

RECEIVED

STATE OF IDAHO

Ident. No. 47-17575

DEPARTMENT OF WATER RESOURCES

MAR 23 2012

AMENDED

## APPLICATION FOR PERMIT

DEPT. OF WATER RESOURCES  
SOUTHERN REGION

To appropriate the public waters of the State of Idaho

1. Name of applicant(s) L & S Land Holdings, LLC Phone 208-536-6182  
 Name connector (check one): ☐ and ☐ or ☒ and/or

Mailing address: 2930 South 2300 East City WendellState Idaho Zip 83355 Email: \_\_\_\_\_

2. Source of water supply Rock Creek which is a tributary of Snake River
3. Location of point(s) of diversion:

| Twp | Rge | Sec | Govt Lot | 1/4 | 1/4 | 1/4 | County     | Source     | Local name or tag # |
|-----|-----|-----|----------|-----|-----|-----|------------|------------|---------------------|
| 12S | 18E | 1   |          | SW  | SW  | SW  | Twin Falls | Rock Creek |                     |
|     |     |     |          |     |     |     |            |            |                     |
|     |     |     |          |     |     |     |            |            |                     |
|     |     |     |          |     |     |     |            |            |                     |

4. Water will be used for the following purposes:

Amount 9.6 cfs for Diversion to Storage purposes from 2/1 to 11/15 (both dates inclusive)  
 (cfs or acre-feet per year)

Amount 9.6 cfs for Irrigation Storage purposes from 2/1 to 11/15 (both dates inclusive)  
 (cfs or acre-feet per year)

Amount 198 acft/yr for Irrigation Storage purposes from 2/1 to 11/15 (both dates inclusive)  
 (cfs or acre-feet per year)

Amount 198 acft/yr for Irrigation from Storage purposes from 3/15 to 11/15 (both dates inclusive)  
 (cfs or acre-feet per year)

5. Total quantity to be appropriated is (a) 9.6 cubic feet per second (cfs) and/or (b) 198 acre-feet per year (af).

6. Proposed diverting works:

a. Describe type and size of devices used to divert water from the source. Existing headgate in Rock Creek. Diverted to an existing ditch which ultimately delivers water to two constructed irrigation storage facilities.

b. Height of storage dam 10.2/15.9 feet; active reservoir capacity 99/99 acre-feet; total reservoir capacity 99/99 acre-feet. If the reservoir will be filled more than once each year, describe the refill plan in item 11.

For dams 10 feet or more in height OR reservoirs with a total storage capacity of 50 acre-feet or more, submit a separate Application for Construction or Enlargement of a New or Existing Dam. Application required? ☒ Yes ☐ No

c. Proposed well diameter is \_\_\_\_\_ inches; proposed depth of well is \_\_\_\_\_ feet.

d. Is ground water with a temperature of greater than 85°F being sought? ☐ Yes ☐ No

e. If well is already drilled, when? \_\_\_\_\_; drilling firm \_\_\_\_\_;

Well was drilled for (well owner) \_\_\_\_\_; Drilling Permit No. \_\_\_\_\_.

7. Description of proposed uses (if irrigation only, go to item 8):

a. Hydropower; show total feet of head and proposed capacity in kW. \_\_\_\_\_

b. Stockwatering; list number and kind of livestock. \_\_\_\_\_

c. Municipal; show name of municipality or the applicant's qualifications as a municipal provider. \_\_\_\_\_

d. Domestic; show number of households \_\_\_\_\_

e. Other; describe fully. Storage of irrigation water to be used later in the irrigation season for irrigation use.

8. Description of place of use:

- If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- If water is used for other purposes, place a symbol of the use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

| TWP | RGE | SEC | NE |    |    |    | NW |    |    |    | SW |    |    |    | SE |    |    |    | TOTALS |
|-----|-----|-----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|--------|
|     |     |     | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE |        |
|     |     |     |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |        |
|     |     |     |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |        |
|     |     |     |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |        |
|     |     |     |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |        |
|     |     |     |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |        |

Storage and Irrigation place of use  
Presented in Table 1

Total number of acres to be irrigated: \_\_\_\_\_

9. Describe any other water rights used for the same purposes as described above. Include water delivered by a municipality, canal company, or irrigation district. If this application is for domestic purposes, do you intend to use this water, water from another source, or both, to irrigate your lawn, garden, and/or landscaping? List of water rights used for irrigation are listed in Table 2. No other storage rights exist at this location.

10. a. Who owns the property at the point of diversion? Brent Funk; 845 S 1800 W; Murtaugh, ID 83344  
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: Existing Point of Diversion for Rock Creek. No new infrastructure will be constructed.
11. Describe your proposal in narrative form, and provide additional explanation for any of the items above. Attach additional pages if necessary. Irrigation storage reservoirs were constructed. An irrigation storage right will allow for reduced groundwater pumping. The reservoirs will be filled during the spring runoff, and then will be used for irrigation during the season. An accompanying water mitigation plan is accompanying this permit application.

12. Time required for completion of works and application of water to proposed beneficial use is 1 years (minimum 1 year).
13. **MAP OF PROPOSED PROJECT REQUIRED** - Attach an 8½" x 11" map clearly identifying the proposed point of diversion, place of use, section #, township & range. A photocopy of a USGS 7.5 minute topographic quadrangle map is preferred.

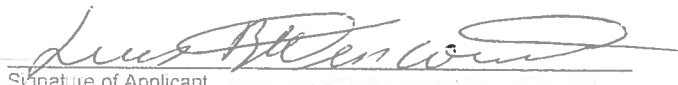
The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval.



Signature of Applicant

Luis M. Bettencourt  
Print Name (and title, if applicable)

Individually, and as Trustee of the Luis M. and Sharon Bettencourt 2008 Trust



Signature of Applicant

Luis M. Bettencourt  
Print Name (and title, if applicable)

Member of L & S Land Holdings ,LLC

For Department Use:

Received by \_\_\_\_\_ Date \_\_\_\_\_ Time \_\_\_\_\_ Preliminary check by \_\_\_\_\_

Fee \$ 610.00 Received by \_\_\_\_\_ Receipt No 5032125 Date 9/2/2011

AMENDED APPLICATION REPLACES APPLICATION RECEIVED 8/31/2011

Table 1: Place of Use for Permit application  
L&S Land Holdings, LLC

Irrigation Storage (ST)  
Place of Use

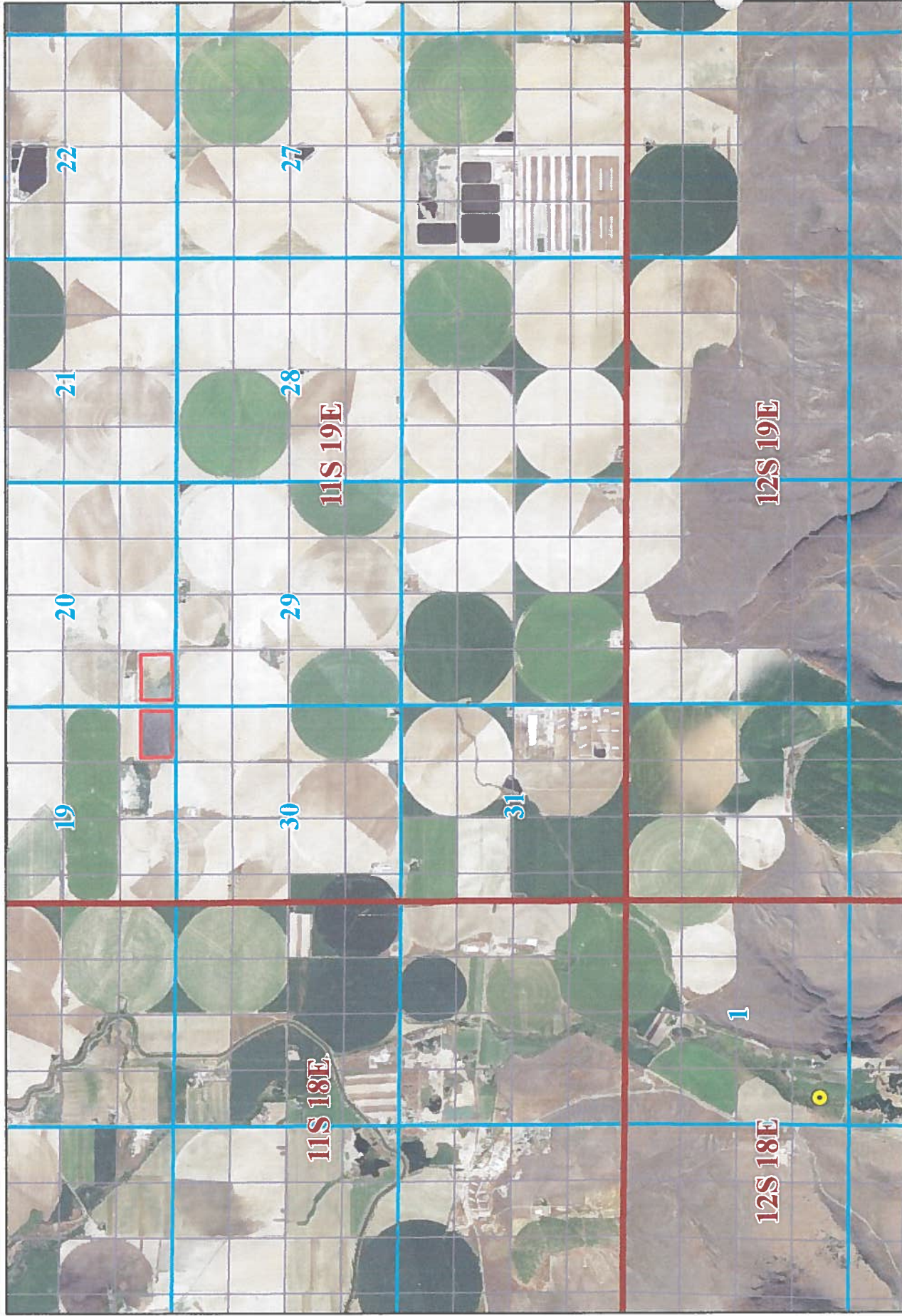
| TWN | RGE | SEC | NE |    |    |    | NW |    |    |    | SW |    |    |    | SE |    |    |    | Totals |
|-----|-----|-----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|--------|
|     |     |     | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE |        |
| 11S | 19E | 19  |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    | ST |        |
| 11S | 19E | 20  |    |    |    |    |    |    |    |    |    |    | ST |    |    |    |    |    |        |

Irrigation from Storage  
Place of Use

| TWN | RGE | SEC | NE |    |    |    | NW |    |    |    | SW |    |    |    | SE |    |    |    | Totals |
|-----|-----|-----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|--------|
|     |     |     | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE |        |
| 11S | 19E | 8   | 40 | 31 | 32 | 40 |    |    |    |    |    |    |    |    |    |    |    |    | 143    |
| 11S | 19E | 9   |    |    |    |    |    |    |    |    | 40 | 39 | 39 | 40 |    |    |    |    | 158    |
| 11S | 19E | 16  |    |    |    |    | 40 | 39 | 38 | 40 | 40 | 38 | 38 | 40 |    |    |    |    | 313    |
| 11S | 19E | 20  | 37 | 33 | 39 | 40 | 38 | 36 | 38 | 39 | 38 | 38 | 2  | 38 | 40 | 38 | 39 | 39 | 572    |
| 11S | 19E | 29  | 36 | 37 | 40 | 40 | 31 | 38 | 34 | 38 | 38 | 40 | 37 | 37 | 40 | 40 | 40 | 39 | 605    |
| 11S | 19E | 30  | 38 |    | 38 | 40 |    |    |    |    | 39 |    |    | 33 | 40 | 40 | 33 | 37 | 338    |

Table 2: List of irrigation water rights  
L&S Land Holdings, LLC

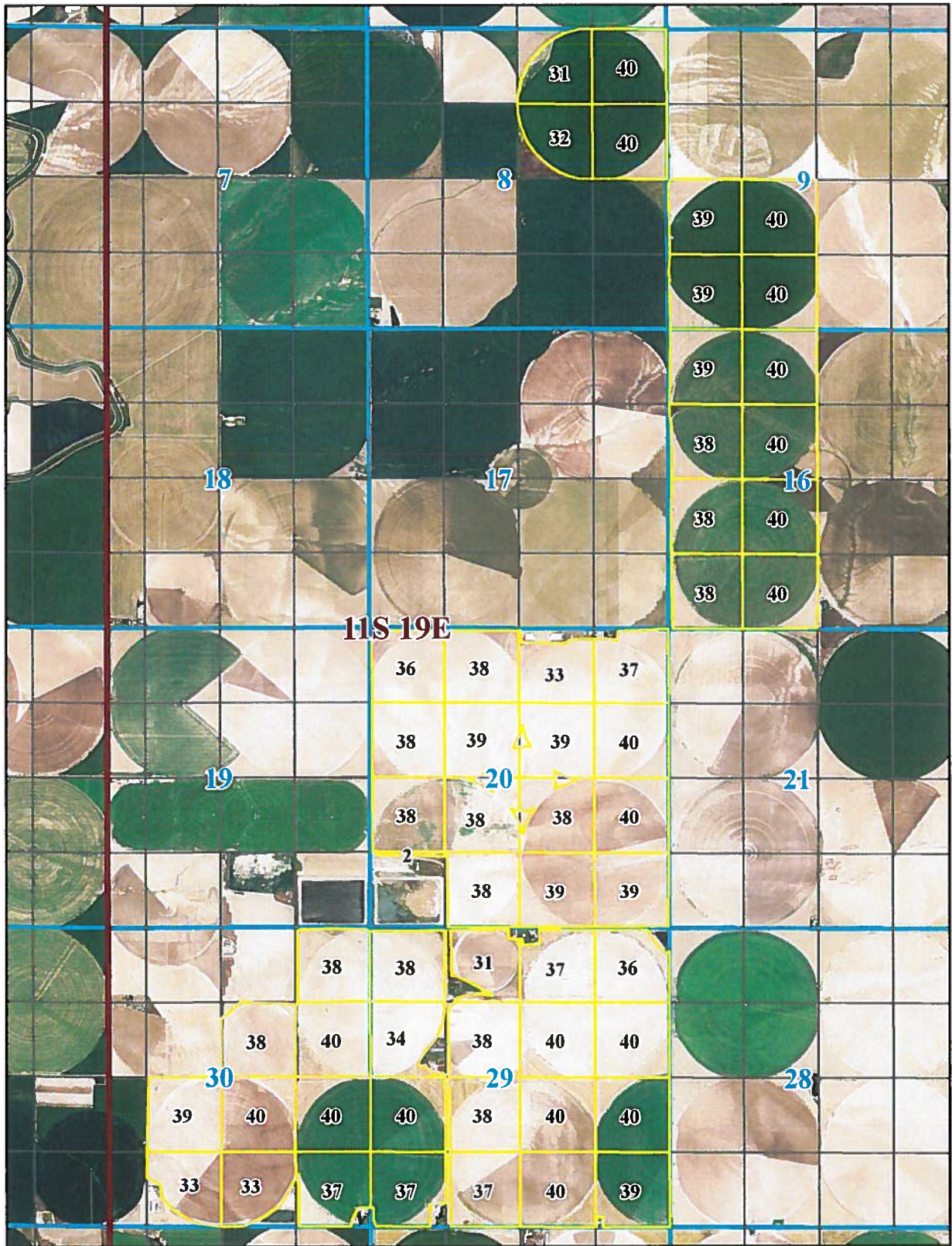
47-171  
47-179  
47-180  
47-181  
47-191  
47-192  
47-2217  
47-2217  
45-2481  
47-2507  
47-2518  
47-2519  
47-4110  
47-4351  
47-4352  
47-4353  
47-14077  
47-14078  
47-17269  
47-17270  
47-17272  
47-17273  
47-17340



- Legend**
- Rock Creek POD
  - Storage Ponds
  - township
  - Sections
  - QQ lines

Feet  
0 1,200 2,400 4,800

**L&S LAND HOLDING, LLC.**  
**PERMIT APPLICATION - STORAGE POD & POU**  
**NAIP 2011 AERIAL**



0 1,125 2,250 4,500 Feet

**L&S LAND HOLDING, LLC.**  
**PERMIT APP. - IRRIGATION FROM STORAGE**  
**NAIP 2011 AERIAL**

**Legend**

- twmshp
- Sections
- QQ lines
- POU Irrigation from Storage

N



0 1,125 2,250 4,500 Feet

**L&S LAND HOLDING, LLC.**  
**PERMIT APP. - IRRIGATION FROM STORAGE**  
**NAIP 2011 AERIAL**

**Legend**

- twrshp
- Sections
- QQ lines
- POU Irrigation from Storage



# Mitigation Narrative for L & S Land Holdings, LLC Water Right Permit Application

L&S Land Holdings, LLC (Luis Bettencourt)

G. Erick Powell, Ph.D., P.E.  
Brockway Engineering, PLLC

November 30, 2011

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This narrative present the proposed mitigation plan associated with the application for water right permit to divert and store water from Rock Creek for irrigation application later in the irrigation season. It is the intent of L & S Land Holdings to fill the irrigation reservoirs with water during the early spring runoff. Once the reservoirs are full, the irrigation water will be stored until later in the irrigation season when it will be diverted and used for irrigation needs.

The following water rights or portions of water rights are proposed to mitigate for the proposed permit application: 47-191, 47-192, 47-14078, and 47-17340. A total of 104.2 acres of historically irrigated ground will be dried up to mitigate for evaporation from the reservoirs and storage volume. Table 1 contains the pertinent details of the water rights offered for mitigation. The column identified with 'All/Part' refers to if all of the right is offered for mitigation or only part of the right is offered for mitigation.

## **Mitigation Calculations**

The new permit applies to store water during the spring high flows and to use stored water during the irrigation season. The combined area of the reservoir surface area is 38 acres; additional evaporation will occur from the water surface than would occur without the reservoir. Allen and Robison (2009) report the open water evapotranspiration from ponds and streams near Twin Falls SE is 2.34 ft/acre. Therefore, the total annual evaporation loss from the reservoir surface is calculated to be 88.9 acft/yr. This value is conservative, as the intent of the storage facilities is to empty the reservoirs before the end of the irrigation season. The actual evaporation loss will be less than 88.9 acft/year, and in some years it will be significantly less.

It is intended to fill the reservoirs once and have a maximum storage volume of 99 acft/reservoir. The total combined volume of storage is 198 acft. These reservoirs will be filled and emptied annually. The total mitigated volume is 286.9 acft/year.

## ***Historical Beneficial Use***

The following water rights were partially decreed in the SRBA court: Water right nos. 47-191 and 47-192 on 3/31/2010, water right no. 47-14078 on 6/01/2010, and water right no. 47-17340 on 7/9/2010. Extensive evaluation of the validity of these rights occurred during the SRBA review. As shown in the aerial photos associated with the maps, the water was beneficially used. During site visits in 2011, it was noted that this ground was in alfalfa production, which is used for the associated dairy operation located nearby.



IDWR suggested obtaining additional data supporting the reliability of surface water delivery. Contact was made with Shari Helman, Rock Creek Water District Secretary/Treasurer; she provided cut off dates for Rock Creek water rights. A copy of this letter can be found in Appendix A.

### ***Water Balance***

Alfalfa consumptive use near the Twin Falls SE site is reported to be 3.06 ft/acre (Allen and Robison, 2009 – Alfalfa less frequent cuttings). Given the priority dates of the mitigating rights, the Rock Creek rights have an average cutoff date of June 20. A groundwater right is also provided for mitigation purposes, but during the peak summer months, the groundwater right cannot provide sufficient water to meet the irrigation demand. Therefore, the historical consumptive use has been quantified as 2.75 ft/acre. Drying up 32.3 acres of alfalfa irrigation results in a reduction of historical consumptive use of 88.9 acft/yr. It is proposed the ceasing to irrigate 32.3 acres with water right 47-192 and 47-14078 will fully mitigate for any water loss from evaporation.

The storage volume of 198 acft/yr will also have to be mitigated for annually. Using the same consumptive use of 2.75 ft/acre, it was determined that 71.9 acres of land would have to be dried up. The rest of water right 47-192 (47.7 acres) and 24.2 acre of water right no. 47-191 are also offered for mitigation. Water right nos. 47-14078 and 47-17340 are fully stacked with both surface water rights. The result of the mitigation described above is 47.8 acres of irrigation still allowed by water right no. 47-191 and 203.8 acres of irrigation still allowed by water right no. 47-17340.

IDWR does not usually account for irrigation efficiencies in volume calculations. By ignoring the irrigation efficiencies, less water will be consumed as a result of this transfer than historically. The consumptive use of alfalfa is the precipitation deficit value. Historically, if the irrigation efficiency was about 80%, then a minimum of 3.44 ft/acre of water was needed to apply on the crop to meet the crop demand. The storage volume of 198 acft will also be used for irrigation, and if the same efficiency of 80% is assumed, then the 198 acft can only meet the crop demand of 57.6 acres, roughly 80% of the 71.9 acres that historically were irrigated.

It is therefore concluded that with the new permit application, there would be no enlargement of water consumption from historical, but there would be a decrease in water consumption.

The rest of this narrative will discuss the items outlined in Jeff Peppersack's May 3, 2010 memorandum titled "Evaluation of Mitigation Plans for Water Right Permits".

### **Depletion from Source**

- Identification of source of water being depleted and Special Administration area

Rock Creek is the source water for this permit. It is proposed that the diversions from Rock Creek will occur during the Spring Runoff, which may include the first two weeks in March. The proposed point of diversion is not located within a Special Administration area

- Analysis estimating quantity, timing and location of depletion

The permit allows for a maximum of 9.6 cfs; at this flow rate, the total allowed volume of 198 acft would be diverted for just over 10 days. Once the total volume is diverted and the reservoirs are filled, no additional water will be diverted under the permit.

Mitigation rights from Rock Creek total 4.85 cfs with another 0.75 cfs from groundwater (Table 1). Diverting 4.85 cfs for 10 days equals 96 acft. These rights allow for diversion throughout the irrigation season. Ignoring water right 47-17340 (1929 flood right), a diversion rate of 1.93 cfs is offered for mitigation from Rock Creek. Diverting 1.93 cfs throughout the irrigation season results in the total diversion volume of 819 acft/yr, well above the 198 acft diversion volume requested.

### **Availability and Adequacy of Mitigation Water**

- Source of mitigation water including water right(s)

Three of the mitigating water rights come from Rock Creek, which is the same source as the permit application. These water rights are 47-191 (part), 47-192 (all), and 47-17340 (part). One of the mitigating water rights comes from Groundwater. This right number is 47-14078.

- Description of plan identifying acres to be terminated and how mitigation is accomplished

A total of 104.2 acres of historically irrigated area place of use of the mitigation water rights will be dried up. This area is shown in Figure X. It should be noted that this same area is listed as the place of use for the new permit application.

- Ownership or authority to use the mitigation source including water rights and consent from any water delivery entity for use of water and updates to water right records.

L & S Land Holdings, LLC is wholly owned by Luis M. and Sharon Bettencourt 2008 Trust, who also owns the land and water rights proposed for mitigation. There is no conflict between water right owner, the permit applicant, or the land owner, as they are all the same individual.

- Validity of the water right(s) used for mitigation including analysis of forfeiture, historic use, overlapping rights, and availability of water. Historic use must be sufficient to offset the proposed depletion.

Proposed mitigation water rights were partially decreed in the SRBA in 2010. Through the adjudication process, the historic irrigation use of these rights has been thoroughly evaluated and documented. These rights have been used during the 2010 and 2011 irrigation seasons for irrigation.

The following rights are overlapping on the place of use. Part or all of the following water rights are offered for mitigation: 47-191, 47-192, 47-14078, and 47-17340. Water right nos. 47-191, 47-192, and 47-14078 are limited to an irrigated area of 152 acres.

Crop yield for irrigated lands are used primarily for dairy purposes and agricultural data is not reported regularly to the Farm Service Agency. Poncho Villa Lobos is the irrigation manager for L & S Land Holdings, LLC and has stated that production of alfalfa has occurred on the property. Mr. Villa Lobos indicates that an adequate water supply has always been available. The combination of surface water and groundwater also indicates that when surface water has been curtailed historically, that an adequate water supply can be achieved by groundwater application. Conjunctive management is currently not implemented in the Rock Creek drainage.

- Transfer or rental agreement or purchase agreement for water/right as necessary

No transfer or rental agreement is necessary

- Technical analysis or modeling of effects to demonstrate adequacy of the plan.

The mitigation plan results in substantially less water diverted from Rock Creek than could be if the irrigation rights were diverted. If the storage right is diverted at the full amount of 9.6 cfs, the reservoirs will be filled in 10 days. During those 10 days, there would be less volume in Rock Creek than if the mitigation irrigation rights were not diverted. However, considering that diversion for storage would occur in the early part of the year, historic flows in Rock Creek are higher than mid and late summer, and irrigation diversions typically are not diverting full diversion rates, it is anticipated that the impact of the permit diverted volume will be minimal.

If the mitigation irrigation rights were diverted throughout the irrigation season as they have historically, then the diversion volume will be significantly larger, especially during the peak summer and late summer demand when Rock Creek flow is not as great.

It is my opinion that no additional modeling work is required and the stated description is sufficient.

- Adequacy of mitigation to address delayed impacts if the permit holder/successor ceases to divert and/or is no longer in business

Mitigation plan calls for leaving irrigation water in Rock Creek and if the applicant is no longer in business then the mitigation plan is not affected.

- Suitability of the quality of water used to compensate other water users.

The permit application source water is Rock Creek. This is the same source as the mitigation water and the water quality will not be affected.

### **Verification of Mitigation**

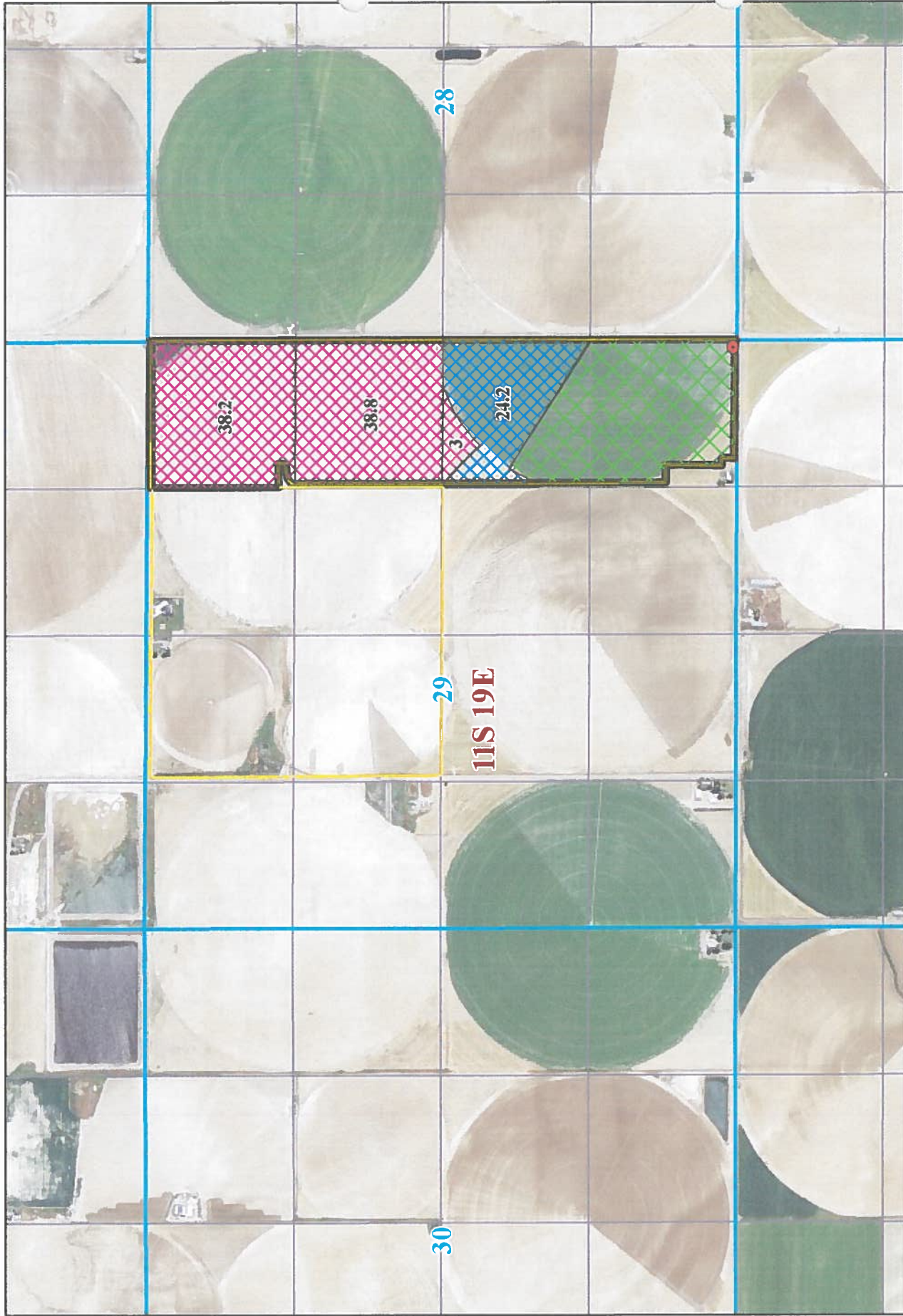
- Plan outlining reasonable method for measurement of water and verification of mitigation.

The water master should be able to measure and document the diversions from Rock Creek into the associated delivery system as there are multiple water rights diverted from Rock Creek at the same location.

Mitigated area will be dried up from using the original irrigation water rights. However, the ground may still be irrigated under the new irrigation from storage permit.

- Consultation with Watermaster within a Water District

IDWR will consult with the watermaster regarding the mitigation plan.



0 445 890 1,780 Feet

# **L&S LAND HOLDING, LLC.** **MITIGATION FOR PERMIT** **NAIP 2011 AERIAL**

- Legend**
- Points of Diversion
  - Decreed\_WR\_POU\_L\_&S
  - Basin, SeqNo, Suffix
  - Mitigation Area
  - 47-191, 24.2 Acres
  - 47-192, 80.0 Acres
  - Remaining Irrigation
  - Sections
  - QQ lines

**Appendix A**  
**Rock Creek Water District Communication**

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*ROCK CREEK WATER DISTRICT-047  
2391 ROCK CREEK ROAD  
HANSEN, ID 83334*

November 8, 2011

To: Brockway Engineering

Attention: Ann

Re: Luis Bettencourt  
Rock Creek Water Rights

RECEIVED  
NOV 08 2011

Good Morning Ann:

I was able to come up with the last 16 years of cut-off dates for the water right years in question. The column on the far left shows the priority dates of the right; then the dates under each year are the cut-off date for that year. Any right more recent than 1910 is considered flood right and is always gone on the same date as 1910 or a week or two earlier. Once the right has been cut it is not to be used until the next spring. This should give you a pretty good average for those rights.

Sorry about the mix-up but hope this is what you need.

Sincerely,



Shari Helman  
Rock Creek Water District  
Secretary/Treasurer

3 - pages

| ROCK CREEK PRIORITY CUT OFF DATES |        |        |        |                        |                               |                     |                     |                       |                       |                     |                           |  |  |
|-----------------------------------|--------|--------|--------|------------------------|-------------------------------|---------------------|---------------------|-----------------------|-----------------------|---------------------|---------------------------|--|--|
| Right Date                        | 1994   | 1995   | 1996   | 1997                   | 1998                          | 1999                | 2000                | 2001                  | 2002                  | 2003                | 2004                      |  |  |
| 1810                              |        | 6-Jul  | 28-Jul | 7-Jul                  | 7-Jul                         | 1-Jul               | 20-May              | 5-11 60%<br>5-18 100% | 10-Jun                | 29-May              | 8-Jun                     |  |  |
| 1903/1906                         | 26-May | 7-Jul  | 1-Jul  | 8-Jul                  | 7-Jul                         | 7-3 50%<br>7-7 100% | 29-May              | 21-May                | 11-Jun                | 29-May              | 31-Aug                    |  |  |
| 1892                              | 10-Jun | 13-Jul | 3-Jul  | 7-Aug 50%<br>7-11 100% | 17-Jul                        | 9-Jul               | 6-1 50%<br>6-9 100% | 22-May                | 11-Jun                | 3-Jun               | 8-11 50%<br>8-15 100%     |  |  |
| 1888                              | 22-Jun | 14-Jul | 7-Jul  | 14-Jul                 | 20-Jul                        | 9-Jul               | 15-Jun              | 26-May                | 14-Jun                | 5-Jun               | 16-Jun                    |  |  |
| 1887                              | 28-Jun | 19-Jul | 12-Jul | 16-Jul                 | 24-Jul                        | 9-Jul               | 15-Jun              | 26-May                | 14-Jun                | 5-Jun               | 16-Jun                    |  |  |
| 1885                              | 7-May  | 24-Jul | 15-Jul | 17-Jul                 | 28-Jul                        | 13-Jul              | 20-Jun              | 28-May                | 8/14 50%<br>8/28 100% | 8/5 50%<br>8/9 100% | 8/22 Oct 30<br>8/20 All   |  |  |
| 1883                              |        | 31-Jul | 23-Jul | 1-Aug                  | 1-Aug                         | 22-Jul              | 26-Jun              | 8-Jun                 | 8-Jul                 | 17-Jun              | 11-Jul                    |  |  |
| 1882                              |        | 2-Aug  | 25-Jul | 7-Aug                  | 6-Aug<br>8/7 50%<br>8/14 100% | 25-Jul              | 10-Jul              | 11-Jun                | 13-Jul                | 17-Jun              | 12-Jul                    |  |  |
| 1881                              | 11-Jul | 3-Aug  | 11-Aug |                        |                               | 29-Jul              | 10-Jul              | 18-Jun                | 15-Jul                | 21-Jun              | 14-Jul                    |  |  |
| 1880 4/20                         | 15-Jul | 10-Aug | 26-Aug |                        | 24-Aug                        | 30-Aug              | 15-Jul              | 21-Jun                | 18-Jul                | 21-Jun              | 14-Jul                    |  |  |
| 1880 4/1                          | 15-Jul | 12-Aug | 1-Sep  |                        | 1-Sep                         |                     | 31-Jul              | 22-Jun                | 23-Jul                | 27-Jun              | 14-Jul                    |  |  |
| 1879                              | 25-Jul | 14-Sep |        |                        |                               |                     | 8-Aug               | 2-Jul                 | 23-Jul                | 10-Jul              | 15-Jul                    |  |  |
| 1878                              | 6-Aug  | 3-Oct  |        |                        |                               |                     | 8-8 50%             |                       |                       | 18-Jul              | 5/31/78 8/2<br>5/1/78 8/8 |  |  |

| ROCK CREEK PRIORITY CUT OFF DATES |        |        |        |        |        |        |      |      |      |      |      |  |
|-----------------------------------|--------|--------|--------|--------|--------|--------|------|------|------|------|------|--|
| Right Date                        | 2005   | 2006   | 2007   | 2008   | 2009   | 2010   | 2011 | 2012 | 2013 | 2014 | 2015 |  |
| 1910                              | 1-Jul  | 19-Jun | 26-May | 20-Jun | 10-Jul | 26-Jun | 7/20 |      |      |      |      |  |
| 1903/1906                         | 13-Jul | 19-Jun | 26-May | 20-Jun | 10-Jul | 26-Jun | 7/20 |      |      |      |      |  |
| 1892                              | 13-Jul | 23-Jun |        | 21-Jun | 11-Jul | 3-Jul  |      |      |      |      |      |  |
| 1888                              | 13-Jul | 26-Jun |        | 1-Jul  | 13-Jul | 6-Jul  |      |      |      |      |      |  |
| 1887                              | 13-Jul | 26-Jun |        | 7-Jul  | 13-Jul | 6-Jul  |      |      |      |      |      |  |
| 1885                              | 15-Jul | 26-Jun |        | 7-Jul  | 13-Jul |        |      |      |      |      |      |  |
| 1883                              | 15-Jul | 11-Jul |        | 11-Jul | 21-Aug |        |      |      |      |      |      |  |
| 1882                              | 17-Jul | 13-Jul |        | 21-Jul | 27-Jul |        |      |      |      |      |      |  |
| 1881                              | 20-Jul | 24-Jul |        | 26-Jul | 27-Jul |        |      |      |      |      |      |  |
| 1880 4/20.                        | 20-Jul | 6-Aug  |        | 26-Jul | 27-Jul |        |      |      |      |      |      |  |
| 1880 4/1.                         | 25-Jul | 8-Aug  |        | 26-Jul |        |        |      |      |      |      |      |  |
| 1879                              | 3-Aug  | 15-Aug |        | 3-Aug  |        | 28-Jul |      |      |      |      |      |  |
| 1878                              | 11-Sep | 23-Aug |        | 6-Aug  |        |        |      |      |      |      |      |  |

RECEIVED

AUG 31 2011

DEPT. OF WATER RESOURCES  
SOUTHERN REGIONSTATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
**APPLICATION FOR PERMIT**Ident. No. 47-17575

To appropriate the public waters of the State of Idaho

1. Name of applicant(s) Luis Bettencourt and/or Sharon L. Bettencourt Phone 208-536-6182  
Name connector (check one): ☐ and ☐ or ☒ and/orMailing address: 2930 South 2300 East City WendellState Idaho Zip 83355 Email: \_\_\_\_\_2. Source of water supply Rock Creek which is a tributary of Snake River

3. Location of point(s) of diversion:

| Twsp | Rge | Sec | Govt Lot | 1/4 | 1/4 | 1/4 | County     | Source     | Local name or tag # |
|------|-----|-----|----------|-----|-----|-----|------------|------------|---------------------|
| 12S  | 18E | 1   |          | SW  | SW  | SW  | Twin Falls | Rock Creek |                     |
|      |     |     |          |     |     |     |            |            |                     |
|      |     |     |          |     |     |     |            |            |                     |
|      |     |     |          |     |     |     |            |            |                     |

4. Water will be used for the following purposes:

Amount 198 acft/yr for Diversion to Storage purposes from 3/15 to 6/1 (both dates inclusive)  
(cfs or acre-feet per year)Amount 9.6 cfs for Diversion to Storage purposes from 3/15 to 6/1 (both dates inclusive)  
(cfs or acre-feet per year)Amount 198 acft/yr for Irrigation from Storage purposes from 3/15 to 11/15 (both dates inclusive)  
(cfs or acre-feet per year)Amount 9.6 cfs for Irrigation from Storage purposes from 3/15 to 11/15 (both dates inclusive)  
(cfs or acre-feet per year)5. Total quantity to be appropriated is (a) 9.6 cubic feet per second (cfs) and/or (b) 198 acre-feet per year (af).

6. Proposed diverting works:

a. Describe type and size of devices used to divert water from the source. Existing headgate in Rock Creek. Diverted to an existing ditch which ultimately delivers water to two constructed irrigation storage facilities.b. Height of storage dam 10.2/15.9 feet; active reservoir capacity 99/99 acre-feet; total reservoir capacity 99/99 acre-feet. If the reservoir will be filled more than once each year, describe the refill plan in item 11.For dams 10 feet or more in height OR reservoirs with a total storage capacity of 50 acre-feet or more, submit a separate Application for Construction or Enlargement of a New or Existing Dam. Application required? ☒ Yes ☐ No

c. Proposed well diameter is \_\_\_\_\_ inches; proposed depth of well is \_\_\_\_\_ feet.

d. Is ground water with a temperature of greater than 85°F being sought? ☐ Yes ☐ No

e. If well is already drilled, when? \_\_\_\_\_; drilling firm \_\_\_\_\_;

Well was drilled for (well owner) \_\_\_\_\_; Drilling Permit No. \_\_\_\_\_.

7. Description of proposed uses (if irrigation only, go to item 8):

a. Hydropower; show total feet of head and proposed capacity in kW. \_\_\_\_\_

b. Stockwatering; list number and kind of livestock. \_\_\_\_\_

c. Municipal; show name of municipality or the applicant's qualifications as a municipal provider. \_\_\_\_\_

d. Domestic; show number of households \_\_\_\_\_

e. Other; describe fully. Storage of irrigation water to be used later in the irrigation season for irrigation use.

8. Description of place of use:

- a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- b. If water is used for other purposes, place a symbol of the use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

| TWP | RGE | SEC | NE |    |    |    | NW |    |    |    | SW |    |    |    | SE |    |    |    | TOTALS |
|-----|-----|-----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|--------|
|     |     |     | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE |        |
|     |     |     |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |        |
|     |     |     |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |        |
|     |     |     |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |        |
|     |     |     |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |        |
|     |     |     |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |        |

Storage and Irrigation place of use  
Presented in Table 1

Total number of acres to be irrigated: \_\_\_\_\_

9. Describe any other water rights used for the same purposes as described above. Include water delivered by a municipality, canal company, or irrigation district. If this application is for domestic purposes, do you intend to use this water, water from another source, or both, to irrigate your lawn, garden, and/or landscaping? List of water rights used for irrigation are listed in Table 2. No other storage rights exist at this location.
10. a. Who owns the property at the point of diversion? Brent Funk; 845 S 1800 W; Murtaugh, ID 83344
- 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: Existing Point of Diversion for Rock Creek. No new infrastructure will be constructed.
11. Describe your proposal in narrative form, and provide additional explanation for any of the items above. Attach additional pages if necessary. Irrigation storage reservoirs were constructed. An irrigation storage right will allow for reduced groundwater pumping. The reservoirs will be filled during the spring runoff, and then will be used for irrigation during the season. An accompanying water right transfer is accompanying this permit application to create a PPU and more efficiently use the available water to minimize groundwater pumping costs and impact to the local aquifer.
12. Time required for completion of works and application of water to proposed beneficial use is 1 years (minimum 1 year).
13. **MAP OF PROPOSED PROJECT REQUIRED** - Attach an 8½" x 11" map clearly identifying the proposed point of diversion, place of use, section #, township & range. A photocopy of a USGS 7.5 minute topographic quadrangle map is preferred.

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.

Signature of Applicant

Luis Bettencourt

Print Name (and title, if applicable)

Signature of Applicant

*[Signature]*

Print Name (and title, if applicable)

For Department Use:

Received by P. SKINNER Date 8/31/2011 Time LATE PM Preliminary check by \_\_\_\_\_

Fee \$ 610.00 Received by P. SKINNER Receipt No. 5032125 Date 9/2/2011

Table 1: Place of Use for Permit application  
Luis Bettencourt

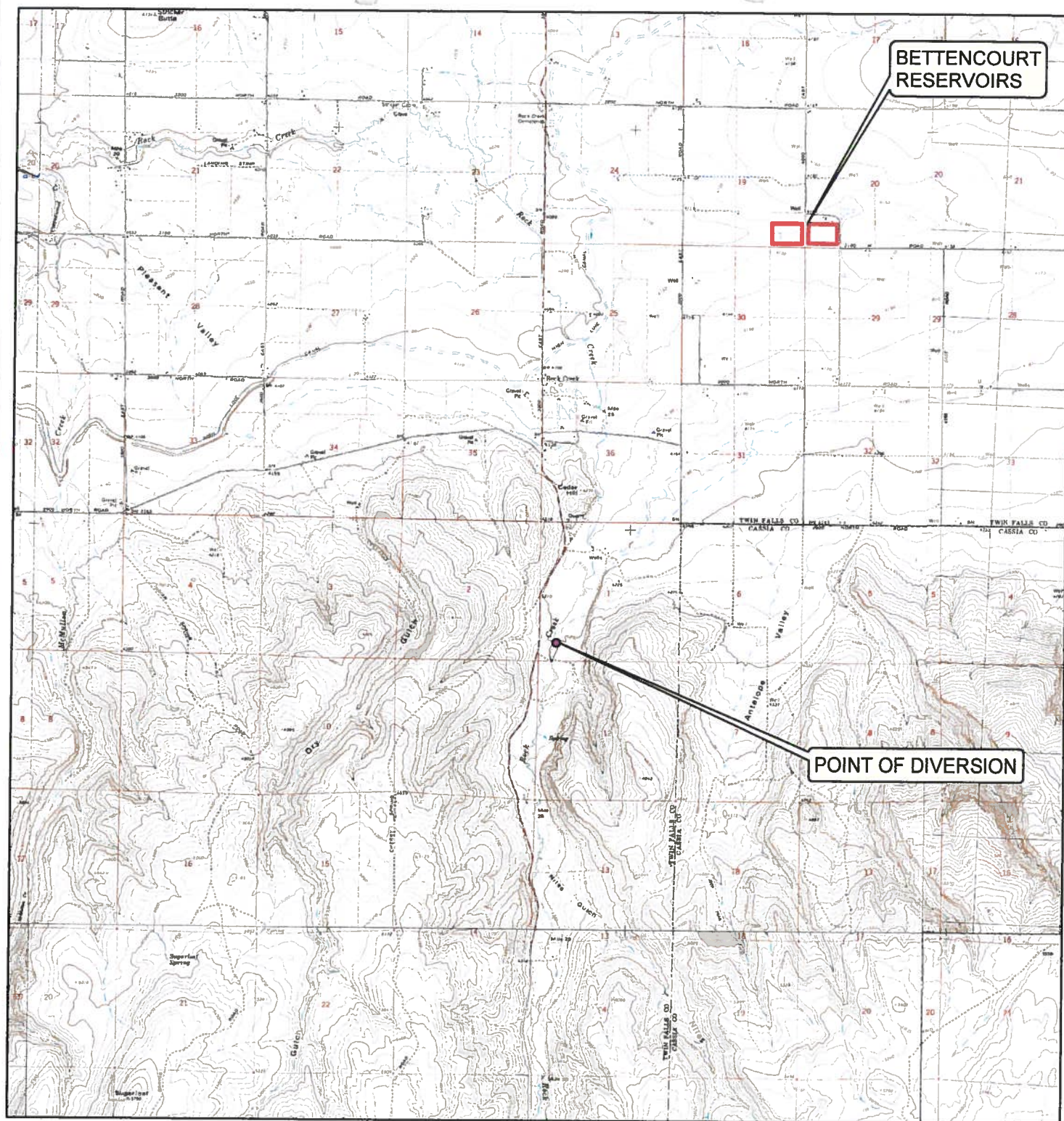
Irrigation Storage (ST)  
Place of Use

| TWN | RGE | SEC | NE |    |    |    | NW |    |    |    | SW |    |    |    | SE |    |    |    | Totals |
|-----|-----|-----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|--------|
|     |     |     | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE |        |
| 11S | 19E | 19  |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    | ST |        |
| 11S | 19E | 20  |    |    |    |    |    |    |    |    |    | ST |    |    |    |    |    |    |        |

Irrigation from Storage  
Place of Use

| TWN | RGE | SEC | NE |    |    |    | NW |    |    |    | SW |    |    |    | SE |    |    |    | Totals |
|-----|-----|-----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|--------|
|     |     |     | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE |        |
| 11S | 19E | 8   | 33 | 31 | 32 | 33 |    |    |    |    |    |    |    |    |    |    |    |    | 129    |
| 11S | 19E | 9   |    |    |    |    |    |    |    |    | 32 | 29 | 30 | 33 |    |    |    |    | 124    |
| 11S | 19E | 16  |    |    |    |    | 32 | 29 | 32 | 34 | 33 | 30 | 31 | 34 |    |    |    |    | 255    |
| 11S | 19E | 20  | 37 | 38 | 39 | 40 | 38 | 36 | 38 | 39 | 38 | 38 |    | 38 | 40 | 38 | 40 | 40 | 572    |
| 11S | 19E | 29  | 36 | 37 | 40 | 40 | 31 | 38 | 34 | 38 | 38 | 40 | 37 | 37 | 40 | 40 | 40 | 40 | 606    |
| 11S | 19E | 30  | 38 |    | 38 | 40 |    |    |    |    | 39 |    |    | 31 | 40 | 40 | 33 | 37 | 336    |

2022



**BETTENCOURT, L & S LAND HOLDING LLC  
VICINITY MAP - EAST & WEST BETTENCOURT RESERVOIRS  
USGS 7.5 MINUTE TOPOGRAPHIC QUADRANGLE MAP**





## State of Idaho

# DEPARTMENT OF WATER RESOURCES

Southern Region, 1341 Fillmore Street, Suite 200 • Twin Falls, Idaho 83301-3380

Phone: (208) 736-3033 • Fax: (208) 736-3037 • Web Site: [www.idwr.idaho.gov](http://www.idwr.idaho.gov)

March 30, 2012

C. L. "BUTCH" OTTER  
Governor

GARY SPACKMAN  
Interim Director

L & S LAND HOLDINGS LLC  
2930 S 2300 E  
WENDELL, ID 83355

Re: Application For Permit No. 47-17575

Dear Applicant(s):

The Department of Water Resources has received your water right transfer application. Please refer to the number referenced above in all future correspondence regarding this application.

Further review of your Application for Permit which proposes diversion of 5.0 cfs or more reveals that additional information is required to be made part of the application file pursuant to Idaho Code provisions and the department's Rules and Regulations for Water Appropriation. The attached sheets give details regarding the information which is requested.

Failure to supply the requested information within 30 days from the date of this letter could result in a regional recommendation that the application be declared void, null, and of no further consideration by the Department.

A legal notice of the application has been prepared and is scheduled for publication in the **TIMES NEWS on 4/5/2012 and 4/12/2012**. Protests to this application may be submitted for a period ending ten (10) days after the second publication (**April 23, 2012**).

If the application is protested, you will be sent a copy of each protest. All protests must be resolved before the application can be considered for approval. If the protest(s) cannot be resolved voluntarily, the Department will conduct a conference and/or hearing on the matter.

If the application is not protested, the Department will process your application and notify you of any action taken on the application. If your application is approved, the Department will send you a copy of the approval document.

Please contact this office if you have any questions regarding the application.

Sincerely,

Denise Buffington  
Administrative Assistant

cc:

BROCKWAY ENGINEERING PLLC  
C/O ERICK POWELL  
2016 N WASHINGTON ST STE 4  
TWIN FALLS, ID 83301

## GUIDELINE FOR SUBMITTING ADDITIONAL INFORMATION

This outline is intended to assist you with providing the additional information required under Rule 40 of the Department of Water Resources and Idaho Code, Section 42-203A(5)(a) which may help answer questions as to the type of information you should submit. The outline below follows the same order as the attached rules. Please take the time to review the outline. Much of the information requested under Rule 40 may already be available to you. Gathering the necessary information may be of benefit to you in planning the proposed development.

Rule 040.05.c and Idaho Code, Section 42-203A(5)(a) Information relative to effects on existing rights:

i. If diverting from a surface water source with 5 or fewer existing users, submit the water right numbers held by those users if available.

If not available, submit the names and addresses of those users and describe the location of their diversions and types of use associated with those diversions.

ii. If you are diverting from a groundwater source, submit a map locating your proposed well and all other wells within a 1/2 mile radius of your well. It would be helpful to describe the use from those wells (i.e.; domestic, irrigation etc.). You are not required to submit a map if there are no wells within the 1/2 mile radius, but you should indicate if there are no existing wells within that radius, if that indeed is the case.

iii. This rule seeks general information about the type of irrigation system you intend to install and how the project may affect other users. If you feel your proposed project will not affect other users, then explain why. You may describe any techniques or equipment you intend to employ which may reduce impacts on other water rights or promote water conservation.

Rule 040.05.d and Idaho Code, Section 42-203A(5)(b) Information relative to sufficiency of water supply:

i. Provide projections for your peak and average water demands. While your well or diversion may not yet be completed, you should be able to estimate project demand based on size of project (or number of acres irrigated), type or texture of local soils, type of crops grown, and type of irrigation system used. Demand projections should be given in terms of flow rate (cfs or gpm) and annual volume diverted (acre-feet).

Example: A 40 acre tract with 6 handlines and 20 heads/line discharging 3 gpm/head would produce a total flow rate of about 360 gpm or 0.8 cfs (1 in/acre). This flow rate multiplied by average number of hours per set, sets per irrigation and irrigations per year provides number of acre-feet per year or annual volume.

ii. You should be able to provide some basic information about the nature of the water supply. If the diversion is from a surface water source for example, you should provide stream flow data or estimate the amount of stream flow available for diversion and describe generally the seasonal availability of water. If you are diverting from a groundwater source, you should be able to generally describe the aquifer which you plan to divert from, i.e.; deep confined or shallow unconfined aquifer, depth to water level or depth to aquifer, known yields from wells within the same aquifer etc.

Rule 040.05.e and Idaho Code, Section 42-203A(5)(c) Information relative to good faith, delay, or speculative purposes of the applicant:

i. If you do not own the land to be irrigated and/or where the point of diversion is located, you must submit copies of lease agreements, easements or rights-of-way etc. If you are the owner of the place of use and point of diversion, documentation of ownership is not required.

ii. If applicable, submit copies of applications for permits or approvals which are needed from other government agencies or individuals in order to complete the water development project.

Rule 040.05.f and Idaho Code, Section 43-203A(5)(d) Information relative to financial resources:

i and ii. Submit a current financial statement or other statement describing how you will finance the project. You must also submit plans and specifications along with basic estimates of construction and equipment costs of the proposed project.

Rule 040.05.g and Idaho Code, Section 42-203A(5)(e) Information relative to conflict with the local public interest:

i. You, as the applicant, bear the initial burden of coming forward with evidence as to whether your proposed project may have any affect concerning local public interest. If you have any reason to believe that the proposed project under your application may be of concern to any local individuals, governments, tribal reservations, irrigation districts, the State Fish and Game Department, or Health and Welfare Department, then you are responsible for seeking comments from those individuals or groups. This requirement is mandatory for projects located within irrigation districts, canal companies or tribal reservations (failure to obtain comments from the irrigation district, canal company or reservation will delay approval of the application.). All comments must be submitted to the Department of Water Resources.



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 1341 Fillmore Street, Suite 200 • Twin Falls, Idaho 83301-3380

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C. L. "BUTCH" OTTER  
Governor

GARY SPACKMAN  
Interim Director

March 30, 2012

RYAN FRANKLIN  
WATER DISTRICT #47-O  
1897 E 3700 N  
FILER, ID 83328

RE: Application for Permit: 47-17575

Dear Mr. Franklin:

A copy of the above referenced application is enclosed. Please review the application, then complete the enclosed recommendation form and return it to this office within 21 days of the date of this letter.

If the application is approved, IDWR will include appropriate standard conditions of approval for a water right located within a water district, such as regulation by the watermaster, lockable controlling works, and/or measuring devices. Any special conditions or other concerns you have related to this application should be specifically addressed in your recommendation.

IDWR's regional offices can finish reviewing an unprotested application as soon as the protest period has past. Your prompt response to this request will ensure that your recommendation can be considered. If IDWR has not received your written recommendation within 21 days from the date of this letter, IDWR will presume that you do not oppose approval of the application and that you have no comments for IDWR to consider.

Sincerely,

  
Denise Buffington  
Administrative Assistant

Enclosure(s)

## **Buffington, Denise**

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**From:** Buffington, Denise  
**Sent:** Friday, March 30, 2012 10:15 AM  
**To:** Times News  
**Subject:** LEGAL NOTICE  
**Attachments:** Times News Cover Letter.Doc; Times News Ad - COMBINED.docx

Attached please find (1) legal notice being submitted for publication on April 5<sup>th</sup> & 12<sup>th</sup>, 2012. Please contact me if you have any questions, or if you are not able to run the ad on the dates requested.

Thank you in advance,

Denise Buffington  
Administrative Assistant  
Idaho Department of Water Resources  
1341 Fillmore St, Ste 200  
Twin Falls, Idaho 83301  
(208) 736-3033  
[denise.buffington@idwr.idaho.gov](mailto:denise.buffington@idwr.idaho.gov)

March 30, 2012

**LEGAL NOTICE DEPARTMENT**  
TIMES NEWS  
PO BOX 548  
TWIN FALLS, ID 83303-0548

RE: Application For Permit No.(s): 47-17575, 37-22682

RE: Transfer No. 77797  
Water Right No(s): 36-7539, 36-16479

Dear Legal Notice Department:

Please publish the enclosed legal notice on the dates indicated (once a week for two consecutive weekly issues). If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before April 23, 2012. Your cooperation is appreciated.

Sincerely,

Denise Buffington  
Administrative Assistant

Enclosure(s)

The following application(s) have been filed to appropriate the public waters of the State of Idaho:

**47-17575**

L & S LAND HOLDINGS LLC

2930 S 2300 E

WENDELL, ID 83355

Point of Diversion SWSWSW S1 T12S R18E TWIN FALLS County Source ROCK CREEK Tributary SNAKE RIVER

Use: DIVERSION TO STORAGE 02/01 to 11/15 9.6 CFS

Use: IRRIGATION FROM STORAGE 03/15 to 11/15 198 AF

Use: IRRIGATION STORAGE 02/15 to 11/15 198 AF

Total Diversion: 9.6 CFS 198 AF

Date Filed: 8/31/2011

Place Of Use: IRRIGATION STORAGE

T11S R19E S19, S20

Place Of Use: IRRIGATION FROM STORAGE

T11S R19E S8, S9, S16, S20, S29, S30

Total Acres: 2129

Application proposes appropriating 9.6 cfs of water from Rock Creek for diversion to storage use in two irrigation storage ponds to provide irrigation water to surrounding farm ground. The proposed point of diversion is an existing diversion located approximately 9.0 miles south of the Highway 30 & Rock Creek Road intersection at Hansen. The two irrigation storage ponds, totaling 198 acre feet of storage, are located approximately 5.9 miles south and 1.9 miles east of the Highway 30 & Rock Creek Road intersection at Hansen. Water will be rediverted from the two irrigation storage ponds and used to irrigate up to 2129 acres of farm ground located approximately 3.0 - 7.0 miles south and 1.1 - 3.4 miles east of the Highway 30 & Rock Creek Road intersection at Hansen. A mitigation plan has been submitted with the application to allow for processing of the application within the moratorium area.

**37-22682**

WOOD RIVER MITIGATION SOLUTIONS LLC

2918 N EL RANCHO PL

BOISE, ID 83704

Point of Diversion (BASELINE CANAL REDIVERTED FROM BYPASS CANAL) NWSNW S25 T01N R18E

BLAINE County Source BIG WOOD RIVER Tributary SNAKE RIVER

Point of Diversion (HIAWATHA CANAL) SWNW S20 T03N R18E BLAINE County Source BIG WOOD RIVER Tributary SNAKE RIVER

Point of Diversion (BYPASS CANAL) NWSESW S12 T01N R18E BLAINE County Source BIG WOOD RIVER Tributary SNAKE RIVER

Use: GROUND WATER RECHARGE 01/01 to 12/31 154 CFS

Total Diversion: 154 CFS

Date Filed: 2/10/2012

Place Of Use: GROUND WATER RECHARGE:

T01N R18E S12, S13, S24, S25, S36

T01N R19E S31, S32

T01S R19E S5, S8, S9

T02N R18E S3, S4, S5, S9, S10, S15, S22, S23

T03N R18E S20, S28, S29, S32, S33

Published in Idaho Mountain Express on April 4<sup>th</sup> & 11<sup>th</sup>, 2012 and Idaho Statesman, Post Register, Lewiston Tribune and Times News on April 5<sup>th</sup> & 12<sup>th</sup>, 2012.

**NOTICE OF PROPOSED CHANGE OF WATER RIGHT**

**TRANSFER NO. 77797**

L & S LAND HOLDINGS LLC, 2930 S 2300 E, WENDELL, ID 83355 has filed Application No. 77797 for changes to the following water rights within JEROME, GOODING County(s): Right No(s). 36-7539, 36-16479. The purpose of the transfer is to change a portion of the above rights as follows: Transfer changes the place of use and point of diversion for a water right currently authorized for the diversion of 1.39 cfs & 277.2 af for the irrigation of 69.3 acres at one farm by moving it 0.5 mile north to the existing wells at another farm approximately 1 mile east and 1 mile north. No new wells will be drilled. The location is approximately 4 miles east and 2.5 miles north of Wendell.

Permits will be subject to all prior water rights. For additional information concerning the property location, contact Southern Region office at (208) 736-3033; or for a full description of the rights &/or proposed transfer, please see [www.idwr.idaho.gov/apps/ExtSearch/WRFiling.asp](http://www.idwr.idaho.gov/apps/ExtSearch/WRFiling.asp). Protests may be submitted based on the criteria of Sec 42-222 and 42-203A, Idaho Code. Any protest against the approval of this application(s) must be filed with the Director, Dept. of Water Resources, Southern Region, 1341 Fillmore St, Suite 200, Twin Falls, ID 83301 together with a protest fee of \$25.00 for each application on or before April 23, 2012. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Interim Director

Published on April 5<sup>th</sup> & 12<sup>th</sup>, 2012



**BROCKWAY**  
ENGINEERING  
P.L.L.C.

Hydraulics

Hydrology

Water Resources

RECEIVED

MAR 23 2012

DEPT. OF WATER RESOURCES  
SOUTHERN REGION

March 23, 2012

Mr. Corey Skinner  
Idaho Department of Water Resources  
1341 Fillmore Street, Suite 200  
Twin Falls, Idaho 83301

Re: Revised L&S Land Holdings, LLC Application for Permit  
Project No. 318-08-2011

Dear Corey:

Thank you for your review of the permit application. The following items that you outlined in your letter dated 3/20/2012 have been addressed:

1. Irrigation storage has been added as a beneficial use with flow rate and volume. As you suggested, the diversion to storage has been described as only a rate and the irrigation from storage has been described as only a volume.
2. Place of use map for irrigation from storage has been provided.
3. Appendix A has been included.
4. Detailed map of mitigation water right locations has been provided.

Sincerely,

G. Erick Powell, Ph.D., P.E.

enclosed

cc: Luis Bettencourt  
Robert Williams

CHARLES E.  
BROCKWAY,  
Ph.D., P.E.

CHARLES G.  
BROCKWAY,  
Ph.D., P.E.

2016 NORTH  
WASHINGTON  
STREET • SUITE 4

TWIN FALLS,  
IDAHO 83301

208•736•8543

FAX: 736•8506



## State of Idaho

# DEPARTMENT OF WATER RESOURCES

Southern Region, 1341 Fillmore Street, Suite 200 • Twin Falls, Idaho 83301-3380

Phone: (208) 736-3033 • Fax: (208) 736-3037 • Web Site: [www.idwr.idaho.gov](http://www.idwr.idaho.gov)

C. L. "BUTCH" OTTER  
Governor

GARY SPACKMAN  
Interim Director

March 20, 2012

Erick Powell  
Brockway Engineering  
2016 N Washington St  
Suite 4  
Twin Falls, ID 83301

RE: Amended Application for Permit for L & S Land Holdings Ponds South of Hansen

Dear Mr. Powell:

Please find enclosed an Amended Application for Permit in the name of L & S Land Holdings that was filed with our office yesterday. The application is being returned so that several deficient items can be addressed...

- There is no irrigation storage use listed as a proposed use on item # 4 of the application. If it helps with room on the form, diversion to storage can be described as a rate only (9.6 cfs) and irrigation from storage can be described as a volume only (198 AF/year).
- There is no map included with the application that shows the location of the proposed 2,022 acre irrigation from storage place of use.
- The mitigation narrative included with the application references a letter from the Rock Creek water district, indicating that "this letter can be found in Appendix A". However, there is no Appendix A or copy of the letter included with the application.
- The mitigation narrative includes a plan to provide mitigation by non use of a total of 104.2 acres of water rights 47-191 (24.2 acres), 47-192 (80 acres), 47-14078 (104.2 acres), and 47-17340 (104.2 acres). As part of the processing of the application the Department needs to know the locations of these acres for each of the water rights. This should include an acre breakdown by 40 acre tract and a map showing the location of the acres to be utilized as mitigation. It was noted that a map, dated August 31, 2011 was included with the application, but the area within the decreed place of use when allowing for the indicated "remaining irrigation" is less than 104.2 acres. I suspect that this map is more reflective of the 95 acres that were proposed to be used as mitigation in the original application that was submitted on August 31, 2011.

Page 2

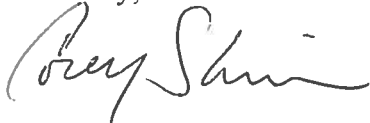
Amended Application for Permit for L & S Land Holdings Letter

March 20, 2012

As you are aware, until a water right application is approved, L & S land holdings does not have a water right to allow for water storage in the ponds. Addressing the items outlined in this letter and resubmitting the application and attachments in a timely manner will help prevent further delays in the processing of the application.

If you have any questions, or if I can be of any further assistance, feel free to contact me at your convenience.

Sincerely,

A handwritten signature in black ink, appearing to read "Corey Skinner". The signature is fluid and cursive, with the first name "Corey" being more prominent than the last name "Skinner".

Corey Skinner, PE  
Water Resource Engineer

Enclosure

cc: L & S Land Holdings – w/o enclosure  
Rob Williams – w/o enclosure



## State of Idaho

# DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Web Site: [www.idwr.idaho.gov](http://www.idwr.idaho.gov)

November 28, 2011

C. L. "BUTCH" OTTER  
Governor

GARY SPACKMAN  
Interim Director

RECEIVED

DEC 02 2011

DEPT. OF WATER RESOURCES  
SOUTHERN REGION

COPY

G. Erick Powell, PhD, PE  
Brockway Engineering, PLLC  
2016 North Washington Street  
Twin Falls, ID 83301

Re: Bettencourt East and West Reservoirs  
Design Report and Asbuilt Drawings

IDWR File: 47-xxxx<sup>1</sup>

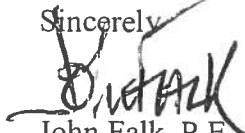
Dear Mr. Powell:

We received your letter dated 11/18/11 certifying that modifications to the referenced dams located in Sections 19 and 20, T11S, R19 E, Twin Falls County have been completed, as represented by the accompanying asbuilt drawings bearing your professional stamp and signature. We are pleased to inform you that the dam safety requirements for the East and West Reservoirs have been fulfilled. The reservoirs have been added to the state's inventory of dams, and both will be subject to periodic inspection per statute for benefit of public safety.

Unfortunately, I understand that some of the outstanding water rights issues have yet to be resolved. Therefore, please instruct your client to refrain from impounding water in either reservoir until such time that a formal authorization to store water has been secured from the Idaho Department of Water Resources. I anticipate that a *Certificate of Approval* will be forthcoming immediately upon the resolution of water right(s).

Thank you for your cooperation and patience. If you have any questions, please do not hesitate to contact me (208) 287-4927, or Corey Skinner (208) 736-3033.

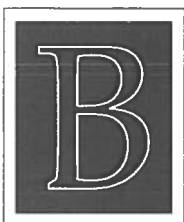
Sincerely,

  
John Falk, P.E.  
Dam Safety Manager

cc: Robert Williams – Williams, Meservy & Lothspeich, LLP  
Luis M. Bettencourt – L & S Holdings  
Corey Skinner – IDWR Southern Region Office

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<sup>1</sup> | Water right(s) have not been assigned at this time.



**BROCKWAY**  
ENGINEERING  
P.L.L.C.

Hydraulics

Hydrology

Water Resources

August 31, 2011

Mr. Allen Merritt  
Idaho Department of Water Resources  
1341 Fillmore Street, Suite 200  
Twin Falls, ID 83301

RECEIVED  
AUG 31 2011  
DEPT. OF WATER RESOURCES  
SOUTHERN REGION

Re: Applications for Dam Construction  
Application for Permit  
Application for Transfer  
Project No. 318-08-2011

Dear Allen:

As outlined in the signed Consent Order and Agreement between L&S Land Holding, LLC and IDWR, we are submitting the following items for your consideration.

1. Two applications for construction of a new dam, including survey data and storage capacity curves for the reservoirs
2. Application for permit for irrigation storage water
3. Application for transfer to mitigate for new permit

Enclosed with each application is the application fee. Please contact me if you have questions or comments. We look forward to working with IDWR to resolve these outstanding issues and ensure that L&S Land Holding, LLC is in compliance with IDWR.

Sincerely,

G. Erick Powell, Ph.D., P.E.

enclosed

cc: Rob Williams  
Luis Bettencourt

2016 NORTH  
WASHINGTON  
STREET • SUITE 4

TWIN FALLS,  
IDAHO 83301

208•736•8543

FAX: 736•8506