

Transfer No. 77935

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

MAY 03 2012

Department of Water Resources
Eastern Region

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1

Name of Applicant(s) Rainbow Trout Ranch LLC Phone: (208) 431-5957

Mailing Address: 451 Jackson St., San Francisco, CA 94111 Email: _____

- ☐ If applicant is not an individual and not registered to do business in the State of Idaho, attach documentation identifying officers authorized to sign or act on behalf of the applicant. Label it **Attachment #1**.
- ☐ Attach water right ownership documentation if Department records do not show the transfer applicant as the current water right owner. Label it **Attachment #2a**.
- ☐ If the ownership of the water right will change as a result of the proposed transfer to a new place of use, attach documentation showing land and water right ownership at the new place of use. Include documentation for all affected land and owner(s). Label it **Attachment #2b**.
- ☐ Attach documentation of authority to make the proposed change if the applicant is not the water right owner. Label it **Attachment #3**.

Provide contact information below if a consultant, attorney, or any other person is representing the applicant in this transfer process.

- ☐ No Representative

Name of representative Robert L. Harris Phone: (208) 523-0620

Mailing Address: P.O. Box 50130, Idaho Falls, ID 83405 Email: rharris@holdenlegal.com

- ☐ Send all correspondence for this application to the representative and not the applicant.

OR

- ☒ Send original correspondence to the applicant and copies to the representative.

- ☐ The representative may submit information for the applicant but is not authorized to sign for the applicant.

OR

- ☒ The representative is authorized to sign for the applicant. Attach a Power of Attorney or other documentation providing authority to sign for the applicant and label it **Attachment #4**.

I hereby assert that no one will be injured by the proposed changes and that the proposed changes do not constitute an enlargement in use of the original right(s). 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 rejection of the application or cancellation of an approval.

Robert L. Harris
Signature of Applicant or Authorized Representative

Robert L. Harris, Attorney
Print Name and Title if applicable

May 2, 2012
Date

Signature of Applicant or Authorized Representative

Print Name and Title if applicable

Date

A. PURPOSE OF TRANSFER

1. ☒ Change point of diversion ☐ Add diversion point(s) ☒ Change Place of use
☐ Change nature of use ☐ Change period of use ☐ Other: _____
2. Describe your proposal in narrative form, including a detailed description of non-irrigation uses to justify amounts transferred (i.e. number of stock, etc.), and provide additional explanation of any other items on the application. Attach additional pages if necessary and label if **Part1A.2**. This transfer proposes to rearrange the place of use of the affected water rights to address an unauthorized water use letter received by the water right holder (See Attachment 9). In total, 19.7 acres will be rearranged.

77935

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION 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.	<u>Right Number</u>	<u>Amount</u> (cfs/ac-ft)	<u>Nature of Use</u>	<u>Period of Use</u>	<u>Source & Tributary</u>
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All or part

SEE ATTACHED SUMMARY OF WATER RIGHTS AFTER TRANSFER—ALL WATER RIGHTS WILL HAVE THEIR PLACE OF USE AMENDED

☐	☐	_____	_____	_____	_____ to _____
☐	☐	_____	_____	_____	_____ to _____
☐	☐	_____	_____	_____	_____ to _____
☐	☐	_____	_____	_____	_____ to _____
☐	☐	_____	_____	_____	_____ to _____
☐	☐	_____	_____	_____	_____ to _____
☐	☐	_____	_____	_____	_____ to _____

Total authorized under rights: 10.12 cfs and/or n/a ac-ft.

2. Total amount of water being transferred or changed .4 (based on rearrangement of 19.7 acres at .02 cfs/acre) Cubic feet per second and/or n/a acre-feet annum.

3. Point(s) of diversion:

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

4. Place of use: (If irrigation, identify with number of acres irrigated per 1/4 1/4 tract.)

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

Twp	Rge	Sec	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Acre Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
<u>SEE ATTACHED SUMMARY OF PLACE OF USE AFTER TRANSFER</u>																			

Total Acres (for irrigation use) 337.4

RAINBOW TROUT RANCH LLC WATER RIGHTS

Water Right No.	Name on Water Right	Basis	Priority Date	Source	Beneficial Use	Individual Diversion Rate Limitation (cfs)	Combined Diversion Rate (cfs)	Individual Volume Limitation (AFA)	Individual Acre Limitation	Total Place of Use	Point of Diversion	Notes
34-742	Rainbow Trout Ranch LLC	Partial Decree	May 1, 1905	Big Lost River	Irrigation	3	10.12	None	150	337.4	NESWWN, Sec. 15, 8N, 21E SWSWNW, Sec. 27, 8N, 22E (Injection) NWSNW, Sec. 28, 8N, 22E (Rediversion)	Water is delivered through the Neilsen Ditch Points of Injection and rediversion are from Warm Springs Creek (Big Lost River water is diverted into Warm Springs Creek and then rediverted along with the remaining Warm Springs Creek water).
34-13944			May 1, 1907		Irrigation	1.52			76			
34-527			April 1, 1883	Warm Springs Creek	Irrigation & Domestic	3.2 Irrigation .02 Domestic			160		NWSNW, Sec. 28, 8N, 22E	
34-528			April 1, 1908		Irrigation	2.4			120			
34-13564			May 1, 1975		Irrigation	1.78			None			

98622

PLACE OF USE DESCRIPTION <u>BEFORE</u> PROPOSED CHANGES	
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95	95
96	96
97	97
98	98
99	99
100	100

TOTAL	337.4
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PLACE OF USE DESCRIPTION <u>AFTER</u> PROPOSED CHANGES	
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TOTAL	337.4
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CHANGE IN ACRES	
1990-1991	1,000
1991-1992	1,000
1992-1993	1,000
1993-1994	1,000
1994-1995	1,000
1995-1996	1,000
1996-1997	1,000
1997-1998	1,000
1998-1999	1,000
1999-2000	1,000
2000-2001	1,000
2001-2002	1,000
2002-2003	1,000
2003-2004	1,000
2004-2005	1,000
2005-2006	1,000
2006-2007	1,000
2007-2008	1,000
2008-2009	1,000
2009-2010	1,000
2010-2011	1,000
2011-2012	1,000
2012-2013	1,000
2013-2014	1,000
2014-2015	1,000
2015-2016	1,000
2016-2017	1,000
2017-2018	1,000
2018-2019	1,000
2019-2020	1,000
2020-2021	1,000
2021-2022	1,000
2022-2023	1,000
2023-2024	1,000
2024-2025	1,000
2025-2026	1,000
2026-2027	1,000
2027-2028	1,000
2028-2029	1,000
2029-2030	1,000
2030-2031	1,000
2031-2032	1,000
2032-2033	1,000
2033-2034	1,000
2034-2035	1,000
2035-2036	1,000
2036-2037	1,000
2037-2038	1,000
2038-2039	1,000
2039-2040	1,000
2040-2041	1,000
2041-2042	1,000
2042-2043	1,000
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2044-2045	1,000
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2046-2047	1,000
2047-2048	1,000
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2063-2064	1,000
2064-2065	1,000
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2067-2068	1,000
2068-2069	1,000
2069-2070	1,000
2070-2071	1,000
2071-2072	1,000
2072-2073	1,000
2073-2074	1,000
2074-2075	1,000
2075-2076	1,000
2076-2077	1,000
2077-2078	1,000
2078-2079	1,000
2079-2080	1,000
2080-2081	1,000
2081-2082	1,000
2082-2083	1,000
2083-2084	1,000
2084-2085	1,000
2085-2086	1,000
2086-2087	1,000
2087-2088	1,000
2088-2089	1,000
2089-2090	1,000
2090-2091	1,000
2091-2092	1,000
2092-2093	1,000
2093-2094	1,000
2094-2095	1,000
2095-2096	1,000
2096-2097	1,000
2097-2098	1,000
2098-2099	1,000
2099-2100	1,000
2100-2101	1,000
2101-2102	1,000
2102-2103	1,000
2103-2104	1,000
2104-2105	1,000
2105-2106	1,000
2106-2107	1,000
2107-2108	1,000
2108-2109	1,000
2109-2110	1,000
2110-2111	1,000
2111-2112	1,000
2112-2113	1,000

TOTAL	0
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Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1 Continued

5. General Information:

a. Describe the complete diversion system, including how you will accommodate a measuring device and lockable controlling works should they be required now or in the future. Water is diverted from the Big Lost River through a headgate into a ditch, and then delivered through the Nielsen Ditch where it is injected into Warm Springs Creek. That water, as well as the water diverted under the Warm Springs Creek water rights, is then diverted and used on the property. There are existing measuring devices, and water has historically been delivered and distributed by the local watermaster.

b. Who owns the property at the point(s) of diversion? Applicant and others possess easement rights for the Nielsen Ditch.
If other than the applicant, describe the arrangement enabling the applicant to access the property for the diversion system:

c. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts?
If yes, X Attach a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes on official letterhead signed by an authorized representative. Label it **Attachment #6**. List the name of the entity and type of lien: _____

It is the applicant's responsibility to provide notice to lien holder, trustee, mortgagor, or contract holder of the proposed changes that may impact or change the value of the water rights or affected real property. Any misrepresentation or legal encumbrance on this application may result in rejection of the application or cancellation of an approval.

d. Describe the effect on the land now irrigated if the place or purpose of use is changed pursuant to this transfer: Rearrangement of place of use, but number of irrigated acres will remain the same.

e. Describe the use of any other water right(s) for the same purpose or land, or the same diversion system as right(s) proposed to be transferred at both the existing and proposed point(s) of diversion and place(s) of use: None.

f. To your knowledge, has/is any portion of the water right(s) proposed to be changed:

Yes No

- ☐ X Undergone a period of five or more consecutive years of non-use,
- ☐ X Currently leased to the Water Supply Bank,
- ☐ X Currently used in a mitigation plan limiting the use of water under the right, or
- ☐ X Currently enrolled in a Federal set-aside program limiting the use of water under the rights?

If yes, describe: _____

Close

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report

4/16/2012

WATER RIGHT NO. 34-742

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	RAINBOW TROUT RANCH LLC 451 JACKSON ST SAN FRANCISCO, CA 94111
Original Owner	ALVOR C THOMPSON MACKAY, ID 83251

Priority Date: 05/01/1905

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
BIG LOST RIVER	SINKS

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	5/01	10/15	3 CFS	
Total Diversion			3 CFS	

Location of Point(s) of Diversion:

BIG LOST RIVER	NESWNW	Sec. 15	Township 08N	Range 21E	CUSTER County
BIG LOST RIVER Injection	SWSWNW	Sec. 27	Township 08N	Range 22E	CUSTER County
BIG LOST RIVER Rediversion	NWSENW	Sec. 28	Township 08N	Range 22E	CUSTER County

IRRIGATION Use:

Acre Limit: 150

77 93 5

Place(s) of use:

Place of Use Legal Description: IRRIGATION CUSTER County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
08N	22E	20	8		19	9		15.5	14		1.5			
		21		SWNW	40									
				NESW	40		NWSW	40		SWSW	38.5		SESW	40
		28		NENW	39		NWNW	20		SWNW	2.5		SENW	36.4
				NESW	5									

Total Acres: 337.4

Conditions of Approval:

1.	S34	The period of use for irrigation described above may be extended in seasons of unusual characteristics to a beginning date of 04-20 and an ending date of 10-31 at the discretion of the Director of the Idaho Department of Water Resources.
2.	G01	Point of injection into and point of rediversion from Warm Springs Creek.
3.	C05	Right includes accomplished change in place of use pursuant to Section 42-1425, Idaho Code.
4.	C18	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. Section 42-1412(6), Idaho Code.
5.	F01	Water is delivered through Neilsen Ditch.
6.	K06	This right is limited to the irrigation of 150 acres within the place of use described above in a single irrigation season.
7.	E52	The rights listed below are limited to a total combined diversion rate of 10.12 cfs. Combined Right Nos.: 34-00527, 34-00528, 34-00742, 34-13564, and 34-13944.
8.	E56	The rights listed below are limited to the irrigation of a combined total of 337.4 acres in a single irrigation season. Combined Right Nos.: 34-00527, 34-00528, 34-00742, 34-13564, and 34-13944.

Dates:

Licensed Date:

Decreed Date: 05/30/2001

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal: S

Owner Name Connector:

77 93 5

Water District Number: 34
Generic Max Rate per Acre:
Generic Max Volume per Acre:
Combined Acres Limit: 337.4
Combined Volume Limit:
Combined Rate Limit: 10.12
Civil Case Number:
Old Case Number:
Decree Plaintiff:
Decree Defendant:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Cary Act Number:
Mitigation Plan: False

Close

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report

4/16/2012

WATER RIGHT NO. 34-13944

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	RAINBOW TROUT RANCH LLC 451 JACKSON ST SAN FRANCISCO, CA 94111
Original Owner	ALVOR C THOMPSON MACKAY, ID 83251

Priority Date: 05/01/1907

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
BIG LOST RIVER	SINKS

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	05/01	10/15	1.52 CFS	
Total Diversion			1.52 CFS	

Location of Point(s) of Diversion:

BIG LOST RIVER	NESWNW	Sec. 15	Township 08N	Range 21E	CUSTER County
BIG LOST RIVER Injection	SWSWNW	Sec. 27	Township 08N	Range 22E	CUSTER County
BIG LOST RIVER Rediversion	NWSENW	Sec. 28	Township 08N	Range 22E	CUSTER County

IRRIGATION Use:

Acre Limit: 76

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Place(s) of use:

Place of Use Legal Description: IRRIGATION CUSTER County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
08N	22E	20	8		19	9		15.5	14		1.5			
		21		SWNW	40									
				NESW	40		NWSW	40		SWSW	38.5		SESW	40
		28		NENW	39		NWNW	20		SWNW	2.5		SENW	36.4
				NESW	5									

Total Acres: 337.4

Conditions of Approval:

1.	S34	The period of use for irrigation described above may be extended in seasons of unusual characteristics to a beginning date of 04-20 and an ending date of 10-31 at the discretion of the Director of the Idaho Department of Water Resources.
2.	G01	Point of injection into and point of redirection from Warm Springs Creek.
3.	C05	Right includes accomplished change in place of use pursuant to Section 42-1425, Idaho Code.
4.	C18	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. Section 42-1412(6), Idaho Code.
5.	F01	Water is delivered through Neilsen Ditch.
6.	K06	This right is limited to the irrigation of 76 acres within the place of use described above in a single irrigation season.
7.	E52	The rights listed below are limited to a total combined diversion rate of 10.12 cfs. Combined Right Nos.: 34-00527, 34-00528, 34-00742, 34-13564, and 34-13944.
8.	E56	The rights listed below are limited to the irrigation of a combined total of 337.4 acres in a single irrigation season. Combined Right Nos.: 34-00527, 34-00528, 34-00742, 34-13564, and 34-13944.

Dates:

Licensed Date:

Decreed Date: 05/29/2001

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal: S

Owner Name Connector:

87935

Water District Number: 34
Generic Max Rate per Acre:
Generic Max Volume per Acre:
Combined Acres Limit: 337.4
Combined Volume Limit:
Combined Rate Limit: 10.12
Civil Case Number:
Old Case Number:
Decree Plaintiff:
Decree Defendant:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Cary Act Number:
Mitigation Plan: False

Close

Close

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report

4/16/2012

WATER RIGHT NO. 34-527

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	RAINBOW TROUT RANCH LLC 451 JACKSON ST SAN FRANCISCO, CA 94111
Original Owner	J A HARNED
Original Owner	FRANK P MORRISON

Priority Date: 04/01/1883

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
WARM SPRINGS CREEK	BIG LOST RIVER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	5/01	10/15	3.2 CFS	
DOMESTIC	1/01	12/31	0.02 CFS	
Total Diversion			3.2 CFS	

Location of Point(s) of Diversion:

WARM SPRINGS CREEK	NWSENW	Sec. 28	Township 08N	Range 22E	CUSTER County
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IRRIGATION Use:

Acre Limit: 160

Place(s) of use:

77935

Place of Use Legal Description: IRRIGATION CUSTER County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
08N	22E	20	8		19	9		15.5	14		1.5			
		21		SWNW	40									
				NESW	40		NWSW	40		SWSW	38.5		SESW	40
		28		NENW	39		NWNW	20		SWNW	2.5		SENW	36.4
				NESW	5									

Place of Use Legal Description: DOMESTIC CUSTER County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
08N	22E	28		NWNW										

Total Acres: 337.4

Conditions of Approval:

1.	S34	The period of use for irrigation described above may be extended in seasons of unusual characteristics to a beginning date of 04-20 and an ending date of 10-31 at the discretion of the Director of the Idaho Department of Water Resources.
2.	C05	Right includes accomplished change in place of use pursuant to Section 42-1425, Idaho Code.
3.	C18	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. Section 42-1412(6), Idaho Code.
4.	K06	This right is limited to the irrigation of 160 acres within the place of use described above in a single irrigation season.
5.	E52	The rights listed below are limited to a total combined diversion rate of 10.12 cfs. Combined Right Nos.: 34-00527, 34-00528, 34-00742, 34-13564, and 34-13944. The rights listed below are limited to a total combined diversion rate of 5.60 cfs. Combined Right Nos.: 34-00527, 34-00528, and 34-13564.
6.	E56	The rights listed below are limited to the irrigation of a combined total of 337.4 acres in a single irrigation season. Combined Right Nos.: 34-00527, 34-00528, 34-00742, 34-13564, and 34-13944.
7.	C04	Right includes accomplished change in purpose of use pursuant to Section 42-1425, Idaho Code.
8.	N10	The quantity of water decreed for this water right for domestic use is not a determination of historical beneficial use.
9.	N12	The quantity of water under this right for domestic use shall not exceed 13,000 gallons per day.
10.	F06	The following rights are diverted through point of diversion described above: 34-00527, 34-00528, and 34-13564.

Dates:

Licensed Date:

Decreed Date: 06/20/2001

77935

Enlargement Use Priority Date:
Enlargement Statute Priority Date:
Water Supply Bank Enrollment Date Accepted:
Water Supply Bank Enrollment Date Removed:
Application Received Date:
Protest Deadline Date:
Number of Protests: 0

Other Information:
State or Federal: S
Owner Name Connector:
Water District Number: 34
Generic Max Rate per Acre:
Generic Max Volume per Acre:
Combined Acres Limit:
Combined Volume Limit:
Combined Rate Limit: 5.6
Civil Case Number:
Old Case Number:
Decree Plaintiff:
Decree Defendant:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Cary Act Number:
Mitigation Plan: False

Close

77935

[Close](#)IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report

4/16/2012

WATER RIGHT NO. 34-528

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	RAINBOW TROUT RANCH LLC 451 JACKSON ST SAN FRANCISCO, CA 94111
Original Owner	J A HARNED
Original Owner	FRANK P MORRISON

Priority Date: 04/01/1908

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
WARM SPRINGS CREEK	BIG LOST RIVER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	5/01	10/15	2.4 CFS	
Total Diversion			2.4 CFS	

Location of Point(s) of Diversion:

WARM SPRINGS CREEK	NWSENW	Sec. 28	Township 08N	Range 22E	CUSTER County
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IRRIGATION Use:

Acre Limit: 120

Place(s) of use:

Place of Use Legal Description: IRRIGATION CUSTER County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
08N	22E	20	8		19	9		15.5	14		1.5			
		21		SWNW	40									
				NESW	40		NWSW	40		SWSW	38.5		SESW	40
		28		NENW	39		NWNW	20		SWNW	2.5		SENW	36.4
				NESW	5									

Total Acres: 337.4

Conditions of Approval:

1.	S34	The period of use for irrigation described above may be extended in seasons of unusual characteristics to a beginning date of 04-20 and an ending date of 10-31 at the discretion of the Director of the Idaho Department of Water Resources.
2.	C05	Right includes accomplished change in place of use pursuant to Section 42-1425, Idaho Code.
3.	C18	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. Section 42-1412(6), Idaho Code.
4.	K06	This right is limited to the irrigation of 120 acres within the place of use described above in a single irrigation season.
5.	E52	The rights listed below are limited to a total combined diversion rate of 10.12 cfs. Combined Right Nos.: 34-00527, 34-00528, 34-00742, 34-13564, and 34-13944. The rights listed below are limited to a total combined diversion rate of 5.60 cfs. Combined Right Nos.: 34-00527, 34-00528, and 34-13564.
6.	E56	The rights listed below are limited to the irrigation of a combined total of 337.4 acres in a single irrigation season. Combined Right Nos.: 34-00527, 34-00528, 34-00742, 34-13564, and 34-13944.
7.	F06	The following rights are diverted through point of diversion described above: 34-00527, 34-00528, and 34-13564.

Dates:

Licensed Date:

Decreed Date: 05/30/2001

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal: S

Owner Name Connector:

77 98 5

Water District Number: 34
Generic Max Rate per Acre:
Generic Max Volume per Acre:
Combined Acres Limit:
Combined Volume Limit:
Combined Rate Limit: 5.6
Civil Case Number:
Old Case Number:
Decree Plaintiff:
Decree Defendant:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Cary Act Number:
Mitigation Plan: False

Close

77 93 5

[Close](#)IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report

4/16/2012

WATER RIGHT NO. 34-13564

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	RAINBOW TROUT RANCH LLC 451 JACKSON ST SAN FRANCISCO, CA 94111
Original Owner	PATRICIA A SMITH
Original Owner	RICHARD A SMITH 5787 W 5000 N MACKAY, ID 83251 (208)588-2866

Priority Date: 05/01/1975

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
WARM SPRINGS CREEK	BIG LOST RIVER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	5/01	10/15	1.78 CFS	
Total Diversion			1.78 CFS	

Location of Point(s) of Diversion:

WARM SPRINGS CREEK	NWSENW	Sec. 28	Township 08N	Range 22E	CUSTER County
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Place(s) of use:

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Place of Use Legal Description: IRRIGATION CUSTER County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
08N	22E	20	8	SENE	19									
			9	NESE	15.5	14	SESE	1.5						
		21		SWNW	40									
				NESW	40		NWSW	40		SWSW	38.5		SESW	40
		28		NENW	39		NWNW	20		SWNW	2.5		SENW	36.4
				NESW	5									

Total Acres: 337.4

Conditions of Approval:

1.	S34	The period of use for irrigation described above may be extended in seasons of unusual characteristics to a beginning date of 04-20 and an ending date of 10-31 at the discretion of the Director of the Idaho Department of Water Resources.
2.	C18	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. Section 42-1412(6), Idaho Code.
3.	E52	The rights listed below are limited to a total combined diversion rate of 10.12 cfs. Combined Right Nos.: 34-00527, 34-00528, 34-00742, 34-13564, and 34-13944. The rights listed below are limited to a total combined diversion rate of 5.60 cfs. Combined Right Nos.: 34-00527, 34-00528, and 34-13564.
4.	E56	The rights listed below are limited to the irrigation of a combined total of 337.4 acres in a single irrigation season. Combined Right Nos.: 34-00527, 34-00528, 34-00742, 34-13564, and 34-13944.
5.	F06	The following rights are diverted through point of diversion described above: 34-00527, 34-00528, and 34-13564.
6.	C11	This water right is subordinate to all water rights with a priority date earlier than April 12, 1994, that are not decreed as enlargements pursuant to Section 42-1426, Idaho Code. As between water rights decreed as enlargements pursuant to Section 42-1426, Idaho Code, the earlier priority right is the superior right.
7.	K02	This right is based upon an enlargement of Right Nos. 34-527 and 34-528 pursuant to Section 42-1426, Idaho Code.
8.	K09	This right is for an enlargement of 177.4 acres within the place of use described for this right.

Dates:

Licensed Date:

Decreed Date: 06/04/2001

Enlargement Use Priority Date:

Enlargement Statute Priority Date: 4/12/1994

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

77935

Other Information:

State or Federal: S

Owner Name Connector:

Water District Number: 34

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Combined Acres Limit:

Combined Volume Limit:

Combined Rate Limit: 5.6

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

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Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 2

A. DESCRIPTION OF RIGHT(S) AS RECORDED

For each water right listed in Part 1B.1. of the application, attach a **Part 2A** report obtained from Department office or from the Department's website @ <http://www.idwr.idaho.gov/>, Water Right Transfers, Step 1. Insert Part 2A reports into the application following Part 1.

**THE ENTIRETY OF THE WATER RIGHTS WILL HAVE THEIR PLACE OF USE
AMENDED**

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 3

A. PLAT MAP (See Part 3A of instructions for application for transfer for complete requirements.)

- X Attach a map of the diversion, measurement, control, and distribution system. Label it **Attachment #7a.**
- X If the transfer application proposes to change the place or purpose of use of an irrigation right attach a Geographic Information System (GIS) shape file, or an aerial photo or other image clearly delineating the location and extent of existing acres and changes to the place of use. Label it **Attachment #7b.** If the place of use currently consists of a permissible place of use, then the attachment is not required if the application contains a clear statement that the boundaries for the place of use are not proposed to be changed by the transfer and the total number of irrigated acres within the place of use before and after the transfer is clearly stated.

B. CHANGES IN NATURE OF USE (Water Balance)

- ☐ If you propose to change the nature of use or period of use of all or part of the right(s) listed in this application, attach documentation describing the extent of historic beneficial use of the portion of the right(s) proposed to be changed. Also attach documentation showing that the portion of the right(s) to be changed will not be enlarged in rate, volume, or consumptive use through the proposed change. Label it **Attachment #8a.**

C. PLACE OF USE CHANGES TO SUPPLEMENTAL IRRIGATION RIGHTS

- ☐ If you propose to change the place of use of a supplemental irrigation right, answer below and attach supporting documentation. Label it **Attachment #8b.**
1. Describe how the supplemental water rights have been used historically in conjunction with other water rights at the existing place of use. Describe the time during the irrigation season that the supplemental rights have been used. Include information about the availability or reliability of the primary right(s) being supplemented, both before and after the change. If the applicant is proposing to change a supplemental irrigation right to a primary right, provide the information required in Part 3B above.

FOR DEPARTMENT USE ONLY

Transfer contains _____ pages and _____ attachments.

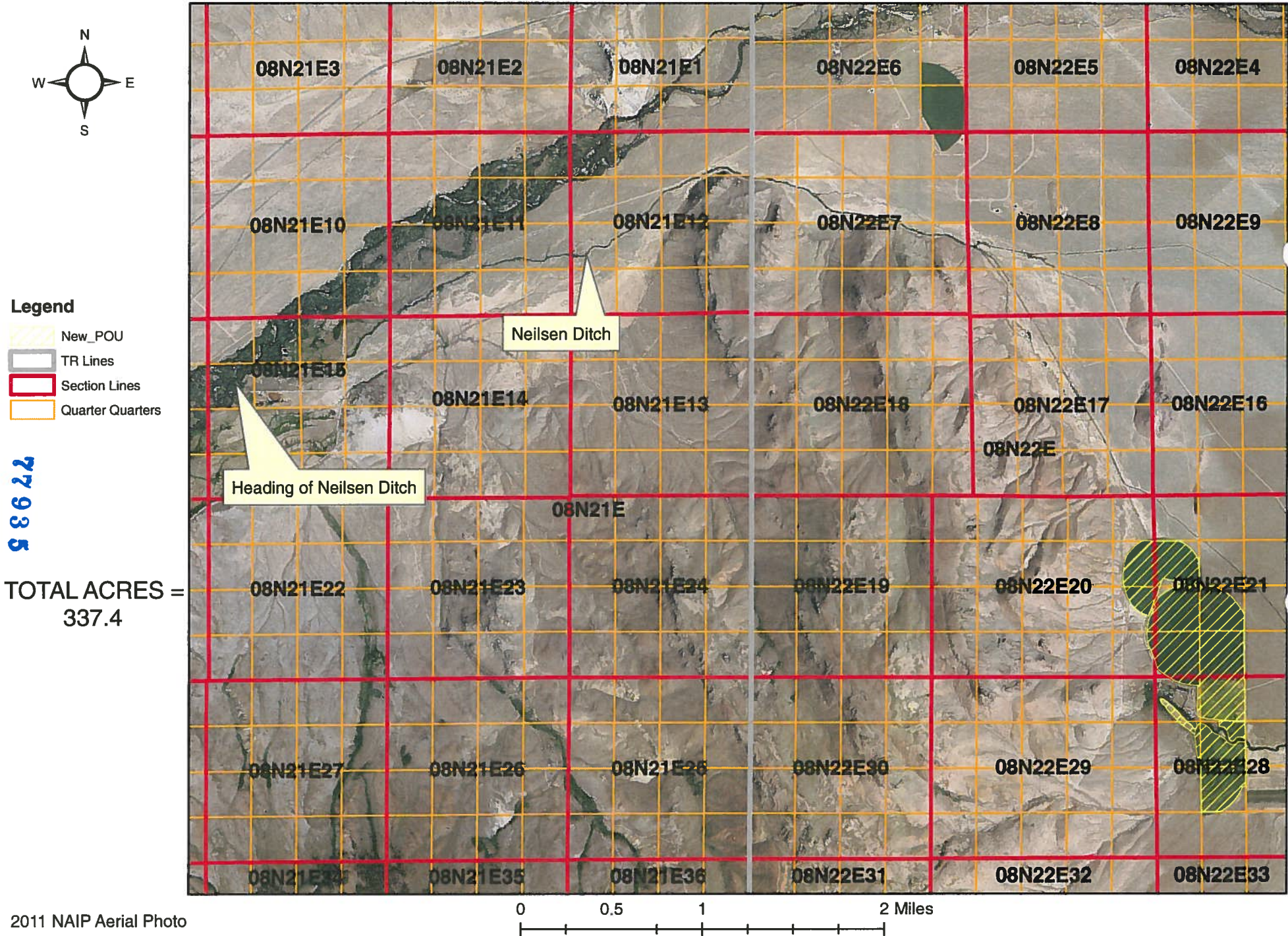
Received by: _____ Date: _____ Prelim. Check by _____ Date: _____

Fee paid: 500 Date: 5/11/2011 Received by: BLAKE JORDAN Receipt # E037591

Add'l fee paid _____ Date: _____ Received by: _____ Receipt # _____

Attachment No. 7a Map - Proposed POD

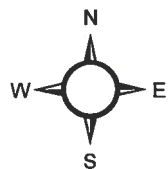
RAINBOW TROUT RANCH LLC



Attachment No. 7b

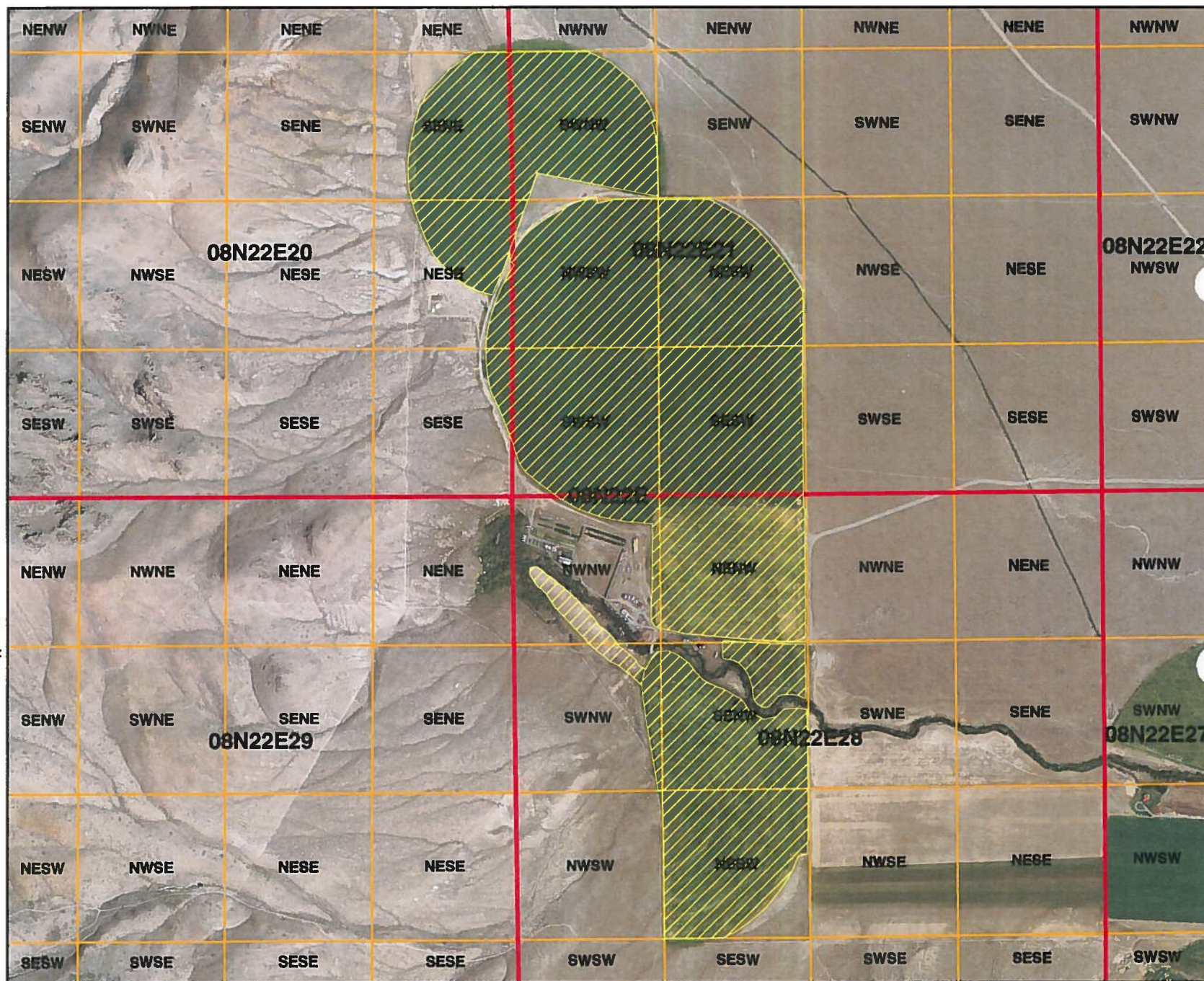
GIS Shape File

RAINBOW TROUT RANCH LLC



Legend

- New_POU
- TR Lines
- Section Lines
- Quarter Quarters



77935

TOTAL ACRES =
337.4

2011 NAIP Aerial Photo

0 0.25 0.5 1 Miles

Attachment No. 9

Other



State of Idaho

DEPARTMENT OF WATER RESOURCES

Eastern Region, 900 North Skyline Drive, Suite A • Idaho Falls, Idaho 83402-1718

Phone: (208) 525-7161 • Fax: (208) 525-7177 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

February 6, 2012

Rainbow Trout Ranch LLC
451 Jackson ST
San Francisco, CA 94111

Certified Mail

RE: Unauthorized Water Use

Dear Property Owner:

The Idaho Department of Water Resources (IDWR) recently conducted an investigation of irrigated lands within the Big Lost River basin using 2011 aerial photography. We have discovered that approximately 26.5 acres located in Section 28 of T08N, R22E, have been irrigated without a valid water right. Water right records suggest you are the current owner of these lands. I have enclosed a map showing the irrigated acres with 2011 aerial photography. According to our records, no water rights are associated with the acres highlighted in red.

IDWR has the statutory authority to curtail any unlawful diversion of water or to instruct the local watermaster to curtail such diversion. Irrigation without a valid water right constitutes an illegal diversion of water pursuant to Idaho Code § 42-351. ***You are hereby instructed to cease and desist any further irrigation of the 26.5 acres located in Section 28 as identified on the enclosed map. Irrigation of these lands may not resume until a valid water right has been obtained or identified.***

Please notify me if you are not the current owner of the acres in question, if you believe there is a valid water right associated with the acres, or if you feel our analysis is in error. If you are the owner of the property and our analysis is correct, you should contact our office within fourteen days to discuss ways to address the unauthorized irrigation. You may contact me directly at (208) 525-7161. ***Pending your response to this letter, IDWR will determine whether to issue a Notice of Violation and commence an administrative enforcement action that may include civil penalties and a mitigation requirement for the irrigation occurring in 2011.***

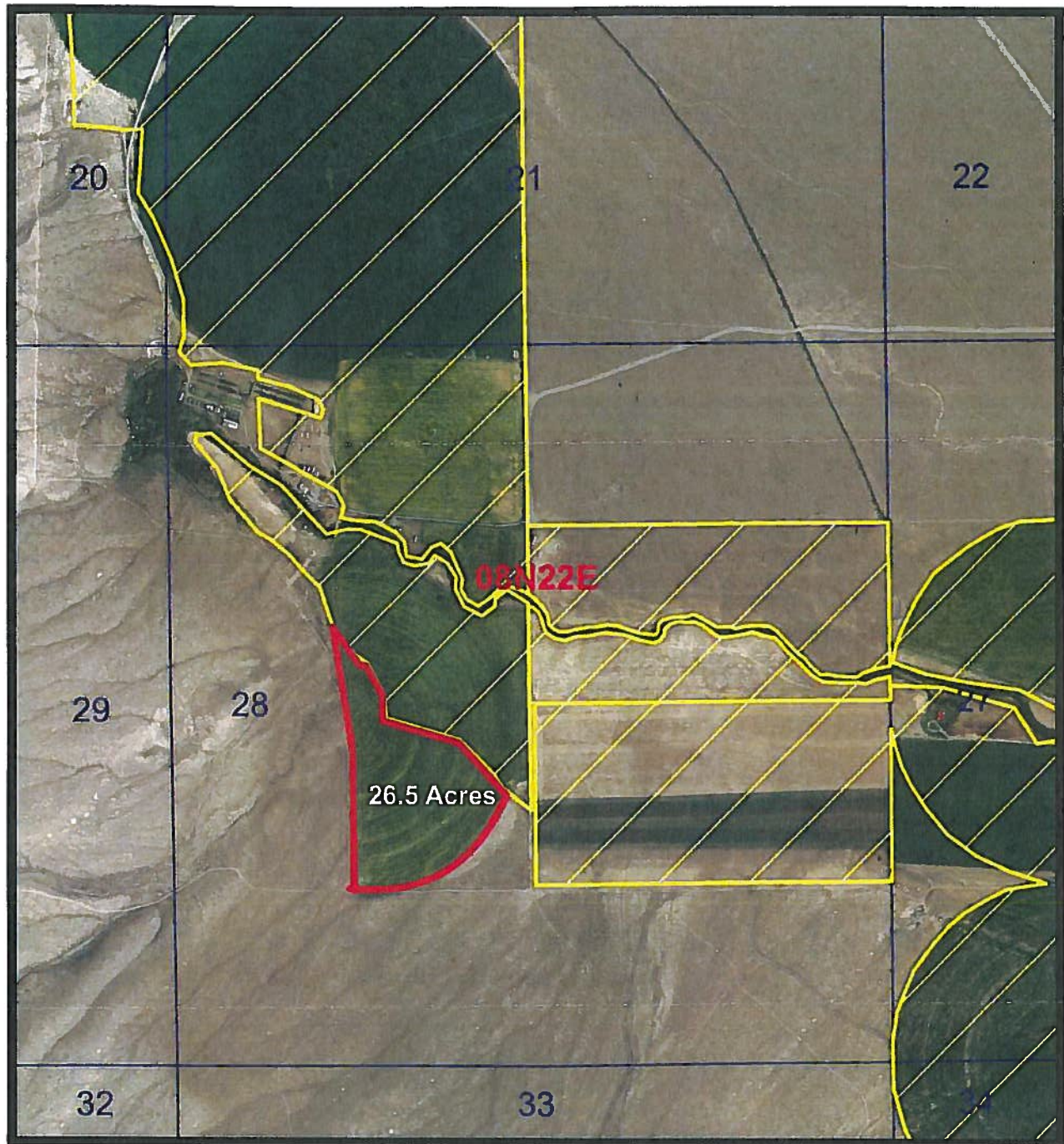
Sincerely,



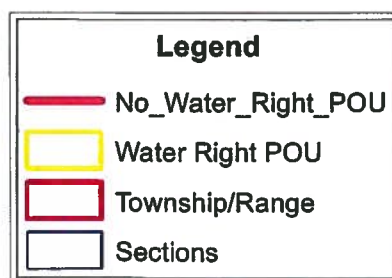
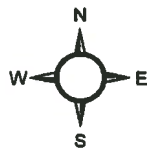
James Cefalo

Cc: Rob Whitney, Enforcement Section, IDWR Boise
Encl: Map of 2011 Irrigation

77 93 5



Rainbow Trout Ranch LLC- Irrigated Acres



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STATE OF IDAHO
DEPARTMENT OF WATER RESOURCESMINIMUM REQUIREMENTS CHECKLIST
TO BE SUBMITTED WITH APPLICATION FOR TRANSFER

An application for transfer must be prepared in accordance with the minimum requirements listed below to be acceptable for processing by the Department. Incomplete applications will be returned. The instructions, fee schedule, Part 2A reports and additional Part 2B forms are available from an Department office or on the Department's website at <http://www.idwr.idaho.gov/>.

Check whether each item below is *attached* (Yes) or *not applicable* (N/A) for the proposed transfer.

***Means the item is always required and must be included with the application.**

Yes N/A

- ☒ * Completed Application for Transfer of Water Right form, Part 1.
- ☒ * Signature of Applicant(s) or applicant's authorized representative on Application for Transfer Part 1. Include evidence of authority labeled Attachment #3 (see below) if signed by representative.
- ☒ * Application for Transfer Part 2A. Attach a Part 2A report describing each water right in the transfer as currently recorded.
- ☒ Complete and attach an Application for Transfer Part 2B for each water right for which only a portion is proposed to be changed through this transfer application. Part 2B forms are available on the Department's website at: <http://www.idwr.idaho.gov/WaterManagement/WaterRights/WaterRightTransfers/PDFs/TransferApp/Part2B.pdf>.
- ☐ * Application for Transfer Part 3A is always required (see Attachment #7a below); Parts 3B and 3C must be completed for transfer applications proposing to change the nature of use of the water right(s) or proposing changes to supplemental right(s).
- ☐ * Correct fee submitted with transfer application form. (Fee schedule is on website and instructions for application for transfer).

Attachments to Application - Label each attachment with the corresponding number shown below as Attachment #1-9

- ☒ #1 If the applicant is a business, partnership, organization, or association, and not currently registered in the State of Idaho as a business entity, attach documentation identifying officers authorized to sign or act on behalf of right holder (see Part 1.)
- ☒ #2a Water Right ownership documentation if Dept. records do not show the transfer applicant as the current water right owner.
- ☒ #2b If the ownership of the water right will change as a result of the proposed transfer to a new place of use, attach documentation showing land and water right ownership at the new place of use. Include documentation for all affected land and owner(s).
- ☒ #3 Documentation of authority to make the change if the applicant is not the water right owner.
- ☒ #4 Power of Attorney or documentation providing authority to sign or act on the applicant's behalf. (See Part 1.)
- ☒ #5 If the transfer application proposes to change the point of diversion for a water right affecting the Eastern Snake Plain Aquifer (ESPA), attach the results of an ESPA analysis and a detailed mitigation plan to offset any depletions to hydraulically connected reaches of the Snake River. ESPA transfer spreadsheet and model grid labeled cells are available on the Department's website at http://www.idwr.idaho.gov/WaterManagement/WaterRights/WaterRightTransfers/wrt_default.htm
- ☒ #6 Notarized statement of agreement or a statement on official letterhead signed by an authorized representative from each lien holder or other entity with financial interest in the water right(s) or land affected by the proposed transfer (See Part 1.5.c)
- ☒ * #7a Attach a map identifying the proposed point(s) of diversion, place(s) of use, and water diversion and distribution system details as described on the application. Include legal description labels. If only a portion of the right is proposed to be changed, identify the current location of the part of the existing right(s) proposed to be changed. (See Part 3A).
- ☒ #7b If the transfer application proposes to change the place or purpose of use of an irrigation right attach a Geographic Information System (GIS) shape file, or an aerial photo or other image clearly delineating the location and extent of existing acres and changes to the place of use.
- ☒ #8a If the transfer application proposes to change the nature of use or period of use for one or more rights, provide documentation describing the extent of historic beneficial use for the water rights proposed to be transferred and document how enlargement will be avoided. (See Part 3B).
- ☒ #8b If the transfer application proposes to change the place of use of a supplemental irrigation right, provide documentation regarding the historic use of the supplemental right(s) and availability or reliability of the primary right(s) being supplemented, both before and after the proposed change. (See Part 3C.)
- ☒ #9 Other. Please describe: Unauthorized Water User Letter.