

Page 1 of 6STATE OF IDAHO
DEPARTMENT OF WATER RESOURCESTransfer No. 5262
78312 as of
12-17-12

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 1

Name of applicant James Juan Spillett Phone 548-2468
Post Office address PO Box 278, Rockland, ID 83271

A. PURPOSE OF TRANSFER

1. ☒ Change point of diversion

ALREADY ACCOMPLISHED THROUGH TRANSFER #3519 (SEE 41-00008E PROOF REPORT) 02/26/98 (15.)

☐ Add diversion point(s)☒ Change place of use☐ Change nature of use☐ Change period of use☒ Other Split right2. Describe the reason for the proposed changes I want to install a pump & sprinklers to save ditch loss & make better use of my water. Change recorded P/U to show land that is presently irrigated.

B. DESCRIPTION OF RIGHT(S) OR PORTION THEREOF, AFTER THE REQUESTED CHANGE

1. Right Number 41-00008E Priority 10-1-1877 Amount (cfs/ac-ft) 0.40 cfs Nature of Use Irrig. Period of Use 4-1 to 10-31
2. Total amount of water being transferred 0.40 cubic feet per second and/or _____ acre-feet per annum.
3. Source of water Rock Creek, South Fork tributary to Rock Creek
4. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion
	NE	NW	SW	20	10S	31E	Power	Pump, pipeline

5. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
10S	31E	20						2	23			27							52

Withdrawn

Total acres 52

PART 1

6. General Information:

a. Description of diversion system Pump in South Fork Pipeline to sprinklers.

b. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? _____ Yes ✓ No. If yes, provide a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes.

c. Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer:
No affect. Land is already irrigated under gravity ditches.

d. Remarks:
We will be gone for the winter, not returning until April. Our mail will be forwarded.

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No. _____
And said application is hereby _____, subject to the following limitations and conditions:

Witness my hand this _____ day of _____, 19 _____.

15-12-15
48315 0206

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

- a. Decree No. 41-00008E Decreed to James Tug Spillett
in case of Arbitration of Houtz Et Al vs. _____
dated 6-6-1903 in 3rd District county of Oneida
- b. License No. _____ issued by the Idaho Department of Water Resources.
- c. Claim No. _____ on file with the Idaho Department of Water Resources.
- d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

☐ Tax Notice☐ Warranty Deed☐ Other _____3. Source of water Rock Creek, South Fork tributary to Rock Creek4. Date or priority 10-1-1879

5. Water is used for the following purpose:

amount 0.60 cfs for Irrig. purposes from 4-1 to 10-31
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

6. Total amount of water under right 0.60 cubic feet per second and/or _____ acre-feet per

7. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion
	NW	NE	NW	29	10S	3/E	POWER	Headgate & Jackson Ditch

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
10S	3/E	20					2	2	21		2	15							40

NOTE: THIS RIGHT
(41-00008E) IS LIMITED
TO IRRIGATION
OF 30 ACRES
DUE TO APPROVED
TRANSFER #3519

NOTE:
POB IS
IN SECTION
20 DUE TO
APPROVED
TRANSFER
#3519

Total acres 409. Describe any other water rights used for the same purpose as described above 41-00013A

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED
(If the entire right is to be changed by the applicant, omit part B and C.)

1. amount 0.40 cfs for Irrig. purposes from 4-1 to 10-31
(cfs/ac-ft) _____
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft) _____
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft) _____

2. Point(s) of Diversion: Same as 2.A.7.

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion

3. Lands irrigated or place of use: Same as 2.A.8

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	

Total acres _____

C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT *(omit if there is no change)*

1. amount 0.20 cfs for Irrig. purposes from 4-1 to 10-31
(cfs/ac-ft) _____
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft) _____
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft) _____

2. Point(s) of Diversion: Same as 2.A.7

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion

3. Lands irrigated or place of use: Same as 2.A.8

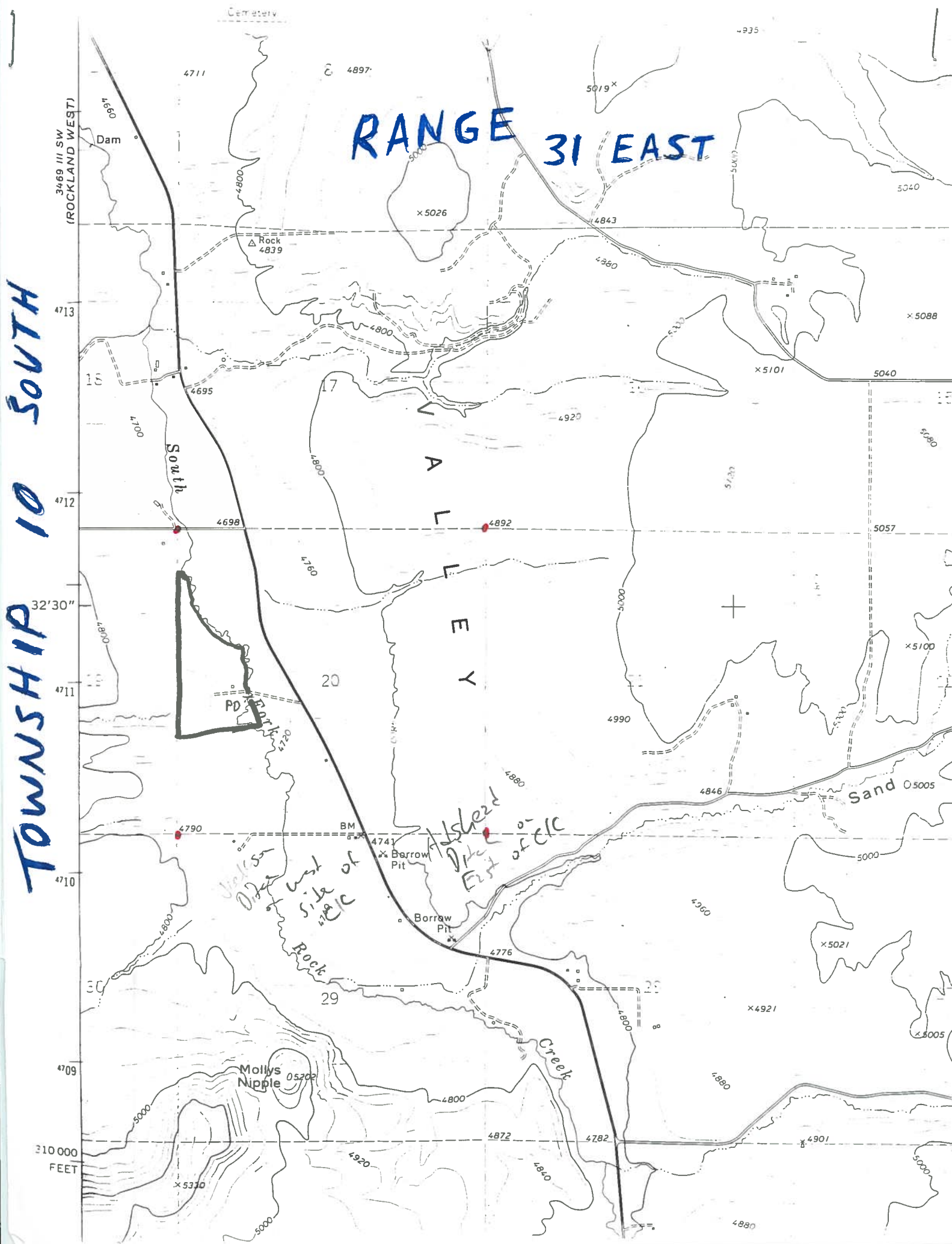
Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	

NOTE THAT NO
ACRES HAVE
BEEN REMOVED.

Total acres _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 3

A. Draw a map or attach a USGS map indicating the new point(s) of diversion and/or the new place of use for rights described in part 1. Clearly depict the land by section, township and range number.



PART 3**B. CHANGES IN NATURE OF USE**

1	New Nature of Use	Amount (cfs/ac-ft)	Hours/days/year	Period of Use
				_____ to _____
				_____ to _____

2. Quantity and quality of return flows and location of discharge:

3. Describe effects on other water uses resulting from the proposed change:

I hereby assert that no one will be injured by such change and that the change does not constitute an enlargement in use of the original right. The information contained in this application is true to the best of my knowledge.

I understand that any willful misrepresentations made in this application may result in voiding its approval.

Subscribed and sworn to before me this 30th day of November, 19 95.

(Signature of Applicant)

J.F. Stanton
(Notary Public)

My commission expires 10-25-2000

FOR DEPARTMENT USE ONLY

Transfer contains 6 pages and 2 attachments

Received by J.F. Stanton Date 11-30-95

Prelim. check by _____ Fee \$100.50/8701

Receipted by JA Date 11-30-95

Published in Power Co. Press

Pub. dates 5/27 & 6/3/98

Watermaster recommendation requested on 5/15/98

Protest filed by _____

Copies of protest forwarded by _____

Hearing held by _____ Date _____

Recommended for ☐ approval ☐ denial

by _____

Copy of transfer sent to lien holder _____

RECEIVED**APR 29 1996****Department of Water Resources
Southern Region**

MAKE CHECK PAYABLE TO:
POWER COUNTY TAX COLLECTOR
COURTHOUSE 543 BANNOCK
AMERICAN FALLS
IDAHO 83211

TAX BILL/RECEIPT

CODE AREA 4-00

fa.m 1995
PARCEL NUMBER
RPD2163-00 A
L 26,918
I 93,475

TAX YEAR 1995

BILL NO 5087

TOT MV 120,393
HM- 34,675

1ST TAX 926.84
HALF PEN
INT
COST
TOT

2ND TAX
HALF PEN
INT
COST
TOT

926.84

FULL TAX 1,853.68
PEN
INT
COST
TOT

NET MV 85,718
WAC 3.000
TOT ACS 116.000

SPILLET J JUAN ET-UX
P O BOX 278
ROCKLAND ID 83271

S20 T10S R31E
W2NW;N2N2SW EXC T-209; T-208

TAXING DISTRICT	**RATE**	**AMOUNT**
STATE	.000000000	
POWER COUNTY	.003505169	300.46
-SCHOOL #382	.013035822	1,117.40
COUNTY HWY	.002351913	201.60
VALLYVIEW CEM	.000399994	34.28
-RKLD LIBRARY	.000599970	51.42
HOSPITAL DIST	.000815753	69.92
AMBULANCE DIST	.000216985	18.60
DISTRICT TOTALS	.020925606	1,793.68
LANDFILL FEE		60.00
AMOUNT DUE		1,853.68

4546 S ROCKLAND HIGHWAY 83271

★ ★ ★ IMPORTANT ★ ★ ★
PLEASE READ BOTH FRONT AND BACK
PAYMENTS RECEIVED WITH A DELINQUENCY WILL BE
APPLIED TO THE OLDEST DELINQUENT YEAR.
TO AVOID LATE CHARGES, PAYMENTS MUST BE
RECEIVED OR POSTMARKED BY THE DUE DATE.
KEEP TOP PORTION FOR YOUR RECORDS.
PERSONAL CHECKS ARE YOUR RECEIPT
SUBJECT TO BANK CLEARANCE.

LEVY SHEETS ARE AVAILABLE IN TREASURER'S OFFICE

1995 Taxes - Ranch
paid 11/27/95 = 926.84
(1) #1007 = 926.84
(2) #1008 = 926.84
X.22 1353.28

T # 5262

10 S 31 E
Sec. 20

King Ln.

18-17
19-18

T-2453

T-499

NHEL
1-134.7

R.M. Wheeler

NHEL
4-95.7

5-88.34

#1576

Jim Woodworth
J. Juan
Spilletz OW

#1574

Bob
Spilletz

3-29.3

1-40.1

1-44.7

2-7.8

3-11.3

1-74.6

4-14.8

5-1.1

T-265

#405

Weston Farms
Partnership

CRP
88-319
6-175.1

NHEL
8-185.0

See
L-20a

CRP
87-319
74-29.4

1-44.7

T-500

#1574

Bob
Spilletz

20-21
29-28

Sand Hollow Rd.

T-501

2-7.4

3-29.7

4-58.0



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

**PHILIP E. BATT
GOVERNOR**

**KARL J. DREHER
DIRECTOR**

May 18, 1998

POWER COUNTY PRESS
174 IDAHO STREET
AMERICAN FALLS ID 83211

Gentlemen:

Enclosed you will find a legal notice which we wish to have published once a week for two consecutive weekly issues of your newspaper.

We have inserted the required publication dates. If you cannot publish the notice on the proposed dates, please contact us immediately.

In order to receive payment, an affidavit of publication must be submitted to the Department along with the publication bill.

Very truly yours,

Mary Baldwin
Sr. Secretary

Enclosure

NOTICE OF PROPOSED CHANGE OF WATER RIGHTS

Notice is hereby given that JAMES JUAN SPILLETT, 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 of 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. 41-00008G. The remainder 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 remainder 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 Department 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 ^{the} 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 protestant must also send a copy of the protest to the applicant.

Karl J. Dreher, Director

Published in the Power County Press on 05/27 & 06/03/98.



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

May 15, 1998

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

JAMES JUAN SPILLETT
PO BOX 278
ROCKLAND ID 83271

Re: Two Application for Transfer: No. 5262 (41-00008 Pt) & No. 5263 (41-00013 Pt)

Dear Mr. Spillett:

The Department of Water Resources acknowledges receipt of your Applications for Transfer.

This office has scheduled advertising in The Power County Press for 05/27 and 06/03/98.

If an application is protested, you will be sent a copy of the protest. The protest must be resolved before the application is approved or denied. If the protest is not resolved voluntarily, this Department will conduct a conference and/or hearing on the matter.

Before we can forward an application to our state office for approval we must include in the file evidence of ownership of the land to which the water is appurtenant such as copies of deeds, tax records, etc. and a notarized statement from any lien holder on the property agreeing to the proposed change.

The department's review process may have to include field investigation and verification of the claims which is required as part of the Snake River Basin Adjudication.

State Office personnel will conduct a complete review prior to final processing of an application and will notify you of the outcome of this review.

Please feel free to contact this office if you have any questions regarding this procedure.

Sincerely yours,

Corey Skinner, E.I.T.
Safety of Dams Engineer

cs:mb



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

May 15, 1998

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

ALAN PERMANN
PO BOX 387
ROCKLAND ID 83271

Re: Applications for Transfer No. 5262 (41-00008 Pt) and No. 5263 (41-00013 Pt)-James Juan Spillet

Dear Mr. Permann:

Enclosed are copies of two Applications for Transfer of a Water Right within your District, and Watermaster's Recommendation Form(s).

Section 42-222 of the IDAHO CODE requires that the watermaster must be advised of proposed changes in water rights in the water district and must notify the Department of his recommendation on the application.

Please complete the enclosed recommendation form(s) and return to this office.

Processing of an application can be completed in 20 days, therefore, your prompt response to this request will be appreciated.

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

Sincerely yours,

Corey Skinner, E.I.T.
Safety of Dams Engineer

cs:mb

Enclosures

MEMORANDUM

TO: James Juan Spillettt Transfer Files
FROM: Corey Skinner *CS*
DATE: March 26, 1998
SUBJECT: Correspondence from Mr. Spillettt

On March 25th, I received a letter from James Juan Spillettt responding to the 03/10/98 letter I sent him regarding his two transfer applications. Mr. Spillettt also sent in a copy of an "assignment" signed by H. Roscoe Weston.

The assignment is supposed to serve as Mr. Spillettt's proof of ownership of the portion of H. Roscoe Weston's portion of water right 41-00013A (SRBA claim A41-00013A). However, the assignment lists a different water right (#41-7053) than 41-00013A (note someone has written "00013A" on the assignment). Mr. Spillettt's letter mentions that this assignment was submitted with the original application and that Mr. Weston was to submit a corrected assignment. The copy that was received by our office on 03/25/98 is the first such document that I have seen, and I have no knowledge of a corrected version ever being submitted by Mr. Weston.

Mr. Spillettt argues that his transfer applications will not be expansions in the amount of irrigated acres. He states that his "rights are assigned to the entire 120 acres which I own". Apparently, his basis for this statement is that his South Fork of Rock Creek SRBA claims (A41-00008B and A41-00013B) that he filed on 11/28/1989 both claim a 120 acre place of use. However, approved transfer applications #3518 and #3519 (both filed on 12/05/1988 by Mr. Spillettt, and approved via Memorandum and Decision Order dated 09/15/1992) limit Mr. Spillettt's South Fork of Rock Creek Rights to the irrigation of a combined total of 40 acres. This 40 acre limit was established based on historical beneficial use information submitted as applicant's (Mr. Spillettt) exhibit #3 during the hearing(s) for transfer applications #3518 and #3519. Therefore, it appears that the possible expansion issue(s) mentioned in my 03/10/98 memo and letter to Mr. Spillettt still appear relevant.

T # 5262

MAR 25 1998

Department of Water Resources
Southern Region

Box 278
Rockland, ID 83271
phone: (208) 548-2468
March 22, 1998

State of Idaho
Department of Water Resources
1341 Fillmore Street, Suite 200
Twin Falls, ID 83301-3380 (Phone: 736-3033)

Reference: Letter of 3/10/98 - Application to change point of diversion
on South Fork of Rock Creek

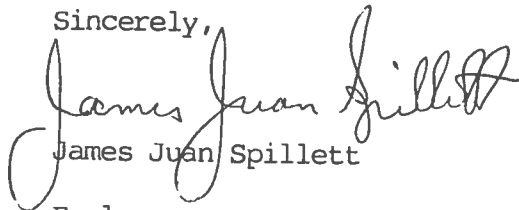
ATTN: Corey Skinner, EIT, Dam Safety Section

I met with Jim Stanton in your office and paid a \$200.00 (#1023) fee for two water transfers on the South Fork of Rock Creek, south of Rockland, Power County on 4/10/96. At that time I also submitted a copy of an "Assignment", wherein Roscoe Weston assigned to me 10 miners inches from his water right in the Jackson Ditch - Water Right #41-00013A (See Enclosed). However, we had made an error in the Water Right # and Mr. Weston thereafter was to submit a corrected copy of the assignment to the Department of Water Resources. I called Mr. Stanton on 5/8/96 and he then informed me that the Department of Water Resources would begin processing, i.e. place notices in local papers, within 24 days. I thought the matter was taken care of.

Basically, I propose to pump 30 miners inches of water out of the South Fork of Rock Creek and sprinkle irrigate lands which previously were flood irrigated through use of a dam and ditch system. This is not an expansion in the total amount of irrigated acres. In fact, my water rights are assigned to the entire 120 acres which I own along the South Fork of Rock Creek. And, during the Snake River Adjudication process, my adjudication fees - assessed by the Department of Water Resources - were on the basis of my entire 120 acres.

I trust that my application will be quickly processed and completed.
Please keep me informed.

Sincerely,


James Juan Spillet

Enclosure

T # 5262

MEMORANDUM

TO: James Spillett Transfer Files (41-00008E & 41-00013A parts)
FROM: Corey Skinner *CS*
DATE: March 10, 1998
SUBJECT: Staff Review

The two enclosed transfer applications, filed by James Juan Spillett, seek to modify water rights out of the South Fork of Rock Creek in the Rockland area. One transfer application involves a portion of water right 41-00008E (owned by Mr. Spillett) and the other application involves a portion of water right 41-00013A (part of SRBA claim A41-00013A claimed by Herbert R and R Scott Weston).

Portions of water right 41-00008 and 41-00013 were involved with water right transfers #3518 and #3519 filed by James Juan Spillett in December of 1988. Both of these transfer applications were protested, a hearing was conducted, an order was issued, a rehearing was conducted, and eventually a Final Memorandum Decision and Order was issued on 09/15/92 by Gary Spackman. This Final Memorandum Decision and Order outlines the history of Mr. Spillett's portion(s) of these two rights and ended up approving Mr. Spillett's proposed transfers. The approval of these two transfers granted Mr. Spillett a 0.60 cfs portion & 30 acre portion of base right 41-00008 (part E) and a 0.20 cfs & 10 acre portion of base right 41-00013 (part B) that were to be used in a combined 40 acre place of use.

The first of the most recently filed transfer applications proposes taking 0.40 cfs of Mr. Spillett's portion of water right 41-00008 (part E) and using it in a 52 acre place of use. The second of the most recently filed transfer applications proposes taking a 0.20 cfs portion of water right 41-00013A and using it in the same 52 acre place of use. It appears that there are potential problems with each of these proposals.

The transfer application involving water right 41-00008E appears that it may be an unstacking, and possible expansion, of water rights. The 09/15/92 Final Memorandum Decision and Order combined Mr. Spillett's portion(s) of right 41-00008 and 41-00013 into a single 40 acre place of use. Mr. Spillett has proposed taking part of one of these rights, 41-00008E, and moving it to a 52 acre place of use, without addressing the overlapping 41-00013B right. The untransferred portion of right 41-00008E is proposed to be used on the original 40 acre place of use.

T # 5262

The transfer application involving water right 41-00013A also appears that it may be an unstacking, and possible expansion of water rights. The current place of use for water right 41-00013A (SRBA claim A41-00013A) appears to overlap with groundwater rights L41-07018 and L41-07032, SRBA claim A41-00008D (in the name of Herbert R Weston and R Scott Weston), and possibly SRBA claims A41-00008E and A41-00013C (in the name of Grace Spillettt). None of these overlapping water rights and/or claims were addressed in the enclosed transfer application.

The portions of rights 41-00008 and 41-00013 not owned by Juan Spillettt or identified in the 09/15/92 Final Memorandum Decision and Order appear to be overclaimed in the SRBA in rate and/or acres. In addition, the portion of water right 41-00013 that is involved with the enclosed transfer application has been claimed in the SRBA by a party (Herbert R Weston and R Scott Weston) other than James Juan Spillettt. No proof of ownership, or statement from the owner/claimant (the Westons) was included with the transfer application.

The application involving right 41-00013 mentions a water trade (Part 1, Section 6c) which might help explain the two applications. However, if a trade was made (I assume between Mr. Spillettt and the Westons), the Westons should file a transfer application to move the water right they are obtaining from Mr. Spillettt. However, as of this date, the Westons have not filed a transfer application to move any of the water associated with the Spillettt property.

If the Westons did file a transfer application to help explain the two Spillettt applications there would still be potential unstacking and expansion questions. This would be due to the Spillettt applications not addressing existing overlapping rights and/or claims and proposing a 52 acre place of use.

However, as it currently stands Mr. Spillettt has filed an application that proposes taking a 0.40 cfs portion of water right 41-00008E (0.60 cfs for 30 acres within a 40 acre place of use) and using it on a 52 acre place of use. The untransferred portion of 41-00008E (0.20 cfs) is proposed to be used on the original 40 acre place of use. In addition, the second transfer application filed by Mr. Spillettt proposes taking a 0.20 cfs portion of water right 41-00013A without drying up any acres. The portion of water right 41-00013A that is involved with the proposed application has been claimed in the SRBA by a party other than Mr. Spillettt and no proof of ownership, or statement from the owner, of this particular right was submitted by Mr. Spillettt. Water right 41-00013A currently overlaps other rights and/or claims that are not addressed in the application. In addition, water right 41-00013A appears to be overclaimed in the SRBA.



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

March 10, 1998

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

James Juan Spillettt
P.O. Box 278
Rockland, ID 83271

Dear Mr. Spillettt:

A recent examination of pending applications in our office revealed that two water right transfer applications, filed by you, are still pending. These two applications were filed in April of 1996 in an attempt to modify water rights out of the South Fork of Rock Creek. I have completed the preliminary review of these two applications, and would like to make the following comments for your consideration.

It appears that you have filed a transfer application to modify a portion of a water right that you own (41-00008E), and you have filed an application to modify a portion of a water right (41-00013A) that is owned by Herbert R. Weston and R. Scott Weston.

First of all, in order to transfer a water right, the applicant must provide proof of ownership of the right and/or land from which the water is being transferred. The application involving the portion of water right 41-00013A (apparently owned by the Westons) does not have any documents showing that you own the portion of the right that you are attempting to transfer, or that the Westons have conveyed this right to you, or approve of the proposed transfer. In order for this application to be approved, proof of your ownership of the right and/or land from which the right is being transferred must be included with your application.

In addition, as part of the transfer process, the department can not allow an expansion in the total amount of irrigated acres. Both of the applications that you have submitted propose changing the recorded place of use of the water rights that are involved with the applications. However, you have not proposed to change the existing current place of use for these rights in order to facilitate the proposed changes. For example, on the application involving water right 41-00008E you propose taking 0.40 cfs (of a 0.60 cfs and 30 acre water right) and irrigating a proposed place of use of 52 acres while leaving 0.20 cfs on the unchanged original place of use. A similar situation exists with the proposed transfer on the application involving water right 41-00013A.

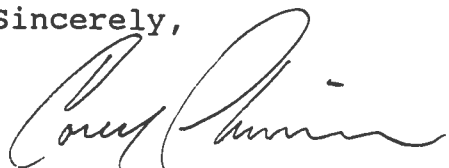
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Our office will continue with the processing of your two applications. The next step in the processing will consist of the preparation of the legal notice for the public notice and protest period. You will be notified when your two applications will be advertised in the local newspaper.

If you have any questions, feel free to contact this office at your convenience.

Sincerely,

A handwritten signature in cursive script, appearing to read "Corey Skinner".

Corey Skinner, EIT
Dam Safety Section

cc: Herbert R. Weston and R. Scott Weston