

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCESAPPLICATION FOR TRANSFER OF WATER RIGHT
PART 1

RECEIVED

APR 19 2011

Department of Water Resources
Eastern RegionName of Applicant(s) Bradley Ward, Brittany Ward, Neal Ward, Shelley WardPhone: 208-684-5252Mailing Address: 673 N. 825 W. Blackfoot, Idaho 83221

Email: _____

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

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

- ☐ No Representative

Name of representative Robert L. HarrisPhone: 208-523-0620Mailing Address: PO Box 50130, Idaho Falls, Idaho 83405

Email: _____

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

OR

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

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

OR

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

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

Robert L. Harris
Signature of Applicant or Authorized Representative

ROBERT L. HARRIS, ATTORNEY
Print Name and Title if applicable

Signature of Applicant or Authorized Representative

Print Name and Title if applicable

A.

PURPOSE OF TRANSFER

1. ☒ Change point of diversion ☒ Add diversion point(s) ☒ Change Place of use
- ☐ Change nature of use ☐ Change period of use ☐ Other: _____

2. Describe your proposal in narrative form, including a detailed description of non-irrigation uses to justify amounts transferred (i.e. number of stock, etc.), and provide additional explanation of any other items on the application. Attach additional pages if necessary and label if part 1A.2. This transfer effectively only changes the points of diversion of 80 acres of water rights (Water Right Nos. 35-13968, 35-13965, and 35-13962) to cover acres to resolve a Notice of Violation. In the process, Applicants desire to add these water rights to existing water rights for a single place of use consistent with their current irrigation practices. This transfer will also fix inconsistent combined acreage limitations inadvertently made on the water right partial decrees in the SRBA.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCESAPPLICATION FOR TRANSFER OF WATER RIGHT
PART 1 ContinuedB. 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 (cfs/ac-ft)	Nature of Use	Period of Use	Source & Tributary
All or part					
✓ ☐	35-2314	6.56	Irrigation	4/1 to 10/31	Ground Water
✓ ☐	35-2441	3.94	Irrigation	4/1 to 10/31	Ground Water
✓ ☐	35-13601	.4	Irrigation	4/1 to 10/31	Ground Water
✓ ☐	35-13639	.68	Irrigation	4/1 to 10/31	Ground Water
✓ ☐	35-13968	.29	Irrigation	4/1 to 10/31	Ground Water
✓ ☐	35-13965	.59	Irrigation	4/1 to 10/31	Ground Water
✓ ☐	35-13968 <i>2 Ref</i>	.67	Irrigation	4/1 to 10/31	Ground Water

Total: 12.05 (combined) Ref ac-ft.
13.13 cfs and/or 12.05 Ref

2. Total amount of water being transferred or changed 13.13 Cubic feet per second and/or _____ acre-feet 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	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Source	Local name for diversion
No		NE	SW	NW	26	1S	34E	Bingham	Ground Water	
No		SW	SW	NE	35	1S	34E	Bingham	Ground Water	
No			SW	NW	35	1S	34E	Bingham	Ground Water	

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

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

Twp	Rge	Sec	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Acre Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
							SEE FOLLOWING PAGE												

Total Acres (for irrigation use) _____

PLACE OF USE LEGAL DESCRIPTION

TWP	RGE	SEC	NE 1/4			NW 1/4			SW 1/4			SE 1/4			TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
01S	34E	26			37	23.3		33.7	39.3	36.2	34.7	39.4	37.3	30.4	373.8
01S	34E	34	30	2.2	0.5	18					19.2	~~35~~		55	75.4
01S	34E	35		8.4	18.3		34.8	38.6	38.9	38.8	33.8	40	28.9	14.3	294.8
TOTAL IRRIGATED ACRES															744

77195

77195

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

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. Well and pumps have currently have measuring devices and lockable controlling works.

- b. Who owns the property at the point(s) of diversion? Applicants
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: The entity with the lien is Northwest Farm Credit Services. The type of lien is a mortgage. A notarized consent is attached.

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

- d. Describe the effect on the land now irrigated if the place or purpose of use is changed pursuant to this transfer: The place of use will change to cover violation acres. See Attachment 9.

- e. Describe the use of any other water right(s) for the same purpose or land, or the same diversion system as right(s) proposed to be transferred at both the existing and proposed point(s) of diversion and place(s) of use: 35-13963, 35-13966, 35-13939, and 35-7534B (owned by BLM).

- f. 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, or
- ☐ ☒ 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 Proof Report (obtained from Department) or Details Report (obtained from website @ <http://www.idwr.idaho.gov/apps/ExtSearch/SEarchWRAJ.asp>). Label it **Part 2A**

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.

Right Number _____

1. Amount _____ (cfs/ac-ft) for _____ Purposes from _____ to _____
 Amount _____ (cfs/ac-ft) for _____ Purposes from _____ to _____
 Amount _____ (cfs/ac-ft) for _____ Purposes from _____ to _____
 Amount _____ (cfs/ac-ft) for _____ Purposes from _____ to _____

2. Lands irrigated or place of use: (If irrigation, identify with number of acres irrigated per ¼ ¼ tract)

Twp	Rge	Sec	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Acre Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
			NOT APPLICABLE—ENTIRETY OF WATER RIGHTS ARE TO BE CHANGED																

Total Acres (for irrigation use) _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

**APPLICATION FOR TRANSFER OF WATER RIGHT
PART 3**

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

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

B. CHANGES IN NATURE OF USE (Water Balance)

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

C. PLACE OF USE CHANGES THE SUPPLEMENTAL IRRIGATION RIGHTS

- ☐ If you propose to change the place of use of a supplemental irrigation right, answer below and attach supporting documentation. Label it **Attachment #8b.**

1. Describe how the supplemental water rights have been used historically in conjunction with other water rights at the existing place of use. Describe the time during the irrigation season that the supplemental rights have been used. Include information about the availability or reliability of the primary right(s) being supplemented, both before and after the change. If the applicant is proposing to change a supplemental irrigation right to a primary right, provide the information required in Part 3B above.

N/A

FOR DEPARTMENT USE ONLY

Transfer contains _____	pages and _____	attachments.	
Received by: _____	Date: _____	Prelim. Check by _____	Date: _____
Fee paid: <u>730.00</u>	Date: <u>4/25/2011</u>	Received by: <u>Blm</u>	Receipt # <u>E036594</u>
Add'l fee paid _____	Date: _____	Received by _____	Receipt # _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

APR 19 2011

Department of Water Resources
Eastern RegionAPPLICATION FOR TRANSFER OF WATER RIGHT
MINIMUM REQUIREMENTS CHECKLIST

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 and water right proof report or details report for part 2A of the transfer application are available from any Department office or on the Department's website at <http://www.idwr.idaho.gov/>.

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

- | Yes | N/A | |
|--|-----|--|
| ✓ | * | Completed Application for Transfer of Water Right form, Part 1. |
| ✓ | * | Signature of Applicant(s) or applicant's authorized representative on Application for Transfer Part 1. Include evidence of authority labeled Attachment #3 (see below) if signed by representative. |
| ✓ | * | Application for Transfer Part 2A. Attach a Proof Report (obtained from Department) or Details report (Obtained on website) describing each water right in the transfer as currently recorded.
Complete and attached an Application for Transfer Part 2B <u>for each water right</u> for which <u>only a portion</u> 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 <u>not</u> 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: <u>Notice of Violation documents.</u> |

**Attachment No. 2a
Water Right Ownership
Documentation**

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

2/22/2011

WATER RIGHT NO. 35-2314

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	DE LOY Z WARD
Current Owner	NEAL D WARD
Current Owner	SHELLY M WARD
Current Owner	VIOLA J WARD
	1305 S 200 E
	REXBURG, ID 83440
	(208)356-5190
Original Owner	BOYD E WILLIAMS
	374 E SANDHILL RD
	BLACKFOOT, ID 83221
	(208)785-6416
Original Owner	KEY BANK OF IDAHO
	802 W BANNOCK ST
	PO BOX 2757
	BOISE, ID 83701
	(208)334-7155

Priority Date: 03/26/1953

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
GROUND WATER	

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	4/01	10/31	6.56 CFS	
Total Diversion			6.56 CFS	

77195

Location of Point(s) of Diversion:

GROUND WATER	NESWNW	Sec. 26	Township 01S	Range 34E	BINGHAM County
GROUND WATER	SWSWNE	Sec. 35	Township 01S	Range 34E	BINGHAM County
GROUND WATER	SWNW	Sec. 35	Township 01S	Range 34E	BINGHAM County

IRRIGATION Use:

Acre Limit: 410

Place(s) of use:

Place of Use Legal Description: IRRIGATION BINGHAM County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
01S	34E	26		SWNE	3									
				NWNW	6		SWNW	40		SENW	34			
				NESW	38		NWSW	40		SWSW	39		SESW	20
				NWSE	6									
		34		NENE	17		SENE	20						
				NESE	18		SESE	4						
		35		NWNE	12		SWNE	22						
				NENW	36		NWNW	40		SWNW	37		SENW	40
				NESW	40		NWSW	40		SWSW	25		SESW	10
				NWSE	20									

Total Acres: 607

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.		USE OF THIS RIGHT WITH RIGHT NO. 35-02441 IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 10.50 CFS AND TO A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 2428 AF.
3.		USE OF THIS RIGHT WITH RIGHT NO. 35-02441 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 607 ACRES IN A SINGLE IRRIGATION SEASON. THIS RIGHT IS LIMITED TO THE IRRIGATION OF 410 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.
4.		RIGHT NO. 35-02441 IS ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED

		ABOVE.
5.	C05	RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.
6.	C03	RIGHT INCLUDES ACCOMPLISHED CHANGE IN POINT OF DIVERSION PURSUANT TO SECTION 42-1425, IDAHO CODE.

Dates:

Licensed Date:

Decreed Date: 10/22/2009

Permit Proof Due Date:

Permit Proof Made Date:

Permit Approved Date:

Permit Moratorium Expiration Date:

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal: S

Owner Name Connector: And

Water District Number: 120

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Combined Acres Limit: 607

Combined Volume Limit: 2428

Combined Rate Limit: 10.5

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

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

2/22/2011

WATER RIGHT NO. 35-2441

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	DE LOY Z WARD
Current Owner	NEAL D WARD
Current Owner	SHELLY M WARD
Current Owner	VIOLA J WARD
	1305 S 200 E
	REXBURG, ID 83440
	(208)356-5190
Original Owner	BOYD E WILLIAMS
	374 E SANDHILL RD
	BLACKFOOT, ID 83221
	(208)785-6416
Original Owner	KEY BANK OF IDAHO
	802 W BANNOCK ST
	PO BOX 2757
	BOISE, ID 83701
	(208)334-7155

Priority Date: 10/21/1955

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
GROUND WATER	

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	4/01	10/31	3.94 CFS	
Total Diversion			3.94 CFS	

77 195

Location of Point(s) of Diversion:

GROUND WATER	NESWNW	Sec. 26	Township 01S	Range 34E	BINGHAM County
GROUND WATER	SWSWNE	Sec. 35	Township 01S	Range 34E	BINGHAM County
GROUND WATER	SWNW	Sec. 35	Township 01S	Range 34E	BINGHAM County

IRRIGATION Use:

Acre Limit: 197

Place(s) of use:

Place of Use Legal Description: IRRIGATION BINGHAM County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
01S	34E	26		SWNE	3									
				NWNW	6		SWNW	40		SENE	34			
				NESW	38		NWSW	40		SWSW	39		SESW	20
				NWSE	6									
		34		NENE	17		SENE	20						
				NESE	18		SESE	4						
		35		NWNE	12		SWNE	22						
				NENW	36		NWNW	40		SWNW	37		SENE	40
				NESW	40		NWSW	40		SWSW	25		SESW	10
				NWSE	20									

Total Acres: 607

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.		USE OF THIS RIGHT WITH RIGHT NO. 35-02314 IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 10.50 CFS AND TO A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 2428 AF.
3.		USE OF THIS RIGHT WITH RIGHT NO. 35-02314 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 607 ACRES IN A SINGLE IRRIGATION SEASON. THIS RIGHT IS LIMITED TO THE IRRIGATION OF 197 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.
4.	C03	RIGHT INCLUDES ACCOMPLISHED CHANGE IN POINT OF DIVERSION PURSUANT TO

77195

		SECTION 42-1425, IDAHO CODE.
5.	C05	RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.
6.		RIGHT NO. 35-02314 IS ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE.

Dates:

Licensed Date:

Decreed Date: 10/22/2009

Permit Proof Due Date:

Permit Proof Made Date:

Permit Approved Date:

Permit Moratorium Expiration Date:

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal: S

Owner Name Connector: And

Water District Number: 120

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Combined Acres Limit: 607

Combined Volume Limit: 2428

Combined Rate Limit: 10.5

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

77 195

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report

2/22/2011

WATER RIGHT NO. 35-13601

Owner Type	Name and Address
Current Owner	DE LOY Z WARD
Current Owner	NEAL D WARD
Current Owner	SHELLY M WARD
Current Owner	VIOLA J WARD
	1305 S 200 E
	REXBURG, ID 83440
	(208)356-5190

Priority Date: 04/01/1984

Basis: Decreed

Status: Active

Source	Tributary
GROUND WATER	

Beneficial Use	From	To	Diversion Rate	Volume
IRRIGATION	04/01	10/31	0.4 CFS	
Total Diversion			0.4 CFS	

Location of Point(s) of Diversion:

GROUND WATER	NESWNW	Sec. 26	Township 01S	Range 34E	BINGHAM County
GROUND WATER	SWSWNE	Sec. 35	Township 01S	Range 34E	BINGHAM County
GROUND WATER	SWNW	Sec. 35	Township 01S	Range 34E	BINGHAM County

IRRIGATION Use:

Acre Limit: 23

77195

Place(s) of use:

Place of Use Legal Description: IRRIGATION BINGHAM County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
01S	34E	26		SWNE	3									
				NWNW	6		SWNW	40		SENE	20			
				NESW	38		NWSW	40		SESE	4		SESW	20
				NWSE	6									
		34		NENE	40		SENE	20						
				NESE	18		SESE	4						
		35		NWNE	12		SWNE	22						
				NENW	36		NWNW	40		SWNW	37		SENE	40
				NESW	40		NWSW	40		SWSW	25		SESW	10
				NWSE	20									

Total Acres: 630

Conditions of Approval:

1.	E56	The rights listed below are limited to the irrigation of a combined total of 630 acres in a single irrigation season. Combined Right Nos.:35-2314, 35-2441, 35-13601.
2.	K09	This right is for an enlargement of 23 acres and 92.0 AF within the place of use described for this right.
3.	K02	This right is based upon an enlargement of Right Nos. 35-2314 and 35-2441 pursuant to Section 42-1426, Idaho Code.
4.	E60	Right Nos. 35-2314, 35-2441 and 35-13601 are limited to a total combined diversion rate of 10.5 cfs and to a total combined annual diversion volume of 2520 AF.
5.	C11	This water right is subordinate to all water rights with a priority date earlier than April 12, 1994, that are not decreed as enlargements pursuant to Section 42-1426, Idaho Code. As between water rights decreed as enlargements pursuant to Section 42-1426, Idaho Code, the earlier priority right is the superior right.
6.	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.

Dates:

Licensed Date:

Decreed Date: 10/22/2009

Enlargement Use Priority Date:

Enlargement Statute Priority Date: 4/12/1994

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

77195

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal:

Owner Name Connector: Or

Water District Number: 120

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

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

2/22/2011

WATER RIGHT NO. 35-13639

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	DE LOY Z WARD
Current Owner	NEAL D WARD
Current Owner	SHELLY M WARD
Current Owner	VIOLA J WARD
	1305 S 200 E
	REXBURG, ID 83440
	(208)356-5190
Attorney	ROBERT L HARRIS
	HOLDEN KIDWELL HAHN & CRAPO
	PO BOX 50130
	IDAHO FALLS, ID 83405-0130
	(208)523-0620

Priority Date: 04/01/1987

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
GROUND WATER	

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/01	10/31	0.68 CFS	136 AFA
Total Diversion			0.68 CFS	

Location of Point(s) of Diversion:

GROUND WATER	NESWNW	Sec. 26	Township 01S	Range 34E	BINGHAM County
--------------	--------	---------	--------------	-----------	----------------

77 195

GROUND WATER	SWSWNE	Sec. 35	Township 01S	Range 34E	BINGHAM County
GROUND WATER	SWNW	Sec. 35	Township 01S	Range 34E	BINGHAM County

Place(s) of use:

Place of Use Legal Description: IRRIGATION BINGHAM County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
01S	34E	26		SWNE	3									
				NWNW	40		SWNW	40		SENW	34			
				NESW	38		NWSW	40		SWSW	39		SESW	20
				NWSE	6									
		34		NENE	40		SENE	20						
				NESE	18		SESE	4						
		35		NWNE	12		SWNE	22						
				NENW	36		NWNW	40		SWNW	37		SENW	40
				NESW	40		NWSW	40		SWSW	25		SESW	10
				NWSE	20									

Total Acres: 664

Conditions of Approval:

1.	K09	This right is for an enlargement of 34 acres within the place of use described for this right.
2.	C18	This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.
3.	C11	This water right is subordinate to all water rights with a priority date earlier than April 12, 1994, that are not decreed as enlargements pursuant to Section 42-1426, Idaho Code. As between water rights decreed as enlargements pursuant to Section 42-1426, Idaho Code, the earlier priority right is the superior right.
4.	K02	This right is based upon an enlargement of Right Nos. 35-2314 and 35-2441 pursuant to Section 42-1426, Idaho Code.
5.	E56	The rights listed below are limited to the irrigation of a combined total of 664 acres in a single irrigation season. Combined Right Nos.: 35-2314, 35-2441, 35-13601 and 35-13639.
6.	E60	Right Nos. 35-2314, 35-2441, 35-13601 and 35-13639 are limited to a total combined diversion rate of 10.5 cfs and to a total combined annual diversion volume of 2656 AF.
7.	F06	The following rights are also diverted through point(s) of diversion described above: 35-2314, 35-2441 and 35-13601.

Dates:

Licensed Date:

Decreed Date: 10/22/2009

Enlargement Use Priority Date:

77195

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

2/22/2011

WATER RIGHT NO. 35-13968

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	DE LOY Z WARD
Current Owner	NEAL D WARD
Current Owner	SHELLY M WARD
Current Owner	VIOLA J WARD
	1305 S 200 E
	REXBURG, ID 83440
	(208)356-5190
Original Owner	JAMES D WHEELER
	693 W 700 N
	BLACKFOOT, ID 83221
	(208)684-4775

Priority Date: 06/07/1957

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
GROUND WATER	

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/01	11/01	0.29 CFS	57.3 AFA
Total Diversion			0.29 CFS	

Location of Point(s) of Diversion:

77195

GROUND WATER	SWNWNE	Sec. 25	Township 01S	Range 34E	BINGHAM County
GROUND WATER	SWNWSW	Sec. 25	Township 01S	Range 34E	BINGHAM County

IRRIGATION Use:

Acre Limit: 14.3

Place(s) of use:

Place of Use Legal Description: IRRIGATION BINGHAM County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
01S	34E	26		SENE	40									
				NESE	40									

Total Acres: 80

Conditions of Approval:

1.		USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 320 AF, COMBINED RIGHT NOS.: 35-13962 AND 35-13965.
2.		USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 80 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 35-13962 AND 35-13965. THIS RIGHT IS LIMITED TO THE IRRIGATION OF 14.3 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.
3.		THE FOLLOWING RIGHTS ARE ALSO DIVERTED THROUGH POINTS OF DIVERSION DESCRIBED ABOVE: 35-13677, 35-13679, 35-13681, 35-07534B, 35-13961, 35-13962, 35-13963, 35-13964, 35-13965, 35-13966, 35-13967, 35-13968, 35-13969.
4.	C18	THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(6), IDAHO CODE.

Dates:

Licensed Date:

Decreed Date: 05/20/2002

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

77195

Water Supply Bank Enrollment Date Removed:
Application Received Date:
Protest Deadline Date:
Number of Protests: 0

Other Information:

State or Federal: S
Owner Name Connector: And
Water District Number: 120
Generic Max Rate per Acre: 0.02
Generic Max Volume per Acre: 3.5
Civil Case Number:
Old Case Number:
Decree Plaintiff:
Decree Defendant:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Cary Act Number:
Mitigation Plan: False

Close

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

2/22/2011

WATER RIGHT NO. 35-13965

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	DELOY Z WARD
Current Owner	NEAL D WARD
Current Owner	SHELLY M WARD
Current Owner	VIOLA J WARD
	1305 S 200 E
	REXBURG, ID 83440
	(208)356-5190
Original Owner	JAMES D WHEELER
	693 W 700 N
	BLACKFOOT, ID 83221
	(208)684-4775

Priority Date: 02/24/1953

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
GROUND WATER	

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/01	10/31	0.59 CFS	127.8 AFA
Total Diversion			0.59 CFS	

Location of Point(s) of Diversion:

77195

GROUND WATER	SEWNNE	Sec. 25	Township 01S	Range 34E	BINGHAM County
GROUND WATER	SWNWSW	Sec. 25	Township 01S	Range 34E	BINGHAM County

IRRIGATION Use:

Acre Limit: 32

Place(s) of use:

Place of Use Legal Description: IRRIGATION BINGHAM County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
01S	34E	26		SENE	40									
				NESE	40									

Total Acres: 80

Conditions of Approval:

1.		USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 320 AF. COMBINED RIGHT NOS.: 35-13968 AND 35-13962.
2.		THE FOLLOWING RIGHTS ARE ALSO DIVERTED THROUGH POINTS OF DIVERSION DESCRIBED ABOVE: 35-13677, 35-13679, 35-13681, 35-07534B, 35-13961, 35-13962. 35-13963, 35-13964, 35-13965, 35-13966, 35-13967, 35-13968, 35-13969.
3.	C18	THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(6), IDAHO CODE.
4.		USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 80 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 35-13968 AND 35-13962. THIS RIGHT IS LIMITED TO THE IRRIGATION OF 32 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

Dates:

Licensed Date:

Decreed Date: 04/30/2002

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

77195

Water Supply Bank Enrollment Date Removed:
Application Received Date:
Protest Deadline Date:
Number of Protests: 0

Other Information:

State or Federal: S
Owner Name Connector: And
Water District Number: 120
Generic Max Rate per Acre: 0.02
Generic Max Volume per Acre: 3.5
Civil Case Number:
Old Case Number:
Decree Plaintiff:
Decree Defendant:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Cary Act Number:
Mitigation Plan: False

Close

77 19 5

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

2/22/2011

WATER RIGHT NO. 35-13962

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	DELOY Z WARD
Current Owner	NEAL D WARD
Current Owner	SHELLY M WARD
Current Owner	VIOLA J WARD
	1305 S 200 E
	REXBURG, ID 83440
	(208)356-5190
Original Owner	JAMES D WHEELER
	693 W 700 N
	BLACKFOOT, ID 83221
	(208)684-4775

Priority Date: 08/04/1979

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
GROUND WATER	

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/01	10/31	0.67 CFS	
Total Diversion			0.67 CFS	

Location of Point(s) of Diversion:

GROUND WATER	SWNWNE	Sec. 25	Township 01S	Range 34E	BINGHAM County
GROUND WATER	SWNWSW	Sec. 25	Township 01S	Range 34E	BINGHAM County

Place(s) of use:

Place of Use Legal Description: IRRIGATION BINGHAM County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
01S	34E	26		SENE	40									
				NESE	40									

Total Acres: 80

Conditions of Approval:

1.		USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 320 AF. COMBINED RIGHT NOS.: 35-13965 AND 35-13968.
2.		USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 80 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHTS: 35-13965, 35-13968
3.	C18	THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(6), IDAHO CODE.
4.		THE FOLLOWING RIGHTS ARE ALSO DIVERTED THROUGH POINTS OF DIVERSION DESCRIBED ABOVE: 35-13677, 35-13679, 35-13681, 35-07534B, 35-13961, 35-13962, 35-13963, 35-13964, 35-13965, 35-13966, 35-13967, 35-13968, 35-13969.

Dates:

Licensed Date:

Decreed Date: 05/20/2002

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

77195

Other Information:

State or Federal: S

Owner Name Connector: And

Water District Number: 120

Generic Max Rate per Acre: 0.02

Generic Max Volume per Acre: 3.5

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

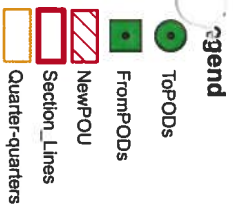
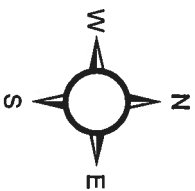
Attachment No. 6

Lien Holder Authorization

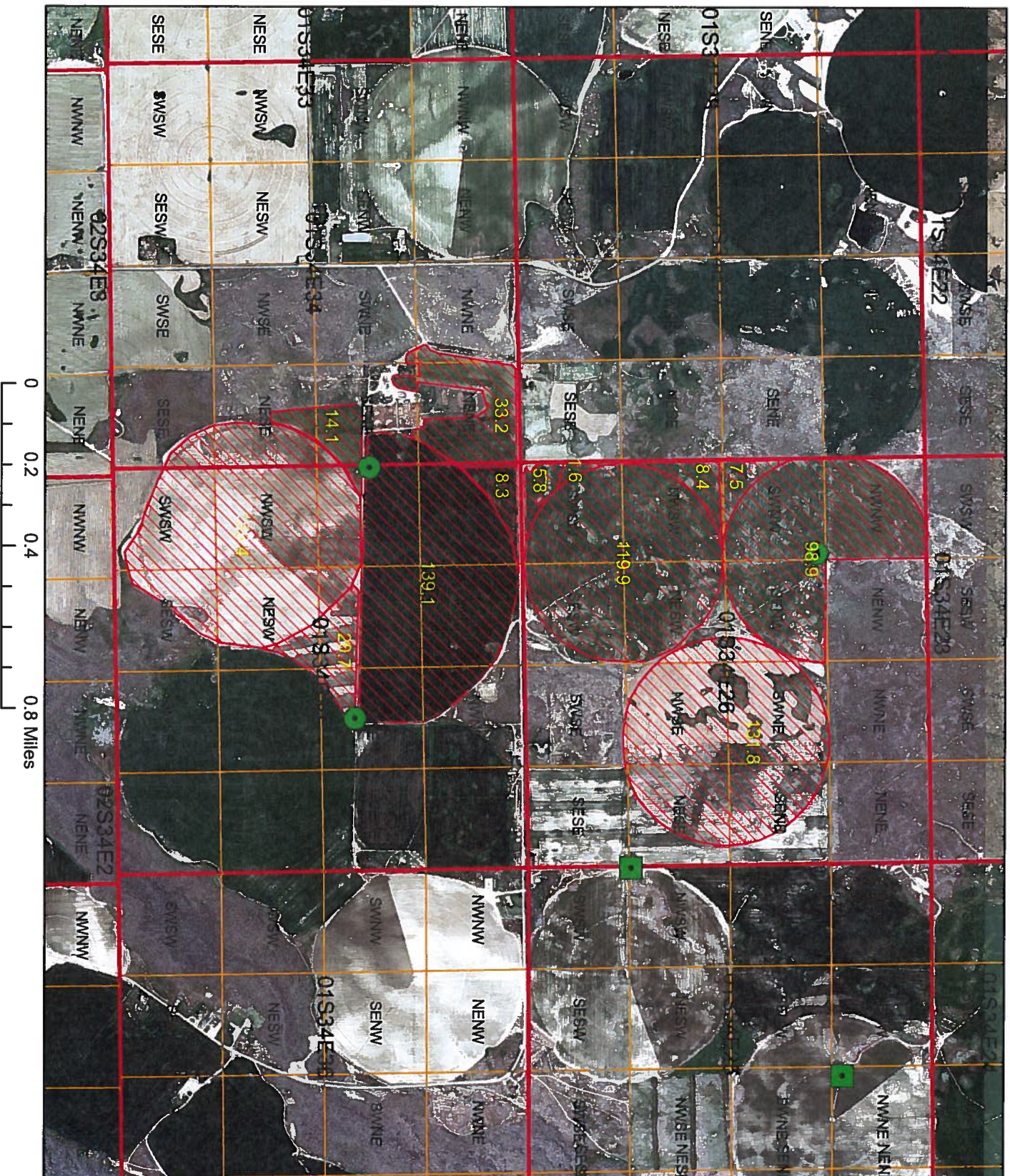
Attachment No. 7a

Map - Proposed POD

4W FARMS TRANSFER #2



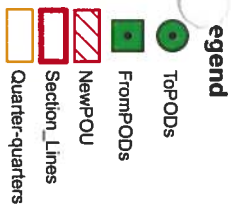
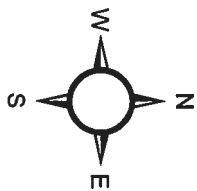
Prepared by:
Robert L. Harris
2009 Photo



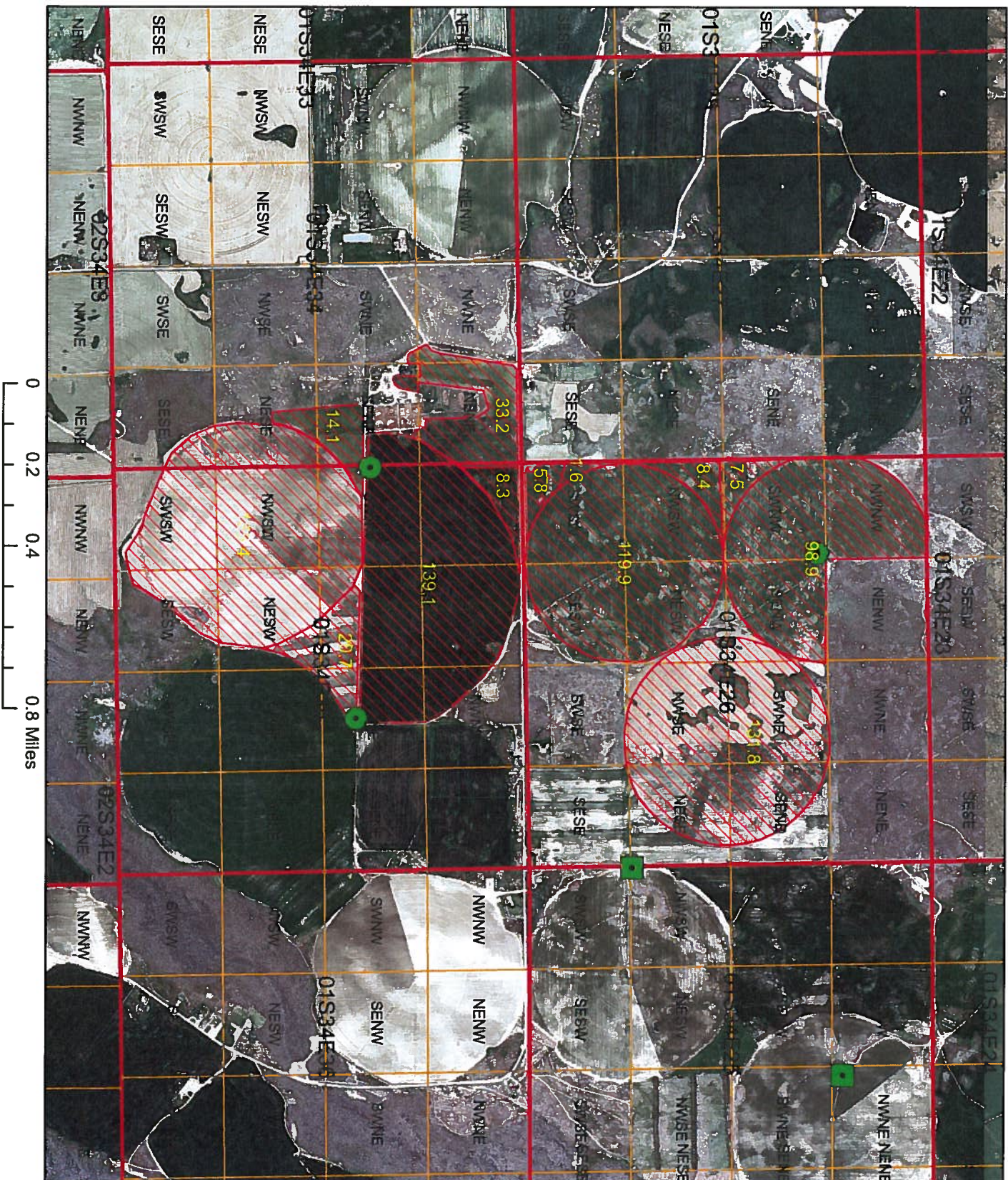
Attachment No. 7b

GIS Shape File

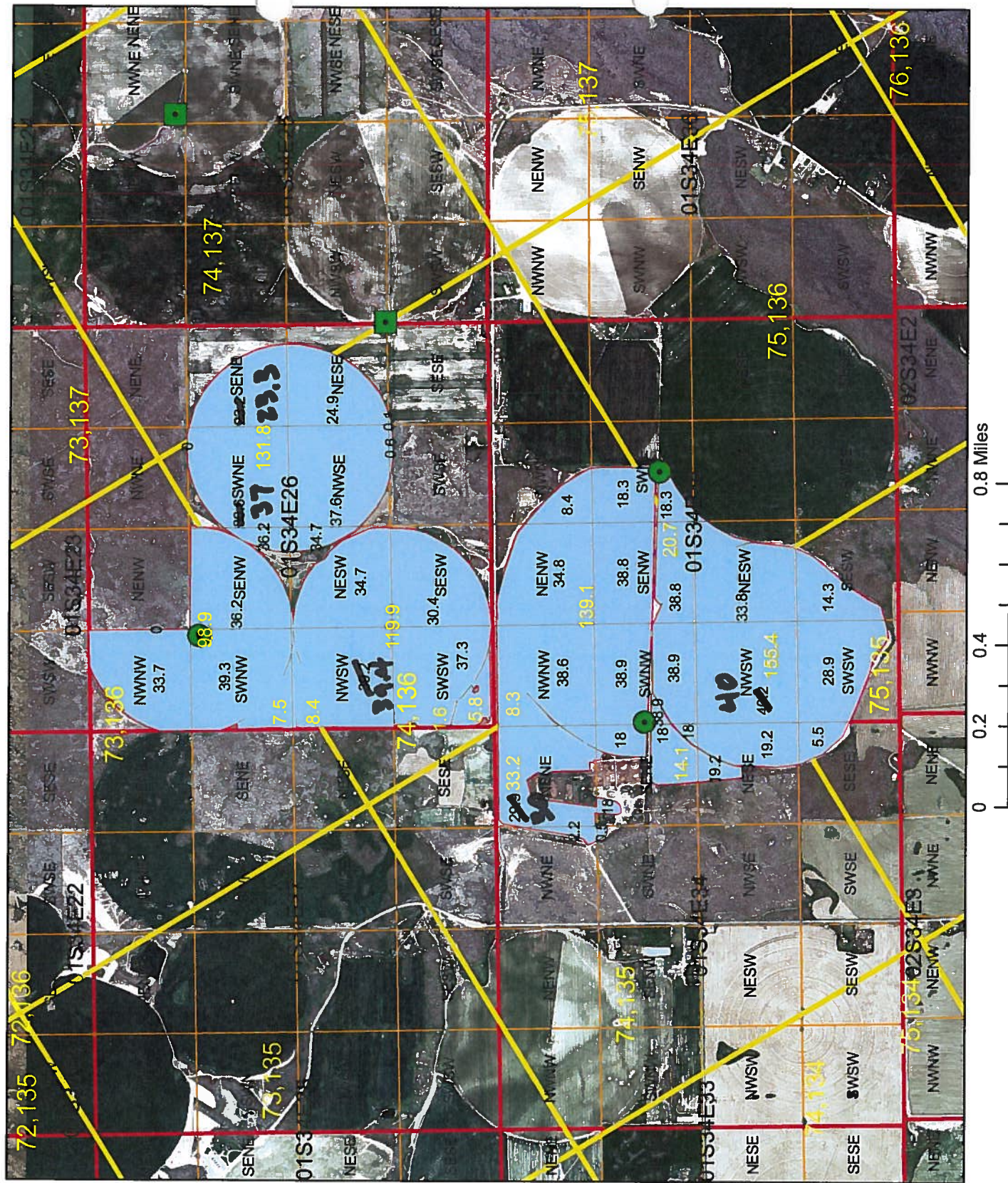
4W FARMS TRANSFER #2



Prepared by:
Robert L. Harris
2009 Photo



4W FARMS TRANSFER #2



Prepared by:
Robert L. Harris
2009 Photo

77,195



April 22, 2011

To: Idaho Department of Water Resources

From: Anthony A. Norton, Vice President and Relationship Manager, Commercial Lending, Northwest Farm Credit Services, FLCA

Subject: Transfer of Water Rights: 4W Farms—Bradley Ward, Brittany Ward, Neal Ward, and Shelley Ward.

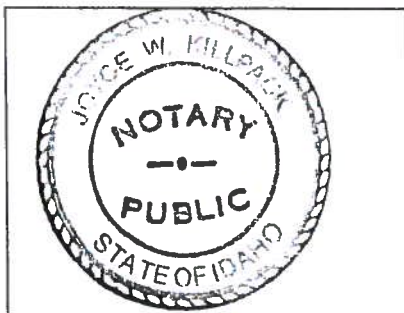
Northwest Farm Credit Services, FLCA is the mortgagor for property owned by the above individuals depicted on the attached map. This letter will serve to convey our consent to two water right transfers to address the notice of violation received by the above individuals. This consent does not release the security interest of Northwest Farm Credit Services, FLCA to the land or water rights at issue in the transfers, but merely consents to the amendment of these water rights to cover the currently irrigated acres on the depicted properties.

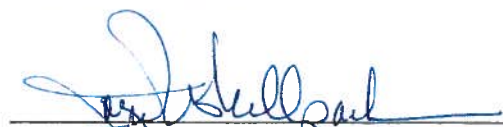

Northwest Farm Credit Services, FLCA

STATE OF IDAHO)
) ss.
COUNTY OF Bingham)

On this 22 day of April, 2011, before me personally appeared Anthony A Norton and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as authorized agent for Northwest Farm Credit Services, FLCA., to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: April 22, 2011




Notary Public
Print Name Joyce W Killpack
My commission expires 5/30/2014

77195

77 195



SWSE
SWSW
NNNW
NNW
SEW
ENE

33.2
14.1
8.3
139.1
20.7
1.6
5.8
119.9
58.9
7.5
8.4
101.8
14.3
13
6.6
5.8
100.9
12.6
100.5
10
37
131.4
36.6

0 0.2 0.4 0.8 Miles



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

10 COPY

C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

December 19, 2008

De Loy and Viola Ward
1305 South 2 East
Rexburg, ID 83440

CERTIFIED MAIL

RE: Notice of Violation, Violation of Idaho Code Section 42-351;

Dear Mr. and Ms. Ward:

The Idaho Department of Water Resources (Department) has determined that you were in violation in 2008 of Section 42-351, Idaho Code. The violation is associated with the unauthorized diversion of ground water for irrigation of approximately 96 acres of land located within the W1/2 of the NE1/4, SENW, E1/2 of the SW1/4, and NWSE of Section 26, NWNE, S1/2 of the NE1/4, E1/2 of SE1/4 of Section 34, S1/2 of SW1/4 of Section 35, Township 1 South (T1S), Range 34 East (R34E).

Water rights 35-2314, 35-2441, 35-13601, and 35-13639 allow for the irrigation of 656 acres in the SENE, W1/2 of the NW1/4, SWNW, SW1/4, NWSE of Section 26, E1/2 of NE1/4, E1/2 of SE1/4 of Section 34, W1/2 of NE1/4, NW1/4, SW1/4, and NWSE of Section 35, T1S, R34E. Based on review of 2007 satellite imagery, the Department determined that approximately 752 acres were irrigated on the lands described above resulting in a net irrigation expansion of 96 acres in 2008.

A Notice of Violation was issued for these lands on June 26, 2007. The June 26, 2007 Notice of Violation was resolved through a Consent Order and Agreement between De Loy Ward and the Department. This agreement was executed by De Loy Ward (Ward) on October 25, 2007, and by Tim Luke on behalf of the Department on November 14, 2007.

In section 1 of the November 14, 2007 Terms of Agreement, Ward agreed not to irrigate 113 acres in the SWNE, NWNW, SENW, NWSE, NESW, and SESW, of Section 26, T1S, R34E. Department records do show that Ward did file a late Snake River Basin Adjudication (SRBA) Claim that was subsequently recommended to for decree to the SRBA court by the Department for approximately 25 acres in the NWNW of Section 26 T1S R34E. However, there are no Department records that show that there are any water right transfers, water bank leases, or any other filings that would bring the 96 acres irrigated in 2008 into compliance.

In section 4 of the Terms of Agreement, the Department suspended payment of twenty-nine thousand, six hundred and eighty six dollars (\$29,686). It was also stated in the agreement that this penalty or any portion may be re-imposed for Ward's failure to fully comply with the terms of the agreement.

DEC 19 2008

77 195

The 96-acre irrigation expansion in 2008 constitutes a violation of Section 42-351, Idaho Code, illegal diversion of water without a water right. Under Section 42-1701B, Idaho Code, the Director of the Department may commence an administrative enforcement action to obtain a remedy for a violation and seek a civil penalty for irrigation use equal to three hundred dollars (\$300) annually for each acre irrigated in whole or in part, for water illegally used or diverted.

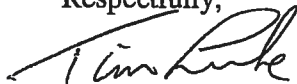
This letter provides formal notice of a violation of Section 42-351, Idaho Code. Pursuant to Section 42-1701B (2), Idaho Code, the Department requires that the following action be taken:

1. Immediately cease and desist further diversion to the 96 expansion acres in the W1/2 of the NE1/4, SENW, E1/2 of the SW1/4, and NWSE of Section 26, NWNE, S1/2 of the NE1/4, E1/2 of SE1/4 of Section 34, S1/2 of SW1/4 of Section 35, T1S, R34E until valid water rights or other authorization is attained from the Department.
2. Provide restitution to replace the amount of water illegally diverted from the Eastern Snake Plain Aquifer in 2008 by setting aside and curtailing diversion of ground water on a minimum of 96 acres during the 2009 irrigation season. A plan shall be submitted to the Department no later than January 15, 2009 that shows the location of the 96 acres that will be set-aside in 2009.
3. Re-impose the civil penalty for the 96 expansion acres irrigated in 2008 in the amount of twenty-eight thousand, eight hundred dollars (\$28,800), which is the maximum penalty authorized by law for an illegal diversion of water of this magnitude. The civil penalty shall be due and payable to the Department no later than January 15, 2009.
4. You shall have the opportunity to enter into a Consent Order and Agreement with the Department to remedy the violation and assure future compliance with the laws of the State of Idaho.

If you object to any provisions in this notice, you have the opportunity to schedule a compliance conference to discuss the violation with the Department. You must contact this office within 14 days of receipt of this notice to request a compliance conference.

If you have questions regarding this matter or if you wish to request a compliance conference, please call me directly at the office listed on this letterhead. I look forward to your prompt reply and a final resolution of this matter.

Respectfully,



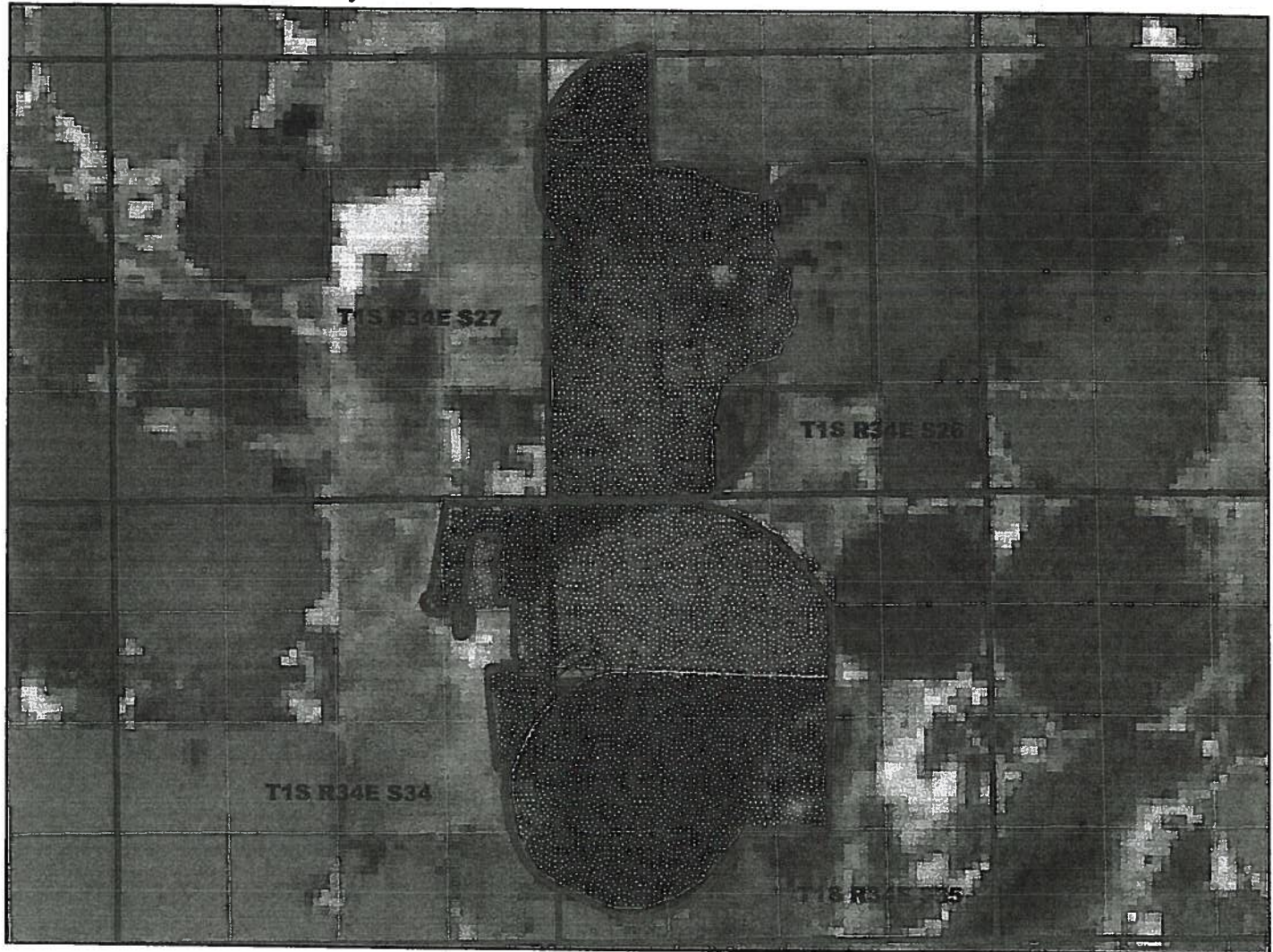
Tim Luke
Manager, Water Distribution Section

Attachment: Map

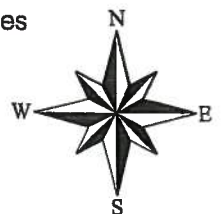
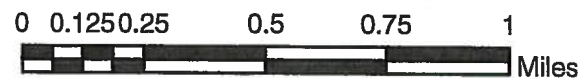
Cc Ernie Carlsen, Water District 120 Watermaster
John Homan, Idaho Deputy Attorney General
Rob Harris, Attorney for Deloy Ward

34E W3/4 OF 26, E1/2 OF NE1/4 OF 27,
 NWNE AND W1/4 OF S34, AND W3/4 OF S35
 TAX LOT OWNER - UNKNOWN*
 WATER RIGHT OWNER: DELOY, VIOLA, AND SHELLY WARD
 IRRIGATED GROUND IN 2008

* Per Current Available County Parcel Data



-  LANDS IRRIGATED
-  BORDERS OF 35-2314, 35-2441,
35-13601, AND 35-13639
-  Sections
-  Quarter Quarter



Imagery: 2008 LandSat Photo

Map Prepared by
 Dan Nelson
 12/16/2008

Source: Water District No. 120 and
 Idaho Department of Water Resources

Please Note: It appears as though 752 acres were irrigated in
 2008. Water rights 35-2314, 35-2441, 35-13601, and 35-13639
 allow a total of 656 acres of irrigation. There is approximately 96
 acres irrigated without a water right.



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

April 09, 2009

De Loy & Viola Ward
1305 South 2 East
Rexburg, Id 83440

Re: Consent Order & Agreement dated December 19, 2008

Dear Mr. and Mrs. Ward,

I am in receipt of the Consent Order and Agreement that you executed on March 31, 2009 as well as the civil penalty in the amount of five thousand three hundred seventy six (\$5,376.00) that you paid regarding the Notice of Violation dated December 19, 2008. Please find attached a copy of the agreement that I have executed on behalf of the Idaho Department of Water Resources and a receipt in the amount of five thousand three hundred seventy six (\$5,376.00). The Department appreciates your cooperation in this matter.

Please contact me directly at 208-287-4959 if you have any further concerns or questions regarding this matter.

Respectfully,

Tim Luke
Water Distribution Section

Enclosure: Signed Copy of Consent Order and Agreement
Receipt for Payment of \$5,376.00 Penalty

Cc: Ernie Carlsen, Water District 110 Watermaster
John Homan, Idaho Deputy Attorney General
Rob Harris, Attorney for De Loy & Viola Ward

APR 13 2009

77195



Holden Kidwell
Hahn & Crapo P.L.L.C.
L A W O F F I C E S

1000 Riverwalk Drive, Suite 200
PO Box 50130
Idaho Falls, Idaho 83405

RECEIVED

APR 03 2009

DEPARTMENT OF
WATER RESOURCES
April 1, 2009

Tel: (208) 523-0620
Fax: (208) 523-9518
www.holdenlegal.com
E-mail: rharris@holdenlegal.com

Tim Luke
Idaho Department of Water Resources
PO Box 83720
Boise, ID 83720-0098

RE: Executed Consent Order and Agreement by 4W Farms.

Dear Tim:

Enclosed is an original signed Consent Order and Agreement relating to the Notice of Violation issued to 4W Farms on December 19, 2008. Consistent with that order, enclosed is a check in the amount of \$5,376.00. We anticipate filing an Application for Transfer within the next month, and additionally have submitted as of this date, applications for lease to and from the Water Supply Bank. Copies of those lease documents are enclosed, but the originals have been sent to Aaron Marshall of your office. As contained in the agreement, once a Water Supply Bank lease is approved, and a transfer is approved, the Department will refund \$2,376.00.

The violation issued to 4W Farms indicated that there was an expansion of 96 acres. At this point, we do not propose to challenge the violation on that basis. However, we do wish to point out that the Amended Director's Report for Water Right No. 35-13639, which depicts the place of use that all of the Partial Decrees will likely eventually have, allows for the irrigation of 664 acres. In your Notice of Violation, you indicated that there was a total place of use of 656 acres. Now that the place of use has been increased by 8 acres, the Water Bank lease is only an attempt to lease 88 acres worth of water rights. Again, we are not challenging the imposition of the penalty as to the 96 acres because at the time, they were not authorized. However, we wanted to explain why the lease documents only purport to cover 88 acres.

We appreciate your kind assistance with this matter. If you have any questions or concerns, please let me know.

Best Regards,

Robert L. Harris
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

Enclosures

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO
CONSENT ORDER AND AGREEMENT

RECEIVED
APR 03 2009
DEPARTMENT OF
WATER RESOURCES

In the matter of Notice of Violation and Cease and Desist Order dated December 19, 2008 issued to De Loy and Viola Ward pursuant to Section 42-1701B, Idaho Code.

Findings of Fact

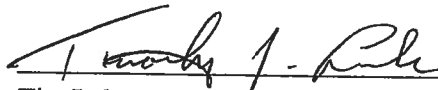
- 1) De Loy and Viola Ward (Ward) were issued a Notice of Violation (NOV) on June 26, 2007. Ward entered into a Consent Order and Agreement with the Idaho Department of Water Resources (Department) on October 25, 2007 to resolve the June 26, 2007 NOV. The Consent Order and Agreement was executed by the Department on November 14, 2007. In the Consent Order and Agreement, Ward agreed to cease the irrigation of 113 acres until valid water rights were obtained or transferred to the property in question. Ward provided restitution for a portion of the lands, and paid a penalty of four thousand, two hundred and fourteen dollars (\$4,214). The Department suspended twenty-nine thousand, six hundred and eighty six dollars (\$29,686) of the original amount sought in the June 26, 2007 Notice of Violation.
- 2) On December 19, 2008, a second NOV was issued by the Department for the unauthorized irrigation of 96 acres out of the 113 acres described in the November 14, 2007 Consent Order and Agreement. The Department determined that Ward irrigated 752 acres located in W1/2 of the NE1/4, SENW, E1/2 of the SW1/4, and NWSE of Section 26, NWNE, S1/2 of the NE1/4, E1/2 of SE1/4 of Section 34, S1/2 of SW1/4 of Section 35, Township 1 South (T1S), Range 34 East (R34E). Water rights 35-2314, 35-2441, 35-13601, and 35-13639 allow for the irrigation of 656 acres in the SENE, W1/2 of the NW1/4, SWNW, SW1/4, NWSE of Section 26, E1/2 of NE1/4, E1/2 of SE1/4 of Section 34, W1/2 of NE1/4, NW1/4, SW1/4, and NWSE of Section 35, T1S, R34E. The irrigation of 742 acres in 2008 resulted in a net enlargement of 96 acres. The Department re-imposed a civil penalty for the 96 expansion acres irrigated in 2008 in the amount of twenty-eight thousand, eight hundred dollars (\$28,800).
- 3) On January 14, 2009, a compliance conference was held with Ward, Ward's representative Rob Harris, and Department staff. Several issues were discussed in the compliance conference, but further follow-up was required by both parties before an agreement could be reached. During the compliance conference, Mr. Harris claimed that his understanding of the agreement allowed Ward to continue to irrigate the 113 acres as long as he was actively seeking a transfer.
- 4) Through subsequent emails and telephone communications, Ward, Mr. Harris, and the Department agreed that Ward would cease further irrigation of the 96 acres until a water supply bank lease was acquired for the property. Ward also agreed to file a water transfer to cover the property in Finding 2 with valid water rights. Ward further agreed to pay a civil penalty of five thousand, three hundred and seventy-six dollars (\$5,376), and the Department agreed to refund two thousand, three hundred and seventy-six dollars (\$2,376) contingent on Ward obtaining an approved water supply bank lease in 2009 to cover any irrigation of the 96 acres in 2009, and upon obtaining an approved water right transfer within two years.

It is hereby ordered and agreed that:

Terms of Agreement

- 1) Ward agrees to cease irrigation of a total of 96 acres within the E1/2 of the NE1/4, NWSE, E1/2 of the SW1/4, and the SENE of Section 1, T1S, R34E unless valid water rights are secured pursuant to an approved water supply bank rental and lease, water right transfer or other **written** authorization is obtained from the Department.
- 2) Payment of an agreed civil penalty in the amount of five thousand, three hundred and seventy-six dollars (\$5,376) is payable to the Idaho Department of Water Resources within twenty-one days (21) days of the execution of this agreement for the violation identified in the NOV dated December 19, 2008. The Department agrees to refund two thousand, three hundred, seventy-six dollars (\$2,376) of this penalty if a water right transfer to move water rights to the lands described in Findings 2 has been approved within a two year period, and an approved water supply bank lease has been maintained on the lands described in Finding 2 until the water right transfer has been approved,.
- 3) The Department suspends payment of twenty-three thousand, four hundred and twenty-four dollars (\$23,424) civil penalty, which is the remaining maximum penalty authorized by law for an illegal diversion of approximately 96 acres less the amount identified in Term 2 above. This penalty or any portion may be re-imposed for Ward's failure to fully comply with the terms of this agreement.
- 4) This agreement does not limit the Department or the Watermaster of Water District No. 120 to seek future compliance or regulation of said water use for other issues not directly related to the NOV's dated June 26, 2007 and December 19, 2008.

Dated this 9th day of April, 2009

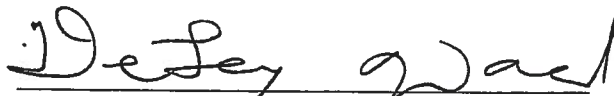


Tim Luke, Manager
Water Distribution Section
Idaho Department of Water Resources

CONSENT

Respondent acknowledges, in general, the facts set forth during the conference and accepts fully the terms and conditions of this Order. These terms shall become effective upon execution by the parties. Respondent waives any right to contest this Order and consents to the issue hereof.

Signed this 31st day of MARCH, 2009


De Loy or Viola Ward

Idaho Department of Water Resources Receipt

Receipt ID: C088397

Payment Amount \$5,376.00 Date Received 4/3/09 11:41 Region STATE
Payment Type Check Check Number 4724
Payer 4 W FARMS, DELOY WARD OR NEAL WARD

Comments Notice of Violation

Fee Details

Amount	Description	Fund	Fund Detail	PCA	Subobject
\$5,376.00	WATER RIGHT ENFORCEMENT	0229	22	55506	1315

SR7

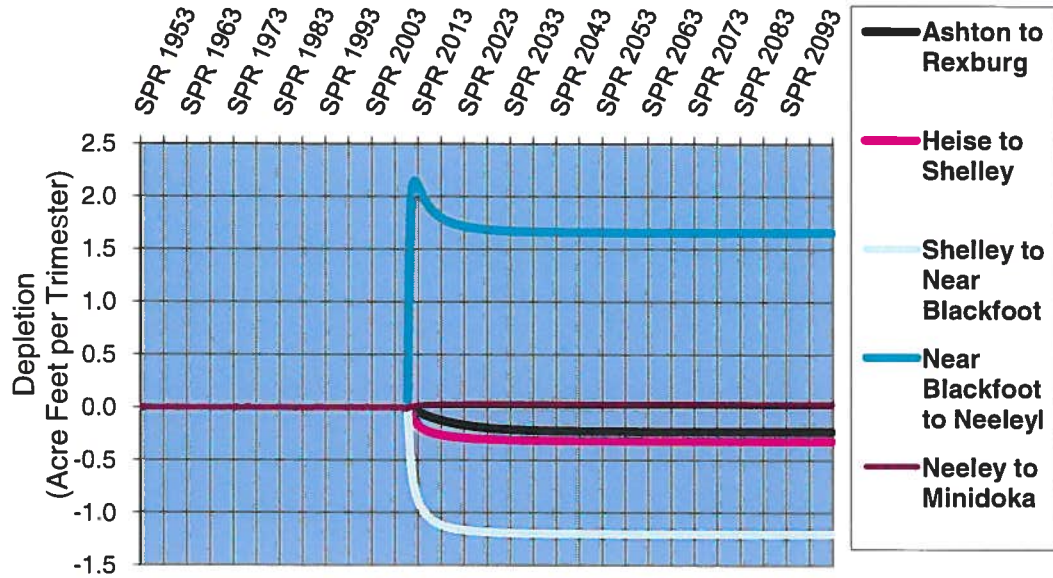
Signature Line (Department Representative)

Transfer 1 (4W Transfer 77195):

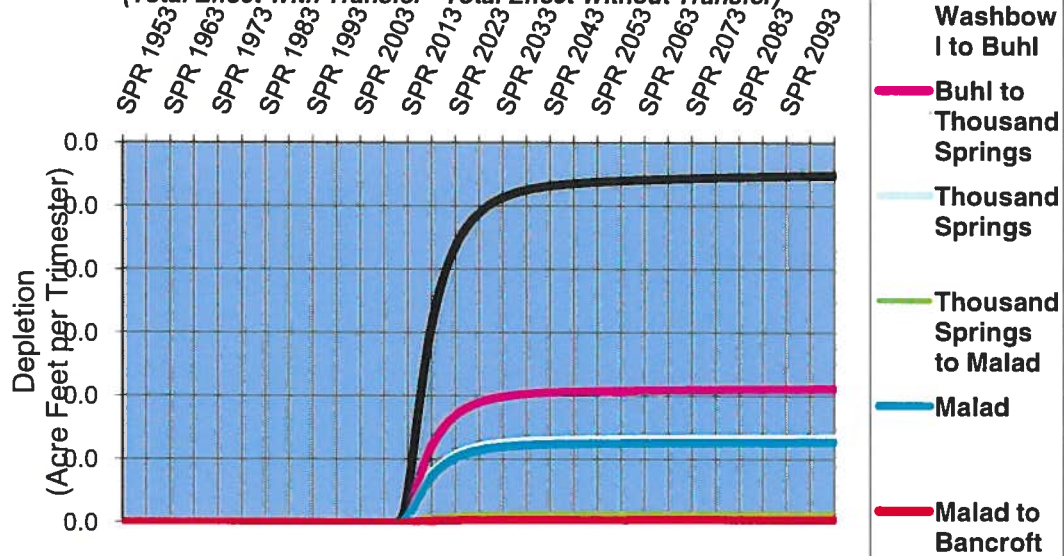
106.6
106.6
108.7

77 195

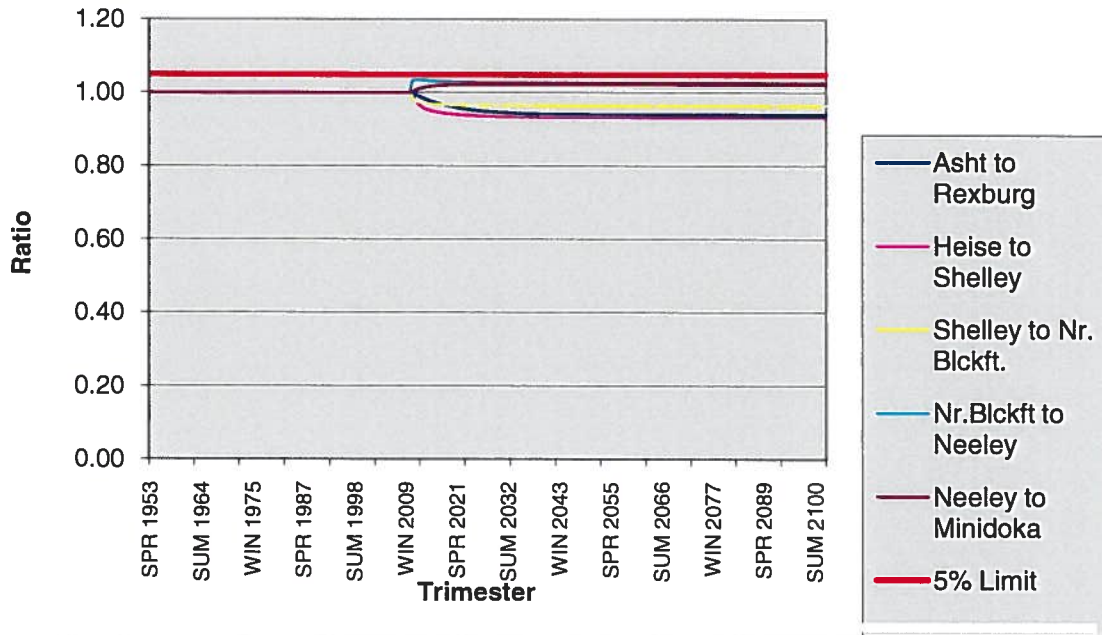
Net Transfer Effect Above Milner
(Total Effect With Transfer - Total Effect Without Transfer)



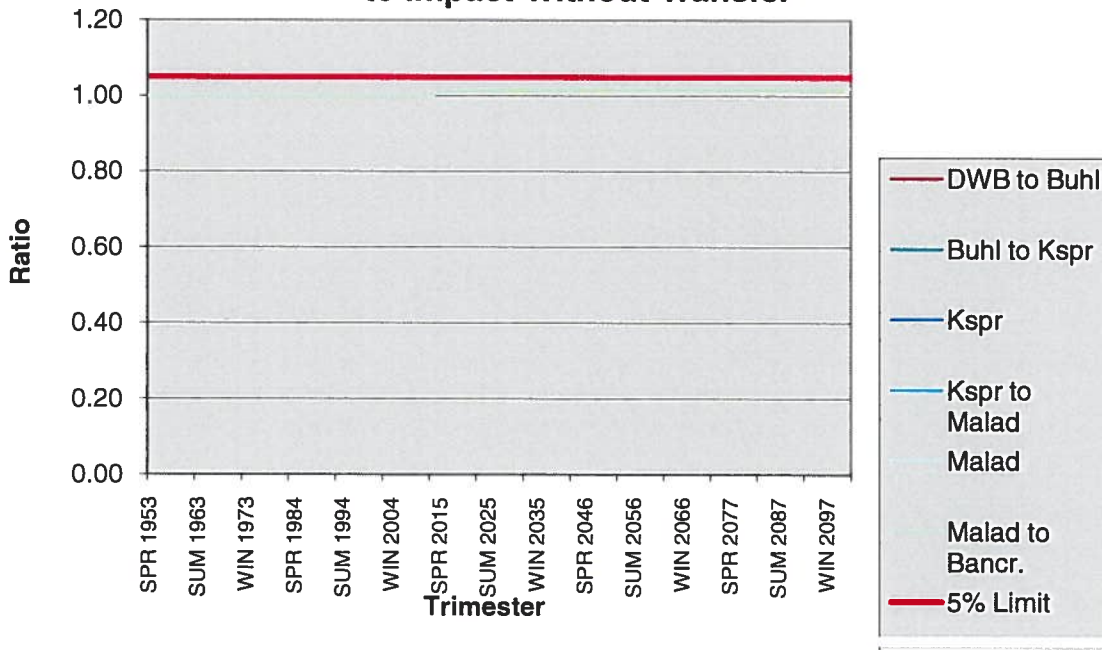
Net Transfer Effect Below Milner
(Total Effect With Transfer - Total Effect Without Transfer)



Change Above Milner as Ratio of Impact With Transfer to Impact Without Transfer



Change Below Milner as Ratio of Impact With Transfer to Impact Without Transfer



ENHANCED GROUND-WATER RIGHTS

UNIVERSITY OF IDAHO - IDAHO WATER RESOURCES RESEARCH INSTITUTE

Cells this color are set up for user entries

ENTER STARTING DATE FOR

SIMULATION. THEN PUSH

"UPDATE DATES" BUTTON

YEAR 1953

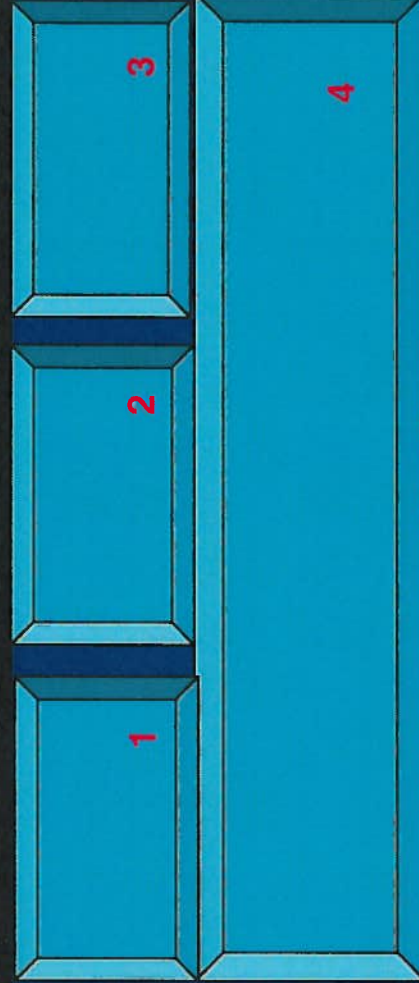
SEASON SPRING

TRANSFER NO:

77195

TRANSFER NAME

WARD (4W)



ENTER CELL LOCATIONS:

'TO' CELL

74

135

'FROM1' CELL

74

137

'FROM2' CELL

'FROM3' CELL

TRIMESTER

OF

ACTIVITY

SPR 1953

SUM 1953

WIN 1953

SPR 1954

SUM 1954

WIN 1954

SPR 1955

TO WELL

Projected Use

AF/TRIMESTER

0

0

0

0

0

0

0

FROM1 WELL

With Transfer

AF/TRIMESTER

107

107

107

107

107

107

107

FROM2 WELL

With Transfer

AF/TRIMESTER

0

0

0

0

0

0

0

FROM3 W

With Transfer

AF/TRIMESTER

0

0

0

0

0

0

0

SUM 1955	0	107	107	0	0	0	0
WIN 1955	0	107	107	0	0	0	0
SPR 1956	0	107	107	0	0	0	0
SUM 1956	0	107	107	0	0	0	0
WIN 1956	0	107	107	0	0	0	0
SPR 1957	0	107	107	0	0	0	0
SUM 1957	0	107	107	0	0	0	0
WIN 1957	0	107	107	0	0	0	0
SPR 1958	0	107	107	0	0	0	0
SUM 1958	0	107	107	0	0	0	0
WIN 1958	0	107	107	0	0	0	0
SPR 1959	0	107	107	0	0	0	0
SUM 1959	0	107	107	0	0	0	0
WIN 1959	0	107	107	0	0	0	0
SPR 1960	0	107	107	0	0	0	0
SUM 1960	0	107	107	0	0	0	0
WIN 1960	0	107	107	0	0	0	0
SPR 1961	0	107	107	0	0	0	0
SUM 1961	0	107	107	0	0	0	0
WIN 1961	0	107	107	0	0	0	0
SPR 1962	0	107	107	0	0	0	0
SUM 1962	0	107	107	0	0	0	0
WIN 1962	0	107	107	0	0	0	0
SPR 1963	0	107	107	0	0	0	0
SUM 1963	0	107	107	0	0	0	0
WIN 1963	0	107	107	0	0	0	0
SPR 1964	0	107	107	0	0	0	0
SUM 1964	0	107	107	0	0	0	0
WIN 1964	0	107	107	0	0	0	0
SPR 1965	0	107	107	0	0	0	0

SUM 1965	0	107	107	0	0	0	0
WIN 1965	0	107	107	0	0	0	0
SPR 1966	0	107	107	0	0	0	0
SUM 1966	0	107	107	0	0	0	0
WIN 1966	0	107	107	0	0	0	0
SPR 1967	0	107	107	0	0	0	0
SUM 1967	0	107	107	0	0	0	0
WIN 1967	0	107	107	0	0	0	0
SPR 1968	0	107	107	0	0	0	0
SUM 1968	0	107	107	0	0	0	0
WIN 1968	0	107	107	0	0	0	0
SPR 1969	0	107	107	0	0	0	0
SUM 1969	0	107	107	0	0	0	0
WIN 1969	0	107	107	0	0	0	0
SPR 1970	0	107	107	0	0	0	0
SUM 1970	0	107	107	0	0	0	0
WIN 1970	0	107	107	0	0	0	0
SPR 1971	0	107	107	0	0	0	0
SUM 1971	0	107	107	0	0	0	0
WIN 1971	0	107	107	0	0	0	0
SPR 1972	0	107	107	0	0	0	0
SUM 1972	0	107	107	0	0	0	0
WIN 1972	0	107	107	0	0	0	0
SPR 1973	0	107	107	0	0	0	0
SUM 1973	0	107	107	0	0	0	0
WIN 1973	0	107	107	0	0	0	0
SPR 1974	0	107	107	0	0	0	0
SUM 1974	0	107	107	0	0	0	0
WIN 1974	0	107	107	0	0	0	0
SPR 1975	0	107	107	0	0	0	0
SUM 1975	0	107	107	0	0	0	0
WIN 1975	0	107	107	0	0	0	0
SPR 1976	0	107	107	0	0	0	0
SUM 1976	0	107	107	0	0	0	0

WIN 1976	0	107	107	0	0	0	0
SPR 1977	0	107	107	0	0	0	0
SUM 1977	0	107	107	0	0	0	0
WIN 1977	0	107	107	0	0	0	0
SPR 1978	0	107	107	0	0	0	0
SUM 1978	0	107	107	0	0	0	0
WIN 1978	0	107	107	0	0	0	0
SPR 1979	0	107	107	0	0	0	0
SUM 1979	0	107	107	0	0	0	0
WIN 1979	0	107	107	0	0	0	0
SPR 1980	0	107	107	0	0	0	0
SUM 1980	0	107	107	0	0	0	0
WIN 1980	0	107	107	0	0	0	0
SPR 1981	0	107	107	0	0	0	0
SUM 1981	0	107	107	0	0	0	0
WIN 1981	0	107	107	0	0	0	0
SPR 1982	0	107	107	0	0	0	0
SUM 1982	0	107	107	0	0	0	0
WIN 1982	0	107	107	0	0	0	0
SPR 1983	0	107	107	0	0	0	0
SUM 1983	0	107	107	0	0	0	0
WIN 1983	0	107	107	0	0	0	0
SPR 1984	0	107	107	0	0	0	0
SUM 1984	0	107	107	0	0	0	0
WIN 1984	0	107	107	0	0	0	0
SPR 1985	0	107	107	0	0	0	0
SUM 1985	0	107	107	0	0	0	0
WIN 1985	0	107	107	0	0	0	0
SPR 1986	0	107	107	0	0	0	0
SUM 1986	0	107	107	0	0	0	0
WIN 1986	0	107	107	0	0	0	0
SPR 1987	0	107	107	0	0	0	0
SUM 1987	0	107	107	0	0	0	0
WIN 1987	0	107	107	0	0	0	0
SPR 1988	0	107	107	0	0	0	0

SUM 1988	0	107	107	0	0	0	0
WIN 1988	0	107	107	0	0	0	0
SPR 1989	0	107	107	0	0	0	0
SUM 1989	0	107	107	0	0	0	0
WIN 1989	0	107	107	0	0	0	0
SPR 1990	0	107	107	0	0	0	0
SUM 1990	0	107	107	0	0	0	0
WIN 1990	0	107	107	0	0	0	0
SPR 1991	0	107	107	0	0	0	0
SUM 1991	0	107	107	0	0	0	0
WIN 1991	0	107	107	0	0	0	0
SPR 1992	0	107	107	0	0	0	0
SUM 1992	0	107	107	0	0	0	0
WIN 1992	0	107	107	0	0	0	0
SPR 1993	0	107	107	0	0	0	0
SUM 1993	0	107	107	0	0	0	0
WIN 1993	0	107	107	0	0	0	0
SPR 1994	0	107	107	0	0	0	0
SUM 1994	0	107	107	0	0	0	0
WIN 1994	0	107	107	0	0	0	0
SPR 1995	0	107	107	0	0	0	0
SUM 1995	0	107	107	0	0	0	0
WIN 1995	0	107	107	0	0	0	0
SPR 1996	0	107	107	0	0	0	0
SUM 1996	0	107	107	0	0	0	0
WIN 1996	0	107	107	0	0	0	0
SPR 1997	0	107	107	0	0	0	0
SUM 1997	0	107	107	0	0	0	0
WIN 1997	0	107	107	0	0	0	0
SPR 1998	0	107	107	0	0	0	0
SUM 1998	0	107	107	0	0	0	0
WIN 1998	0	107	107	0	0	0	0
SPR 1999	0	107	107	0	0	0	0
SUM 1999	0	107	107	0	0	0	0
WIN 1999	0	107	107	0	0	0	0

SPR 2000	0	107	107	0	0	0	0
SUM 2000	0	107	107	0	0	0	0
WIN 2000	0	107	107	0	0	0	0
SPR 2001	0	107	107	0	0	0	0
SUM 2001	0	107	107	0	0	0	0
WIN 2001	0	107	107	0	0	0	0
SPR 2002	0	107	107	0	0	0	0
SUM 2002	0	107	107	0	0	0	0
WIN 2002	0	107	107	0	0	0	0
SPR 2003	0	107	107	0	0	0	0
SUM 2003	0	107	107	0	0	0	0
WIN 2003	0	107	107	0	0	0	0
SPR 2004	0	107	107	0	0	0	0
SUM 2004	0	107	107	0	0	0	0
WIN 2004	0	107	107	0	0	0	0
SPR 2005	0	107	107	0	0	0	0
SUM 2005	0	107	107	0	0	0	0
WIN 2005	0	107	107	0	0	0	0
SPR 2006	0	107	107	0	0	0	0
SUM 2006	0	107	107	0	0	0	0
WIN 2006	0	107	107	0	0	0	0
SPR 2007	0	107	107	0	0	0	0
SUM 2007	0	107	107	0	0	0	0
WIN 2007	0	107	107	0	0	0	0
SPR 2008	0	107	107	0	0	0	0
SUM 2008	0	107	107	0	0	0	0
WIN 2008	0	107	107	0	0	0	0
SPR 2009	0	107	107	0	0	0	0
SUM 2009	0	107	107	0	0	0	0
WIN 2009	0	107	107	0	0	0	0
SPR 2010	0	107	107	0	0	0	0
SUM 2010	0	107	107	0	0	0	0
WIN 2010	0	107	107	0	0	0	0
SPR 2011	107	0	107	0	0	0	0
SUM 2011	107	0	107	0	0	0	0

WIN 2011	107	0	107	0	0	0	0
SPR 2012	107	0	107	0	0	0	0
SUM 2012	107	0	107	0	0	0	0
WIN 2012	107	0	107	0	0	0	0
SPR 2013	107	0	107	0	0	0	0
SUM 2013	107	0	107	0	0	0	0
WIN 2013	107	0	107	0	0	0	0
SPR 2014	107	0	107	0	0	0	0
SUM 2014	107	0	107	0	0	0	0
WIN 2014	107	0	107	0	0	0	0
SPR 2015	107	0	107	0	0	0	0
SUM 2015	107	0	107	0	0	0	0
WIN 2015	107	0	107	0	0	0	0
SPR 2016	107	0	107	0	0	0	0
SUM 2016	107	0	107	0	0	0	0
WIN 2016	107	0	107	0	0	0	0
SPR 2017	107	0	107	0	0	0	0
SUM 2017	107	0	107	0	0	0	0
WIN 2017	107	0	107	0	0	0	0
SPR 2018	107	0	107	0	0	0	0
SUM 2018	107	0	107	0	0	0	0
WIN 2018	107	0	107	0	0	0	0
SPR 2019	107	0	107	0	0	0	0
SUM 2019	107	0	107	0	0	0	0
WIN 2019	107	0	107	0	0	0	0
SPR 2020	107	0	107	0	0	0	0
SUM 2020	107	0	107	0	0	0	0
WIN 2020	107	0	107	0	0	0	0
SPR 2021	107	0	107	0	0	0	0
SUM 2021	107	0	107	0	0	0	0
WIN 2021	107	0	107	0	0	0	0
SPR 2022	107	0	107	0	0	0	0
SUM 2022	107	0	107	0	0	0	0
WIN 2022	107	0	107	0	0	0	0
SPR 2023	107	0	107	0	0	0	0