

RECEIVED

NOV 12 2009

Department of Water Resources
Eastern Region

WITHDRAWAL
OF
APPLICATION FOR TRANSFER OF WATER RIGHT(S)

I/We, USDI - BLM and _____ ,
(Applicant's Printed Name) (Applicant's Printed Name)

_____ and _____ ,
(Applicant's Printed Name) (Applicant's Printed Name)

hereby withdraw our Application for Transfer No. 69923 of Water Right

No(s). 73-2098

Signed this 9th day of November, 2009.

Nate Arave / Geologist
(Signature/Title of Applicant)

(Signature/Title of Applicant)

(Signature/Title of Applicant)

(Signature/Title of Applicant)

**LAW OFFICES OF
LAURENCE J. LUCAS, ESQ.**

P.O. Box 1342
Boise, ID 83701
(208) 424-1466
July 7, 2002

Via Fax and Regular Mail

Harold W. Jones
Water Right Specialist
Idaho Department of Water Resources
900 N. Skyline Drive
Suite A
Idaho Falls ID 83402-1718
Fax: 208-525-7177

Re: Transfer Application 69923
Water Right No. 73-2098, Mahogany Creek

Dear Mr. Jones:

Following up on my letter to you of June 12, 2002, in which I advised you that my client Western Watersheds Project desires to protest both the amended transfer application by Sulphur Creek Livestock for Mahogany Creek in the Pahsimeroi basin, and the transfer application by BLM for the same right, I am enclosing with this letter a formal protest plus the \$25.00 filing fee.

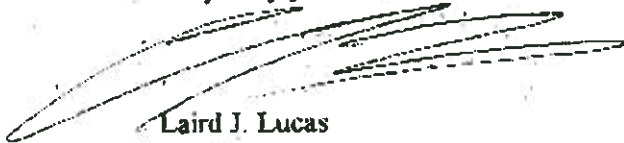
A copy of these materials are also being served upon the applicant, BLM, as per the Challis Messenger notice.

As I have not yet seen the complete BLM transfer application, could you please send me a copy at your convenience?

I presume the two applications will be consolidated for hearing. If not, please also advise me what the next steps will be.

Thanks for your attention to this matter

Very truly yours,



Laird J. Lucas
Attorney for WWP

Enc.

Cc: Jon Marvel, WWP

Cell
208-870-7621

Receipt
#ED57940
Received
7/7/2002

Laurence ("Laird") J. Lucas
P.O. Box 1342
Boise, ID 83701
(208) 424-1466

Attorneys for Protestant/Movant Western Watersheds Project

BEFORE THE IDAHO DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF TRANSFER)
APPLICATION 69923, PROPOSING TO)
CHANGE WATER RIGHT NO. 73-2098,)
BY U.S. BLM)

**PROTEST TO TRANSFER APPLICATION,
MOTION TO INTERVENE, AND
MOTION TO DENY TRANSFER BASED ON PARTIAL FORFEITURE OR
ABANDONMENT**

Protestant and Movant WESTERN WATERSHEDS PROJECT ("WWP"), by and through the undersigned counsel, hereby PROTESTS Transfer Application No. 69923 by U.S. Bureau of Land Management to change aspects of water right no. 73-2098; MOVES TO INTERVENE in said transfer proceeding; and further MOVES TO DENY TRANSFER based on partial abandonment or forfeiture of water right no. 73-2098 for all alleged irrigation uses and in all amounts exceeding .02 cfs, for reasons previously set forth in WWP's Protest, Motion To Intervene and Motion To Deny Transfer Based on Partial Forfeiture or Abandonment regarding this same water right with respect to the transfer application submitted by Sulphur Creek Livestock Co. (Application No. 69783).

This Protest, Motion to Intervene, and Motion to Deny Transfer are submitted pursuant to the Idaho Water Code, including but not limited to I.C. § 42-104, 42-203A, and § 42-222; the IDWR Rules of Procedure; and all other relevant authorities.

The grounds supporting the above Protest and Motions are set forth below:

PROTEST AND MOTIONS - 1

1. Protestant/Movant WESTERN WATERSHEDS PROJECT ("WWP") is an Idaho non-profit conservation organization, located at PO Box 1770, Hailey ID, 83333, phone: (208) 788-2290. Until 2001, WWP was known as "Idaho Watersheds Project." WWP has approximately 1,000 members, located in Idaho and other states, and is dedicated to protecting and conserving the watersheds, public lands and natural resources of the American West.

2. WWP has long-standing interests in both the specific water right at issue here (No. 73-2098), as well as the use of the waters in Mahogany Creek (original source of the right) and the Pahsimeroi River (proposed new source). WWP is the owner and manager of the Greenfire Preserve on the East Fork Salmon River, which holds water rights in that subbasin; and WWP is deeply involved in many water use and land management issues in the Upper Salmon basin generally.

3. In particular, WWP and its staff and members make extensive use of the public lands, waters and resources of the Pahsimeroi watershed, including Mahogany Creek; and those uses include fishing, hiking, study, and other scientific, recreational, and aesthetic pursuits. WWP is concerned with preventing adverse harms to the streams, watersheds, and dependent fish and wildlife in the Pahsimeroi basin, including Mahogany Creek; and in furtherance of those interests has undertaken extensive review and surveys of diversions, land use practices, and other human activities in the basin; participation in federal and state agency proceedings relating to diversions and land use practices in the basin; and has brought federal court litigation over diversions and land use practices in the basin.

4. Among other activities, WWP (under its prior name, Idaho Watersheds Project), filed litigation in December 2000 in the U.S. District Court for the District of Idaho, concerning the diversion by water right claimant Sulphur Creek Livestock Co. out of Mahogany Creek, under

claimed water right 73-2098. See Idaho Watersheds Project et al v. Judd Whitworth et al, No. CIV 00-0728-E-BLW (D. Idaho). Said litigation is still pending, and alleges claims under the federal Endangered Species Act concerning adverse effects of the Mahogany Creek diversion, under claimed water right 73-2098, upon the listed Bull Trout.

5. As part of WWP's investigation and review of the Mahogany Creek diversion, as well as other diversions in the Pahsimeroi basin, WWP collected and reviewed historical information concerning diversions and beneficial use (or lack thereof) of water from Mahogany Creek by Sulphur Creek Livestock Co. under claimed water right 73-2098. As documented in WWP's submissions to the U.S. District Court in the above-referenced litigation, and in other materials, Sulphur Creek Livestock Co., until 2001, diverted all or nearly all water out of Mahogany Creek into a ditch, which flowed for several miles across BLM lands, which water was never used for irrigation on the alleged place of irrigation use for claimed water right no. 73-2098. See Declaration of Stew Churchwell, filed in IWP v. Whitworth, No. CIV 00-0728-E-BLW (D. Idaho).

6. Under water right 73-02098, Sulphur Creek Livestock claims the right to divert 2.4 cubic feet per second ("cfs") out of Mahogany Creek to irrigate 160 acres of land located in T11N R23E S14 (Boise Meridian), as well as for stockwater purposes. In truth, as WWP's investigation has revealed, neither Sulphur Creek Livestock nor anyone else has used Mahogany Creek water for irrigation purposes in many years – if indeed there was ever any irrigation use at all. Available aerial photography reveals that, as of 1987, no cultivation of crops or irrigation of any kind was visible on the current stated place of use for claimed water right 73-02098. Further, WWP's representatives have traveled along the Mahogany Creek ditch in recent years, including summers of 2000 and 2001, and found no evidence of any irrigation whatsoever, either

at the place of use specified in water right A73-02098 or elsewhere in the vicinity. Churchwell Decl., ¶ 25-26 & Photos L-O. As Mr. Churchwell's recent photographs show, the Mahogany Creek ditch largely runs along a dirt road, and terminates after several miles in the road. Id. Only sagebrush and other range vegetation are present where the Whitworth Defendants have claimed that irrigation is allegedly occurring using Mahogany Creek water. Id. Rather than irrigating any crops, water often just spills out of the Mahogany Creek ditch onto the adjoining road, or leaks out of the ditch into the ground. Id.

7. In other words, Sulphur Creek Livestock Co. has, for well over five years and probably for several decades, simply used the Mahogany Creek ditch as a leaky, miles-long livestock watering trough, without putting the water to beneficial use for the claimed irrigation use purposes. At the same time, Sulphur Creek Livestock Co. has grossly over-diverted water from Mahogany Creek for livestock watering purposes, in violation of Idaho law.

8. Moreover, Sulphur Creek Livestock Co. has likely often diverted even more water than allowed under its claimed water right of 2.4 cfs from Mahogany Creek, since until recently it had no metering device to measure and control diversions, and instead simply took all the water flowing down Mahogany Creek. Churchwell Decl., ¶ 22-24.

9. Idaho water law forbids the type of grossly excessive and wasteful diversions seen here. It is a fundamental tenet of Idaho water law, as in other prior appropriation states, that water may only be diverted for reasonable and beneficial uses. Baker v. Ore-Ida Foods, Inc., 95 Idaho 575, 584, 513 P.2d 627 (1973). See also Poole v. Olaveson, 356 P.2d 61, 65 (1960) ("policy of the law of this State is to secure the maximum use and benefit, and the least wasteful use, of its water resources"); Glavin v. Salmon River Canal Co., 44 Idaho 583, 258 P. 532 (1927) ("any property rights [in water] must be considered and construed with reference to the reasonableness of the use").

The basis, measure, and limit of a water right is thus the amount of beneficial use; and the right to use water ceases if water is not put to beneficial use. See I.C. § 42-104 ("appropriation must be for some useful or beneficial purpose, and when the appropriator or his successor in interest cease to use it for such purpose, the right ceases").

10. A water right also may be abandoned by intentionally giving up use of the water; while failure to put water to the claimed beneficial use for more than five years also results in forfeiture of the claimed right. I.C. § 42-222(2); Dobson v. Dobson, 122 Idaho 59 (1992). Partial forfeiture or abandonment applies to any amount of a claimed water right that is not put to beneficial use for the statutory five-year period, or is abandoned. Id.; State v. Hagerman Water Rights Owners, 130 Idaho 727, 735, 947 P.2d 400, 408 (1997).

11. Further confirming that Sulphur Creek Livestock has partially forfeited or abandoned its alleged water right for irrigation purposes out of Mahogany Creek, Sulphur Creek Livestock admits that in June 2001 it installed a new diversion device in Mahogany Creek, in the form of an "infiltration gallery" leading to a pipe, which was placed in the previously existing Mahogany Creek ditch (which was then filled with dirt for some length), so that Sulphur Creek Livestock Co. would divert **only** .02 cfs from Mahogany Creek and use that water **only** for livestock watering purposes.

12. Because Sulphur Creek Livestock Co. has thus partially abandoned or forfeited all but .02 cfs of its claimed water right 73-2098, its application for transfer no. 69783 as well as the current BLM application for transfer, which seeks to "transfer" a non-existent irrigation water right, must be denied under I.C. §§ 42-104, 42-203A, and 42-222, because there is no existing water right for irrigation purposes to transfer as requested by the applicant.

13. In addition, should the requested transfer not be denied based on partial forfeiture or abandonment, as set forth hereinabove, then WWP contends that the transfer must be denied because it would (a) injure other water rights, (2) is speculative, (3) is contrary to the local public interest, (4) there is insufficient water to satisfy the requested transfer at the new place of diversion and source, (5) the requested transfer would constitute an enlargement in use of the applicant's current valid right of .02 cfs, (6) the change is not consistent with the conservation of Idaho's water resources, and/or (7) the proposed change is otherwise unlawful, as WWP will demonstrate at hearing herein.

14. Although WWP believes that it automatically becomes a "party" to this proceeding by virtue of its above Protest to the transfer application, to the extent necessary WWP further moves under the IDWR Rules of Procedure to intervene as a party, on grounds that its interests may be adversely affected by this proceeding, no other party will adequately represent those interests, and the public interest support such intervention.

15. Pursuant to the Idaho APA and the Department's Rules of Procedure, WWP hereby requests that IDWR conduct a contested case hearing upon the above-referenced transfer application and deny same based on the facts and law set forth above and to be presented by WWP at hearing.

CONCLUSION

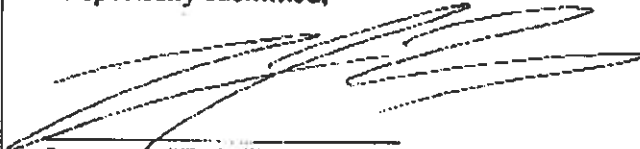
For the foregoing reasons, WWP respectfully PROTESTS the transfer application 69923 to change the place of diversion and place of use of claimed water right 73-2098; MOVES TO INTERVENE in said proceeding, to the extent necessary to be a full party and protect its interests; and MOVES FOR DENIAL of the transfer application on grounds that Sulphur Creek Livestock Co. has partially abandoned or forfeited the claimed water right for irrigation purposes, and/or the

transfer application does not meet the requirements of I.C. § 42-222 and other relevant provisions of law.

The requisite filing fee is submitted herewith.

DATED: July 7, 2002

Respectfully submitted,



Laurence ("Laird") J. Lucas

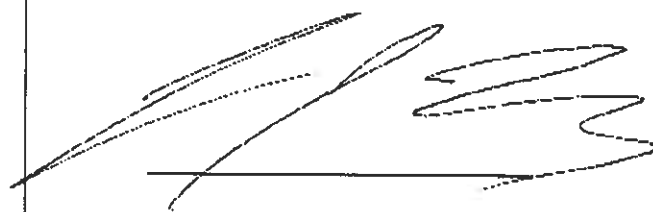
Attorney for WWP

CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of July, 2002, I caused the foregoing PROTEST, MOTION TO INTERVENE, and MOTION TO DENY TRANSFER to be served via fax and via first class mail, postage prepaid, upon the following persons:

Harold Jones
IDWR, Eastern Region]
900 N. Skyline Drive
Suite A
Idaho Falls ID 83402
Fax: 208-525-7177

U.S. Dept of Interior
Bureau of Land Management
Salmon District
50 Hwy. 93 S.
Salmon ID 83467



RECEIVED
MAY 24 2002
Department of Water Resources
Eastern District Office

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1

Name of applicant Bureau of Land Management Phone 756-5400
Post Office address 50 Hwy 93 S. Salmon ID 83467

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 the reason for the proposed changes Convert 2 acres of irrigation
to stockwater usage.

B. DESCRIPTION OF RIGHT(S) OR PORTION THEREOF, AFTER THE REQUESTED CHANGE

1. Right Number	Priority	Amount (cfs/ac-ft)	Nature of Use	Period of Use
<u>73-2098</u>	<u>11/9/1915</u>	<u>.03 cfs</u>	<u>Stockwater</u>	<u>1/1</u> to <u>12/31</u>
<u>73-2098</u>	<u>11/9/1915</u>	<u>.03 cfs</u>	<u>Wildlife</u>	<u>1/1</u> to <u>12/31</u>
<u>73-11968</u>				to
				to

2. Total amount of water being transferred .03 cubic feet per second and/or _____ acre-feet per annum.
3. Source of water Mahogany Creek tributary to Pahsimeroi River
4. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion
	<u>SW</u>	<u>NW</u>	<u>SW</u>	<u>11</u>	<u>10N</u>	<u>23E</u>	<u>Custer</u>	

5. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
<u>11N</u>	<u>23E</u>	<u>12</u>																<u>SW</u>	
<u>11N</u>	<u>23E</u>	<u>24</u>																	
<u>11N</u>	<u>23E</u>	<u>36</u>																	

SCANNED
NOV 13 2009

PART 1

6. General Information:

a. Description of diversion system Screened pipe placed in Mahogany Creek.

b. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? _____ Yes X No. If yes, provide a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes.

c. Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer:
land currently irrigated will be taken out of production.

d. Remarks:

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No. _____

And said application is hereby _____, subject to the following limitations and conditions:

Witness my hand this _____ day of _____, 19 _____.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 73-2098

WATER RIGHT NUMBER: 73-2098

<u>Owner Type</u>	<u>Name and Address</u>
Original Owner	THE AETNA CASUALTY & SURETY COMPANY 242 TRUMBULL HARTFORD, CT 06156 (203)275-2094
Current Owner	SULPHUR CREEK LIVESTOCK PO BOX 151 MAY, ID 83253 (208)876-4406
Original Owner	CHRIS CARLSON GOLDBURG, ID

Priority Date: 11/09/1915

Basis: License

Status: Active

<u>Source</u>	<u>Tributary</u>
MAHOGANY CREEK	PAHSIMEROI RIVER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	04/01 to 11/01	2.400 CFS	
	<u>Total Diversion:</u>	2.400 CFS	

Location of Point(s) of Diversion

MAHOGANY CREEK	NW1/4SW1/4	Sec. 11, Twp 10N, Rge 23E, B.M.
CUSTER County		

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	
11N	23E	14					40.0	40.0	40.0	40.0									160.0

Total Acres: 160

Conditions of Approval:Remarks:

- LIC. INCORRECTLY SHOWS P/D IN SEC.3. CORRECTED TYPO IN ADDRESS 03/29/95 SS. CHANGED OWNERSHIP PER REQUEST/JC/5-11-00.

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769923

Page 2

05/30/2002

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 73-2098

Comments:

Dates and Other Information:

Claim Received Date: 2098
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
State or Federal:
Owner Name Connector: 0
Water District Number:
Generic Max Rate Per Acre:
Generic Max Volume Per Acre:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed: False
DLE Act Number:
Carey Act Number:
Mitigation Plan:

Page 1

05/30/2002

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 73-2098

WATER RIGHT NUMBER: 73-2098

Owner Type Name and Address
Current Owner CHRIS CARLSON
 GOLDBURG, ID

Priority Date: 11/09/1915

Basis: License

Status: Active

Source Tributary
MAHOGANY CREEK PAHSIMEROI RIVER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	/ to /	2.400 CFS	
DOMESTIC	/ to /		
<u>Total Diversion:</u>		2.400 CFS	

Location of Point(s) of Diversion
MAHOGANY CREEK SE1/4SE1/4 Sec. 2, Twp 10N, Rge 23E, B.M.
 CUSTER County

Place of Use
IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				<u>Totals</u>
			<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	
11N	23E	14					40.0	40.0	40.0	40.0									160.0

Total Acres: 160

DOMESTIC same as IRRIGATION

Conditions of Approval:

Remarks:

- General LIC. INCORRECTLY SHOWS P/D IN SEC.3.

Comments:

Dates and Other Information:

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 73-2098

Dates and Other Information:

Licensed Date: 10/16/1979
Decreed Date:
Water Supply Bank Enrollment Accepted:
Water Supply Bank Enrollment Removed:
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
Formal Action Date:
State or Federal:
Owner Name Connector:
Water District Number: 73
Generic Max Rate Per Acre:
Generic Max Volume Per Acre:
Decree Defendant:
Decree Plaintiff:
Civil Case Number:
Judicial District:
Swan Falls Trust or Nontrust: False
Swan Falls Dismissed:
DLE Act Number:
Carey Act Number:
Mitigation Plan:

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2*(Attach one copy for each right)***A. DESCRIPTION OF RIGHT AS RECORDED****1. Right evidenced by:**

- a. Decree No. _____ Decreed to _____
 in case of _____ vs. _____
 dated _____ in _____ county of _____
- b. License No. 73-2098 issued by the Idaho Department of Water Resources.
- c. Claim No. _____ on file with the Idaho Department of Water Resources.
- d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:☒ Tax Notice☐ Warranty Deed☐ Other _____3. Source of water Mahogany Creek tributary to Pahsimera River4. Date or priority 11/9/1915**5. Water is used for the following purpose:**

amount 2.4 cfs for irrigation purposes from 4/1 to 11/1
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)

6. Total amount of water under right 2.4 cubic feet per second and/or _____ acre-feet per annum.**7. Point(s) of Diversion:**

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion
		NW	SW	11	10N	23E	Custer	

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals.
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
11N	23E	14					40	40	40	40									160 ac.

Total acres 160 ac.

9. Describe any other water rights used for the same purpose as described above _____

PART 2

Transfer No. 69923

10. To your knowledge, has any portion of this water right undergone a period of one or more consecutive years of non-use?
No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

(If the entire right is to be changed by the applicant, omit part B and C.)

1. amount .03 cfs for irrigation purposes from 1/1 to 1/1
(cfs/ac-ft) _____
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft) _____
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft) _____

2. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion
		NW	SW	11	10N	23E	Custer	

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
11N	23E	14								2									2 ac.

Total acres 2 ac.

C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT (omit if there is no change)

1. amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft) _____
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft) _____
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft) _____

2. Point(s) of Diversion:

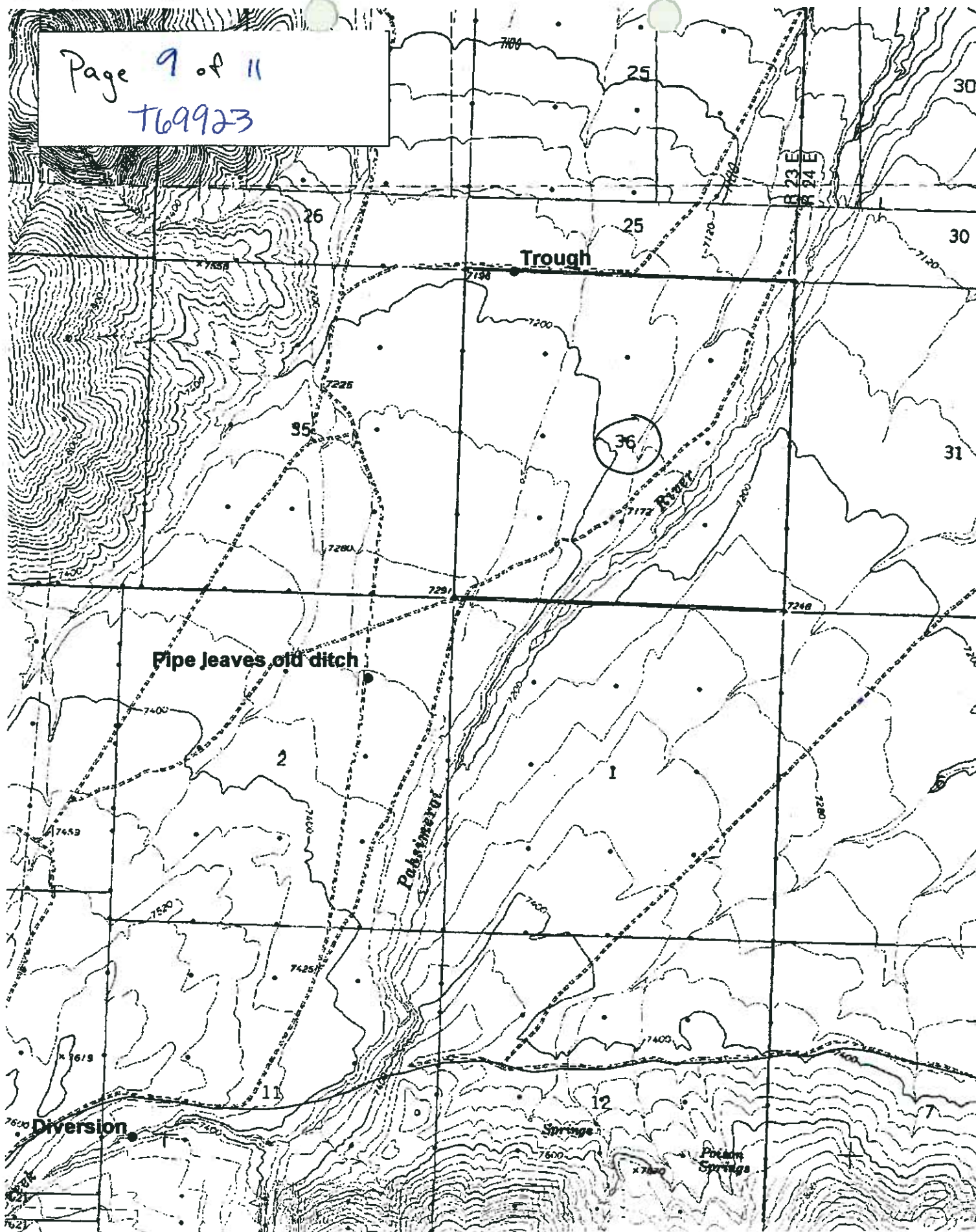
Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	

Total acres _____

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T69923



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T69923

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6777
6791T
6809T
6828T
6857T
6898T
6900
6995T
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7039T
7067T
7073A
7094T
7139T
7159T
7180T
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PART 3

B. CHANGES IN NATURE OF USE

1	New Nature of Use	Amount (cfs/ac-ft)	Hours/days/year	Period of Use
	<u>Stockwater</u>	<u>.03 cfs</u>		<u>Y.</u> to <u>12/31</u>
	<u>Wild life</u>	<u>.03 cfs</u>		<u>Y.</u> to <u>12/31</u>

2. Quantity and quality of return flows and location of discharge:

3. Describe effects on other water uses resulting from the proposed change:

I hereby assert that no one will be injured by such change and that the change does not constitute an enlargement in use of the original right. 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 voiding its approval.

Subscribed and sworn to before me this 22nd day of May, 192002.

Robert E. Foster
(Signature of Applicant)

Robert E. Foster
(Notary Public)

My commission expires 2-16-07

FOR DEPARTMENT USE ONLY

Transfer contains 17 pages and 1 attachments

Received by HWT Date _____ Protest filed by _____

Prelim. check by _____ Fee \$100 X 1 _____

Received by HWT #E027783 Date 5-29-02 _____

Published in Challis Messenger Copies of protest forwarded by _____

Pub. dates June 20 & 27, 2002 Hearing held by _____ Date _____

Watermaster recommendation requested on _____ Recommended for ☐ approval ☐ denial

_____ rec'd. _____ by _____

Copy of transfer sent to lien holder _____

MAKE CHECK PAYABLE TO: 2001 TAX BILL/RECEIPT
 JUSTER COUNTY TAX COLLECTOR BILL# 5654 CODE AREA 7-00 L PARCEL NUMBER
 100 BOX 350 RP11M23E142401A
 HALLIS, IDAHO 83226 5,667

1ST HALF DUE	2ND HALF DUE	FULL DUE	TOT AM	5,667
TAX 16.48	TAX 16.48	TAX 32.96	TOT ACS	145.310
LATE	LATE	LATE		
INT	INT	INT		
COST	COST	COST		
TOT	TOT	TOT		

SULPHUR CREEK LIVESTOCK CO
 HC 62 BOX 2010
 MAY 1 83253

TAXING DISTRICT RATE AMOUNT
 STATE .000000900 12.20
 COUNTY .002153153 19.24
 SCHOOL 181 .003396034
 COUNTY ROAD .000000000
 M.C. HOSP .000269619 1.52
 AMOUNT DUE .005818056 32.96

LOTS 1,2
 M2M4
 SEC 14 T11N R23E

*** IMPORTANT ***
 PLEASE READ BOTH FRONT AND BACK
 *** MONTHLY PAYMENTS ARE ACCEPTED ***
 PAYMENTS RECEIVED WITH A DELINQUENCY WILL BE
 APPLIED TO THE OLDEST DELINQUENT YEAR.
 TO AVOID LATE CHARGES, PAYMENTS MUST BE
 RECEIVED OR POSTMARKED BY THE DUE DATE.
 KEEP TOP PORTION FOR YOUR RECORDS.
 PERSONAL CHECKS ARE YOUR RECEIPT
 SUBJECT TO BANK CLEARANCE.

RECEIPT NOT VALID UNTIL CHECK CLEARS
 THANK YOU

ATTACHMENT - OF



State of Idaho

DEPARTMENT OF WATER RESOURCES

Eastern Region, 900 North Skyline Drive, Suite A • Idaho Falls, Idaho 83402-1718
Phone: (208) 525-7161 • Fax: (208) 525-7177 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

November 13, 2009

BUREAU OF LAND MANAGEMENT
50 HWY 93 S
SALMON ID 83467

RE: Application for Transfer #69923

Dear Applicant:

This letter is to acknowledge receipt of your relinquishment of the above referenced transfer. The Department has taken the steps necessary to void the transfer in our files.

If you have any questions concerning this matter, please feel free to contact this office.

Sincerely,

Sharla Cox
Water Rights Administrative Assistant

CC: Nate Arave
801 Blue Mountain Rd
Challis ID 83226



State of Idaho

DEPARTMENT OF WATER RESOURCES

**Eastern Region, 900 North Skyline Drive, Suite A • Idaho Falls, Idaho 83402-1718
Phone: (208) 525-7161 • Fax: (208) 525-7177 • Web Site: www.idwr.idaho.gov**

**C. L. "BUTCH" OTTER
Governor**

**GARY SPACKMAN
Interim Director**

November 13, 2009

**Law Offices of Laurence J Lucas ESQ.
PO Box 1342
Boise ID 83701**

RE: Application for Transfer No. 69923 for Bureau of Land Management

Dear Protestant:

This is to advise you that the above referenced application has been withdrawn. A copy of the withdrawal has been enclosed.

If you have any questions, please call our office.

Sincerely,

**Sharla Cox
Water Resource Administrative Assistant**

Enclosure

**CC: Western Watershed Project
Jon Marvel
Box 1770
Hailey ID 83333**

**PRE-HEARING CONFERENCE FOR BLM
Transfer 69923**

Date: April 24, 2006
Time: 10:00 A.M.
Place: BLM Office, Salmon, ID
Presiding Officer: Roger Warner
Assisted by: Sharla Cox

ROSTER OF ATTENDANCE

NAME	ADDRESS	REPRESENTING
Alan Bittner	1206 S. Challis St. ^{Salmon} 83467	BLM
DAVID ROSENKRANCE	801 BLUE MOUNTAIN RD. CHALLIS 83226	BLM
Sharla Cox	900 N. Skyline - IF	IDWR
Roger Warner	900 N. Skyline - IF	IDWR
Tele conference		
Jon Marvel		Western Watershed
Laird Lucas		Western Watershed

April 24, 76 10:45 A.M.
Transfer 69923.

Bittner - Better distribute cattle on Phasemore
allotment -

Private water right puts water in
ditch for cattle to use - He would
send water down Mahogany Creek
Troughs are floated -

Permitter has given approval
to give 2 acres of water to use
this water -

Protection for fish instead of
open ditch -

Laird - Mahogany Creek - litigated in Fed Court
old diversion - rock & tarp - unscreened
ditch - found bull trout - case resolved
through settlement. modify diversion
infiltration gravity. now serves
troughs - over .02 cfs - claimed as
irrigation right.. 1915 approx. priority
use for stockwater versus irrigation use
Question on Adj Claim?

Bittner - Defer to Kexanne Brown

Laird - Ability of using water back 1915?

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. - Print your name and address on the reverse so that we can return the card to you. - Attach this card to the back of the mailpiece, or on the front if space permits.		A. Signature ☒ <i>Linda Bittner</i> ☐ Agent ☐ Addressee	
1. Article Addressed to: USDI BUREAU OF LAND MANAGEMENT ALAN BITTNER 1206 S CHALLIS ST SALMON ID 83467		B. Received by (Printed Name) <i>Linda Bittner</i> C. Date of Delivery <i>3/31/06</i>	
2. Article Number (Transfer from service label) 7002 3150 0005 3816 4177		D. Is delivery address different from item 1? ☐ Yes If YES, enter delivery address below: ☐ No RECEIVED APR 03 2006	
		3. Service Type ☒ Certified Mail ☐ Registered Mail ☐ Return Receipt for Merchandise ☐ Insured Mail ☐ C.O.D.	
		4. Restricted Delivery? (Extra Fee) ☐ Yes	
PS Form 3811, August 2001 Domestic Return Receipt 102595-02-M-1540			

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. - Print your name and address on the reverse so that we can return the card to you. - Attach this card to the back of the mailpiece, or on the front if space permits.		A. Signature ☒ <i>TER Stewart</i> ☐ Agent ☐ Addressee	
1. Article Addressed to: WESTERN WATERSHED JON MARVEL BOX 1770 HAILEY ID 83333		B. Received by (Printed Name) <i>TER Stewart</i> C. Date of Delivery <i>4-4-06</i>	
2. Article Number (Transfer from service label) 7002 3150 0005 3816 4160		D. Is delivery address different from item 1? ☐ Yes If YES, enter delivery address below: ☐ No RECEIVED APR 05 2006	
		3. Service Type ☒ Certified Mail ☐ Express Mail ☐ Registered Mail ☐ Return Receipt for Merchandise ☐ Insured Mail ☐ C.O.D.	
		4. Restricted Delivery? (Extra Fee) ☐ Yes	
PS Form 3811, August 2001 Domestic Return Receipt 102595-02-M-1540			

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

**IN THE MATTER OF APPLICATION FOR)
TRANSFER NO. 69923 IN THE NAME) NOTICE OF
OF USDI BUREAU OF LAND MANAGEMENT) PRE-HEARING CONFERENCE**

The Department has scheduled this matter for a pre-hearing conference at 10:00 a.m. on April 24, 2006, in the conference room at the Bureau of Land Management, 1206 S Challis St, Salmon ID, in accordance with the provisions of the adopted Rules of Procedure of the Department of Water Resources.

Agenda items for this pre-hearing conference will include:

- 1. Identify spokesman and/or counsel representing the protestant.**
- 2. Review of the application.**
- 3. Identify issues of protest.**
- 4. Designate date for identifying witnesses.**
- 5. Designate target date for conducting administrative hearing if resolution
is not possible during the pre-hearing conference.**

The pre-hearing conference will be conducted in a facility, which meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the pre-hearing conference, please advise the Department within ten (10) days prior to the pre-hearing conference.

Dated this 30th day of March 2006.



LYLE SWANK
Eastern Regional Manager

I hereby certify that on the 30th day of March 2006, I mailed a true and correct copy, postage prepaid, of this document to the applicant(s) and protestant(s) listed below:



SHARLA COX
Administrative Assistant

CERTIFIED MAIL

USDI Bureau of Land Management
1206 S Challis St
Salmon ID 83467

Western Watershed
Jon Marvel – you said you would notify Lawrence Lucas **
Box 1770
Hailey ID 83333

** Here is your conference call numbers:
Please call: 1-510-637-7000 – access code 414387

Idaho Department of Water Resources
900 N. Skyline Drive
Suite A
Idaho Falls, ID 83402-1718

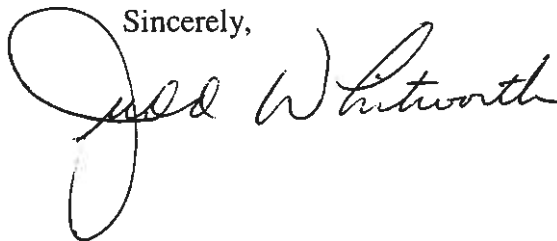
5/13/2002

IDWR:

The Sulphur Creek Livestock Company via transfer No. 69783 is leaving behind 2 acres of irrigation water to be used by the Bureau of Land Management. The BLM intends to file another transfer, converting the 2 acres of Irrigation water to .03 cfs of Stockwater for use in the Mahogany Creek Pipeline Project. The Sulphur Creek Livestock Company supports this proposed transfer.

Should the Mahogany Creek Pipeline Project be abandoned by the BLM, the .03 cfs of Stockwater should return to Sulphur Creek Livestock Company ownership.

Sincerely,



RECEIVED

MAY 15 2002

Bureau of Land Mgt.
Challis, Idaho

Amendment

T 69783

ATTACHMENT 1 OF 1

RECEIVED

MAY 17 2002

Department of Water Resources
Eastern Region



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. SKYLINE DR., SUITE A, IDAHO FALLS, ID 83402-1718

PHONE: (208) 525-7161 FAX: (208) 525-7177 WEB SITE: www.idwr.state.id.us

EASTERN REGION

January 19, 2006

Bureau of Land Management
Alan Bittner
50 Highway 93 South
Salmon ID 83467

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

RE: Application for Transfer No. 69923

Dear Applicant:

We have been asked to schedule a pre-conference hearing on the above matters. I am requesting you to let me know your **UNAVAILABLE** dates for February, March and April. **Please list your unavailable dates during February, March and April on the calendar that is enclosed. Please return your calendars no later than January 30, 2006.**

If you have any questions or concerns, please feel free to contact me at your earliest convenience.

Respectfully Submitted,

Sharla Cox
Water Rights Administrative Assistant

Enclosure: Blank Calendar



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. SKYLINE DR., SUITE A, IDAHO FALLS, ID 83402-1718

PHONE: (208) 525-7161 FAX: (208) 525-7177 WEB SITE: www.idwr.state.id.us

EASTERN REGION

DIRK KEMPTHORNE
Governor

January 19, 2006

KARL J. DREHER
Director

Law Office of Laurence J Lucas, ESQ
Laird J. Lucas
PO Box 1342
Boise ID 83701

RE: Application for Transfer No. 69923- For Bureau of Land Management (Mahogany Creek)

Dear Protestant:

We have been asked to schedule a pre-conference hearing on the above matters. I am requesting you to let me know your **UNAVAILABLE** dates for February, March and April. **Please list your unavailable dates during February, March and April on the calendar that is enclosed. Please return your calendars no later than January 30, 2006.**

If you have any questions or concerns, please feel free to contact me at your earliest convenience.

Respectfully Submitted,

Sharla Cox
Water Rights Administrative Assistant

Enclosure: Blank Calendar



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Challis Field Office
801 Blue Mountain Road
Challis, Idaho 83226

RECEIVED
JUN 02 2003
Department of Water Resources
Eastern Region

In Reply Refer To:
7250 (084)

May 30, 2003

Idaho Department of Water Resources
900 North Skyline Drive
Idaho Falls, Idaho 83402

Dear Idaho Department of Water Resources:

This letter is in regard to the Western Watersheds Project (WWP) protest of water right transfer application number 69923.

In regard to the claimed stockwater portion of water right 73-2098, WWP itself admits to a historic beneficial use of water in the Mahogany ditch by livestock. There is a stockwater beneficial use associated with water right 73-2098 as evidenced by historic livestock watering from the Mahogany Ditch in recent years. It is this portion of water right 73-2098 that the BLM seeks to transfer to the Mahogany Ditch Pipeline under new water right number 73-11968. The Idaho Department of Water Resources (IDWR) should recognize this historic beneficial use by livestock and grant the transfer to the BLM. The IDWR has already allowed this historic beneficial stockwater use to be added to Sulphur Creek Livestock's adjudication claim for 73-2098 in the amount of .14 cfs.

The .03 cfs the BLM seeks to transfer, equates to an irrigation acreage of 2 acres. Converting 2 acres of irrigation water from water right 73-2098 to stockwater use, simply yields a quantity of .03 cfs. This quantity of water is still a de minimus quantity of water used for stockwater and is limited to the quantity of water beneficially used by the number of stock within the allotment. It is limited to a total of 13,000 gallons per day regardless of the quantity listed on the water right. Therefore, claiming .03 cfs is not an enlargement in use.

IDWR should summarily dismiss the protest of water right transfer application number 69923. If IDWR feels there are grounds for protest, then the BLM requests to waive the usual informal conference and proceed to an immediate hearing.

Sincerely,

A handwritten signature in cursive script that reads "Renee Snyder".

Renee Snyder
Field Manager

cc:
Western Watersheds Project
Fred Price (ID 933)
Law Offices of Laurence J. Lucas

**LAW OFFICES OF
LAURENCE J. LUCAS, ESQ.**

P.O. Box 1342
Boise, ID 83701
(208) 424-1466

June 12, 2002

RECEIVED

JUN 14 2002

Department of Water Resources
Eastern Region

Harold W. Jones
Water Right Specialist
Idaho Department of Water Resources
900 N. Skyline Drive
Suite A
Idaho Falls ID 83402-1718

Re: Amended Transfer Application 69783
Sulphur Creek Livestock

Dear Mr. Jones:

Thank you for your letter of June 3, 2002 enclosing the amended transfer application by Sulphur Creek Livestock for Mahogany Creek in the Pahsimeroi basin.

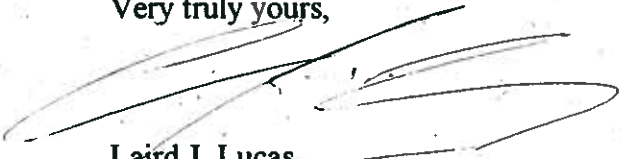
Per your request, this letter notifies you and IDWR that my client, Western Watersheds Project, does wish to maintain its protest to this transfer application; and continues to request that the entire water right be declared forfeited or abandoned, as per our earlier filing.

We also note that the .03 cfs which BLM evidently now seeks a right for exceeds the .02 cfs capacity of the diversion and pipe, as represented and stipulated in federal court in the case of IWP v. Whitworth, referenced in our Protest.

Western Watersheds Project also protests the BLM's new application, #69923, on the same grounds as set forth in its Protest and motion to declare the underlying water right abandoned or transferred; and so advises IDWR by this letter

Thanks for your attention to this matter.

Very truly yours,


Laird J. Lucas
Attorney for WWP

Cc: Jon Marvel, WWP

Need
additional
fee



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, ID 83402-1718 • Phone: (208) 525-7161 FAX: (208) 525-7177

EASTERN REGION

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

July 10, 2002

WESTERN WATERSHED PROJECT
C/O LAW OFFICES OF LAURENCE J LUCAS ESQ
PO BOX 1342
BOISE, ID 83701

RE: Application for Transfer No 69923
Water Right No(s) 73-2098

Dear Protestant(s):

The Department of Water Resources acknowledges receipt of your protest against the approval of the above referenced application. A copy of your protest has been sent to the applicant. The Department suggests that you contact the applicant directly for details regarding the application and, if possible, to resolve the matter without action by the Department. In our experience, informal discussion between the parties prior to initiation of formal proceedings often leads to resolution of the protest.

If the protest cannot be resolved informally, the matter will be scheduled for conference and/or hearing. The following are criteria the Department must consider in either approving or denying the application (Section 42-222, Idaho Code).

1. Will other water rights be injured by the proposed transfer?
2. Will the proposed change constitute an enlargement in the use of the original right(s)?
3. Will the proposed change conflict with the local public interest?
4. Will the proposed change be contrary to the conservation of water resources within the State of Idaho?

You will be notified at a later date of the time and place of the conference and/or hearing. Please contact this office if you have any questions regarding this procedure.

Sincerely,

A handwritten signature in blue ink that reads "Harold W. Jones". The signature is fluid and cursive, with the first name "Harold" being the most prominent part.

Harold W Jones
Water Right Supervisor

Enclosure(s)

CC: State Office Files



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, ID 83402-1718 • Phone: (208) 525-7161 FAX: (208) 525-7177

EASTERN REGION

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

07/10/2002

US DEPT OF INTERIOR
BUREAU OF LAND MANGEMENT
SALMON DISTRICT
50 HWY 93 S
SALMON ID 83467

RE: Application for Transfer No 69923
Water Right No(s) 73-2098

Dear Applicant(s):

Enclosed is a copy of a protest filed against approval of the above referenced application. The Department suggests that you contact the protestant(s) directly to determine the nature of the protest and, if possible, to resolve the matter without action by the Department. In our experience, informal discussion between the parties prior to initiation of formal proceedings often leads to resolution of the protest.

If the protest cannot be resolved informally, the matter will be scheduled for conference and/or hearing. The following are criteria the Department must consider in either approving or denying the application (Section 42-222, Idaho Code).

1. Will other water rights be injured by the proposed transfer?
2. Will the proposed change constitute an enlargement in the use of the original right(s)?
3. Will the proposed change conflict with the local public interest?
4. Will the proposed change be contrary to the conservation of water resources within the State of Idaho?

You will be notified at a later date of the time and place of the conference and/or hearing. Please contact this office if you have any questions regarding this procedure.

Sincerely,

A handwritten signature in blue ink that reads "Harold W. Jones". The signature is written in a cursive style with a large, stylized "H" and "J".

Harold W Jones
Water Right Supervisor

Enclosure(s)

CC: State Office Files

HWJ:sc

AFFIDAVIT OF PUBLICATION

State of Idaho, County of Custer, ss:

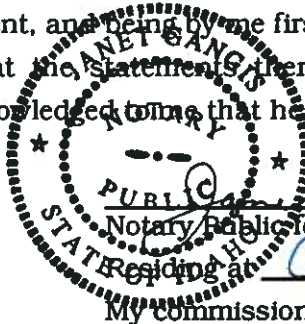
I, Ruth E. Burchill, representing the
Challis Messenger, a weekly newspaper, pub-
lished at Challis, Idaho, do solemnly swear that
the notice hereto attached and made a part here-
of, was published in the regular and entire issue
of the Challis Messenger for 2
consecutive weeks, commencing with the issue
dated June 20 2002 and ending with
the issue dated June 27 2002.

Ruth E Burchill

STATE OF IDAHO

COUNTY OF CUSTER

On this 27th day of June in the
year of 2002 before me, a Notary Public,
personally appeared Ruth E. Burchill
known or identified to me to be the person
whose name subscribed to the within instru-
ment, and being by me first duly sworn, declared
that the statements therein are true, and ac-
knowledge to me that he executed the same.


Notary Public for Idaho
Residing at Challis
My commission expires: 4/30/04

NOTICE OF PROPOSED CHANGE OF WATER RIGHT

TRANSFER NO. 69923

US DEPT. OF INTERIOR, BU-
REAU OF LAND MANAGEMENT,
SALMON DISTRICT, 50 HWY. 93
S., SALMON, ID 83467, has filed
Application No. 69923 for changes
to the following water rights within
Custer County:

Right No. 73-2098

Priority: 11/9/1915

Source: MAHOGANY CREEK

Use: IRRIGATION (160

acres) 2.40 CFS

Total Amount: 2.40 CFS

Point(s) of Diversion NWSW S11
T10N R23E

Place of Use S14 T11N R23E

The purpose of the transfer is to
change a portion of the above
rights as follows:

The applicant has permission
from Judd Whitworth to dry up 2
acres of this right and convert the
use to stock water in SEC 12, 24
and 36 T11N R23E.

Protests may be submitted
based on the criteria of Sec 42-
222, Idaho Code. Any protest
against the proposed change must
be filed with the Department of
Water Resources, Eastern Region,
900 N. Skyline Dr. Ste. A, Idaho
Falls ID 83402 together with a
protest fee of \$25 for each applica-
tion on or before July 08, 2002.
The protestant must also send a
copy of the protest to the appli-
cant.

KARL J DREHER, Director

Pub: June 20 & 27, 2002.

RECEIVED

JUN 28 2002

Department of Water Resources
Eastern District Office



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, ID 83402-1718 • Phone: (208) 525-7161 FAX: (208) 525-7177

EASTERN REGION

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

June 03, 2002

JIM MARTINI
WATER DISTRICT 73
83 HOOPER LN
MAY ID 83252

RE: Application for Transfer 69923
Water Right Number(s) 73-2098

Dear Watermaster:

Enclosed is a copy of the above referenced application. Please review the application, complete the enclosed recommendation form, and submit it to this office by July 8, 2002.

Please feel free to contact this office if you have any questions regarding the application.

Sincerely,


Harold W Jones
Water Right Supervisor

Enclosure(s)

HWJ:sc



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, ID 83402-1718 • Phone: (208) 525-7161 FAX: (208) 525-7177

EASTERN REGION

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

June 11, 2002

US DEPT OF INTERIOR
BUREAU OF LAND MANGEMENT
SALMON DISTRICT
50 HWY 93 S
SALMON ID 83467

RE: Application for Transfer No 69923
Water Right No(s) 73-2098

Dear Applicant(s):

The Department of Water Resources acknowledges receipt of your water right transfer application. Please refer to the above referenced transfer number in all future correspondence regarding this application.

A legal notice of the application has been prepared and is scheduled for publication in the Challis Messenger on June 20 and 27, 2002. Submittal of protests to this application will be allowed for a period ending ten days (July 8, 2002) after the second publication.

If the application is protested you will be sent a copy of the protest(s). All protests must be resolved before the application can be considered for approval. If the protest(s) cannot be resolved voluntarily, the Department will conduct a conference and/or hearing on the matter.

If the application is not protested, it will be forwarded to our State Office in Boise for final processing. The State Office will notify you of any action taken on the application and will send you a copy of the permit if approved.

Please feel free to contact this office if you have any questions regarding this procedure.

Sincerely,

Harold W Jones
Water Right Supervisor

HWJ:sc



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, ID 83402-1718 • Phone: (208) 525-7161 FAX: (208) 525-7177

EASTERN REGION

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

June 11, 2002

Legal Notice Department

Challis Messenger

PO Box 405

Challis ID 83226

RE: Transfer No. 69923

Water Right No(s). 73-2098

Dear LEGAL NOTICE DEPARTMENT:

Enclosed you will find a legal notice which we wish to have published in your newspaper on the dates indicated (once a week for two consecutive weekly issues). If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill.

Please send the affidavit and bill to this office before July 8, 2002. Your cooperation is appreciated.

Sincerely

Sharla Cox
Administrative Assistant

*mailed
6/12/02
SC*

NOTICE OF PROPOSED CHANGE OF WATER RIGHT

TRANSFER NO. 69923

US DEPT OF INTERIOR, BUREAU OF LAND MANGEMENT, SALMON DISTRICT, 50 HWY 93 S, SALMON ID 83467, has filed Application No. 69923 for changes to the following water rights within CUSTER County:

Right No. 73-2098

Priority 11/9/1915

Source MAHOGANY CREEK

Use IRRIGATION (160 acres) 2.40 CFS

Total Amount 2.40 CFS

Point(s) of Diversion NWSW S11 T10N R23E

Place of Use S14 T11N R23E

The purpose of the transfer is to change a portion of the above rights as follows:

The applicant has permission from Judd Whitworth to dry up 2 acres of this right and convert the use to stock water in SEC 12, 24 and 36 T11N R23E.

Protests may be submitted based on the criteria of Sec 42-222, Idaho Code.

Any protest against the proposed change must be filed with the Department of Water Resources, Eastern Region, 900 N Skyline Dr Ste A, Idaho Falls ID 83402 together with a protest fee of \$25.00 for each application on or before July 08, 2002. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director

Published on June 20 and 27, 2002