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RECEIVED

APR 27 2011

Department of Water Resources
Eastern Region

April 27, 2011

Idaho Department of Water Resources
Attn: Sharla Cox
900 North Skyline Drive, Suite A
Idaho Falls, ID 83402-1718

Re: Notice of Withdrawal from Jim Scouten regarding transfer No. 76286.

Dear Sharla:

Enclosed please find an original notice of withdrawal of protest signed by Jim Scouten. The withdrawal was dated March 14, 2011, and I had erroneously presumed that an original was also sent to IDWR's office. This original was sent to our office, and the withdrawal needs some clarification.

Mr. Scouten owns Water Right No. 34-7201A. A copy of the water right report for this particular water right is attached. As contained on condition No. 5, water right No. 34-7179, which is owned by Telford Lands, is also diverted through the same point of diversion as Water Right No. 34-7201A. The concern of Mr. Scouten was that the transfer to add a new well to Mr. Telford's water rights would somehow interfere with the historic use of the joint well. Therefore, the parties have agreed that to the extent transfer No. 76286 is approved, it will not interfere with the historic delivery of Mr. Scouten's .98 cfs of ground water diverted pursuant to Water Right No. 34-7201A.

We further note that Mr. Scouten is now represented by Mr. Jim Speck, but that the attached notice of withdrawal was provided to him prior to Mr. Speck's representation of him. I am sending a copy of this letter to Mr. Speck for his information. If you have any questions or concerns, please let me know.

Best Regards,

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

Enclosure

cc: James Speck/Speck & Aanestad

G:\WPDATA\IRLH\15064 Telford, Mike\IDWR 2011 04 26.doc

Established in 1896

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR
TRANSFER NO. 76286 IN THE NAME
OF TELFORD LANDS, LLC

**NOTICE OF
WITHDRAWAL OF PROTEST**

Jim Scouten hereby withdraws his protest to Transfer No. 76286, and requests that IDWR thereafter continue the processing of Transfer No. 76286, subject to the following condition. To the extent Transfer No. 76286 is approved, Telford Lands LLC shall not interfere with the diversion and delivery of Water Right No. 34-7201A from said water right's authorized point of diversion.

DATED this 14 day of March, 2011.

A handwritten signature in black ink, appearing to read "Jim Scouten", is written over a horizontal line.

Close

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report

4/25/2011

WATER RIGHT NO. 34-7201A

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	JIM L SCOUTEN
Current Owner	LINDA SCOUTEN
	PO BOX 623
	MOORE, ID 83255
	(208)554-4181
Original Owner	EVERETT T ACOR JR
	3196 N YELLOWSTONE HWY
	IDAHO FALLS, ID 83401
	(208)524-5138

Priority Date: 06/28/1977

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	4/15	10/15	0.98 CFS	168 AFA
Total Diversion			0.98 CFS	

Location of Point(s) of Diversion:

GROUND WATER	NENWNE Lt 2	Sec. 04	Township 04N	Range 26E	BUTTE County
GROUND WATER Rediversion	NWSESE	Sec. 04	Township 05N	Range 26E	BUTTE County

Place(s) of use:

Place of Use Legal Description: IRRIGATION BUTTE County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
05N	26E	33		NENE	17		NWNE	31						

Total Acres: 48

Conditions of Approval:

1.		USE OF THIS RIGHT WITH RIGHT NO. 34-00621D IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 1.92 CFS.
2.		WATER DIVERTED UNDER THIS RIGHT IS EXCHANGED BY INJECTING WATER DIVERTED UNDER THIS RIGHT INTO WESTSIDE CANAL, AND DIVERTING AN EQUAL AMOUNT FROM THE BIG LOST RIVER AT THE POINT OF REDIVERSION DESCRIBED ABOVE. WATER MAY BE DIVERTED FROM THE BIG LOST RIVER ONLY WHEN THERE IS CURRENT DEMAND FOR THE WATER INJECTED INTO THE WESTSIDE CANAL BY USERS OF WATER FROM WESTSIDE CANAL WITH CURRENTLY DELIVERABLE PRIORITIES BELOW THE POINT OF INJECTION.
3.		THE USE OF WATER FOR IRRIGATION UNDER THIS RIGHT MAY BEGIN AS EARLY AS APRIL 1 AND MAY CONTINUE TO AS LATE AS OCTOBER 31, PROVIDED OTHER ELEMENTS OF THE RIGHT ARE NOT EXCEEDED. THE USE OF WATER BEFORE APRIL 15 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.
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.
5.		RIGHT NO. 34-07179 IS ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE. EXCHANGE WATER DIVERTED FROM BIG LOST RIVER AT MOORE DIVERSION DELIVERED THROUGH MOORE CANAL INTO WESTSIDE CANAL.

Dates:

Licensed Date:

Decreed Date: 06/27/2002

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

Other Information:
State or Federal: S
Owner Name Connector:
Water District Number: 34
Generic Max Rate per Acre:
Generic Max Volume per Acre:
Combined Acres Limit: 48
Combined Volume Limit:
Combined Rate Limit: 1.92
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

4/25/2011

WATER RIGHT NO. 34-7179

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	TELFORD LANDS LLC C/O MIKE TELFORD 1450 W HWY 24 PAUL, ID 83347
Attorney	HOLDEN KIDWELL HAHN & CRAPO C/O KENT W FOSTER PO BOX 50130 IDAHO FALLS, ID 83405-0130 (208)523-0620
Original Owner	MICKELSEN PROPERTIES LLC PO BOX 438 RIGBY, ID 83442 (208)745-6626

Priority Date: 04/06/1982

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	2.78 CFS	1185.5 AFA
Total Diversion			2.78 CFS	

Location of Point(s) of Diversion:

GROUND WATER	NENWNE Lt 2	Sec. 04	Township 04N	Range 26E	BUTTE County
GROUND WATER	NWNWNE Lt 2	Sec. 04	Township 04N	Range 26E	BUTTE County
GROUND WATER	NENENW Lt 3	Sec. 05	Township 04N	Range 26E	BUTTE County
GROUND WATER	SWNWNW	Sec. 21	Township 05N	Range 26E	BUTTE County
GROUND WATER	SEWSE	Sec. 29	Township 05N	Range 26E	BUTTE County
GROUND WATER	SESWNE	Sec. 32	Township 05N	Range 26E	BUTTE County
GROUND WATER	SEWSE	Sec. 32	Township 05N	Range 26E	BUTTE County

Place(s) of use:

Place of Use Legal Description: IRRIGATION BUTTE County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
03N	25E	12		NENE	39		NWNE	40		SWNE	40		SENE	39
				NENW	40		NWNW	40		SWNW	40		SEW	40
				NESW	31		NWSW	32		SWSW	31		SESW	32
				NESE	39		NWSE	40		SWSE	36		SESE	36
				NENE	11		NWNE	25						
				NENW	37		NWNW	39		SWNW	13		SEW	5
	26E	17		NENE	35		NWNE	39		SWNE	36		SENE	25
				NENW	38	1	NWNW	26	2	SWNW	37		SEW	40
				NESW	17	3	NWSW	10						
				NWSE	2									
				NENE	40		NWNE	40		SWNE	40		SENE	40
				NESE	40		NWSE	40		SWSE	40		SESE	40
04N	25E	35		NENE	38		NWNE	40		SWNE	40		SENE	39
				NENW	40		NWNW	40		SWNW	40		SEW	40
				NESW	40		NWSW	40		SWSW	40		SESW	40
				NESE	39		NWSE	40		SWSE	40		SESE	39
				NENE	35	2	NWNE	36		SWNE	36		SENE	32
	26E	4	1	NENE	35									

Total Acres: 2124

Conditions of Approval:

1.	Should all or any portion of water right nos. 34-2330B, 34-7077, 34-7080B, 34-7092, 34-7121A, 34-7121B, 34-12376, 34-7179, 34-13659, 34-13661, 34-13840, and 34-13842 ever be curtailed as a result of a delivery call, the irrigated place of use for water right nos. 34-2330B, 34-7077, 34-7080B, 34-7092, 34-7121A, 34-7121B, 34-12376, 34-13659, 34-13661, 34-13840, 34-13842 (all describing a place of use of 1985 acres) and water right no. 34-7179 (2124 acres) shall be reduced by the number of irrigated acres authorized to be irrigated by the individual water right that is curtailed.
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2.	X35	Rights 34-2330B, 34-07077, 34-07080B, 34-07092, 34-07121A, 34-07121B, 34-12376, 34-13840, 34-13842, and that portion of ground water right no. 34-07179 not associated with water right no. 34-618, when combined, shall not exceed a total diversion rate of 37.03 cfs, and shall not exceed a total annual maximum diversion volume of 6,947.5 af at the field headgate.
3.		Rights 34-618, 34-02330B, 34-07080B, 34-07121A, 34-07121B, 34-07092, 34-07077, 34-7179, 34-12376, 34-13659, 34-13661, 34-13840 and 34-13842 when combined shall not exceed the irrigation of 2124 acres.
4.	186	Diversion of water from the additional well(s) authorized under Transfer 74921 located in NWNWNE LT2, Sec. 4, T04N, R26E shall not exceed a maximum diversion rate of 5.00 cfs.
5.	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. 34.
6.	R02	A lockable device subject to the approval of the Department shall be maintained on the diverting works in a manner that will provide the watermaster suitable control of the diversion.
7.		Water delivered through the Moore Diversion and Timberdome Canal.
8.	065	The right holder shall make full beneficial use of all surface water rights available to the right holder for irrigation of the lands authorized to be irrigated under this right. The right holder shall limit the diversion of ground water under this right to those times when the surface water supply is not available or the surface water supply is not reasonably sufficient to irrigate the place of use authorized under this right.
9.	104	If the surface water right(s) appurtenant to the place of use is sold, transferred, leased or used on any other place of use, this right to divert groundwater shall not be used without an approved transfer pursuant to Section 42-222, Idaho Code, or approval of the Department if a transfer is not required.
10.	T07	The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
11.	R63	This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the lands above.
12.	T08	Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
13.		Construction of new wells at the location of existing points of diversion is not authorized unless the water right holder obtains approval through an application for transfer, and the Department determines, by considering the transfer, whether the construction of and pumping from new wells will injure other water rights.
14.	046	Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
15.	131	Prior to the diversion and use of water under Transfer approval 74921, the right holder shall install and maintain acceptable measuring device(s), including data logger(s), at the authorized point(s) of diversion and in accordance with Department specifications, or shall obtain an approved variance from the Department to determine the amount of water diverted from power records or to maintain an existing measuring device.
16.	T19	Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.

Dates:

Licensed Date:

Decreed Date: 11/24/2000

Permit Proof Due Date: 6/1/1982
Permit Proof Made Date: 1/1/1900
Permit Approved Date: 6/13/1977
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:
Water District Number: 34
Generic Max Rate per Acre: 0.02
Generic Max Volume per Acre: 3.5
Combined Acres Limit: 2124
Combined Volume Limit: 6947.5
Combined Rate Limit: 37.03
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