

RECEIVED

JUN 10 2011

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCESWATER RESOURCES
WESTERN REGION

APPLICATION FOR TRANSFER OF WATER RIGHT – POINT(S) OF DIVERSION

This form may be used to apply to change and/or add points of diversion for existing water rights and to report an ownership change for an entire water right(s) in connection with the proposed point of diversion change(s). Do not use this form to apply for changes to other elements of a water right or to report an ownership change for a portion of a water right. See the *Application for Transfer Instructions* for help completing this form and for mailing addresses of Department offices where your application can be submitted.

Check all that apply:

☐ Change diversion point(s)☒ Add diversion point(s)☐ Ownership change1. APPLICANT(S) The 45 LLC Phone 208-726-19142. MAILING ADDRESS c/o Charles Conn, PO Box 9080 City KetchumState ID Zip 83340 Email charles@charlesconn.com☐ If the applicant is not an individual and not registered to do business in the State of Idaho, attach documentation identifying officers authorized to sign for the applicant.☐ If the applicant is not the current water right(s) owner, attach documentation of authority to file the application.☐ If the application includes a change in ownership of water right(s), attach a copy of the conveyance document, such as a warranty deed, court decree, contract of sale, etc. The conveyance document must include a legal description of the property conveyed or description of the water right if no land is conveyed.☐ If the application is not signed by the applicant, attach a Power of Attorney or other documentation providing authority to sign for the applicant.3. LIST WATER RIGHT NUMBER(S) 55-4067☒ Attach a copy of the water right(s) as recorded, available at www.idwr.idaho.gov, *Water Right Transfers, Step 1*, or by contacting any Department office.4. TOTAL AMOUNT OF WATER transferred is 1.28 cubic feet per second and/or 224 acre-feet per annum.
(diversion rate) (storage volume)5. POINT OF DIVERSION – Describe all the point(s) of diversion to be included on the water right(s) after the proposed change.☐ Attach Eastern Snake Plain Aquifer (ESPA) analysis if this transfer proposes to change a point of diversion affecting the ESPA. ESPA analysis information is available at www.idwr.idaho.gov, *Water Right Transfers, Online Resources*.

Twp	Rge	Sec	Govt Lot	¼	¼	¼	County	Source	Local name or tag #
14S	5W	25			SE	SE	Owyhee	South Fork Owyhee River	Dam
		36			NE	NW	Owyhee	South Fork Owyhee River	Pump

6. 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:

Existing diversion dam, diesel pump, pipe, ditch. Flow measurement and lockable works will be installed upon

Department's request

- b. Who owns the property at the point(s) of diversion? Dam site: BLM, pump site: applicant
If other than the applicant, describe the arrangement enabling the applicant to access the property for the diversion system:

See attached letter of consent from BLM

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

Yes No

- ☐ ☒ undergone a period of five or more consecutive years of non-use,
☐ ☒ currently leased to the Water Supply Bank,
☐ ☒ currently used in a mitigation plan limiting the use of water under the right(s), or
☐ ☒ currently enrolled in a Federal set-aside program limiting the use of water under the right(s)?

If yes, describe

7. MAP - ☒ Attach a map of the diversion, measurement, control and distribution system. Clearly label the map with township, range, section and ¼ ¼ of section information. The *Map Tool*, available at <http://maps.idwr.idaho.gov/TransferApplicationLayouts/> provides a satisfactory template for creating the required map.

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

Charles R. Carr, 45 LLC 5.31.11
Signature of applicant or authorized agent Print name and title if applicable Date

Signature of applicant or authorized agent Print name and title if applicable Date

9. FEE - ☐ The application filing fee provided in Section 42-221, Idaho Code, must be submitted with the application for transfer. The Application fee is based on the total amount of water proposed for transfer in Item 4: the larger fee for either cubic feet per second (diversion rate) or acre-feet per annum (storage volume). The *Fee Schedule* is available at www.idwr.idaho.gov, *Water Right Transfers, Step 4* and in the *Application for Transfer Instructions*.

FOR DEPARTMENT USE ONLY

Transfer includes 4 pages of attachments. Received by DB Date 6-10-2011
Fee paid \$290- Date 6-10-2011 Receipted by DB Receipt # W039310
Preliminary review completed by kw Date 8/22/2001

**IDAHO DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 2A**

Current Water Right No.: 55-4067

Current Owner: THE 45 LLC

Priority Date: 7/1/1890

Origin: Water Right

Status: Active

Basis: Decreed

Source		Tributary	
SOUTH FORK OWYHEE RIVER		OWYHEE RIVER	
Beneficial Use	From To	Diversion Rate	Annual Volume
IRRIGATION	04/01 to 10/31	1.28 CFS	224 AF
	Total Diversion	1.28 CFS	224 AF

Location of Point(s) of Diversion

SOUTH FORK OWYHEE RIVER	NW1/4NE1/4NW1/4	Sec. 36,	Twp 14S,	Rge 05W B.M.
OWYHEE County				

Place of Use

IRRIGATION Within OWYHEE County

T14S R05W S25	SENW	9.00	T14S R05W S25	NESW	35.00
T14S R05W S25	SESW	18.00	T14S R05W S36	NENW	2.00
Total Acres: 64					

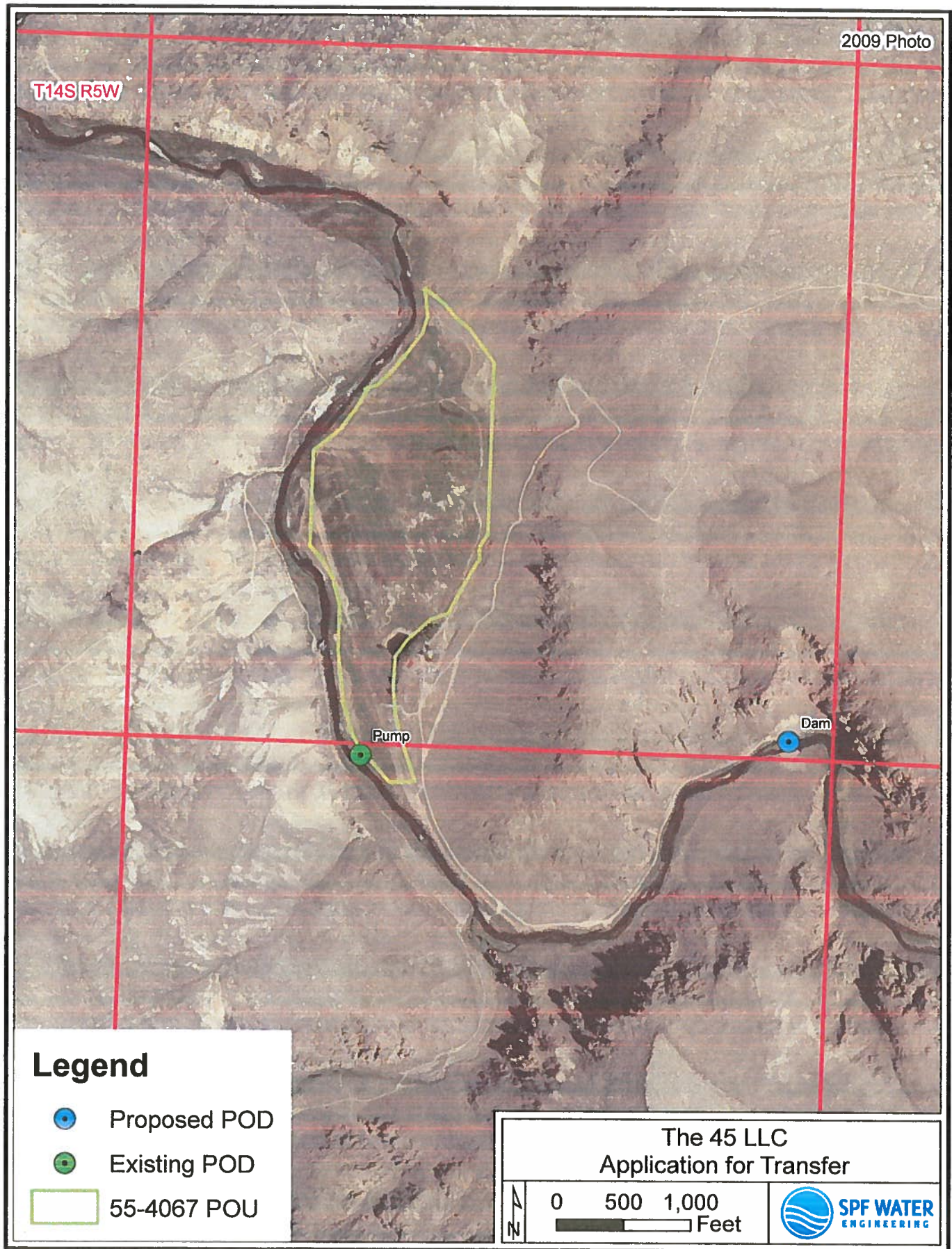
Conditions of Approval:

1. X63 All water rights within Basin 55 are from connected sources of water in the Snake River Basin and shall be administered conjunctively.
2. T08 Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
3. T07 The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
4. R63 This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the lands above.
5. 01M After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to determine the amount of water diverted from power records and shall annually report the information to the Department.

Decreed Date: 3/5/1999

Transfer 77365
Attachment 1

No. W 48860	Due no later than Mar 31, 2011 Annual Report Form		2. Registered Agent and Address (NO PO BOX)															
Return to: SECRETARY OF STATE 700 WEST JEFFERSON PO BOX 83720 BOISE, ID 83720-0080 NO FILING FEE IF RECEIVED BY DUE DATE			CHARLES CONN 1025 HIDEAWAY LN KETCHUM ID 83340															
		1. Mailing Address: Correct in this box if needed. 45 LLC (THE) CHARLES R. CONN PO BOX 9080 KETCHUM ID 83340		3. <u>New</u> Registered Agent Signature:*														
		4. Limited Liability Companies: Enter Names and Addresses of at least one Member or Manager. <table border="1"> <thead> <tr> <th>Office Held</th><th>Name</th><th>Street or PO Address</th><th>City</th><th>State</th><th>Country</th><th>Postal Code</th></tr> </thead> <tbody> <tr> <td>MEMBER</td><td>CHARLES CONN</td><td>PO BOX 9080</td><td>KETCHUM</td><td>ID</td><td>USA</td><td>83340</td></tr> </tbody> </table>					Office Held	Name	Street or PO Address	City	State	Country	Postal Code	MEMBER	CHARLES CONN	PO BOX 9080	KETCHUM	ID
Office Held	Name	Street or PO Address	City	State	Country	Postal Code												
MEMBER	CHARLES CONN	PO BOX 9080	KETCHUM	ID	USA	83340												
5. Organized Under the Laws of:		6. Annual Report must be signed.*																
ID W 48860		Signature: Charles R. Conn		Date: 01/18/2011														
Processed 01/18/2011		Name (type or print): Charles R. Conn Title: Member																
* Electronically provided signatures are accepted as original signatures.																		



Transfer 77365

Attachment 3a

Buffington, Denise

From: Buffington, Denise
Sent: Tuesday, August 30, 2011 10:02 AM
To: Owyhee Avalanche
Subject: LEGAL NOTICE
Attachments: Owyhee County - Cover Letter.docx; Owyhee County Ads - COMBINED.docx

Attached please find one (1) legal notice being submitted for publication. Please contact me if you have any questions, or if you are not able to publish the ad on the dates requested.

Thank you in advance,

*Denise Buffington
Administrative Assistant I
Dept of Water Resources
Western Region
(208) 334-2190*

August 30, 2011

LEGAL NOTICE DEPARTMENT

OWYHEE AVALANCHE
PO BOX 97
HOMEDALE, ID 83628

RE: Transfer No. 77365
Water Right No(s): 55-4067

RE: Application For Permit No.(s): 55-13896

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 September 26, 2011. 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:

55-13896

THE 45 LLC

C/O CHARLES CONN

PO BOX 9080

KETCHUM, ID 83340

Point of Diversion SESE S25 T14S R05W OWYHEE County Source SOUTH FORK OWYHEE RIVER Tributary OWYHEE RIVER

Point of Diversion NENW S36 T14S R05W OWYHEE County Source SOUTH FORK OWYHEE RIVER Tributary OWYHEE RIVER

Use: STOCKWATER 01/01 to 12/31 0.07 CFS

Use: WILDLIFE 01/01 to 12/31 1.28 CFS

Total Diversion: 1.28 CFS

Date Filed: 6/10/2011

Place Of Use: STOCKWATER AND WILDLIFE

T14S R05W S25 SENW NESW SESW

T14S R05W S36 NENW

PROPOSED CHANGE OF WATER RIGHT

The 45 LLC, in care of Charles Conn, PO Box 9080, Ketchum, ID, 83340, filed Application No. 77365 to transfer one water right with a 1890 priority date from the South Fork of the Owyhee River totaling 1.28 cfs. The purpose of the transfer is to add a point of diversion. Water will be used at the current place of use near the confluence of the Little Owyhee and South Fork Owyhee Rivers.

Permits will be subject to all prior water rights. For additional information concerning the property location, contact Western Region office at (208) 334-2190; or for a full description of the rights &/or proposed transfer, please see 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, Western Region, 2735 Airport Way, Boise, ID 83705 together with a protest fee of \$25.00 for each application on or before September 26, 2011. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Interim Director

Published on 9/7 & 9/14/2011



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Idaho State Office
1387 South Vinnell Way
Boise, Idaho 83709
<http://www.id.blm.gov>



RECEIVED

AUG 18 2011

WATER RESOURCES
WESTERN REGION

In Reply Refer To:
7250 (933b)

August 18, 2011

John Westra, *Western Regional Manager*
Western Regional Office
Idaho Department of Water Resources
2735 Airport Way
Boise, ID 83705-5082

Dear Mr. Westra:

**RE: Transfer Consent:
Transfer #77365, 55-04067, The 45 LLC**

By this letter I state that I have the authority to act on behalf of the United States, Dept. of Interior, Bureau of Land Management ("BLM"), with myself as its agent, to the matters discussed herein.

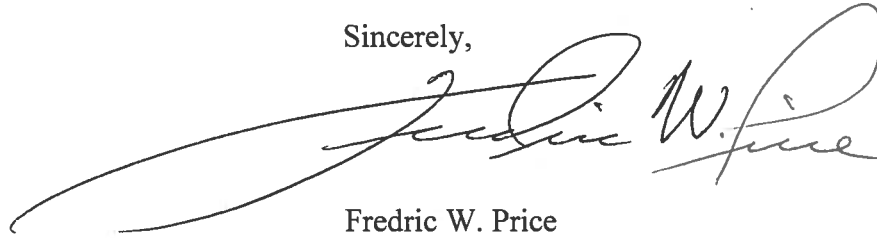
In January 2002, the Nature Conservancy filed a transfer (#69607) that relocated the point of diversion ("POD") under water right 55-04067 from federal public land (SESE, S25, T14S, R05W) to private land. The 45 LLC now seeks a transfer (#77365) to add the old historic POD back onto the water right. The 45 LLC applied for a right-of-way ("ROW") with the BLM that was granted (IDI-036048) on 09/19/2008, therefore BLM can consent to the transfer. IDWR's electronic representation of Transfer #77365 does not indicate that a POD (SESE, S25, T14S, R05W) is being added to the claim but that is just a data entry issue.

I understand that the Idaho Department of Water Resources cannot complete such a transfer of water under a water right without the consent of the landowner where the water right describes land not owned by the transfer applicant.

On behalf of the United States and the U.S.D.I., BLM, my signature below provides the necessary consent to facilitate the transfer. The United States' non-opposition to the application for transfer does not represent recognition by the United States of the claim elements nor their validity.

If there are questions regarding any statements above, please do not hesitate to contact me at (208) 373-3831 or at the address provided above.

Sincerely,

A handwritten signature in black ink, appearing to read "Fredric W. Price". The signature is fluid and cursive, with a long horizontal stroke extending to the left.

Fredric W. Price
Water Rights Specialist

cc: The 45 LLC; c/o Charles Conn; P.O. Box 9080; Ketchum, ID 83340
Terry M. Scanlon, P.E., P.G.; SPF Water Engineering, LLC; 300 E. Mallard Dr. Ste 350;
Boise, ID 83706



SPF WATER
ENGINEERING

June 9, 2011

RECEIVED

JUN 10 2011

WATER RESOURCES
WESTERN REGION

Steve Lester
IDWR Western Region Office
2735 Airport Way
Boise, ID 83705

Subject: *Application for Permit*
Application for Transfer

Dear Steve,

Enclosed on behalf of The 45, LLC is an *Application for Permit* seeking authorization to divert from the South Fork of the Owyhee River for stockwater and wildlife uses and an *Application for Transfer* seeking to add a point of diversion to water right 55-4067. Both applications involve the same diversion points (2) and place of use. One of the diversion points is located on BLM property. Applicants have received approval for reconstruction of the diversion facility from BLM in 2008 for the proposed diversion point. We anticipate that an authorization letter will be submitted shortly by BLM agreeing to the proposed transfer and permit applications. Also attached is a letter of support from the Nature Conservancy.

Check No. 6211 for \$580 is enclosed for the filing fees (\$290/application). Thank you very much for your consideration and assistance in this matter. Please call me if you have any questions.

Sincerely,

Lori Graves
Water Rights Specialist

Cc: Charles Conn
Dennis Fitzpatrick
Michael Homza, GeoEngineers

Enclosures

SPF file number: 863.0010

Mr. John Westra, Regional Manager
Western Regional Office
Idaho Department of Water Resources
2735 Airport Way
Boise, ID 83705

June 8, 2011

Re: Support Letter - The 45 LLC Water right 55-4067 for year around use to benefit wildlife and agriculture in the Owyhee's.

Dear Mr. Westra:

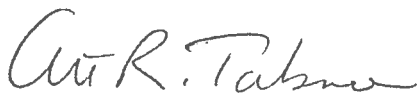
The Nature Conservancy has worked cooperatively with owners of the 45 Ranch to enhance and restore wetlands and wildlife habitat along the South Fork of the Owyhee River. We are very supportive of the conservation programs and practices that they have successfully implemented through the river bottom restoration project and ranching in the up-lands. We hold a conservation easement on the 45 ranch and helped design the restoration and conservation plan for the ranch.

We totally support the request for year around use of water to benefit wildlife and add operational life to the irrigation system. The new gravity flow system has already resulted in increased wetlands and green-up of the pasture. By decommissioning the old diesel pump the irrigation system is now saving energy and reducing noise along this wilderness river. We feel having a year around water right will have several additional benefits as follows.

- Wetlands and the wet meadow will be enhanced by allowing native plants to gain a competitive edge over annual grasses.
- Provide continuous recharge to the three relic oxbows that where cut off from the river in the 1950's.
- Add life to the irrigation system and reduce operation costs by eliminating the erosion that occurs in the irrigation pond and channels when they are activated each spring.
- Enhance riparian habitat along the South Fork.
- It will help the native willows and cottonwoods we planted to survive.
- It will provide more permanent wildlife habitat and benefit species like spotted frogs and wintering wildlife like bighorn sheep.
- It will reduce soil erosion and provide the option to water livestock away from the river bank.

Thank you for considering these benefits in the water right request for the 45 ranch.

Sincerely,



Arthur Ray Talsma, Director of Restoration and Stewardship
Cc. Charles Conn and Dennis Fitzpatrick

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June 8, 2011 JUN 10 2011

WATER RESOURCES
WESTERN REGION

Mr. John Westra, Regional Manager
Western Regional Office
Idaho Department of Water Resources
2735 Airport Way
Boise, ID 83705

Re: Support Letter - The 45 LLC Water right 55-4067 for year around use to benefit wildlife and agriculture in the Owyhee's.

Dear Mr. Westra:

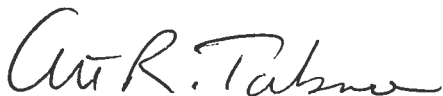
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