



State of Idaho

DEPARTMENT OF WATER RESOURCES

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C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

May 20, 2010

Randall C. Budge
PO Box 1391
Pocatello, ID 83204-1391

Re: Your Correspondence Dated April 19, 2010 Concerning Last Chance Canal Co., Ltd. Leased Water Rights.

Dear Mr. Budge,

I received your letter of April 19, 2010 regarding the status of certain water rights that are either currently leased or no longer leased by the Last Chance Canal Co. (Last Chance). You have specifically asked whether the leased rights have been properly credited to Last Chance and either accounted for or documented in the Water District 11 water rights accounting program and records.

I forwarded your inquiry to IDWR staff hydrologist Liz Cresto to assist with a response since Liz is responsible for maintaining the Water District 11 water right accounting program. IDWR was not aware that Last Chance's lease of right 13-7586 (formerly water right no. 11-255) had expired after the 2007 irrigation season. As a result, the water right remained in the accounting program under Last Chance's name and diversions during the past two irrigation seasons. IDWR has removed right 13-7586 from the accounting program for the 2010 season. Last Chance benefitted from keeping the right in the accounting program for the past two seasons since it reduced the amount of stored water diverted to Last Chance by the amount authorized under the right for any period that the right was deliverable. Additionally, IDWR water right accounting program records provides evidence that right 13-7586 was associated with Last Chance since 2003. This association assures that water diverted by Last Chance would have been credited or accrued towards right 13-7586, thereby providing evidence of use under the right.

Any concern regarding recent beneficial use under right 13-7586 is probably moot as of this writing. Since receiving your letter, IDWR approved the Railroad Springs Ranch LLC water right transfer for right 13-7586. The new water right number is 11-7657. The new authorized point of diversion for the right is located near the original point of diversion before the right was leased to Last Chance (originally right 11-255). IDWR will add right 11-7657 to the water right accounting program at the new point of diversion under the name of Railroad Springs Ranch LLC.

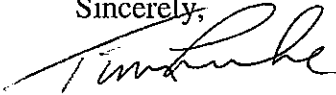
IDWR affirms that water rights 11-7475, 11-531C and 11-449 are still leased by Last Chance. These rights are identified in our accounting program and records as being under the name of Last Chance and diverted by Last Chance. These rights have been properly accounted for since first being leased by Last Chance except that right 11-449 was shown as having a priority date of 5/1/1892 instead of the correct priority date of 5/1/1910. Again, this error benefitted Last Chance given that the accounting would have kept the 1892 priority on much longer than the 1910 priority,

thus reducing accrual of some storage to Last Chance. IDWR has corrected the priority date for right 11-449 effective for the 2010 irrigation season.

Finally, your letter raised a valid point concerning the fact that the annual Watermaster Reports and delivery records do not clearly identify the water rights that are diverted under the various regulated diversions in the district. Please be advised however that the Department's water right accounting program does include and rely on updated computer files that link or associate water rights with physical diversions. I believe the watermaster can work with Department staff on adding a summary of water rights administered in the district along with associated diversions and owners. The Department generally encourages watermasters at periodic watermaster workshops to include such summaries in annual water district reports. We will ask and/or work with Rock Holbrook this year to include such a summary in his annual report.

I hope this response adequately addresses the concerns raised in your April 19th correspondence. Please contact me again if I can be of further assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Tim Luke", written over a horizontal line.

Tim Luke
Water Distribution Section

Encl: Approved Water Right Transfer No 76278, Water Right 13-7586 (old) & 11-7657 (new)

cc: Rock Holbrook, Water District 11 Watermaster
Liz Cresto, IDWR
Last Chance Canal Company, c/o Mark Mathews and Marcus Gibbs

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRANSFER OF WATER RIGHT
TRANSFER NO. 76278

This is to certify that: RAILROAD SPRINGS RANCH LLC
971 E 300 N
ALPINE UT 84004
(801)492-7504

has requested a change to the water right(s) listed below. This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code. A summary of the changes is also listed below. The authorized change for each affected water right, including conditions of approval, is shown on the following pages of this document.

Summary of Water Rights Before the Proposed Change

<u>Right</u>	<u>Origin/Basis</u>	<u>Priority</u>	<u>Rate</u>	<u>Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>Source</u>
13-7586	WR/Decreed	05/01/1889	2.0 cfs	289.8 af	82.8	N/A	BEAR RIVER

Purpose of Transfer (Changes Proposed)

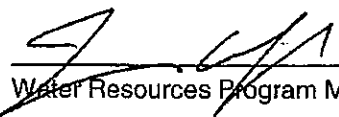
<u>Current Number</u>	<u>Split</u>	<u>POD</u>	<u>POU</u>	<u>Add POD</u>	<u>Period of Use</u>	<u>Nature of Use</u>
13-7586	NO	YES	YES	NO	NO	NO

Summary of Water Rights After the Approved Change

<u>Existing Right</u>	<u>New No. (changed portion)</u>	<u>Transfer Rate</u>	<u>Transfer Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>New No. (remaining portion)</u>	<u>Remaining Rate</u>	<u>Remaining Volume</u>	<u>Remaining Acre Limit</u>	<u>Remaining Total Acres</u>
13-7586	11-7657	2.0 cfs	289.8 af	N/A	82.8		N/A	N/A	N/A	N/A
COMBINED TOTALS		2.0 cfs	289.8 af	N/A	82.8		N/A	N/A	N/A	N/A

Detailed Water Right Description(s) attached

Dated this 26th day of April, 2010


Water Resources Program Manager

SUPPORT DATA

IN FILE # 13-7586

WATER RIGHT NO. 11-7657
As Modified by Transfer No. 76278

In accordance with the approval of Transfer No. 76278, Water Right No. 11-7657 is now described as follows.

Right Holder: RAILROAD SPRINGS RANCH LLC
 971 E 300 N
 ALPINE UT 84004

Priority Date: May 01, 1889

Source: BEAR RIVER

Tributary: GREAT SALT LAKE

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/20	to 07/01	2.00 CFS	289.8 AF
IRRIGATION	07/02	to 10/01	1.00 CFS	182.5 AF

LOCATION OF POINT(S) OF DIVERSION:

BEAR RIVER SWSENE Sec. 19 Twp 10S Rge 43E BEAR LAKE County
 BEAR RIVER NWNESE Sec. 19 Twp 10S Rge 43E BEAR LAKE 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	
10S	43E	19				8.4									20.2			2.4	31.0
10S	43E	20									32.3	19.5							51.8

Total Acres: 82.8

WATER RIGHT NO. 11-7657
As Modified by Transfer No. 76278

CONDITIONS OF APPROVAL

1. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 11.
2. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion.
3. This right when combined with all other rights shall provide no more than 3.5 afa per acre at the field headgate for irrigation of the lands above.
4. The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
5. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

This water right is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.

Dated this 26th day of April, 20 10


Water Resources Program Manager