

SEP 22 2008

DEPARTMENT OF
WATER RESOURCES

**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

PETITION FOR RECONSIDERATION

Steveco Canyon Farms ("Steveco") and Skyline Farms ("Skyline"), the present owner of permit no. 22-7114,¹ by and through their counsel of record, Holden, Kidwell, Hahn & Crapo, PLLC, hereby petitions the Idaho Department of Water Resources ("IDWR" or "Department") to reconsider its Preliminary Order Voiding Permit with regards to Permit No. 22-7114.. This petition is timely pursuant to Idaho Code § 67-5246(5).

The necessary background and grounds for the petition for reconsideration are set forth below.

I. BACKGROUND²

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,

¹ An assignment of permit form has not yet been filed, but the property has now been conveyed to Skyline.

² 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.

- 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.³
 5. Director Higginson concluded as a matter of law that:
 - a. The application was not filed for speculation or delay.
 - b. The applicant is entitled to an approved permit from the Department of Water Resources.⁴
 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.

³ See Exhibit A attached hereto.

⁴ Id.

- 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.”⁵
9. The request for extension of time was granted on July 17, 1978.⁶ The extension allowed proof of beneficial use to be submitted on or before August 1, 1980.
10. Mr. Stevens submitted proof of beneficial use on July 9, 1980⁷ 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 acknowledgement, 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.”⁸

⁵ See Exhibit B attached hereto.

⁶ See Exhibit C attached hereto.

⁷ See Exhibit D attached hereto.

⁸ See Exhibit E attached hereto (emphasis added).

12. The July 22, 1980 acknowledgement did not state that proof of development of the water right would be determined by Water District 01 records.
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.
17. The field examination was conducted in accordance with the rules, policies, and procedures set forth in IDAPA 37.03.02.⁹
18. Acting contrary to the field examination findings, IDWR staff determined that records from Water District 01 trumped the field examination findings, and determined that the permit should be voided because the permit holder did not install a measuring device and that the water had not been applied to beneficial use. IDWR sent a letter to the permit holder on August 4, 2008 informing it of IDWR's intention of voiding the permit.
19. 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.

⁹ See Exhibit F attached hereto.

II. ARGUMENT

The permit holder hereby petitions IDWR for reconsideration of its Preliminary Order Voiding Permit dated September 8, 2008. The grounds for the petition are as follows.

A. 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 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. In the context of zoning ordinances, the Idaho Supreme Court has held:

It is well established that an applicant's rights are determined by the ordinance in existence at the time of filing an application for the permit. *Payette River Property Owners Ass'n v. Board of Comm'rs of Valley Co.*, 132 Idaho 551, 555, 976 P.2d 477, 481 (1999) (citing *South Fork Coalition v. Board of Comm'rs*, 117 Idaho 857, 860-61, 792 P.2d 882, 885-86 (1990)). The rationale behind the rule is "that to permit retroactive application of an ordinance would allow a zoning authority to change or enact a zoning law merely to defeat an application, which would result in giving immediate effect to a future or proposed zoning ordinance before that ordinance was properly enacted." *Id.* at 555, 976 P.2d at 481 (citing *South Fork Coalition*, 117 Idaho at 861, 792 P.2d at 886).¹⁰

In the context of a water right permit application, the same principles apply.

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."¹¹ Thus, IDWR policy at the time was that the license could only be issued upon completion of a field

¹⁰ *Chishom v. Twin Falls County*, 139 Idaho 131, 134-35, 75 P.3d 185, 188-89 (2003).

¹¹ See Exhibit E attached hereto (emphasis added).

examination. In other words, the field exam documented the evidence upon which a water right license could be issued.

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 rules that were in place at the time Mr. Stevens submitted his proof of violation by ignoring the field examiner's report and instead adopting a new policy of only looking at Water District 01 records.

This is in violation of Idaho law, and Skyline requests that the Preliminary Order Voiding Permit be reconsidered in light of the legal argument raised here. The Idaho Supreme Court noted the problem with holding applicants to subsequent rule changes is that it would allow a "zoning authority to change or enact a zoning law merely to defeat an application." We are unaware of any other license that has been subject to the IDWR's new policy, nor its policy to void a permit merely because a measuring device was not installed (but certainly could be), and without additional information, can only presume that the change in policy may have been enacted as to our license only "merely to defeat [it]." Thus, we request that the preliminary order be set aside as it violates Idaho law.

Further, Skyline believes the issue can be worked out much easier in the context of working with IDWR rather than proceed to a hearing or to an appeal to the district court. For this reason, we request that the preliminary order voiding permit be set aside.

B. Additionally, in 1993, IDWR established Beneficial Use Examination Rules found at IDAPA 37.03.02, which also require a field examination consistent with Department policy previous to the adoption of such rules.

It is well settled that administrative rules carry the force and effect of law.¹² Administrative rules clearly set forth agency policy with regards to a specific issue as set forth in the definition of a “rule” contained at Idaho Code § 67-5201(19). In this case, rules found at IDAPA 37.03.02 which were promulgated pursuant to Idaho law, provide that field examinations are to be performed and used in the issuance of licenses for water rights. There is no rule contained in IDAPA 37.03.02 which permits IDWR staff to disregard a field examination, nor are there rules which allow them to rely solely on Water District 01 records. Otherwise, there would be no need for a field exam.

Thus, it appears that the preliminary order voiding permit was issued in violation of Idaho law, as it is contrary to IDWR administrative rules which carry the force and effect of law. Therefore, the preliminary order should be set aside, and the license issued consistent with the field examination.

C. Skyline needs additional time to provide additional information, if available, and to investigate the Water District 01 records.

As stated above, the field examination showed that the permit holder had developed the water right. Nevertheless, IDWR has determined that the field exam did not show how the water right was developed before proof of beneficial use was submitted.

As an initial matter, based on Department policy in 1980, the field exam itself is the evidence IDWR requires and must rely on, and is **necessarily** performed after the development period. It is the proof of what has been developed. We recognize that the field exam was performed in 2008, some 28 years after proof of beneficial use was submitted. It perhaps would have been ideal

¹² Asarco Inc. v. State, 138 Idaho 719, 69 P.3d 139 (2003); Mead v. Arnell, 117 Idaho 660, 791 P.2d 410 (1989).

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 sufficient grounds to ignore the field exam.

The failure to conduct the field exam for an extended period of time is not an issue caused by the permit holder, rather, it is 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 permit holder should not now be subject to a new licensing requirement not contained in the Department's rules because of circumstances beyond the permit holder's control—IDWR failure to perform the field exam in a timely manner.

Thus, while we believe we should not be required to provide any additional information supporting our development of the water right—because we previously did so with our proof of beneficial use—the preliminary order should be set aside in order to allow the permit holder to work with IDWR personnel pursuant to their reasonable requests. However, we should note that the current permit holder is two entities removed from the original permit holder, and at this point likely does not have such information regarding this permit's original development other than the field examination.

Additionally, the permit holder has not had sufficient time to examine Water District 01 records, their history, reliability, and reporting procedure to determine whether or not such records are appropriate to be relied upon by IDWR. The need for such additional time is a sufficient basis to set aside the order voiding permit.

D. Public policy and the realities of the permit dictate that the license should be issued as recommended by the field examiner.

We note that issuance of this water right permit would not harm other parties, and therefore request that it be issued as the field exam recommends. As IDWR is aware, the permit is for a water

right with a 1973 priority date out of Canyon Creek, a tributary to the Teton River. Thus, it is typically only available early in the year. The reality is that the permit holder diverts water during the irrigation season from Canyon Creek on an exchange basis with Fremont-Madison Irrigation District water which it is entitled to.

Further, the application was duly advertised, and indeed, a protest was filed and resolved with a hearing wherein the IDWR director specifically found that 20 cfs could be diverted and applied to beneficial use. Thus, the Department has already determined that water was available to be applied to beneficial use. This finding from then-Director Keith Higginson is directly contrary to the Preliminary Order Voiding Permit, which determined that no such beneficial use had happened.

We further note that if the 21.65 combined diversion rate for 2725.4 acres recommended by the field examiner is instituted, the diversion rate per acre of Skyline's property would still only be .008 cfs/acre, which is less than $\frac{1}{2}$ of the Department's typical rule of thumb of an inch per acre (.02 cfs/acre—which is found at IDAPA 37.03.02.03.a). Based on the voiding of the permit, this would leave the permit holder with 12.94 cfs, or .005 cfs/acre, or $\frac{1}{4}$ of the amount typically allowed by IDWR under the "duty of water" requirements of its administrative rules.

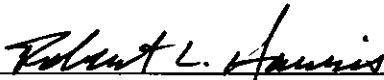
Lastly, we request additional time to install a measuring device. The order from then-Director Higginson, attached hereto at Exhibit A, did not put the permit holder on notice that failure to install the measuring device would result on a complete voiding of the permit. Skyline has every intention of installing such a device, but needs additional time to do so.

Thus, we request that the preliminary order voiding permit be reconsidered in light of these considerations.

III. CONCLUSION

For the reasons set forth above, we request that the Preliminary Order Voiding Permit be reconsidered, and ultimately, set aside. We further request that IDWR issue the license for 21-7114 consistent with the recommendation contained in the field examination, which is consistent with long-standing IDWR policy in place at the time proof of beneficial use was submitted for this water right, and further, consistent with the rules found at IDAPA 37.03.02. Lastly, because of the policy considerations contained above, we request that the order be reconsidered, and the license be issued consistent with the field exam report.

DATED this 17th day of September, 2008.


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

CERTIFICATE OF MAILING

I hereby certify that on this 7th day of September, 2008, 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:

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

2. Copies to:

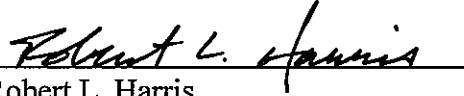
Director David R. Tuthill
Idaho Department of Water Resources
PO Box 83270
Boise, ID 83720-0098
dave.tuthill@idwr.idaho.gov

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

Aaron Marshall
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PO Box 83270
Boise, ID 83720-0098
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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.

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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

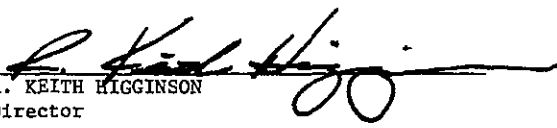
IT IS, THEREFORE, ORDERED and Application for Permit No. 22-7114 is hereby APPROVED subject to the following conditions:

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

MICROFILMED

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

JUL 10 1978

Department of Water Resources
Eastern District OfficeSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**REQUEST FOR EXTENSION OF TIME**To 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 13th 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 Rt.

Newdale, Ida.

Tel. No. 458-4219

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: Conn 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

SE1/4NW1/4SE1/4

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

MADISON County

Method of Determination: GPS TAG

2.

Current owner as listed on Adjudication
recommendation

SCANNED

JUN 26 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 L 3	28.0 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 L 1	1.5 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.

Well or Diversion ID No.*	Motor Make	Hp	Motor Serial No.	Pump Make	Pump Serial No. or Discharge Size
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.

Measurement Equipment	Type	Make	Model No.	Serial No.	Size	Calib. Date

2. Measurements:

Fuji meter 21.65 cfs

E. FLOW CALCULATIONS

Measured Method:

☐ Additional Computation Sheets Attached

SCANNED

JUN 26 2008

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
 22-195, 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**

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL VOLUME</u>
IRRIGATION	04/01 to 10/31	20.000 CFS	5,957.00 AF
<u>Totals:</u>		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 26 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 C/O CONN CRAPO 1509 N CANYON CREEK RD NEWDALE, ID 83436-1113 (208)313-6310
Attorney	RIGBY ANDRUS & MOELLER CHTD PO BOX 250 REXBURG, ID 83440 (208)356-3633
Original Owner	J WAYNE STEVENS STAR RT 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	40.0	520.0
06N	42E	22	40.0	40.0			40.0												120.0

SCANNED

JUN 25 2008

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 22-7114 V1

06N 43E 18	40.0	40.0	40.0	25.0				145.0
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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 26 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

SCANNED

JUN 26 2008

Idaho Department of Water Resources



SRBA Recommendation:

22-7069

22-7103

22-7230

(Irrigation)

Legend

Point of Diversion

Place of Use

Townships

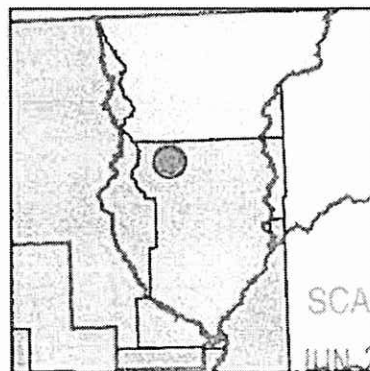
PLS Sections

Quarter Quarters



SCANNED

SEP 17 2007

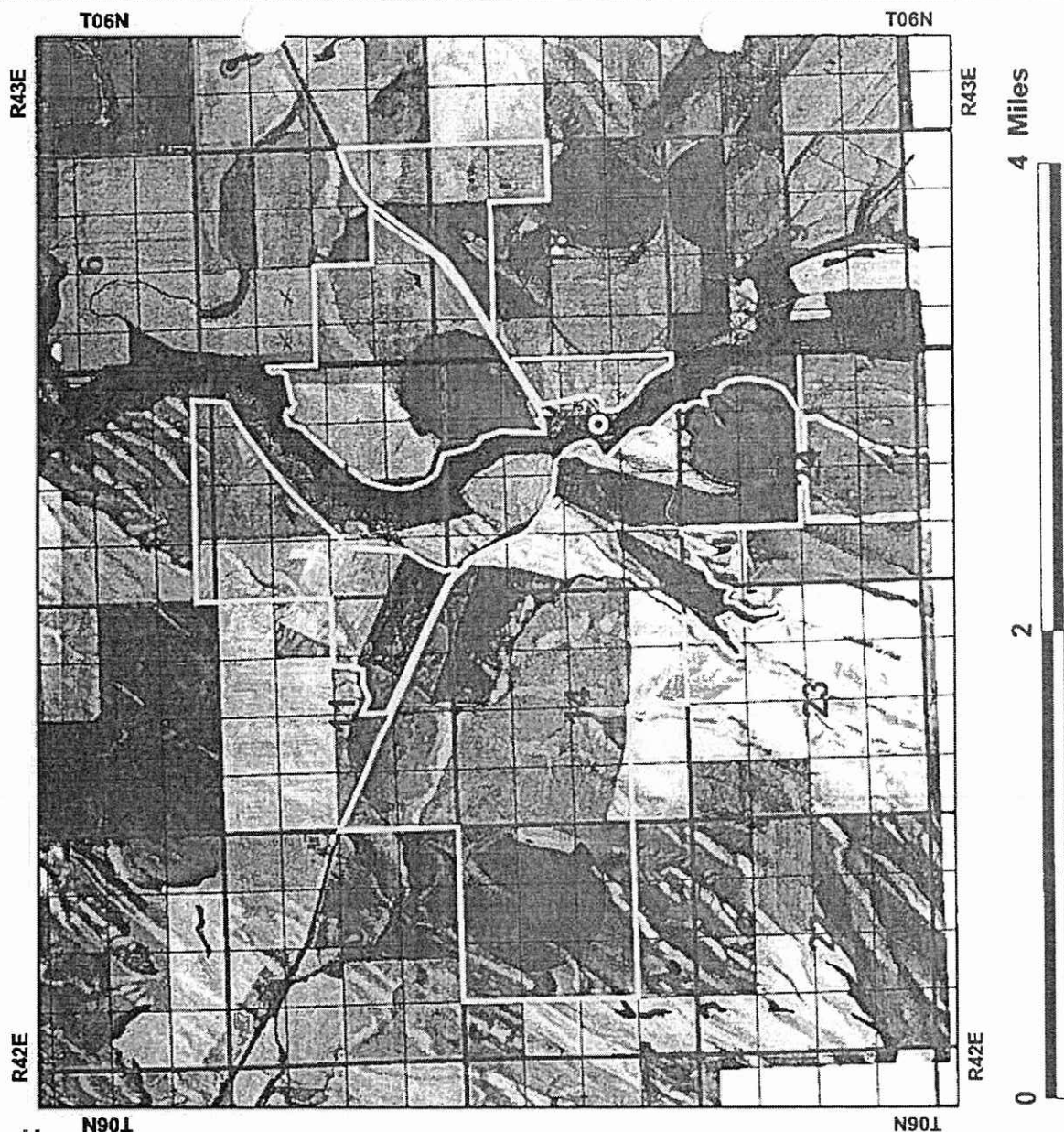


Madison County
IDWR Basin 22

SCANNED

JUN 26 2008

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





Canyon Creek flow →

22-7114

SCANNED
JUN 25 2014