

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

SEP 14 2010

Department of Water Resources
Eastern Region

75499

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1Name of Applicant(s) Merlin Smith Sr., Merlin Smith Jr. and Jennifer Smith Phone (208) 317-3514Mailing address 399 N., 500 W. Blackfoot, ID 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 RepresentativeName of Representative Jason C. Helms, P.E. (Thompson Engineering, Inc.) Phone (208) 745-8771Mailing address 215 Farnsworth Way, Rigby ID 83442 Email jhelms@cableone.net

- ☐ 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.

Merlin Smith Sr.
Signature of Applicant or Authorized Representative

Jennifer Smith
Signature of Applicant or Authorized Representative

Merlin Smith, Sr.
Print Name and Title if applicable

Jennifer Smith
Print Name and Title if applicable

Merlin Smith Jr.
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 Create PPU, Split Rights
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**. Provide additional irrigation water rights to authorize additional irrigation within property generally associated with existing water right 35-7367. This application seeks to correct the existing place of use to match actual use on the ground according to irrigation delineation based on the 2009 1-meter NAIP aerial photo.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

AMENDED

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1 Continued

75499

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. <u>Right Number</u>	<u>Amount</u> (cfs/ac-ft)	<u>Nature of Use</u>	<u>Period of Use</u>	<u>Source & Tributary</u>
35-7367	3.94 / 788	IRRIGATION	4/1 to 11/1	GROUND WATER
35-7557*	0.31 / 61.2	IRRIGATION	4/1 to 11/1	GROUND WATER
			to	
			to	
			to	
			to	
			to	
			to	
			to	
Total		4.25 cfs and/or	849.2 ac-ft	

2. Total amount of water being transferred or changed 4.25 cubic feet per second and/or 849.2 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 #
n		NE	SW	SE	35	02S	32E	Bingham	Ground Water	Extg. Well (35-7367)

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	
02S	32E	35									40			40	40	40	40	40	240

75499

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**SUPERCEDED****APPLICATION FOR TRANSFER OF WATER RIGHT**
PART 1 Continued**75499****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.**

<u>1. Right Number</u>	<u>Amount</u> <u>(cfs/ac-ft)</u>	<u>Nature of Use</u>	<u>Period of Use</u>	<u>Source & Tributary</u>
35-7367	3.94 / 788	IRRIGATION	4/1 to 11/1	GROUND WATER
35-7557*	0.31 / 61.2	IRRIGATION	4/1 to 11/1	GROUND WATER
			to	
			to	
			to	
			to	
			to	
			to	
			to	
			to	
			to	
Total <u>4.25</u>		cfs and/or <u>849.2</u>	ac-ft	

2. Total amount of water being transferred or changed 4.25 cubic feet per second and/or 849.2 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 #
n		NW	SW	SW	13	02S	33E	Bingham	Ground Water	Extg. Well (35-7367)

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	
02S	32E	35									40			40	40	40	40	40	240

75499

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

75499

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: Existing wells, mainlines and flow meter associated with existing water right 35-7367. Total irrigation will be limited to 212.3 acres within the proposed PPU in a single irrigation season.

- 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: _____
Land will no longer be irrigated at historical locations under indicated portions of transfer water rights to mitigate this proposed irrigation expansion. (i.e. The same number of acres will be dried up as proposed for new irrigation.)

- 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: none

- 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: Portions of water rights 35-7367, 35-7557, 35-8610 and 35-2858A currently limited by consent order and agreement dated 2007 which required set-aside of portions of those water rights and additional water bank rental of a portion of water right 35-2391 to mitigate unauthorized uses within Sections 12 and 13 of TWP. 2S, RNG. 33E. Refer to consent order and agreement for additional details.

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

Current Water Right No.: 35-7367

Current Owner: MERLIN SMITH JR
JENNIFER SMITH
MERLIN SMITH SR

Priority Date: 1/11/1974

Origin: Water Right

Status: Active

Basis: Decreed

Source

GROUND WATER

Tributary

Beneficial Use	From To	Diversion Rate	Annual Volume
IRRIGATION	4/01 to 11/01	3.94 CFS	788 AF
	Total Diversion	3.94 CFS	788 AF

Location of Point(s) of Diversion

GROUND WATER NE1/4SW1/4SE1/4 Sec. 35, Twp 02S, Rge 32E B.M.
BINGHAM County

Place of Use

IRRIGATION Within BINGHAM County

T02S R32E S35	NESW	17.00	T02S R32E S35	SESW	26.00
T02S R32E S35	NESE	39.00	T02S R32E S35	NWSE	40.00
T02S R32E S35	SWSE	38.00	T02S R32E S35	SESE	37.00
Total Acres: 197					

Conditions of Approval:

1. M01 A MEASURING DEVICE OF A TYPE APPROVED BY IDWR SHALL BE MAINTAINED AS A PART OF THE DIVERTING WORKS.
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.

Decreed Date: 3/4/2002

75499

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

Current Water Right No.: 35-7557

Current Owner: MERLIN SMITH SR
Priority Date: 12/5/1975
Origin: Water Right
Status: Active
Basis: Decreed

Source
GROUND WATER

Tributary

Beneficial Use	From To	Diversion Rate	Annual Volume
IRRIGATION	4/01 to 11/01	3.06 CFS	612 AF
	Total Diversion	3.06 CFS	612 AF

Location of Point(s) of Diversion

GROUND WATER NW1/4SW1/4SW1/4 Sec. 13, Twp 02S, Rge 33E B.M.
BINGHAM County

Place of Use

IRRIGATION Within BINGHAM County

T02S R33E S13	NESW	39.00	T02S R33E S13	NWSW	37.00
T02S R33E S13	SWSW	38.00	T02S R33E S13	SESW	39.00
Total Acres: 153					

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.

Decreed Date: 3/4/2002

75499

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

75499

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 rights(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 TO 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 on Part 3B above.: NA

FOR DEPARTMENT USE ONLY

Transfer contains _____ pages and _____ attachments.

Received by _____ Date _____ Prelim. Check by _____ Date _____

Fee Paid \$410.00 Date 9/22/2010 Received by B/ak Receipt # 2036145

Add'l Fee Paid _____ Date _____ Received by _____ Receipt # _____

1 of 3 transfers under Receipt 2036145 (\$1,270.00)

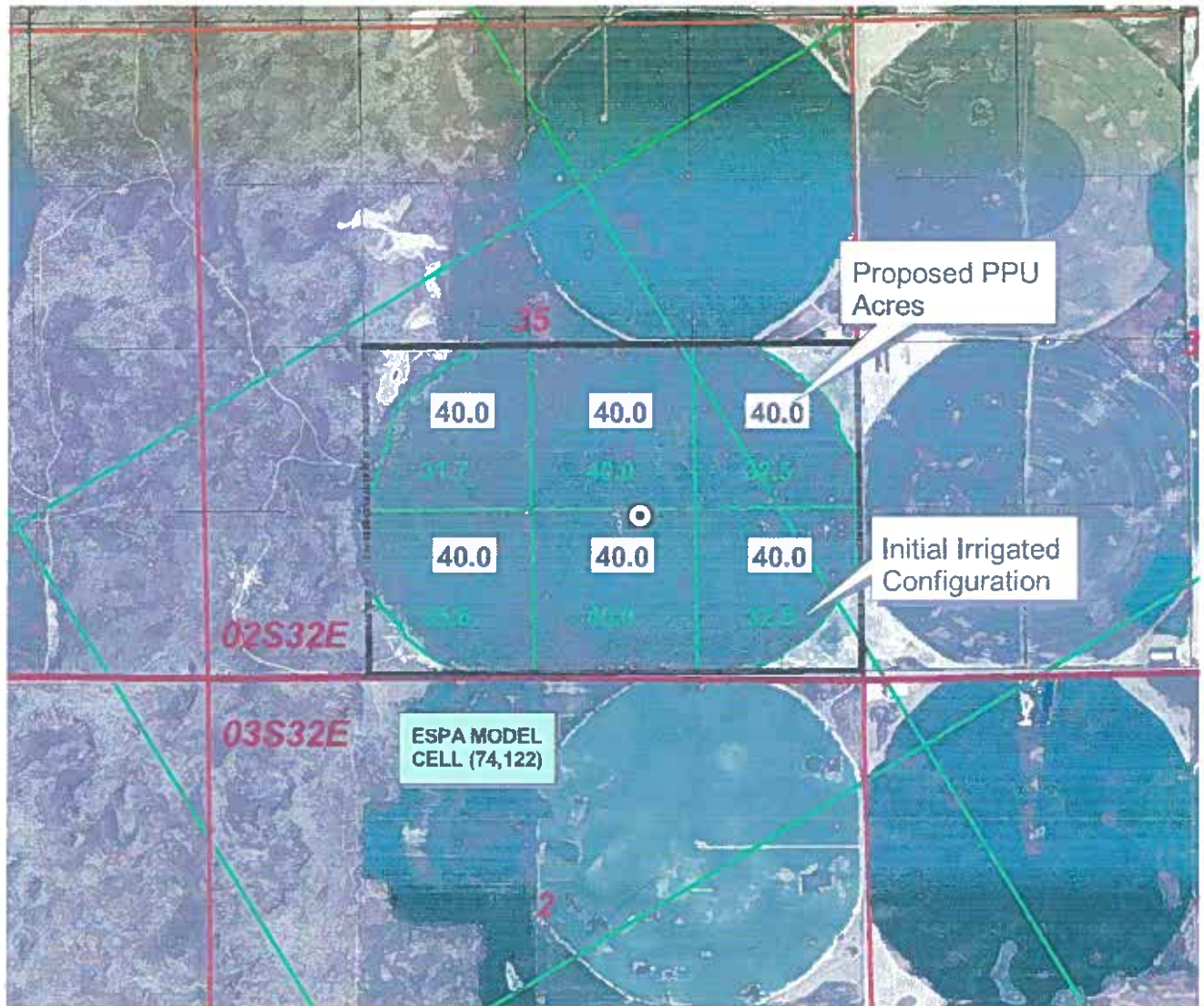
75499

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

75499

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

- A. Draw a map or attach a USGS map indicating the new point(s) of diversion and/or the new place of use for the rights described in part 1. Clearly depict the land by section, township and range number.



2009 NAIP Aerial Photo

0.25 0 0.25 0.5 0.75 1 Miles

- Proposed Permissible Place of Use (240 Ac.)
 - Proposed Irrigation (212.3 ac)
 - PLSS Township Boundaries
 - PLSS Section Lines
 - 40's
 - Existing Well (35-7367)
- Attachment #7a**



THOMPSON
ENGINEERING, INC.
Consulting Engineers and Professional Land Surveyors
(208-745-8771)

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 2B

75499

- A. Draw a map or attach a USGS map indicating the new point(s) of diversion and/or the new place of use for the rights described in part 1. Clearly depict the land by section, township and range number.



2009 NAIP Aerial Photo



35-7557 Dry-up
35-7557 Proposed Irrigation

Townships
Sections
40's



Scale: 1 inch equals 1/4 mile

JCH - Revised Oct. 22, 2010 10

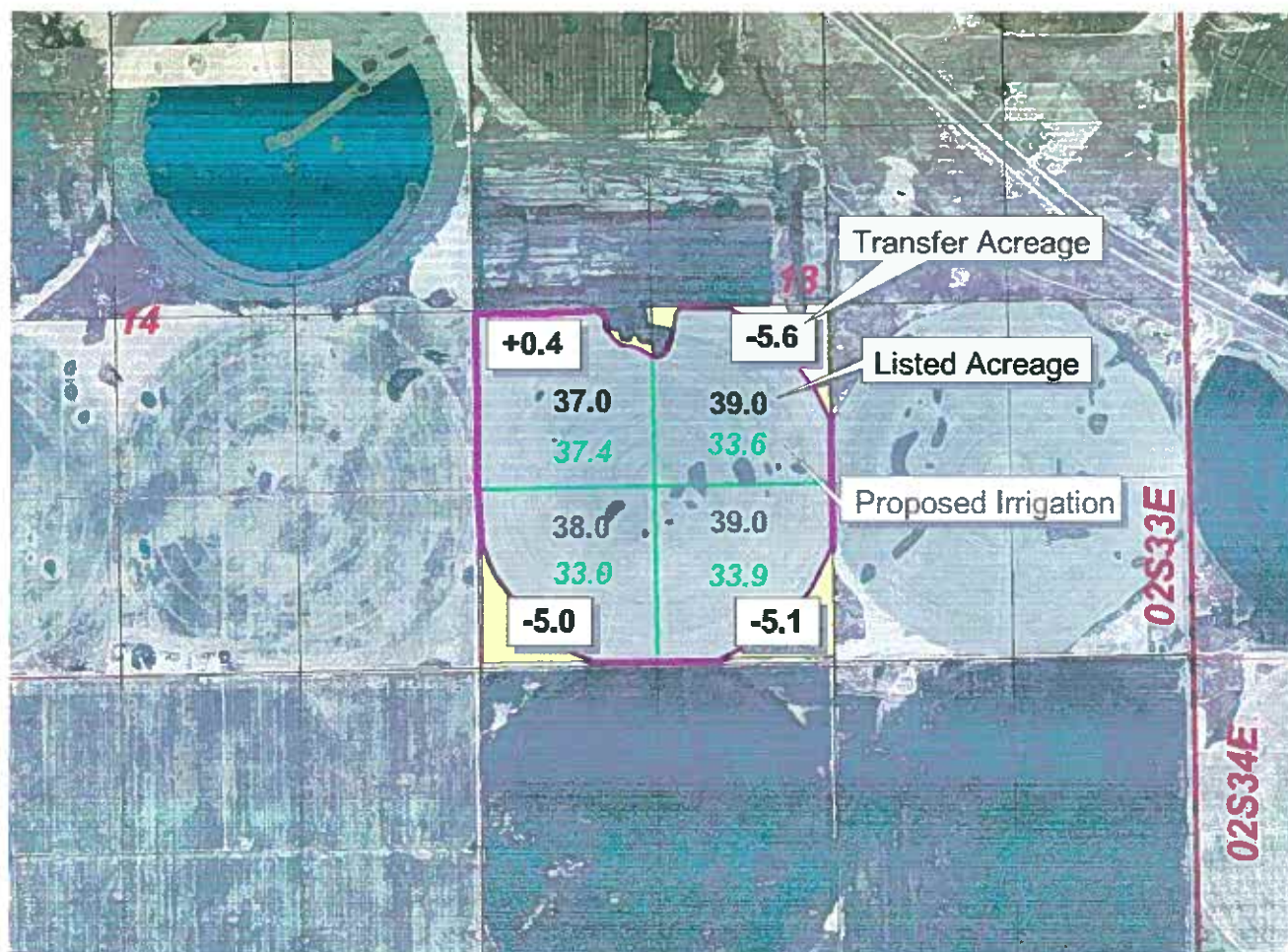
75499

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 3

75499

- A. Draw a map or attach a USGS map indicating the new point(s) of diversion and/or the new place of use for the rights described in part 1. Clearly depict the land by section, township and range number.



2009 NAIP Aerial Photo



- 35-7557 Dry-up
- 35-7557 Proposed Irrigation
- Townships
- Sections
- 40's



Scale: 1 inch equals 1/4 mile

JCH - August 23, 2010

75499

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCESTransfer No. 75499**APPLICATION FOR TRANSFER OF WATER RIGHT** Transfer #2 of 3
MINIMUM REQUIREMENTS CHECKLIST (Merlin & Jennifer Smith)

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 * 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 Proof Report (obtained from Department) or Details Report (obtained on website) 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: _____

Combined ESPA Transfer Spreadsheet Analysis
& Mitigation Evaluation
Prepared for Merlin Smith



Portions of Water Rights (35-4237, 35-7557, 35-7310A, 35-8610)
Entirety of Water Rights (35-2858A, 35-2882, 35-7367, 35-8022 & 27-12139)
(ESPA Mitigation not required due to minimal impacts)

Prepared by: Jason C. Helms, P.E.
August 23, 2010

TRANSFER INTENT

These applications are prepared primarily to address unauthorized irrigation associated with the IDWR Consent Order and Agreement dated 9/12/2007.

Transfer #1 combines two existing ground water rights (35-2858A & 35-8022) into a common diversion system and brings in additional portions of other ground water irrigation rights owned by the applicant into a new permissible place of use. The total maximum diversion will be limited to 1,746.6 acre-ft per year from the two existing wells associated with 35-8022 and 35-2858A for irrigation of 437.4 total acres during a single irrigation season within the proposed new permissible place of use.

Transfer #2 addresses the irrigation changes within the existing place of use for water right 35-7367, bringing in an additional 15.3 acres from water right 35-7557 to authorize a maximum of 212.3 acres of irrigation with a maximum diversion of 849.2 acre-ft during a single irrigation season within the proposed new permissible place of use.

Transfer #3 seeks to adjust the place of use for the remaining portion of water right 35-4237 to comport with the current irrigation system. Total diversion will be limited to 477.2 afa per year from the existing well for irrigation of a maximum of 119.3 acres during a single irrigation season within the proposed new permissible place of use.

A worksheet showing the proposed water right splits is attached as **Appendix A**. The overall layout of existing and proposed water right changes in relation to the the ESPA is attached as **Appendix B**.

ESPA TRANSFER IMPACT ANALYSIS

As required by current IDWR policies, a time series of calculated depletions (transient to steady-state) to reaches of the Snake River has been prepared utilizing the Version 3.1 ESPA Model Transfer Spreadsheet developed by the Idaho Water Resources Research Institute (May, 2007).

The determination of time-dependent changes to reach impacts resulting from the proposed water right transfers was performed through comparison of projected historical depletions compared to the calculated impacts of the proposed new diversions. The "Without Transfer" case calculates baseline historical impacts based on continuing diversion of the authorized volume of the existing water rights at the historical point of diversion beginning on the priority date of the modeled water rights through the end of the model time period. The "With Transfer" case calculates the impacts resulting from the proposed changes by modeling the diversions at their

215 FARNSWORTH WAY – RIGBY, ID. 83442 - PH. 208-745-8771 - FAX 208-745-6391

historical location from the priority date of the water right and then diverting from the new location on the expected earliest date of transfer approval (in this case Spring, 2011). Due to the large number of diversion locations, the ESPA impact analysis for Transfer #1 was performed using two separate ESPA Transfer Spreadsheet model runs with the “calculated results” tab of each model run summed within a separate spreadsheet to determine the aggregate changes resulting from the total transfer. Transfer #2 uses a single ESPA Transfer Spreadsheet model run. A summary of input data utilized in each analysis is attached as **Appendix C**. Actual input tables utilized in the model analyses are attached as **Appendix D**. Each of the three transfer model spreadsheet analyses are described in more detail below.

- Model 1: “Without Transfer” = Impacts related to historical usage of proposed transfer portions of water rights 35-2882, 35-4237 & 35-8610 at their current point of diversion. “With Transfer” = Cessation of pumping at the historical location with pumping initiated in the proposed new model cell associated with transfer approval assumed to occur in the Spring of 2011. This model analysis constitutes the major portion of Transfer #1.
 - TO WELL: Proposed diversion of transferred portions of 35-2882, 35-4237 & 35-8610 at the existing well currently associated with diversion of water right 35-8022 within ESPA model cell (73,130) beginning in spring, 2011.
 - FROM1 WELL: Authorized diversions related to existing water right 35-2882 with historical point of diversion located within ESPA model cell (81,122). No portion of this right will remain.
 - FROM2 WELL: Authorized diversions related to only the proposed transfer portion of existing water right 35-4237 with historical point of diversion located within ESPA model cell (75,131).
 - FROM3 WELL: Authorized diversions related to only the proposed transfer portion of existing water right 35-8610 with historical point of diversion located within ESPA model cell (75,130).
- Model 2: “Without Transfer” = Impacts related to historical usage of proposed transfer portions of purchased water rights 35-7310A & 27-12139 at their current point of diversion. “With Transfer” = Cessation of pumping at the historical location with pumping initiated in the proposed new model cell associated with transfer approval assumed to occur in the Spring of 2011. This model analysis constitutes the remainder of Transfer #1.
 - TO WELL: Proposed maximum diversion of the transferred portions of 35-7310A and 27-12139 at the existing well currently associated with diversion of water right 35-8022 within ESPA model cell (73,130) beginning in spring, 2011.
 - FROM1 WELL: Authorized diversions related to only the proposed transfer portion of existing water right 35-7310A with historical point of diversion located within ESPA model cell (69,131).
 - FROM2 WELL: Authorized diversions related to only the proposed transfer portion of existing water right 27-12139 with historical point of diversion located within ESPA model cell (82,135).
 - FROM3 WELL: Unused.

- Model 3: “Without Transfer” = Impacts related to historical and continuing usage of proposed transfer portion of water right 35-7557 at its current point of diversion. “With Transfer” = Cessation of pumping at the historical location with pumping initiated in the proposed new model cell associated with transfer approval assumed to occur in the Spring of 2011. This model analysis constitutes the entirety of Transfer #2.
 - TO WELL: Maximum diversion of the proposed transfer portion of 35-7557 at the existing well currently associated with 35-7367 within ESPA model cell (74,122) beginning in spring, 2011.
 - FROM1 WELL: Authorized diversion of only the proposed transfer portion of water right 35-7557 with historical point of diversion located within ESPA model cell (75,129).
 - FROM2 WELL: Unused.
 - FROM3 WELL: Unused.

RESULTS & CONCLUSIONS

Appendix E includes the charted results of the transient impact analysis for both Transfer #1 and Transfer #2 and are described in more detail below.

- Transfer #1: As shown most clearly by Charts 1, 2 and 14, the combined changes resulting from proposed Transfer #1 generates additional impacts over 10% of historical levels in only the two uppermost Snake River model reaches (Ashton to Rexburg and Heise to Shelley). As shown in Chart 12 however, the total increase in each reach amount to less than 2 acre-ft per model trimester as a result of proposed Transfer #1.
- Transfer #2: As shown most clearly by Chart 13, no ESPA model reach experiences increased depletions greater than 2 acre-ft per model trimester as a result of proposed Transfer #2.

According to the results of the transient ESPA impact analysis (shown most clearly in charts 12 through 15), total ESPA reach impacts remain within either 10% of historical projected depletions or less than 2 acre-ft per trimester additional impacts for all modeled Snake River reaches and model time steps. Stabilization of impacts is substantially achieved after approximately 20 years. The analysis confirms that the full volume of the transferred water rights is available at the proposed points of diversion immediately upon transfer approval and no initial reduction or staged pumping schedules are necessary to maintain reach impacts within the acceptable range of projected historical depletions if the transfer were to not occur. Based on the January, 2009 IDWR Transfer Processing Policies and Procedures Memo (Memo #24) these transfers are therefore approvable without ESPA mitigation¹.

¹ “Increased depletions greater than 10% in any reach are considered insignificant under either of the following conditions and will not require mitigation for the proposed transfer to be approvable: a. Increased depletions (transient to steady-state) to the reach are two acre-feet or less per trimester; or b. The reach, at steady-state conditions, will not be depleted by an amount greater than 10% of the total depletion to all reaches caused by the diversion under the proposed transfer.” Administrator’s Memorandum: Transfer Processing No. 24 (IDWR, December 21, 2009) p. 13

List of Attachments

- Appendix A: Table: Water Right Transfer Split Worksheet
- Appendix B: Map: ESPA Combined Transfer Layout
- Appendix C: Summary: ESPA Transient Model Analysis Input
- Appendix D: Tables: ESPA Transient Model Analysis Input
- Appendix E: Charts: ESPA Transient Model Analysis Results
- E-1. Chart 1: Hydrologic Response: Ashton To Rexburg
 - E-2. Chart 2: Hydrologic Response: Heise to Shelley
 - E-3. Chart 3: Hydrologic Response: Shelley to Near Blackfoot
 - E-4. Chart 4: Hydrologic Response: Near Blackfoot to Neeley
 - E-5. Chart 5: Hydrologic Response: Neeley to Minidoka
 - E-6. Chart 6: Hydrologic Response: Devil's Washbowl to Buhl
 - E-7. Chart 7: Hydrologic Response: Buhl to Thousand Springs
 - E-8. Chart 8: Hydrologic Response: Thousand Springs Complex
 - E-9. Chart 9: Hydrologic Response: Thousand Springs to Malad
 - E-10. Chart 10: Hydrologic Response: Malad
 - E-11. Chart 11: Hydrologic Response: Malad to Bancroft Springs
 - E-12. Chart 12: Hydrologic Response: Transfer #1 Change in Impacts
 - E-13. Chart 13: Hydrologic Response: Transfer #2 Change in Impacts
 - E-14. Chart 14: Hydrologic Response: Transfer #1 (% Change)
 - E-15. Chart 15: Hydrologic Response: Transfer #2 (% Change)

Appendix A

Table: Water Right Transfer Split Worksheet

Combined Transfer Water Right Split Summary

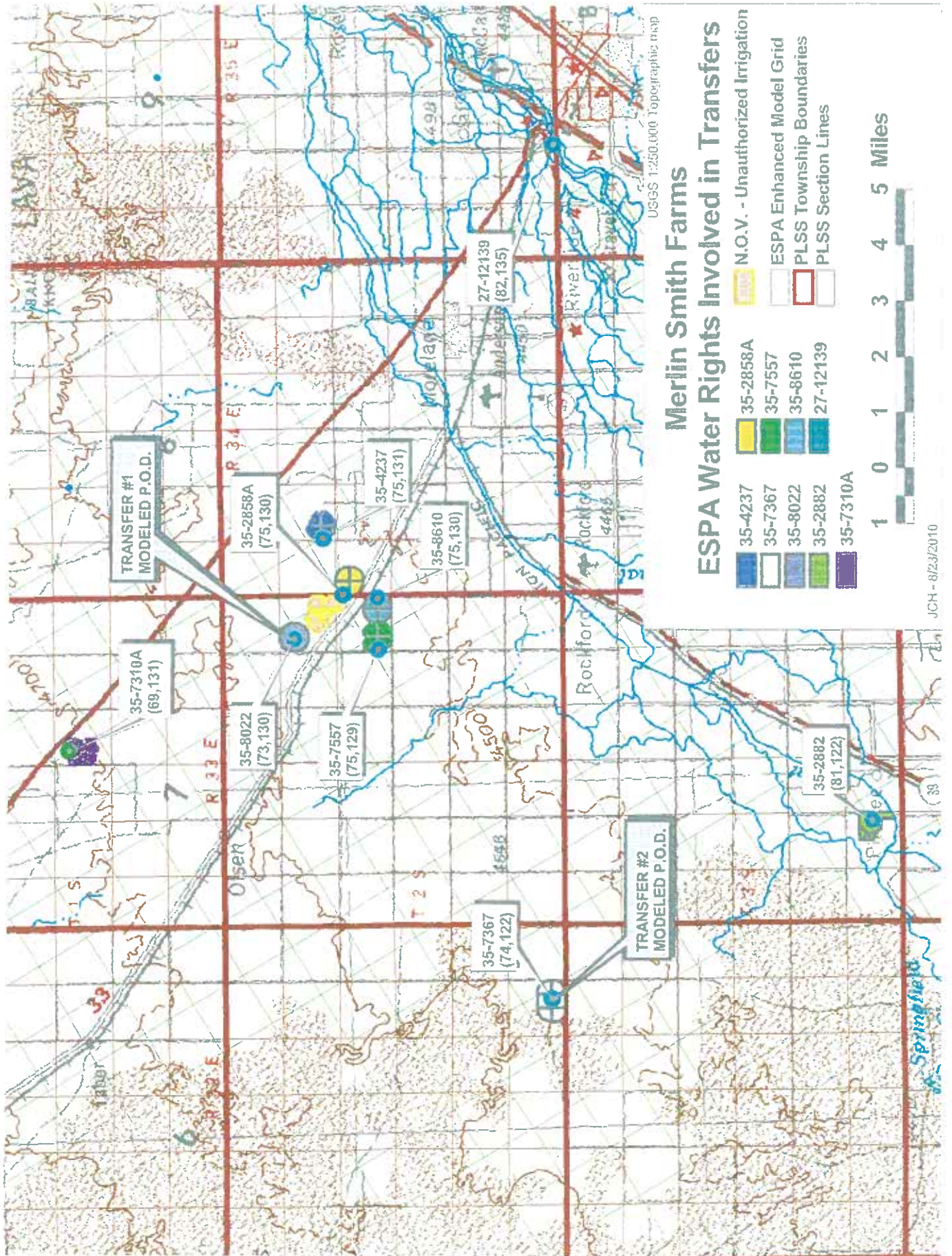
EXISTING WATER RIGHTS INVOLVED IN TRANSFERS										
Water Right	35-2858A	35-2882	35-4237	35-7367	35-7557	35-8022	35-8610	27-12139	35-7310A	
Listed Owner	Smith, Merlin	Jones, Patsy & Steven	Estate of C.L. Williams	Smith, Merlin Sr. Merlin Jr. & Jennifer	William M. Williams Ltd. Partnership	Smith, Merlin Sr. Merlin Jr. & Jennifer	William M. Williams Family Ltd.	Jensen, Lois B., Stanley J.	Idaho Water Company	TOTAL
Priority	1/16/1967	3/28/1966	5/15/1955	1/11/1974	12/5/1975	2/22/1982	6/28/1985	2/24/1977	7/19/1973	
Listed Div.	2.94	1.70	2.28	3.94	3.06	2.12	2.12	0.11	2.03	20.30
Div. Volume	616.0	460.0	516.0	788.0	612.0	528.0	517.6	20.6	528.0	4586.2
Acres	154	115	129	197	153	132	129.4	5.9	132	1147.3

Transfer #1 (Smith Farm existing WR: 35-2858A, 35-8022)										
Water Right	35-2858A	35-2882	35-4237	35-7367	35-7557	35-8022	35-8610	27-12139	35-7310A	
Owner	Smith, Merlin Sr. Merlin Jr. & Jennifer	Smith, Merlin Sr. Merlin Jr. & Jennifer	Smith, Merlin Sr. Merlin Jr. & Jennifer			Smith, Merlin Sr. Merlin Jr. & Jennifer	Smith, Merlin Sr. Merlin Jr. & Jennifer	Smith, Merlin Sr. Merlin Jr. & Jennifer	Smith, Merlin Sr. Merlin Jr. & Jennifer	TOTAL
Priority	1/16/1967	3/28/1966	5/15/1955			2/22/1982	6/28/1985	2/24/1977	7/19/1973	
Div. rate	2.94	1.70	0.17			2.12	0.01	0.11	0.31	7.36
Div. Volume	616.0	460.0	38.8			528.0	3.2	20.6	80.0	1746.6
Acres	154	115	9.7			132	0.8	5.9	20	437.4

Transfer #2 (Smith Farm existing WR: 35-7367)											
Water Right	35-2858A	35-7367	35-4237	35-7367	35-7557	35-8022	35-8610	27-12139	35-7310A		
Owner				Smith, Merlin Sr. Merlin Jr. & Jennifer	Smith, Merlin Sr. Merlin Jr. & Jennifer					TOTAL	
Priority				1/11/1974	12/5/1975						
Div. rate				3.94	0.31						4.25
Div. Volume				788.0	61.2						849.2
Acres				197	15.3						212.3

Unchanged Water Rights										
Water Right	35-2858A	35-2882	35-4237	35-7367	35-7557	35-8022	35-8610	27-12139	35-7310A	
Listed Owner			Smith, Merlin Sr. Merlin Jr. & Jennifer		William M. Williams Ltd. Partnership		Smith, Merlin Sr. Merlin Jr. & Jennifer		Idaho Water Company	TOTAL
Priority			5/15/1955		12/5/1975		6/28/1985		7/19/1973	
Div. rate			2.11		2.75		2.11		1.72	8.69
Div. Volume			477.2		550.8		514.4		448.0	1990.4
Acres			119.3		137.7		128.6		112	497.6

Appendix B
Map: ESPA Combined Transfer Layout



Appendix C

Summary: ESPA Transient Model Analysis Input

ESPA Ground Water Rights COMBINED Transfer Spreadsheet Data Summary

TRANSFER NO: Pending
 TRANSFER NAME: Meritt Smith (Combined Transfers)

PREPARED BY: Jason L. Helms, P.E.
 DATE: 8/23/2010
 Transfer Tool Version: Version 3.1

WATER RIGHTS INVOLVED:

TRANSFER #1 Rights Involved		TRANSFER #2 Rights Involved		HISTORIC BENEFICIAL USE:			
Right No.	Priority Date	Right No.	Priority Date	Trans/Mt. Rights (group no.)	Acres to Dry Up (ac)	Beneficial Use (af/yr)	Total (af/yr)
35-26664	1/15/1967			TRANSFER #1			
35-26664	1/15/1967			35-26664	15.4	818	318 not moving
35-4237	7/28/1934			35-2662	115	788	400
35-4237	7/28/1934			35-4237	8.7	88.9	38.9
35-8610	2/26/1932			35-8622	132	592	626 not moving
35-8610	2/26/1932			35-8610	6.8	12	3.2
35-13104	7/19/1932			35-13104	60	20	80
35-13104	7/19/1932			35-13100	5.9	10.8	21.8
				SUBTOTAL	437.4	1746.6	1746.6
				TRANSFER #2			
		35-2662	1/15/1976	35-2662	15.4	788	788 not moving
		35-557	12/5/1976	35-557	115.3	81.2	81.2
				SUBTOTAL	212.3	849.2	849.2

MODEL 1 CELL LOCATIONS:

	TO CELL	FROM1 CELL	FROM2 CELL	FROM3 CELL
ROW	73	81	75	75
COLUMN	130	122	131	130
	TO TRAIN	35-2662	35-4237	35-8610

Model 1 calculates impacts of Smith Transfer #1 related to moving portions of water rights 35-2662, 35-4237, 35-8610.

	Start Date		End Date		Water Use		Acres Authorized (acres)	Notes
	Season	Year	Season	Year	Annual (af/yr)	Trimester (af/trimester)		
TO Well (Projected Use)	Spring	1967	Winter	2010	0	0.0	0.0	Exceeded diversion of modeled capacity at Trimester THRO
	Spring	2011	Winter	2106	502	167.3	165.5	
FROM1 Well (With Transfer) (35-2662)	Spring	1967	Winter	1967	0	0.0	0.0	Proposed Transfer #1 of 400 af/yr (ALL)
	Spring	1999	Winter	2010	400	152.3	115.0	
	Spring	2011	Winter	2106	0	0.0	0.0	
FROM1 Well (Without Transfer) (35-2882)	Spring	1967	Winter	1967	0	0.0	0.0	No Changes
	Spring	1999	Winter	2106	400	152.3	115.0	
FROM2 Well (With Transfer) (35-4237)	Spring	1967	Winter	2010	38.8	12.9	9.7	Proposed Transfer #1 of 38.8 af/yr
	Spring	2011	Winter	2106	0	0.0	0.0	
FROM2 Well (Without Transfer) (35-4237)	Spring	1967	Spring	2106	38.8	12.9	9.7	No Changes
FROM3 Well (With Transfer) (35-8610)	Spring	1967	Summer	1967	0	0.0	0.0	Proposed Transfer #1 of 8 af/yr
	Summer	1985	Winter	2010	8	1.1	0.8	
	Spring	2011	Winter	2106	0	0.0	0.0	
FROM3 Well (Without Transfer) (35-8610)	Spring	1967	Spring	1967	0	0.0	0.0	No Changes
	Summer	1985	Winter	2106	8	1.1	0.8	

ESPA Ground Water Rights COMBINED Transfer Spreadsheet Data Summary

TRANSFER NO: Pending
TRANSFER NAME: Merlin Smith (Combined Transfers)

PREPARED BY: Union 5th Grade P.E.
DATE: 8/25/2010
Transfer Tool Version: Version 3.1

MODEL 2 CELL LOCATIONS:

	TO WELL	FROM1 WELL	FROM2 WELL	FROM3 WELL
ROW	73	69	82	0
COLUMN	130	131	132	0
	TO TRAN 1	35-7310A	27-12139	0

Model 2 calculates impacts of spatial transfers of water rights to existing positions of water rights.

	Start Date		End Date		Water Use		Acres Authorized (acres)	Notes
	Season	Year	Season	Year	Annual (af/yr)	Trimester (af/trimester)		
TO Well (Projected Use)	Spring	1957	Winter	2106	0.0	0.0	0.0	Proposed diversion of projected portions of Transfer 1 PUD
	Spring	2011	Winter	2106	10.6	35.5	25.2	
FROM1 Well (With Transfer) 35-7310A	Spring	1957	Winter	2106	0	0.0	0.0	Proposed Transfer #1 of 80 af/yr
	Spring	1973	Winter	2010	0.0	0.0	0.0	
	Spring	2011	Winter	2106	0	0.0	0.0	
FROM1 Well (Without Transfer) 35-7310A	Spring	1957	Winter	2106	0	0.0	0.0	No Changes
	Spring	1973	Winter	2106	20	25.1	27.1	
FROM2 Well (With Transfer) 27-12139	Spring	1957	Winter	2106	0	0.0	0.0	Proposed Transfer #1 of 20.6 af/yr
	Spring	1973	Winter	2010	20.6	6.9	15.9	
	Spring	2011	Winter	2106	0	0.0	0.0	
FROM2 Well (Without Transfer) 27-12139	Spring	1957	Winter	2106	0	0.0	0.0	No Changes
	Spring	1973	Winter	2106	20.6	6.9	15.9	
FROM3 Well (With Transfer)	Spring	1957	Winter	2106	0	0.0	0.0	unused
FROM3 Well (Without Transfer)	Spring	1957	Winter	2106	0	0.0	0.0	unused

MODEL 3 CELL LOCATIONS:

	TO WELL	FROM1 WELL	FROM2 WELL	FROM3 WELL
ROW	74	75	0	0
COLUMN	122	129	0	0
	TO TRAN 2	35-7557	0	0

Model 3 calculates impacts of historical and proposed diversions related to Transfer #2 of existing portion of water right 35-7557

	Start Date		End Date		Water Use		Acres Authorized (acres)	Notes
	Season	Year	Season	Year	Annual (af/yr)	Trimester (af/trimester)		
TO Well (Projected Use)	Spring	1957	Winter	2106	0	0.0	0.0	Proposed diversion of projected portions of Transfer 2 PUD
	Spring	2011	Winter	2106	61.2	20.4	15.3	
FROM1 Well (With Transfer) 35-7557	Spring	1957	Winter	2106	0	0.0	0.0	Proposed Transfer #2 of 61.2 af/yr
	Spring	1973	Winter	2010	61.2	20.4	15.3	
	Spring	2011	Winter	2106	0	0.0	0.0	
FROM1 Well (Without Transfer) 35-7557	Spring	1957	Winter	2106	0	0.0	0.0	No Changes
	Spring	1973	Winter	2106	61.2	20.4	15.3	
FROM2 Well (With Transfer)	Spring	1957	Winter	2106	0	0.0	0.0	unused
FROM2 Well (Without Transfer)	Spring	1957	Winter	2106	0	0.0	0.0	unused
FROM3 Well (With Transfer)	Spring	1957	Winter	2106	0	0.0	0.0	unused
FROM3 Well (Without Transfer)	Spring	1957	Winter	2106	0	0.0	0.0	unused

Appendix D
Model Data Entry Tables

ENHANCED GROUND-WATER RIGHTS TRANSFER

UNIVERSITY OF IDAHO - IDAHO WATER RESOURCES RESEARCH INSTITUTE

IDAHO DEPA

Cells this color are
set up for user entriesENTER STARTING DATE FOR
SIMULATION. THEN PUSH
"UPDATE DATES" BUTTON #2

TRANSFER NO:

YEAR

1957

TRANSFER NAME:

SEASON

SPRING

Merlin Smith

acres

15.3

Pumping fraction

0

Model Fraction

1

ENTER CELL LOCATIONS:

ROW	TO CELL	FROM1 CELL	FROM2 CELL	FROM3 CELL	35-7557	12/5/1975	61.2
COLUMN	74	75					
	122	129					
	TO TRAN 2	35-7557					
TRIMESTER OF ACTIVITY	TO WELL Projected Use AF/TRIMESTER	FROM1 WELL With Transfer AF/TRIMESTER	Without Transfer AF/TRIMESTER	FROM2 WELL With Transfer AF/TRIMESTER	Without Transfer AF/TRIMESTER	FROM3 WELL With Transfer AF/TRIMESTER	Without Transfer AF/TRIMESTER
SPR 1957	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SUM 1957	0.0	0.0	0.0	0.0	0.0	0.0	0.0
WIN 1957	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SPR 1958	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SUM 1958	0.0	0.0	0.0	0.0	0.0	0.0	0.0
WIN 1958	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SPR 1959	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SUM 1959	0.0	0.0	0.0	0.0	0.0	0.0	0.0
WIN 1959	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SPR 1960	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SUM 1960	0.0	0.0	0.0	0.0	0.0	0.0	0.0
WIN 1960	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SPR 1961	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SUM 1961	0.0	0.0	0.0	0.0	0.0	0.0	0.0
WIN 1961	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SPR 1962	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SUM 1962	0.0	0.0	0.0	0.0	0.0	0.0	0.0
WIN 1962	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SPR 1963	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SUM 1963	0.0	0.0	0.0	0.0	0.0	0.0	0.0
WIN 1963	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SPR 1964	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SUM 1964	0.0	0.0	0.0	0.0	0.0	0.0	0.0
WIN 1964	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SPR 1965	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SUM 1965	0.0	0.0	0.0	0.0	0.0	0.0	0.0
WIN 1965	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SPR 1966	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SUM 1966	0.0	0.0	0.0	0.0	0.0	0.0	0.0
WIN 1966	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SPR 1967	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SUM 1967	0.0	0.0	0.0	0.0	0.0	0.0	0.0
WIN 1967	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SPR 1968	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SUM 1968	0.0	0.0	0.0	0.0	0.0	0.0	0.0
WIN 1968	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SPR 1969	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SUM 1969	0.0	0.0	0.0	0.0	0.0	0.0	0.0
WIN 1969	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SPR 1970	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SUM 1970	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Merlin Smith Transfers, 2010

WIN:1970	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SPR:1971	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SUM:1971	0.0	0.0	0.0	0.0	0.0	0.0	0.0
WIN:1971	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SPR:1972	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SUM:1972	0.0	0.0	0.0	0.0	0.0	0.0	0.0
WIN:1972	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SPR:1973	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SUM:1973	0.0	0.0	0.0	0.0	0.0	0.0	0.0
WIN:1973	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SPR:1974	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SUM:1974	0.0	0.0	0.0	0.0	0.0	0.0	0.0
WIN:1974	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SPR:1975	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SUM:1975	0.0	0.0	0.0	0.0	0.0	0.0	0.0
WIN:1975	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SPR:1976	0.0	20.4	20.4	0.0	0.0	0.0	0.0
SUM:1976	0.0	20.4	20.4	0.0	0.0	0.0	0.0
WIN:1976	0.0	20.4	20.4	0.0	0.0	0.0	0.0
SPR:1977	0.0	20.4	20.4	0.0	0.0	0.0	0.0
SUM:1977	0.0	20.4	20.4	0.0	0.0	0.0	0.0
WIN:1977	0.0	20.4	20.4	0.0	0.0	0.0	0.0
SPR:1978	0.0	20.4	20.4	0.0	0.0	0.0	0.0
SUM:1978	0.0	20.4	20.4	0.0	0.0	0.0	0.0
WIN:1978	0.0	20.4	20.4	0.0	0.0	0.0	0.0
SPR:1979	0.0	20.4	20.4	0.0	0.0	0.0	0.0
SUM:1979	0.0	20.4	20.4	0.0	0.0	0.0	0.0
WIN:1979	0.0	20.4	20.4	0.0	0.0	0.0	0.0
SPR:1980	0.0	20.4	20.4	0.0	0.0	0.0	0.0
SUM:1980	0.0	20.4	20.4	0.0	0.0	0.0	0.0
WIN:1980	0.0	20.4	20.4	0.0	0.0	0.0	0.0
SPR:1981	0.0	20.4	20.4	0.0	0.0	0.0	0.0
SUM:1981	0.0	20.4	20.4	0.0	0.0	0.0	0.0
WIN:1981	0.0	20.4	20.4	0.0	0.0	0.0	0.0
SPR:1982	0.0	20.4	20.4	0.0	0.0	0.0	0.0
SUM:1982	0.0	20.4	20.4	0.0	0.0	0.0	0.0
WIN:1982	0.0	20.4	20.4	0.0	0.0	0.0	0.0
SPR:1983	0.0	20.4	20.4	0.0	0.0	0.0	0.0
SUM:1983	0.0	20.4	20.4	0.0	0.0	0.0	0.0
WIN:1983	0.0	20.4	20.4	0.0	0.0	0.0	0.0
SPR:1984	0.0	20.4	20.4	0.0	0.0	0.0	0.0
SUM:1984	0.0	20.4	20.4	0.0	0.0	0.0	0.0
WIN:1984	0.0	20.4	20.4	0.0	0.0	0.0	0.0
SPR:1985	0.0	20.4	20.4	0.0	0.0	0.0	0.0
SUM:1985	0.0	20.4	20.4	0.0	0.0	0.0	0.0
WIN:1985	0.0	20.4	20.4	0.0	0.0	0.0	0.0
SPR:1986	0.0	20.4	20.4	0.0	0.0	0.0	0.0
SUM:1986	0.0	20.4	20.4	0.0	0.0	0.0	0.0
WIN:1986	0.0	20.4	20.4	0.0	0.0	0.0	0.0
SPR:1987	0.0	20.4	20.4	0.0	0.0	0.0	0.0
SUM:1987	0.0	20.4	20.4	0.0	0.0	0.0	0.0
WIN:1987	0.0	20.4	20.4	0.0	0.0	0.0	0.0
SPR:1988	0.0	20.4	20.4	0.0	0.0	0.0	0.0
SUM:1988	0.0	20.4	20.4	0.0	0.0	0.0	0.0
WIN:1988	0.0	20.4	20.4	0.0	0.0	0.0	0.0
SPR:1989	0.0	20.4	20.4	0.0	0.0	0.0	0.0
SUM:1989	0.0	20.4	20.4	0.0	0.0	0.0	0.0
WIN:1989	0.0	20.4	20.4	0.0	0.0	0.0	0.0
SPR:1990	0.0	20.4	20.4	0.0	0.0	0.0	0.0
SUM:1990	0.0	20.4	20.4	0.0	0.0	0.0	0.0
WIN:1990	0.0	20.4	20.4	0.0	0.0	0.0	0.0
SPR:1991	0.0	20.4	20.4	0.0	0.0	0.0	0.0
SUM:1991	0.0	20.4	20.4	0.0	0.0	0.0	0.0
WIN:1991	0.0	20.4	20.4	0.0	0.0	0.0	0.0
SPR:1992	0.0	20.4	20.4	0.0	0.0	0.0	0.0
SUM:1992	0.0	20.4	20.4	0.0	0.0	0.0	0.0
WIN:1992	0.0	20.4	20.4	0.0	0.0	0.0	0.0
SPR:1993	0.0	20.4	20.4	0.0	0.0	0.0	0.0
SUM:1993	0.0	20.4	20.4	0.0	0.0	0.0	0.0
WIN:1993	0.0	20.4	20.4	0.0	0.0	0.0	0.0
SPR:1994	0.0	20.4	20.4	0.0	0.0	0.0	0.0
SUM:1994	0.0	20.4	20.4	0.0	0.0	0.0	0.0
WIN:1994	0.0	20.4	20.4	0.0	0.0	0.0	0.0
SPR:1995	0.0	20.4	20.4	0.0	0.0	0.0	0.0
SUM:1995	0.0	20.4	20.4	0.0	0.0	0.0	0.0
WIN:1995	0.0	20.4	20.4	0.0	0.0	0.0	0.0

Merlin Smith Transfers, 2010

SPR 1996	0.0	20.4	20.4	0.0	0.0	0.0	0.0
SUM 1996	0.0	20.4	20.4	0.0	0.0	0.0	0.0
WIN 1996	0.0	20.4	20.4	0.0	0.0	0.0	0.0
SPR 1997	0.0	20.4	20.4	0.0	0.0	0.0	0.0
SUM 1997	0.0	20.4	20.4	0.0	0.0	0.0	0.0
WIN 1997	0.0	20.4	20.4	0.0	0.0	0.0	0.0
SPR 1998	0.0	20.4	20.4	0.0	0.0	0.0	0.0
SUM 1998	0.0	20.4	20.4	0.0	0.0	0.0	0.0
WIN 1998	0.0	20.4	20.4	0.0	0.0	0.0	0.0
SPR 1999	0.0	20.4	20.4	0.0	0.0	0.0	0.0
SUM 1999	0.0	20.4	20.4	0.0	0.0	0.0	0.0
WIN 1999	0.0	20.4	20.4	0.0	0.0	0.0	0.0
SPR 2000	0.0	20.4	20.4	0.0	0.0	0.0	0.0
SUM 2000	0.0	20.4	20.4	0.0	0.0	0.0	0.0
WIN 2000	0.0	20.4	20.4	0.0	0.0	0.0	0.0
SPR 2001	0.0	20.4	20.4	0.0	0.0	0.0	0.0
SUM 2001	0.0	20.4	20.4	0.0	0.0	0.0	0.0
WIN 2001	0.0	20.4	20.4	0.0	0.0	0.0	0.0
SPR 2002	0.0	20.4	20.4	0.0	0.0	0.0	0.0
SUM 2002	0.0	20.4	20.4	0.0	0.0	0.0	0.0
WIN 2002	0.0	20.4	20.4	0.0	0.0	0.0	0.0
SPR 2003	0.0	20.4	20.4	0.0	0.0	0.0	0.0
SUM 2003	0.0	20.4	20.4	0.0	0.0	0.0	0.0
WIN 2003	0.0	20.4	20.4	0.0	0.0	0.0	0.0
SPR 2004	0.0	20.4	20.4	0.0	0.0	0.0	0.0
SUM 2004	0.0	20.4	20.4	0.0	0.0	0.0	0.0
WIN 2004	0.0	20.4	20.4	0.0	0.0	0.0	0.0
SPR 2005	0.0	20.4	20.4	0.0	0.0	0.0	0.0
SUM 2005	0.0	20.4	20.4	0.0	0.0	0.0	0.0
WIN 2005	0.0	20.4	20.4	0.0	0.0	0.0	0.0
SPR 2006	0.0	20.4	20.4	0.0	0.0	0.0	0.0
SUM 2006	0.0	20.4	20.4	0.0	0.0	0.0	0.0
WIN 2006	0.0	20.4	20.4	0.0	0.0	0.0	0.0
SPR 2007	0.0	20.4	20.4	0.0	0.0	0.0	0.0
SUM 2007	0.0	20.4	20.4	0.0	0.0	0.0	0.0
WIN 2007	0.0	20.4	20.4	0.0	0.0	0.0	0.0
SPR 2008	0.0	20.4	20.4	0.0	0.0	0.0	0.0
SUM 2008	0.0	20.4	20.4	0.0	0.0	0.0	0.0
WIN 2008	0.0	20.4	20.4	0.0	0.0	0.0	0.0
SPR 2009	0.0	20.4	20.4	0.0	0.0	0.0	0.0
SUM 2009	0.0	20.4	20.4	0.0	0.0	0.0	0.0
WIN 2009	0.0	20.4	20.4	0.0	0.0	0.0	0.0
SPR 2010	0.0	20.4	20.4	0.0	0.0	0.0	0.0
SUM 2010	0.0	20.4	20.4	0.0	0.0	0.0	0.0
WIN 2010	0.0	20.4	20.4	0.0	0.0	0.0	0.0
SPR 2011	20.4	0.0	20.4	0.0	0.0	0.0	0.0
SUM 2011	20.4	0.0	20.4	0.0	0.0	0.0	0.0
WIN 2011	20.4	0.0	20.4	0.0	0.0	0.0	0.0
SPR 2012	20.4	0.0	20.4	0.0	0.0	0.0	0.0
SUM 2012	20.4	0.0	20.4	0.0	0.0	0.0	0.0
WIN 2012	20.4	0.0	20.4	0.0	0.0	0.0	0.0
SPR 2013	20.4	0.0	20.4	0.0	0.0	0.0	0.0
SUM 2013	20.4	0.0	20.4	0.0	0.0	0.0	0.0
WIN 2013	20.4	0.0	20.4	0.0	0.0	0.0	0.0
SPR 2014	20.4	0.0	20.4	0.0	0.0	0.0	0.0
SUM 2014	20.4	0.0	20.4	0.0	0.0	0.0	0.0
WIN 2014	20.4	0.0	20.4	0.0	0.0	0.0	0.0
SPR 2015	20.4	0.0	20.4	0.0	0.0	0.0	0.0
SUM 2015	20.4	0.0	20.4	0.0	0.0	0.0	0.0
WIN 2015	20.4	0.0	20.4	0.0	0.0	0.0	0.0
SPR 2016	20.4	0.0	20.4	0.0	0.0	0.0	0.0
SUM 2016	20.4	0.0	20.4	0.0	0.0	0.0	0.0
WIN 2016	20.4	0.0	20.4	0.0	0.0	0.0	0.0
SPR 2017	20.4	0.0	20.4	0.0	0.0	0.0	0.0
SUM 2017	20.4	0.0	20.4	0.0	0.0	0.0	0.0
WIN 2017	20.4	0.0	20.4	0.0	0.0	0.0	0.0
SPR 2018	20.4	0.0	20.4	0.0	0.0	0.0	0.0
SUM 2018	20.4	0.0	20.4	0.0	0.0	0.0	0.0
WIN 2018	20.4	0.0	20.4	0.0	0.0	0.0	0.0
SPR 2019	20.4	0.0	20.4	0.0	0.0	0.0	0.0
SUM 2019	20.4	0.0	20.4	0.0	0.0	0.0	0.0
WIN 2019	20.4	0.0	20.4	0.0	0.0	0.0	0.0
SPR 2020	20.4	0.0	20.4	0.0	0.0	0.0	0.0
SUM 2020	20.4	0.0	20.4	0.0	0.0	0.0	0.0
WIN 2020	20.4	0.0	20.4	0.0	0.0	0.0	0.0
SPR 2021	20.4	0.0	20.4	0.0	0.0	0.0	0.0
SUM 2021	20.4	0.0	20.4	0.0	0.0	0.0	0.0

No change for future timesteps

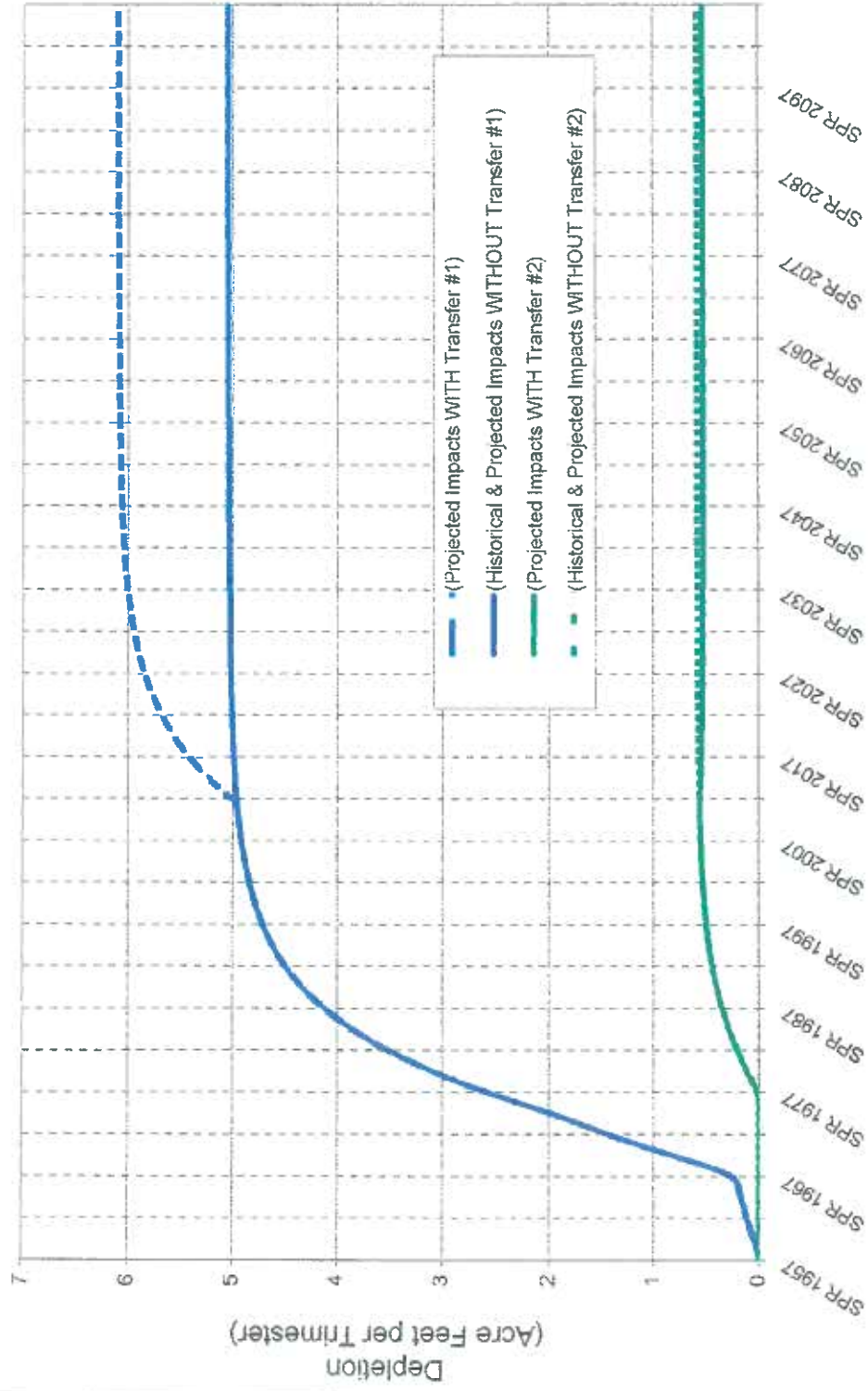
Appendix E

ESPA Transient Model Analysis Results

Merlin Smith
ESPA Calculated Transient Impacts of Proposed Combined Transfers

Hydrologic Response---Ashton to Rexburg

Customer Name: Merlin & Jennifer Smith Transfer No: Pending

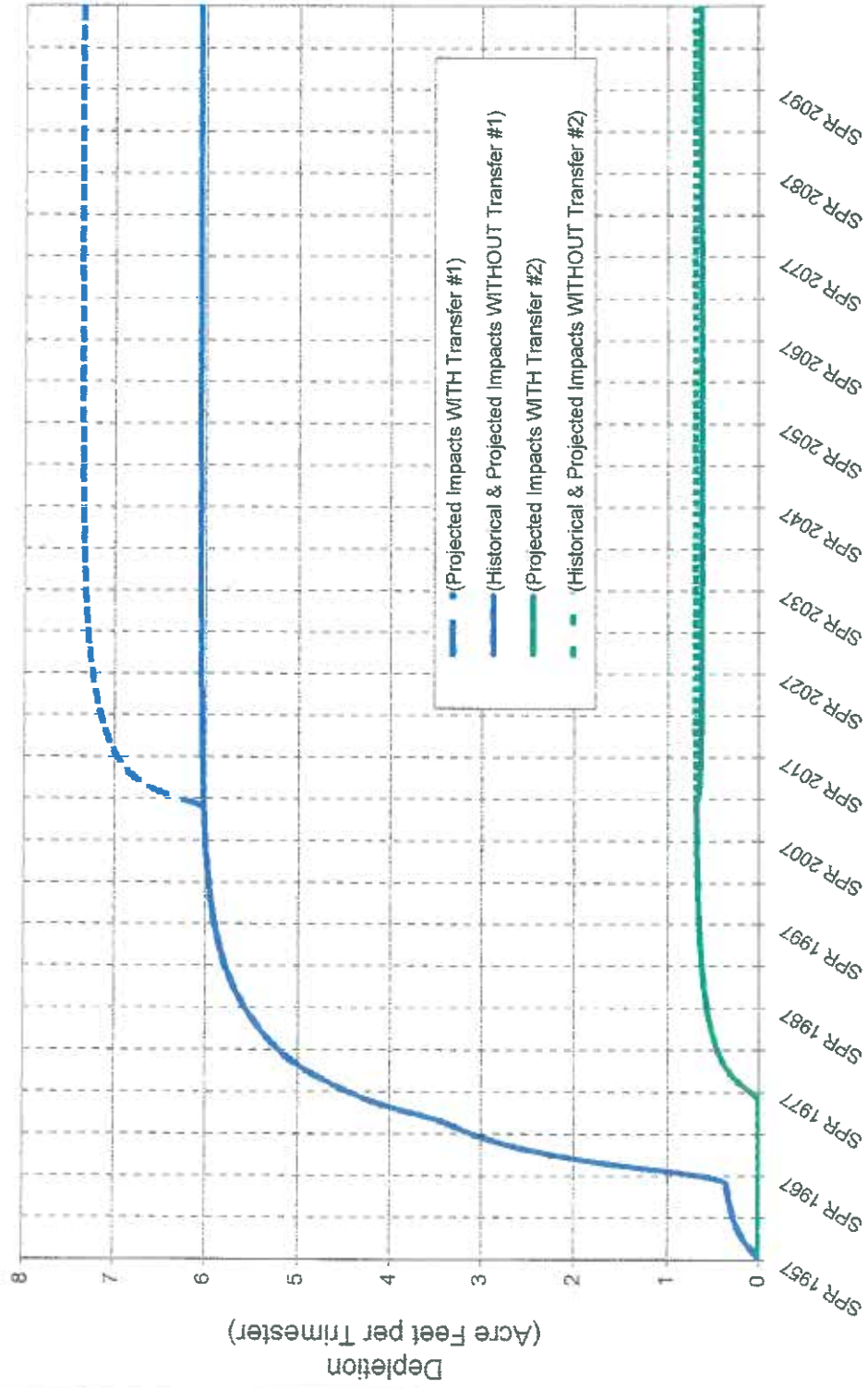


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Merlin Smith
 ESPA Calculated Transient Impacts of Proposed Combined Transfers

Hydrologic Response--Heise to Shelley

Customer Name: Merlin & Jennifer Smith Transfer No: Pending

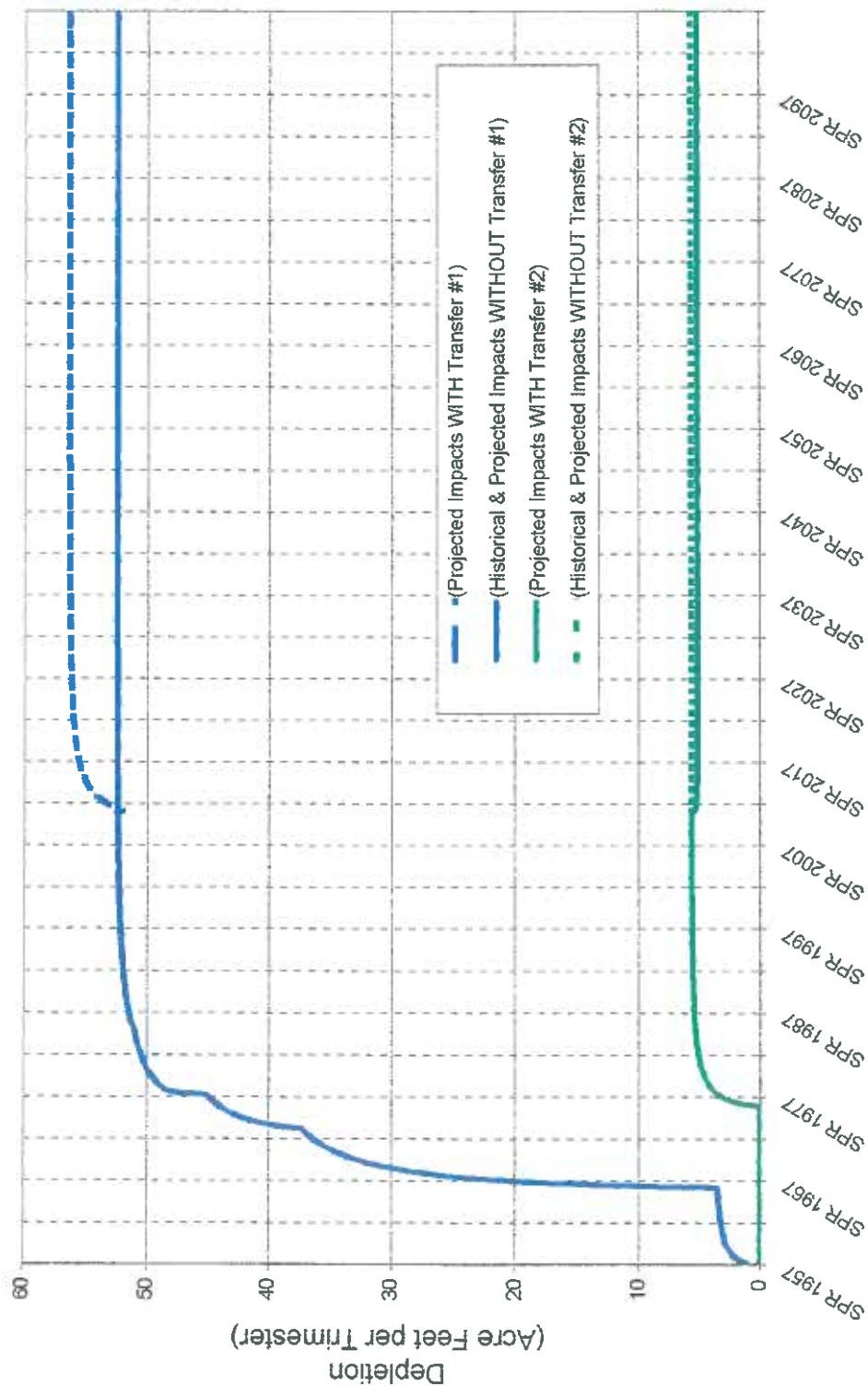


75499

Merlin Smith
 ESPA Calculated Transient Impacts of Proposed Combined Transfers

Hydrologic Response--Shelley to Near Blackfoot

Customer Name: Merlin & Jennifer Smith Transfer No: Pending



75499

Merlin Smith
 ESPA Calculated Transient Impacts of Proposed Combined Transfers

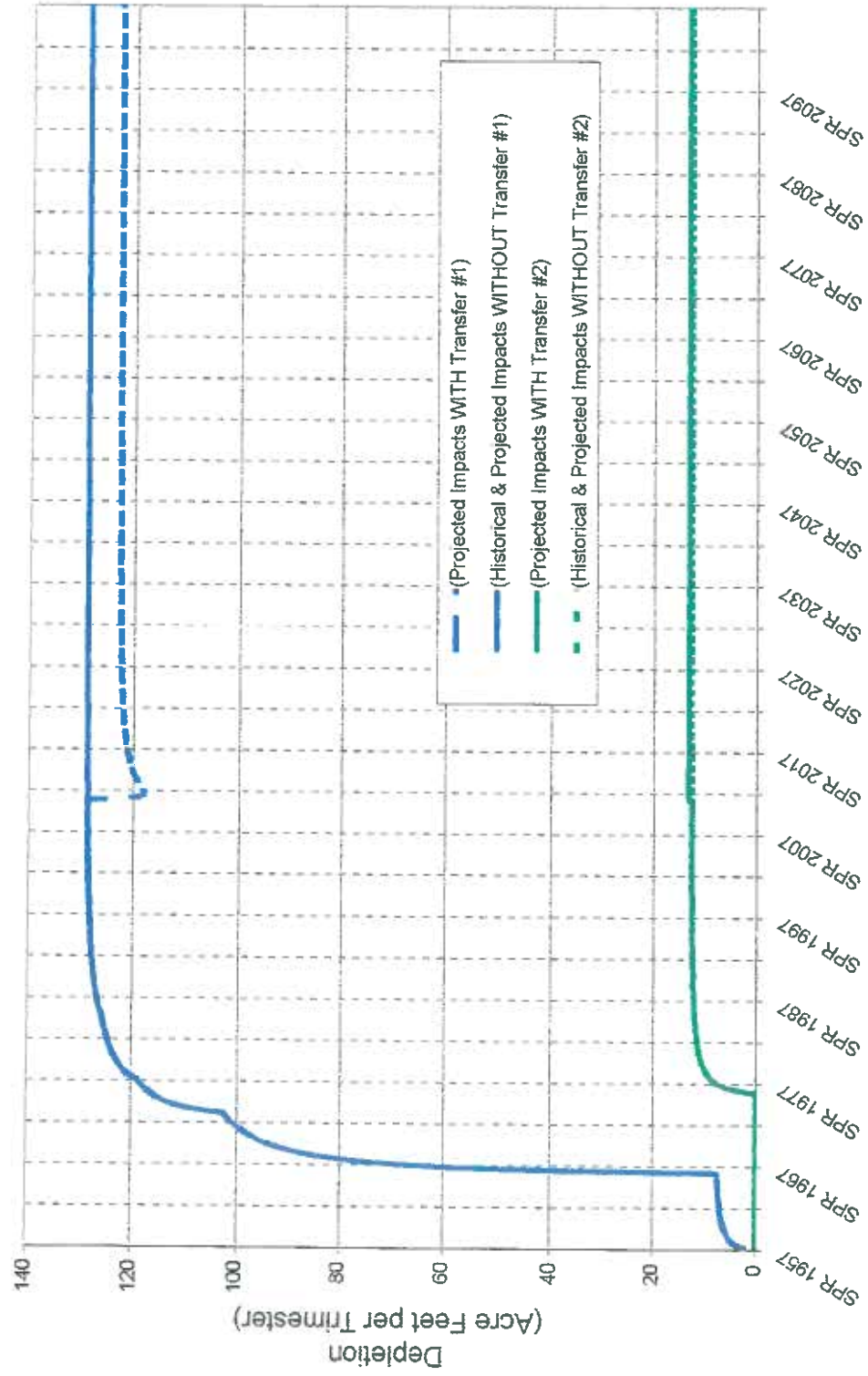
Hydrologic Response--Near Blackfoot to Neeley

Customer Name:

Merlin & Jennifer
 Smith

Transfer No:

Pending

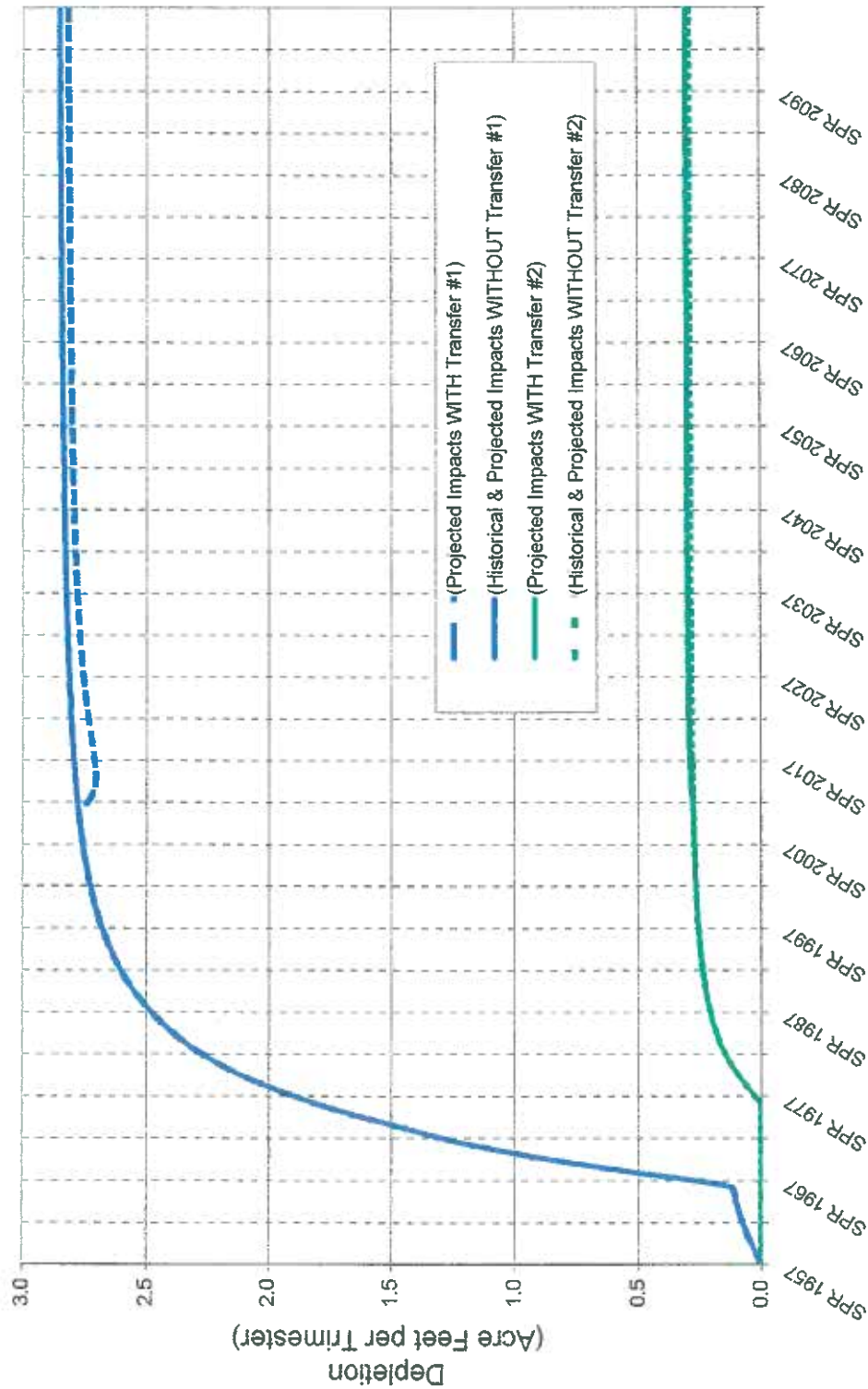


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Merlin Smith
 ESPA Calculated Transient Impacts of Proposed Combined Transfers

Hydrologic Response--Neeley to Minidoka

Customer Name: Merlin & Jennifer Smith Transfer No: Pending

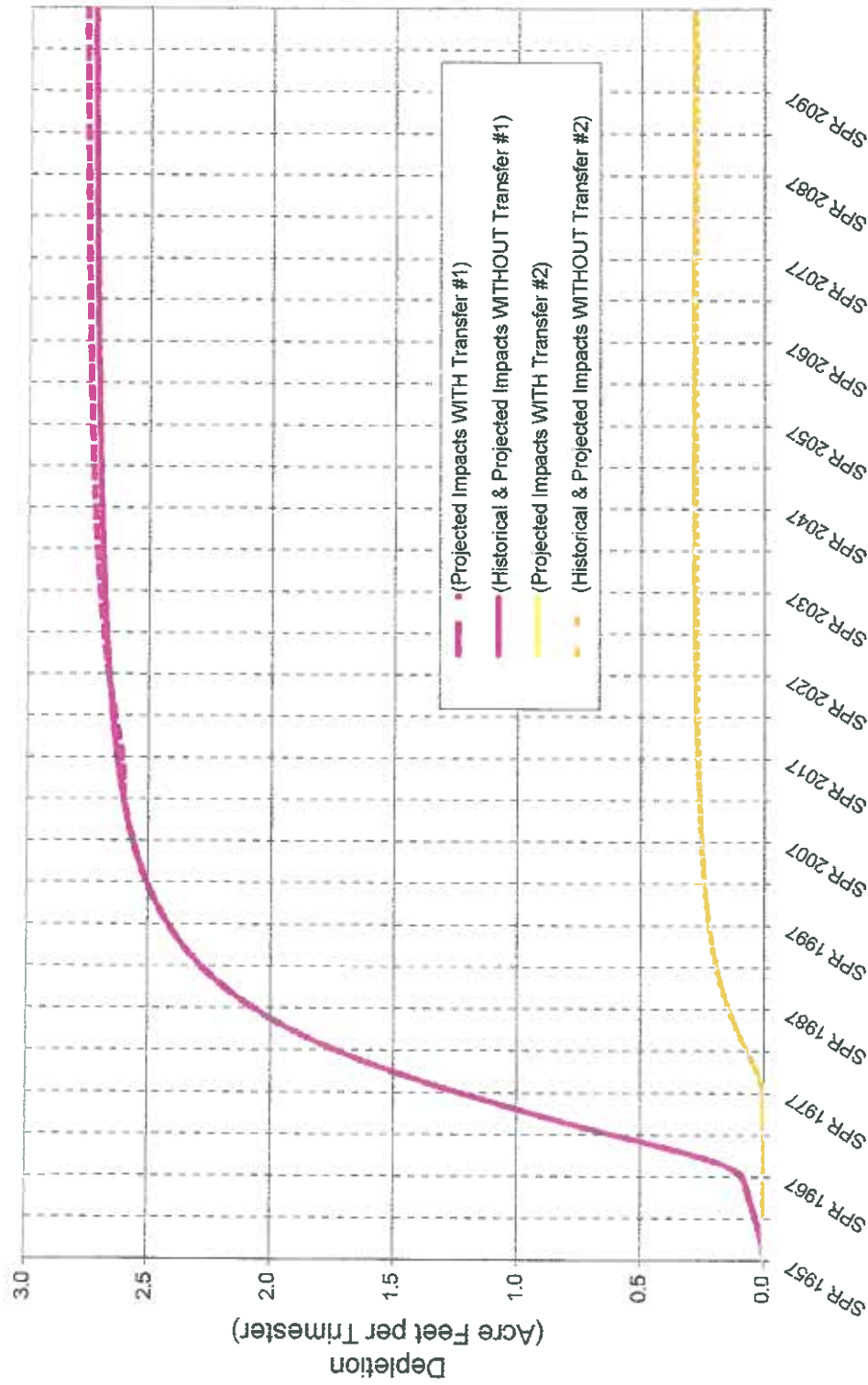


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Merlin Smith
 ESPA Calculated Transient Impacts of Proposed Combined Transfers

Hydrologic Response--Devil's Washbowl to Buhl

Customer Name: Merlin & Jennifer Smith **Transfer No:** Pending

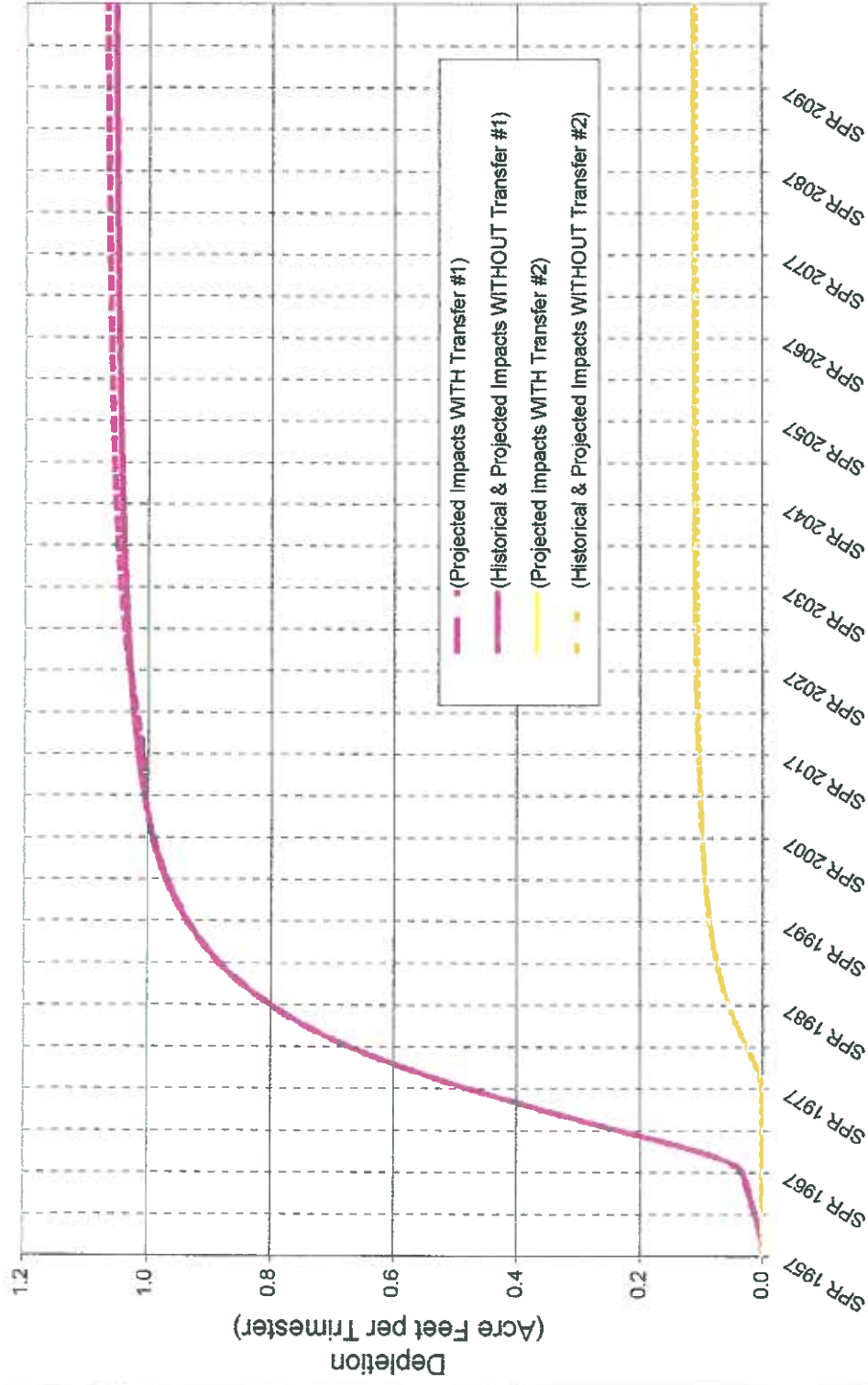


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Merlin Smith
 ESPA Calculated Transient Impacts of Proposed Combined Transfers

Hydrologic Response--Buhl to Thousand Springs

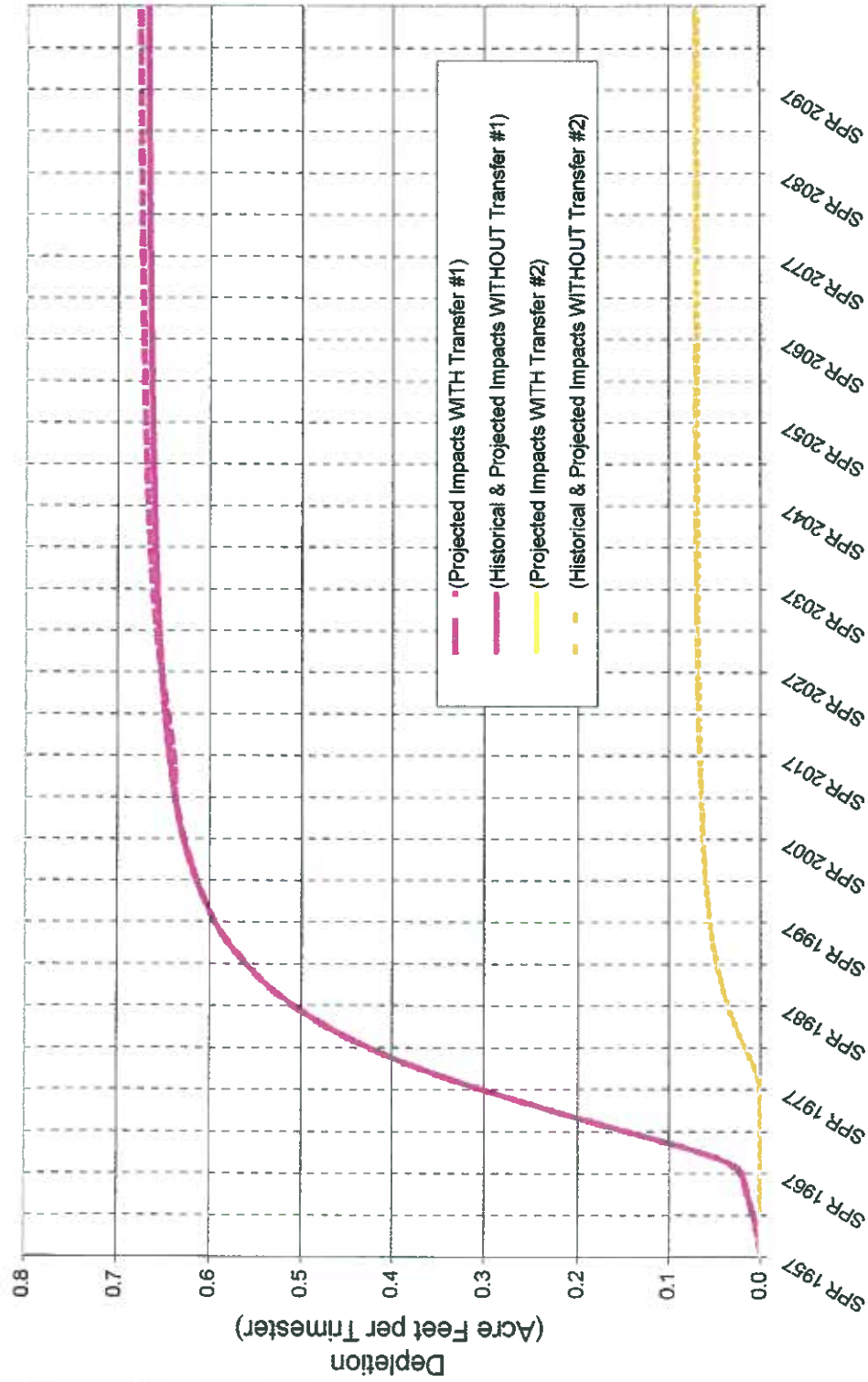
Customer Name: Merlin & Jennifer Smith Transfer No: Pending



Merlin Smith
 ESPA Calculated Transient Impacts of Proposed Combined Transfers

Hydrologic Response--Thousand Springs Complex

Customer Name: Merlin & Jennifer Smith **Transfer No:** Pending

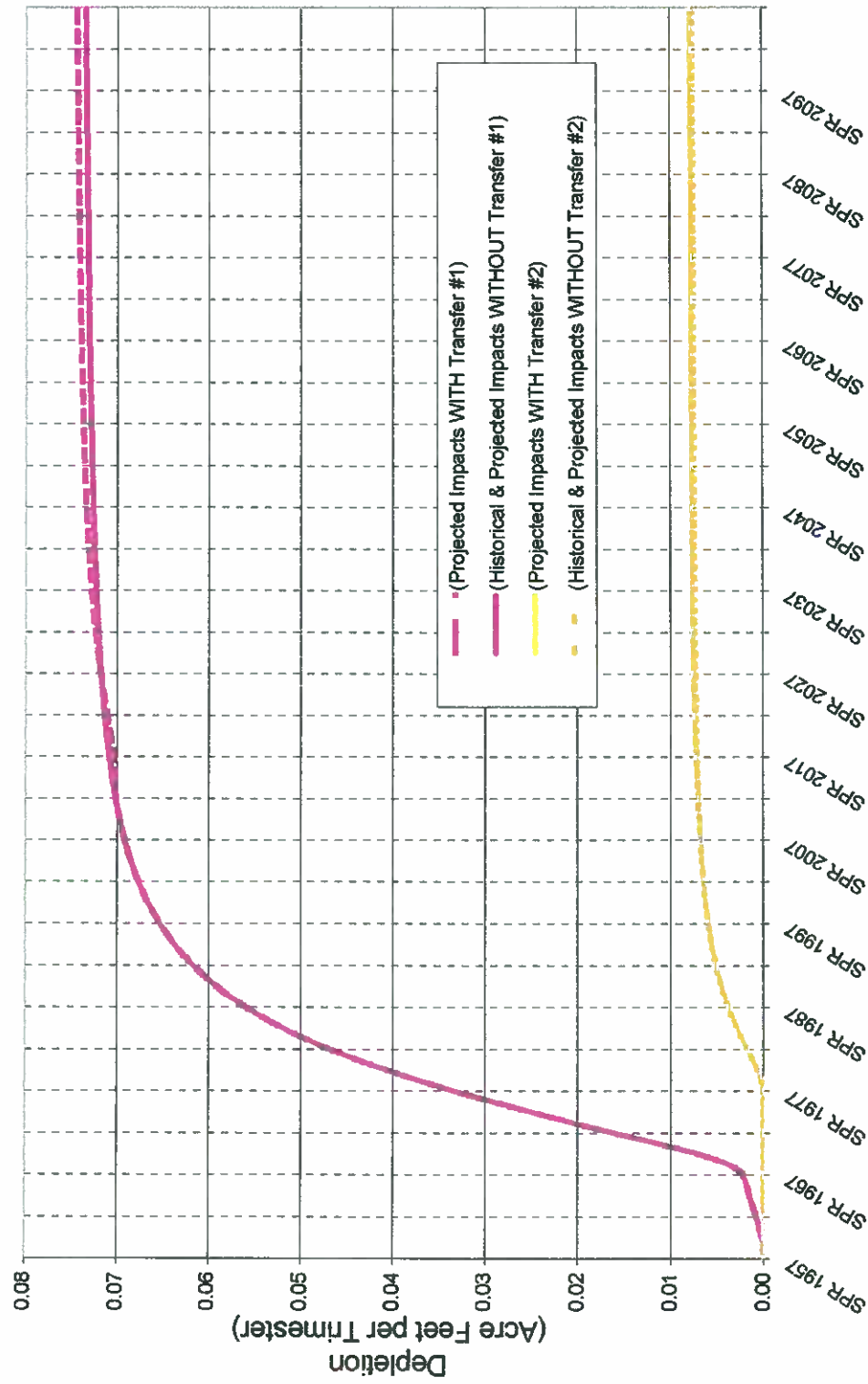


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Merlin Smith
 ESPA Calculated Transient Impacts of Proposed Combined Transfers

Hydrologic Response--Thousand Springs to Malad

Customer Name: Merlin & Jennifer Smith Transfer No: Pending

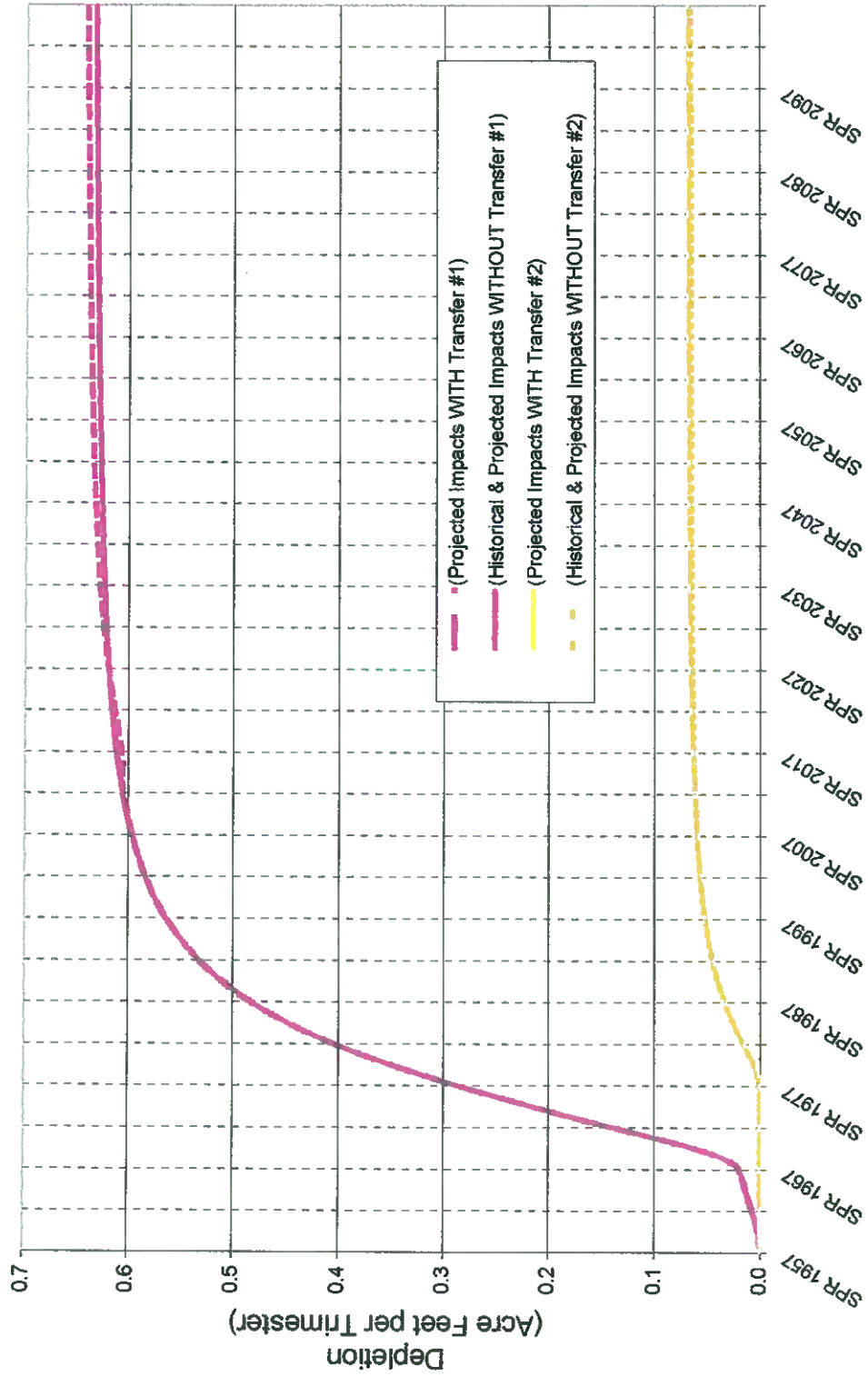


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Merlin Smith
 ESPA Calculated Transient Impacts of Proposed Combined Transfers

Hydrologic Response--Malad

Customer Name: Merlin & Jennifer Smith Transfer No: Pending

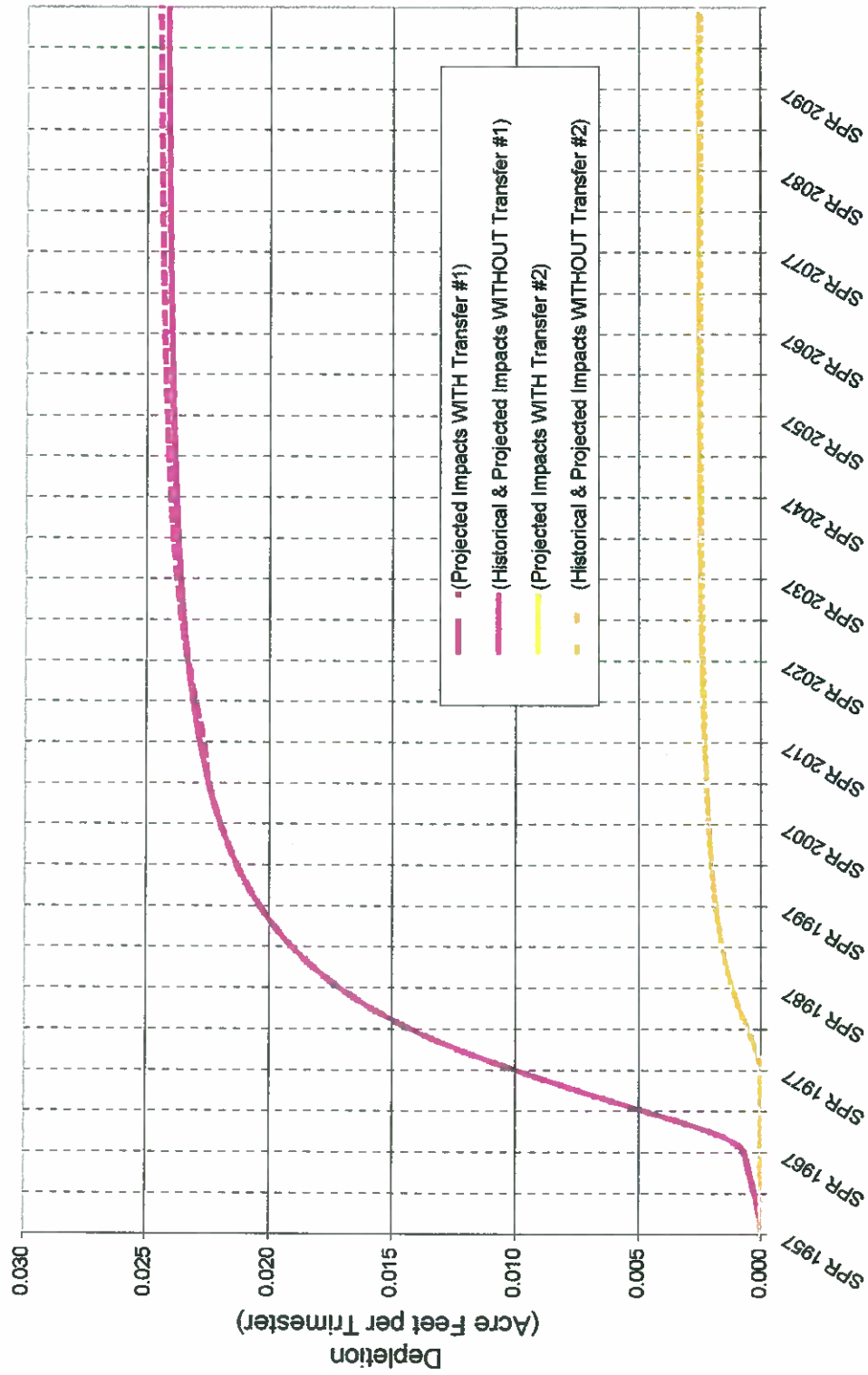


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Merlin Smith
 ESPA Calculated Transient Impacts of Proposed Combined Transfers

Hydrologic Response--Malad to Bancroft Spring

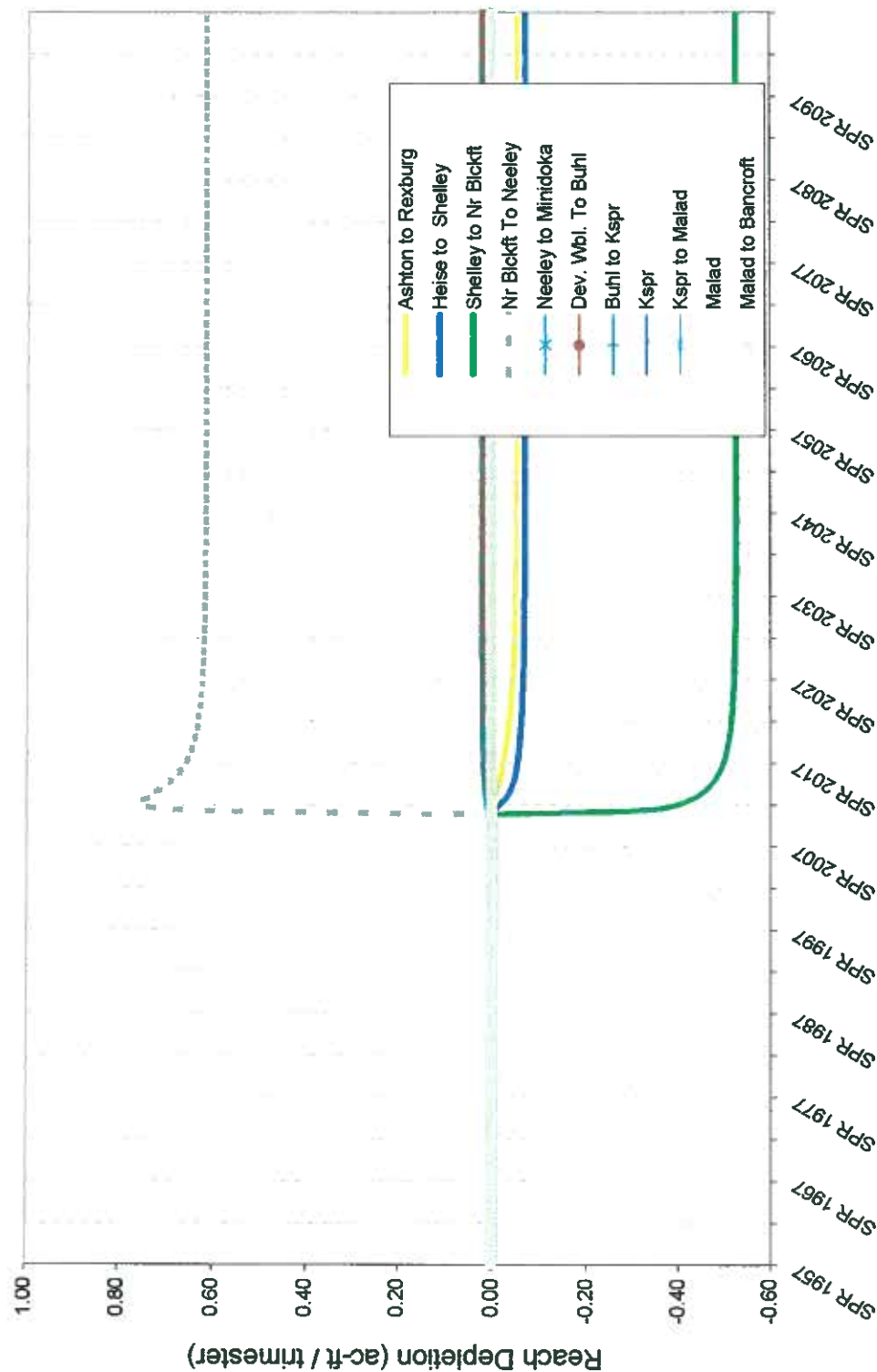
Customer Name: Merlin & Jennifer Smith Transfer No: Pending



Merlin Smith
ESPA Calculated Transient Impacts of Proposed Combined Transfers

Hydrologic Response--Net Change in Impacts of Transfer #2

Customer Name: Merlin & Jennifer Smith Transfer No: Pending

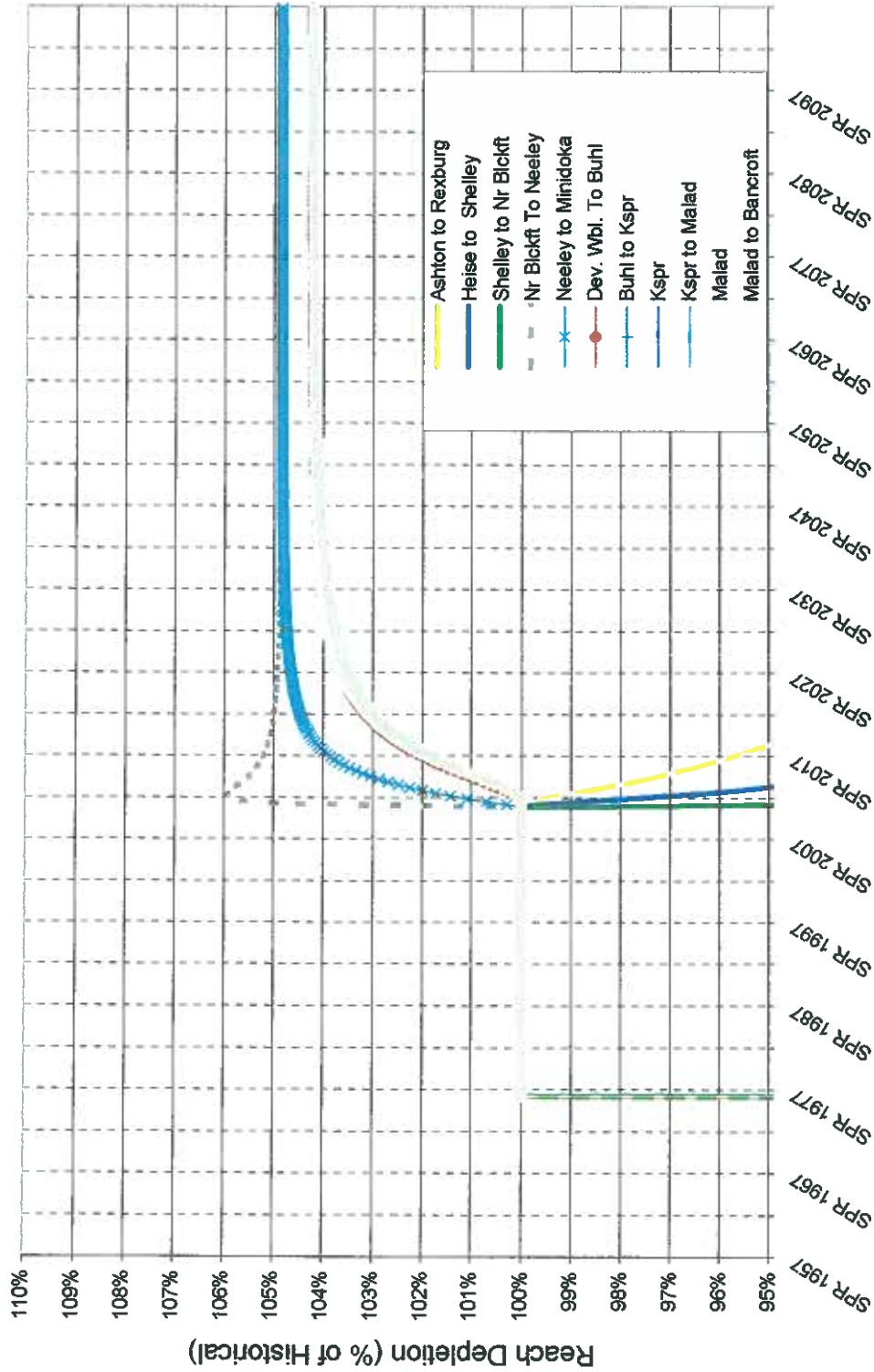


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Merlin Smith
ESPA Calculated Transient Impacts of Proposed Combined Transfers

Hydrologic Response--% Change in Impacts From Transfer 2

Customer Name: Merlin & Jennifer Smith Transfer No: Pending



75499

Law Offices of
BAKER & HARRIS

Dwight E. Baker
Jared M. Harris *
Jonathan W. Harris
* Also Admitted in Utah

266 West Bridge
Blackfoot, ID 83221
Telephone (208) 785-2310
Facsimile (208) 785-6749
E-Mail — jharris@BakerHarrisLaw.com

October 29, 2007

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

Re: Merlin Smith/Violation of Idaho Code Section 42-351/Consent Order and Agreement
B & H Matter No. 5921

Dear Mr. Luke:

Enclosed please find the following:

1. Consent Order and Agreement
2. Description of Right(s) or Portion Thereof Set Aside
3. Farm 5145/Tract 24484 Map and Water Right No. 35-7367
4. Farm 5058/Tract 25265 Map and Water Right No. 35-7557
5. Farm 5058/Tract 602 Map and Water Right No. 35-8610
6. Farm 4820/Tract 25674 Map and Water Right No. 2858A
7. Farm 4820/Tract 26050 and 26049 Map and Water Supply Rental Agreement
8. Mr. Smith's check in the sum of \$1056

Thank you for your professional courtesies. If you should require anything further, please advise.

Very truly yours,

BAKER & HARRIS

Jared M. Harris

JMH/ljs

Enclosures

cc: Merlin Smith

MERLIN SMITH
399 N 500 W
BLACKFOOT, ID 83221

1005
92-377/1241

DATE 10-29-07
TO THE ORDER OF Idaho Dept. of Water Resource \$ 1056.⁰⁰/₁₀₀
One thousand fifty six and 00/100 DOLLARS

Citizens Community Bank
P.O. Box 1706
Idaho Falls, ID 83403-1706
208-528-2329

FOR Estimate Merlin Smith

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

CONSENT ORDER AND AGREEMENT

In the matter of Notice of Violation and Cease and Desist Order dated May 30, 2007, issued to Jennifer Smith, Merlin Smith, and Merlin Smith Jr., pursuant to Section 42-1701B, Idaho Code.

Findings of Fact

- 1) Jennifer Smith, Merlin Smith, and Merlin Smith Jr. (Smith) are the owners of record of property situated in the S1/2, SWNE of Section 12, and the N1/2NE1/4 of Section 13, Township 2 South (T2S) and Range 33 East (R33E).
- 2) On December 11, 2006, the watermaster of Water District No. 120 sent a notice to Smith advising that there were three pivots located within the location described in Finding 1 being used to irrigate about 165 acres without a valid water right. The notice advised Smith that a search of water rights on record at the Idaho Department of Water Resources (Department) found no water rights appurtenant to the pivots in question. The watermaster advised Smith to cease and desist further irrigation of the approximate 165 acres under the pivots until valid water rights were obtained for the land. Smith was further advised that a copy of the notice was forwarded to the Department for potential administrative enforcement action.
- 3) Further review of the alleged unauthorized use by the Department in May of 2007 found that the total number of acres irrigated in 2006 without a water right was about 177 acres, including some acres in the N1/2NE1/4 of Section 13 that were not included in the original calculation of irrigated acres identified in the watermaster's notice dated December 11, 2006. Review of aerial photos and imagery on file at the Department indicate that all three pivots were irrigated as early as 1998.
- 4) After receipt of the watermaster's notice dated December 11, 2006, a Smith representative, Merlin Smith, visited the watermaster to discuss the notice. Mr. Smith explained that the pivots in question are irrigated from ground water wells located on adjacent irrigated lands and water rights that he owns, including rights 35-2858A and 35-8022. Mr. Smith also explained that the three pivots in question are located on land that he originally owned, sold and then reacquired as a result of a bankruptcy involving the party to which he sold the land.
- 5) On February 22, 2007, Smith submitted to the Department an Application to Rent Water from the Water Supply Bank to cover the 165 acres of land irrigated without a water right and identified in the watermaster's notice dated December 11, 2006.
- 6) On May 7, 2007, the Department approved a rental agreement for Smith from the water supply bank to irrigate the 165 acres in 2007 and 2008. Under the lease

agreement, Smith paid a 2007 water right lease fee of nine thousand two hundred and forty dollars (\$9,240).

- 7) During a teleconference call with a Department representative on May 29, 2007, Mr. Smith acknowledged that he was aware that the pivots on the land in question had been irrigated without water rights under his original ownership and before he sold it to another party. Smith confirmed that he owned all of the land in 1998. The party to whom Smith had sold the land had moved one of the three pivots slightly to the east but the total number of irrigated was approximately the same before and after the change. Smith stated that he was not successful in earlier attempts to obtain a water right to transfer to the land. Smith has informed both the watermaster and Department representatives that he is currently trying to obtain water rights that he can transfer to the three pivots.
- 8) On May 30, 2007, the Department sent Smith a Notice of Violation (NOV) concerning the unauthorized use of water on the three pivots, or a total of 177 acres. The NOV required Smith to provide restitution to replace the amount of water illegally diverted from the Eastern Snake Plain Aquifer in 2006 by setting aside and curtailing diversion of ground water on a minimum of 177 acres during 2008, and pay a civil penalty of fifty-three thousand one hundred dollars (\$53,100). Smith requested a compliance conference upon receipt of the NOV.
- 9) A compliance conference was held on June 11, 2007 between representatives of the Department, the watermaster, Smith and Smith's attorney, Jarred Harris. At the compliance conference, Mr. Harris provided copies of correspondence from 1999 between Smith's former attorney and the Department concerning reinstatement of a lapsed water right permit (35-7946) appurtenant to lands that Smith had acquired in 1991. The land under the lapsed permit was separate from the 177 acres described in the above referenced NOV and was also enrolled in a Federal Government crop set aside program at the time Smith acquired the land. The copies of the 1999 correspondence indicate that the lapsed permit could likely be reinstated. Smith explained that he understood his former attorney had taken the necessary steps to get the lapsed permit reinstated and subsequently transferred to the 177 acres. Smith further explained that until he received the watermaster's notice in December of 2007, he was unaware that his former attorney had not carried through with getting the lapsed permit reinstated and transferred to the 177 acres under the three pivots in Sections 12 and 13 of T2S, R33E.
- 10) The Department finds that Smith irrigated approximately 177 acres in 2006 using three pivots in the S1/2 and SWNE of Section 12, and the N1/2NE of Section 13, T2S, R33E without valid water rights.
- 11) The Department finds that Smith irrigated about 136 acres out of 154 authorized acres in 2006 under adjoining water right 35-2858A and that the same number of irrigated acres are being irrigated under that right this year. The 18 acres of land not irrigated under this right in 2006 and 2007 may offset the 12 acres not obtained in the water supply bank lease agreement in 2007 and correct for any earlier error in the calculation of unauthorized acres by Water District No. 120 or the Department.

It is hereby ordered and agreed that:

Terms of Agreement

- 1) Smith agrees to cease and desist diversion of water to lands in the S1/2 and SWNE of Section 12, and N1/2NE1/4 of Section 13, T2S, R33E upon expiration of any rental agreement from the water supply bank until valid water rights are obtained for or transferred to this land, and upon receiving authorization from the Department.
- 2) Smith agrees to provide restitution for unauthorized use of water and irrigation of 177 acres during 2006 by setting aside and curtailing diversion of ground water on a minimum of 159 acres during the 2008 irrigation season. Smith must identify to the Department on or before November 1, 2007 the location of the 159 acres and appurtenant water rights that will be set-aside in 2008.
- 3) Payment of an agreed civil penalty in the amount of one thousand and fifty-six dollars (\$1,056) is payable to the Idaho Department of Water Resources within fourteen (14) days of the execution of this agreement for the violation identified in the Notice of Violation dated May 30, 2007. The penalty amount compensates the Department for time and resources spent bringing this matter to compliance.
- 4) The Department suspends payment of fifty two thousand and forty-four dollars (\$52,044,100) civil penalty, which is the maximum penalty authorized by law for an illegal diversion of water for irrigation of 177 acres less the amount identified in term 3 above. The Department suspends this portion of the penalty in recognition of the steps resources expended by Smith in leasing water from the Water Supply Bank to legally cover the 177 acres in 2007. This penalty or any portion may be re-imposed for Smith's failure to fully comply with the terms of this agreement.
- 5) 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 unauthorized uses in year.

Dated this _____ day of _____, 2007

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 2nd day of October, 2007

Merlin Smith
Merlin Smith

DESCRIPTION OF RIGHT(S) OR PORTION THEREOF SET ASIDE

Farm No	Tract	Water Right Number	Priority Date	Total Irrigated Acreage	Acreage Set Aside	Remaining Irrigated Acreage	Nature of Use	Period of Use
5145	24484	35-7367	01/11/1974	197	69.6	127.4	Irrigation	4/1 to 10/31
5058	25265	35-7557	12/05/1975	153	20.2	132.8	Irrigation	4/1 to 10/31
5058	602	35-8610	06/28/1985	129.4	10.	119.4	Irrigation	4/1 to 10/31
4820	25674	35-2858A	01-16-1967	154	18.6	135.4	Irrigation	4/1 to 10/31
4820	26050	Water Bank Lease 35-2391		165	56.9	0	Irrigation	4/1 to 10/31
4820	26049				2.1	106.0	Irrigation	4/1 to 10/31
TOTALS				906.5	177.4	729.1		

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
02S	32E	35		NESW	17		SESW	26						
				NESE	39		NWSE	40		SWSE	38		SESE	37

Total Acres: 197

Conditions of Approval:

- 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.
1. C18
 2. M01
- A MEASURING DEVICE OF A TYPE APPROVED BY IDWR SHALL BE MAINTAINED AS A PART OF THE DIVERTING WORKS.

Dates:

Licensed Date:

Decreed Date: 03/04/2002

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:

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Civil Case Number:

Old Case Number:

Decree Plaintiff:

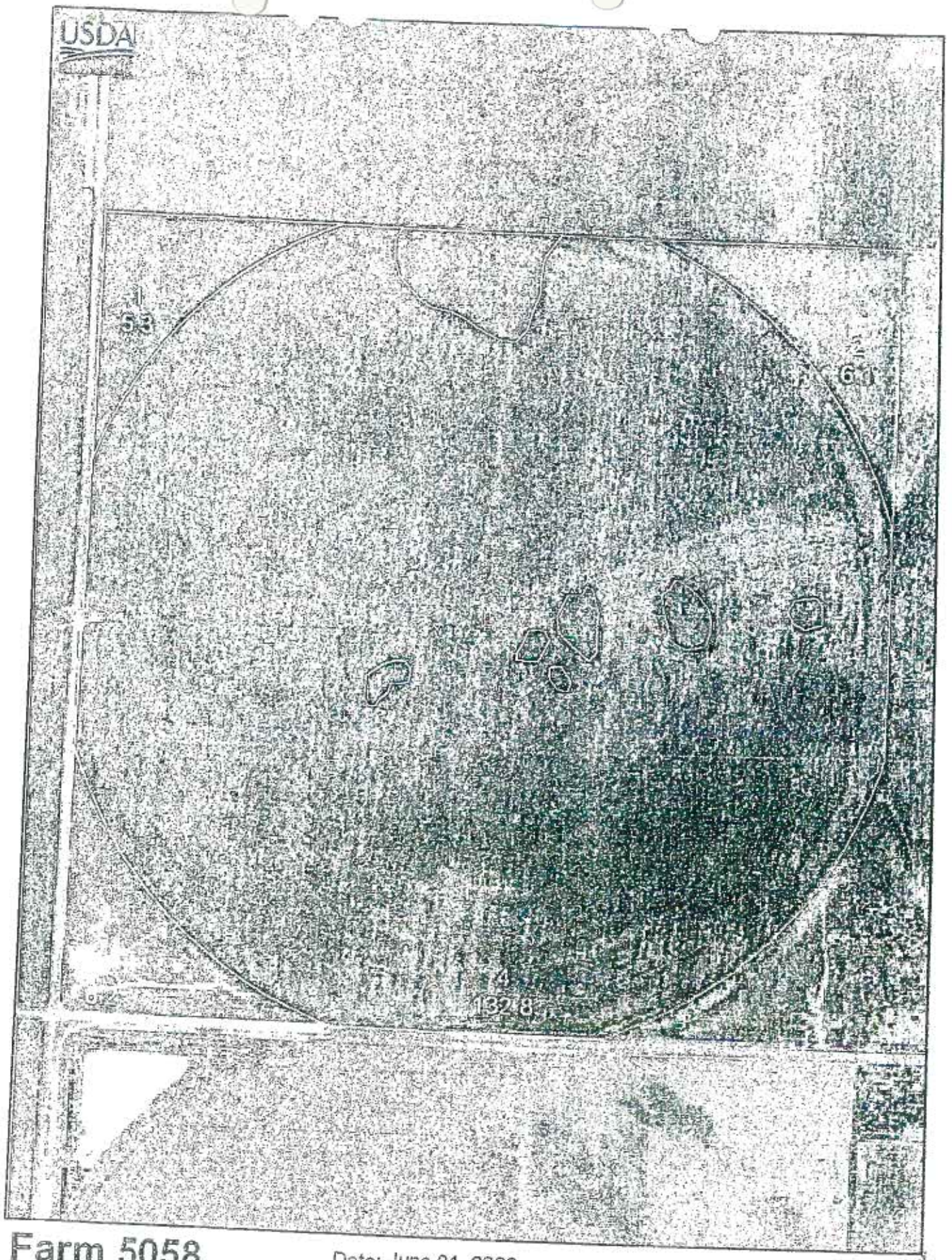
Decree Defendant:

75499

Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Cary Act Number:
Mitigation Plan: False

Close

USDA



Farm 5058

Date: June 01, 2006

T25265

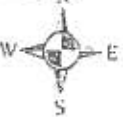
825

412.5

75499

Bingham County

825 Feet



IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report

10/26/2007

WATER RIGHT NO. 35-7557

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	WILLIAM M WILLIAMS LTD PARTNERSHIP HOLDEN KIDWELL HAHN & CRAPO PO BOX 50130 IDAHO FALLS, ID 83405 (208)523-0620

Priority Date: 12/05/1975
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	11/01	3.06 CFS	612 AFA
Total Diversion			3.06 CFS	

Location of Point(s) of Diversion:

GROUND WATER	NWSWSW	Sec. 13	Township 02S	Range 33E	BINGHAM County
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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
02S	33E	13		NESW	39		NWSW	37		SWSW	38		SESW	39

Total Acres: 153

Conditions of Approval:

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: 03/04/2002

Permit Proof Due Date: 1/1/1981

Permit Proof Made Date: 1/1/1900

Permit Approved Date: 1/9/1976

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:

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

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
02S	33E	13		NESE	32.4		NWSE	32		SWSE	32		SESE	33

Total Acres: 129.4

Conditions of Approval:

1. R31 This right when combined with all other rights shall provide no more than .02 cfs per acre nor more than 4.0 afa per acre for irrigation of the lands above.

Dates:

Licensed Date: 03/12/1994

Decreed Date:

Permit Proof Due Date: 6/1/1990

Permit Proof Made Date: 11/7/1989

Permit Approved Date: 5/23/1989

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: 06/28/1985

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal:

Owner Name Connector:

Water District Number:

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:

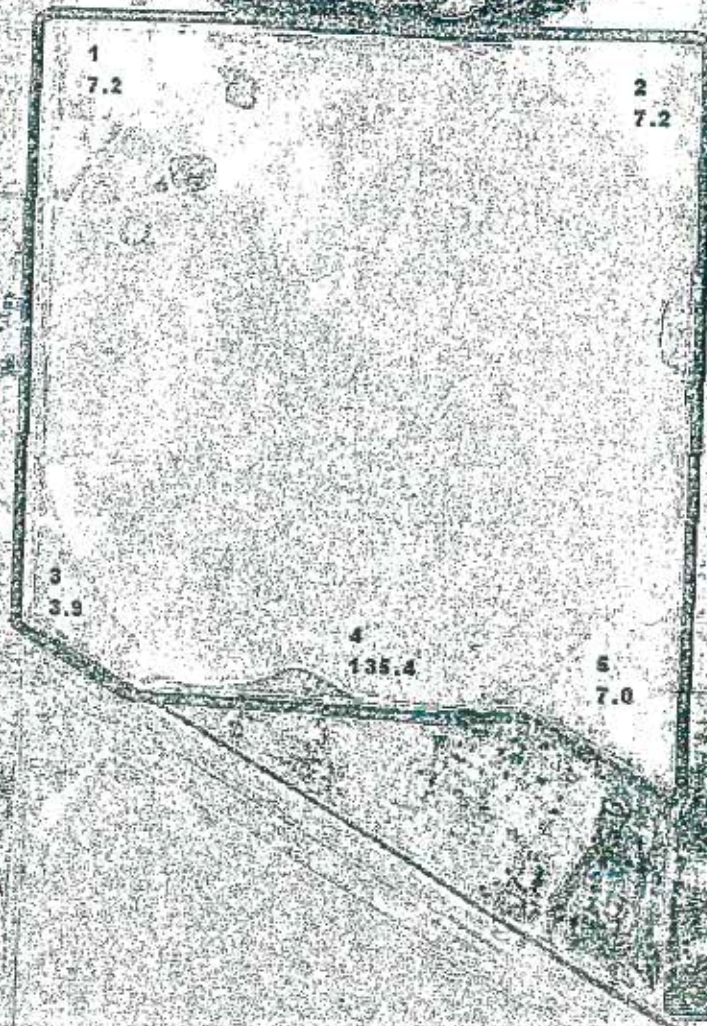
Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

Close



Farm 4320
Tract 25674
013

0.08 0 0.08 0.16 0.24 0.32 0.40

75499



IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report

10/26/2007

WATER RIGHT NO. 35-2858A

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	MERLIN SMITH 399 N 500 W BLACKFOOT, ID 83221 (208)681-2234
Original Owner	DARRELL BURKE 480 CLIFFORD BLACKFOOT, ID 83221 (208)785-1813

Priority Date: 01/16/1967
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	11/01	2.94 CFS	616 AFA
Total Diversion			2.94 CFS	

Location of Point(s) of Diversion:

GROUND WATER	SWNWNW	Sec. 18	Township 02S	Range 34E	BINGHAM County
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Place(s) of use:

75499

Place of Use Legal Description: IRRIGATION BINGHAM County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
02S	34E	18		NENW 40			NWNW 39			SWNW 35			SEnw 40	

Total Acres: 154

Conditions of Approval:

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: 02/25/2002

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:

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

USDA



Farm 4820
T26049

Date: November 21, 2006

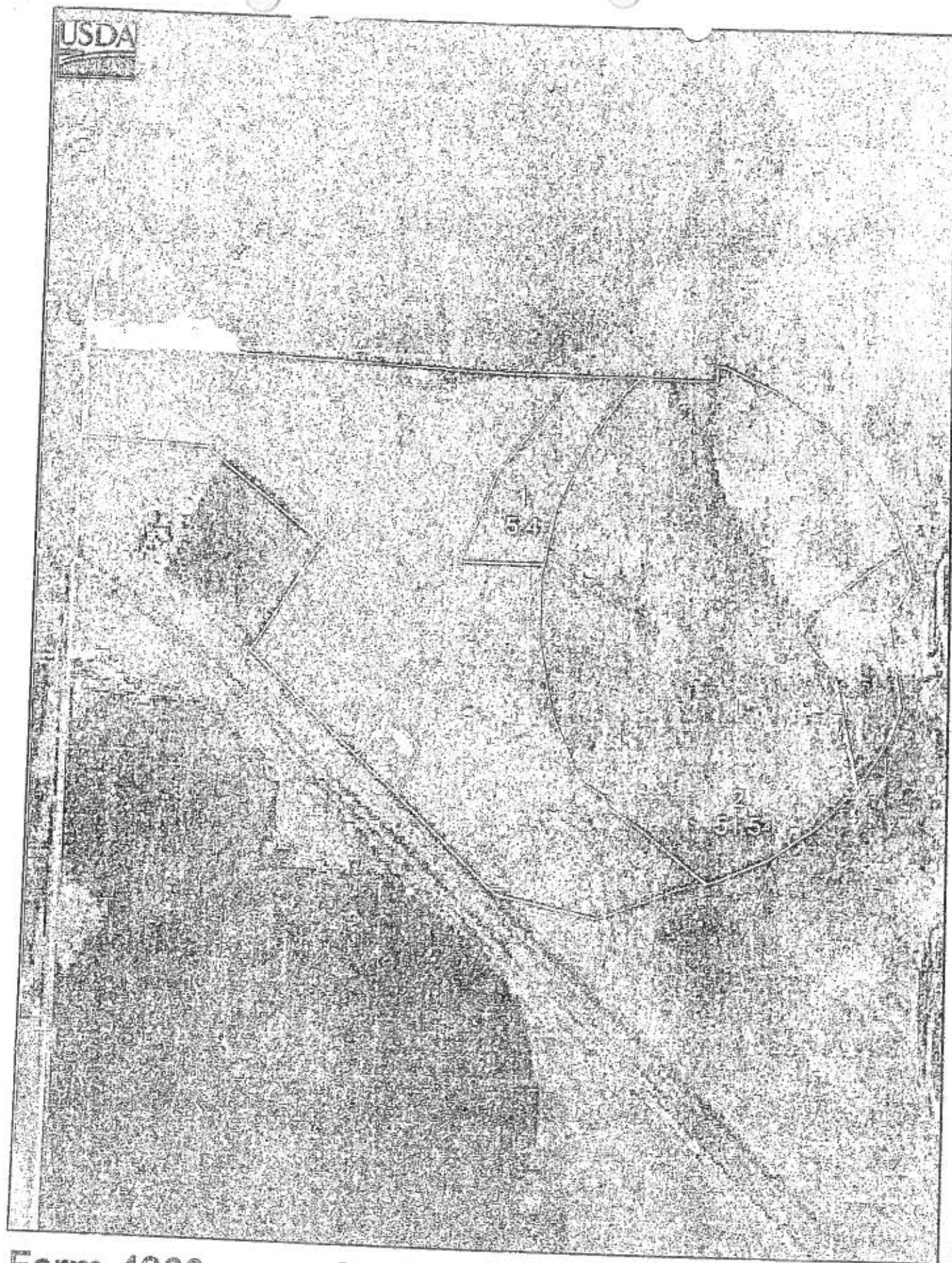


Bingham County



75409

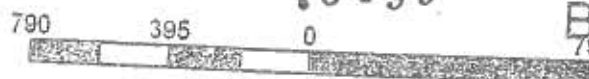
USDA



Farm 4820
T26050

Date: November 31, 2006

75499



Bingham County



Place of Use Legal Description: IRRIGATION BINGHAM County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
02S	34E	18		NENW	40		NWNW	39		SWNW	35		SEnw	40

Total Acres: 154

Conditions of Approval:

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE

1. C18 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: 02/25/2002

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:

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

75499

USDA

Farm 4820
T26050

Date: November 21, 2006

790

395

0 75499

Bingham County

790 Feet



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
WATER SUPPLY BANK RENTAL AGREEMENT

This is to certify that JENNIFER SMITH, MERLIN SMITH, AND MERLIN SMITH JR.
399 N 500 W
BLACKFOOT ID 83221

filed an application to rent water from the Water Supply Bank ("bank"). The Idaho Water Resource Board ("Board") being authorized to operate a bank and to contract by and through the Director of the Idaho Department of Water Resources ("Director, department") for rental of water from the bank agrees to rent water as follows:

Summary of Water Rights or Portions Leased to the Bank

<u>Right</u>	<u>Lease Rate</u>	<u>Lease Volume</u>	<u>Acres Limit</u>	<u>Total Leased Acres</u>
35-2391	3.3 cfs	660 AF		165 ac
COMBINED LEASE TOTALS	3.3 cfs	660 AF		165 ac

TERM OF RENTAL:

4/01/07 to 11/01/07 and
4/01/08 to 11/01/08

RENTAL FEE:

\$9,240.00 per year

The fee for rental of the above-described water is \$9,240.00 per year. An annual payment shall be received by the Department of Water Resources prior to the execution of this agreement and prior to April 1, the start of the irrigation season, in all subsequent years for the duration of the rental period. The agreement will be void if the payment is not received in a given year.

Detailed water right specific limitations and conditions attached.

The undersigned renter agrees to use the water rented under this agreement in accordance with the Water Supply Bank rules and in compliance with the limitations and conditions of use described in this agreement:

Dated this 30 day of April, 2007
By: Jennifer Smith
(Print Name) Amelia Smith
(Signature)

(Title if on behalf of company or organization)

Having determined that this agreement satisfies the provisions of Section 42-1763, Idaho Code, and IDAPA 37.02.03030 (Water Supply Bank Rule 30), for the rental and use of water under the terms and conditions herein provided, and none other, I hereby execute this Rental Agreement on behalf of the Idaho Water Resource Board this ____ day of _____, 20____.

DAVID R. TUTHILL, JR., Director
Department of Water Resources

WATER RIGHT NO(S). 35-2391 **WATER SUPPLY BANK RENTAL AGREEMENT**

The renter agrees to use the water rented under this agreement in accordance with the Water Supply Bank rules and in compliance with the limitations and conditions of use described below:

Renter: JENNIFER SMITH, MERLIN SMITH, AND MERLIN SMITH JR.
 399 N 500 W
 BLACKFOOT ID 83221

Priority Date: 12/20/1964

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/01	to 11/01	3.3 CFS	660 AF
	Total:		3.3 CFS	660 AF

LOCATION OF RENTER'S POINT(S) OF DIVERSION:

GROUND WATER	NESW	Sec. 12	Twp 02S	Rge 33E	BINGHAM County
GROUND WATER	SWNWNW	Sec. 18	Twp 02S	Rge 34E	BINGHAM County

RENTER'S PLACE OF USE: IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
02S	33E	12			6					1				6					143
02S	33E	13	18	4							19			6	32	25	19	35	22
Total Acres:			165																

CONDITIONS OF WATER USE

- The use of water under this agreement shall be subject to the provisions of Section 42-1766, Idaho Code.
- Rental of the specified right from the bank does not, in itself, confirm the validity of the right or any elements of the water right, or improve the status of the right including the notion of resumption of use. It does not preclude the opportunity for review of the validity of this water right in or any other department application process.
- Use of water under this agreement does not constitute a dedication of the water to renter's place of use and upon expiration of this agreement, the points of diversion and place of use of the water shall revert to those authorized under the water right and/or again be available to rent from the bank.
- This rental does not grant any right-of-way or easement to use the diversion works or conveyance works of another party.
- This rental agreement does not authorize the construction of a well.

WATER RIGHT NO(S). 35-2391
WATER SUPPLY BANK RENTAL AGREEMENT

CONDITIONS OF WATER USE

6. Use of water under this agreement shall not prejudice any action of the Department in its consideration of a permanent application for transfer filed by the applicant for this same use.
7. Renter agrees to comply with all applicable state and federal laws while using water under this agreement.
8. Renter agrees to hold the Board, the Director and the state of Idaho harmless from all liability on account of negligent acts of the renter while using water.
9. Renter acknowledges and agrees that the Director may terminate diversion of water if the Director determines there is not a sufficient water supply for the priority of the right or portion thereof being rented.
10. Failure of the right holder to comply with the conditions of this agreement is cause for the Director to rescind approval of the rental agreement.