

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
NOTICE OF PROTEST
Amended Application for Transfer No. 79198

May 29, 2014

RECEIVED
MAY 29 2014
DEPARTMENT OF
WATER RESOURCES

1. Matter being protested

Amended Application for Transfer No. 79198 by Marvin W. and Ethlene S. Rock (involving water rights 29-00495A, 29-02409A, 29-13393, and 29-13394).

RECEIVED
JUN 02 2014

Department of Water Resources
Eastern Region

2. Name of protestant

United States Department of the Interior
Bureau of Land Management
Idaho State Office
1387 South Vinnell Way
Boise, Idaho 83709-1657

3. Protestant's Representative for service (if different than protestant)

Fredric W. Price (contact person)

4. Service mailing address

United States Department of the Interior
Bureau of Land Management
Idaho State Office
1387 South Vinnell Way
Boise, Idaho 83709-1657

5. Service telephone no.

(208) 373-3831

6. Basis of protest (including statement of facts and law upon which the protest is based).

Marvin and Ethlene Rock filed the Original Application for Transfer on 03-17-2014 to move two water rights (29-02409A and 29-13393) they purchased to a new Place of Use ("POU") and a new Point of Diversion ("POD"). The new POU is overlapping with their water right 29-00495A. The Application for Transfer has since then been amended to include 29-13394 which was also purchased.

The change in POU does not concern or affect the BLM; however the Amended Application for Transfer describes an unauthorized POD with a source of Blackrock Creek that is on BLM Land. The Applicants are not authorized to use BLM land.

Blackrock Creek POD on BLM

- T07S, R35E, S23, NWNW (BLM)

The BLM believes that the POD described on BLM land is the result of a typographical error. This POD described in their existing water right 29-00495A is listed in the Partial Decree as T07S, R35E, S23, NWNE (private); as well as in the Original Application for Transfer and the maps attached to both the Original and the Amended Applications for Transfer which show this POD being located in T07S, R35E, S23, NWNE (private).

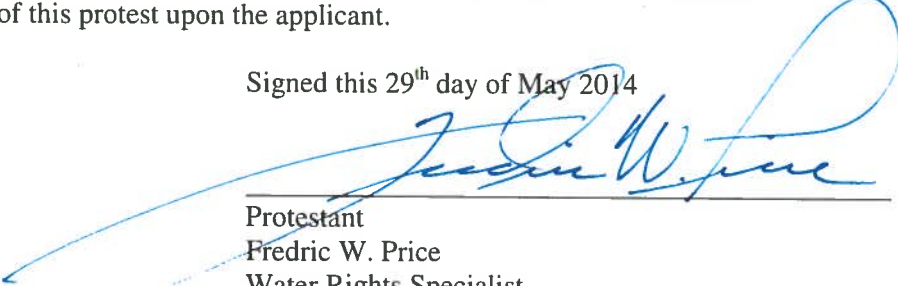
Receipt
#C098907

7. What would resolve your protest?

1. Withdraw the Application, or
2. Amended the Amended Application for Transfer to exclude all BLM land by describing the POD on Blackrock Creek within T07S, R35E, S23, NWNE (private).

I hereby, acknowledge that if I, or my designated representative, fail to appear at any regularly scheduled conference or hearing in the matter of which I have been notified at the address above, the department may issue a notice of proposed default against me in this matter for failure to appear. I also verify that I have served a copy of this protest upon the applicant.

Signed this 29th day of May 2014


Protestant
Fredric W. Price
Water Rights Specialist

Attachments:

- ◆ Portions of the Original and Amended Applications for Transfer No. 79198 marked in red for illustrative purposes.
- ◆ Maps prepared by BLM for illustrative purposes.
- ◆ Master Title Plat: T07S, R35E.

FOR DEPARTMENT USE ONLY

Received by 

Date 5/29/14

Fee Paid \$25.00

Date 5/29/14

Received by 

Receipt # C098907

CERTIFICATE OF SERVICE

I certify that on May 29, 2014, I served a true and correct copy of the **“Protest of Amended Application for Transfer No. 791198”** with enclosures upon the following individuals by placing the documents in the United States mail in Boise, Idaho, postage paid, and addressed as follows:

Original to:

Jeff Peppersack, Administrator
Idaho Department of Water Resources (IDWR)
Idaho State Office
Water Management Division
P.O. Box 83720
322 East Front Street
Boise, Idaho 83720-0098

Copies to:

Idaho Department of Water Resources
Eastern Regional Office
900 North Skyline Drive, Suite A
Idaho Falls, ID 83402-1718

Marvin and Ethlene Rock
4615 W Old Highway 91
Inkom, ID 83245

Karen Kraus, Range Technician
U.S., Department of the Interior
Bureau of Land Management
4350 Cliffs Drive
Pocatello, ID 83204

Jordan Crane
Person Serving Documents (print name)



Signature of Person Serving Documents

2004 MAR 22 PM 02:00
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA)
)
Case No. 39576)
)
PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 29-00495A

NAME AND ADDRESS: MARVIN W ROCK
4615 W OLD HWY 91
INKOM, ID 83245

SOURCE: BLACKROCK CREEK TRIBUTARY: PORTNEUF RIVER

QUANTITY: 0.09 CFS

PRIORITY DATE: 06/17/1902

POINT OF DIVERSION: T07S R35E S23 NWNWNE Within Bannock County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 10-31	0.09 CFS
	Stockwater	04-01 TO 10-31	0.02 CFS

PLACE OF USE: Irrigation Within Bannock County
T07S R35E S23 NWNE 3.0
3.0 Acres Total

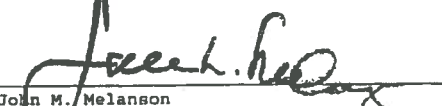
Stockwater Within Bannock County
T07S R35E S23 NWNE

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS
NECESSARY FOR THE DEFINITION OF THE 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. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.


John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCESAPPLICATION FOR TRANSFER OF WATER RIGHT
PART 1 Continued

B. DESCRIPTION OF RIGHTS AFTER THE REQUESTED CHANGES. IF THE RIGHTS ARE BEING SPLIT, DESCRIBE PORTIONS TO BE CHANGED AS THEY WOULD APPEAR AFTER THE REQUESTED CHANGES.

1.	Right Number	Amount (cfs/ac-ft)	Nature of Use	Period of Use	Source & Tributary
All or Part					
☒ ☐	29-495A	.09 cfs	Irrigation	04/01 to 10/31	Blackrock Creek
☐ ☒	29-2409A	.06 cfs	Irrigation	04/01 to 10/31	Blackrock Creek
☒ ☐	29-13393	.04 cfs	Irrigation	04/01 to 10/31	Blackrock Creek
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	

Total authorized under rights .19 cfs and/or _____ ac-ft

2. Total amount of water proposed to be transferred or changed .19 cubic feet per second and/or _____ acre-feet per annum.

3. Point(s) of Diversion:

- ☐ No changes to point(s) of diversion are proposed-the following chart is therefore not completed. (Proceed to #4.)
- ☐ Attach Eastern Snake Plain Aquifer analysis if this transfer proposes to change a point of diversion affecting the ESPA. Label it Attachment #5.

New ?	Lot	¼	¼	¼	Sec	Twp	Rge	County	Source	Local name or tag #
			NW	NE	23	07S	35E	Bannock	Blackrock Creek	

The Original Application for Transfer correctly describes the Blackrock Creek POD in the NWNE (private).

4. Place of use: (If irrigation, identify with number of acres irrigated per ¼ ¼ tract.)

- ☐ No changes to place of use are proposed-the following chart is therefore not completed. (Proceed to #5.)

Twp	Rge	Sec	NE ¼				NW ¼				SW ¼				SE ¼				Acre Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
07S	35E	23		4.5			.5												5

Total Acres (for irrigation use) 5.0

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCESAPPLICATION FOR TRANSFER OF WATER RIGHT
PART 1 Continued

B. DESCRIPTION OF RIGHTS AFTER THE REQUESTED CHANGES. IF THE RIGHTS ARE BEING SPLIT, DESCRIBE PORTIONS TO BE CHANGED AS THEY WOULD APPEAR AFTER THE REQUESTED CHANGES.

1.	Right Number	Amount (cfs/ac-ft)	Nature of Use	Period of Use	Source & Tributary
All or Part					
☒ ☐	29-495A	.09 cfs	Irrigation	04/01 to 10/31	Blackrock Creek/Portneuf Rvr
☒ ☐	29-13393	.04 cfs	Irrigation	04/01 to 10/31	Blackrock Creek/Portneuf Rvr
☒ ☐	29-13394	.15 cfs	Irrigation	04/01 to 10/31	Blackrock Creek/Portneuf Rvr
☐ ☒	29-2409A	.06 cfs	Irrigation	04/01 to 10/31	Ground Water
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	

Total authorized under rights 0.25 cfs and/or _____ ac-ft

2. Total amount of water proposed to be transferred or changed 0.25 cubic feet per second and/or _____ acre-feet per annum.

3. Point(s) of Diversion:

- ☐ No changes to point(s) of diversion are proposed-the following chart is therefore not completed. (Proceed to #4.)
- ☐ Attach Eastern Snake Plain Aquifer analysis if this transfer proposes to change a point of diversion affecting the ESPA. Label it Attachment #5.

New ?	Lot	¼	¼	¼	Sec	Twp	Rge	County	Source	Local name or tag #
Y			NW	NE	23	07S	35E	Bannock	Ground Water	
N			NW	NW	23	07S	35E	Bannock	Blackrock Creek	

The Amended Application for Transfer incorrectly describes the Blackrock Creek POD in the NWNW (BLM).

4. Place of use: (If irrigation, identify with number of acres irrigated per ¼ ¼ tract.)

- ☐ No changes to place of use are proposed-the following chart is therefore not completed. (Proceed to #5.)

Twp	Rge	Sec	NE ¼				NW ¼				SW ¼				SE ¼				Acre Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
07S	35E	23		4.5			.5												5.0

Total Acres (for irrigation use) 5.0

Map Attached to Original Application for Transfer
No. 79198



Proposed place of use and point of diversion

Both maps show the POD on Blackrock Creek being located in the NWN (private) (correct) not in the NWNW (BLM) (incorrect).

Marvin & Ethlene Rock

- Township/Range
- Sections
- QQ



79198

0 0.02 0.04 0.08 Miles

Map Attached to Amended Application for Transfer No. 79198



- Proposed Place of Use
- Township/Range
- Sections
- QQ

Marvin & Ethlene Rock

0 0.0125 0.025 0.05 Miles



BLM Protest Map to Amended Application for Transfer No. 79198

Arrows Indicate Affect of Transfer (POD)



Legend

○ Transfer Proposed PODs

▨ Transfer Proposed POU

Current WaterRight PODs

● 29-13393

● 29-13394

● 29-2409A

● 29-495A

Current Water Right POUs

▨ 29-13393

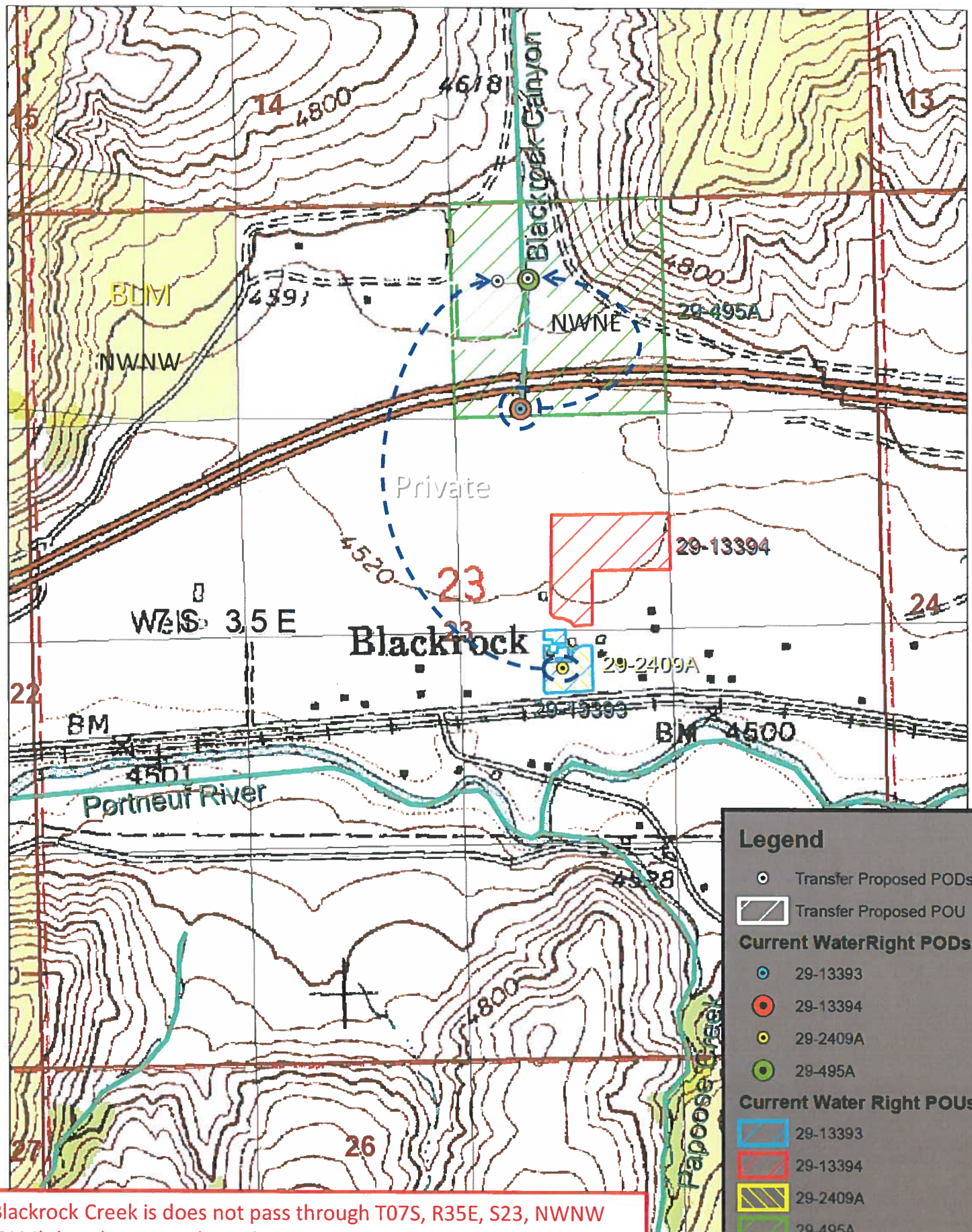
▨ 29-13394

▨ 29-2409A

▨ 29-495A

Blackrock Creek is does not pass through T07S, R35E, S23, NWNW (BLM), but does pass through T07S, R35E, S23, NWNE (private).

BLM Protest Map to Amended Application for Transfer No. 79198
Arrows Indicate Affect of Transfer (POD)



Blackrock Creek is does not pass through T07S, R35E, S23, NWNW (BLM), but does pass through T07S, R35E, S23, NWNE (private).

BANNOCK COUNTY 005
IDAHO FALLS DISTRICT SEC 3

3556

3658

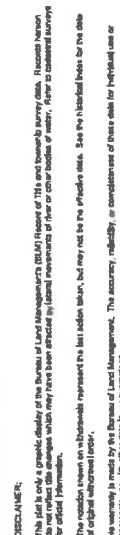
STATUS OF PUBLIC DOMAIN LAND AND MINERAL TITLES AND ACQUIRED LANDS

MT PLAT

[illegible][illegible]

FOR ORDERS EFFECTING DISPOSAL OR USE OF
UNIDENTIFIED LANDS REFER TO INDEX OF
MISCELLANEOUS DOCUMENTS

FILE REF: E06987F0E2C0A100000000	B/T:	L/M
CORRECTION FRT: LPT100000	B/T:	JOB
UNIT IDENTIFICATION: 062707513		
DATE IN: SSB 06/28/2013	DOMIC #:	SSB
PRINTED TO PUBLIC RECORDS: June 27, 2013	B/T:	
PUBLIC LAND SURVEY SYSTEM (PLSS)		
SIM ACRES ACQUIRED: 04/29/2005		
OWNER: N/A		
PROJECTED COORDINATE SYSTEM: UTM ZONE 17N WGS 1984		
NUTCR:		
USE PLAT#:		

T. 7S
R. 14E

J.S. Bureau of Land Management - Idaho State Office
1287 S. Vinell Way Boise, Idaho 83709

Wiley Botz, Inc.
2001 772-1000