

**BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE STATE OF IDAHO**

IN THE MATTER OF APPLICATION )  
FOR TRANSFER NO. 76740 IN THE )  
NAME OF SV RANCH LLC )  
\_\_\_\_\_ )

**PRELIMINARY ORDER  
REJECTING APPLICATION**

**FINDINGS OF FACT**

1. On July 7, 2010, SV Ranch LLC filed an application for transfer with the Idaho Department of Water Resources (IDWR) to change water right nos. 57-235, 57-7034A, 57-11666, 57-11667 and 57-11709.
2. IDWR returned the application on July 19, 2010, due to application deficiencies. The corrected application was resubmitted on August 9, 2010.
3. IDWR sought additional information from the applicant on February 24, 2011. The applicant was provided up to sixty (60) days in which to respond. The request for information specified the application would be voided without a timely response.
4. The applicant did not respond to that request.

**CONCLUSIONS OF LAW**

1. Section 42-204, Idaho Code, and the Rules and Regulations of IDWR state that if an applicant does not submit the requested information to IDWR within the allotted time frame, IDWR may reject the application.
2. The requested information was not provided within the allotted time frame. The application should be rejected.

**ORDER**

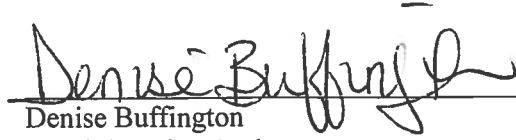
**IT IS HEREBY ORDERED** that Application for Transfer No.76740 in the name of SV Ranch LLC is **REJECTED**.

Dated this 5<sup>th</sup> day of May, 2011

  
\_\_\_\_\_  
John Westra  
Manager, Western Regional Office

## CERTIFICATE OF SERVICE

I hereby certify that on this 6<sup>th</sup> day of May, 2011, I mailed a true and correct copy of the foregoing Preliminary Order to the person(s) listed below:

  
Denise Buffington  
Administrative Assistant

SV RANCH LLC  
C/O GREGORY VIK  
PO BOX 1607  
BELLEVUE WA 98009

CHARLES G BROCKWAY P.E.  
BROCKWAY ENGINEERING PLLC  
2016 N WASHINGTON ST, STE 4  
TWIN FALLS ID 83301

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JUL 07 2010

WATER RESOURCES  
WESTERN REGIONSTATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

Transfer No.

T#3 South - Castle Creek  
76740**MINIMUM REQUIREMENTS CHECKLIST**  
TO BE SUBMITTED WITH APPLICATION FOR TRANSFER

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

WATER RESOURCES  
WESTERN REGION

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

Yes N/A

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

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

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

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

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Rev. 06/09

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STATE OF IDAHO  
WATER RESOURCES  
DEPARTMENT OF WATER RESOURCES  
WESTERN REGIONTransfer No. 76740

JUL 07 2010

WATER RESOURCES  
WESTERN REGIONAPPLICATION FOR TRANSFER OF WATER RIGHT  
PART 1Name of Applicant(s) SV Ranch LLC Phone (425) 460-2542Mailing Address c/o Gregory Vik, P.O. Box 1607, Bellevue, WA 98009 Email \_\_\_\_\_

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

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

☐ No RepresentativeName of Representative Charles G. Brockway, P.E. Phone (208) 736-8543Mailing Address 2016 Washington St. N. #4, Twin Falls, ID 83301 Email \_\_\_\_\_

- ☐ Send all correspondence for this application to the representative and not to the applicant.
- OR
- ☒ Send original correspondence to the applicant and copies to the representative.
- ☒ The representative may submit information for the applicant but is not authorized to sign for the applicant.
- OR
- ☐ The representative is authorized to sign for the applicant. Attach a Power of Attorney or other documentation providing authority to sign for the applicant and label it **Attachment #4**.

I hereby assert that no one will be injured by the proposed changes and that the proposed changes do not constitute an enlargement in use of the original right(s). The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval.

Signature of Applicant or Authorized Representative

Print Name and Title if applicable

Date

Signature of Applicant or Authorized Representative

Print Name and Title if applicable

Date

## A. PURPOSE OF TRANSFER

1. ☐ Change point of diversion ☒ Add diversion point(s) ☒ Change place of use  
☒ Change nature of use ☐ Change period of use ☒ Other Create PPU

2. Describe your proposal in narrative form, including a detailed description of non-irrigation uses to justify amounts transferred (i.e. number of stock, etc.), and provide additional explanation of any other items on the application. Attach additional pages if necessary and label it **Part 1A.2**. Create a PPU for the Castle Creek rights to reflect actual practices, add  
POD to a new pumping station on Snake River, and convert a portion of 57-235 to  
wildlife purposes for a wetland complex (POD for the wetland to remain from Castle Cr.)

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT  
PART 1 Continued

B. DESCRIPTION OF RIGHTS AFTER THE REQUESTED CHANGES. IF THE RIGHTS ARE BEING SPLIT, DESCRIBE PORTIONS TO BE CHANGED AS THEY WOULD APPEAR AFTER THE REQUESTED CHANGES.

| 1.                                                           | Right Number | Amount<br>(cfs/ac-ft) | Nature of Use | Period of Use | Source & Tributary    |
|--------------------------------------------------------------|--------------|-----------------------|---------------|---------------|-----------------------|
| All or Part                                                  |              |                       |               |               |                       |
| <input checked="" type="checkbox"/> <input type="checkbox"/> | 57-235       | 1.0                   | Irrigation    | 4/1 to 10/15  | Castle Cr. & Snake R. |
| <input checked="" type="checkbox"/> <input type="checkbox"/> | 57-235       | 0.10                  | Wildlife      | 4/1 to 10/15  | Castle Cr. & Snake R. |
| <input checked="" type="checkbox"/> <input type="checkbox"/> | 57-7034A     | 4.46                  | Irrigation    | 3/1 to 11/15  | Castle Cr. & Snake R. |
| <input checked="" type="checkbox"/> <input type="checkbox"/> | 57-11666     | 0.38                  | Irrigation    | 3/1 to 11/15  | Castle Cr. & Snake R. |
| <input checked="" type="checkbox"/> <input type="checkbox"/> | 57-11667     | 5.84                  | Irrigation    | 3/1 to 11/15  | Castle Cr. & Snake R. |
| <input checked="" type="checkbox"/> <input type="checkbox"/> | 57-11709     | 24.47                 | Irrigation    | 3/1 to 11/15  | Castle Cr. & Snake R. |
| <input type="checkbox"/> <input type="checkbox"/>            |              |                       |               | to            |                       |
| <input type="checkbox"/> <input type="checkbox"/>            |              |                       |               | to            |                       |
| <input type="checkbox"/> <input type="checkbox"/>            |              |                       |               | to            |                       |

Total authorized under rights 36.25 cfs and/or \_\_\_\_\_ ac-ft

2. Total amount of water proposed to be transferred or changed 36.25 cubic feet per second and/or \_\_\_\_\_ acre-feet per annum.

3. Point(s) of Diversion:

- ☐ No changes to point(s) of diversion are proposed-the following chart is therefore not completed. (Proceed to #4.)  
☐ Attach Eastern Snake Plain Aquifer analysis if this transfer proposes to change a point of diversion affecting the ESPA.  
 Label it Attachment #5.

| New ? | Lot | ¼ | ¼  | ¼  | Sec | Twp | Rge | County | Source       | Local name or tag # |
|-------|-----|---|----|----|-----|-----|-----|--------|--------------|---------------------|
|       |     |   | NE | SE | 13  | 4S  | 1E  | Owyhee | Castle Creek | Existing Headgate   |
|       |     |   | NE | SE | 35  | 3S  | 1E  | Owyhee | Snow River   | Existing Pump       |
|       |     |   |    |    |     |     |     |        |              |                     |
|       |     |   |    |    |     |     |     |        |              |                     |
|       |     |   |    |    |     |     |     |        |              |                     |

4. Place of use: (If irrigation, identify with number of acres irrigated per ¼ ¼ tract.)

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

| Twp | Rge | Sec | NE ¼ |    |    |    | NW ¼ |    |    |    | SW ¼ |    |    |    | SE ¼ |    |    |    | Acre Totals |
|-----|-----|-----|------|----|----|----|------|----|----|----|------|----|----|----|------|----|----|----|-------------|
|     |     |     | NE   | NW | SW | SE | NE   | NW | SW | SE | NE   | NW | SW | SE | NE   | NW | SW | SE |             |
| 4S  | 1E  | 1   |      |    |    |    | 40   | 41 | 41 | 41 | 41   | 41 | 41 | 41 |      | 19 | 19 |    | 365         |
| 4S  | 1E  | 2   | 40   | 41 | 40 | 40 | 41   |    | 40 | 40 | 40   | 40 | 41 | 40 | 40   | 40 | 40 | 40 | 603         |
| 4S  | 1E  | 11  | 40   | 40 | 40 | 40 | 40   |    |    |    |      |    |    |    | 40   | 40 | 40 | 40 | 360         |
| 4S  | 1E  | 12  |      | 19 | 19 |    | 41   | 41 | 41 | 41 | 41   | 41 | 40 | 40 |      | 20 | 20 |    | 404         |
| 4S  | 1E  | 13  |      | 21 |    |    | 40   | 40 | 40 |    |      | 40 | 40 |    |      |    |    |    | 221         |
| 4S  | 1E  | 14  | 40   |    |    | 40 |      |    |    |    |      |    |    |    | 40   |    |    | 40 | 160         |
| 4S  | 1E  | 23  | 40   |    |    |    |      |    |    |    |      |    |    |    |      |    |    |    | 40          |
| 4S  | 1E  | 24  |      |    |    |    |      | 40 |    |    |      |    |    |    |      |    |    |    | 40          |

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

**APPLICATION FOR TRANSFER OF WATER RIGHT  
PART 1 Continued**

**5. General Information:**

- a. Describe the complete diversion system, including how you will accommodate a measuring device and lockable controlling works should they be required now or in the future: Pumping station in the Snake River, equipped with  
an in-pipe measuring device. Castle Creek diversion to open ditch, measuring device in  
ditch.

- b. Who owns the property at the point(s) of diversion? Applicant

If other than the applicant, describe the arrangement enabling the applicant to access the property for the diversion system:

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

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

- d. Describe the effect on the land now irrigated if the place or purpose of use is changed pursuant to this transfer: Irrigated  
land will be rearranged within the same general place of use as the decrees. 6.0 acres  
to be removed from 57-235 to mitigate for concurrent wetland permit application.

- e. Describe the use of any other water right(s) for the same purpose or land, or the same diversion system as right(s) proposed to be transferred at both the existing and proposed point(s) of diversion and place(s) use: Snake River rights are  
the subject of a companion transfer.

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

Yes No

- |                          |                                     |                                                                                               |
|--------------------------|-------------------------------------|-----------------------------------------------------------------------------------------------|
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | undergone a period of five or more consecutive years of non-use,                              |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | currently leased to the Water Supply Bank,                                                    |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | currently used in a mitigation plan limiting the use of water under the right, or             |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | currently enrolled in a Federal set-aside program limiting the use of water under the rights? |

If yes, describe: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**STATE OF IDAHO**  
**DEPARTMENT OF WATER RESOURCES**

# APPLICATION FOR TRANSFER OF WATER RIGHT

## PART 2

### A. DESCRIPTION OF RIGHT(S) AS RECORDED

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

Insert Part 2A reports into the application following Part 1.

**B. IF ONLY A PORTION OF THE RIGHT IS PROPOSED TO BE CHANGED, DESCRIBE THE PORTION BEING CHANGED AS IT APPEARS BEFORE THE REQUESTED CHANGES**

- ☐ Complete and attach one copy of Part 2B for each right for which only a portion is proposed to be changed. If the entire right is proposed to be changed, Part 2B is not applicable. Additional copies of the **Part 2B** form can be obtained from any Department office or from the Department's website @ <http://www.idwr.idaho.gov/> , Water Right Transfers, Step 3, or Water Right Forms, Changes in Use. Insert completed Part 2B forms into the application following Part 2A of the same water right.

Right Number: \_\_\_\_\_

(cfs/ac-ft)

[illegible]

2. Lands irrigated or place of use: (If irrigation, identify with number of acres irrigated per  $\frac{1}{4}$   $\frac{1}{4}$  tract.)

[illegible]

Total Acres (for irrigation use) \_\_\_\_\_

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

**Current Water Right No.: 57-235**

Current Owner: SV RANCH LLC  
Priority Date: 12/10/1907  
Origin: Water Right  
Status: Active  
Basis: Decreed

**Source**  
CASTLE CREEK

**Tributary**  
SNAKE RIVER

| Beneficial Use | From To         | Diversion Rate | Annual Volume |
|----------------|-----------------|----------------|---------------|
| IRRIGATION     | 4/01 to 10/15   | 1.1 CFS        |               |
|                | Total Diversion | 1.1 CFS        |               |

**Location of Point(s) of Diversion**

CASTLE CREEK NE1/4SE1/4 Sec. 13, Twp 04S, Rge 01E B.M.  
OWYHEE County

**Place of Use**

IRRIGATION Within OWYHEE County

|              |       |      |       |              |      |       |
|--------------|-------|------|-------|--------------|------|-------|
| T04S R01E S1 | Lot 4 | NWNW | 17.00 | T04S R01E S1 | SWNW | 16.00 |
| T04S R01E S1 |       | SENW | 30.00 |              |      |       |

Total Acres: 63

**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. RIGHTS HAVE ALSO BEEN CLAIMED TO WATER FROM BASIN 02 FOR THE SAME PURPOSE OF USE AT THE SAME PLACE OF USE DESCRIBED ABOVE, WHICH WILL BE INCLUDED IN A DIRECTOR'S REPORT TO BE FILED AT A LATER DATE. ANY WATER RIGHTS RECOMMENDED IN THE BASIN 02 REPORT FOR THE SAME PURPOSE OF USE AT THE SAME PLACE OF USE DESCRIBED ABOVE WILL CONTAIN COMBINED USE LIMITATIONS FOR THIS RIGHT AND THE BASIN 02 RIGHTS.
3. THE USE OF WATER FOR IRRIGATION UNDER THIS RIGHT MAY BEGIN AS EARLY AS MARCH 1 AND MAY CONTINUE TO AS LATE AS NOVEMBER 15, PROVIDED OTHER ELEMENTS OF THE RIGHT ARE NOT EXCEEDED. THE USE OF WATER BEFORE APRIL 1 AND AFTER OCTOBER 15 UNDER THIS REMARK IS SUBORDINATE TO ALL WATER RIGHTS HAVING NO SUBORDINATED EARLY OR LATE IRRIGATION USE AND A PRIORITY DATE EARLIER THAN THE DATE A PARTIAL DECREE IS ENTERED FOR THIS RIGHT.

Page \_\_\_\_\_ of \_\_\_\_\_

Decreed Date: 1/24/2002



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

**Current Water Right No.: 57-11666**

Current Owner: SV RANCH LLC  
Priority Date: 12/29/1970  
Origin: Water Right  
Status: Active  
Basis: License

**Source**  
CASTLE CREEK

**Tributary**  
SNAKE RIVER

| <b>Beneficial Use</b> | <b>From To</b>  | <b>Diversion Rate</b> | <b>Annual Volume</b> |
|-----------------------|-----------------|-----------------------|----------------------|
| IRRIGATION            | 03/01 to 11/15  | 0.38 CFS              |                      |
|                       | Total Diversion | 0.38 CFS              |                      |

**Location of Point(s) of Diversion**

CASTLE CREEK NW1/4NE1/4SE1/4 Sec. 13, Twp 04S, Rge 01E B.M.  
OWYHEE County

**Place of Use**

IRRIGATION Within OWYHEE County

T04S R01E S14 NENE 19.00  
Total Acres: 19

**Conditions of Approval:**

1. R43 The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion.
2. R05 Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 57-C.
3. R61 This right when combined with all other rights shall provide no more than 4.5 afa per acre at the field headgate for irrigation of the lands above.
4. WB7 This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor exceed a combined annual maximum diversion volume of 85.5 af at the field headgate for the lands above.
5. X36 Rights 57-00235, 57-07034A, 57-11665 and 57-11667 are also diverted through the point of diversion described above.

Decreed Date: 2/20/2003

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

**Current Water Right No.:** 57-11667

**Current Owner:** SV RANCH LLC  
**Priority Date:** 12/29/1970  
**Origin:** Water Right  
**Status:** Active  
**Basis:** License

|                       |                       |
|-----------------------|-----------------------|
| <b>Source</b>         | <b>Tributary</b>      |
| CASTLE CREEK          | SNAKE RIVER           |
| <b>Beneficial Use</b> | <b>From To</b>        |
| IRRIGATION            | 03/01 to 11/15        |
|                       | Total Diversion       |
|                       | <b>Diversion Rate</b> |
|                       | 5.84 CFS              |
|                       | 5.84 CFS              |

**Location of Point(s) of Diversion**

CASTLE CREEK NW1/4NE1/4SE1/4 Sec. 13, Twp 04S, Rge 01E B.M.  
OWYHEE County

**Place of Use**

IRRIGATION Within OWYHEE County

|                  |      |       |               |      |       |
|------------------|------|-------|---------------|------|-------|
| T04S R01E S13    | SWNW | 39.00 | T04S R01E S13 | NWSW | 40.00 |
| T04S R01E S13    | SWSW | 40.00 | T04S R01E S14 | SENE | 18.00 |
| T04S R01E S14    | NESE | 37.00 | T04S R01E S14 | SESE | 39.00 |
| T04S R01E S23    | NENE | 39.00 | T04S R01E S24 | NWNW | 40.00 |
| Total Acres: 292 |      |       |               |      |       |

**Conditions of Approval:**

1. X36 Rights 57-00135, 57-07034A, 57-11665 and 57-11666 are also diverted through the point of diversion described above.
2. R61 This right when combined with all other rights shall provide no more than 4.5 afa per acre at the field headgate for irrigation of the lands above.
3. WB7 This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor exceed a combined annual maximum diversion volume of 1310.0 af at the field headgate for the lands above.
4. R05 Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 57-C.
5. R43 The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion.

Decreed Date: 2/20/2003

Page \_\_\_\_\_ of \_\_\_\_\_

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

**Current Water Right No.: 57-11709**

Current Owner: SV RANCH LLC

Priority Date: 12/29/1970

Origin: Water Right

Status: Active

Basis: License

**Source**

CASTLE CREEK

**Tributary**

SNAKE RIVER

**Beneficial Use**

IRRIGATION

**From To**

03/01 to 11/15

Total Diversion

**Diversion Rate**

24.47 CFS

24.47 CFS

**Annual Volume**

**Location of Point(s) of Diversion**

CASTLE CREEK

OWYHEE County

NW1/4NE1/4SE1/4

Sec. 13, Twp 04S, Rge 01E B.M.

**Place of Use**

IRRIGATION Within OWYHEE County

|               |       |      |       |               |       |      |       |
|---------------|-------|------|-------|---------------|-------|------|-------|
| T04S R01E S1  | Lot 3 | NENW | 38.00 | T04S R01E S1  | Lot 4 | NWNW | 16.00 |
| T04S R01E S1  |       | SWNW | 16.00 | T04S R01E S1  |       | SENW | 38.00 |
| T04S R01E S1  |       | NESW | 31.00 | T04S R01E S1  |       | NWSW | 2.00  |
| T04S R01E S1  |       | SWSW | 17.00 | T04S R01E S1  |       | SESW | 23.00 |
| T04S R01E S1  |       | NWSE | 10.00 | T04S R01E S1  |       | SWSE | 5.00  |
| T04S R01E S2  | Lot 2 | NWNE | 29.00 | T04S R01E S2  |       | SWNE | 40.00 |
| T04S R01E S2  | Lot 3 | NENW | 36.00 | T04S R01E S2  |       | SWNW | 27.00 |
| T04S R01E S2  |       | SENW | 40.00 | T04S R01E S2  |       | NESW | 40.00 |
| T04S R01E S2  |       | NWSW | 28.00 | T04S R01E S2  |       | SWSW | 40.00 |
| T04S R01E S2  |       | SESW | 36.00 | T04S R01E S2  |       | NWSE | 40.00 |
| T04S R01E S2  |       | SWSE | 37.00 | T04S R01E S2  |       | SESE | 6.00  |
| T04S R01E S11 |       | NENE | 39.00 | T04S R01E S11 |       | NWNE | 37.00 |
| T04S R01E S11 |       | SWNE | 38.00 | T04S R01E S11 |       | SENE | 32.00 |
| T04S R01E S11 |       | NENW | 40.00 | T04S R01E S11 |       | NESE | 26.00 |
| T04S R01E S11 |       | NWSE | 18.00 | T04S R01E S11 |       | SESE | 34.00 |
| T04S R01E S12 |       | NWNE | 5.00  | T04S R01E S12 |       | SWNE | 5.00  |
| T04S R01E S12 |       | NENW | 36.00 | T04S R01E S12 |       | NWNW | 41.00 |
| T04S R01E S12 |       | SWNW | 40.00 | T04S R01E S12 |       | SENW | 39.00 |
| T04S R01E S12 |       | NESW | 35.00 | T04S R01E S12 |       | NWSW | 31.00 |
| T04S R01E S12 |       | SWSW | 31.00 | T04S R01E S12 |       | SESW | 30.00 |
| T04S R01E S12 |       | NWSE | 2.00  | T04S R01E S12 |       | SWSE | 2.00  |
| T04S R01E S13 |       | NWNE | 16.00 | T04S R01E S13 |       | NENW | 38.00 |
| T04S R01E S13 |       | NWNW | 37.00 | T04S R01E S14 |       | NENE | 20.00 |

Total Acres: 1267

**Conditions of Approval:**

1. R05 Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 57-C.
2. WB7 This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor exceed a combined annual maximum diversion volume of 7720.0 af at the field headgate for the lands above.
3. X35 Rights 57-00235, 57-11708, 57-11709 and 57-11710 when combined shall not exceed the irrigation of 1716 acres.
4. X36 Rights 57-00235, 57-07034A, 57-11666 and 57-11667 are also diverted through the point of diversion described above.
5. R61 This right when combined with all other rights shall provide no more than 4.5 afa per acre at the field headgate for irrigation of the lands above.
6. R43 The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion.

Decreed Date: 2/20/2003

Transfer contains \_\_\_\_\_ pages and \_\_\_\_\_ attachments.

Received by SB Date 7-7-2010 Prelim. Check by \_\_\_\_\_ Date \_\_\_\_\_

Fee Paid \$120- Date 7-7-2010 Received by SB Receipt # W038538

Add'l Fee Paid \$1230- Date 8-9-2010 Received by SB Receipt # W038641

RECEIVED

JUL 07 2010

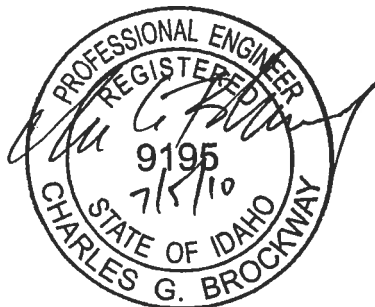
WATER RESOURCES  
WESTERN REGION

## **Narrative in Support of Transfer and Permit Applications SV Ranch LLC**

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Brockway Engineering, PLLC  
Charles G. Brockway, P.E.  
July 5, 2010

- A. Overview and Purpose of Transfers
- B. Overlap Analysis of Existing Rights and Total Authorized Irrigation
  - 1. North Area
  - 2. South Area
    - a. Snake River rights
    - b. Castle Creek rights
    - c. All rights in combination
    - d. Permissible place of use creation
- C. Water Balance and Conversion to Wetland Habitat
- D. Potential Problems with Decrees



76740

## **A. Overview and Purpose of Applications**

Property owned by the applicant is segregated into two hydraulically-separate water systems: the south area and the north area. The south area is covered by eight (8) water rights from the Snake River and four (4) water rights from Castle Creek. The north area is covered only with two Snake River rights. The rights have been decreed in the SRBA within the past 5 years and therefore forfeiture concerns are not an issue at this time.

The configuration of irrigation systems on both parcels has been or will be modified to cover the same general place of use with a more efficient system consisting of center pivots and hand lines or wheel lines to cover most corner areas. The attached Figures 1 and 2 illustrate the irrigation systems and irrigated areas as will exist going forward, overlain on a 2009 aerial photo. Major changes are being made to the south system, and most of the new center pivots are not visible on the 2009 photo. The outlines of the pivots and the corner areas to be irrigated were taken from the irrigation plan provided by the applicant. Note that pivots 7 and 10 are wiper pivots to avoid houses and associated buildings. Also note that the feedlot visible in SENE Section 14 has been removed. On the north area, the 2009 photo shows all of the irrigation that will occur going forward, with the exception of the extreme eastern field which is being converted to a center pivot.

In addition to the irrigation reconfiguration, three pivot corner areas will be utilized for habitat enhancement projects involving constructed wetlands and shallow ponds. Irrigation will continue to occur in these corners with hand lines around the wetland areas. Figure 5 illustrates the location and source of each of the proposed habitat projects.

Actual irrigation based on this analysis is as follows:

|                        |             |
|------------------------|-------------|
| South system (pivots)  | 1752 acres  |
| South system (corners) | 236 acres   |
| Total south            | 1988 acres  |
| North system           | 406.1 acres |

The total allowable irrigation from the Snake River appears to be 2055.5 acres on the south area (see overlap analysis below) and 372 acres on the north system. Therefore, 34.1 acres will be moved from the south system to the north.

The purposes of the transfer applications are as follows:

1. Transfer #1 (north area)
  - a. Move 34.1 acres of water right 2-10332 from the south system into the existing permissible place of use for the north system
  - b. Modify the north PPU boundary to more accurately cover all irrigable land.

2. Transfer #2 (south area – Snake River rights)
  - a. Create a permissible place of use for the south system, including all Snake River water rights. The PPU will encompass all irrigable land.
  - b. Delete the old ditch diversion and add a point of diversion for the south system, representing a new pump station which is being constructed.
  - c. Convert 3.0 acres of irrigation to 3.0 acres of wetland habitat under 2-2357A.
3. Transfer #3 (south area – Castle Creek rights)
  - a. Create a permissible place of use for the south system, including all Castle Creek water rights. The PPU will encompass all irrigable land.
  - b. Add a point of diversion for all rights on the Snake River at the new pumping station.
  - c. Convert 6.0 acres of irrigation to 6.0 acres of wetland habitat under 57-235, keeping the point of diversion at the existing Castle Creek headgate for the wildlife ponds.
4. Permit #1 (habitat area 4A). This permit will authorize storage volume and flow rate for habitat enhancement ponds/wetlands fed from the Snake River system. Mitigation for evaporation is provided by Transfer #2. This pond will operate as a completely closed system with no return flow; however, non-consumptive flow is being requested to provide for seepage.
5. Permit #2 (habitat areas 4C and Castle Corner). This permit will authorize storage volume and flow rate for habitat enhancement ponds/wetlands fed from Castle Creek. Mitigation for evaporation is provided by Transfer #3. Additional non-consumptive flow is requested to provide a 3-day turnover time, with return flow to Castle Creek, and to provide for seepage.

## **B. Overlap Analysis of Existing Rights and Total Authorized Irrigation**

### **1. North Area**

The water right structure for the north area is straightforward: two rights within a 477-acre permissible place of use, each right with an individual acre limit, as follows:

|         |          |                          |           |
|---------|----------|--------------------------|-----------|
| 2-2100A | 2.80 cfs | 140 ac within 477-ac PPU | 7/15/1952 |
| 2-7086  | 4.64 cfs | 232 ac within 477-ac PPU | 7/28/1971 |
| Total   | 7.44 cfs | 372 ac                   |           |

It is proposed to slightly restructure the permissible place of use to conform to actual irrigation practices, including the replacement of the eastern wheel line field with a wiper pivot (Figure 2).

## 2. South Area

The water right structure for the south area is more complicated (Figure 3 and 4). There are eight (8) rights from the Snake River and five (5) rights from Castle Creek, each with discrete places of use (no permissible place of use). Several combined-use conditions limit acreage, volume, and/or diversion rate. However, no combined-use condition specifies a total acreage limit among all rights.

### a. Snake River rights

The Snake River rights are structured as follows (Figure 3):

|         |           |           |           |
|---------|-----------|-----------|-----------|
| 2-2357A | 2.00 cfs  | 100 ac    | 9/10/1964 |
| 2-2357B | 1.80 cfs  | 90 ac     | 9/10/1964 |
| 2-7046E | 2.82 cfs  | 162 ac    | 7/30/1969 |
| 2-2173  | 6.00 cfs  | 279 ac    | 3/1/1962  |
| 2-10235 | 0.80 cfs  | 40 ac     | 7/30/1969 |
| 2-10244 | 5.19 cfs  | 298 ac    | 7/30/1969 |
| 2-10332 | 21.19 cfs | 1059.5 ac | 7/30/1969 |
| 2-10396 | 0.95 cfs  | 45 ac     | 7/30/1969 |

Based on the decreed shape files for these rights, it appears that the only potential overlap between any of them occurs in the NENE and SENE of Section 14. The potential overlap is analyzed as follows:

In the NENE, water right 2-10332 allows 20 acres and the shape file covers the upper half of this 40. Water right 2-10235 also allows 20 acres but the shape file covers the entire 40. There is no combined-used acreage limit that pertains to these two rights. In the 1987 infrared photo, the entire 40 is an irrigated field. Therefore, it appears that the intent of the decrees was to allow 40 acres of irrigation, so that there is no actual overlap in the NENE Section 14.

In the SENE, water right 2-10244 allows 18 acres and the shape file is an irregular boundary which excludes a feedlot located in this 40. Right 2-10235 allows 20 acres in this 40 but the shape file covers the entire 40. Because of the presence of the feedlot, it appears reasonable to conclude that the two rights are not additive but are fully overlapping within this 40.

Based on this analysis, it appears that the total irrigated acreage allowed by the Snake River rights in the south area is the sum of the individual acreage limits, less the 18-acre overlap in SENE Section 14. This equates to 2055.5 acres. Although there are several combined-use acreage conditions providing for certain limits between a few of the rights, none of these appear to affect the total calculation of 2055.5 acres.

### b. Castle Creek rights

The rights from Castle Creek are structured as follows (Figure 4):

|          |           |         |            |            |
|----------|-----------|---------|------------|------------|
| 57-235   | 1.1 cfs   | 63 ac   | Castle Cr. | 12/10/1907 |
| 57-7034A | 4.46 cfs  | 223 ac  | Castle Cr. | 8/16/1969  |
| 57-11666 | 0.38 cfs  | 19 ac   | Castle Cr. | 12/29/1970 |
| 57-11667 | 5.84 cfs  | 292 ac  | Castle Cr. | 12/19/1970 |
| 57-11709 | 24.47 cfs | 1267 ac | Castle Cr. | 12/29/1970 |

Based on the decreed shape files, overlap between 57-235 and 57-11709 exists in the NW1/4 Section 1, and these two rights are limited by condition to 1267 acres in combination. The other three rights are not overlapping. Therefore, the total acreage allowed by the Castle Creek rights appears to be 1267 + 223 + 19 + 292, or 1801 acres.

c. All rights in combination

Several combined-use conditions come into play when determining the total authorized irrigation between all Snake River rights and all Castle Creek rights. The acreage on these combined-use conditions must be adjusted to account for the incorrect inclusion of 449 acres under rights 57-11708 and 57-11710 which are not owned by the applicant (see Section C, below).

57-235 and 57-11709 limited to 1716 acres (less 449 equals 1267 allowed)  
 2-10332, 57-11709, and 57-11666 limited to 2126 acres (less 449 equals 1677 allowed)  
 2-10235, 57-11709, and 57-11666 limited to 1777 acres (less 449 equals 1328 allowed)  
 2-10244 and 57-11667 limited to 322 acres (should be 298 acres – see Section C, below)

Accounting for these conditions and the overlap of the various rights, it appears that the total authorized irrigation would be calculated as follows (refer to Figures 3 and 4):

|      |                                                         |
|------|---------------------------------------------------------|
| 1677 | Area covered by 57-11709, 2-10332, 57-235, and 57-11666 |
| 252  | Area covered by 2-7046E, 2-2357B, 57-7034A              |
| 298  | Area covered by 2-10244 and 57-11667                    |
| 10   | 2-10396 outside of overlap in NWNE Sec. 2               |
| 20   | 2-10235 and 57-11666 outside of main overlap area       |
| 2257 | TOTAL                                                   |

However, the total apparent authorization of 2257 acres is greater than the physical area available. See Section C for an analysis of possible errors in the combined-use conditions.

d. Permissible place of use creation

It is proposed to create a permissible place of use for the Snake River rights and Castle Creek rights in the south area. The proposed PPU is shown on Figure 5. The PPU would encompass all land considered to be irrigable, and totals 2193 acres. Within the PPU, the Snake River rights in combination should be limited to 2021.4 acres, which is 2055.5 acres less 34.1 acres transferred to the north area. The Castle Creek rights should be limited to 1801 acres within the PPU, and all rights in combination should be limited to the combined

total currently allowed, which is unclear at this point (see Section C). It is recommended that IDWR verify the above calculations of combined acreage limits.

### **C. Water Requirements for Conversion to Wetland Habitat**

#### **1. Description of Wetlands**

In addition to the irrigation reconfiguration, the applicant intends to create three areas of wetlands for the purposes of wildlife habitat enhancement. These areas are locally known as areas 4A, 4C, and Castle Corner and are shown on the attached map. The wetlands will consist of ponded areas with a maximum depth of 2 feet near the center, tapering to grade at the edges. For calculation purposes, an average depth of 1.0 foot was assumed. The gross land surface area and likely area of constructed wetland are as follows:

|               | Gross Area | Wetland Area | Avg. Depth | Water Source |
|---------------|------------|--------------|------------|--------------|
| Area 4A       | 19 acres   | 3.0 acres    | 1.0 ft     | Snake River  |
| Area 4C       | 7 acres    | 3.0 acres    | 1.0 ft     | Castle Creek |
| Castle Corner | 3.5 acres  | 3.0 acres    | 1.0 ft     | Castle Creek |

The water source for Area 4A will be the Snake River – water will be diverted to this wetland from one of the irrigation mainlines. This wetland will be designed as a closed system, and the water supply will be used for water level maintenance only with no return flow back to any water source. The water source for Area 4C and Castle Corner will be Castle Creek via the existing diversion in the creek. The water will flow through these two wetlands and will return to Castle Creek about 0.5 miles downstream of the diversion.

As per the current IDWR policy, new permit applications are being submitted to cover the storage volume, with mitigation for evaporative losses provided by a transfer of a portion of the irrigation right(s). In addition, the new permits include non-consumptive flows to provide adequate turnover time and account for seepage.

#### **2. Evaporative Losses and Mitigation**

Construction of the wetlands will require that irrigated land be removed from irrigation to compensate for the evaporation and evapotranspiration in the wetlands. Consumptive use data from Allen & Robison (2009), Grand View station, was used to determine the difference in consumptive use and the required rate of acreage removal. The precipitation deficit values for “Alfalfa – Less Frequent Cuttings” and “Wetlands – Large Stands” were compared, eliminating the wintertime negative values of Pdef for the wetlands data. This approach was recommended by Jeff Peppersack, and accounts for the fact that the wetlands will remain full year-round and thus full credit cannot be given for precipitation since the pond level would exceed capacity. The following Pdef values were used:

Wetland Pdef (w/o monthly negatives) = 999 mm or 3.28 afa  
Alfalfa Pdef = 1029 mm or 3.38 afa

For every one acre of wetland,  $3.28 / 3.38 = 0.97$  acres of crop would need to be dried up. This is very close to the typical “rule of thumb” 1-for-1 conversion. For simplicity and to be conservative, it is proposed to use a simple 1:1 conversion rate for this transfer.

To mitigate for Area 4A evaporation, 3.0 acres will be removed under 2-2357A and converted to Wildlife usage. To mitigate for Area 4C and Castle Corner evaporation, 6.0 acres will be removed under 57-235, which has a 1907 priority date and is generally available for diversion during most of the season, whereas the 1969 and 1970 rights in Castle Creek are not.

The portion of 2-2357A converted to wildlife will be  $3 \text{ acres} / 100 \text{ acres} \times 2.00 \text{ cfs} = 0.06 \text{ cfs}$ . The portion of 57-235 converted to wildlife will be  $6 \text{ acres} / 63 \text{ acres} \times 1.10 \text{ cfs} = 0.10 \text{ cfs}$ . The wildlife portion of 57-235 will be diverted at the existing headgate in Castle Creek. The remaining 1.0 cfs for irrigation purposes will be moved to the pump station for the south system on the Snake River. All of the other Castle Creek rights will also be moved to this pump station. This will leave significant additional flow in the lower reach of Castle Creek for natural riparian habitat development.

### 3. Seepage Rate

The wetland ponds will be constructed in native soil with minimal berming around the perimeter. No soil amendments or membrane liner is contemplated. Therefore, some amount of seepage is anticipated. Published data for the prevailing soil types in the vicinity of each proposed wetland was obtained from the NRCS soil survey and are tabulated below:

| Area               | Soil Series                                               | Saturated K                               | Estimated Seepage Rate |
|--------------------|-----------------------------------------------------------|-------------------------------------------|------------------------|
| 4C & Castle Corner | 11 – Bram Silt Loam                                       | 0.11 to 0.40 ft/day                       | 0.20 cfs/acre          |
| 4A                 | 100 – Mazuma Fine Sandy Loam<br>163 – Typic Torriorthents | 0.40 to 1.2 ft/day<br>0.11 to 0.40 ft/day | 0.30 cfs/acre          |

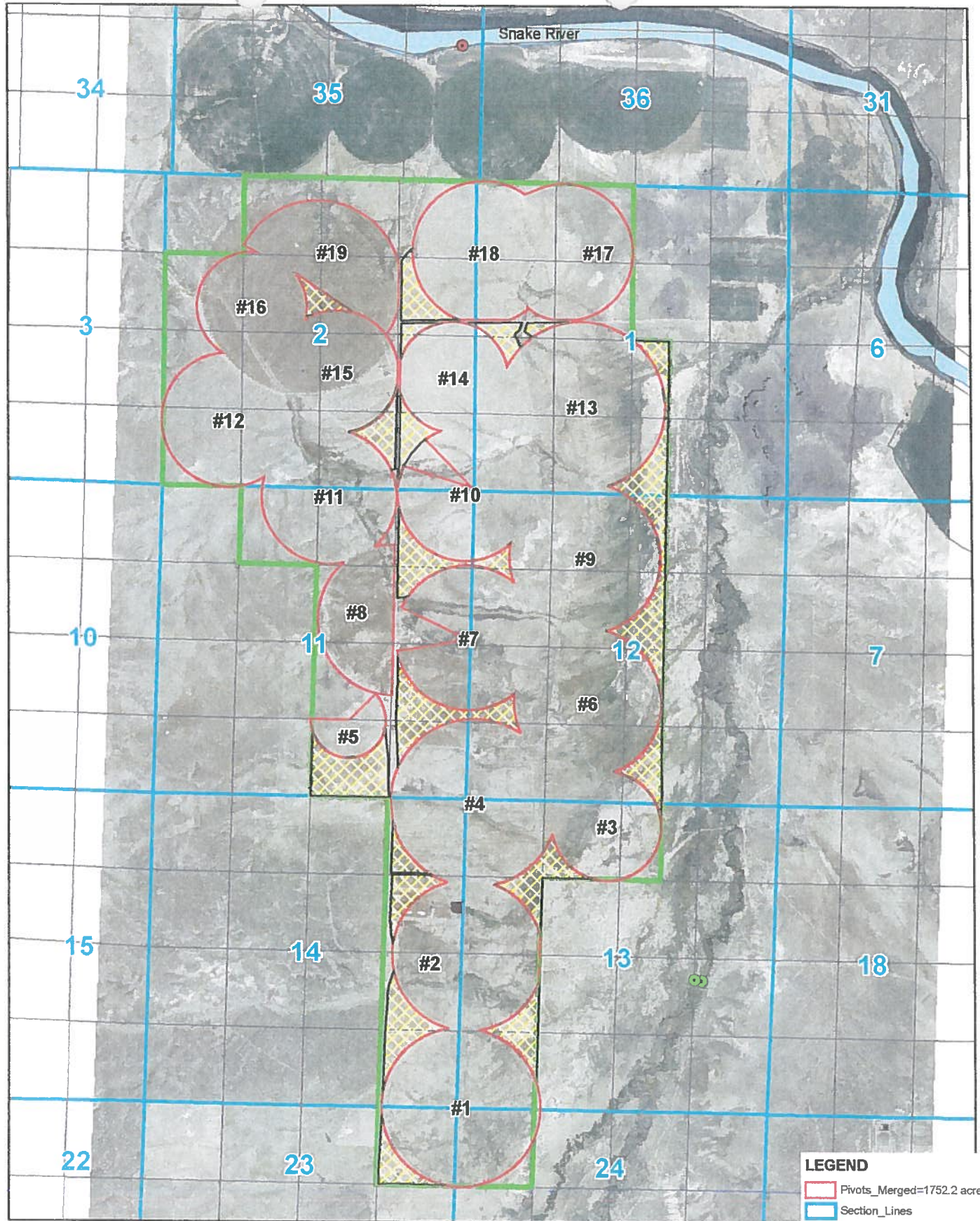
Based on this data, a conservative value for K would be 0.4 ft/day for Area 4C & Castle Corner and 0.6 ft/day for Area 4A. Utilizing Darcy’s law with an average pond depth of 1 foot, and an assumed soil depth of 1 foot over which the hydraulic gradient exists, the estimated seepage rates in the above table were calculated. Because of the development of organic matting due to the wetland vegetation and deposition of fine-grained material in the diverted water, saturated hydraulic conductivity likely will tend toward the lower end of the range over time. Based on experience with ponds constructed in silt loam or sandy loam soils, a range of observed seepage rates from 0.2 to 0.8 ft/day, or 0.10 to 0.40 cfs/acre is generally expected. This is in agreement with the above calculation.

For the 6-acre wetland in Area 4C & Castle Corner, a seepage flow rate of 1.2 cfs is required. For the 3-acre wetland in Area 4A, a seepage flow rate of 0.9 cfs is required. .

### **C. Potential Problems with Decrees**

In the course of this investigation, several inconsistencies or possible errors were identified regarding the shape files and combined-use conditions on the water rights for the south area. It is recommended that IDWR investigate these issues and make corrections as warranted in the course of this transfer.

1. The shape file for 2-10332 does not agree with the legal description of the place of use on the water right. The right allows 1059.5 acres but the shape file covers only about 799 acres. Most of the discrepancy is in SE1/4 Section 1, E1/2 Section 12, and SWSE Section 11.
2. Several combined-use conditions refer to water rights which are owned by other parties and appurtenant to other lands. These rights are 2-10395, 2-10422, 2-10423, 57-11708, and 57-11710.
3. Several conditions refer to water rights which do not exist (perhaps the parent rights of splits, or superseded in some other way). These rights are 2-10333, 2-10234, 2-7046A, 57-11665, and 57-7034B.
4. The combined use condition for 2-10332, 57-11709, and 57-11666 allows 1677 acres (excluding the 449 acres on the two rights owned by other parties). It is unclear how this number was derived. 57-11709 allows 1267 acres. 2-10332 is almost wholly overlapping with 57-11709, but a 40-by-40 comparison of the legal descriptions show that it allows 259.5 acres outside of the 57-11709 place of use. 57-11666 allows 19 acres not overlapping with either of the other two rights. Therefore, it would seem that the total combined limit should be  $1267 + 259.5 + 19 = 1545.5$  acres.
5. Three combined-use conditions limit certain rights in combination to 32.0 cfs; however, the individual diversion rates on the referenced rights do not add to more than 32.0 cfs.
6. Rights 2-10244 and 57-11667 in combination are limited to 322 acres, but these rights are fully overlapping and the total place of use does not exceed 298 acres.
7. Five conditions place limits on the annual volume when several specific rights are used in combination. These volumes appear to be low relative to the associated acreages and the original licenses. For example, one of the conditions limits the combined volume among 57-235, 57-11709, and 2-2357A to 500 afa; but these rights in combination would allow the irrigation of at least 1267 acres. The other volumetric conditions may have the same problem.



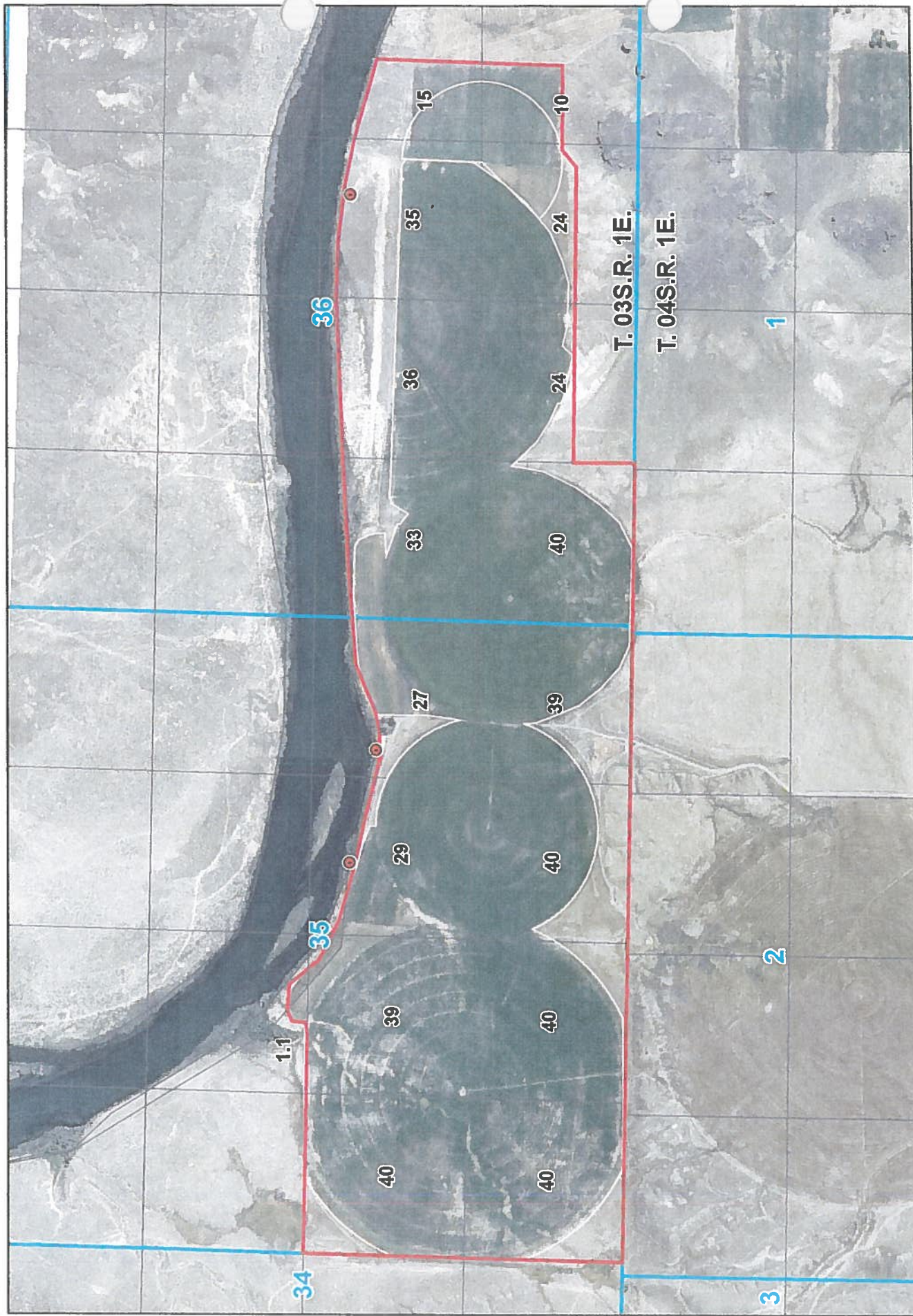
1 inch equals 2,300 feet

**FIGURE 1**  
**SV RANCH LLC - OWYHEE RANCH**  
**CURRENT IRRIGATION**  
**NAIP 2009 AERIAL**



**LEGEND**

- Pivots\_Merged=1752.2 acres
- Section\_Lines
- T03\_04S\_01\_02E
- Corners= 236 Ac.
- PPU South
- POD's\_Castle\_Creek
- POD SOUTH



1 inch equals 1,100 feet

**FIGURE 2**  
**SV RANCH LLC - OWYHEE RANCH**  
**CURRENT IRRIGATION & PROPOSED PPU NORTH AREA**  
**NAIP 2009 AERIAL**

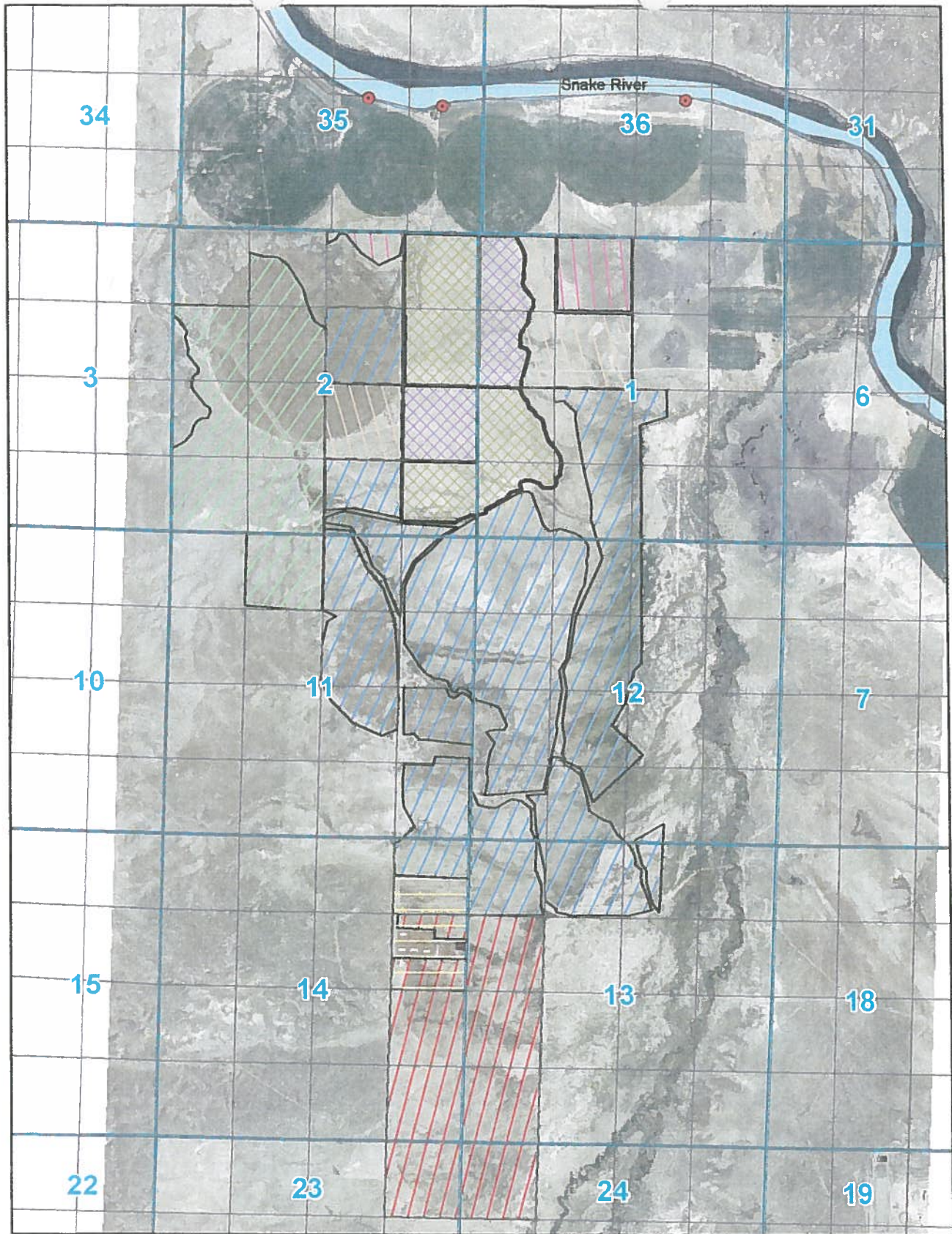
Irrigation 2009 = 406.12ac.

Section Lines

PPU North

POD North

T03\_04S\_01\_02E

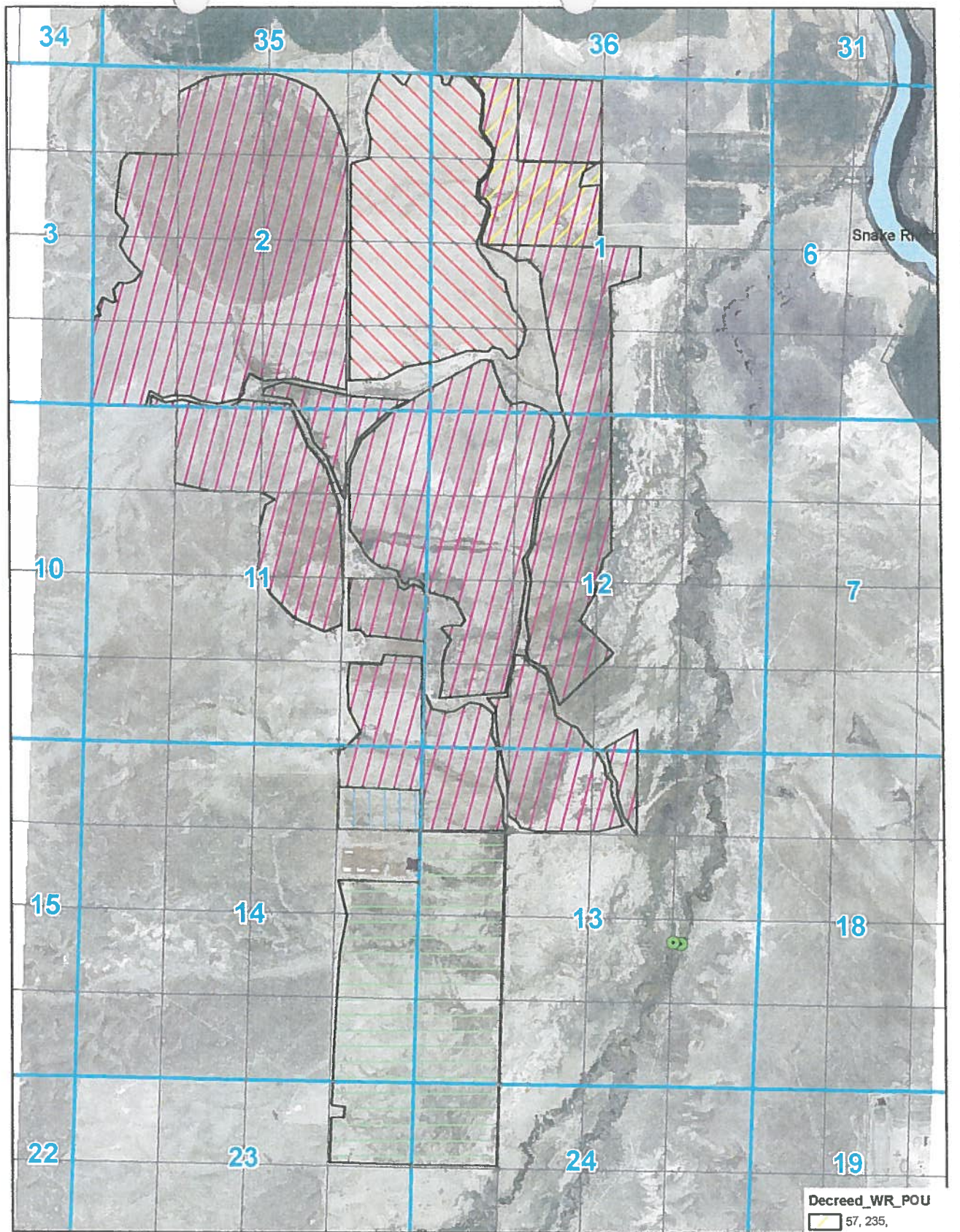


1 inch equals 2,450 feet

**FIGURE 3**  
**SV RANCH LLC - OWYHEE RANCH**  
**CURRENT WATER RIGHTS SNAKE RIVER**  
**NAIP 2009 AERIAL**

| Decreed_WR_POU 2-2357B, 2-7046E_REC POU |                |
|-----------------------------------------|----------------|
|                                         | 2, 2173,       |
|                                         | 2, 10235,      |
|                                         | 2, 10244,      |
|                                         | 2, 10332,      |
|                                         | 2, 10396,      |
|                                         | 2, 2357, A     |
|                                         | 2, 7046, E     |
|                                         | 2, 2357, B     |
|                                         | Section_Lines  |
|                                         | T03_04S_01_02E |
| <b>Source</b>                           |                |
|                                         | • SNAKE RIVER  |

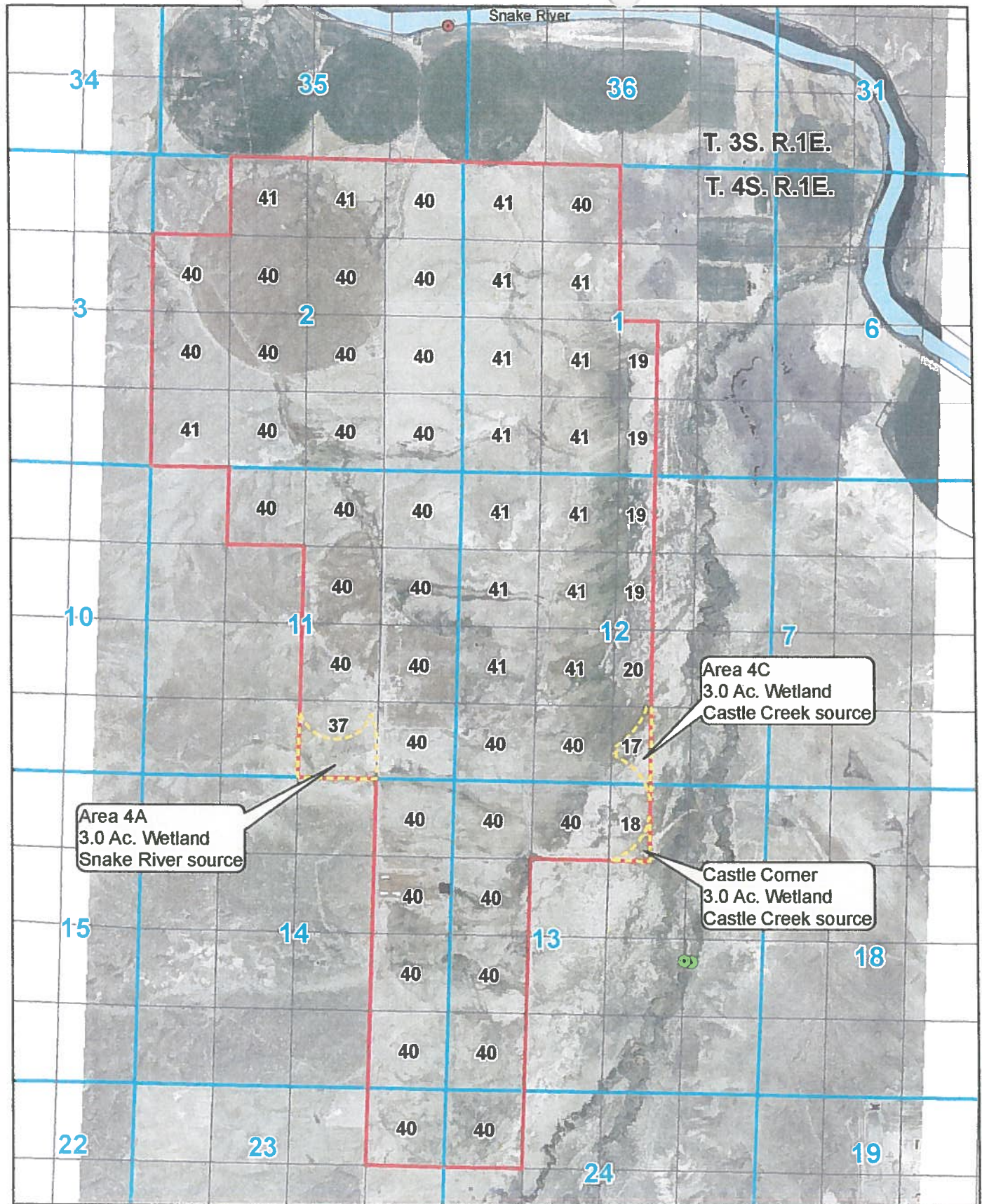




1 inch equals 2,200 feet

**FIGURE 4**  
**SV RANCH LLC - OWYHEE RANCH**  
**CURRENT WATER RIGHTS CASTLE CREEK**  
**NAIP 2009 AERIAL**

- Decreed\_WR\_POU**
- 57, 235,
  - 57, 11709,
  - 57, 11666,
  - 57, 11667,
  - 57, 7034, A
  - Section\_Lines
  - T03\_04S\_01\_02E
  - POD's\_Castle\_Creek



1 inch equals 2,300 feet

**FIGURE 5**  
**SV RANCH LLC - OWYHEE RANCH**  
**PROPOSED PPU SOUTH**  
**NAIP 2009 AERIAL**

- Section\_Lines
- PPU South
- T03\_04S\_01\_02E
- POD Snake River
- POD's\_Castle\_Creek
- Habitat Enhancement Projects





State of Idaho

## DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way • Boise, Idaho 83705-5082

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Web Site: [www.idwr.idaho.gov](http://www.idwr.idaho.gov)

C. L. "BUTCH" OTTER  
Governor

GARY SPACKMAN  
Interim Director

May 6, 2011

SV RANCH LLC  
C/O GREGORY VIK  
PO BOX 1607  
BELLEVUE WA 98009

**RE: Preliminary Order in the matter of Application for Transfer No(s). 76740**  
**Preliminary Order in the matter of Application for Permit No(s). 57-11794**

Dear Applicant(s):

The accompanying order is a "**Preliminary Order**" issued by the Department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action of the department unless a party petitions for reconsideration within fourteen (14) days after issuance as described in the enclosed yellow information sheet.

If you have any questions regarding this matter, please call me at 208-334-2190.

Sincerely,

A handwritten signature in black ink that reads "John Westra". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

John Westra  
Manager, Western Regional Office

Enclosures

cc: Charles G. Brockway, P.E.

## **EXPLANATORY INFORMATION TO ACCOMPANY A PRELIMINARY ORDER**

(To be used in connection with actions when a hearing was **not** held)

(Required by Rule of Procedure 730.02)

The accompanying order or approved document is a "**Preliminary Order**" issued by the department pursuant to section 67-5243, Idaho Code. **It can and will become a final order without further action of the Department of Water Resources ("department") unless a party petitions for reconsideration, files an exception and brief, or requests a hearing as further described below:**

### **PETITION FOR RECONSIDERATION**

Any party may file a petition for reconsideration of a preliminary order with the department within fourteen (14) days of the service date of this order. **Note: the petition must be received by the department within this fourteen (14) day period.** The department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3) Idaho Code.

### **EXCEPTIONS AND BRIEFS**

Within fourteen (14) days after: (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding with the Director. Otherwise, this preliminary order will become a final order of the agency.

### **REQUEST FOR HEARING**

Unless a right to a hearing before the Department or the Water Resource Board is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Director and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

### **ORAL ARGUMENT**

If the Director grants a petition to review the preliminary order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

## **CERTIFICATE OF SERVICE**

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with IDAPA Rules 37.01.01302 and 37.01.01303 (Rules of Procedure 302 and 303).

## **FINAL ORDER**

The Director will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Director may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its service date if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

- (a) The petition for reconsideration is disposed of; or
- (b) The petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

## **APPEAL OF FINAL ORDER TO DISTRICT COURT**

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.



**State of Idaho**

**DEPARTMENT OF WATER RESOURCES**

Western Region, 2735 Airport Way • Boise, Idaho 83705-5082

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Web Site: [www.idwr.idaho.gov](http://www.idwr.idaho.gov)

February 24, 2011

C. L. "BUTCH" OTTER  
Governor

GARY SPACKMAN  
Interim Director

BROCKWAY ENGINEERING  
ATTN: CHARLES G BROCKWAY, P.E.  
2016 N WASHINGTON ST SUITE 4  
TWIN FALLS ID 83301

RE: SV RANCH LLC

Dear Mr. Brockway:

We have reviewed the proposals under the applications for transfer and water right applications that you submitted on behalf of SV Ranches and offer the following comments.

Application for Permit - Snake River No. 02-10452

This application is acceptable for processing.

Application for Permit - Castle Creek No. 57-11794

This application falls within the "Trust Water" area and due to the amount of water applied for we are not able to proceed. The priority date of the Castle Creek right you have offered for mitigation purposes is not suitable for mitigation. We suggest that you amend the application for diversion to storage outside of the irrigation season only (i.e. 11/16 to 2/28) and reduce the quantity applied for to 1.0 cfs. In reducing the amount of water and limiting the diversion period, there would not be trust water issues and mitigation would not be required.

Application for Transfer #1 North – 76738

We can proceed with the processing of this proposal. However, we find that in review of the government lot plats there are only 508.4 acres available within the permissible place of use (ppu) you have applied for. In light of this, you would only need to "move" 0.63 cfs of water and 31.4 acres of irrigation under Rt. 02-10332 to the north area. Since the changes would be a reduction in amounts, we will adjust the proposal as we process without an amended application being required.

Application for Transfer #2 South Snake – 76739

This application can be processed. After overlap review we find that there are a total of 2050.5 acres under the Snake River rights. Following removal of 31.4 acres (to cover the ppu in North Snake area) there will be a total of 2019.4 acres of water rights under the South Snake area. We also reviewed the government lot plats and find that the ppu

you propose only encompasses 2178 acres in size, rather than the 2193 you have proposed. Once again, we will be able to proceed with this proposal without an amended application since we can reduce the amounts applied for.

Application for Transfer #3 Castle Creek – 76740

We did find that we are in agreement with you as to the 1801 acres under Castle Creek water rights. However, this application is problematic. We cannot proceed with this proposal as submitted. The Castle Creek priority dates for these rights are junior to many senior rights on the creek. Water is frequently not available for the junior rights. Castle Creek is under Watermaster regulation. The Snake River is not under Watermaster control. Moving the Castle Creek point of diversion downstream to the full supply of water available in the Snake River is presumed to be an enlargement as follows: switching from a limited source with rights subject to early curtailment to an abundant source over which the Watermaster has no jurisdiction. If approved, use of water under the transfer could not be administered in a practical way to avoid enlargement and possible injury. We could allow a change to the 2178 acre ppu under these rights but not the change in point of diversion. You will need to amend this application before it can be considered for processing.

Please submit the amended applications discussed above for application processing to continue. You may seek additional time to provide the corrections by making a written request to delay processing. Your written response including the requested information, or a request for more time to seek the information, must be received within the next sixty (60) days. Without a timely reply, IDWR will issue a preliminary order to void or reject the applications that need to be amended. The application fees will not be refunded for rejected applications. A rejected application may be re-filed when adequate information can be provided.

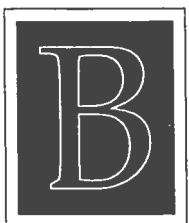
If you have any questions or concerns in regard to the above information, please feel free to contact me at (208)334-2190.

Sincerely,

A handwritten signature in black ink that reads "Kay Walker". The signature is fluid and cursive, with the first and last names clearly legible.

KAY WALKER  
Sr. Water Resource Agent

KW:K



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

Hydraulics

Hydrology

Water Resources

RECEIVED

AUG 09 2010

WATER RESOURCES  
WESTERN REGION

August 6, 2010

Mr. Steve Lester  
Idaho Department of Water Resources  
2735 Airport Way  
Boise, ID 83705-5082

Re: SV Ranch LLC / Re-submittal of permit and transfer applications  
Project No. 730-04-2010

Dear Steve:

Thank you for your prompt initial review of these applications. The two permit applications have been amended to use the current forms and to correct the clerical errors noted. Transfer application #2 (south area Snake River rights) has been amended to include a split of 37-10332, leaving 20.51 cfs and 1025.4 acres on the south area. Based on your comments it appears that Transfer applications #1 and #3 do not require any amendments at this time and are being re-submitted.

On the permit applications, the season of use for the diversion to storage component has been changed to 1/1-12/31. I recently spoke with the applicant's habitat consultant, and he would prefer to have water in the off season to maintain the wetlands as needed.

I understand the fee calculation to be as follows:

|                                      |                       |
|--------------------------------------|-----------------------|
| Permit – Snake River                 | \$250 for 0.9 cfs     |
| Permit – Castle Creek                | \$290 for 1.2 cfs     |
| Transfer #1 – North                  | \$570 for 8.12 cfs    |
| Transfer #2 – South Snake            | \$1,390 for 40.07 cfs |
| Transfer #3 – South Castle           | \$1,350 for 36.25 cfs |
| <b>TOTAL</b>                         | <b>\$3,850</b>        |
| Less previously submitted            | \$2,280               |
| <b>Balance paid with this letter</b> | <b>\$1,570</b>        |

Cordially,

Charles G. Brockway, P.E.

Enc. Amended applications

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

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082

PHONE: (208) 334-2190 FAX: (208) 334-2348 [www.idwr.idaho.gov](http://www.idwr.idaho.gov)

C.L. "BUTCH" OTTER, Governor  
GARY SPACKMAN, Interim Director

July 19, 2010

SV RANCH LLC  
C/O CHARLES G BROCKWAY P E  
BROCKWAY ENGINEERING PLLC  
2016 N WASHINGTON ST STE 4  
TWIN FALLS ID 83301

Re: Applications for Permit and Applications for Transfer

Dear Mr. Brockway:

The Idaho Department of Water Resources (IDWR) received five applications from you on behalf of SV Ranch LLC. A subsequent replacement page for the Castle Creek application for permit was also received. You provided a letter of explanation along with \$2,280 payment for filing fees.

This office typically does a quick "once over" for an application prior to receipting the payment for fees. Receipts are required to be issued within 24 hours of receiving payment, leaving little time to review an application thoroughly to decide if the application and payment should be returned or accepted and receipted. This arrangement sometimes results in applications that appear to be accepted because they have been receipted. Sometimes the applications are deficient and ideally would be returned prior to receipting along with a detailed explanation of application deficiencies and so forth.

Due to other constraints, this was not possible in this case. Without doing a complete review and analysis, I can provide the following comments.

Outdated 1999 application for permit forms were used. To amend either of those applications and for future reference for other applications for permit, please use current forms available on the IDWR website.

#### Snake River Application for Permit

The application lists a diversion rate of 0.90 cfs but a total rate of 0.06 cfs, which is not possible. A \$100 fee was paid, which covers up to 0.20 cfs. The application should be amended. Additional payment should be submitted if the rate will exceed 0.20 cfs.

SV Ranch LLC  
July 19, 2010  
Page 2

## Castle Creek Application for Permit

A similar rate problem exists: 1.2 cfs with a total of 1.0 cfs. A \$100 fee was paid. The diversion point on the original and corrected first page is incorrect (shows the river diversion point). The application should be amended. Additional payment should be submitted if the rate will exceed 0.20 cfs.

Presumably, the Castle Creek transfer application will mitigate for the proposed new use from this source and will cover any trust water concerns about not diminishing flows at Swan Falls by more than 2 acre-feet per day. It is possible these issues might need further attention later in the application process, but additional information is not requested at this time.

### Applications for Transfer

Three transfer applications were filed. A transfer is limited to a single system, regardless of the number of rights in the transfer. This means a right cannot be totally included in one transfer and partly included in another. However, a right can be split and made available for separate systems in separate transfers. Right 2-10332 is partly included in “transfer #1 north area” and totally listed in “transfer #2 south area Snake rights.”

Assume 0.68 cfs from 2-10332 in transfer #1 is correct. The \$570 fee for 8.12 cfs is correct. If transfer #1 is accurate, transfer #2 cannot be correct regarding right 2-10332.

A \$1510 fee was paid for transfers #2 and #3. Fee corrections are suggested as follows:

- Assume 0.68 cfs from 2-10332 is deleted from transfer #2. The rights in transfer #2 would total 40.07 cfs.
- The fee would be \$1390.
- The creek rights in transfer #3 total 36.25 cfs.
- The fee would be \$1350.
- Payment for transfers #2 and #3 is short \$1230 ( $\$1390 + \$1350 - \$1510$ ).

This includes all considerations of combined diversion rate limits in the rights being transferred.

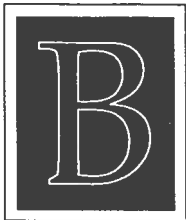
The applications are returned for revision and additional payment as needed. The entire \$2280 will be refunded if the corrected applications are not re-submitted within the next sixty (60) days. Please contact me at 208-334-2190 if you have any questions. Thank you for your attention to this matter.

Sincerely,

*John Lutz*

Steve Lester  
Water Rights Supervisor

Enclosure: 2 original applications for permit  
3 original applications for transfer



**BROCKWAY**  
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Hydraulics

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Water Resources

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JUL 07 2010

WATER RESOURCES  
WESTERN REGION

July 5, 2010

Mr. John Westra, Manager  
Idaho Department of Water Resources  
2735 Airport Way  
Boise, ID 83705-5082

Re: Transfer and Permit Applications – SV Ranch LLC  
Project No. 730-04-2010

Dear Mr. Westra:

Enclosed please find an application package containing three (3) transfer applications and two (2) permit applications. The applicant seeks to restructure irrigation rights to conform to present and proposed usage, and to allow the creation of three small wetland facilities for the purposes of wildlife enhancement. More details on the applications and the supporting hydrologic evaluations are provided in the attached narrative.

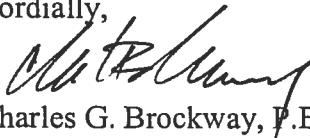
Application fees are enclosed as follows:

|                                                  |                |
|--------------------------------------------------|----------------|
| Permit applications (2)                          | \$200          |
| Transfer #1 (north area) – 8.1 cfs               | \$570          |
| Transfers #2 and #3 (south area) – 45 cfs (est.) | \$1,510        |
| <b>TOTAL</b>                                     | <b>\$2,280</b> |

Please note that the fee for Transfers #2 and #3 was based on the total estimated combined discharge limit for the Snake River and Castle Creek rights. Even though structured as two transfers, the flow rates are not additive and therefore it seems that the fee should be based on the actual flow limitation between all rights. If this is incorrect, please let me know.

Also please note that there appear to be a number of possible errors or inconsistencies with the combined-use conditions on the water rights that should be sorted out in the course of the transfer process.

Cordially,

  
Charles G. Brockway, P.E.

Cc: Greg Vik  
Rod Gonsales  
Jim Speck, Atty.

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BROCKWAY,  
PH.D., P.E.

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