

State of Idaho
Department of Water Resources
Amendment of Permit

NO. 65-23479

Priority: August 15, 2012

Maximum Diversion Rate: 150.00 CFS

Permit Holder: BIG WILLOW RANCH LLC
1 DIXIE LN
PAYETTE ID 83661

Source: DRY CREEK

Tributary: BIG WILLOW CREEK

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
IRRIGATION	03/01 to 06/15	10.00 CFS	
IRRIGATION STORAGE	01/01 to 12/31		1,800.0 AF
IRRIGATION FROM STORAGE	03/01 to 11/15		1,800.0 AF
DIVERSION TO STORAGE	10/01 to 06/15	150.00 CFS	

LOCATION OF POINT OF DIVERSION:

DRY CREEK NE1/4SE1/4 Sec. 27, Twp 09N, Rge 02W, B.M., PAYETTE County

PLACE OF USE: IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
08N	02W	7	21.0		35.0	40.0				40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	456.0
08N	02W	8	36.0	30.0	40.0	40.0	29.0	9.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	584.0
08N	02W	9	37.0	40.0	40.0	40.0	36.0	39.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	632.0
08N	03W	11									40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	320.0
08N	03W	12									40.0	40.0	40.0	40.0	40.0	40.0	40.0	20.0	300.0
08N	03W	13					40.0	40.0											80.0
08N	03W	14	40.0	40.0			40.0												120.0

Total Acres: 2492

PLACE OF USE: IRRIGATION STORAGE

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
09N	02W	27									X	X		X		X	X		

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PLACE OF USE: IRRIGATION FROM STORAGE

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
08N	02W	7	21.0		35.0	40.0			40.0		40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	456.0
08N	02W	8	36.0	30.0	40.0	40.0	29.0	9.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	584.0
08N	02W	9	37.0	40.0	40.0	40.0	36.0	39.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	632.0
08N	03W	11									40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	320.0
08N	03W	12									40.0	40.0	40.0	40.0	40.0	40.0	40.0	20.0	300.0
08N	03W	13					40.0	40.0											80.0
08N	03W	14	40.0	40.0			40.0												120.0

Total Acres: 2492

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **November 01, 2017**.
2. Subject to all prior water rights.
3. The right holder shall contact the watermaster by June 15 each year for authorization to continue diverting and using water directly from Dry Creek. The right holder shall not divert water from Dry Creek after June 15 each year unless the watermaster authorizes continued diversion and use of water under this water right. When the watermaster informs the right holder that water is not available to fill this right, the right holder shall cease diversion from the creek, shall rent water from the Payette River Rental Pool, or shall otherwise mitigate for the depletion of water caused by this water use. The department may amend the contact date listed in this administrative provision to more closely coincide with the date when water is not available to fill this water right. This curtailment/mitigation does not apply to water already stored in the reservoir prior to June 15 of each year.
4. Prior to diversion of water under this right, the right holder shall install and maintain a measuring device and lockable controlling works of a type acceptable to the Department as part of the diverting works.
5. Combined rights 65-7136, 65-7603, 65-22979 and 65-23479 authorize the diversion of an annual total of 1800 acre-feet to be used for the initial filling of the same reservoir.
6. The reservoir to be used for this right will be expanded under right 65-22979.
7. This right is limited to the irrigation of a specific 740 acres within the 2492 acre place of use authorized by this right in a single irrigation season. The specific 740 acres to be irrigated by the right holder shall be identified prior to use by submittal of a land list and a representative electronic shape file or by submittal of a land list and a map sufficiently detailed to allow creation of an electronic shape file to be associated with this right. Before changing the 740 acres to be irrigated within the 2492 acre place of use, the right holder shall submit a new land list and representative electronic shape file or map to the Department prior to the irrigation season in which the change will occur.

State of Idaho
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NO. 65-23479

8. This right is limited to the irrigation of 740 acres within the authorized place of use in a single irrigation season.
9. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for natural flow irrigation of the place of use. This right when combined with all other rights shall provide no more than 5.0 afa per acre of storage water for irrigation of the place of use.
10. 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. 65, Payette River.
11. The following rights are diverted through point(s) of diversion described above: 65-7136, 65-7603, 65-22979 and 65-23479.
12. Rights 65-22979 and 65-23479 when combined shall not exceed a total diversion rate of 150 cfs.
13. The Director retains jurisdiction to require the right holder to provide purchased or leased natural flow or stored water to offset depletion of Lower Snake River flows if needed for salmon migration purposes. The amount of water required to be released into the Snake River or a tributary, if needed for this purpose, will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this permit.
14. The impoundment of water under this right is contingent upon the issuance of a certificate of approval per the dam safety provisions of Idaho Code and subsequent written authorization by the dam safety program administered by the Department.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 23rd day of December, 2013.



JOHN WESTRA
Western Regional Manager

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR AMENDMENT OF A PERMIT

Fee is \$100 per § 42-221C, Idaho Code

RECEIVED

OCT 25 2013

WATER RESOURCES
WESTERN REGION

Applicant(s) Big Willow Ranch LLC Phone 739-1939
 Name connector (check one): ☐ and ☐ or ☐ and/or
 Mailing address 1 Dixie Lane City Payette
 State ID Zip 83661 Email: _____

I am the owner of Water Appropriation Permit No. 105-23479 and request that the permit be amended as follows:

- ☐ Change point of diversion ☐ Add point of diversion ☐ Change period of use
☐ Change nature of use ☒ Change place of use ☐ Other _____

1. Point of diversion: ☒ No changes to point(s) of diversion. Skip item #1 and proceed to #2.
☐ Attach Eastern Snake Plain Aquifer analysis if this proposes to change a point of diversion affecting the ESPA.

Twp	Rge	Sec	Govt Lot	1/4	1/4	1/4	County	Source	Local name or tag #

2. Period and nature of use: ☒ No changes to period and/or nature of use. Skip item #2 and proceed to #3.

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
 (cfs or acre-feet per year) (water use) (month/day) (month/day)
 Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
 (cfs or acre-feet per year) (water use) (month/day) (month/day)
 Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
 (cfs or acre-feet per year) (water use) (month/day) (month/day)
 Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
 (cfs or acre-feet per year) (water use) (month/day) (month/day)

3. Place of use or land to be irrigated: ☐ No changes to place of use. Skip item #3 and proceed to #4.

Twp	Rge	Sec	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
8N	2W	7	21		35	40				40	40	40	40	40	40	40	40	40	456
8N	2W	8	36	30	40	40	29	9	40	40	40	40	40	40	40	40	40	40	584
8N	2W	9	37	40	40	40	36	39	40	40	40	40	40	40	40	40	40	40	632
8N	3W	11									40	40	40	40	40	40	40	40	320
8N	3W	12									40	40	40	40	40	40	40	20	300
8N	3W	13					40	40											80
8N	3W	14	40	40			40												120

Total number of acres to be irrigated 2,492

4. **Property ownership:** ☒ No changes to point of diversion and/or place of use. Skip item #4 and proceed to #5.

- a. Who owns the property at the point of diversion? _____
- b. Who owns the land to be irrigated or place of use? _____
- c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing:

5. **Describe the proposed change in narrative form:**

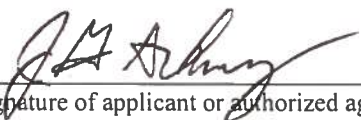
see attached letter

6. **Map:** ☒ The point(s) of diversion and/or the place of use are not amended, therefore a map is not attached.

Attach a map showing the proposed point(s) of diversion and/or place(s) of use. Clearly label the map with township, range, section, and $\frac{1}{4}$ $\frac{1}{4}$ of section information. A photocopy of a USGS 7.5 minute topographic quadrangle is commonly used, or the *Map Tool* available on the Department website provides a satisfactory template for creating the required map (<http://maps.idwr.idaho.gov/TransferApplicationLayouts/Map>).

7. **Signature:**

The information in this application is true to the best of my knowledge. I understand that any willful misrepresentations in this application may result in rejection of the application or cancellation of an approval.


Signature of applicant or authorized agent

sole member
J. L. SCHWARZ Big Willow Ranch LLC 10/25/13
Print name (and title, if applicable) Date

Signature of applicant or authorized agent

Print name (and title, if applicable) Date

FOR DEPARTMENT USE ONLY

Received by SL for RS
Received by WESTERN STAFF
Reviewed by KW

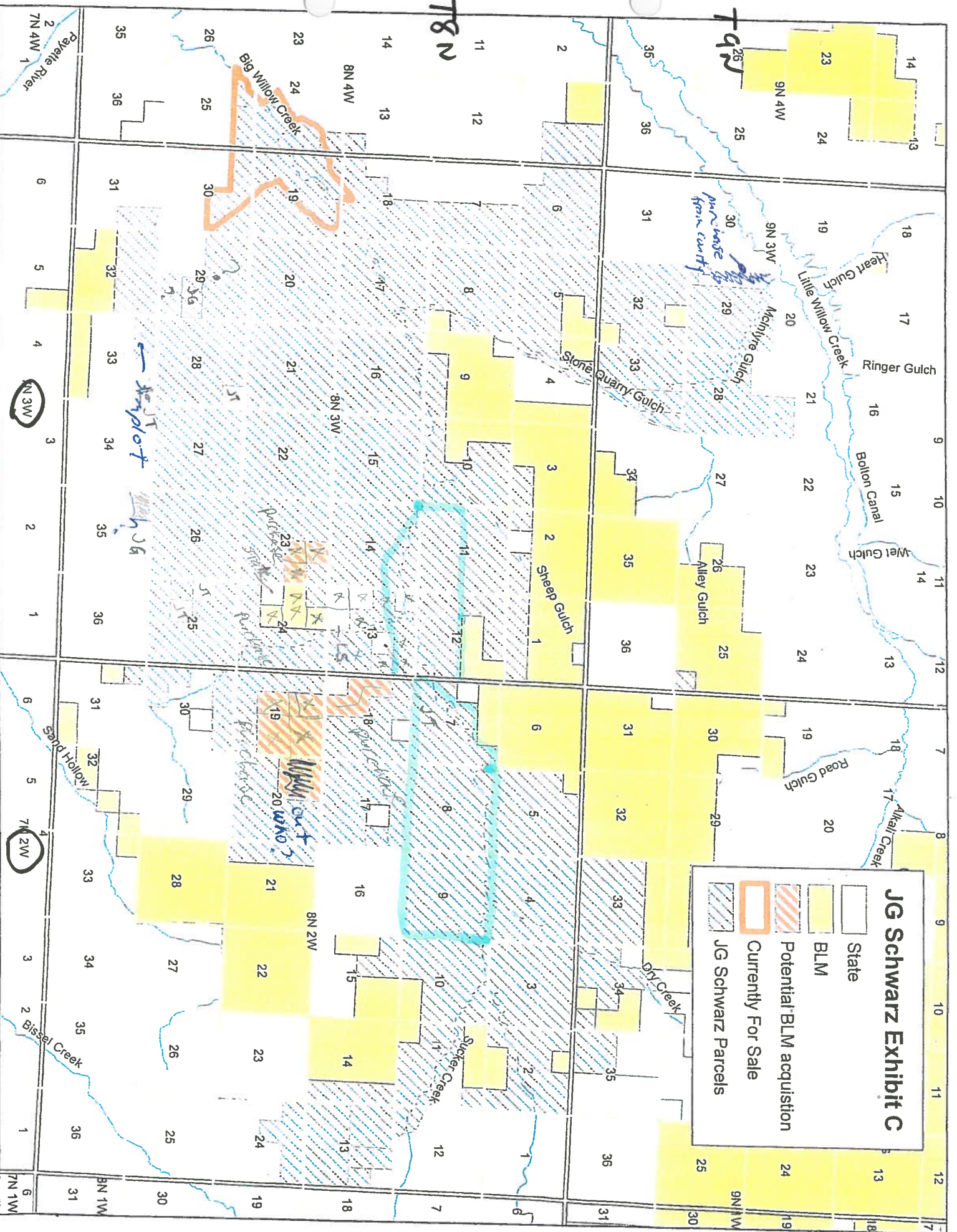
Date 10/25/2013
Date 3/14/2013
Date 12/5/2013

Receipt No. W040947

+100, +990 balance being refunded
per 10/21/13 email -SL

JG Schwarz Exhibit C

	State
	BLM
	Potential BLM acquisition
	Currently For Sale
	JG Schwarz Parcels



* Winter place of use areas *



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way • Boise, Idaho 83705-5082

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

December 23, 2013

BIG WILLOW RANCH LLC
1 DIXIE LN
PAYETTE ID 83661

RE: Permit No.65-23479

Permit Approval Notice

Dear Permit Holder:

The Department of Water Resources has issued the enclosed permit authorizing you to establish a new water right. Please be sure to thoroughly review the conditions of approval and remarks listed on your permit.

The permit 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 a party 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.

As a permit owner you must commence the excavation or construction of the diverting works within one year of the date the permit was issued, and you must proceed diligently until the project is completed. The date shown under condition no. 1 is the date when the project must be completed.

The Department will send you a 'Proof Due Notice' approximately 60 days prior to the above referenced date requesting you to file either a Proof of Beneficial Use form or a Request for Extension of Time form.

Please note that a separate stream channel alteration permit must be obtained from the Department prior to any activity in the stream channel other than construction or maintenance of the diversion structure for your water right(s). Applications for stream channel alteration permits must be filed at least sixty days prior to the commencement of work in the stream.

Also, 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)334-2190.

Sincerely,



For:

John Westra
Western Regional Manager

Enclosures

CERTIFICATE OF SERVICE

I hereby certify that on December 23, 2013 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved Permit) to the person(s) listed below:

RE: WATER RIGHT NO.

65-23479

**BIG WILLOW RANCH LLC
1 DIXIE LN
PAYETTE ID 83661**



**Rachel Sommer
Administrative Assistant I**

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.

MEMORANDUM

TO: File 65-23479

FROM: Kay Walker *KW*

RE: Amendment of Permit Received 10/25/2013

Date: December 5, 2013

.....

An application for amendment of Permit 65-23479 was received and is being processed. The application proposes a change in the description of the permissible place of use but no increase in the total of acres to be irrigated in any year. We can process this amendment without a change in priority since the total number of acres to be irrigated in any year is not changing. The permit will now have a ppu of 2,492 acres but limited to 740 acres in any irrigation season. The permit conditions will not change except the one listing the total number of acres in ppu.

Since there is no change in the point of diversion and the place of use is in same general area of original location there is no need to advertise this application.

Sommer, Rachel

From: Sommer, Rachel
Sent: Thursday, November 21, 2013 4:36 PM
To: Marston, Sascha
Subject: Refund Big Willow Ranch LLC

Follow Up Flag: Follow up
Flag Status: Flagged

TO: Sascha Marston

FROM: Rachel Sommer

DATE: November 21, 2013

RE: Refund: Application for Permit No. 65-23538 – Big Willow Ranch LLC

Please refund \$990. Application for permit in the name of Big Willow Ranch LLC was received on 3/14/13 with a payment of \$1090. An application for withdrawal of this permit was received on 10/25/2013. Also on 10/25/13, Big Willow Ranch LLC submitted an application for amendment of permit with no payment. It is being requested that \$100 from the app for permit for WR No. 65-22538 be transferred over to the app for amendment for WR No. 65-23479.

NAME: BIG WILLOW RANCH LLC

ADDRESS: 1 DIXIE LN
PAYETTE ID 83661

RECEIPT #: W040947

Thank you,

Rachel

Bettie Reservoir

SR 10/24/2013

LAYOUTS ATTACHED



RIGHT

AF
STORAGE

ACRES

65-7136

460

280

65-7663

660

840

1060
AF

840
ACRES

more water
same acres

65-22979

740

840

TOTAL

1800
AF

840
ACRES

These acres have natural flow rights also

SAME STORAGE
NEW ACRES

65-23479

1800

740 *

GRAND TOTAL

1800
AF

1580
ACRES

*

NEW ACRES, NO other rights

NEED $740 \times 3 = 2220$ AF

SHORTAGE COVERED BY "10 CFS IRRIGATION 3/1-6/15"
(WHEN EXTRA WATER COULD BE AVAILABLE)

} With some
NEW
NATURAL flow



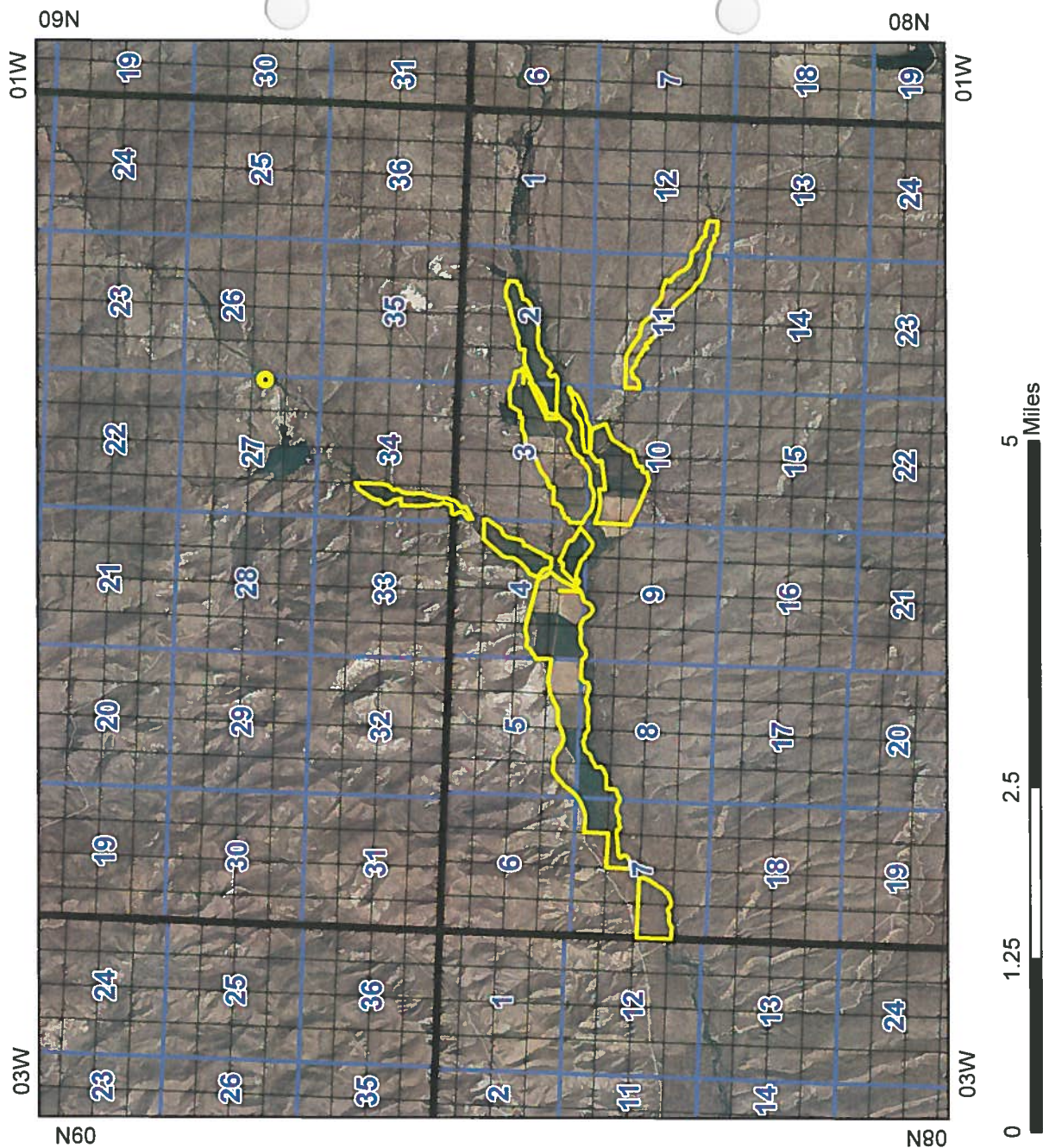
Water Right
65-7136
(IRRIGATION)

- Point of Diversion
 - Place of Use
 - State Outline
 - Townships
 - PLS Sections
 - Quarter Quarters



Gem, Payette Counties
IDWR Basin 65

Prepared by Lester, Steve
On October 24, 2013
2009 Aerial Photography



Owner: Big Willow Ranch Llc

NOTE: Only one owner is listed. There may or may not be more than this in the IDWR database.

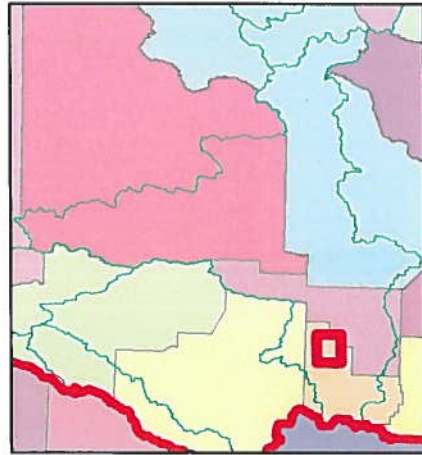


Idaho Department of Water Resources

Water Right
65-7603

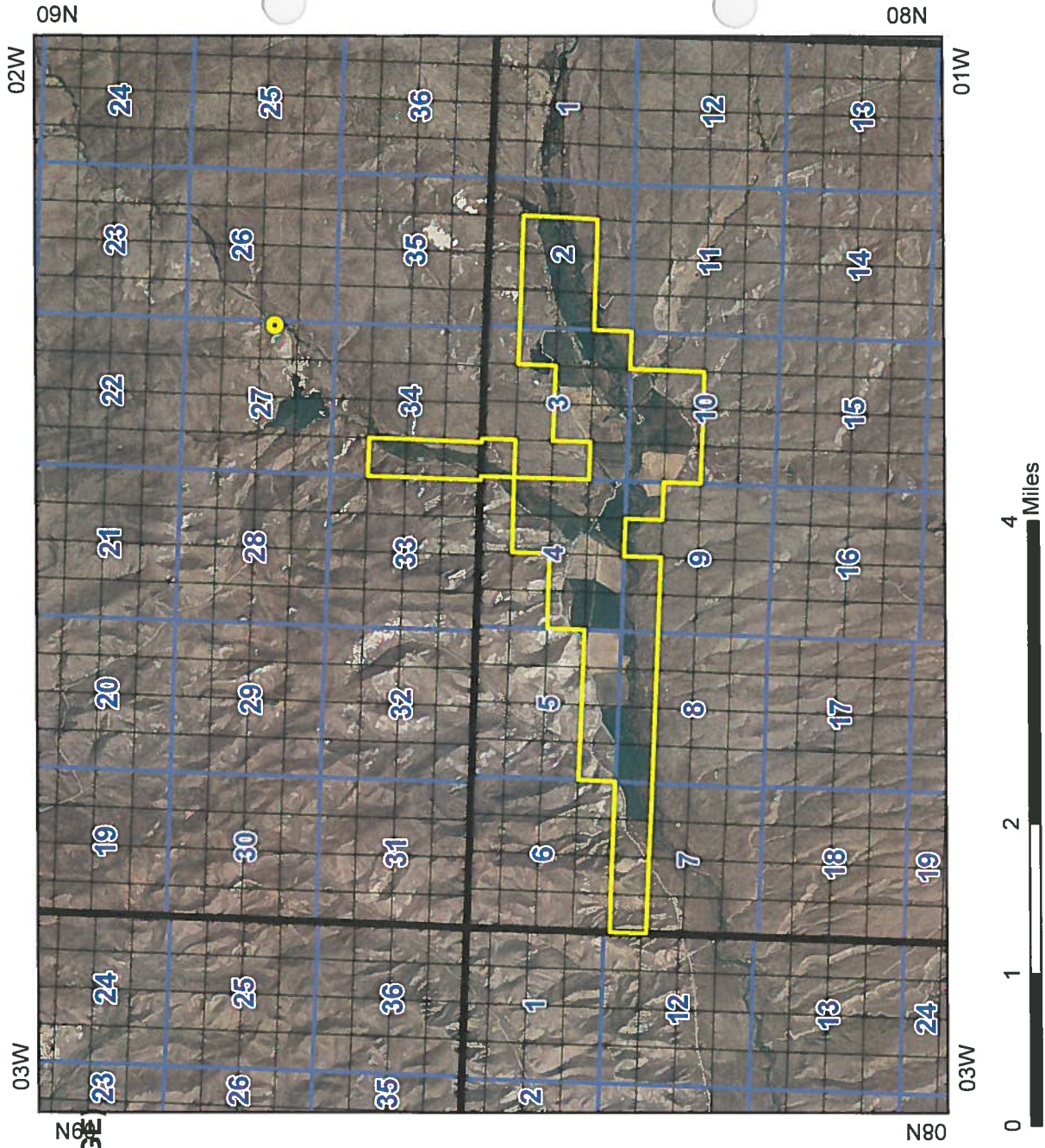
(IRRIGATION FROM STORAGE)

- Point of Diversion
- Place of Use
- State Outline
- Townships
- PLS Sections
- Quarter Quarters



Payette County
IDWR Basin 65

Prepared by Lester, Steve
On October 24, 2013
2009 Aerial Photography



Owner: Big Willow Ranch LLC
NOTE: Only one owner is listed. There may or may not be more than this in the IDWR database.



Idaho Department of Water Resources

Permit Number
65-22979

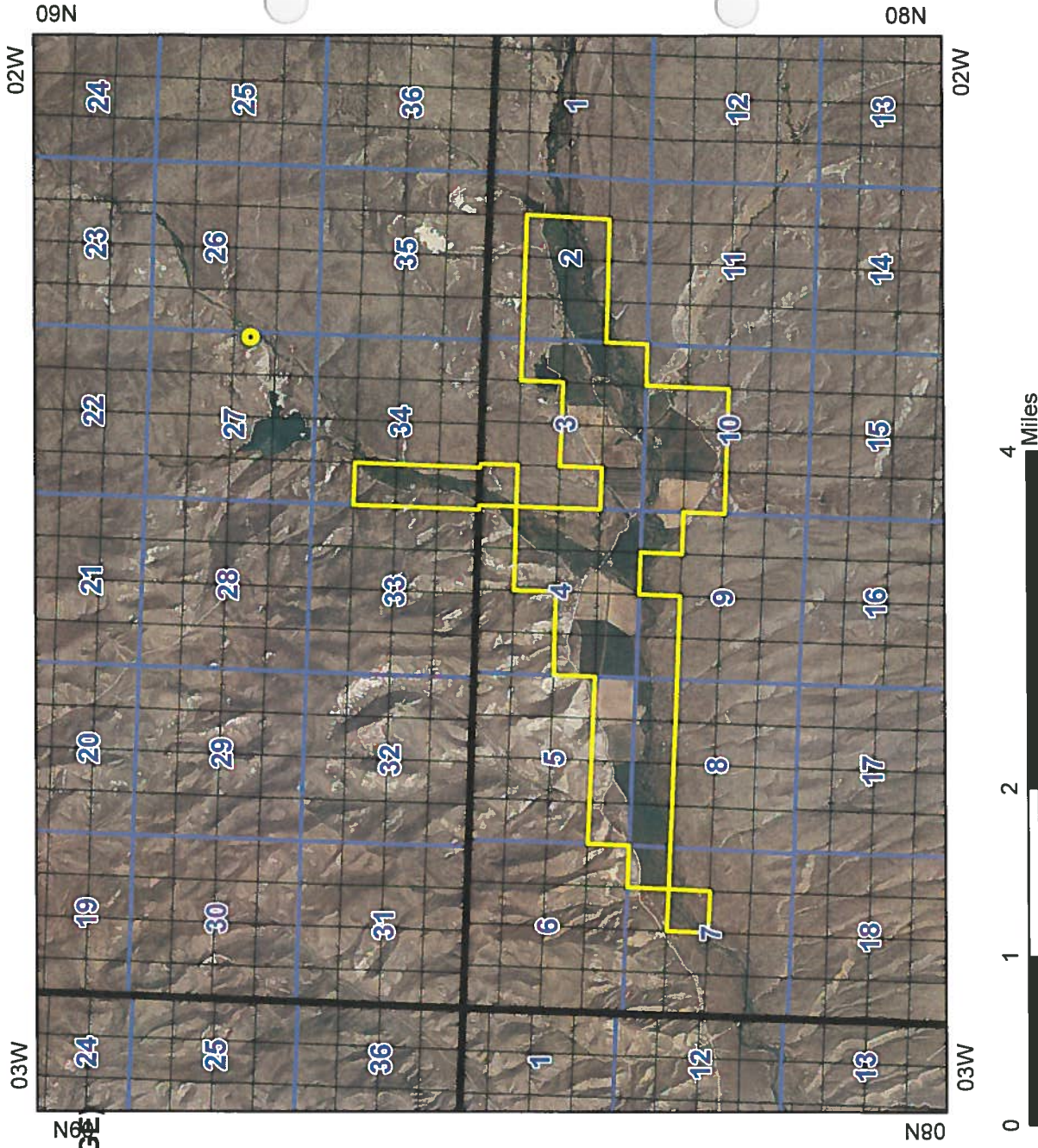
(IRRIGATION FROM STORAGE)

- Point of Diversion
- Place of Use
- State Outline
- Townships
- PLS Sections
- Quarter Quarters



Payette County
IDWR Basin 65

Prepared by Lester, Steve
On October 25, 2013
2009 Aerial Photography



Owner: Big Willow Ranch LLC
NOTE: Only one owner is listed. There may or may not be more than this in the IDWR database.



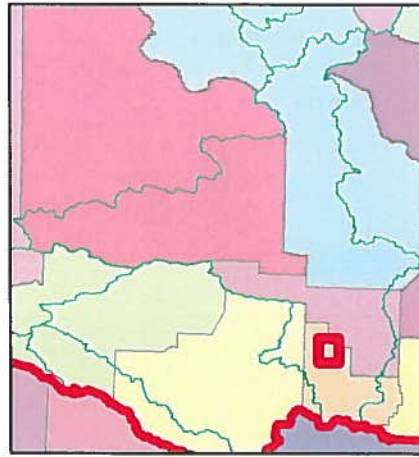
Idaho Department of Water Resources

3

Permit Number
65-23479

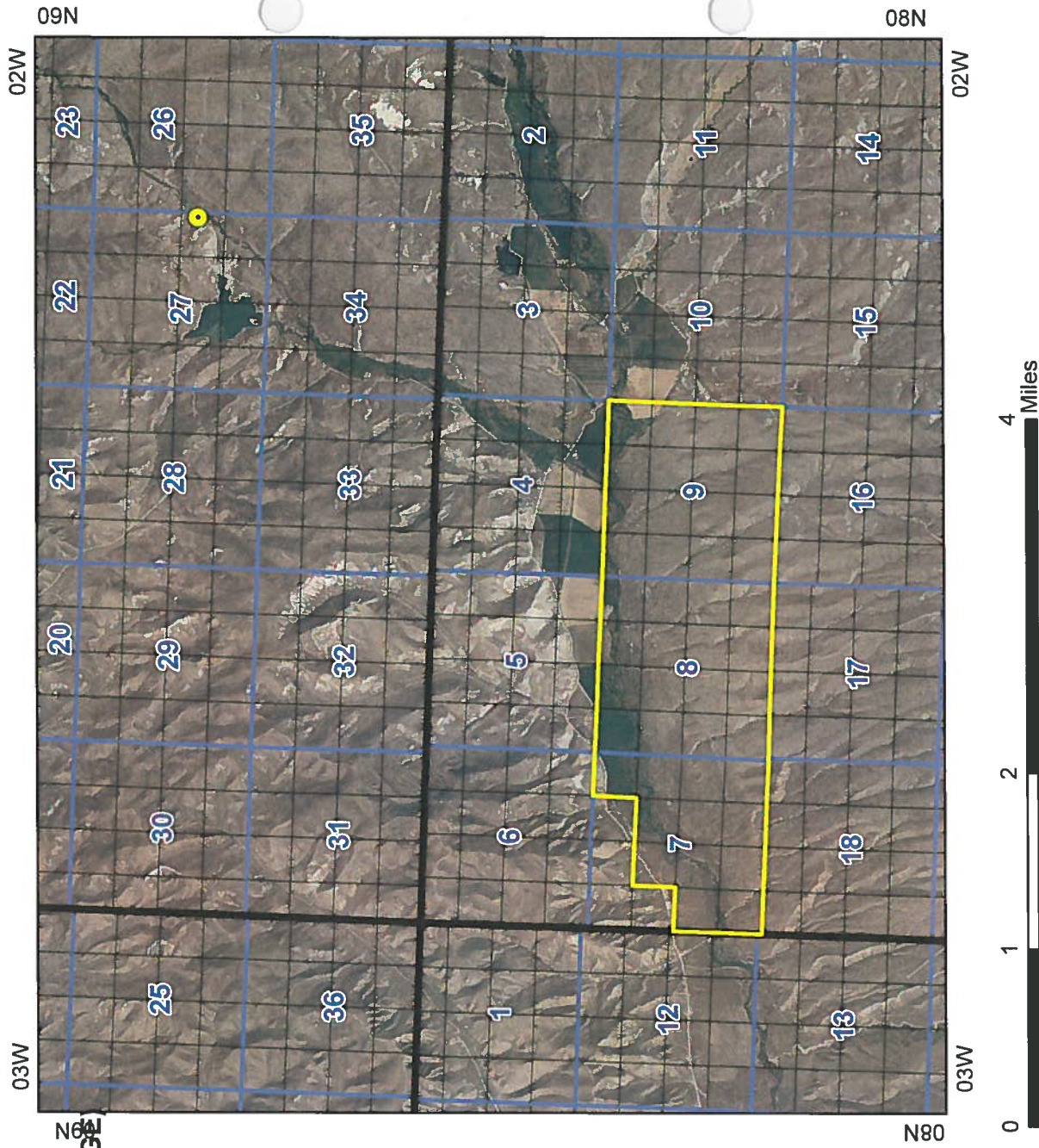
(IRRIGATION FROM STORAGE)

- Point of Diversion
- Place of Use
- State Outline
- Townships
- PLS Sections
- Quarter Quarters



Payette County
IDWR Basin 65

Prepared by Lester, Steve
On October 24, 2013
2009 Aerial Photography



Owner: Big Willow Ranch LLC
NOTE: Only one owner is listed. There may or may not be more than this in the IDWR database.

J.G. Schwarz
Big Willow Ranch, LLC
1 Dixie Lane
Payette, ID 83661

October 23, 2013

Idaho Department of Water Resources
Western Region
2735 Airport Way
Boise, ID 83705-5082

To Whom It May Concern:

Big Willow Ranch, LLLC has nearly completed the conversion of ground from flood irrigation to sprinklers or pivots via a pressurized pipeline. During the course of this process, we have learned several pertinent facts that influence future water right development.

Given our location 14 miles north of Emmett, we are extremely limited in our power load capability. We are virtually maxed out as it currently stands and consequently any future development would have to be exclusively gravity fed or generator powered.

In addition, application for Permit # 65-23538 is no longer economically viable. The attempted trade with our neighbor, who owns the adjacent drainage where the future dam would have been constructed, is cost prohibitive and takes the overall development costs past the point of reason.

Therefore, Permit # 65-23479 is the most viable development option, with one alteration. As previously mentioned, we now have a better understanding of the elevation and pressure availability of where we can transport water from the Dry Creek Dam. My request is to add 660 acres within 8N 3W Sections 11, 12, 13 and 14 to the place of use. I am not asking for more irrigated ground than the previously approved 740 acres. I am only asking to include the option of locating a portion of the irrigated ground in this area (8N 3W Sections 11, 12, 13 and 14). The approval of this current request along with the already permitted ground located within 8N 2W Sections 7, 8 and 9 would allow us to develop ground that is feasible given the pre-existing constraints of power availability, water pressure and volume, soil quality, slope of the terrain and shape of the area.

Thank you for your time and consideration to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "J.G. Schwarz", with a long, sweeping horizontal line extending to the right.

J.G. Schwarz
Owner, Big Willow Ranch, LLC