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Twin Falls, Idaho 83301-5858

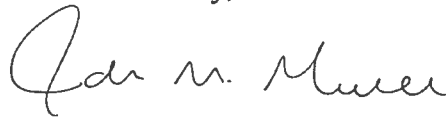
Re: Lambert Produce, Inc. transfer application

Dear Allen:

This letter will serve as a request and as authorization to add recently decreed water right 45-2653A to the pending transfer application no. 78302.

If you have any questions, please feel free to contact me.

Sincerely,

A handwritten signature in cursive script that reads "John M. Marshall".

John M. Marshall

Lambert Produce High Flow Claims Analysis with 1970 Additions

This analysis involved reviewing the topographic maps and aerial photos available for the claimed place of use, as well as up gradient areas to the south of the claimed place of use. The licensing field exams for the ground water rights in this area were also reviewed since they provided information as to the delivery systems in place at the time of the exams.

The earliest documentation of the water delivery system was found in the license file for 45-2254, a ground water right. The field exam was conducted in 1951, and the examiner noted: "This is supplemental water and is used on a rather large acreage. This water, plus the spring runoff, makes possible a very good farming enterprise that could not exist otherwise. "

Additional field examinations, the topographic map and aerial photos from 1962 and 1968 describe and depict an extensive ditch system that collects water from Willow Creek and a well on the east side of the property, and Land Creek, Land Ranch Springs and wells on the west side of the property and conveys the co-mingled water to the fields. By comparing the 1962 and 1968 aerial photos, the extension of the ditches to reach additional land is very apparent. While the surface water sources are insufficient to supply water for the entire irrigation season on the entire place of use, there is sufficient evidence to suggest that when the surface water was available, it could have been spread over the claimed place of use to the extent described in the following paragraphs. The distribution system that supplied water from all sources to the east side of the property is referred to as the Willow Creek ditch system. The distribution system that supplied water from all sources to the west side of the property is referred to as the Land Creek ditch system.

The lands in Section 8 and the West ½ of Section 9:

The 1962 aerial photo shows 260 acres in the West ½ of Section 9 that was irrigated with ditches. No irrigation was taking place in Section 8. A ditch in the photo appears to be capable of conveying water from Willow Creek to the irrigated fields in the West ½ of Section 9.

By 1968, there were 299 acres irrigated from ditches in the West ½ of Section 9 and 533 acres irrigated in Section 8 for a total of 832 acres. Additional ditches have been constructed, and it appears that the land in the West ½ of Section 9 could receive water from Willow Creek or Land Creek, but the land in Section 8 could only receive water from Land Creek.

An affidavit by Trent Anderson states additional land that appears to be in the process of being leveled in the 1968 aerial photo was indeed irrigated by 1970. This would bring the total number of acres irrigated in Section 8 to 625 and in the West ½ of Section 9 to 314, for a total of 939 acres.

Examination of the 1987 aerial photo shows 519 acres irrigated in Section 8 and 276 acres were irrigated in the West ½ of Section 9 for a total of 795 acres.

The land in Section 31

The 1962 aerial photo shows 67 acres of the land in Section 31 currently owned by Lambert Produce that was flood irrigated with ditches from Land Creek, Land Ranch Spring and/or ground water.

The 1968 aerial shows an increase in flood irrigated acres to 177 for the Section 31 land currently owned by Lambert Produce. The water for this land could be from Land Creek and/or Land Ranch Spring, or a combination of ground water co-mingled with the surface water.

While there is evidence that both ground water from the well drilled for 45-2254, and surface water from Land Creek and/or Land Ranch Spring was used on the land in Section 31 that is currently owned by Lambert Produce, the available documentation indicates the water rights were moved to other lands owned by Lambert Produce through an accomplished transfer prior to 11/19/1987. Both the surface water and the ground water would have to have been moved from the Section 31 land in order to avoid unstacking. And, while a water right cannot be recommended for the Section 31 land in the SRBA, any

surface water developed as a beneficial use right on the Section 31 land can be recognized as an accomplished transfer prior to the commencement of the SRBA to the 4983 acre permissible place of use created by Transfer No. 69939. Therefore, the 177 acres from the Section 31 land are included in the analysis of the 4983 acre permissible place of use created by Transfer No. 69939.

As for the previously decreed water rights from Land Creek and/or Land Ranch Spring, the 1962 aerial photo shows that the decreed places of use for 45-695, 45-696 and 45-701 do not appear to be irrigated, indicating an accomplished transfer to other lands had occurred by 1962.

The 4983 acre permissible place of use created by Transfer No. 69939

The 1962 aerial photo shows a total of 435 acres irrigated from the Willow Creek ditch system within the 4983 acre permissible place of use. 56 of the 435 acres overlaps with land irrigated with water from the Land Creek ditch system. Willow Creek water rights 45-168 and 45-169 were claimed and recommended in the SRBA within this permissible place of use on a total of 353 acres. The approval of Transfer No. 69939 reduced the combined total of irrigated acres from Willow Creek under the 1881 priority date to 321.9.

The 1962 aerial photo shows a total of 1760 acres irrigated from the Land Creek ditch system within the 4983 acre permissible place of use. 56 of the 1760 acres overlaps with land irrigated from the Willow Creek ditch system. Land Creek and/or Land Ranch Spring water rights 45-695, 45-696, 45-2053, 45-4258A and 45-701 were recommended in the SRBA within this permissible place of use on a total of 690 acres.

The 1968 aerial photo shows a total of 3169 irrigated acres from within the 4983 acre permissible place of use, plus the Section 31 land. The 1968 aerial photo also shows a total of 663 acres being irrigated from the Willow Creek ditch system; however, 58 of these acres overlap with lands irrigated from the Land Creek ditch system.

Much of the land within the 4983 acre permissible place of use was flood irrigated in 1968, but some land, primarily in Sections 21 and 29, was sprinkler irrigated. The distribution system was a network of ditches and ponds where any available surface water would have been co-mingled with the ground water. This is confirmed by IDWR's licensing field exams for ground water rights in this area which described a combination of flood irrigation and sprinkler irrigation being utilized in the 1960s. This brings the total number of acres irrigated within the 4983 acre permissible place of use and Section 31 by 1968 to 3475. The 177 acres in Section 31 that were irrigated in 1968 can be recommended within the 4983 acre permissible place of use through a post-1968/pre-1987 accomplished transfer.

The acre limits for the surface water rights used within the 4983 acre permissible place of use after the approval of Transfer No. 69939 total 1011.9 acres. This total reflects the reduction of right 45-168 by 31.1 acres as a result of the change in purpose of use from irrigation to stockwater as approved by Transfer No. 69939. Therefore, prior to Transfer No. 69939, the number of acres irrigated with rights 45-168, 45-169, 45-695, 45-696, 45-701, 45-2053 and 45-4258A would have been 1043. Therefore, adding the 3169 acres from the Land Creek ditch system to the 663 acres from the Willow Creek ditch system and deducting the 58 acres of overlap gives a maximum of 3774 acres irrigated from all sources within the 4983 acre permissible place of use by 1968. Additional ground water rights were transferred onto the 4983 acre permissible place of use after 1968 through the transfer process described in Section 42-222, Idaho Code.

At the commencement of the SRBA

The 1987 aerial photo shows 32 quarter-mile pivots with only a few corners and other areas irrigated. The total number of acres irrigated within the 4983 acre permissible place of use in 1987 was 4179.

17.04 cfs = capacity from Willow Creek (7650 gpm or 17.04 cfs from Cory King affidavit)

3.16 cfs = decreed from Willow Creek

13.88 cfs = available for beneficial use rights from Willow Creek

The calculated diversion rate per acre from Willow Creek is 17.04 cfs/977 acres = 0.01744 cfs/acre

28.41 cfs = capacity from Land Creek (12750 gpm or 28.41 cfs from Cory King affidavit)
12.20 cfs = decreed from Land Creek
1.57 cfs = decreed from Land Ranch Spring for 80 acres and delivered through Land Creek diversion
14.64 cfs = available for beneficial use rights from Land Creek
The diversion rate per acre from Land Creek is 28.41 cfs/4108 acres = 0.00692 cfs per acre

Possible Beneficial Use Surface Water Rights for Lambert Produce:

For Section 8 and West ½ of Section 9 from Willow Creek with 1970 priority date (45-13973A)

314 acres at 0.01744 cfs per acre = 5.48 cfs 45-13973A

Limited to 314 acres within 939 acre PPOU

Surface water and ground water limited to 939 acres

For Section 8 and West ½ of Section 9 from Land Creek with 1970 priority date (45-13973C)

939 acres at 0.00692 cfs per acre = 6.49 cfs 45-13973C

Surface water and ground water limited to 939 acres

Enlargement right from Willow Creek and/or Land Creek for Section 8 and West ½ of Section 9 with 1987 priority date

No recommendation can be made since only 795 acres were irrigated in 1987 versus 939 acres in 1970

For the 4983 acres PPOU from Willow Creek with 1968 priority date (45-13973B)

977 acres from Willow Creek – 314 acres for Section 8 and West ½ of Section 9 = 663 acres

663 acres at 0.01744 cfs per acre = 11.56 cfs – 3.16 cfs = 8.40 cfs

353 acres were from 45-168 and 45-169 = 310 acres net gain

45-169 and 45-13455 limited to 321.9 acres after Transfer No. 69939

45-169, 45-13455 and 45-13973B limited to 321.9 acres + 310 acres = 631.9 acres

17.04 cfs capacity – 5.48 cfs for Sections 8 and 9 = 11.56 cfs

Note: There is a 58 acre overlap with Land Creek

For the 4983 acres PPOU from Land Creek with 1968 priority date (45-13973D)

4108 acres from Land Creek – 939 acres for Section 8 and West ½ of Section 9 = 3169 acres

3169 acres at 0.00692 cfs per acre = 21.92 cfs

610 acres and 12.20 cfs decreed, licensed and beneficial use rights from Land Creek

80 acres and 1.57 cfs decreed from Land Ranch Spring

3169 acres – (610 acres + 80 acres) = 2479 acres from Land Creek

3169 acres for the 4983 acre PPOU includes the 177 acres transferred from Section 31

28.41 cfs capacity – 6.49 cfs for Sections 8 and 9 = 21.92 cfs

21.92 cfs – (12.20 cfs from Land Creek + 1.57 cfs Land Ranch Spring) = 8.15 cfs

45-695, 45-696, 45-701, 45-2053, 45-4258A, and 45-13973D are limited to 3169 acres

Note: There is a 58 acre overlap with Willow Creek

For the 4983 acre PPOU from Willow Creek and Land Creek/Land Ranch Spring

663 acres (Willow Creek) + 3169 acres (Land Creek) – 58 acres (overlap) = 3774 acres

3774 acres – 31.1 acres deducted by Transfer No. 69939 = 3742.9 acres 1968 or earlier

45.45 cfs total capacity – 5.48 cfs (Willow Creek Sections 8 & 9) – 6.49 cfs (Land Creek Sections 8 & 9) = 33.48 cfs

45-169, 45-695, 45-696, 45-701, 45-2053, 45-4258A, 45-13455, 45-13973B and 45-13973D
limited to 3742.9 acres

Enlargement from Willow Creek and Land Creek for 4983 acres PPOU with 1987 priority date (45-13974)

1987 NAPP photograph shows 4179 irrigated acres in the 4983 acres PPOU

663 acres from Willow Creek by 1968 + 3169 acres from Land Creek by 1968 – 58 overlapping acres = 3774 acres prior to May 20, 1971

4179 acres – 3774 acres = 405 acre enlargement of surface water usage
4179 acres irrigated with 33.48 cfs of surface water = 0.0082 cfs/acre
405 acre enlargement at 0.00801 cfs/acre = 3.24 cfs
4179 acres – 31.1 acre reduction after Transfer No. 69939 = 4147.9 acres

Combined limits for 4983 acre PPOU from Willow Creek and Land Creek/Land Ranch Spring with 45-13974 45-169, 45-695, 45-696, 45-701, 45-2053, 45-4258A, 45-13455, 45-13456, 45-13973A, 45-13973B, 45-13973C, 45-13973D and 45-13974 limited to 33.48 cfs
45-169, 45-695, 45-696, 45-701, 45-2053, 45-4258A, 45-13455, 45-13973A, 45-13973B, 45-13973C, 45-13973D and 45-13974 limited to 4147.9 acres

Summary of surface water rights on 4983 acre PPOU

From Willow Creek within the 4983 PPOU

2.87 cfs decreed on 321.9 acres (45-169 and 45-13455)
8.40 cfs from 1968 on 631.9 acres (45-13973B)
Total of 11.27 cfs on 631.9 acres (45-169, 45-13455 and 45-13973B)

From Land Ranch Spring within the 4983 PPOU

1.57 cfs before 1962 on 80 acres (45-701)

From Land Creek within the 4983 PPOU

12.20 cfs before 1962 on 640 acres (45-695, 45-696, 45-2053 and 45-4258A)
8.15 cfs from 1968 on 3169 acres (45-13973D)
Total of 21.92 cfs on 3169 acres (45-695, 45-696, 45-2053, 45-4258A and 45-13973D)

1987 enlargement from Land Creek and Willow Creek

3.32 cfs on 405 acres within 4147.9 acre PPOU (45-13974)

Table of Rights Previously Decreed in SRBA

Source	Right No.	Div. Rate	Acre Limit	Priority	Pre-transfer No. 69939 POU
Willow Creek	45-169	1.06	321.9	11/23/1881	? (combined limit with 45-168 of 353 acres in SRBA)
Willow Creek	45-13455	1.81	See 45-169	11/23/1881	? (combined limit with 45-169 of 353 acres in SRBA)
Land Creek	45-695	3.20	160	4/1/1890	T13S R23E S4 SW¼ & S5 E½SW¼ or E½SE¼ (decree)
Land Creek	45-696	1.60	80	4/1/1907	T13S R23E S4 SW¼ & S5 E½SW¼ or E½SE¼ (decree)
Land Creek	45-2053	3.20	160	2/4/1909	T12S R22E S25 S½ NE¼ & N½ SE¼ (licensed)
Land Creek	45-4258A	4.20	210	1/1/1961	T12S R23E S30 NE¼ & E½SE¼ (statutory claim 45-4258)
Land Creek Spring	45-701	1.57	80	4/1/1870	T13S R22E S6 NENW & S7 NENE + some in S1 (decree)
Net totals		16.64	1011.9		

Source	Right No.	Div. Rate	Acre Limit	Priority	Pre-transfer No. 69939 POU
Ground Water	45-2254A	2.60	220	4/12/1948	T12S R23E S30 NE¼ & T13S R23E S5 E½ SE¼ (1986 transfer)
Ground Water	45-2520	5.92 *	480	3/28/1956	T12S R23E S17 NE¼, E½ NW¼, E½ SW¼ & SE¼ (license)
Ground Water	45-2526	4.55	320	10/15/1956	T12S R23E S21 N½ (1969 transfer)
Ground Water	45-2579	2.58	287	5/20/1959	T12S R23E S29 N½ (1985 transfer)
Ground Water	45-2630	2.40	320	10/7/1960	T12S R23E S20 S½ (1985 transfer)
Ground Water	45-2657	2.96	369	6/14/1961	T12S R23E S15 SWNW, W½ SW¼ & S16 E½ (1986 transfer)
Ground Water	45-4009A	3.16	636	5/15/1955	T12S R22E S24 SE¼, S25 NE¼, T12S R23E S15 S½, S19, S20 NE¼, W½, S29 & S30 NE¼ (1997 transfer)
Ground Water	45-4011A	1.00	See 45-4009A	5/15/1953	T12S R22E S24 SE¼, S25 NE¼, T12S R23E S19 & S30 NE¼ (1997 transfer)
Ground Water	45-4013A	2.92	320	4/10/1948	T12S R22E S24 SE¼, S25 NE¼, T12S R23E S19 NE¼, S20 N½, S29 S½, S30 NE¼ & S31 NE¼, NWNW, SENW (SRBA claim)
Ground Water	45-4048F	See 45-2520	360	9/1/1961	T12S R23E S16 W½ & S17 W½W½
Ground Water	45-13777	Expansion	(1991)	6/30/1985	Claim filed in 2004
		28.09	3312		

Source	Right No.	Div. Rate	Acre Limit	Priority	SRBA Decreed POU
Ground Water	45-2519	5.65	285	3/28/1956	T12S R23E S8 N½ (formal transfer pre-SRBA)
Ground Water	45-4048G	1.24	200	9/1/1961	T12S R23E S8 & S9 W½
Ground Water		6.89	485		