

RECEIVED

NOV 13 2024

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCESDEPT. OF WATER RESOURCES
EASTERN REGION

APPLICATION FOR TRANSFER OF WATER RIGHT

GENERAL INFORMATION AND INSTRUCTIONS

Pursuant to Section 42-222(1), *Idaho Code*, a transfer application may be filed to change the point of diversion, place of use, period of use, or nature of use of all or part of an established water right. Any person proposing to make such a change is required to file a transfer application with the Department. "Such application shall be upon forms furnished by the department and shall describe the [water right] to be changed and the changes which are proposed and shall be accompanied by the statutory filing fee." *Idaho Code* § 42-222(1).

The Department has developed this application form to assist applicants in satisfying the requirements of Section 42-222(1). This application form requests information about the applicant's authority to file (Part 1), information about the current elements of the water right(s) to be changed (Part 2), information about the proposed changes (Part 3), information about the validity of the water right(s) and the effects of the proposed changes (Part 4), and confirmation that the information provided is truthful (Part 5).

The applicant or their representative must provide a response for all applicable questions, any additional information required, and the proper filing fee before this application will be considered complete. If an application is incomplete or more information is required, the Department will notify the applicant or representative and allow time for the application to be completed. An application that remains incomplete will be returned to the applicant and the filing fee will be refunded.

An application for transfer is limited to the changes proposed for a single water distribution system. A proposal to change two or more separate water distribution systems, that will remain separate after the transfer, must be filed as separate applications. Applicants may provide additional pages to supplement their responses to the questions posed on this application form. Supplemental forms for listing additional water rights, points of diversion, or places of use can be found on the Department's website (idwr.idaho.gov). If you need assistance understanding the questions on this form, generating current water right reports, determining legal descriptions, or accessing water measurement records feel free to contact the nearest regional office of the Department.

PART 1 – CONTACT INFORMATION, OWNERSHIP RECORDS, AUTHORITY TO FILE

Name(s) of Applicant(s) Robert A. SimmonsMailing Address PO Box 204, Carmen, ID 83462Email* zeniff@gmail.com Phone 208-993-9479Name of Representative (if any) Julia Maree Simmons (daughter)

Mailing Address _____

Email* latterdaysaintwoman@proton.me Phone 801-837-8878

*If an email address is provided, Department staff will use email as the primary method for corresponding with the applicant and representative about the application.

A. Representative. If the representative is authorized to sign or amend the application on behalf of the applicant, attach documents confirming that authority. Label documents as Attachment 1A.

B. Current Owner. If the applicant is not the current owner of record for all water rights included in this application, attach documents showing that the applicant has the authority to make the proposed changes. Label documents as Attachment 1B.

C. Updating Ownership Records. Applicants needing to update the ownership records for any of the water rights included in this application must attach documents supporting the ownership change. Such documents must trace ownership of the subject water rights or the current place of use for the subject water rights from the current owner of record for the water rights to the applicant. Label documents as Attachment 1C.

D. Business Entities. If the applicant is a business entity (corporation, LLC, partnership, trust, etc.), is the entity currently registered with the Idaho Secretary of State?

☐ Yes. If this application is signed by someone other than a person listed on the most recent annual report filed with the Idaho Secretary of State, attach documents confirming the authority of the signer to sign on behalf of the business entity. Label documents as Attachment 1D.

☐ No. Attach documents confirming the authority of the signer to sign on behalf of the business entity. Label documents as Attachment 1D.

E. Approval of Irrigation Delivery Entity. Section 42-108, *Idaho Code*, states that a transfer application proposing to change water rights held by an irrigation company or district requires the consent of the irrigation entity. If this application proposes to change water rights held by an irrigation entity, attach a letter of consent from the entity (labeled as Attachment 1E) or have an authorized representative of the entity co-sign the application.

F. Encumbered Properties. If the current place of use for the water rights included in this application is subject to a lien, deed of trust, mortgage, or contract and the application proposes to change the nature of use of the water rights or to move water rights off the current place of use, attach a statement of consent for the change signed by the lien holder, trustee, mortgagor or contract holder. Label documents as Attachment 1F.

G. Legal Access. If the applicant is not the current owner of the proposed point(s) of diversion, conveyance system, or place(s) of use, provide evidence of legal access to the land or infrastructure not owned by the applicant. Label documents as Attachment 1G. For example, an applicant may provide a letter of consent from the owner of the land or conveyance system or may have the owner co-sign the application. For applications proposing to divert water on or convey water across federal land, an applicant is not required to demonstrate legal access to the federal land prior to approval. Instead, if the transfer application is approved, the applicant must obtain access authorization from the relevant federal agency prior to diverting water under the subject water rights.

PART 2 – WATER RIGHTS BEFORE PROPOSED CHANGES

A. Current Water Rights. For each water right proposed to be changed, attach a current water right report obtained from any Department office or from the Department's website (idwr.idaho.gov). Label water right reports as Attachment 2A.

B. Map of Current System. Attach a map of the current point(s) of diversion and place(s) of use for the water rights to be changed. The map should clearly depict the elements of the water rights to be changed. For example, if the application proposes to change the point of diversion for a water right, the map should display the current location of the point of diversion. For irrigation water rights, the map should also identify the location of the irrigated acres to be changed. Label map as Attachment 2B.

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C. Current Location of Irrigated Acres. If this application proposes to change the place of use or nature of use for only a portion of an irrigation water right, use the following table to identify the current location of the irrigated acres to be changed. If additional pages are required, label additional pages as Attachment 2C. If this application proposes to change or rearrange the entire place of use for irrigation water right(s), skip to Part 3.

☐ N/A. This application does not propose to change the place of use or nature of use of an irrigation water right or this application proposes to change the place of use or nature of use for an entire irrigation right.

Current Location of Irrigated Acres to be Changed

Twp	Rge	Sec	NE ¼				NW ¼				SW ¼				SE ¼				Acre Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
23N	22E	31															6.8		6.8

Total Irrigated Acres to be Changed: 6.8

PART 3 – DESCRIPTION OF PROPOSED CHANGES

A. Purpose of Transfer. Section 42-222(1), *Idaho Code*, states that transfer applications may only be filed to change the point of diversion, place of use, period of use, or nature of use of an established water right. Section 42-248(3), *Idaho Code*, authorizes water right ownership changes to be described on a transfer application. Identify the changes proposed in this application:

- | | |
|---|--|
| ☐ Change point(s) of diversion | ☒ Change place of use |
| ☒ Add point(s) of diversion | ☐ Change period of use |
| ☒ Change nature of use | ☒ Update water right ownership records |

B. Proposed Changes. Describe the proposed changes in narrative form:

The SRBA issued a decree for water right 75-14137 in Nov 2008, describing 77.8 irrigated acres. Marue Simmons and Simmons Family Trust were the owners. In May 2024, the Simmons Family conveyed most of the land covered by right 75-14137 to Kevin and Julie Lee and their Exchange (TFES 1131 LLC). This transfer proposes to move the remaining 6.8 acres of right 75-14137 to acres owned by the applicant. 2.2 acres will be combined with Permit 75-15098. The remaining 4.6 acres will be combined with right 75-14138. We also proposed to change the nature of use of a 0.01 cfs of right 75-14137 from stockwater to domestic/stockwater use.

C. Summary of Proposed Changes.

1. Water Rights. Use the following table to list all water rights, or portions thereof, that are proposed to be changed as they would appear after the proposed changes. In the Amount column, list the volume in acre-feet (af) for storage uses or the rate in cubic feet per second (cfs) for all other uses.

All or Part	Right Number	Amount (cfs/af)	Nature of Use	Period of Use	Source
☐ ☒	75-14137	0.18 cfs	Irrigation	04/01 to 10/31	Salmon River
☐ ☐		0.01 cfs	Stockwater /	01/01 to 12/31	Salmon River
☐ ☐			Domestic	01/01 to 12/31	Salmon River
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	

2. Total Amounts. Calculate the total quantity, in cfs or af, of water rights that are proposed to be changed through this application. For an application proposing to only change the place of use for irrigation rights, the total quantity of water is calculated by comparing the current place of use to the proposed place of use, summing the number of acres increased in each legal subdivision, and quantifying the proportional amount of diversion rate for the increased acres. For an application proposing to change or add points of diversion for irrigation or any other beneficial use, the total amount is the total diversion rate for the changed portion of the right.

Total Amount of Water Rights Proposed to be Changed: 0.19 cfs and/or _____ af.

3. Point(s) of Diversion. Use the following table to list all the proposed points of diversion for the water rights to be changed, including any current points of diversion that will continue to be used as part of the proposed water distribution system.

The legal description for the proposed point(s) of diversion must be to the nearest 40-acre subdivision (QQ) or U.S. Government Lot of the Public Land Survey System (PLSS). PLSS information is typically available from USGS topo maps, property deeds, tax bills or various mapping tools on the Department's website.

For points of diversion within platted subdivisions, list the lot and block number in the "Diversion Name/Number" column. An application proposing an injection into a stream and a re-diversion from that stream must list the source for the original diversion as the source for the injection and re-diversion points. If this application proposes construction of a new diversion structure (for example, a new ground water well or a new pump station on a creek), please indicate the status in the appropriate column.

☐ N/A. This application does not propose to add or change any points of diversion.

Proposed Points of Diversion

New?	Twp	Rge	Sec	Lot	1/4	1/4	1/4	County	Source	Diversion Name/Number
	22N	22E	6	12		NW	SE	Lemhi	Salmon River	Ditch Point of Div.
	22N	22E	6	2		NW	NE	Lemhi	Salmon River	Pump Point of Div.
										(same POD as 75-15098)

4. Place of Use. The proposed place of use must be described to the nearest 40-acre subdivision (QQ) or U.S. Government Lot of the Public Land Survey System. Government lot numbers can be noted in parenthesis below the approximate quarter-quarter location of the government lot. For water rights held by irrigation districts, municipal providers or irrigation companies, the proposed place of use may be generally described as authorized by Sections 42-202B, 42-219 and 42-222B, *Idaho Code*.

☐ N/A. This application does not propose to change the place of use.

Proposed Place of Use

Twp	Rge	Sec	NE ¼				NW ¼				SW ¼				SE ¼				Acre Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
22N	22E	6	1.8	15															16.8
			D/S	D/S															
			Lot 1	Lot 2															

Total Irrigated Acres: 16.8

5. Map of Proposed System. Attach a map showing the location of the points of diversion, reservoirs, dams, canals, ditches, pipelines and other works proposed to divert and convey water. Also show the location of the place of use, including any lands to be irrigated. The map should delineate the legal subdivisions including townships, ranges, sections, quarter-quarters and government lots. Label map as Attachment 3C.

PART 4 – ADDITIONAL INFORMATION

Section 42-222(1), *Idaho Code*, establishes the criteria used to evaluate transfer applications. An applicant bears the burden of demonstrating that the water right to be changed is a valid right, that the proposed use is a beneficial use, and that the proposed changes will not injure other water rights, will not enlarge the use of the original rights, are in the local public interest, and are consistent with the conservation of water resources within the state of Idaho. To satisfy this burden, an applicant must provide sufficient data and information for the

Department to evaluate the effects of the proposed change. The Department may deny an application if the applicant fails to provide sufficient data and information to determine whether the criteria from Section 42-222(1) are satisfied. In addition to the information requested in Parts 1-3 of this application, the following information must be provided for an application to be considered complete. Department staff may request additional information or clarification as the application is processed.

A. Validity of Water Rights

1. If one or more of the water rights proposed to be changed is a statutory claim, established pursuant to Section 42-248, *Idaho Code*, attach evidence supporting the priority date claimed. Label documents as Attachment 4A-1. For statutory claims, the Department may conduct a field inspection as part of the application review process to evaluate the water right elements listed on the statutory claim.

2. Has any portion of the water right(s) proposed to be changed undergone a period of five or more consecutive years of non-use?

☐ Yes. Attach a statement describing the portion of the right(s) that were not used and the length of time of the non-use. In addition, identify any exception or defense to forfeiture and provide a detailed description as to why the water rights have not been lost and forfeited for non-use. Label documents as Attachment 4A-2. Statutory exceptions or defenses to forfeiture are set forth in Section 42-223, *Idaho Code*.

☒ No.

B. Injury to Other Water Rights

1. Identify any other water right(s) diverted at the current point(s) of diversion.

75-4183, 75-14138, 75-14847

2. Identify any other water right(s) diverted at the proposed point(s) of diversion.

Ditch Point of Diversion: 75-4183, 75-14138, 75-14847

Pump Point of Diversion: 75-15098

3. Is the proposed point of diversion within a state water district? ☒ Yes. Water District # 170. ☐ No.

4. If already constructed and in use, are the proposed points of diversion equipped with Department-approved measuring devices? ☐ Yes. ☒ No.

5. If this application proposes to divert a surface water right from a ground water well, attach a technical analysis evaluating the hydraulic connection between the proposed ground water point of diversion and the source of water listed on the right to be changed. Label technical analysis as Attachment 4B-5.

6. If this application proposes changing the point of diversion for a ground water right in the Eastern Snake Plain Aquifer (ESPA), attach a technical analysis of the anticipated depletions to reaches of the Snake River that are hydraulically connected to the ESPA using the Department's current ground water model for the ESPA. The technical analysis must evaluate depletion impacts in a time-series format at transient and steady state time steps. To assist applicants in preparing the required technical analysis, the Department has developed a transfer tool interface for the ESPA model. The transfer tool and user instructions can be downloaded from the Department's website (idwr.idaho.gov). If the proposed and current points of diversion are in the same or adjacent model cells, no technical analysis is required, unless specifically requested by the Department. Label technical analysis as Attachment 4B-6.

C. Enlargement in Use

1. Identify any other water rights used at the current place of use, including the number of shares in a canal company or acres assessed by an irrigation district.

The portion of water right 75-14137 to be changed overlaps water right 75-4183 at the existing place of use.

2. Identify any other water rights used at the proposed place of use, including the number of shares in a canal company or acres assessed by an irrigation district.

The portion of water right 75-14137 to be changed will overlap water rights 75-15098 (Irrigation), 75-14138 (Irrigation) and 75-10351 (Domestic) at the proposed place of use.

3. If this application proposes changing the place of use or nature of use for irrigation water rights, will the current place of use, for the portion of the right to be changed, continue to be irrigated?

☒ Yes. Identify the water right(s) to be used for the continued irrigation.

75-4183 will continue to irrigate the existing POU. We are stacking our right with existing rights at the proposed POU.

☐ No. The place of use for the portion to be changed will no longer be irrigated.

☐ N/A. The application does not propose to change the place of use for irrigation rights.

4. Unstacking Water Rights for Irrigation. If this application proposes to change the place of use for an irrigation water right that is combined with other irrigation rights at the current place of use but does not propose to change the place of use for all the stacked irrigation rights, attach evidence of the historical consumptive use occurring under all water rights at the current place of use. For irrigation rights, this should include at least five years of diversion data and/or crop data and estimates of evapotranspiration. Label the information as Attachment 4C-4. Evapotranspiration data may be available on the Department's website (<http://et-idwr.idaho.gov>)

5. If the application proposes to change the nature of use for a water right, attach evidence of the historical consumptive use occurring under the portion of the water right to be changed. For irrigation rights, this should include diversion data, crop data and estimates of evapotranspiration. Label the information as Attachment 4C-5. Evapotranspiration data may be available on the Department's website (<http://et-idwr.idaho.gov>)

6. If the application proposes to change the nature of use of a water right to municipal use for reasonably anticipated future needs, complete the form titled "Municipal Water Right Application Checklist" found on the Department's website (idwr.idaho.gov). Label the form as Attachment 4C-6.

7. To your knowledge, are any portions of the water rights proposed to be changed:

Yes

No

☐

☒

currently leased to the Water Supply Bank?

If yes, complete the form titled "Application for Transfer of Water Right Attachment WSB" found on the Department's website (idwr.idaho.gov).

Label the Form as Attachment 4C-7.

☐

☒

currently used in a mitigation plan limiting the use of water under the right?

☐

☒

subject to an agreement not to divert (CREP)?

☐

☒

currently enrolled in a federal set-aside program (CRP)?

D. Local Public Interest

The department must consider whether the proposed changes are in the local public interest as defined in Section 42-202B(3), *Idaho Code*. Some of the local public interest factors that may be considered in conjunction with a transfer application are (1) Recreation, fish, and wildlife impacts, (2) Water quality or contamination concerns, (3) Local and state ordinances, regulations, or policies related to water use, (4) Goals, requirements and limits set forth in the State Water Plan. If you choose to provide information about local public interest factors, label the information as Attachment 4D.

E. Conservation of Water Resources

Describe the diversion works and water delivery system. This may include sizes and dimensions of pumps, pipelines, headgates, ditches, dams, impoundments and irrigation equipment.

Water from the ditch can be used for flood irrigation or can be pressurized through pumps in the ditch. Water from the river pump is distributed for irrigation, stockwater, and domestic use through pipes, hoses, and sprinklers.

PART 5 – FILING FEE AND SIGNATURE

A. Filing Fee. Filing fees for transfer applications are set forth in Section 42-221.O, *Idaho Code*. A table summarizing the filing fees for transfer applications is also found on the Department's website (idwr.idaho.gov). Any application proposing to change the nature of use for one or more rights requires an additional filing fee of \$250. Applications proposing to update the ownership records for water rights must also include the appropriate filing fee to update the ownership records. For any application relying on the filing fee set forth in Section 42-221.O.8, *Idaho Code*, attach a statement describing how the application qualifies under Section 42-221.O.8. Label documents as Attachment 5A.

B. Affidavit of Applicant or Representative:

I hereby assert that no one will be injured by the proposed changes and that the proposed changes do not constitute an enlargement in use of the original right(s). The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval.

Robert A. Simmons

Signature of Applicant or Representative*

Robert A. Simmons

Print Name and Title, if applicable

12 Nov. 2024

Date

Signature of Applicant or Representative*

Print Name and Title, if applicable

Date

*If water rights included in this application are owned by multiple people or entities, each owner must sign the application form.

FOR DEPARTMENT USE ONLY

Fee Paid: \$ 500.00 Receipt #: E050477 Date: 11/8/24 Received by: CH
Add'l Paid: \$ 50 Receipt #: E050493 Date: 11/20/24 Received by: JB

→ \$200 + \$250 (nature of use) + \$100 (o/c)

Transfer No. 89437 Page 8

D. Local Public Interest

The department must consider whether the proposed changes are in the local public interest as defined in Section 42-202B(3), *Idaho Code*. Some of the local public interest factors that may be considered in conjunction with a transfer application are (1) Recreation, fish, and wildlife impacts, (2) Water quality or contamination concerns, (3) Local and state ordinances, regulations, or policies related to water use, (4) Goals, requirements and limits set forth in the State Water Plan. If you choose to provide information about local public interest factors, label the information as Attachment 4D.

E. Conservation of Water Resources

Describe the diversion works and water delivery system. This may include sizes and dimensions of pumps, pipelines, headgates, ditches, dams, impoundments and irrigation equipment.

Ditch water can be used for domestic use and/or for flood irrigation (or pressurized ditch pumps and/or for stock water use (which may include watering troughs). Water from the Salmon River beside Roberts' property may be pumped to pipes/hoses/sprinklers or obtained manually.

PART 5 – FILING FEE AND SIGNATURE

A. Filing Fee. Filing fees for transfer applications are set forth in Section 42-221.O, *Idaho Code*. A table summarizing the filing fees for transfer applications is also found on the Department's website (idwr.idaho.gov). Any application proposing to change the nature of use for one or more rights requires an additional filing fee of \$250. Applications proposing to update the ownership records for water rights must also include the appropriate filing fee to update the ownership records. For any application relying on the filing fee set forth in Section 42-221.O.8, *Idaho Code*, attach a statement describing how the application qualifies under Section 42-221.O.8. Label documents as Attachment 5A.

B. Affidavit of Applicant or Representative:

I hereby assert that no one will be injured by the proposed changes and that the proposed changes do not constitute an enlargement in use of the original right(s). The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval.

Robert A. Simmons
Signature of Applicant or Representative*

Robert A. Simmons
Print Name and Title, if applicable

20 Nov 2024
Date

Justin Simmons
Signature of Applicant or Representative*

Justin Simmons
Print Name and Title, if applicable

11-21-24
Date

*If water rights included in this application are owned by multiple people or entities, each owner must sign the application form.

FOR DEPARTMENT USE ONLY

Fee Paid: \$ _____ Receipt #: _____ Date: _____ Received by: _____
Add'l Paid: \$ _____ Receipt #: _____ Date: _____ Received by: _____

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Cefalo, James

From: Maree <latterdaysaintwoman@proton.me>
Sent: Saturday, November 30, 2024 9:31 PM
To: Cefalo, James
Subject: signed transfer doc

CAUTION: This email originated outside the State of Idaho network. Verify links and attachments BEFORE you click or open, even if you recognize and/or trust the sender. Contact your agency service desk with any concerns.

Mr. Cefalo,

It is my understanding that IDWR still needed Rulon David Simmons' signature (inline below) and Justin Daniel Simmons signature (emailed in from his personal email). Hopefully, now the required paperwork is complete. :)

Rev. 11/24

20
3
P

D. Local Public Interest

The department must consider whether the proposed changes are in the local public interest as defined in Section 42-2020(3), Idaho Code. Some of the local public interest factors that may be considered in conjunction with a transfer application are (1) Recreation, fish, and wildlife impacts, (2) Water quality or contamination concerns, (3) Local and state ordinances, regulations, or policies related to water use, (4) Goals, requirements and limits set forth in the State Water Plan. If you choose to provide information about local public interest factors, label the information as Attachment 4D.

E. Conservation of Water Resources

Describe the diversion works and water delivery system. This may include sizes and dimensions of pumps, pipelines, headgates, ditches, dams, impoundments and irrigation equipment.
Water from the ditch can be used for flood irrigation or can be pressurized through pumps in the ditch. Water from the river pump is distributed for irrigation, stockwater, and domestic use through pipes, hoses, and sprinklers.

PART 5 – FILING FEE AND SIGNATURE

A. Filing Fee. Filing fees for transfer applications are set forth in Section 42-221.O, Idaho Code. A table summarizing the filing fees for transfer applications is also found on the Department's website (idwr.idaho.gov). Any application proposing to change the nature of use for one or more rights requires an additional filing fee of \$250. Applications proposing to update the ownership records for water rights must also include the appropriate filing fee to update the ownership records. For any application relying on the filing fee set forth in Section 42-221.O.B, Idaho Code, attach a statement describing how the application qualifies under Section 42-221.O.B. Label documents as Attachment 5A.

B. Affidavit of Applicant or Representative:

I hereby assert that no one will be injured by the proposed changes and that the proposed changes do not constitute an enlargement in use of the original right(s). The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval.

Robert A. Simmons Robert A. Simmons 12 Nov 2024
Signature of Applicant or Representative* Print Name and Title, if applicable Date
Rulon David Simmons Rulon David Simmons 30/11/24
Signature of Applicant or Representative* Print Name and Title, if applicable Date

*If water rights included in this application are owned by multiple people or entities, each owner must sign the application form.

FOR DEPARTMENT USE ONLY

Fee Paid: \$ _____ Receipt #: _____ Date: _____ Received by: _____
Add'l Paid: \$ _____ Receipt #: _____ Date: _____ Received by: _____

Transfer No. _____ Page 8

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NOV 08 2024

DEPT. OF WATER RESOURCES
EASTERN REGIONAL OFFICE

November 5, 2024

To Idaho Department of Water Resources Eastern Regional Office:

The transfer documents regarding our request for a portion of right 75-14137 have been emailed to your office. This check is for the following:

Transfer Application & Change of Ownership Change
Adding a diversion (keeping one the same as it has been and is)
filing fee

Please confirm the receipt of this payment and have a great day!
Thank you for your services.

Sincerely,



Robert A. Simmons
zeniff007@gmail.com
208-993-9479 or 801-822-6111
PO BOX 204
Carmen, ID 83462

\$500.00 - 11/8/24 - cd - E050477

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NOV 20 2024

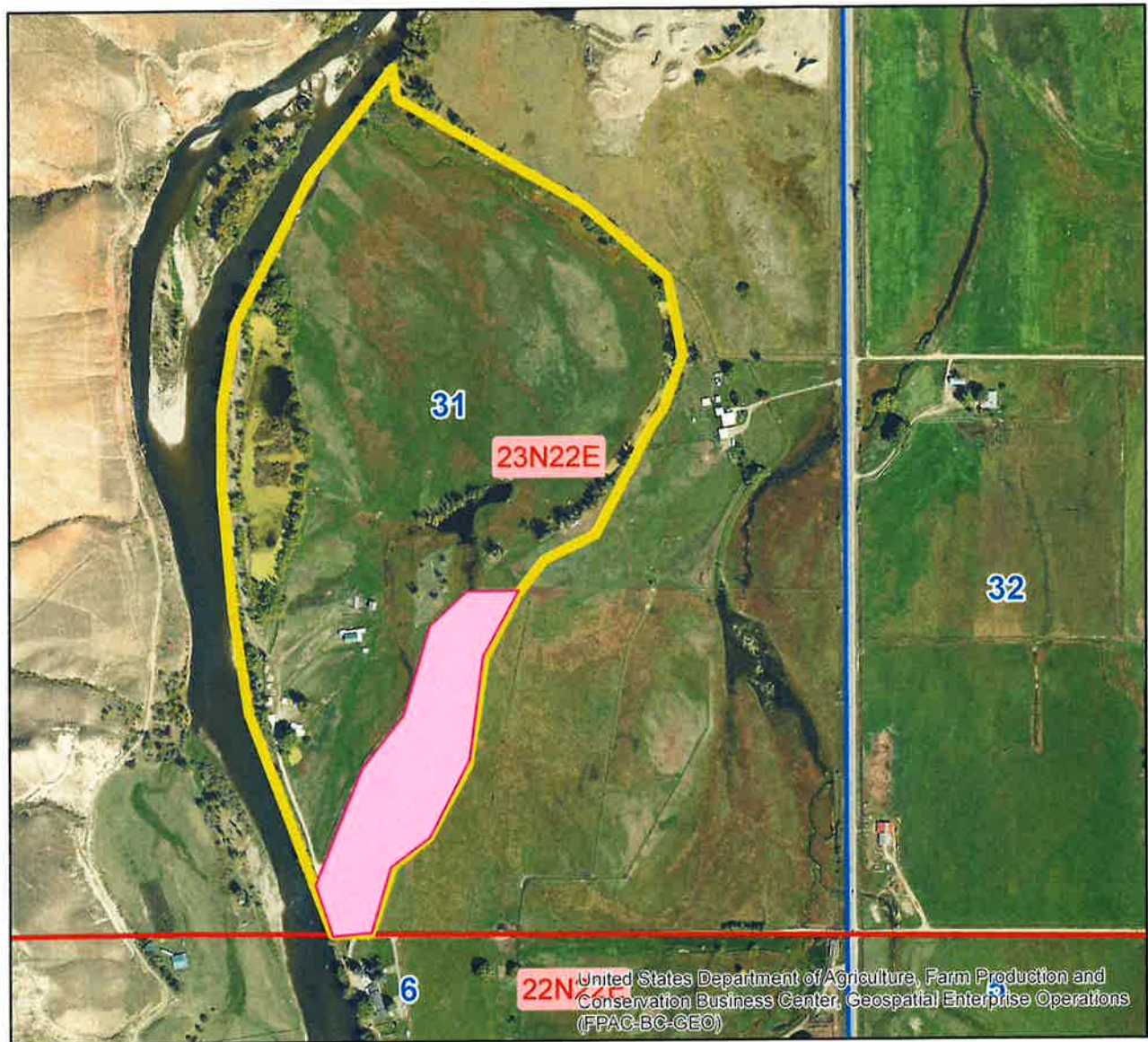
DEPT. OF WATER RESOURCES
EASTERN REGION

Additional \$50.00
to add to transfer
application of Robert A. Simms
Re: 75-14137 Marue + Roberts Land
- James Cephalo working on it

Nov. 16, 2024
Julia Marie Simms

Application for Transfer - Simmons

Location of 6.8 Acres to be Changed



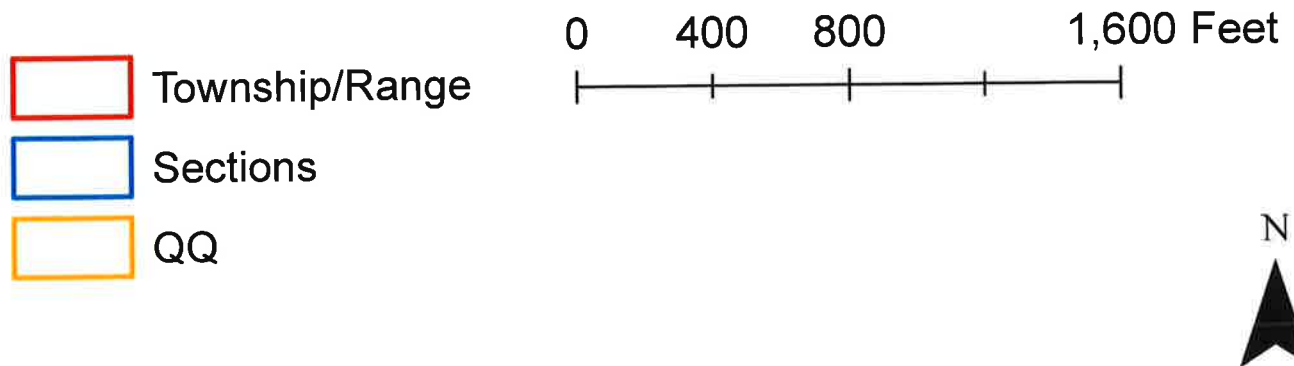
- Township/Range
- Sections
- Water Right POU

0 500 1,000 2,000 Feet



Application for Transfer - Simmons

Proposed Points of Diversion and Places of Use



Attachment 4C-5

Analysis of Historical Consumptive Use

This transfer application proposes to change the nature of use for a 0.01 cfs portion of water right 75-14137 from stockwater to domestic/stockwater use. This will allow us to pump water from the Salmon River for stockwater and other general domestic uses at our home. Domestic use would include water for washing, drinking, RVs, cooking, cleaning, etc.

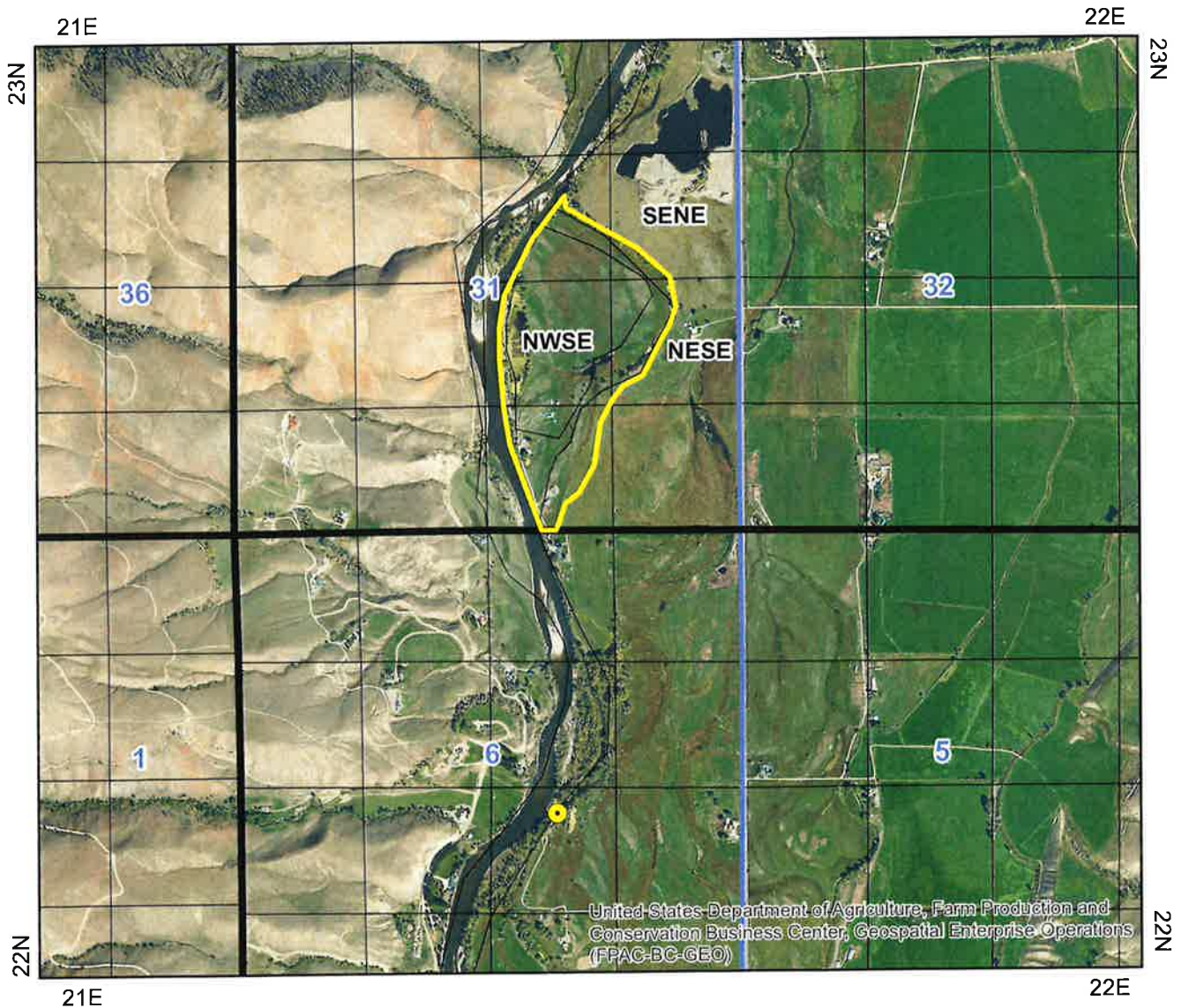
Based on information in the water right record, water right 75-14137 authorized the diversion of 0.05 cfs for stockwater and was used to supply water to at least 110 cattle. There have been more than 110 cattle on the property at times and there have also been other animals provided water under water right 75-14137 over the years.

We propose to move 0.01 cfs of the 0.05 cfs authorized for stockwater. This amount ($1/5^{\text{th}}$ of the stockwater) is commensurate with the number of irrigated acres being changed. The historical consumptive use can be calculated using this fraction.

$110 \text{ cattle} \times 12 \text{ gal per day} \times 365 \text{ days per year} \times 1/5 = 96,360 \text{ gal per year}$

Stockwater should be considered fully consumptive. Therefore, we propose to limit our domestic and stockwater use to 96,360 gallons per year. This equates to approximately 0.3 acre-feet.

State of Idaho
Department of Water Resources
Water Right
75-14137



-  Place Of Use Boundary
-  Point of Diversion
-  State Outline
-  Townships
-  PLS Sections
-  Quarter Quarters

89437

1A/1B

Current Owner of Record

MarRue K. Simmons is the current owner of record in the IDWR system for water right 75-14137.

David C. Richardson is the Trustee of her estate.

David C. Richardson
1695 N. 240 W.
Orem, UT 84057

dcrstar@gmail.com
719-238-5505

David C. Richardson quit claimed a portion of land in the name of the trust to Robert A. Simmons. This portion is pertinent to right 75-14137.

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

Parsons Behle & Latimer
350 Memorial Drive, Suite 300
Idaho Falls, Idaho 83402
Attention: Jon A. Stenquist

(Space Above For Recorder's Use)

QUITCLAIM DEED

This indenture is made by David C. Richardson, Successor Trustee of the **SIMMONS EXEMPTION TRUST U/A DATED AUGUST 20, 1997**, and any amendments thereto, and David C. Richardson, Successor Trustee of the **SIMMONS FAMILY TRUST U/A DATED AUGUST 20, 1997**, and any amendments thereto as to the remainder ("Grantor"), and **ROBERT A. SIMMONS, RULON DAVID SIMMONS, and JUSTIN DANIEL SIMMONS, AS TENANTS IN COMMON** ("Grantees"), whose mailing address is P.O. Box 204, Carmen, Idaho 83462.

WITNESSETH, that the Grantor, for and in consideration good and valuable consideration to the Grantor, the receipt of which is hereby acknowledged, does by these presents REMISE, RELEASE, and forever QUITCLAIM unto the Grantees, and to the Grantees' respective heirs and assigns forever, all right, title, and interest now owned or hereafter acquired by the Grantor, in all the following described real property situated in Lemhi County, Idaho:

See Exhibit A attached hereto

SUBJECT to all existing easements or claims of easements, patent reservations, rights of way, protective covenants, zoning ordinances, and applicable building codes, laws and regulations, encroachments, overlaps, boundary line disputes, and other matters which would be disclosed by an accurate survey or inspection of the property.

TOGETHER with the tenements, hereditaments, and appurtenances thereunto belonging or in anywise appertaining, and any reversions, remainders, rents, issues, and profits therefrom; and all estate, right, title, and interest in and to said property, as well in law as in equity, of the Grantor.

TO HAVE AND TO HOLD, the property and the appurtenances unto the Grantee, and to Grantees' heirs and assigns forever.

In construing this deed and where the context so requires, the singular includes the plural.

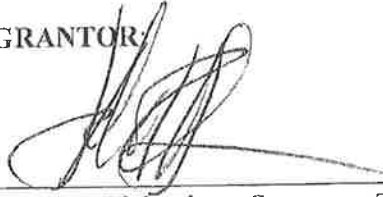
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89437

Instrument # 0000336058

IN WITNESS WHEREOF, the Grantor has executed this instrument on date set forth below.

GRANTOR:



David C. Richardson, Successor Trustee of the Simmons Family Trust aka the Simmons Survivor's Trust and the Simmons Exemption Trust aka the Simmons Exception Trust

Date: October 17, 2024

STATE OF UTAH)
)ss.
County of Utah)

This record was acknowledged before me on October 17, 2024, by David C. Richardson, Successor Trustee of the Simmons Family Trust aka the Simmons Survivor's Trust and the Simmons Exemption Trust aka the Simmons Exception Trust.



Signature of Notary Public
My Commission Expires: 4/5/2028

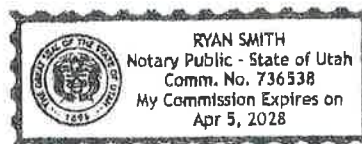


**EXHIBIT A
TO
QUITCLAIM DEED**

Real Property Description

A parcel of land located in Section 31, T. 23 N., R. 22 E., Boise Meridian, Lemhi County more particularly described as follows:

Commencing at the SE Corner of said Section 31, which is an aluminum cap, from which the East 1/4 Corner, which is an aluminum cap, bears N 00°02'58" W, 2644.02 ft., the Basis of Bearing for this description, run thence N 89°28'12" W a distance of 1947.03 ft. to a 1/2" rebar with a plastic cap said point being the POINT OF BEGINNING;

Continue thence N 89°28'12" W a distance of 109.89 ft.;

Thence N 19°03'25" W a distance of 114.90 ft. to a point on the ordinary high-water mark of the Salmon River as surveyed in 2023, and the westerly boundary of Lot Line Adjustment #313170 which is a 5/8" rebar with a plastic cap;

Thence along said westerly boundary the following courses:

N 08°30'12" W, 155.43 ft. to a 5/8" rebar with a plastic cap;
N 00°43'47" W, 18.03 ft. to a 5/8" rebar with a plastic cap;
N 23°43'39" E, 434.08 ft. to a 5/8" rebar with a plastic cap;
N 28°09'03" E, 21.75 ft. to a 5/8" rebar with a plastic cap;
N 36°48'28" E, 37.31 ft. to a 5/8" rebar with a plastic cap;
N 38°43'34" E, 233.49 ft. to a 5/8" rebar with a plastic cap;
N 19°31'43" E, 152.58 ft. to a 5/8" rebar with a plastic cap;
N 15°47'37" E, 83.13 ft. to a 5/8" rebar with a plastic cap;
N 17°48'15" E, 124.97 ft. to a 5/8" rebar with a plastic cap;
N 33°53'03" E, 15.13 ft. to a 5/8" rebar with a plastic cap;
N 48°00'34" E, 137.53 ft. to a 5/8" rebar with a plastic cap;
N 42°47'10" E, 57.97 ft. to a 5/8" rebar with a plastic cap;
N 42°47'11" E, 60.70 ft. to a 5/8" rebar with a plastic cap;
N 47°06'14" E, 254.02 ft. to a 5/8" rebar with a plastic cap;
S 68°17'55" E, 74.51 ft. to a 5/8" rebar with a plastic cap;
N 64°09'12" E, 90.32 ft. to a 5/8" rebar with a plastic cap;
N 55°02'09" E, 139.25 ft. to a 5/8" rebar with a plastic cap;
N 36°44'45" E, 150.68 ft. to a 5/8" rebar with a plastic cap;
N 38°27'57" E, 362.61 ft. to a 5/8" rebar with a plastic cap;
N 18°43'16" E, 55.68 ft. to a 5/8" rebar with a plastic cap;
N 09°23'40" E, 140.08 ft. to a 5/8" rebar with a plastic cap;
S 89°03'11" E, 40.98 ft. to a point on the 1926 meander line as surveyed by the General Land Office and described in Disclaimer of Interest No. 157, Instrument Number 243218;

Thence along said 1926 meander line the following courses:

S 10°54'12" E, 14.43 ft.;
S 16°05'48" W, 264.00 ft.;
S 43°05'48" W, 528.00 ft.;
S 56°35'48" W, 330.00 ft.;
S 26°05'48" W, 330.00 ft.;
S 09°05'48" W, 462.00 ft.;
S 28°05'48" W, 330.00 ft.;
S 51°05'48" W, 191.40 ft.;
S 18°57'06" W, 322.42 ft. to the POINT OF BEGINNING.

PARCEL CONTAINS 10.03 ACRES +/-



WARRANTY DEED

Alliance Title & Escrow, LLC Order No.: 661415

FOR VALUE RECEIVED

David C. Richardson, Successor Trustee of the Simmons Family Trust (aka the Simmons Survivor's Trust) U/A dated August 20, 1997, and any amendments thereto and David C. Richardson, Successor Trustee of the Simmons Exemption Trust U/A dated August 20, 1997, and any amendments thereto

the grantor(s), do(es) hereby grant, bargain, sell and convey unto

TFES 1131, LLC, an Idaho Limited Liability Company

whose current address is

580 Jensen Grove Dr
Blackfoot, ID 83221

the grantee(s), the following described premises, in Lemhi County, Idaho, TO WIT:

See attached Exhibit 'A'

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee, heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee(s), that (s)he is/are the owner(s) in fee simple of said premises; that they are free from all encumbrances Except: Current Year Taxes, conditions, covenants, restrictions, reservations, easements, rights and rights of way, apparent or of record.

And that (s)he will warrant and defend the same from all lawful claims whatsoever.

Dated: May 24, 2024

Simmons Family Trust (aka the Simmons Survivor's Trust) U/A dated August 20, 1997

David C. Richardson
David C. Richardson, Successor Trustee

Simmons Exemption Trust U/A dated August 20, 1997

David C. Richardson
David C. Richardson, Successor Trustee

State of Virginia } ss.
County of Loudoun }

On this 24th day of May, 2024, before me, the undersigned, a Notary Public in and for said state, personally appeared David C. Richardson known or identified to me to be the person whose name is subscribed to the foregoing instrument as trustee of the Simmons Family Trust and acknowledged that he/she/they executed the same as Trustee.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

Gloria Asare
Gloria Asare

Notary Public for the State of Virginia
Residing at: Loudoun, VA
Commission Expires: 12/31/2024
Registration No: 7901547
Electronic Notary Public



Notarized remotely online using communication technology via Proof.

State of Virginia } ss.
County of Loudoun }

On this 24th day of May, 2024, before me, the undersigned, a Notary Public in and for said state, personally appeared David C. Richardson known or identified to me to be the person whose name is subscribed to the foregoing instrument as trustee of the Simmons Exemption Trust and acknowledged that he/she/they executed the same as Trustee.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



Gloria Asare

Notary Public for the State of Virginia
Residing at: Loudoun, VA
Commission Expires: 12/31/2024
Registration No: 7901547
Electronic Notary Public



Gloria Asare

REGISTRATION NUMBER
7901547
COMMISSION EXPIRES
December 31, 2024

Notarized remotely online using communication technology via Proof.

Exhibit 'A'

Parcel A

A parcel of land located in Section 31, T. 23 N., R. 22 E., Boise Meridian, Lemhi County more particularly described as follows:

Commencing at the SE Corner of said Section 31, which is an aluminum cap, from which the East 1/4 Corner, which is an aluminum cap, bears N 00°02'58" W, 2644.02 ft., the Basis of Bearing for this description, run thence N 89°28'12" W a distance of 2056.79 ft., run thence N 19°07'09" W a distance of 114.95 ft. to a point on the ordinary high-water mark of the Salmon River as surveyed in 2023 and the westerly boundary of Lot Line Adjustment #313170 which is a 5/8" rebar with a plastic cap, run thence N 18°00'26" W, 248.34 ft. along said high water mark, run thence N 20°06'32" W, 252.41 ft. along said high water mark, run thence N 19°43'55" W, 209.99 ft. along said high water mark, run thence S 86°44'28" E leaving said high-water mark a distance of 198.88 ft. to a 1/2" rebar with a plastic cap, run thence N 21°55'37" E for a distance of 165.28 ft. to a 1/2" rebar with a plastic cap, run thence N 80°53'31" W for a distance of 290.91 ft. to a point on the said high-water mark, run thence N 08°09'28" W along said highwater mark a distance of 100.78 ft. to a 5/8" rebar with a plastic cap said point being the POINT OF BEGINNING;

Thence along said high-water mark the following courses:

N 09°35'44" W, 647.38 ft.; N 02°24'32" W, 515.75 ft.;
N 14°31'27" E, 301.09 ft.; N 20°35'31" E, 177.94 ft.;
N 31°13'39" E, 105.10 ft.; N 43°32'19" E, 247.08 ft.;
N 30°07'41" E, 83.98 ft.; N 19°53'52" E, 164.14 ft. to a point on the boundary of Government Lot 13 as surveyed by the General Land Office in 1926;

Thence along the boundary of said Government Lot 13 the following courses:

S 67°54'12" E, 600.24 ft.; S 56°54'12" E, 620.40 ft.;
S 19°54'12" E, 178.20 ft.; S 32°05'48" W, 627.00 ft.;
S 62°05'48" W, 330.00 ft.; S 05°05'48" W, 237.60 ft.;
S 31°05'48" W, 660.00 ft.; N 76°54'12" W, 493.83 ft. to the POINT OF BEGINNING.

Parcel C

A parcel of land located in Section 31, T. 23 N., R. 22 E., Boise Meridian, Lemhi County more particularly described as follows:

Commencing at the SE Corner of said Section 31, which is an aluminum cap, from which the East 1/4 Corner, which is an aluminum cap, bears N 00°02'58" W, 2644.02 ft., the Basis of Bearing for this description, run thence N 89°28'12" W a distance of 2056.79 ft., thence N 19°07'09" W a distance of 114.95 ft. to a point on the ordinary high-water mark of the Salmon River as surveyed in 2023, and the westerly boundary of Lot Line Adjustment #313170 which is a 5/8" rebar with a plastic cap and the POINT OF BEGINNING;

Thence along said high-water mark the following courses:

N 18°00'26" W, 248.34 ft.; N 20°06'32" W, 252.41 ft.;
N 19°43'55" W, 209.99 ft.;
Thence leaving said high-water mark S 86°44'28" E for a distance of 198.88 ft. to a 1/2" rebar with a plastic cap;

Thence N 21°55'37" E for a distance of 165.28 ft. to a 1/2" rebar with a plastic cap;
Thence N 80°53'31" W for a distance of 290.91 ft. to a point on the said high-water mark;

Thence along said high-water mark the following courses:
N 08°09'28" W, 100.78 ft. to a point on the boundary of Government Lot 13 as surveyed by the General Land Office in 1926;

Thence along the boundary of said Government Lot 13 the following courses:

S 76°54'12" E, 493.83 ft.;
N 31°05'48" E, 660.00 ft.;
N 05°05'48" E, 237.60 ft.;
N 62°05'48" E, 330.00 ft.;
N 32°05'48" E, 627.00 ft.;
N 19°54'12" W, 178.20 ft.;
N 56°54'12" W, 620.40 ft.;
N 67°54'12" W, 600.24 ft. to a point on the high-water mark of the Salmon River as surveyed in 2023;
Thence N 39°09'51" E along said high water mark a distance of 242.27 ft.;
Thence N 31°48'52" E a distance of 47.23 ft. to a point on the boundary of Record of Survey #269879;
Thence along said boundary the following courses:
S 02°59'05" W, 67.46 ft. to a 5/8" rebar with a plastic cap;
S 23°50'41" E, 41.31 ft. to a 5/8" rebar with a plastic cap;
S 68°15'14" E, 586.82 ft. to a 5/8" rebar with a plastic cap;
S 54°35'07" E, 733.82 ft. to a 5/8" rebar with a plastic cap;
S 16°16'17" E, 245.31 ft. to a 5/8" rebar with a plastic cap;
S 36°48'55" E, 147.24 ft. to a 5/8" rebar with a plastic cap and a point on the boundary of Record of Survey #285822;

Idaho Functional Classification

- Idaho Federal Aid

RoadLabelLayers

State Highways Labels



Example showing some
dry aulage. esp. on
North / North East side of
lot 2.

Attachment 4C-4

Historical Beneficial Use of Stacked Water Rights (75-10342 & 75-14137)

Supportive Documents:

A) Found in IDWR Adjudication backfiles for 75-14137

- Letter dated July 28, 2005 by MarRue Simmons indicates that deeds going back as far as 1900 indicated that owners had "chicken coops, barns etc. and irrigation rights" proving "water was used at least as far back as 1900, for irrigation and animal use." Proof of this correspondence and attached documents is available on the IDWR Document Search file record and is included in this application.

- Riparian lands were available in adjacent areas, including one that the Idaho Department of Lands deeded to the Simmons.

B) Found in IDWR Adjudication backfiles for 75-4183

- Water Right Archives-Water Right Back File 75-4183-Water Right File 1108KB, pgs 7: Affidavit from E.C.B. stating: "To Whom it May Concern I E.C. Bolander do hereby state that in 1934 I lived on the Griffith place now owned by Dr Boyd Simmons and used water to irrigate my place out of the ditch now known as the Lindberg ditch. The only other two using water from this ditch were the Line Hampton place now owned by Floyd Lindbug and the Hiram Carlson place now owned by Matt Yakovac. I know that the water from this source was used by those three people only for many years prior to that. E.C. Bolander" - (Notarized on October 30, 1980 in Lemhi County, Idaho)

C) Boyd/MarRue Simmons has since filed a water right claim and that has perpetuated her right

D) They purchased their estate here in or around 1970 and farmed it and had cattle and horses and grew crop for feed for livestock. They also acquired a government property that added to their estate after they lost some of their land to the river and were told they could not protect it until later. After they moved away they leased the land for many years for pasture grazing and livestock management. These animals were seen by many in the family and continued to be seen years later and have been there in the past 5 years. Prior to acquiring the government property Boyd Simmons leased from the government to create bales to use with livestock.

E) Since before the Simmons owned the land it had a large barn, chicken coop, ditches, ponds...

F) Very old water pumping equipment was found on the Lindberg farm pertinent to both rights. It included a very long, extremely heavy metal pipe with a metal piece with small

holes in it to place in a water source. On the other end is a place where another fixture can be mounted. On the farm a very old hand pump, very heavy and made of metal, was also found by a Simmons. This piece had openings on the lower sides for fixing a pipe or tube into or around it.

Additional Information

Proof of appropriate irrigation acreage in Proof Reports for 75-14137 of MarRue

Although 75-10342 lists **68** total acres for irrigation covering Lot 13 and 14137 lists **77.8** total acres for irrigation for Lot 13, please note:

She filled out a "Notice of Error Reply" regarding Water Right 75-14137 (likely in 2006) stating she pays taxes on 79.2 acres and needed more irrigation rights than was proposed.

Here are relevant calculations:

Instrument # 90885 shows Lot 13 as having **47.91** acres.

Simmons got that from Lindberg's

A warranty deed on file (see Inst # 234127) grants it from Simmons to

SIMMONS

FAMILY TRUST

The Idaho Department of Lands disclaimed **32.232** acres to Simmons and they deeded it to the SIMMONS FAMILY TRUST.

$47.91 + 32.232 = \mathbf{80.142}$ acres

County Parcel Master Inquiry reports show a combined acreage earlier this year as follows:

RP 23N22E311201 A **46.71** acres

RP 23N22E317202 **32.232** acres

$46.71 + 32.232 =$ **78.942**

(and this is not including the 1.2 acres of domestic property she paid taxes on this year for RP 23N22E318401 A)

Clearly, some acreage was removed to account for barn, ponds, water on land to now be at 77.8 acres for irrigation instead of the 78.942.

Attachment 4A2

Exceptions

Though we estimate an acre or less of land has been dedicated to domestic or livestock housing in the past five or more years, and that some land had to be built up to provide safety from flooding, the following water uses are suggestions that this right is still in tact, having been witnessed in the last 5 years:

A) An obvious slough on the south side of the property, by Lindberg Lane (possibly old river bed) contains a lot of water loving grass-types of plants. This area is fed by more water when the irrigation comes in from the culvert from Lot 2 of Section 6. When the water flows it can be seen going in a line.

B) Around this property are additional marshes with water loving vegetation that is often soaked. One or more of these marshes have received a lot of water in the past 5 years through the culvert going under Lindberg Lane on the west side of the property. Though it hits the ground on another property, the amount of water flowing should leach into the adjacent land due to the sheer quantity - and is part of the same water right (75-14137).

C) One of the deeds for this property specifically warns that flooding is possible on the road in this area due to irrigation.

D) At least once during the past 5 years a little bit of water has also been seen running into the culvert between Lot 12 and Lot 7 - going towards Lot 12, though this is rare if not highly unusual.

E) Livestock in this area typically include horses that can be watered by a yard pump which may receive ground water fed indirectly by irrigation.

F) Only a few times in the past 5 years have cattle been seen in right on this spot, but they have either been driven through the south part through a gate between Lot 12 and Lot 7 or seen grazing a short while around the home.

G) Free ranging chickens in the past 5 years would have had access to the ditch water south of Lindberg Lane in this area.

[^]
possibly

4C-5

Historical Consumptive Use

For the past 5 years or more:

Diversion data: The diversion rates were managed by a lateral ditch manager who also has control over the place of diversion.

Crop data: It is certain that much of this land was used for grass pasture if not other crops. The Simmons leased their land to various cattle ranchers in the area for many years and they also used it themselves. Some kind of bales of hay or grass are in a picture of land beside this area but the quality of photo is poor as it was copied in black and white and it is hard to see the extent of the range of area used for crop but it is possible that additional land was used.

This place of use currently has some fruit trees but the water used for them is likely domestic. Horses feed from grass on the current property. This area has a marshy area that is fed by water from irrigation. This is in a very potentially wet area as certain building codes were required before the house was built because it was so close to the river and seems to be in the direct line of a former river channel (as it was deeded to Simmons as dry river bed). Also, one of the deeds for this area mentions potential run off from irrigation. The yard pump in the area goes into the ground and may possibly benefit from water from irrigation in the vicinity. Trees on the south east boundary appear healthy and growing although no sprinkler system appears there.

As far back or farther bales of hay or grass have accumulated for animal feed. Pictures of such things have been taken around this area historically. The exact boundary of such activity is unknown but we know that the farmer was capable of using land at his disposal and did at least near by.

A large Barn, chicken coop and milking station in adjacent lands suggest livestock have frequented the Lindberg farm (adjacent to the river bed) since before the Simmons were there. Numerous ditches on the exact property suggest it has been a place of water conveyance of varying sorts since a long time ago. Adjudication backfiles talk of ditches shared by farmers a long time ago in the Simmons and Yakovac (now Smith) water right file for irrigation.

Estimates of evapotranspiration: Alfalfa Reference ET (mm) is not available in the ET-IDWR Annual Time Series, it appears, which could otherwise provide the public with evaporation data access October 26, 2024 from:
<https://et-idwr.idaho.gov/seriesxls.py?staindx=1108&Series=Annual&begDate=1906-01-01&endDate=2016-12-31&submit=Download+XLS+file>

Additional 4D

4D
Public Interest

"Local public interest" is defined as the interests that the people in the area directly affected by a proposed water use have in the effects of such use on the public water resource. Title 42 202B(3)

Optimally Functioning Septic System

The proposed place of use includes a \$100,000 for a septic system, at least according to someone who said they heard. Given the cost, it is imperative it be well-maintained and this means trying to keep debris, clorox and drano out of the pipes as much as possible. This system is not supplemented by any public water works.

While someone in a developed city may be able to clear their clogged pipes using Drano (R), folks in more rural places may need to find a more workable solution and that might be preventative in nature so as to keep decomposing microbes at optimal levels as they work within the system.

Recreation/Ranch Convenience

Domestic water rights in this area allow recreation enthusiasts and farm/ranch workers to use the water from the ditches not only for irrigation but for some means of cleanliness without clogging up or straining household well water.

Age Appropriate

It can be hard to explain to a child exactly where the boundaries of water rights of certain types are and how dates determine use. Having the freedom to simply use the ditch water wherever it is found on the property is easy to explain. This simplifies the understanding of water use of the property which is especially beneficial for children and people who visit from out of town who are less experienced with "this ditch is for that, this pump is for that, not now, only in summer, etc."

Fire Prevention

As was the case with the place water right 75-14137 is currently, many individuals have enjoyed recreating on the homestead. During the summer an annual group gathers to celebrate the 4th of July. Having water available for uses besides only irrigation gives additional safety factors while small fires are made for a cozy environment.

Evacuating animals can be very difficult and having acreage that can facilitate the temporary housing of certain livestock can offload a public burden during dangerous fire seasons when some families must prepare to leave.

If it is possible to get a right to also use on connecting government owned land (our south west corner) it might be nice since it is pretty dry and a potential fire hazard and a grove of very tall trees is just south of some of it. In the depiction of place of use the pink dots in the imagery show where this section would be. With this right the total acreage for this area in addition to Lot 2 is a bout 16.15. Without it the total acreage for Lot 2 is over 14 acres.

Property Upkeep

Though our property has a marsh on the east border of Lot 2 it is fenced off for the irrigation ditch managers and cows have strained so much to get water out of it that the fence has had to be repaired. At times of the year the water may not be running on land with only a seasonal irrigation right as this land has right now. Allowing for additional domestic use permits water storage against such times for stock use as well. Along this east side of the property, on the Slavin side you may notice a long ditch. It may appear that we could easily water from it. However, the lateral ditch manager has protected this water from much flow onto the Simmons Lot 2. He has been seen with a large tractor carrying a big load of dirt and dumping it on the west side of that ditch to keep water from flowing into Lot 2. Furthermore, for whatever reason, the gate between Lot 1 and 2 along that strip is kept closed almost continually (possibly keeping the land from eroding so that water stays in the ditches better and is conveyed to where the lateral ditch master's property and the Yenter's are.

This area he put the dirt down on can get really worn down as it is the spot livestock traverse to get to the spring. He has left this gate closed for many months throughout multiple seasons so cattle outside of it need water access from somewhere else.

Also, the strip of land owned by us along Lindberg lane is noticeably in need of some repair due to much traverse upon it to get to the water there. There are lumps and bumps in sections of soil.

We applied for the stock water right given to Milton Slavin, around this area of Lot 1, for that spring but we were denied. Although livestock can drink from it, streamlining the water flow is not permitted without a right. Additionally it comes to us after it has run through a highly cow populated area so the water may already carry a lot of soil and manure. It would be nice to properly control the water so that it can be conveyed in a more efficient, clean manner. Since we cannot at this time we ask for additional domestic water use on Lot 2 for stock water management.

Additionally, sometimes types of livestock are separated on our property. Horses only are usually on the strip of land in Lot 1, while the cow herd gets Lot 2 (irrigation water only right now).

Although we live on the river, we do not permit cattle to range on the bank (since the dikes along the river are high - being built up - and the way down could be rather treacherous given the large sharp rocks and steeper incline in some places - and there is barbed wire fencing to contain/better protect livestock and deter curious wanderers from coming on private property (whether local or tourists) from the river.

The south entrance to the river is not owned by us.

Healthier Follage

Some of the aerials show that there are portions of the ranch that are more dry. These areas can be supplemented with a domestic water right.

Tradition in the Family

Family, for MarRue Simmons (the current owner of water right 75-14137 includes many many members of posterity. Since her grandchildren were young many remember coming to Grandma's ranch for fun, adventure and wildlife experiences. Additionally, some children and grandchildren learned some ranching duties here. Some posterity still comes on a regular basis and others bring friends and associates.

Those who wish come join with campers and people in RV's (residential not commercial) in the summer. They use four wheelers and enjoy local events and hot spots (hiking, hot springs, etc). They come in all ages and abilities, including disability.

Helping the Poor and Needy

Domestic use on a larger scale allows property to be used to house more humans if they are in need. Allowing domestic use around the property also can help household members have more privacy and personal security around people. Having a domestic right allows property use to be flexible depending on the needs of the people in the immediate area at any given time (stock, washing, drinking, crops, farms, gardens (filtered!), etc.).

Historical Value

On Lot 2, along the east side where that inaccessible ditch is, a log cabin has deteriorated that is over 100 years old. For safety reasons it was disassembled but the area holds some history and many things from the cabin remain. A pipe and hose were found at the ground level, indicating water had been used here for domestic purposes. Two apple trees exist from a long ago planted orchard. Snowberries grow not far away (although in Lot 1) and were once used by Native Americans (from what we understand) for fishing and washing. Some old fencing was found in some rose/snow berry bushes. It would be nice to beautify this area and allow those with RV's access to a domestic type spot as it is right off of Lindberg Lane and provides easy access (with a wide gate) for RV entrance and exit. Other areas of Lot 2 have narrow entrances or short culverts, making it a bit more tricky for people less familiar with the area or only

*in general,
whether or not
here specifically
but possibly*

coming sometimes.

Extending the Season/Providing Versatility

The ability to store water for stock use is not something we have had unless we used our domestic well. Having an additional domestic right enables us to put water where it would benefit livestock the most. It also allows us to rotate the area so the same spot does not get trampled over too much.

Education is a vital, wholesome and beneficial thing. As people have access to work with their hands on farms and learn to benefit the environment and care for animals both wild and farmed, they can experience joy and gain knowledge to help further generations. Out door physical and recreational work can be rewarding and healthy for stamina and strength. At times, depending on what the land is being used for, it can provide assistance for those making a living with various occupations such as cattle ranchers, fence builders, laborers, animal care companies, heavy equipment supply stores, piping, irrigation material companies, machine companies, animal care material companies, garden supply stores, etc.

If people are able to produce healthy animals and/or crops & gardens their own health may benefit society and build a stronger immune system. In fact, exposure to various microbes may help certain rural communities suffer less.

Education - unique location, near enough to a rural city but far enough away to provide an environment to learn about agriculture and implement, share and improve upon practices

Religious

It may seem a bit unique but some religions use water in their practices. Having this option provides a resource at hand especially if lockdowns or other things prevent gathering in public places.

Mental Health - Being prepared is part of self-reliance, an attribute encouraged by many wise people. In being prepared with vital resources to serve beloved people, Grandma Simmons in her heavenly state and us here and now can rest easier knowing that there are several sources to help with planning and sustenance needs.

Spiritual Obedience - the pandemic taught us the importance of being temporally prepared, as President Russell M. Nelson has said. He has encouraged his people to be like Moroni, who created 'places of security' for his people.

Physical Safety and Security - More oxygen in area possible with more foilage. This is a world of turmoil at times. Though it seems we are far from that, we live on a major highway. If there comes a time when it is not safe to travel, we can have greater safety with a way to keep on thriving and without having to be isolated separately.

Cooperation & Peace - When people have what they need to be sustainable they are more at ease. This can promote congeniality, reasonable thinking and further solution oriented mindsets. People who have resources can share them with others.

Ken Knoblock/Dept. of Water Resources Personnel
7600 Mineral Drive
Suite 100
Coeur d'Alene ID 83815

12-10-2006

RE: Water Rights 75-14137

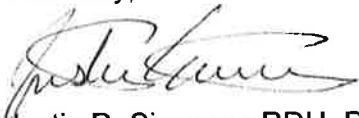
Dear Ken Knoblock or other Dept. of Water Resources Personnel,

I am writing in regard to our river water right (75-14137) for the Simmons Family Trust (MarRue Simmons) that your department decreased from 3.2+ to 1.5 cfs. Per our conversation at the Salmon meeting, we filled out the appropriate paper work (enclosed) to increase the water right to 2.2+ cfs for a correct 78 irrigatable acres allowing for 30% water loss from the point of diversion. I have taken the appropriate photos albeit in the middle of winter for my explanation and they show the small amount of water that actually reaches our farm 2+ miles from the point of diversion. You recommended a 30% water loss. There is much more water loss as seen in the photos. The water loss is more on the order of 50-60%. The flow rate at the river is faster than at our ranch and much wider and taller. Some water is lost in the fish screen and slowed by the fish screen wheel. Some of the water is lost in the overflow pipe. But most of the water loss comes from the long trip to the ranch. Please reconsider the amount of water loss to be at least 50% as our 120 cattle depend on that water. We have enclosed a check for \$20 to increase the water right to 2.2+ cfs. Please let us know how much you need for the additional water loss consideration.

Ken, I believe the paperwork you filled out for me is in error for the cfs under #6. Please correct and call me with any questions if you do not recall our conversation about the above. (406) 396-0372. Grandma's signature is only valid if the cfs #'s are correct.

Pictures are included and written on for your viewing and understanding. If you have any questions please notify me as soon as possible.

Sincerely,



Justin D. Simmons RDH, DDS
2831 Foxtrotter Trail
Victor, MT 59875



IDAHO DEPARTMENT OF
WATER RESOURCES

Eastern Region • 900 N Skyline Drive, Suite A • Idaho Falls, ID 83402-1718

Phone: 208-525-7161 • Fax: 208-525-7177 • Email: easterninfo@idwr.idaho.gov • Web: idwr.idaho.gov

Governor Brad Little

Director Mathew Weaver

December 5, 2024

ROBERT ALMA SIMMONS
PO BOX 204
CARMEN, ID 83462-0204

RE: Transfer No. 89437
Water Right No(s). 75-15115

Dear Applicant:

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

A legal notice of the application has been prepared and is scheduled for publication in the RECORDER HERALD on 12/12/2024 and 12/19/2024. Protests to this application may be submitted for a period ending ten (10) days after the second publication.

If the application is protested, you will be sent a copy of each protest. 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, the Department will process your application and notify you of any action taken on the application. If your application is approved, the Department will send you a copy of the approval document.

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

Sincerely,

Christina Henman
Administrative Assistant

Henman, Christina

From: Henman, Christina
Sent: Thursday, December 5, 2024 2:50 PM
To: rhlegals@custertel.net
Subject: Legal Notice for Recorder Herald
Attachments: 89437 Recorder Herald.docx

LEGAL NOTICE DEPARTMENT
RECORDER HERALD
PO BOX 310
SALMON, ID 83467

RE: Transfer No. 89437

Dear Legal Notice Department:

Please publish the enclosed legal notice 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 12/30/2024. Your cooperation is appreciated.

Thank You,



Christina Henman
Administrative Assistant
IDWR, Eastern Region
900 N Skyline Ste. A
Idaho Falls, ID 83402
Phone: (208) 525-7161

**NOTICE OF PROPOSED CHANGE OF WATER RIGHT
TRANSFER NO. 89437**

ROBERT ALMA SIMMONS, PO BOX 204, CARMEN, ID 83462-0204 has filed Application No. 89437 for changes to the following water rights within LEMHI County(s): Right No(s). 75-15115; to see a full description of these rights and the proposed transfer, please see <https://research.idwr.idaho.gov/apps/waterrights/querynewtransfers>. The purpose of the transfer is to change a portion of the above rights as follows: add point of diversion, change place of use and change nature of use. Proposed points of diversion are in Lot 2 (NWNE) and Lot 12 (NWSE) Sec 6 T22N R22E for 0.19 cfs from Salmon River. Proposed place of use is in Lot 1 (NENE) and Lot 2 (NWNE) Sec 6 T22N R22E for domestic and stockwater use and irrigation of 6.8 acres within a 16.8-acre combined place of use. Application proposes to change nature of use for a 0.01 cfs portion of the right from stockwater use to stockwater and domestic use.

For additional information concerning the property location, contact Eastern Region office at (208)525-7161. Protests may be submitted based on the criteria of Idaho Code Sec. 42-222. 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 83402-1718 together with a protest fee of \$25.00 for each application on or before 12/30/2024. The protestant must also send a copy of the protest to the applicant.

MATHEW WEAVER, Director

Published on 12/12/2024 and 12/19/2024

Cefalo, James

From: Cefalo, James
Sent: Monday, December 2, 2024 9:52 AM
To: Maree
Subject: Questions about Ownership

Maree,

I have received your emails with the signatures from Justin and Rulon. Thank you for rounding up those signatures. I can now move forward with processing the application. By the end of the week, I will finalize the public notice of the transfer application and send it to the local newspaper.

You called with questions about the ownership of the water right. In November, you provided a copy of a Quit Claim Deed (recorded on October 22, 2024) where the Simmons Exemption Trust / Simmons Family Trust conveyed its interest in a 10-acre property to Robert A. Simmons, Rulon David Simmons, and Justin Daniel Simmons. This is the property that is in the old river channel. The portion of water right 75-14137 included in the transfer application is appurtenant to that property. You notified me that the water right will be held only by your father, Robert Simmons. To update the water right to be solely in the name of your father, I need a letter from Rulon and Justin stating that they have no interest in water right 75-14137. The letter needs to be signed and notarized. I can move forward with the public notice of the transfer application while you prepare the letter and round up the signatures. The protest period for the application will not end until early January, so you have a month to work on the letter. You don't need to file a separate Notice of Change in Water Right Ownership form. The transfer application already proposes to update ownership of the water right. If the signed and notarized letter is received before the transfer is approved, the approval will list Robert as the sole owner of the water right. I am willing to hold off on approving the transfer (in early January) if you need a little more time to get the letter signed and notarized.

James

 IDAHO DEPARTMENT OF
WATER RESOURCES
James Cefalo | Regional Manager
900 N Skyline Drive, Idaho Falls, ID 83402
(208) 525-7161 | www.idwr.idaho.gov

Cefalo, James

From: Home Stead <christcenteredhomestead@gmail.com>
Sent: Monday, November 11, 2024 2:11 PM
To: Cefalo, James
Subject: Re: Water sources already available and how to rematch to properties
Attachments: KevinLeeSurveyArea.pdf

CAUTION: This email originated outside the State of Idaho network. Verify links and attachments BEFORE you click or open, even if you recognize and/or trust the sender. Contact your agency service desk with any concerns.

James,

The Parcel Master Inquiries from 2024 that I sent indicated the dates the specific acreage was activated. The combined acreage was 80.142 for MarRue in 2024 (*1.2 domestic property activated in 2007, 32.232 activated in 2002, 46.71 activated in 1997*).

She did not own 1.2 acres of domestic property (2 small homes) at the time of her application for the water right.

So, the water right would apply (if we match it with PMI current info and delete the domestic property) to 79.22 acres (matching her claim in 2006).

She was granted 77.8 acres of water right for the non domestic area (larger 2 pieces).

There is 1.42 acres of subtracted land from the water right.

If we divide that by 6 we get .2

In total, if this attached survey is correct in the acreage amounts Lee got approximately 72.2 acres *in total* (including her 1.2 acres of domestic property that had nothing to do with the water right nor was it part of the subtracted land because she did not own it at the time - leaving Lee with 71 acres total purchased eligible for a water right 75-14137 indicating 77.8 acres of water right).

This is a left over of 6.8 acres of water right that appears to be unattached to the land Lee bought that was originally pertinent to the water right 75-14137.

No subtraction of Lee's water rights are possible if Robert A. Simmons gets 6.8 acres of water right.

In fact, Lee does not even get any portion of land subtracted - that may, otherwise & originally, have qualified for subtraction (given the plethora of water within his purchased acreage).

There is a small portion of water that remained unfrozen that appears to cross out of the fenceline the Lees purchased and into Lot 12. It appears like a cross between a stream and a marsh. Lot 12 also has a

long marsh with an irrigation ditch running in the middle of it. So, I am not intending to suggest there is absolutely no water in excess of marshes on Lot 12.

Does this change anything in relation to the submission you gave me? I will wait for your reply. Thank you!

Maree

(50.05 + 21.26 + .96. The entire domestic portion was included. If we deem the water right pertinent to the land, then, the domestic portion that was not part of the original right must be subtracted from 72.2 acres unless he proposes a transfer and reconfigures how the water is distributed.

The 1.2 acres subtraction comes out of his portion because it is on land he purchased and it was not part of the area the trust deeded to Robert A. Simmons.

To find the remaining water right available: $77.8 - 71 = 6.8$

78.942 acres of original land relating to her original claim.

Of that 77.8 has an irrigation right.

1.142 does not

She did make a note saying she paid taxes on 79.2 and it is in the adjudication backfiles and that does not relate to the 1.2 acres domestic property.

I cannot verify, with my current documents, if MarRue had 79.2 acres in total at that time, as she claims she paid taxes on at the time she wrote the correction note you see in the adjudication backfiles. I understand that this number was used to grant her 77.8 acres of water right .

$79.2 - 77.8 = 1.4$

If she only owned 78.942 in actuality

$78.942 - 77.8 = 1.142$

$1.42 \text{ divided by } 5 =$

So, IDWR removed 1.142 acres for

In the SRBA documents for water right 75-14137, there is a Notice of Error Reply (11/20/2006) where MarRue asserted that she owned 79.2 acres. Water right 75-14137 authorizes 77.8 acres of irrigation. That means there would be a difference of 1.4 acres between the total property (79.2 acres) and the irrigated acres authorized under water right 75-14137 (77.8 acres).

You assert that MarRue actually owned 80.1 acres in 2006, based on deeds. That means there would be a difference of 2.3 acres between the total property owned by MarRue (80.1 acres) and the irrigated acres authorized under water right 75-14137 (77.8 acres). You believe the 2.3 acres of difference represents buildings, roads, and ponds and that the 2.3 non-irrigated acres are all located on the Lee property.

Based on the description of the property in the Warranty Deed to the Lees, they purchased 72.3 acres. If the 2.3 acres not covered by water right 75-14137 are all located on the Lee property, as you assert, then 70.0 acres of water right 75-14137 is associated with the Lee property. That would leave 7.8 acres under water right 75-14137 available to transfer to the Robert Simmons property.

I don't know whether the Lees would agree with your proposed split of the water right. Once the transfer application is complete, we will publish notice of the proposed changes and will notify the Lees of the proposed changes. This will give them an opportunity to protest that application if they feel that the water right split is incorrect.

Attached is a revised transfer application. The application proposes to move 7.8 irrigated acres and 0.01 cfs of stockwater to the Robert Simmons property. 2.2 irrigated acres would be combined with water right 75-15098 for irrigation around the house. The remaining 5.6 irrigated acres would be combined with water right 75-14138. The proposed domestic and stockwater uses would cover the entire property (Lots 1 and 2). Please review the revised application and let me know if you have any questions or concerns.

James



James Cefalo | Regional Manager

900 N Skyline Drive, Idaho Falls, ID 83402

(208) 525-7161 | www.idwr.idaho.gov

From: Home Stead <christcenteredhomestead@gmail.com>
Sent: Saturday, November 9, 2024 10:02 PM
To: Cefalo, James <James.Cefalo@idwr.idaho.gov>
Subject: Water sources already available and how to rematch to properties

James,

This is Maree again, doing my best to provide evidence.

A picture here titled 'Simmons east march blocked by Jay' shows how our lateral ditch master, Jaycob Smith, has fenced off the irrigation ditch with the marsh on the east side of our property. He claims this was allowed by our previous owner.

The cows struggle to get water from this, and likely do not succeed very well. In fact, after a group of them were pressing up against it it broke. This is the newly replaced portion.

There is no source of water but ditches of irrigation on Lot 2. When winter comes and those ditches stop there is no water on Lot 2 unless it is domestic. A domestic right would be appreciated.

Also, please contrast this with the property of Kevin Lee, who you propose to give full water right acreage to every single acre of land he purchased, barring no subtraction, even given his several ponds; pond east of lot 13 along river, small pond south of the houses, holding irrigation pond on the north east side, spring looking type pond adjacent to it, a long stream either going to the river or coming from the river that runs along the north of Lot 13.

I am just wondering if Lee would lose anything in reality if more water was allotted the portion we propose to transfer since it has no ponds, no stream, no connection to the river and no spring that I am aware of. If such things were used to subtract from my grandmother's total right in the beginning...I don't think all of the subtraction should apply only to the dry river portion we are asking to transfer from.

I really mean no harm to the Lee's. I wanted to show you some pictures so you could see just how plentiful the water is. My family has ONE irrigation right on our field. They have TWO irrigation rights on theirs. They have TWO stock water rights on theirs. And, like I just mentioned, they have many sources of water AND lower parts of land that allow animals to drink from the river (unlike our high dikes).

I just would like you to consider if a reconfiguration of the split of water right 75-14137 is appropriate.

Thank you!

Maree

Cefalo, James

From: Cefalo, James
Sent: Friday, November 15, 2024 9:11 AM
To: Maree
Subject: RE: only domestic transfer applicatino

Maree,

I think your proposal to convert all the irrigated acres to domestic use will create significant challenges. To prevent enlargement of the Simmons portion of water right 75-14137, a proposal to change the nature of use from irrigation to domestic use will require the original irrigated acres to be dried up. This would likely generate a protest from Jaycob Smith because he would be required to reduce his water right (75-4183) by 6.8 acres. Domestic purposes, as defined in Section 42-111(1), is limited to ½ acre of lawn and garden irrigation around a home. Domestic uses are not protected from curtailment, except for drinking water. Salmon River water rights have never been curtailed and there are no immediate concerns about future curtailment.

Before I send the public notice of the application to the Salmon newspaper, I need you to address the question about current ownership of the water right. The October 2024 Quitclaim Deed from the Simmons Exemption Trust was to Robert A. Simmons, David Simmons, and Justin Daniel Simmons as tenants in common. That means all three men are owners of the land and all three are owners of the appurtenant water right. The transfer application proposes to move the water right to land owned by Robert Simmons and the application was signed only by Robert Simmons. What happened to the ownership interests held by David Simmons and Justin Simmons? Did they sign a subsequent deed conveying their interests in the property to Robert? If not, David and Justin will need to either (1) execute a deed conveying their interests to Robert or (2) sign the application for transfer which will indicate that they consent to moving the water rights to Robert's property. If the second option is chosen, Robert, Daniel, and Justin will be listed as co-owners of the water right.

James

 IDAHO DEPARTMENT OF
WATER RESOURCES
James Cefalo | Regional Manager
900 N Skyline Drive, Idaho Falls, ID 83402
(208) 525-7161 | www.idwr.idaho.gov

From: Maree <latterdaysaintwoman@proton.me>
Sent: Thursday, November 14, 2024 8:55 AM
To: Cefalo, James <James.Cefalo@idwr.idaho.gov>
Subject: only domestic transfer applicatino

Here is a version that I created that converts it all to domestic -

I have not signed it because I wanted to know what you thought - if the conversion of irrigation to domestic was fair.

(I am concerned about curtailment and feel domestic gives us more protection and allows multiple uses to ensure better consumption ratio.) In curtailments is domestic use for irrigation curtailed as well or just irrigation for irrigation?

In case this offers more protection against curtailment I have this version attached.