

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT
TRANSFER NO. 78313

This is to certify that: JAMES JUAN SPILLETT
4546 ROCKLAND HWY
ROCKLAND, ID 83271

has requested a change to the water right(s) listed below. This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code. A summary of the changes is also listed below. The authorized change for each affected water right, including conditions of approval, is shown on the following pages of this document.

Summary of Water Rights Before the Proposed Changes

Water Right	Origin/Basis	Priority Date	Diversion Rate	Diversion Volume	Acre Limit	Total Acres	Source
41-10258	WR/DECREED	4/1/1909	0.200 cfs	N/A	N/A	50.0	SOUTH FORK ROCK CREEK
41-10259	WR/DECREED	4/1/1909	0.800 cfs	N/A	N/A	50.0	SOUTH FORK ROCK CREEK

Purpose of Transfer (Changes Proposed)

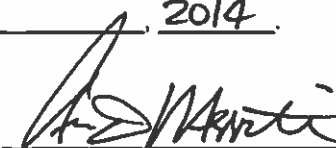
Current Number	Split	POD	POU	Add POD	Period of Use	Nature of Use
41-10258	NO	YES	YES	NO	NO	NO
41-10259	NO	YES	NO	NO	NO	NO

Summary Of Water Rights After the Approved Change

Existing Right	New No. (Changed Portion)	Transfer Rate	Transfer Volume	Acre Limit	Total Acres	New No. (remaining portion)	Remaining Rate	Remaining Volume	Remaining Acre Limit	Remaining Total Acres
41-10258	41-10258	0.200 cfs	N/A	N/A	50.0	N/A	N/A	N/A	N/A	N/A
41-10259	41-10259	0.800 cfs	N/A	N/A	50.0	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		1.000 cfs	N/A	N/A	50.0		N/A	N/A	N/A	N/A

This water right(s) is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources. Detailed Water Right Description(s) attached.

Dated this 15th day of May, 2014.


Southern Region Manager

SUPPORT DATA

IN FILE # 41-10258

Transfer No. 78313

WATER RIGHT NO. 41-10259

As Modified by Transfer No. 78313

In accordance with the approval of Transfer No. 78313, Water Right No. 41-10259 is now described as follows:

Right Holder: JAMES JUAN SPILLETT
4546 ROCKLAND HWY
ROCKLAND, ID 83271

Priority Date: 4/1/1909

Source: SOUTH FORK ROCK CREEK **Tributary:** ROCK CREEK

BENEFICIAL USE **From** **To** **Diversion Rate**
IRRIGATION 4/01 to 10/31 0.800 cfs
0.800 cfs

LOCATION OF POINT(S) OF DIVERSION

SOUTH FORK ROCK CREEK NENWSW Sec 20 Twp 10S Rge 31E POWER County

PLACE OF USE: IRRIGATION

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
10S	31E	20						2.0	24.0			24.0							50.0

POU Total Acres: 50.0

CONDITIONS OF APPROVAL

1. Use of this right with right Nos. 41-00008B, 41-00013B and 41-10258 is limited to the irrigation of a combined total of 50 acres in a single irrigation season.
2. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 41.
3. This right when combined with all other rights shall provide no more than 4.0 afa per acre at the field headgate for irrigation of the place of use.
4. The quantity listed above shall be measured at the point of diversion listed for this right by means of a measuring box of the type and dimensions decreed by in re Houtz et al (Oneida County, Sixth Judicial District Court, June 6, 1903). Any change in the method of measurement shall constitute a change in the point of diversion requiring approval by the Idaho Department of Water Resources as a transfer pursuant to I.C. Section 42-222.
5. The following rights are diverted through the point of diversion described above: 41-8B, 41-13B, 41-10258, and 41-10259.

Transfer No. 78313

WATER RIGHT NO. 41-10259
As Modified by Transfer No. 78313

CONDITIONS OF APPROVAL

6. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
7. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
8. Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.



WATER RIGHT NO. 41-10258

As Modified by Transfer No. 78313

In accordance with the approval of Transfer No. 78313, Water Right No. 41-10258 is now described as follows:

Right Holder: JAMES JUAN SPILLETT
4546 ROCKLAND HWY
ROCKLAND, ID 83271

Priority Date: 4/1/1909

Source: SOUTH FORK ROCK CREEK **Tributary:** ROCK CREEK

BENEFICIAL USE **From** **To** **Diversion Rate**
IRRIGATION 4/01 to 10/31 0.200 cfs
0.200 cfs

LOCATION OF POINT(S) OF DIVERSION

SOUTH FORK ROCK CREEK NENWSW Sec 20 Twp 10S Rge 31E POWER County

PLACE OF USE: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
10S	31E	20						2.0	24.0			24.0							50.0

POU Total Acres: 50.0

CONDITIONS OF APPROVAL

1. Use of this right with right Nos. 41-00008B, 41-00013B and 41-10259 is limited to the irrigation of a combined total of 50 acres in a single irrigation season.
2. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No.41.
3. This right when combined with all other rights shall provide no more than 4.0 afa per acre at the field headgate for irrigation of the place of use.
4. The quantity listed above shall be measured at the point of diversion listed for this right by means of a measuring box of the type and dimensions decreed by in re Houtz et al (Oneida County, Sixth Judicial District Court, June 6, 1903). Any change in the method of measurement shall constitute a change in the point of diversion requiring approval by the Idaho Department of Water Resources as a transfer pursuant to I.C. Section 42-222.
5. The following rights are diverted through the point of diversion described above: 41-13B, 41-8B, 41-10258, and 41-10259.

Transfer No. 78313

WATER RIGHT NO. 41-10258
As Modified by Transfer No. 78313

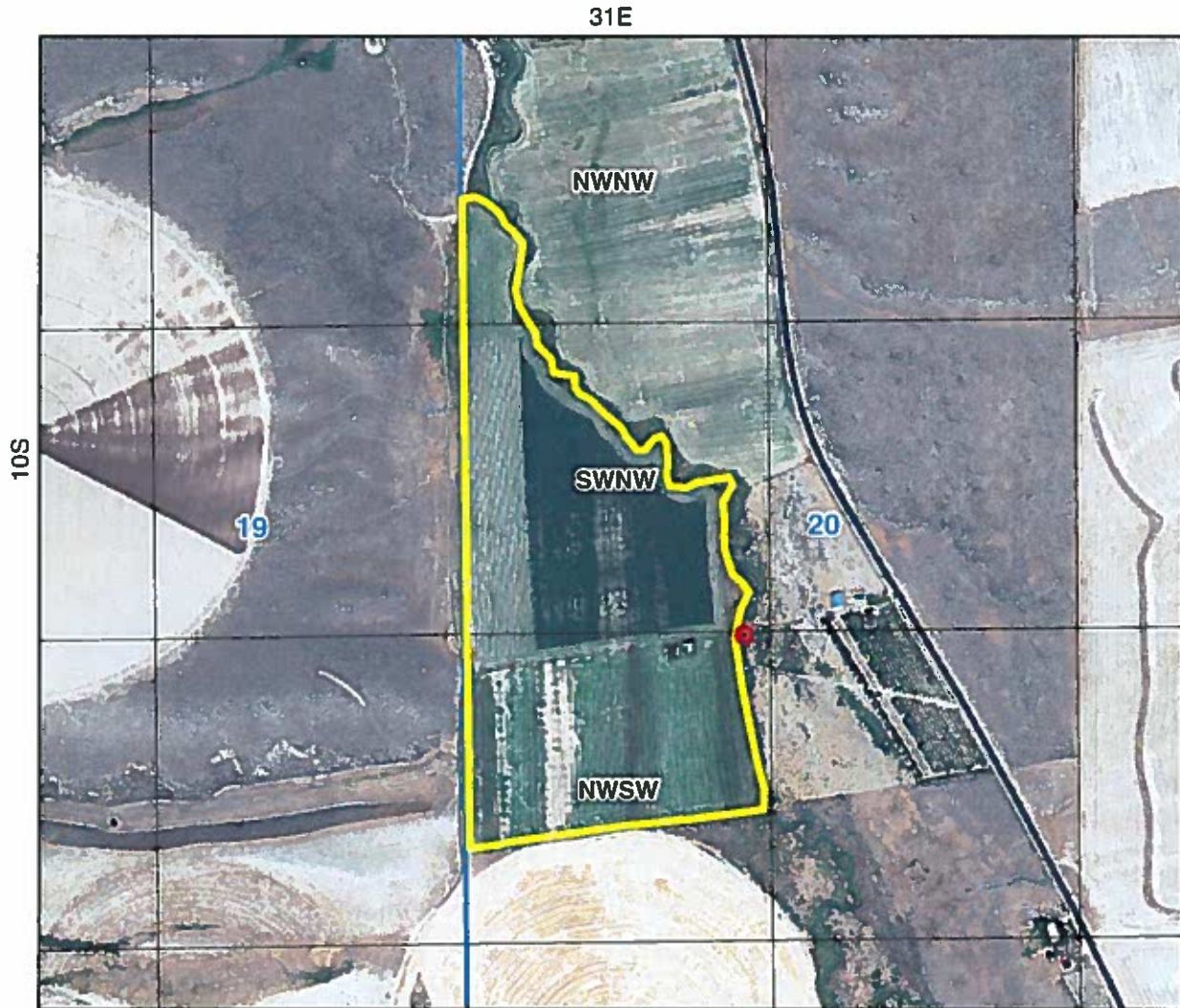
CONDITIONS OF APPROVAL

6. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
7. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
8. Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.



State of Idaho
Department of Water Resources
Attachment To Transfer No. 78313
Rights: 41-10258 and 41-10259

This map depicts the IRRIGATION place of use boundary for this water right at the time of this approval and is attached to the approval document solely for illustrative purposes.



- Point of Diversion
- Place Of Use Boundary
- Townships
- PLS Sections
- Quarter Quarters

0 0.075 0.15 0.3 Miles





State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region • 650 Addison Ave W, Suite 500 • Twin Falls, Idaho 83301-5858

Phone: (208) 736-3033 • Fax: (208) 736-3037 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

May 1, 2014

JAMES JUAN SPILLETT
4546 ROCKLAND HWY
ROCKLAND ID 83271

Re: Transfer No: 78313
Water Right No(s): 41-10258, 41-10259

Transfer Approval Notice

Dear Water Right Holder and other Interested Persons:

The Department of Water Resources has issued the enclosed approved Transfer of Water Right(s). Please be sure to thoroughly review the conditions of approval and remarks listed on the approval document.

The Transfer of Water Right(s) is a PRELIMINARY ORDER issued by the Department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action by the Department unless the APPLICANT petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date as described in the enclosed information sheet.

ANY PERSON aggrieved by any decision, determination, order or action of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Department and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

If the transfer approval includes a condition requiring measuring and recording devices, such devices shall comply with specifications established by the Department. Detailed specifications are available on the Department's home page on the Internet, or you can request a copy by contacting any office of the Department. Please be sure to thoroughly review the specifications to avoid unnecessary costs for reinstallation or modification due to non-conforming or improperly installed devices.

Please note that water right owners are required to report any change of water right ownership and/or mailing address to the Department within 120 days of the change. Failure to report these changes could result in a \$100 late filing fee. Contact any office of the Department or visit the Department's homepage on the Internet to obtain the proper forms and instructions.

If you have any questions, please contact me at (208) 736-3033.

Sincerely,

A handwritten signature in black ink, appearing to read "Allen Merritt". The signature is stylized with a large initial "A" and a cursive "Merritt".

Allen Merritt
Southern Regional Manager

Enclosure

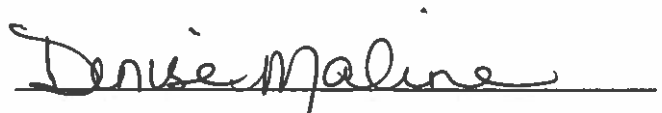
CERTIFICATE OF SERVICE

I hereby certify that on May 1, 2014 I mailed a true and correct copy, postage prepaid, of the foregoing TRANSFER APPROVAL to the person(s) listed below:

Re: Transfer No.: 78313

Water Right No(s): 41-10258, 41-10259

**JAMES JUAN SPILLETT
4546 ROCKLAND HWY
ROCKLAND ID 83271**

A handwritten signature in cursive script, reading "Denise Maline", is written over a horizontal line.

**Denise Maline
Administrative Assistant**

EXPLANATORY INFORMATION TO ACCOMPANY A PRELIMINARY ORDER

(To be used in connection with actions when a hearing was **not** held)

(Required by Rule of Procedure 730.02)

The accompanying order or approved document is a "Preliminary Order" issued by the department pursuant to section 67-5243, Idaho Code. **It can and will become a final order without further action of the Department of Water Resources ("department") unless a party petitions for reconsideration, files an exception and brief, or requests a hearing as further described below:**

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the department within fourteen (14) days of the service date of this order. **Note: the petition must be received by the department within this fourteen (14) day period.** The department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3) Idaho Code.

EXCEPTIONS AND BRIEFS

Within fourteen (14) days after: (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding with the Director. Otherwise, this preliminary order will become a final order of the agency.

REQUEST FOR HEARING

Unless a right to a hearing before the Department or the Water Resource Board is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Director and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

ORAL ARGUMENT

If the Director grants a petition to review the preliminary order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with IDAPA Rules 37.01.01302 and 37.01.01303 (Rules of Procedure 302 and 303).

FINAL ORDER

The Director will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Director may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its service date if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

- (a) The petition for reconsideration is disposed of; or
- (b) The petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region • 650 Addison Ave W, Suite 500 • Twin Falls, Idaho 83301-5858

Phone: (208) 736-3033 • Fax: (208) 736-3037 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

May 1, 2014

JAMES ROBINSON WATERMASTER
WATER DISTRICT # 41
PO BOX 157
ROCKLAND, ID 83271-0157

Re: **APPROVED** Transfer No. 78313 (James Juan Spillett)

Dear Mr. Robinson:

For your information and records, we have enclosed a copy of an APPROVED Application for Transfer within your District.

If you have any questions, please contact this office, or the applicant.

Sincerely,

Denise Maline
Administrative Assistant

Enclosure

MEMORANDUM

Date: March 6, 2014
To: Transfer 78313 File
From: Jim Bitzenburg
Re: Evaluation of Sufficiency of Information Submitted

This amended transfer application, which has been renumbered from 66685, which was renumbered from 5263 (originally filed in November of 1995), seeks to change the point of diversion (POD) of record for rights 41-10258 (0.2 cfs, 50.0 acres), 41-10259 (0.8 cfs, 50.0 acres), to reflect the fact that only one POD is actually used, and has been used for approximately 20 years. Water rights 41-10258 and 41-10259 were decreed in March of 2001 with incorrect PODs, and this transfer will affirm their actual POD, which is T10S, R31E, Section 20, NENWSW; a pump in the South Fork of Rock Creek, located 0.53 miles east and 2.5 miles south of Rockland, Idaho. This POD is also the POD for water rights 41-13B (0.20 cfs, 50.0 acres) and 41-8B (0.533 cfs, 50.0 acres).

Additionally, the place of use (POU) for right 41-10258 was decreed incorrectly, placing 24 acres in the NWSW, T10S, R31E, Section 20, instead of in the SWNW of Section 20. The actual place of use for water rights 41-10258 and 41-10259, and water rights 41-13B and 41-8B is T10S, R31E, Section 20, NWNW(2.0 acres), SWNW(24.0 acres), NWSW(24.0 acres); or from Rockland, Idaho, 0.32 to 0.53 miles east and 2.14 to 2.67 miles south.

A companion transfer, 78312, which was renumbered from 66684, renumbered from 5262, was protested, and withdrawn by Juan Spillett on July 23, 2013. The goals of the two original transfers appear to have been met in the Snake River Basin Adjudication; this amended transfer is to correct errors in the decrees and will not cause any hydrologic changes to the area. A letter from Water District 41 watermaster James Robinson, is attached, and attests to the length of time rights 41-10258 and 41-10259 (both of which are 'high water' rights) have been diverted from the pump in the South Fork of Rock Creek. It would seem that re-advertising is not necessary under Idaho Code 42-222 because they have been diverted directly from the South Fork of Rock Creek for the past twenty years and this is a 'paper change'.

- **Authority to File:**
The Department's database indicates that water rights 41-10258, 41-10259, 41-8B, and 41-13B, are owned by the applicant, James Juan Spillett. Application was signed by James Juan Spillett.
- **Water Right Validity:**
Rights 41-10258 and 41-10259 were partially decreed in the SRBA in March of 2001. Rights 41-8B and 41-13B were partially decreed in the SRBA in May of 2007. A review of satellite imagery indicates irrigation has occurred on the place of use within the last five years. Based on this review, it appears that forfeiture is not an issue.
- **Injury to Other Water Rights:**
None anticipated or foreseen.
- **Enlargement of Use:**
None anticipated.

- **Local Public Interest:**
No issues anticipated.
- **Beneficial Use/Conservation of Water Resources:**
Proposed use is recognized as a beneficial use of water.
- **Effect on the Economy of the Local Area:**
None Anticipated
- **Effect of the Agricultural Base of the Area:**
None Anticipated
- **Review of the application finds there is no clear inconsistency with criteria set forth in Section 42-222 Idaho Code preventing processing of this application.**

James Robinson
Watermaster
Water District 41
Feb 25, 2014

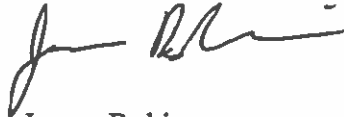
RECEIVED
FEB 27 2014
DEPT. OF WATER RESOURCES
SOUTHERN REGION

Department of Water Resources
650 Addison W. STE 500
Twin Falls, ID 83301

RE: Water Rights 41-10258 & 10259 *Transfer 78313*

These water rights are high water rights. When the diversion point for the underlying water rights were moved, these rights should have been transferred also. Since the time in the early to mid 90s when the original rights were changed to a new diversion point, when these rights have been diverted, they have been diverted at this same point.

Sincerely



James Robinson



State of Idaho
DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380
Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

November 8, 2001

James Juan Spillet
PO Box 278
Rockland, ID 83271

RE: Applications for Transfer No. 5262 and 5263

Dear Mr. Spillet:

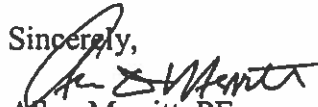
As you may recall in 1995 you filed two transfers as numbered above to modify two decreed water rights (portion of 41-00008 and portion of 41-00013) to allow their use on 52 acres in Section 20, T10S, R31E located on the west side of the South Fork of Rock Creek. You proposed to divert the water from a pump at the place of use. These transfers were advertised and transfer No. 5262 was protested by the Bench Ditch. Since that time both transfers have been held without further action mainly to allow the Snake River Basin Adjudication process to evaluate the rights in the Rock Creek basin and potentially evaluate the transfer proposals.

As you know the SRBA recommendations have been made for the Rock Creek basin and I understand that you have met with Corey Skinner from this office a couple of years ago and also recently met with Steve Clelland who has been working on the SRBA recommendations. I understand from them that these transfers do not accurately describe your intentions for continued use of the water at the site and do not conform to the SRBA recommendations. They indicate that these transfers should be withdrawn or cancelled.

This letter is to inquire of your intentions. If it is your desire to withdraw these transfers please send me a letter indicating that you wish to withdraw the applications. If you wish to continue these transfers please also notify me, we will need to set a conference between the protestant, SRBA staff and yourself to discuss the setting of a formal hearing if you wish to proceed. Please let me know how you wish to proceed within 14 days of the date of this letter. If you fail to respond I intend to issue a "Notice of Proposed Default" pursuant to IDAPA 37.01.01.700 (IDWR Rules of Procedure, Rule 700).

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

Sincerely,


Allen Merritt, PE
Southern Region Manager

CC: Steve Clelland, James Robinson, Corey Skinner

MEMORANDUM

TO: Juan Spillett Transfer Files (41-00008E & 41-00013A parts)
SRBA Claims A41-00008B & A41-00013B

FROM: Steve Clelland *sc*

DATE: August 30, 2001

SUBJECT: Post-Settlement Review of System

Yesterday I met with ALL the owners of ALL the portions of the rights 41-00008 and 41-00013, the Adshead Ditch (160") and the Jackson Ditch (30") respectively. I specifically asked about the purpose and affect of the two pending transfers filed by Mr. Spillett, Trans. #5262 (41-00008) & #5263 (41-00013). James Robinson and Juan Spillett discussed the meeting they had with Corey Skinner on July 9, 1998 and they told me the transfers did not accurately describe the intentions of Mr. Spillett.

After reviewing the intermingled ditch uses and the water swapping that has been practiced by the water users, I am convinced these two pending transfers should be Withdrawn or Cancelled. They are not written to describe the uses as practiced by the current owners of the rights involved.

History:

Mr. Spillett has an approved transfer (#3519) that allows him to move his point of diversion for his rights (both -08 and -013) to a pump in the Rock Creek, which he accomplished in about 1995-96. The transfer required him to maintain his participation in the rotation on the Adshead Ditch and that made the system unworkable in a practical sense (i.e. he would need to have a large pump system to allow him to pump the full 190" in 3 days of every 12 days of the rotation.) In an effort to comply with the transfer and still use an economical pump system, the water users developed their own plan to work things out.

In order to maintain the rotation on the Adshead Ditch, Mr. Spillett would give 20" of his water to Robert Spillett and Scott Weston - 10" each. It is not clear where this water is used and no offer given at the meeting time. In return, they agreed to give to Mr. Spillett each of their respective 10" portions from the Jackson Ditch system. Mr. Spillett could now use the entire 30" of the Jackson Ditch delivery to run through his pump and irrigate the 40 acres (located on the west side of Rock Creek) described in the Trans. #3519 and reported in the SRBA Director's Report of his claims. He left the remaining 10" of his Adshead Ditch portion in the ditch system; no POU or use is identified for this 10" on the east

side (Adshead Ditch side) of the creek since the recorded POU is for the 40 acres on the west side or Jackson Ditch side.

13 If this were the end of the story it might seem to be a workable and documented plan. However, if Mr. Spillett is taking all the 30" from the Jackson Ditch system there is a conflict with Robert Spillett who claimed and is Partially Decreed 5" on 5 acres irrigated from the Jackson Ditch on the west side of the Rock Creek. There is no use of POU location for any of the water held by Scott Weston and the 10" he claimed in the Jackson Ditch is Partially Decreed as being disallowed. Also, 5" of Robert Spillett's portion is disallowed. Since these rights are Partially Decreed by the SRBA Court, both men said they will petition the SRBA Court to set aside the Partial Decrees and then try to justify their rights in the Adjudication.

There is one other critical fact for EVERY transfer of Rock Creek water to consider; that is the difference between Houtz inches as decreed and delivered and the use of standard Miner's inches as used in the rest of the State of Idaho. Failure to account for the variations between these two very different delivery quantities will result in substantial injury to junior water right holders in the Rockland Valley area. Full details are available in most SRBA claim files and a remark is added to each of the Basin 41, Rock Creek Partial Decrees that addresses the problem. Basically the Houtz inch, as delivered through the 8' box at the 6-inch depth, is about 15-30% LESS than the standard Miner's inch as measured according to commonly acceptable devices.

Summary:

These two transfers as filed and advertised do not describe the swapping of rights that has been attempted by the users on this system. Even if R. Spillett and S. Weston are successful in getting their full rights justified and restored, THEY will need to file the transfers to record the changes and not Juan Spillett, as proposed in these transfers. If future transfers are submitted by these parties, the transfers will not be accurately evaluated until the Adjudication of the rights is complete and the legal use of the water is identified. Until then the self-regulation/appropriation will only serve to confuse the IDWR and the water users themselves.

Affidavit of Publication

State of Idaho

County of Power

Brett Crompton being first duly sworn on oath, states:

That he is the editor and co-publisher of The Power County Press, a newspaper of general circulation in Power County, Idaho, published weekly at American Falls in said county, that said newspaper has been published in said county uninterruptedly and continuously for over seventy-eight consecutive weeks, prior to the first publication of the annexed notice or advertisement:

That the annexed notice or advertisement was published as per clipping attached in the regular and entire edition of said newspaper and not in any supplement thereof for 2 successive weekly issues thereof, the date of the first publication being the 27 day of May 1998 and the date of the last publication being the 3 day of June 1998.

Signed

Brett Crompton

State of Idaho

County of Power

On this 4 day of June in the year of 1998, before me, a Notary Public, personally appeared Brett Crompton, known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that he executed the same.

Dolly Morris
Notary Public for Idaho
Residing at American Falls, Idaho
My commission expires: January 21, 2003

Spillet requests water right change

Published in The Power County Press
May 27, June 3, 1998.

NOTICE OF PROPOSED CHANGE OF WATER RIGHTS

Notice is hereby given that JAMES
JUAN SPILLET, PO BOX 278;
ROCKLAND ID 83271 has applied to
the Department of Water Resources for
changes to the water rights listed below.

PRESENTLY, the two following
listed Decreed water rights are diverted
from South Fork, Rock Creek tributary
to Rock Creek via the Jackson Ditch
within NE1/4NW1/4, S29, T10S, R31E;
Power County.

PRESENTLY, Decreed Water Right
No. 41-00008E (0.60 cfs) with a priority
date of 10/01/1879 is used for irrigation
of 40 acres within parts of S20, T10S,
R31E; Power County.

PRESENTLY, Decreed Water Right
No. 41-00013A (0.40 cfs) with a priority
date of 05/01/1881 is used for irrigation
within parts of Sections 20 & 29, T10S,
R31E; Power County.

PROPOSED CHANGES

The purpose of the transfers is to
change the point of diversion and place
for use for a portion of the rights with a
conversion to pump & sprinklers via
pipeline. Water will be diverted within

NE1/4NW1/4SW1/4, S20, T10S, R31E;
Power County for irrigation of 52 acres
within parts of S20, T10S, R31E; Power
County.

Transfer No. 5262 proposes to split
off 0.40 cfs which will be designated as
Water Right No. 41-00008C. The re-
mainder of the Right, 41-00008F (0.20
cfs) will continue to be used for
irrigation of 40 acres at the original
place of use.

Transfer No. 5263 proposes to split
off 0.20 cfs which will be designated as
Water Right No. 41-00013D. The re-
mainder of the Right, 41-00013C (0.20
cfs) will continue to be used for
irrigation at the original place of use.

Any protest against the proposed
changes must be filed with the Depart-
ment of Water Resources, Southern
Region, 1341 Fillmore St., Suite 200;
Twin Falls, ID 83301 together with a
protest fee of \$25.00 on or before June
15, 1998 to be considered by the
Department in its decision to grant or
deny any part of the proposed change.
(Each transfer requires a separate
protest). The protest must also send a
copy of the protest to the applicant.

Karl J. Dreher, Director

OK MB
6/10/98

JUN 05 1998

THE POWER COUNTY PRESS
P.O. BOX 547
174 IDAHO ST.
AMERICAN FALLS, ID. 83211

DEPARTMENT OF WATER
1341 FILLMORE
SUITE 200
TWIN FALLS, ID. 83301

STATEMENT DATE: 06/30/98
ACCOUNT NUMBER: DEPTWATE

STATEMENT OF ACCOUNT
=====

		CHARGES	PAYMENTS	BALANCE
4/01/98	OPENING BALANCE			\$ 0.00
5/27/98	LGL:UDY BROTHERS	37.40 OK	41-07093	37.40
5/27/98	AFFIDAVIT	5.00 OK		42.40
6/03/98	LGL: JAMES SPILLET	68.20 OK	T#5262 + 5263	110.60
6/03/98	AFFIDAVIT	5.00 OK	41-00008 E, etc.	115.60
		AMOUNT DUE:	\$	115.60

JUN 05 1998
Department of Water Resources
Southern Region

CURRENT	73.20
31 - 60 DAYS	42.40
61 - 90 DAYS	0.00
90 + DAYS	0.00
TOTAL DUE	115.60

We appreciate your business.

RECOMMENDATION FROM STREAM CHANNEL PROTECTION SPECIALIST

APPLICATION FOR TRANSFER NO. 5262 & 5263

I, TERRY G. BLAU, Stream Channel Protection Specialist for the State of Idaho, Idaho Department of Water Resources, 1341 Fillmore St., Twin Falls, Idaho have read the attached copy of the applications for transfer in the name of James Juan Spillet.

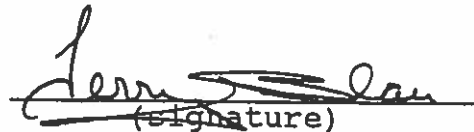
I recommend the following conditions:

[1] The pump intake shall be placed in a screened box with mesh size not to exceed .25 inch.

[2] Fuel, oil, and other hazardous materials shall be stored, and equipment refueled and serviced, away from the stream to insure that a spill cannot enter the waterway.

[3] All construction activities shall be conducted in such a manner so as to minimize turbidity and comply with Idaho water quality standards.

Dated at Twin Falls, Idaho, May 19, 1998.


(signature)

NOTE: AFTER A BRIEF REVIEW OF THESE APPLICATIONS IT APPEARS THAT WATER IS PROPOSING TO BE TRANSFERRED WITHOUT A CORRESPONDING REDUCTION IN USAGE WHICH MAY RESULT IN AN INCREASED DEMAND ON THE STREAM. IT WAS ALSO NOTED THAT THE APPLICANT DID NOT APPEAR TO HAVE POSSESSORY INTEREST IN THE WATER BEING TRANSFERRED OR IN THE LAND IT IS BEING TRANSFERRED FROM.