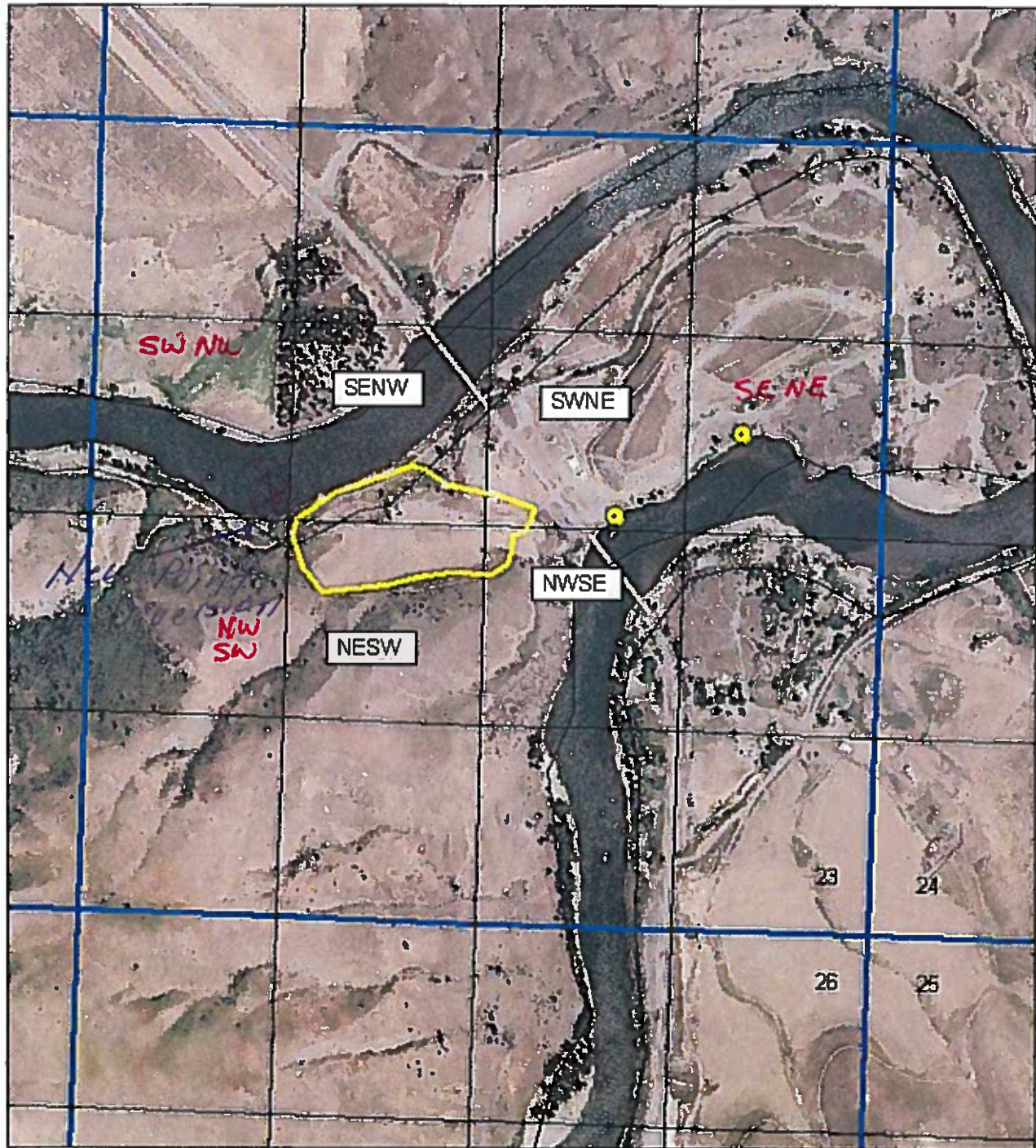
Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

PLACE OF USE FOR
79-14232 and ~~79-14234~~



* New Point of Diversion

- Recommended point of diversion
- Recommended place of use
- Township lines
- Section lines
- Quarter/quarter lines

GIS PLACE OF USE PRESENTATION
2009 AERIAL PHOTOGRAPHY

PLACE OF USE
TWP 27N, RNG 1E Sec 23
Data Entry on May 24, 2011

TRANSFER No. 80029

Neely, Rachel

From: Neely, Rachel
Sent: Thursday, July 30, 2015 11:40 AM
To: 'IFPlegals@idahocountyfreepress.com'
Subject: Idaho Legal Ad
Attachments: Idaho Cover Letter.docx; Idaho Legal Ad.docx

Good Afternoon Legal Clerk,

Please see the attached ad for publication on 8/5/15 & 8/12/15.

Please confirm these are okay to publish as shown.

Thank you,

Rachel Neely

Administrative Assistant I
IDWR-Western Region
2735 Airport Way Boise, ID 83705
Rachel.Neely@idwr.idaho.gov

July 30, 2015

ID CTY FREE PRESS
PO BOX 690
GRANGEVILLE, ID 83530

RE: Application for Transfer No. 80029

Dear Legal Notice Department:

Please publish the enclosed legal notice 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 before 8/24/2015. Your cooperation is appreciated.

Sincerely,

Rachel Neely
Administrative Assistant

Enclosure(s)

PROPOSED CHANGE OF WATER RIGHT(S)

Daryl and Linda Mullinix of 521 Park St. Grangeville, ID 83530, filed a Transfer Application 80029 for Water Right 79-14232 with a 1966 priority from the Salmon River. The applicant proposes to change the Point of Diversion description to identify the existing pump on the system. The POD is within Township 27 North, Range 1 East, Section 23, SW¼NW¼ Lot 10, B.M. The right authorizes 0.18 cfs on 19.7 acres of irrigation use located 16 miles north of Riggins, west of Hwy 95.

For additional information concerning the property location, contact Western Region office at (208) 334-2190; or for a full description of the right(s) or proposed transfer(s), please see www.idwr.idaho.gov/WaterManagement/WaterRights. Protests may be submitted based on the criteria of Idaho Code § 42-222. Any protest against the proposed change(s) must be filed with the Director, Dept. of Water Resources, Western Region, 2735 Airport Way, Boise, ID 83705 together with a protest fee of \$25.00 for each application on or before 8/24/15. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Published on 8/5/2015 and 8/12/2015

Grimm, Angie

From: Luke, Tim
Sent: Thursday, July 23, 2015 1:51 PM
To: Daryl K. Mullinix
Cc: Grimm, Angie; Kelly, Patrick
Subject: RE: Amended Memo
Attachments: Amended Memo

I forwarded to you an updated memo on July 6 (see attached). A copy was also sent to Kilgore and the attorneys. As per my email of July 7, I do not plan to amend the memo further.

As to the change in point of diversion through the water right transfer application, I see that the agency has assigned a Transfer number indicating that processing is in progress. The processing is being handled by our Western Regional Office (located at a different office here in Boise). I was not able to view any scanned documents regarding the transfer through our system so I suggest you contact them directly at 334-2190. However, I did call the regional office today and learned that it has been prepared for advertising – it should be advertised the first two weeks of August, followed by a ten day protest period. Assuming no protests, we should be able to approve the transfer and forward the approval paper work to you by early September.

Tim

From: Daryl K. Mullinix [mailto:dkmullinix@q.com]
Sent: Thursday, July 23, 2015 1:06 PM
To: Luke, Tim
Subject: Re: Amended Memo

Tim: What is the status of the updated memo and what is the status of my request for change in diversion point? Please let me know.

Daryl

From: "Tim Luke" <Tim.Luke@idwr.idaho.gov>
To: "Daryl K. Mullinix" <dkmullinix@q.com>
Sent: Tuesday, July 7, 2015 5:02:05 PM
Subject: RE: Amended Memo

Thanks for the clarification and sorry I missed that point – I assumed there was still a connection since I could only observe the valve coming out of the ground with a short section of pipe and air valve below it. I don't plan to update the memo again.

Tim

From: Daryl K. Mullinix [mailto:dkmullinix@q.com]
Sent: Tuesday, July 07, 2015 3:55 PM
To: Luke, Tim
Subject: Re: Amended Memo

Thanks for the opportunity to review. Second page, last paragraph; There is no 4 inch connection by Mullinix to the 8 inch pipe. Killgores completely removed the connection. The valve with handle is still in place but there is no pipe from the valve connecting to the 8 inch line.

From: "Tim Luke" <Tim.Luke@idwr.idaho.gov>

To: "Daryl K. Mullinix" <dkmullinix@q.com>, "Heather Killgore" <jetboat@killgoreadventures.com>, "Albert Barker (IWRB Member)" <apb@idahowaters.com>, "Bryce Farris" <bryce@sawtoothlaw.com>

Sent: Monday, July 6, 2015 6:46:07 AM

Subject: Amended Memo

All,

My original memo recommending measurement devices on the Joe Creek pipeline required several corrections or clarifications. Please find attached an amended memorandum. The memo does not change my recommendations regarding measuring devices, but just clarifies or corrects a few factual items related to the water system.

Regards,

Tim Luke

Water Compliance Bureau Chief

Idaho Department of Water Resources

322 E Front St, PO Box 83720

Boise, ID 83720-0098

208-287-4959 (office)

208-287-6700 (fax)

MEMO

State of Idaho

Department of Water Resources

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

Phone: (208) 287-4800 Fax: (208) 287-6700

Amendment to Memo Dated April 10, 2015

Date: July 1, 2015

To: Bryce Farris, Attorney for Killgore's Salmon River Fruit Co. ("Killgore")
Al Barker, Attorney for Daryl and Linda Mullinix ("Mullinix")

From: Tim Luke, Water Compliance Bureau

Subject: Measuring Device Recommendations for Killgore-Mullinix Pipeline Diversion from Joe Creek, near Lucille, Idaho

On October 20, 2014, Judge John R. Stegner, ordered the above referenced parties to arrange for a representative of the Idaho Department of Water Resources ("IDWR" or "Department") to meet with the parties at the diversion on Joe Creek in order for the Department to "recommend an objective water flow measurement device for use at the diversion." *Order Requiring Measuring Device and Irrigation Schedule at 2, Case No. CV-2012-41783(2d Jud. Dist. Ct. 2014).*

On April 2, 2015, I visited with Daryl Mullinix, Heather Killgore, and Kurt Killgore, at the Joe Creek diversion site. A summary of my visit and observations of the diversion and conveyance system are described below, followed by a recommendation for measuring devices.

Creek Diversion and Bubbler System:

The creek diversion consists of a steel frame diversion box set in the creek with a steel slide head gate to control flow to an approximate 8 inch steel pipe (8.60 inch outside diameter "OD"). The 8 inch steel pipe runs approximately 50 feet to a vertical 8.5 inch inside diameter ("ID") steel pipe centered in an approximate 42 inch (3.5 ft) wide by 4 ft high steel cylinder bubbler system. Water discharges from the vertical pipe to the atmosphere above the cylinder and falls on a steel mesh rack with a screen cover to filter trash and debris from the water. Water drops through the screen rack and into the cylinder then discharges from the cylinder to an 8 inch steel pipe (8.05" OD) which runs approximately 70 inches (nearly 6 ft) before making an elbow connection to an 8 inch PVC pipe. A very short section of PVC pipe is exposed before sloping below grade and being buried.

The bubbler canister is mounted to a rectangular steel catchment basin or tray with an outlet spout to direct any water spilling or splashing over the canister from the trash rack back to the creek. The Killgore's stated that the water level in the bubbler canister varies depending on flow from the creek and demand in the system. Water at times may fill the canister and spill over the

Killgore-Mullinix Recommendation

4/10/2015, Page | 1

canister into the catchment tray and return to the creek. The water level may fill the canister partially and submerge the intake of the 8 inch discharge pipe, or if demand is high and/or creek flow is minimal, the water level in the canister may be below the top of the mainline discharge pipe and only partially fills the 8 inch mainline discharge pipe exiting the bubbler.

The 8 inch PVC mainline pipe discharging from the bubbler is buried for its entire length below the bubbler, except for a short section of 8 inch PVC pipe that tees off the mainline at a location about 890 ft in distance below the bubbler. This section of pipe that tees off the mainline can discharge or return some water back to the creek. The length of pipe that tees from the mainline is buried and may be up to 10 to 12 ft in length, with the last 1 to 2 ft exposed. The exposed section of PVC pipe above the creek has a lockable butterfly valve to control flow or spill to the creek. The Killgore explained that this discharge pipe is used to reduce pressure in the mainline pipe as needed.

The elevation of the creek head gate diversion and bubbler is estimated to be about 1,860 ft, based on GPS field coordinate location and interpretation from the USGS topographic map at 1:24,000 scale.

During the visit, I noted a 2 inch polyethylene ("poly pipe") connected to the bubbler canister that conveys water from the canister down to the Robinson residence located above the mouth of Joe Creek at the Salmon River. The pipe and water conveyance is used to irrigate a yard and trees around the Robinson residence. I estimate the irrigated area to be close to one-half acre. The parcel is located in the SWNW and NWSW of Section 10, T27N, R1E. This irrigation use is not included on any water right and may be considered an unauthorized use. The Killgore mentioned that they could transfer a portion of their water right to Robinson to cover the use. I also observed a second 2 inch poly pipe about half way down the path between the bubbler and the road to the Robinson residence that was coming off the canyon slope above the creek, perhaps from a spring or other water source. This poly pipe appeared to be connected or tied into the poly pipe from the bubbler. I found no water right that might be attributed to this pipe or potential diversion.

Mainline Pipe and Mullinix Re-diversion Pipe

The 8 inch PVC buried mainline follows a contour grade out of the Joe Creek canyon and runs east in a former ditch grade that is prominent between the Mullinix irrigated field and property/fence line. Near the southwestern corner of the Mullinix field, is a buried lateral pipe coming off the mainline to divert water to the Mullinix irrigation sprinkler system. A control valve pipe, irrigation riser connection/control valve, and air relief valve were observed above grade and above the buried lateral pipe. Mr. Mullinix stated that the lateral pipe from the Joe Creek mainline is a 2 inch plastic pipe that connects to a 4 inch lateral irrigation line with risers for connecting sprinkler hand lines. Mullinix estimated that the valve control on the lateral pipe off of the mainline is about 4 ft from the mainline.

About 50 ft east of the 2 inch Mullinix lateral pipe is a 4 inch plastic lateral pipe that is connected to the mainline from Joe Creek. This lateral pipe is not used. It is shut off by a closed control valve that has no control handle or mechanism. Mullinix stated that the Killgore's removed the pipe connection and cut off the control handle/mechanism after Mullinix first installed this pipe. The Mullinix lateral pipes are located at an elevation of roughly 1,635 ft.

From the Mullinix lateral pipes, the Joe Creek mainline extends east about 1,150 ft, then goes down a grade and to the northeast along the Mullinix fence line, under the Mullinix driveway, and along the Karl Killgore fence line to Highway 95. According to Heather Killgore, the eight inch mainline reduces to six inches for approximately 80 to 100 feet before the pipeline leaves the Mullinix property. The pipe goes back to eight inches where it leaves the Mullinix property and goes down the grade towards the highway along the Mullinix fence line and the Carl Killgore fence line¹. Daryl Mullinix stated that the 8 inch line reduces to a six inch line for approximately 250 ft. going through an inverted siphon. The reduction begins 80 to 100 ft. inside his property line but runs 250 ft². The surface elevation by the entrance of the Carl Killgore property near the highway is roughly 1,570 ft. The mainline reduces to six inches again where it crosses the highway, then goes back to eight inches and extends east to the Killgore place of use which includes open irrigated hay fields and the Killgore Horseshoe Bend sub-division. The irrigated fields at the top of the hill in the Killgore horseshoe bend area is over 1,680 ft.

The Killgore's explained that the mainline connects to a second pressurized mainline that conveys water pumped from the Salmon River. The two mainlines connect somewhere behind the old fruit stands and in the field between the fruit stands and the sub-division road to the north. From this point, a mainline extends further east and up the Killgore's horseshoe bend hill to irrigate hay fields on top of the hill and around the hill. A lateral pipe or mainline also extends from the commingled Joe Creek-Salmon River mainline to the sub-division for irrigation purposes. This pipe comes off the mainline at or near the connection between the Joe Creek mainline and the Salmon River pump mainline. The Killgores stated that there is no control or check valve on the Joe Creek mainline to prevent water from the Salmon River pump going back up the Joe Creek mainline towards the Mullinix property and Joe Creek.

Measuring Device Recommendations

The Department recommends permanent installation of two flow meters has follows:

- Install a magnetic or ultrasonic flow meter on the Joe Creek 8" mainline at a point just downstream of the Mullinix lateral pipe that comes off the Joe Creek mainline; and
- Install a magnetic or ultrasonic flow meter on the Mullinix lateral pipe coming off the Joe Creek 8 inch mainline. IDWR recommends installing the meter on the lateral pipe above the lateral pipe control valve assuming enough straight length of pipe exists between the mainline and the valve as per meter manufacturer specifications.

The location of the two meters would be on the Mullinix property but the two parties agreed during the site visit that a decreed easement exists for the mainline across the Mullinix property and that Killgores have a right to access the pipeline across the Mullinix property within the decreed easement. Installation of meters at this location will allow both parties to inspect both meters. IDWR recommends that the users install the same type of meter on both pipe lines for purpose of consistency and to minimize additional disputes.

IDWR maintains a published "*List of Approved Closed Conduit Flow Meters*" which is available at the Department's website using the following link:

¹ Personal communication with Heather Killgore, June 22, 2015.

² E-mail communication from Daryl Mullinix dated June 24, 2015.

The recommended installation location has no accessible power supply. Therefore, the users need to install meters that operate using an internal battery power supply. Given the connection between the Joe Creek mainline and the mainline from the Killgore Salmon River pump, and potential for water pumped from the Salmon River to move up the Joe Creek mainline (towards Mullinix and Joe Creek), IDWR recommends that the meter installed on the Joe Creek mainline be capable of measuring bi-directional flow (upstream and downstream flow directions). There is at least one or more magnetic or ultrasonic meters on IDWR's approved meter list that have both an internal battery power option and bi-directional flow measurement/display. Examples include the Siemens Magflow 8000 meter, and the Netafim Octave ultrasonic meter. Costs for these meters may range between \$2,500 and \$3,800 depending on pipe size and type of meter selected. Mag and ultrasonic meters are full profile flow meters, meaning that there must be full pipe flow for the meters to operate and measure flow accurately. IDWR believes the recommended meter installation locations will have full pipe flow conditions at all times except when the pipes are drained or being drained.

The Killgores have suggested that a measuring device be installed at or near the creek head gate above the bubbler or perhaps immediately below the bubbler. The Department disagrees with this suggestion. A meter installed on the pipeline above the bubbler will measure the total flow to the bubbler, including water that may spill back to the creek at the bubbler and/or from the mainline through the pressure relief spill pipe/valve located about 900 ft downstream of the bubbler. Water that spills back to the creek is not captured by the mainline and is not available for use by the parties. A meter above the bubbler will not measure the actual amount of water diverted to the mainline and available for use by the parties. IDWR does not understand how measurement of water that may include a portion of water returning to the creek upstream of any water use from the pipeline is going to be helpful towards resolving distribution issues on the pipeline. Additionally, any meter installed on the mainline immediately below the bubbler may not measure water at all times given that the Killgores explained that the mainline at that location is not always a full flowing pipe.

The measuring device recommendations herein are the recommendations of IDWR only. IDWR understands that the parties may propose alternative recommendations to which they agree.

Alternative Suggestion - Rotation Schedule

IDWR is aware that the District Order from October 20, 2014 also ordered the parties to "engage in good faith negotiations to prepare and submit a stipulated irrigation schedule by January 1, 2015." The Department is not aware of whether any such irrigation schedule has been negotiated between the parties, although the parties did discuss some arrangement during the field visit in which Killgore receives up to the first 1 to 1.5 cfs of water in the pipeline, and Mullinix receives the remaining available flow or "excess" water. There was mention that the parties had agreed to this arrangement and/or the Court had approved it. If such a distribution arrangement exists, then measuring devices would be necessary to implement it. However, measuring devices may not necessarily be needed if the parties can agree on an irrigation time schedule where water use is split proportionally on the basis of the authorized rates of flow or irrigated acres. Of course, this alternative would not confirm whether or not the diversions are within the limits of the water rights. This alternative concept was not discussed with the parties during the field visit.

Water Rights Points of Diversion and Place of Use Description Issues

Killgore-Mullinix Recommendation

The IDWR site visit and subsequent review of water rights resulted in the identification of problems with point of diversion and place of use descriptions for water rights owned by both Mullinix and Killgore. The description issues are as follows:

- The point of diversion described on the Joe Creek water rights 79-14233 (Killgore) and 79-14234 (Mullinix) is the NWSW, Section 23, T27N, R1E. The actual point of diversion location, based on IDWR GPS location, is the NESE Lot 6, Section 22, T27N, R1E. IDWR recommends both Mullinix and Killgore change the described points of diversion by filing water right transfer applications.
- The Mullinix Salmon River right 79-14232 lists two points of diversion in the SWNE Lot 5, and SENE Lot 6, of Section 23, T27N, R1E. These points of diversion are near the Killgore Salmon River pump station and are the same points of diversion as the Killgore's Salmon River right 79-14231. IDWR understands that the Mullinix river pump station is located either in the SENW or NESW of Section 23, T27N, R1E. IDWR recommends Mullinix change the described point of diversion by filing a water right transfer application.
- IDWR understands that Killgore has one river pump station or point of diversion location from the Salmon River, located within the SWNE Lot 5, Section 23, T27N, R1E. If this is correct, consideration should be given to removing the other point of diversion description from the water right.
- IDWR observed two hose bib taps off the Joe Creek main pipeline along the fence line on the Carl Killgore property and south of the highway. Although any water use from these taps may be minimal, the Carl Killgore property is not included as a place of use on any water rights. Consideration should be given to including this property on the Killgore water rights or simply cease diversion of water from the taps, or remove the taps.
- As noted previously in this memo, there is no water right authorization for the irrigation of up to one-half acre on the Robinson property using water from the bubbler off Joe Creek or any other nearby water source. Robinson should seek to transfer water from Killgore or Mullinix, or cease any further diversion or use of water from the bubbler and diversion off Joe Creek.



Figure 1 Head gate diversion and 8 inch steel pipe from Joe Creek



Figure 2 Pipeline from creek head gate to bubbler. Discharge pipe from bubbler in foreground.



Figure 3 Bubbler on catchment tray with discharge spout to creek. Note 2 inch poly pipe on right to Robinson parcel.



Figure 4 Vertical 8 inch pipe in bubbler canister. Discharge pipe from bubbler on right behind cinder blocks.



Figure 5 Pressure relieve discharge pipe and valve, discharges or spills water back to creek from mainline below bubbler.



Figure 6 Mullinix buried 2 inch pipe from mainline with black plastic control valve pipe, riser connection and air vac.



Figure 7 Mullinix 4 inch lateral pipe from mainline (no longer used). Valve with removed control handle on right.



Figure 8 Location of buried mainline along fence lines (Karl Killgore's fence in foreground; Mullinix fence n background). Killgore hose bib/tap is behind metal gate/fence, in tumble weeds.



Figure 9 K Killgore fence line and Highway 95 (middle of photo). Buried mainline pipe is along fence line and to right, then crosses highway. Killgore/horseshoe bend property or area is on other side of highway.



Figure 10 View of Killgore irrigated field on top of horseshoe bend hill, with a home in background.



Figure 11 View of Killgore irrigated fields (opposite view, looking back to photo/figure 10).



Figure 12 View of lower Killgore irrigated field in foreground; Mullinix irrigated field visible in far background just below old Joe Creek ditch cut or grade where mainline is now buried.