

RECEIVED

SEP 15 2011

Department of Water Resources
Eastern RegionSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT
To appropriate the public waters of the State of IdahoIdent. No. 73-12200

1. Name of applicant(s) USDI-BLM Challis Field Office Phone 1.208.879.6200
 Name connector (check one) ☐ and ☐ or ☐ and/or
 Mailing address: 1151 Blue Mountain Road City Challis
 State Idaho Zip 83226 Email: narave@blm.gov

2. Source of water supply Rattlesnake Springs which is a tributary of Sinks
 3. Location of point(s) of diversion:

Twp	Rge	Sec	Govt Lot	¼	¼	¼	County	Source	Local name or tag #
13N	22E	30		SE	NE	NW	Custer	Rattlesnake Springs	

4. Water will be used for the following purposes:

Amount 0.02 for stockwater purposes from 01/01 to 12/31 (both dates inclusive)
 (cfs or acre-feet per year)

Amount 0.02 for wildlife purposes from 01/01 to 12/31 (both dates inclusive)
 (cfs or acre-feet per year)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
 (cfs or acre-feet per year)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
 (cfs or acre-feet per year)

5. Total quantity to be appropriated is (a) 0.02 cubic feet per second (cfs) and/or (b) _____ acre-feet per year (af).

6. Proposed diverting works:

a. Describe type and size of devices used to divert water from the source. 24" perforated culvert inserted into the spring connected to a 2" pipeline which delivers the water to one trough on Forest Service and 2 troughs on BLM

b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total reservoir capacity _____ 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. 240 Range Cattle

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. _____

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SEP 28 2011

Department of Water Resources
Eastern Region

AMENDED

73-12200

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e. Other; describe fully. _____

73-12200

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	
13N	22E	19	S/W								S/W								

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? Water Right 73-11948 uses the same spring/ pipeline to deliver water to a trough in the NENW sec.30 T13N R22E and is administered by the Forest Service

10. a. Who owns the property at the point of diversion? Federal Lands administered by the Forest Service

b. Who owns the land to be irrigated or place of use? Federal Lands administered by BLM

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: _____

11. Describe your proposal in narrative form, and provide additional explanation for any of the items above. Attach additional pages if necessary. A headbox was placed in rattlesnake springs and it was enclosed with a fence. A 2" pipeline was constructed to 3 troughs 2 on BLM 1 on Forest service. All of the troughs are located on the Meadow Creek Allotment and were constructed in 1985.

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

Signature of Applicant

Todd Rock CHALLIS BLM FIELD MANAGER

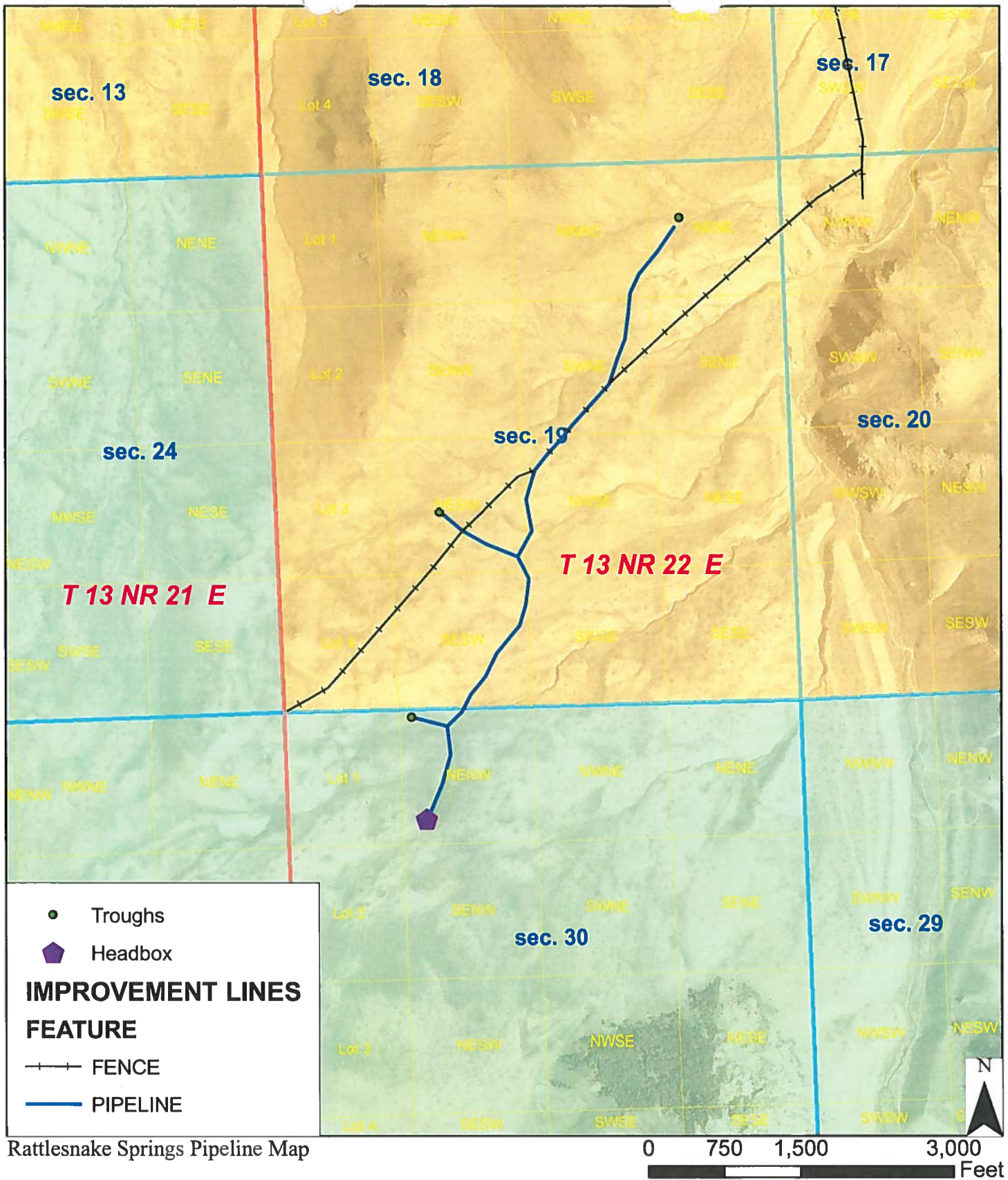
Print Name (and title, if applicable)

Print Name (and title, if applicable)

For Department Use:

Received by _____ Date _____ Time _____ Preliminary check by _____

Fee \$ 100.00 Received by Km Receipt No. ED36980 Date 9-15-2011



Rattlesnake Springs Pipeline Map

Nate Arave Sept. 2011



Original data was compiled at various scales from various sources. Spatial information may not meet Nation Mapping Accuracy Standards. The information may be updated without notification. no warranty is made by the Bureau of Land Management as to the accuracy, reliability or completeness of the data. The following cannot be made Section 508 compliant. For help with its data or information, please contact the BLM Idaho State Office Webmaster at 208-373-4000.

NAD83 UTM 11N

1:15,625 1 inch equals 396.88 meters

73-12200



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

November 22, 2011

BLM
1151 BLUE MOUNTAIN ROAD
CHALLIS, ID 83226

Application For Permit No. 73-12200

Dear Applicant(s):

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

A legal notice of the application has been prepared and is scheduled for publication in the CHALLIS MESSENGER on December 1 and 8, 2011. Protests to this application may be submitted for a period ending ten (10) days after the second publication.

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 permit.

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

Sincerely,

Sharla Cox
Administrative Assistant

Cox, Sharla

From: Cox, Sharla
Sent: Tuesday, November 22, 2011 2:54 PM
To: 'ameans@challismessenger. com (ameans@challismessenger.com)'
Subject: Legal ad for your paper
Attachments: Challis Messenger E-Mail.doc

Contacts: Challis Messenger

Sharla

Sharla Cox
Administrative Assistant
Idaho Department of Water Resources
900 N. Skyline Dr. Ste. A
Idaho Falls ID 83402
208-525-7161 - telephone
208-525-7177 - fax
sharla.cox@idwr.idaho.gov

Mathews, Kerrie

From: Courtney, Andrea
Sent: Thursday, October 06, 2011 10:56 AM
To: Mathews, Kerrie
Subject: RE: Federal Reserved Water Right 73-10456

Kerrie~

As we discussed on 9/28, 73-10456 is a valid federal reserved water right. It was decreed in a state adjudication, but the basis of the right is unaffected by the forum of adjudication. In other words, once a federal based right is decreed, it remains a federal reserved right (even if administrable within a state). Nate is thus incorrect in his characterization. However, he is mostly correct about the ultimate result of a transfer based on that right. I discussed the factual situation with Shelley Keen to ensure compliance with Dep't policy. Because the BLM seeks to add a purpose of use not contained within the partial decree, rather than change it, a transfer is not the proper mechanism. Instead the BLM should file a new application for permit (as it correctly did per your attachment).

Interestingly, when the BLM first filed the SRBA claim for the federal reserved right, it sought a number of purposes of use as well as a separate state-based claim, but as a result of a State of Idaho objection, it subsequently agreed to withdraw the state-based right and pursue only the federal-reserved right for the limited purpose of stockwater.

Thanks for contacting me about this subcase. If you have questions about other quirky factual/legal situations, feel free to call/email.

Andrea

From: Mathews, Kerrie
Sent: Thursday, September 22, 2011 10:41 AM
To: Courtney, Andrea
Subject: Federal Reserved Water Right 73-10456

Good Morning Andrea;

I have been discussing water right 73-10456 (attached for your reference) with James Cefalo and Michael Holliday, the suggestion was made to contact the legal program for further clarification (your name was mentioned).

What I have is; on Sept 15, 2011 the Department received an application for Permit from the BLM (attached for your reference). Upon investigation, it was found that the above mentioned water right is for the same source, same amount of water, and same cows as the application for permit.

On Sept 19, 2011, I sent an email to Nate Arave with the BLM asking for further clarification (attached for your reference). Mr. Arave called me back the same day, per that telephone conversation the allotment number listed on Water Right 73-10456 is the same allotment as the application for permit. Mr. Arave also stated that this wasn't a real water right it was a Federal Reserved water right and as such a transfer application could not be completed. In essence the BLM does not want to use the reserved right they wish to establish a new right.

I understand this to be a State Water Right, and as such it is a valid right. The use, source, and allotment number are the same for the permit for application and the existing water right. Shouldn't this be a transfer of an existing water right? And, do I understand correctly that 73-10456 is a valid state water right?

Any clarification that you could provide would be greatly appreciated.

Thank you,

MEMORANDUM

Date: September 29, 2011
To: Water Right File 72-16876
From: kmathews
Re: Re-numbering

The applicant incorrectly listed the POD in range 21E, data entry was completed based on application. The system automatically assigned basin 72 to this permit. The correct basin should be 73, the permit was re-numbered and the applicant corrected the POD on the permit application.

Mathews, Kerrie

From: Arave, Nathaniel L [narave@blm.gov]
Sent: Thursday, September 29, 2011 9:52 AM
To: Mathews, Kerrie
Subject: RE: Permit
Attachments: 20110929094746.pdf

The coordinates for the head box are
113°54'19.824"W 44°25'56.086"N and it is located in 13N 22E sec. 30 NENW

From: Mathews, Kerrie [mailto:Kerrie.Mathews@idwr.idaho.gov]
Sent: Thursday, September 29, 2011 9:37 AM
To: Arave, Nathaniel L
Subject: Permit

Nate;

Please see the attached first page of the application for permit. The POD is 13N 21E 30 SENENW, which assigns a basin 72 number. Upon further investigation, the Forest Service Right POD is 13N **22E** 30 NENW which is in basin 73. Would you please verify the correct POD.

If it needs to be changed, please change, initial and return.

Thank you,

Kerrie A Mathews
Water Resources Agent
Idaho Department of Water Resources
208.525.7161

"No culture can live, if it attempts to be exclusive."
-Mahatma Gandhi

WD 73
Source H₂O - Salmon City
HG 3.5
CU 2.5
WS Watershed
Shug. Pahsimeroi Shug Dist.



United States
Department of
Agriculture

Forest
Service

Salmon-Challis
National Forest
Challis-Yankee Fork
Ranger District

HC 63 Box 1669, Hwy 93 N
Challis, ID 83226
208 879-4100 fax 208 879-4199

File Code: 2250

Date: September 27, 2011

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SEP 30 2011

Department of Water Resources
Eastern Region

Todd Kuck, Challis Field Manager
Bureau of Land Management
1151 Blue Mountain Road
Challis, Idaho 83226

Dear Mr. Kuck:

The Salmon-Challis National Forest does not oppose the BLM's application for a water right for use of water from Rattlesnake Springs located in NENW sec. 30 T. 13N., R. 22 E., B. M. for the watering of stock at troughs located on lands administered by the BLM.

Sincerely,

KRIS MARTINSON
District Ranger

RECEIVED

SEP 28 2011

Bureau of Land Mgt.
Challis, Idaho



Mathews, Kerrie

From: Mathews, Kerrie
Sent: Thursday, September 22, 2011 10:41 AM
To: Courtney, Andrea
Subject: Federal Reserved Water Right 73-10456
Attachments: 73-10456.pdf; Application for Permit.pdf; Email for more info.pdf

Good Morning Andrea;

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Kerrie A Mathews
Water Resources Agent
Idaho Department of Water Resources
208.525.7161

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-Mahatma Gandhi

Seeking to pick up a wildlife ~~right~~ ^{right} on the ~~stock water~~
which can't be on a federally reserved right. Only
Stockwater.

Mathews, Kerrie

From: Mathews, Kerrie
Sent: Monday, September 19, 2011 2:50 PM
To: 'narave@blm.gov'
Subject: Rattlesnake Springs Stockwater permit application
Attachments: 73-10456.pdf; Place of Use map.pdf

Good Afternoon;

The Department has received your application for permit for stockwater. In reviewing the application, I have a couple of questions;

The application lists the source as Rattlesnake Spring which sinks. However, other water rights within the immediate vicinity list the source as Rattlesnake Spring tributary to Grouse Creek.

1. Please verify if the spring actually sinks or it is a tributary to Grouse Creek.

The BLM has an existing water right for Rattlesnake Creek trib. to Grouse Creek (I have attached the record). The existing water right lists the Point of Diversion as Rattlesnake Spring but lists the spring in the SESW of 13N22E19. The place of use is described as the SESW of 13N22E19, for 240 range cattle and varying numbers of wildlife. The allotment number is 7304582385.

2. Is the application for permit, actually part of allotment 7304582385?
3. Is the application for permit, for a new allotment, and new cows?
4. Should the point of diversion on 73-10456 be corrected?

Also, when a new application for permit is received by the Department with a POD located on Forest Service or BLM property a special use permit is required from the property owner.

5. Since both the BLM and the Forest Service are Federal Agencies, are the special use permit requirements waived?

If you could let me know, I can continue processing your application.

Thank you,

Kerrie A Mathews
Water Resources Agent
Idaho Department of Water Resources
208.525.7161

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-Mahatma Gandhi

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 73-10456

WATER RIGHT NUMBER: 73-10456

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	UNITED STATES OF AMERICA ACTING THROUGH USDI BUREAU OF LAND MANAGEMENT IDAHO STATE OFFICE 1387 S VINNELL WAY BOISE, ID 83709-1657 (208)373-4000

Priority Date: 04/17/1926

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
RATTLESNAKE SPRING	GROUSE CREEK

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
STOCKWATER	1/01 to 12/31	0.020 CFS	
	<u>Total Diversion:</u>	0.020 CFS	

Location of Point(s) of Diversion

RATTLESNAKE SPRING	SE1/4SE1/4SW1/4	Sec. 19, Twp 13N, Rge 22E, B.M.
CUSTER County		

Place of Use

STOCKWATER

Twp	Rge	Sec	NE				NW				SW				SE				
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
13N	22E	19												X					

Conditions of Approval:

1. 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.
 2. N13 THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000 GALLONS PER DAY.
 3. BLM RECORD ID = 7304582385 STOCKWATER, 240 RANGE CATTLE; WILDLIFE VAR. AMT.
 4. D01 ***** 4/17/1926 CLAIMED UNDER FEDERAL
RESERVED WATER RIGHT. ** *
- * THIS WATER RIGHT
IS ALSO CLAIMED BASED ON FEDERAL LAW ** WITH AN APRIL 17, 1926, DATE OF
PRIORITY PURSUANT TO AN ** EXECUTIVE ORDER SIGNED THE SAME DATE AND KNOWN
AS PUBLIC ** WATER RESERVE 107. *
- *****

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 73-10456

5. N11 THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.

Remarks:

Comments:

Dates and Other Information:

Licensed Date:
Decreed Date: 3/4/2004
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
State or Federal: S
Owner Name Connector:
Water District Number: 73
Generic Max Rate Per Acre:
Generic Max Volume Per Acre:
Decree Defendant:
Decree Plaintiff:
Civil Case Number: 39576
Judicial District: FIFTH
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Carey Act Number:
Mitigation Plan: False

Combined Use Limits:

Water Supply Bank: