

**RECEIVED**

**JAN 22 2009**

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Department of Water Resources

*Rec'd by email  
on Jan. 20, 2009.*

Attorneys for the Applicant, Skyline Farms, LLC

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

IN THE MATTER OF PERMIT NO. 22-7114  
IN THE NAME OF NORTHWEST CREDIT  
SERVICES ACA AND STEVECO CANYON  
FARMS

**PROTEST AND PETITION FOR  
HEARING**

Skyline Farms ("Skyline"), the present owner of permit no. 22-7114,<sup>1</sup> (hereinafter, the "Petitioner") by and through their counsel of record, Holden, Kidwell, Hahn & Crapo, PLLC, hereby files this Protest and Petition for Hearing regarding the Idaho Department of Water Resources' ("IDWR" or "Department") issuance of a Preliminary Order Voiding Permit regarding Permit No. 22-7114.

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<sup>1</sup> An assignment of permit form has not yet been filed, but the property has now been conveyed to Skyline Farms, LLC.

The necessary background and grounds for the Protest and Petition for Hearing are set forth below.

**I. BACKGROUND<sup>2</sup>**

1. On November 20, 1974, J. Wayne Stevens applied to the Department for a permit to appropriate 20.0 cubic feet per second (cfs) from Canyon Creek, tributary to the Teton River, within the SE1/4SE1/4 Section 13, Township 6 North, Range 43 East. B.M., for the irrigation of 1,702 acres in Madison County (the "Application for Permit").
2. After publication, the Application for Permit was protested by O.J. Neeley on December 12, 1974.
3. A hearing was conducted before IDWR Director R. Keith Higginson on January 28, 1975. Both Mr. Stevens and Mr. Neeley were represented by counsel.
4. Director Higginson specifically found, with regards to the Application for Permit, that:
  - a. The applicant has a possessor interest in the 1,702 acres of land on which water diverted under this appropriation could be used.
  - b. The diversion of 20 cfs of water for the irrigation of 1,702 acres is not an excessive rate.
  - c. The maximum flow in Canyon Creek that could be diverted and used beneficially under this permit is not known, but is estimated at about 20 cfs.<sup>3</sup>
5. Director Higginson concluded as a matter of law that:
  - a. The application was not filed for speculation or delay.

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<sup>2</sup> The information in this section is taken from the Preliminary Order Voiding Permit, but also includes important information from the water rights backfile that was left out of the Department's recounting of facts in their Preliminary Order. The information also includes additional information provided by counsel.

<sup>3</sup> See Exhibit A attached hereto.

- b. The applicant is entitled to an approved permit from the Department of Water Resources.<sup>4</sup>
6. Director Higginson ordered:
- a. That the permit be and is subject to all existing prior water rights.
  - b. That the permit holder shall permanently install and maintain a measuring device of a type approved by the Department of part of the diverting works.
  - c. That this right be subject to the control of the watermaster.
  - d. That proof of construction of works and application of water to beneficial use be submitted to the Department on or before March 1, 1978,
7. The order issued by Director Higginson **did not** state that the failure to install a measuring device would result in voiding of the permit.
8. A request for extension of time to submit proof of beneficial use was filed by Mr. Stevens on July 10, 1978. The stated reason for the request for extension was that the “[i]rrigation system has been installed bu the pumping plant has to be changed to a larger horse power motors. The present system is not capable of pumping what it was intended to.”<sup>5</sup>
9. The request for extension of time was granted on July 17, 1978.<sup>6</sup> The extension allowed proof of beneficial use to be submitted on or before August 1, 1980.

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<sup>4</sup> Id.

<sup>5</sup> See Exhibit B attached hereto.

<sup>6</sup> See Exhibit C attached hereto.

10. Mr. Stevens submitted proof of beneficial use on July 9, 1980<sup>7</sup> indicating the development of 1800 acres, and presumably the development of the diversion works to divert at least 20 cfs.
11. On July 22, 1980, IDWR acknowledged receipt of proof of beneficial use. In its acknowledgment, IDWR stated: "Before a license can be issued, **a field examination must be made by a representative of this department.** We cannot tell just when this examination will be made, but our examiner will try to contact you at the time he makes the examination so that you may show him the system."<sup>8</sup>
12. The July 22, 1980 acknowledgment did not state that proof of development of the water right would be determined by Water District 01 records, or other historic documents.
13. On March 2, 1987, the Department received the required examination fee for the permit.
14. On July 1, 1993, a series of administrative rules for IDWR, including the Beneficial Use Examination Rules, were formally adopted. These rules are found at IDAPA 37.03.02.
15. On September 20, 1994, the Department received an assignment of permit conveying ownership of the permit to Northwest Farm Credit Services ACA and Steveco Canyon Farms Inc.
16. On June 20, 2008, IDWR conducted a field examination to verify the water use developed in accordance with the permit. The examiner found that the water rights were diverted through a system that diverted 21.65 cfs. The examiner recommended a license for 20 cfs and the irrigation of 1,702 acres within a 2,725.4 acre place of use.

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<sup>7</sup> See Exhibit D attached hereto.

<sup>8</sup> See Exhibit E attached hereto (emphasis added).

17. The field examination was conducted in accordance with the rules, policies, and procedures set forth in IDAPA 37.03.02.<sup>9</sup>
18. On September 11, 2008, a Preliminary Order Voiding Permit was mailed to the permit holder. The date of the Preliminary Order was September 8, 2008.
19. On September 18, 2008, the Petitioners filed a Petition for Reconsideration.
20. On September 18, 2008, the Department issued an Order Withdrawing a Preliminary Order voiding the permit, and provided the petitioner sixty (60) days to review Department records and submit additional information.
21. On November 25, 2008, the petitioners sent a letter to IDWR staff informing them that after reviewing all records still in the possession of the former applicant, no documents were present showing the maximum diversion capability of the diversion works on July 9, 1980. The letter also contained an email from Water District 01 staff explaining why water measurement district records are not reliable as measurements of instantaneous diversion rate.
22. On December 8, 2008, a second Preliminary Order Voiding Permit was issued. However, the order was not served on the petitioner's counsel.
23. On January 6, 2009, the second Preliminary Order Voiding Permit was issued to petitioner's counsel. The order was received by petitioner's counsel on January 8, 2009.

## **II. INITIAL BASES FOR PETITIONERS' PROTEST AND PETITION**

1. The Preliminary Order Voiding permit is based upon a significant departure of the Department's rules and policies in place when the application for permit and proof of

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<sup>9</sup> See Exhibit F attached hereto.

beneficial use was submitted. It is well established in Idaho that an applicant's rights are determined by the rules and regulations in place when the application is submitted. Mr. Stevens submitted his application for permit, and thereafter provided proof of beneficial use as he was instructed to do under then-current IDWR policy. He was thereafter informed that "[b]efore a license can be issued, **a field examination must be made by a representative of this department.** We cannot tell just when this examination will be made, but our examiner will try to contact you at the time he makes the examination so that you may show him the system."<sup>10</sup> Thus, IDWR policy at the time was that the license could only be issued upon completion of a field examination. A field examination was performed in 2008 consistent with IDWR policy at the time Mr. Stevens applied for and received his permit, and submitted proof of beneficial use to signal to IDWR that he was ready for the required field examination. IDWR now appears to have changed the policy and rules that were in place at the time Mr. Stevens submitted his proof of beneficial use, and have ignored the field examiner's report.

2. The Beneficial Use Examination Rules found at IDAPA 37.03.02 also require a field examination consistent with Department policy previous to the adoption of such rules. IDWR staff has not followed the rules in this regard, as they have disregarded the requirements of these rules in voiding the permit.
3. The Preliminary Order Voiding Permit is in error because it seemingly requires a field examiner to do more than measure and document the current diversion structures, and instead "confirm with evidence the beneficial use of water during the authorized development period . . ." This appears to be a new requirement, and if it is indeed Department policy, seems to

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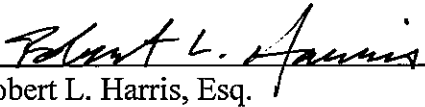
<sup>10</sup> See Exhibit E attached hereto (emphasis added).

remove any need for a field exam if Department staff are instead supposed to rely only on past documentation of the diversion works of the system. A field exam, of course, would seem to avoid the need to rely on historic evidence, and instead relies on the best evidence—an actual measurement. It is recognized that the field exam was performed in 2008, some 28 years after proof of beneficial use was submitted. It perhaps would have been ideal to have a field exam conducted weeks, not years, after proof of beneficial use was submitted. But the delay in conducting the field exam is not the fault of the petitioner. It was apparently because licensing examinations were given a low priority within IDWR for the past 30 years or so. This prioritizing is understandable given IDWR's responsibilities in the Snake River Basin Adjudication, which commenced in the late 1980s. However, the Petitioner should not now be subject to a new licensing requirement not contained in the Department's rules or policy at the time because of circumstances beyond the Petitioner's control—IDWR's failure to perform the field exam in a timely manner, when by letter, they informed the applicant that they would conduct the field exam. Those with actual knowledge of the system as it existed in 1980 (Wayne and Phil Stevens) are both now deceased.

4. Voiding a permit because a measuring device was not initially installed is heavy-handed. The current permit holder and owner of the diversion works is not the same as the original applicant, and therefore, was not aware of this requirement. After being notified of his failure to have the measuring device installed in the summer of 2008, the current permit holders have now installed a measuring device. The device was installed in the Fall of 2008. Additionally, the original order from then-Director Higginson, attached hereto at Exhibit A, did not put the permit holder on notice that failure to install the measuring device would result on a complete voiding of the permit.

5. The Applicant hereby requests a hearing before the Director to contest the foregoing objections issued pursuant to Idaho Code § 42-1701A(3). The initial bases for the Petitioner's petition are stated above and include those stated in the Petition for Reconsideration previously served on IDWR. In requesting a hearing to preserve its rights in this matter, the Petitioner expressly reserves the right to proceed in other forums as appropriate.

DATED this 20th day of January, 2009.

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

## CERTIFICATE OF MAILING

I hereby certify that on this 20<sup>th</sup> day of January, 2009, I emailed and/or placed in regular mail the original and copies of this objection, including all attachments, to the following persons:

1. Original to:

Director David R. Tuthill  
Idaho Department of Water Resources  
PO Box 83270  
Boise, ID 83720-0098  
dave.tuthill@idwr.idaho.gov

2. Copies to:

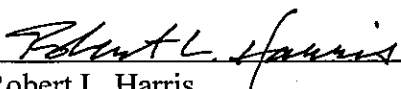
Jeff Peppersack  
Idaho Department of Water Resources  
PO Box 83270  
Boise, ID 83720-0098  
jeff.peppersack@idwr.idaho.gov

Shelley Keen  
Idaho Department of Water Resources  
PO Box 83270  
Boise, ID 83720-0098  
shelley.keen@idwr.idaho.gov

Aaron Marshall  
Idaho Department of Water Resources  
PO Box 83270  
Boise, ID 83720-0098  
aaron.marshall@idwr.idaho.gov

Phillip J. Rassier  
PO Box 83270  
Boise, ID 83720-0098  
phil.rassier@idwr.idaho.gov

Northwest Farm Credit Services ACA  
PO Box 157  
Rexburg, ID 83440-0157

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

G:\WPDATA\RLH\15139 Skyline Farms, LLC\Protest.wpd

# **EXHIBIT A**

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

IN THE MATTER OF APPLICATION FOR PERMIT NO. )  
22-7114 in the name of J. WAYNE STEVENS )  
\_\_\_\_\_ )

MEMORANDUM DECISION  
AND ORDER

On November 20, 1974, J. Wayne Stevens filed with the Department of Water Resources an application to appropriate 20 cubic feet per second of the waters of Canyon Creek, a tributary of Teton River. On December 12, 1974, the Department received a protest against approval of said application from Owen J. Neeley. The Department conducted a hearing on the matter on January 28, 1975, in St. Anthony, Idaho.

The applicant, J. Wayne Stevens, was present and represented by Ray Rigby, Attorney at Law. The protestant, Owen J. Neeley was present and represented by Blair Grover, Attorney at Law.

The testimony on behalf of both the applicant and the protestant was received. The Department, having reviewed the testimonies and evidence offered for each of the parties, and reviewing all pertinent information in the Department's official records, and based upon the Director's understanding of the law, the Director of the Department of Water Resources makes the following Findings of Fact, Conclusions of Law, and Order:  
Findings of Fact

- (1) The applicant has possessory interest in the 1,702 acres of land on which water diverted under this appropriation could be used.
- (2) The diversion of 20 cfs of water for the irrigation of 1,702 acres is not an excessive rate.
- (3) The maximum flow in Canyon Creek that could be diverted and used beneficially under this permit is not known, but is estimated at about 20 cfs.

Conclusions of Law

- (1) This application was not filed for speculation or delay.
- (2) The applicant is entitled to an approved permit from the Department of Water Resources.

Order

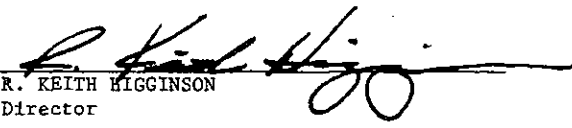
IT IS, THEREFORE, ORDERED and Application for Permit No. 22-7114 is hereby APPROVED subject to the following conditions:

1. That said permit be and is subject to all existing prior water rights.

NOT RECORDED

2. That the permit holder shall permanently install and maintain a measuring device of a type approved by the Department as part of the diverting works.
3. That this right be subject to the control of the watermaster.
4. That proof of construction of works and application of water to beneficial use be submitted to the Department on or before March 1, 1978.

Dated this 25 day of February, 1975.

  
R. KEITH HIGGINSON  
Director

RDC/BDF:jg

**MICROFILMED**

# **EXHIBIT B**

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

JUL 10 1978

**REQUEST FOR EXTENSION OF TIME**Department of Water Resources  
Eastern District OfficeTo provide additional time in which to submit  
proof of beneficial use on a water right permitJ. Wayne Stevens \_\_\_\_\_ of Star Route Newdale, ID \_\_\_\_\_  
(Name) (Address)

State of Idaho \_\_\_\_\_, deposes and says:

That he is the holder, or the duly authorized agent of the holder\*, of Permit to appropriate the Public  
Waters of the State of Idaho No. 22-7114.That under the terms and conditions of said permit, work thereunder was required to be completed on or  
before March, 1978.That he has heretofore performed the following work described under said permit: Irrigation  
system has been installed but the pumping plant has to be changed to a larger  
horse power motors. The present system is not capable of pumping what it was intended  
to.\_\_\_\_\_ Costing \$ 1,000,000.00That he is unable to complete the remainder of the work within the required time for the following  
reasons, to-wit: Pumping plant was not changed this year because it would have shut  
down the irrigation system during high water.Wherefore, he asks that the Department of Water Resources extend the time for the completion of  
obligations under said permit to March, 1980.J. Wayne Stevens  
(Signature)\*

## ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

IT IS HEREBY ORDERED that the above application for extension of time be APPROVED and the time  
within which to submit proof of beneficial use of water be extended to August 1, 1980.Signed this 13<sup>th</sup> day of July, 1978.**MICROFILMED**L. Glen Saxton  
L. GLEN SAXTON, Chief  
Operations Bureau

\* IF OTHER THAN HOLDER, Power of Attorney must be supplied.

# **EXHIBIT C**

July 17, 1978

Re: Permit No. 22-7114

J. Wayne Stevens  
Star Route  
Newdale, ID 83436

Dear Mr. Stevens:

Enclosed is a copy of the approved application for extension of time submitted in connection with the above referenced permit.

The time within which to submit proof of beneficial use of water has been extended to August 1, 1980.

Sincerely,

JAN GROVER  
Water Rights Supervisor

JG:j  
Enclosure

**MICROFILMED**

# **EXHIBIT D**

DEPARTMENT OF WATER RESOURCES

The Idaho Department of Water Resources will consider this card as a statement that the permit holder(s) has completed development to the extent shown below of Permit No. 2274

Name(s) of Permit Holder: J. Wayne Stevens

Post Office Address: Star Bldg.

Newdale, Ida.

Tel. No. 458-4469

Source of Water: Canyon Creek

Extent of Use:

☐ Domestic

(number of households)

☐ Stockwater

(number and type of stock)

☒ Irrigation

1800

(acres)

☐ Other

Measuring Device:

Required?

☒ Yes

☐ No

Installed?

☒ Yes

☐ No

Access Port:

Required?

☐ Yes

☒ No

Installed?

☐ Yes

☐ No

The above information is a true statement of the extent to which the above numbered permit has been developed.

July 9-80  
Date

J. Wayne Stevens  
Signature of Permit Holder

# **EXHIBIT E**



# STATE OF IDAHO

## DEPARTMENT OF WATER RESOURCES EASTERN REGION

John V. Evans  
Governor

C. Stephen Allred  
Director

1515 Lincoln Road  
Idaho Falls, Idaho 83401  
(208) 523-7186

July 22, 1980

RE: Permit No. 22-7114

J. Wayne Stevens  
Star Route  
Newdale, Idaho 83436

Dear Mr. Stevens:

We acknowledge receipt of the proof of beneficial use card submitted for the above referenced permit.

Before a license can be issued, a field examination must be made by a representative of this department. We cannot tell just when this examination will be made, but our examiner will try to contact you at the time he makes the examination so that you may show him the system.

If you have any questions regarding the field examination, please contact our eastern regional office.

Very truly yours,

Bobbie R. Stephens  
Sr. Clerk

cc: IDWR - State Office

**MICROFILM**

# **EXHIBIT F**

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
BENEFICIAL USE FIELD REPORT

A. GENERAL INFORMATION

Permit No: 22-7114

Exam Date: 6/20/2008

FINAL MEASUREMENT

1. Current Owner: STEVECO CANYON FARMS INC  
C/O MIKE STEVENS  
49 E SUNSET CIR  
REXBURG ID 83440  
(208)458-4469

NORTHWEST FARM CREDIT SERVICES ACA  
PO BOX 157  
REXBURG ID 83440-0157  
(208)356-4442

2. Accompanied by: Coun Crapo - new owner  
Phone No:  
Address:  
Relationship to Permit Holder:

3. SOURCE  
CANYON CREEK

TRIBUTARY  
TETON RIVER

B. OVERLAP REVIEW

1. Other water rights with the same place of use: 22-7069, 7103, 7230, 22-195, 196  
2. Other water rights with the same point of diversion: 22-7069, 22-7103

C. DIVERSION AND DELIVERY SYSTEM

1. LOCATION OF POINT(S) OF DIVERSION:

CANYON CREEK  
MADISON County

SE1/4NW1/4SE1/4

Sec. 13, Twp 06N, Rge 42E, B.M.

Method of Determination: GPS TAG

2.

Current owner as listed on Adjudication  
recommendation

SCANNED

6/20/2008

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   |        |
| 06N | 42E | 1   |      |      |      |      |      |             |            |      |      |             | 13.0        | 13.0 |      |      | 13.0 | 5.6  | 44.6   |
| 06N | 42E | 11  |      |      |      |      |      |             |            |      | 11.0 | 29.0        | 40.0        | 40.0 | 39.0 | 22.0 | 37.0 | 37.0 | 255.0  |
| 06N | 42E | 12  | 6.4  | 33.0 | 6.5  | 27.0 | 40.0 | 40.0        | 40.0       | 27.0 | 1.8  | 35.0        | 24.0        | 3.5  | 39.0 | 33.0 | 38.0 | 39.0 | 433.2  |
| 06N | 42E | 13  | 40.0 | 17.0 | 8.3  | 34.0 |      | 25.0        | 39.0       | 13.0 | 40.0 | 40.0        | 40.0        | 40.0 | 30.0 | 17.0 | 31.0 | 18.0 | 432.3  |
| 06N | 42E | 14  | 40.0 | 40.0 | 40.0 | 40.0 | 40.0 | 40.0        | 40.0       | 40.0 | 40.0 | 40.0        |             |      | 40.0 | 40.0 | 40.0 | 40.0 | 560.0  |
| 06N | 42E | 15  | 40.0 | 40.0 | 40.0 | 40.0 | 40.0 |             |            | 40.0 | 40.0 |             |             |      | 40.0 | 40.0 |      |      | 360.0  |
| 06N | 42E | 23  | 25.0 | 2.1  |      | 4.7  |      |             |            |      |      |             |             |      |      |      |      |      | 31.8   |
| 06N | 42E | 24  | 12.0 | 40.0 | 40.0 | 17.0 | 40.0 | 12.0        |            | 40.0 |      |             |             |      |      |      |      |      | 201.0  |
| 06N | 43E | 7   |      |      |      |      |      |             |            |      | 40.0 | 28.0<br>L 3 | 28.0<br>L 4 | 40.0 | 12.0 |      | 35.0 | 40.0 | 223.0  |
| 06N | 43E | 18  | 40.0 | 39.0 |      | 40.0 | 37.0 | 27.0<br>L 1 | 1.5<br>L 2 |      |      |             |             |      |      |      |      |      | 184.5  |

Total Acres: 2725.4

SCANNED

JUN 26 2006

## Method of Determination:

3. ☐ Delivery System Diagram Attached (required). Indicate all major components and distances between components. Indicate weir size/pipe as applicable.
- ☒ Map Attached Showing Location(s) of point(s) of diversion and place(s) of use (required). Scale must be 1:24,000 or greater.
- ☒ Aerial Photo Attached (required for irrigation of 10+ acres).
- ☒ Photo of Diversion and System Attached

4.

| <u>Well or Diversion</u><br><u>ID No.*</u> | <u>Motor Make</u> | <u>Hp</u> | <u>Motor Serial No.</u> | <u>Pump Make</u> | <u>Pump Serial No. or Discharge</u><br><u>Size</u> |
|--------------------------------------------|-------------------|-----------|-------------------------|------------------|----------------------------------------------------|
| 1                                          | GE                | 125       |                         | Johnston         |                                                    |
| 2                                          | GE                | 125       |                         | Johnston         |                                                    |
| 3                                          | GE                | 125       |                         | Johnston         |                                                    |
| 4                                          | GE                | 250       |                         | Johnston         |                                                    |

\*Code to correspond with No. on map and aerial photo

## D. FLOW MEASUREMENTS

1.

| <u>Measurement</u><br><u>Equipment</u> | <u>Type</u> | <u>Make</u> | <u>Model No.</u> | <u>Serial No.</u> | <u>Size</u> | <u>Calib. Date</u> |
|----------------------------------------|-------------|-------------|------------------|-------------------|-------------|--------------------|
|                                        |             |             |                  |                   |             |                    |
|                                        |             |             |                  |                   |             |                    |

2. Measurements:

Fuji meter 21.65 cfs

## E. FLOW CALCULATIONS

☐ Additional Computation Sheets Attached

Measured Method:

**F. VOLUME CALCULATIONS****1. Volume Calculations for Irrigation:**

$$V_{I.R.} = (\text{Acres Irrigated}) \times (\text{Irrigation Requirement}) = 1702 \times 3.5 = 5957$$

$$V_{D.R.} = [\text{Diversion Rate (cfs)}] \times (\text{Days in Irrigation season}) \times 1.9835 =$$

$$V = \text{Smaller of } V_{I.R.} \text{ and } V_{D.R.} =$$

**2. Volume Calculations for Other Uses:****G. NARRATIVE/REMARKS/COMMENTS**

four pumps in canyon creek to mainlines to pivots and sprinklers.  
 3 GE 125HP motors/johnston pumps and one GE 250HP motor johnston pump  
 22-7069 2.0cfs from same pump on same lands  
 22-7103 8.0cfs from same pump on same lands  
 22-7230 3.48cfs exchange well on same lands  
 22-185, 22-196 canyon creek canal used on same land.  
 fuji meter 21.65 cfs from all pumps running

Have conditions of permit approval been met? ☒ Yes ☐ No

**H. RECOMMENDATIONS****1. Recommended Amounts**

| BENEFICIAL USE | PERIOD OF USE  | DIVERSION RATE | ANNUAL VOLUME |
|----------------|----------------|----------------|---------------|
| IRRIGATION     | 04/01 to 10/31 | 20.000 CFS     | 5,957.00 AF   |
| <b>Totals:</b> |                | 20.000 CFS     | 5,957.00 AF   |

**2. Recommended Amendments**

☒ Change P.D. as reflected above ☐ Add P.D. as reflected above ☐ None

☒ Change P.U. as reflected above ☒ Add P.U. as reflected above ☐ Other

**I. AUTHENTICATION**

Field Examiner's Name DAVE CARLSON Date 6/25/2008  
 Reviewer \_\_\_\_\_ Date \_\_\_\_\_

SCANNED

JUN 25 2008

## IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 22-7114 V1

WATER RIGHT NUMBER: 22-7114 V1

| <u>Owner Type</u> | <u>Name and Address</u>                                                                                         |
|-------------------|-----------------------------------------------------------------------------------------------------------------|
| Current Owner     | STEVECO CANYON FARMS INC<br>C/O CONN CRAPO<br>1509 N CANYON CREEK RD<br>NEWDALE, ID 83436-1113<br>(208)313-6310 |
| Attorney          | RIGBY ANDRUS & MOELLER CHTD<br>PO BOX 250<br>REXBURG, ID 83440<br>(208)356-3633                                 |
| Original Owner    | J WAYNE STEVENS<br>STAR RT<br>NEWDALE, ID 83436                                                                 |

Priority Date: 11/20/1974

Basis: Permit

Status: Active

| <u>Source</u> | <u>Tributary</u> |
|---------------|------------------|
| CANYON CREEK  | TETON RIVER      |

| <u>Beneficial Use</u> | <u>From</u> <u>To</u>   | <u>Diversion Rate</u> | <u>Annual Volume</u> |
|-----------------------|-------------------------|-----------------------|----------------------|
| IRRIGATION            | 4/01 to 11/01           | 20.000 CFS            |                      |
|                       | <u>Total Diversion:</u> | 20.000 CFS            |                      |

Location of Point(s) of Diversion

|                |                 |                                 |
|----------------|-----------------|---------------------------------|
| CANYON CREEK   | NW1/4SE1/4SE1/4 | Sec. 13, Twp 06N, Rge 42E, B.M. |
| MADISON 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   |        |
| 06N | 42E | 11  |      |      |      |      |      |      |      |      | 15.0 | 25.0 | 40.0 | 40.0 |      |      | 25.0 | 15.0 | 160.0  |
| 06N | 42E | 13  |      |      |      |      | 5.0  | 35.0 | 40.0 | 20.0 | 40.0 | 40.0 |      | 40.0 |      |      | 22.0 | 35.0 | 277.0  |
| 06N | 42E | 14  | 40.0 | 40.0 | 40.0 | 40.0 | 40.0 | 40.0 | 40.0 | 40.0 | 40.0 | 40.0 |      |      | 40.0 | 40.0 |      |      | 480.0  |
| 06N | 42E | 15  | 40.0 | 40.0 | 40.0 | 40.0 | 40.0 | 40.0 |      | 40.0 |      |      |      | 40.0 | 40.0 | 40.0 | 40.0 | 40.0 | 520.0  |
| 06N | 42E | 22  | 40.0 | 40.0 |      |      | 40.0 |      |      |      |      |      |      |      |      |      |      |      | 120.0  |

## IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 22-7114 V1

|            |      |      |      |      |  |  |  |       |
|------------|------|------|------|------|--|--|--|-------|
| 06N 43E 18 | 40.0 | 40.0 | 40.0 | 25.0 |  |  |  | 145.0 |
|------------|------|------|------|------|--|--|--|-------|

Total Acres: 1702

Conditions of Approval:

1. A01 This right is conditioned upon completion of the appropriation in accordance with the statutory procedure for appropriation of water rights. This right remains subject to all conditions set forth in the permit upon which this right is based, and will be subject to all conditions set forth in the license issued by IDWR upon completion of the statutory appropriation process.
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.

Remarks:Comments:Dates and Other Information:

Decreed Date:  
 Enlargement Use Priority Date:  
 Enlargement Statute Priority Date:  
 Defendant:  
 Plaintiff:  
 Civil Case Number:  
 Judicial District:  
 Notice of Error Flag:  
 State or Federal: S  
 Owner Name Connector:  
 Water District Number: 01  
 Generic Max Rate Per Acre:  
 Generic Max Volume Per Acre:  
 Swan Falls Trust or Nontrust:  
 Swan Falls Dismissed:  
 DLE Act Number:  
 Carey Act Number:  
 Mitigation Plan: False

Combined Use Limits:Element Reviewed/Verified Dates:

| Element | Last Reviewed Date | Reviewer | Last Verified Date | Verifier | Status |
|---------|--------------------|----------|--------------------|----------|--------|
| Summary |                    |          | 06/09/2006         | kmoore   | Active |
| Summary |                    |          | 06/14/2006         | kmoore   | Active |

Verification Log:

| Element | Date Time Stamp      | Reviewer | Log text                                                                  |
|---------|----------------------|----------|---------------------------------------------------------------------------|
| POD     | 5/31/2007 1:57:48 PM | dcarlson | Correlated PODID 682051 from SpatialDataID 374691 to SpatialDataID 374708 |
| POD     | 6/9/2006 10:04:08 AM | kmoore   | Updated shape                                                             |

SCANNED

JUN 15 2008

6/20/2008 M. Holliday

Fuji Meter

No. 01  
LOG NAME:EAST  
START :06-20 10:25  
END :06-20 10:35  
INTERVAL:00:01:00

06-20 10:25:00  
+6.762E+0 ft/s  
+3.958E+3 gal/m  
+TOTAL 0000000 gal  
-TOTAL 0000000 gal  
NORMAL

06-20 10:26:00  
+6.683E+0 ft/s  
+3.912E+3 gal/m  
+TOTAL 0003899 gal  
-TOTAL 0000000 gal  
NORMAL

06-20 10:27:00  
+6.701E+0 ft/s  
+3.922E+3 gal/m  
+TOTAL 0007812 gal  
-TOTAL 0000000 gal  
NORMAL

06-20 10:28:00  
+6.705E+0 ft/s  
+3.925E+3 gal/m  
+TOTAL 0011747 gal  
-TOTAL 0000000 gal  
NORMAL

06-20 10:29:00  
+6.711E+0 ft/s  
+3.928E+3 gal/m  
+TOTAL 0015683 gal  
-TOTAL 0000000 gal  
NORMAL

06-20 10:30:00  
+6.788E+0 ft/s  
+3.973E+3 gal/m  
+TOTAL 0019640 gal  
-TOTAL 0000000 gal  
NORMAL

06-20 10:31:00  
+6.798E+0 ft/s  
+3.979E+3 gal/m  
+TOTAL 0023606 gal  
-TOTAL 0000000 gal  
NORMAL

06-20 10:32:00  
+6.767E+0 ft/s  
+3.961E+3 gal/m  
+TOTAL 0027557 gal  
-TOTAL 0000000 gal  
NORMAL

06-20 10:33:00  
+6.765E+0 ft/s  
+3.960E+3 gal/m  
+TOTAL 0031526 gal  
-TOTAL 0000000 gal  
NORMAL

06-20 10:34:00  
+6.727E+0 ft/s  
+3.938E+3 gal/m  
+TOTAL 0035467 gal  
-TOTAL 0000000 gal  
NORMAL

06-20 10:35:00  
+6.745E+0 ft/s  
+3.948E+3 gal/m  
+TOTAL 0039411 gal  
-TOTAL 0000000 gal  
NORMAL

No. 02  
LOG NAME:WEST  
START :06-20 11:22  
END :06-20 11:32  
INTERVAL:00:01:00

06-20 11:22:00  
+9.783E+0 ft/s  
+5.782E+3 gal/m  
+TOTAL 0000000 gal  
-TOTAL 0000000 gal  
NORMAL

06-20 11:23:00  
+9.842E+0 ft/s  
+5.816E+3 gal/m  
+TOTAL 0005698 gal  
-TOTAL 0000000 gal  
NORMAL

06-20 11:24:00  
+9.797E+0 ft/s  
+5.790E+3 gal/m  
+TOTAL 0011494 gal  
-TOTAL 0000000 gal  
NORMAL

06-20 11:25:00  
+9.801E+0 ft/s  
+5.793E+3 gal/m  
+TOTAL 0017277 gal  
-TOTAL 0000000 gal  
NORMAL

06-20 11:26:00  
+9.828E+0 ft/s  
+5.808E+3 gal/m  
+TOTAL 0023055 gal  
-TOTAL 0000000 gal  
NORMAL

06-20 11:27:00  
+9.782E+0 ft/s  
+5.781E+3 gal/m  
+TOTAL 0028844 gal  
-TOTAL 0000000 gal  
NORMAL

06-20 11:28:00  
+9.736E+0 ft/s  
+5.754E+3 gal/m  
+TOTAL 0034635 gal  
-TOTAL 0000000 gal  
NORMAL

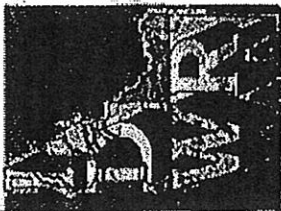
06-20 11:29:00  
+9.764E+0 ft/s  
+5.770E+3 gal/m  
+TOTAL 0040400 gal  
-TOTAL 0000000 gal  
NORMAL

06-20 11:30:00  
+9.775E+0 ft/s  
+5.777E+3 gal/m  
+TOTAL 0046172 gal  
-TOTAL 0000000 gal  
NORMAL

06-20 11:31:00  
+9.824E+0 ft/s  
+5.806E+3 gal/m  
+TOTAL 0051964 gal  
-TOTAL 0000000 gal  
NORMAL

06-20 11:32:00  
+9.842E+0 ft/s  
+5.816E+3 gal/m  
+TOTAL 0057756 gal  
-TOTAL 0000000 gal  
NORMAL

# Idaho Department of Water Resources



SRBA Recommendation:

22-7069

22-7103

22-7230

(Irrigation)

## Legend

Point of Diversion

Place of Use

Townships

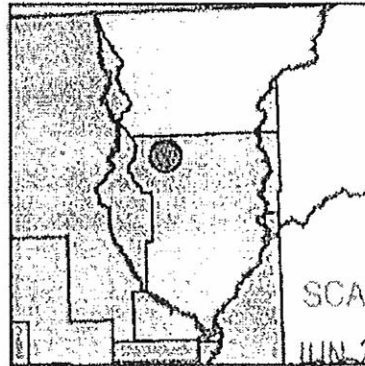
PLS Sections

Quarter Quarters



SCANNED

SEP 4 7 2007

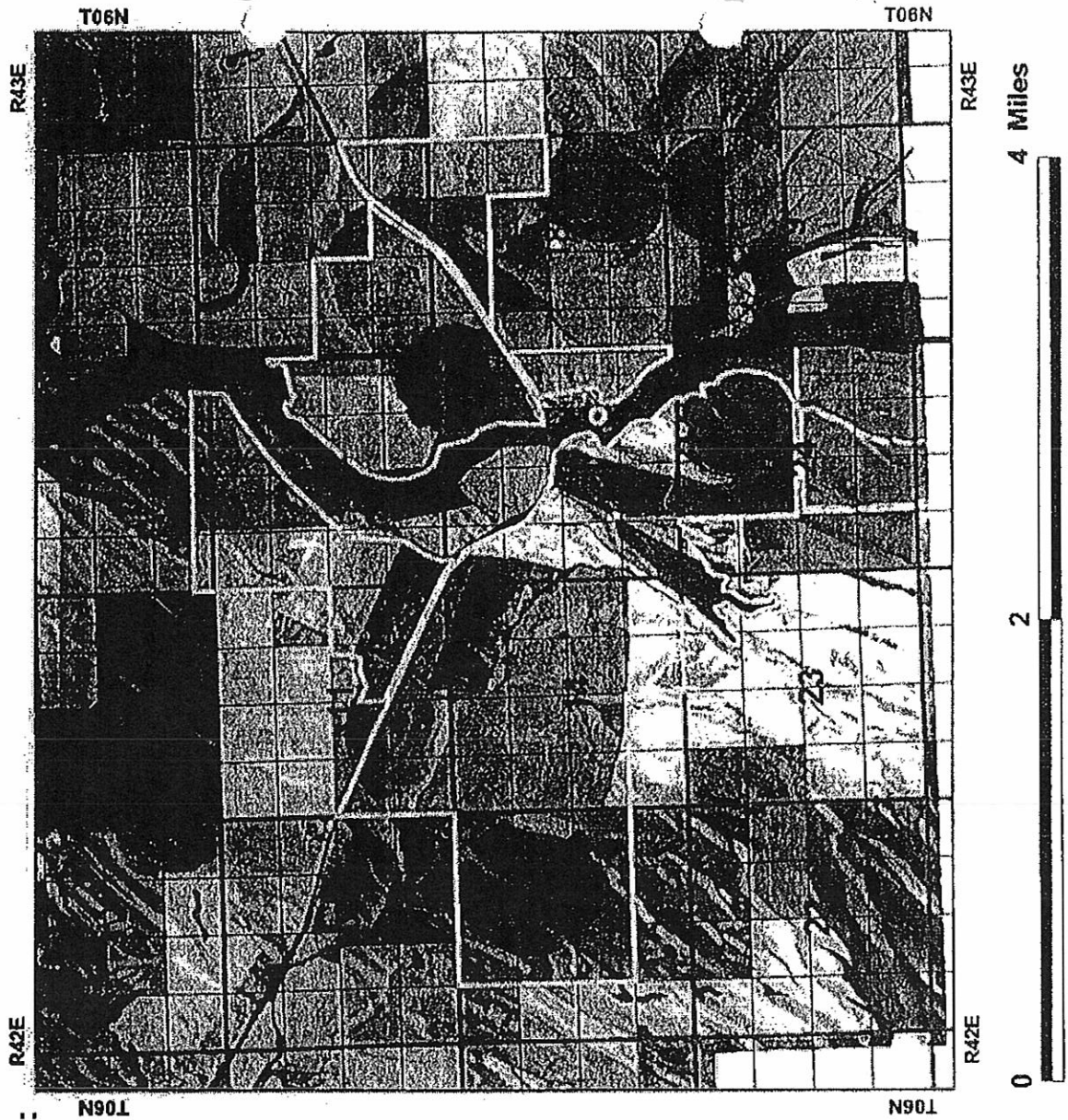


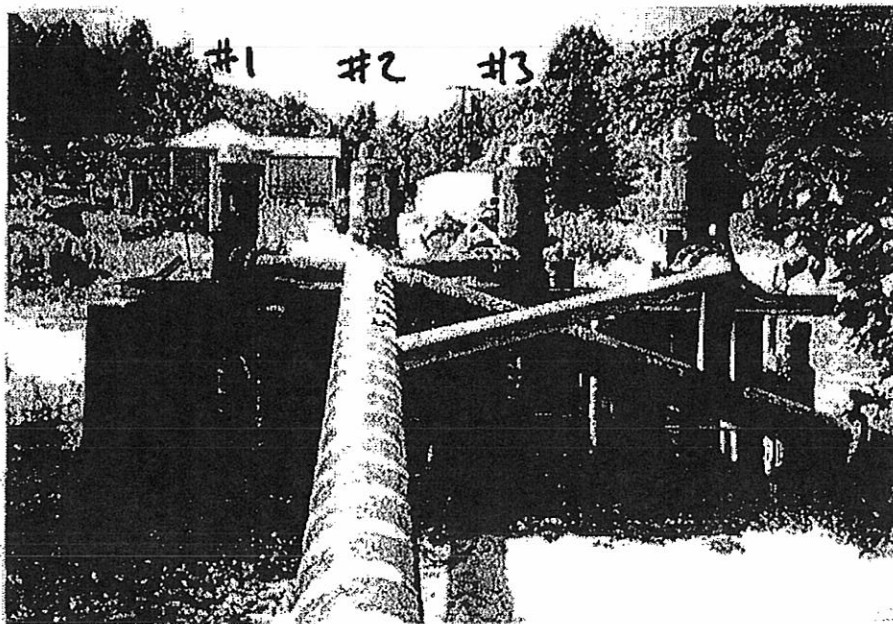
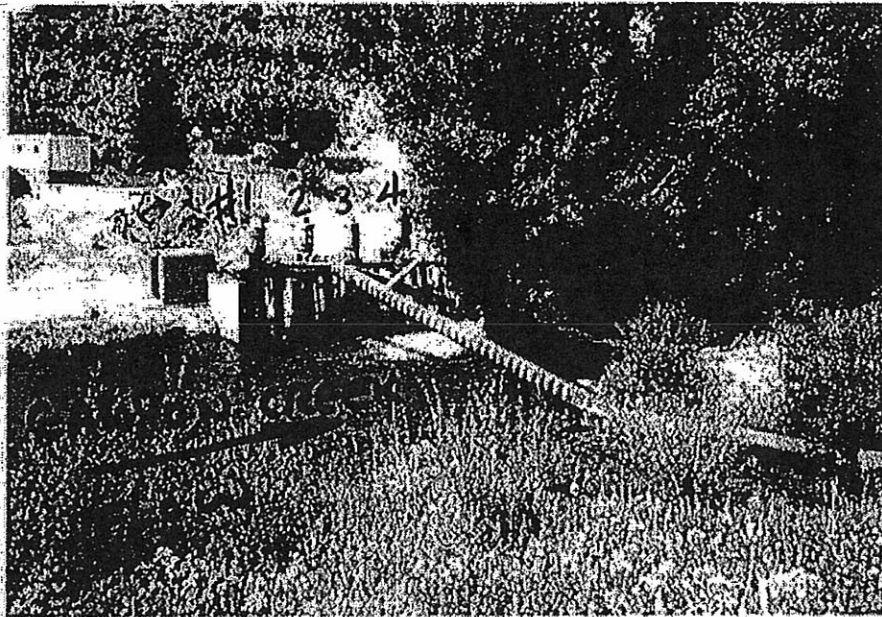
Madison County  
IDWR Basin 22

SCANNED

JUN 26 2008

Prepared by T. Galbraith  
On Monday, October 30, 2006  
1987/88 Aerial Photography





Canyon Creek flow →

22-7114