RECEIVED

OCT 07 2022

DEPARTMENT OF WATER RESOURCES

Completed 2-2-23 jmt

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

ASSIGNMENT OF APPLICATION FOR TRANSFER

To change the ownership of an application for transfer

Page 1 of 2 is to be completed by the current transfer applicant. Notarization required.
Page 2 of 2 is to be completed by the new transfer applicant. Notarization not required.

I, Reed Mulkey and Melinda Mulkey, hereby assign to
Current Applicant(s)

Ray Horton and Alisha Horton
New Applicant(s)

of, 333 Airport Rd
Mailing address

Weiser	ID	83672	208-412-2220
City	State	ZIP	Telephone No.

All my right, title, and interest in and to Application for Transfer No. 3-10233.

Made this 29th day of Sept, 2022.

Reed Mulkey
Signature of Current Applicant or Authorized Representative

Reed Mulkey
Print Name and Title (if applicable)

Melinda Mulkey
Signature of Current Applicant or Authorized Representative

Melinda Mulkey
Print Name and Title (if applicable)

State of Idaho)
)ss
County of Washington)

On this 29th day of Sept, 2022, personally appeared before me the signer(s) of the above instrument, who duly acknowledged to me that he/she/they executed the same.

SEAL

TERRI C FRITTS NOTARY PUBLIC Comm No. 32734 STATE OF IDAHO

Notary Public

My commission expires: 4-15-2026

SCANNED FEB 10 2023

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

ASSIGNMENT OF APPLICATION FOR TRANSFER

Name of New Applicant(s) Raymond Horton and Alisha Horton Phone 208-412-22220

Mailing address: 333 Airport Rd

City Weiser State ID Zip 83672 Email arhorton2@gmail.com

☐ If applicant is not an individual and not registered to do business in the State of Idaho, attach documentation identifying officers authorized to sign or act on behalf of the applicant.
Label it **Attachment #1**.

☐ Attach water right ownership documentation if Department records do not show the transfer applicant as the current water right owner. Additional fee(s) required for water right ownership changes; see fee schedule on application for transfer instructions.
Label it **Attachment #2a**.

☑ If the ownership of the water right will change as a result of the proposed transfer to a new place of use, attach documentation showing land and water right ownership at the new place of use. Include documentation for all affected land and owner(s). Additional fee(s) required for water right ownership changes; see fee schedule on application for transfer instructions.
Label it **Attachment #2b**.

☐ Attach documentation of authority to make the proposed change if the applicant is not the water right owner.
Label it **Attachment #3**.

Provide contact information below if a consultant, attorney, or any other person is representing the applicant in this transfer process.

☑ No Representative

Name of Representative _____ Phone _____

Mailing address _____ Email _____

☐ Send all correspondence for this application to the representative and not to the applicant.

OR

☐ Send original correspondence to the applicant and copies to the representative.

☐ The representative may submit information for the applicant but is not authorized to sign for the applicant.

OR

☐ The representative is authorized to sign for the applicant. Attach a Power of Attorney or other documentation providing authority to sign for the applicant and label it **Attachment #4**.

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.

Signature of Applicant or Authorized Representative — Alisha Horton (Print Name and Title if applicable) — 10/3/22 (Date)

Signature of Applicant or Authorized Representative — Raymond Horton (Print Name and Title if applicable) — 10-3-22 (Date)

NOTE: Include the appropriate attachments and fee(s) identified above with this assignment form.

IDAHO DEPARTMENT OF
WATER RESOURCES

322 E Front Street, Suite 648, Boise ID 83702 • PO Box 83720, Boise ID 83720-0098
Phone: 208-287-4800 • Fax: 208-287-6700 • Email: idwrinfo@idwr.idaho.gov • Website: idwr.idaho.gov

Governor Brad Little **Director Gary Spackman**

February 10, 2023

REED MULKEY
MELINDA MULKEY
327 AIRPORT RD
WEISER ID 83672

ALISHA HORTON
RAYMOND HORTON
333 AIRPORT RD
WEISER ID 83672

RE: Withdrawal of Applications for Transfer No. 84717 & 87501

Dear Applicants:

The Department of Water Resources (Department) recently received a request to withdraw the above-mentioned transfers.

Reed and Melinda Mulkey (Mulkey's) filed a transfer for water rights 3-10233 and 3-10234 on February 10, 2021. On October 7, 2022, the Mulkey's assigned the transfer application to Raymond and Alisha Horton (Horton's), who filed an application for transfer for water right 3-10233. Ownership documents were included with the transfer application and the ownership of water right 3-10233 was updated to the Horton's.

On February 7, 2023 the Department received Withdrawals of Application for Transfer of Water Right for transfer 84717 & 87501.

Applications for Transfer 84717 & 87501 are considered withdrawn. The withdrawal removes your application from any further consideration or action by the Department. By copy of this letter, the protestant has been informed of this action.

A refund of $225.00 has been requested for the application for transfer 87501 filed by the Horton's because this application was not published in the county newspaper. The refund will be sent under separate cover from the State Controller's Office.

Please contact our office at 208-287-4800 if you have additional questions in this matter. Also, more information about water rights and other matters administered by this agency is available on the Internet at www.idwr.idaho.gov.

Sincerely,

Jean Hersley
Technical Records Specialist II

cc: Sunnyside Orchard HOA C/O Bryce Farris

SCANNED
FEB 10 2023

42-222 POD - 07/18 WITHDRAWN

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED
OCT 07 2022
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT – POINT(S) OF DIVERSION

This form may be used to apply to change and/or add points of diversion for existing water rights and to report an ownership change for a water right(s) in connection with the proposed point of diversion change(s). Do not use this form to apply for changes to other elements of a water right. See the *Application for Transfer Instructions* for help completing this form and for mailing addresses of Department offices where your application can be submitted.

Check all that apply:

☐ Change diversion point(s) ☑ Add diversion point(s) ☑ Ownership change ☐ Ownership split

☐ Transfer is for changes pursuant to Idaho Code § 42-221.O.8. Attach an explanation and any supporting documentation.

1. **APPLICANT(S)** Ray Horton and Alisha Horton Phone 208-412-2220
2. **MAILING ADDRESS** 333 Airport Rd City Weiser
   State ID Zip 83672 Email arhorton2@gmail.com

☐ If the applicant is not an individual and not registered to do business in the State of Idaho, attach documentation identifying officers authorized to sign for the applicant. NA

☒ If the applicant is not the current water right(s) owner, attach documentation of authority to file the application. WITHDRAWN

☐ If the application includes a change in ownership of water right(s), attach a copy of the conveyance document, such as a warranty deed, court decree, contract of sale, etc. The conveyance document must include a legal description of the property conveyed or description of the water right if no land is conveyed. Additional fee(s) are required for water right ownership changes; see Item 9 for the fee schedule.

If the ownership change resulted in the water right(s) being split, how did the division occur? Mark one:

NA ☐ The water rights or claims were divided as specifically identified in a deed, contract, or other conveyance document.
☐ The water rights or claims were divided proportionately based on the portion of their place(s) of use acquired by the new owner.

☐ If the application is not signed by the applicant, attach a Power of Attorney or other documentation providing authority to sign for the applicant. NA

3. **LIST WATER RIGHT NUMBER(S)** 3-10233

☒ Attach a copy of the water right(s) as recorded, available at *idwr.idaho.gov, Water Right Transfers, Step 1*, or by contacting any Department office.

4. **TOTAL AMOUNT OF WATER** transferred is .10 cubic feet per second (diversion rate) and/or _____ acre-feet per annum. (storage volume)

5. **POINT OF DIVERSION** – Describe all the point(s) of diversion to be included on the water right(s) after the proposed change.

NA ☐ Attach Eastern Snake Plain Aquifer (ESPA) analysis if this transfer proposes to change a point of diversion affecting the ESPA. ESPA analysis information is available at idwr.idaho.gov, *Water Rights, Water Right Transfers, Modeling Resources.*

New?	Lot	¼	¼	¼	Sec	Twp	Rge	County	Source	Local name or tag #
					17	10N	05W	Washington	Snake	

SCANNED
FEB 10 2023

WITHDRAWN

Transfer No. 87501

6. **GENERAL INFORMATION**

a. Describe the complete diversion system, including how you will accommodate a measuring device and lockable controlling works should they be required now or in the future:

Right now 2 water rights are run from a pump on the Mulkey's property. New owner, Hortons, wants to install pump on their own property for their own water rights*

b. Who owns the property at the point(s) of diversion? Ray Horton and Alisha Horton

If other than the applicant, describe the arrangement enabling the applicant to access the property for the diversion system:

NA

c. To your knowledge, has/is any portion of the water right(s) proposed to be changed:

Yes	No	
☐	☑	undergone a period of five or more consecutive years of non-use,
☐	☑	currently used in a mitigation plan limiting the use of water under the right(s), or
☐	☑	currently enrolled in a Federal set-aside program limiting the use of water under the right(s)?

If yes, describe:

NA

d. Is any portion of the water right(s) proposed to be changed currently leased to the Water Supply Bank? ☐ Yes ☒ No

NA ☐ If yes and there are multiple owners, attach a Lessor Designation form.
☐ If yes, the individual owner or designated lessor must complete, sign and attach an IRS Form W-9.
(Disregard if these items are on file and ownership has not changed.)

7. **MAP** – ☑ Attach a map of the diversion, measurement, control and distribution system. Include the place of use if a split of the water right occurred. Clearly label the map with township, range, section and ¼ ¼ of section information. You may create a map at idwr.idaho.gov, *Water Rights, Water Right Transfers, File a Transfer Application, Step 2C.*

8. **SIGNATURE** – The information in this application is true to the best of my knowledge. I understand any willful misrepresentations in this application may result in rejection of the application or cancellation of an approval.

Signature of applicant or authorized agent	Print name and title if applicable	Date
	Alisha Horton	9/20/22
	Ray Horton	9/20/22

9. **FEE** – ☒ The application filing fee provided in Idaho Code § 42-221.O, must be submitted with the application for transfer. Applications for changes pursuant to Idaho Code § 42-221.O.8. require a filing fee of $50 per water right. All other application fees are based on the total amount of water proposed for transfer in Item 4: the larger fee for either cubic feet per second (diversion rate) or acre-feet per annum (storage volume). The *Fee Schedule* is available at *www.idwr.idaho.gov, Water Right Transfers, Step 4* and in the *Application for Transfer Instructions*.

FOR DEPARTMENT USE ONLY

Transfer includes _____ pages of attachments. Received by _____ Date 10/7/22

Fee paid *200.00 Date 10/7/22 Receipted by _____ Receipt # C114229

Preliminary review by PH Date _____ Active in the Water Supply Bank? Yes ☐ No ☒

W-9 received? Yes ☐ No ☐ Name on W-9 _____ W-9 forwarded to fiscal? Yes ☐ No ☐

(Do NOT scan the W-9 – confidential information is held by fiscal only)

*200.00 for Transfer 87501 and 25.00 for Ownership Change same payment C114229

* same water amount will be pumped & same land irrigated, just from 2 pumps, one on each property. *

STATE OF IDAHO

DEPARTMENTOF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 2B

IF ONLY A PORTION OF THE RIGHT IS PROPOSED TO BE CHANGED, DESCRIBE THE PORTION BEING CHANGED AS IT APPEARS BEFORE THE REQUESTED CHANGES

☒ Complete and attach one copy of **Part 2B** for each right for which only a portion is proposed to be changed.

Right Number: 3-10233

1. amount .10 (cfs/ac-ft) for irrigation purposes from 3/01 to 11/15
   amount _____ for _____ purposes from _____ to _____
   amount _____ for _____ purposes from _____ to _____
   amount _____ for _____ purposes from _____ to _____
   amount _____ for _____ purposes from _____ to _____
   amount _____ for _____ purposes from _____ to _____
   amount _____ for _____ purposes from _____ to _____
   amount _____ for _____ purposes from _____ to _____

2. Lands irrigated or place of use: (If irrigation, identify with number of acres irrigated per ¼ ¼ tract.) L2(SW1/4NE1/4SW1/4) NWSW2

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	
10N	05W	17							2										5

Total Acres (for irrigation use) 5 acres

SCANNED
FEB 10 2023

AmeriTitle

Instrument # 247964
STATE OF IDAHO, COUNTY OF WASHINGTON
2022-03-08 08:53:50 AM No. of Pages: 2
Recorded for: AMERITITLE - PAYETTE
DONNA ATWOOD Fee: $15.00
Ex-Officio Recorder Deputy MMcConnell
Index To: DEED
Electronically Recorded by Simplifile

WARRANTY DEED

Order No.: 528831AM

FOR VALUE RECEIVED

Reed Mulkey and Melinda Mulkey, husband and wife

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

Raymond E Horton and Alisha B Horton, husband and wife

whose current address is:

333 Airport Road
Weiser, ID 83672

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

Lot 100 of Sunnyside Orchard Tract in Section 17, Township 10 North, Range 5 West of the Boise Meridian, as the same is shown on the official plat thereof on file in the Office of the County Recorder of Washington County, Idaho.

SCANNED
FEB 10 2023

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: March 7, 2022

Reed Mulkey

Melinda Mulkey

State of Idaho } ss
County of Washington}

On this 7 day of March, 2022, before me, Trina L Whittaker a Notary Public in and for said state, personally appeared Reed Mulkey and Melinda Mulkey, known or identified to me to be the person(s) whose name(s) is/are subscribed to the within Instrument and acknowledged to me that he/she/they executed same.
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

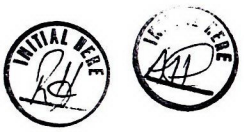
Notary Public for the State of Idaho
Residing at: Weiser, ID
Commission Expires: 10/7/2026

TRINA L WHITTAKER
Exp. Date 10/07/2026
NOTARY
PUBLIC
Comm No. 20203903
STATE OF IDAHO

SCANNED
FEB 10 2023

Warranty Deed

AmeriTitle



WARRANTY DEED

Order No.: 528831AM

FOR VALUE RECEIVED

Reed Mulkey and Melinda Mulkey, husband and wife

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

Raymond E Horton and Alisha B Horton, husband and wife

whose current address is:

333 Airport Road
Weiser, ID 83672

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

Lot 100 of Sunnyside Orchard Tract in Section 17, Township 10 North, Range 5 West of the Boise Meridian, as the same is shown on the official plat thereof on file in the Office of the County Recorder of Washington County, Idaho.

SCANNED
FEB 10 2023

07501

IDAHO DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 2A

Current Water Right No.: 3-10233

Current Owner: MELINDA MULKEY
REED MULKEY

Priority Date: 1/15/1907

Origin: Water Right

Status: Active

Basis: Decreed

Source	Tributary
SNAKE RIVER	COLUMBIA RIVER

Beneficial Use	From To	Diversion Rate	Annual Volume
IRRIGATION	03/01 to 11/15	0.1 CFS	
	Total Diversion	0.1 CFS	

Location of Point(s) of Diversion

SNAKE RIVER L2(SW1/4NE1/4SW1/4) Sec. 17, Twp 10N, Rge 05W B.M.
WASHINGTON County

Place of Use

IRRIGATION Within WASHINGTON County

T10N R05W S17	NWSW	2.40	T10N R05W S17	Lot 2	NWSW	2.60
Total Acres: 5							

Conditions of Approval:

1. This right is a split from former right 3-10214 .
2. F06 The following rights are diverted through point of diversion described above: 3-4005, 3-10227, 3-10228, 3-10229, 3-10230, 3-10231, 3-10232, 3-10233, & 3-10234.
3. T10N, R05W S17 NWSW is unsurveyed, nonfederal land except where noted by GCDB lot number.
4. C18 This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

Decreed Date: 7/9/2007

SCANNED
FEB 10 2023
87501

Application for Water Right



New

6/13/2020, 2:21:08 PM

1:2,257

0 0.01 0.03 0.05 mi

0 0.02 0.04 0.08 km

Areas

- Override 1
- Override 2
- Counties
- Quarter Quarter
- Section
- Township/Range
- Idaho Outline
- Idaho Mask

83501

Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community, Esri, HERE, Garmin, (c) OpenStreetMap contributors, Created by NRCS from 1:24,000 scale USGS topographic maps., Idaho Department of Water Resources

SCANNED FEB 10 2023

Idaho Department of Water Resources

Maxar | Created by NRCS from 1:24,000 scale USGS topographic maps. | Idaho Department of Water Resources | USDA,Natural Resources Conservation Services | State of Oregon GEO, Esri,

Hersley, Jean

From: Alisha Horton <arhorton2@gmail.com>
Sent: Thursday, February 2, 2023 1:37 PM
To: Hersley, Jean
Subject: Re: ownership change 3-10233
Attachments: 247964_DD.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.

Attached. Let me know if you need anything else. Thank you.

On Thu, Feb 2, 2023 at 11:30 AM Hersley, Jean <Jean.Hersley@idwr.idaho.gov> wrote:

Dear Interested Parties:

The Department of Water Resources (Department) acknowledges receipt of your Notice of Change in Water Right Ownership (Notice) that you filed with your Application for Transfer.

Our review of your Notice indicates that additional information is required before the Department can process the change. The information required is indicated below:

__√__ Evidence of Water Right Ownership: The Department will need a complete recorded copy of the warranty deed, with signatures

Because the Department cannot process the Notice without proper documentation, we will hold any action on your notice pending receipt of the necessary information. If we do not receive the necessary information within 30 days, we will return your notice and all attachments and your notice will not be processed. You can provide the information by filing with file@idwr.idaho.gov or responding to this email.

Also, please note that water right holders are required to report any change of ownership and/or mailing address to the Department within 120 days of the change. Forms to update ownership or update your address are available from any office of the Department or on the Department's website.

SCANNED
FEB 10 2023

If you have any questions regarding this matter, please contact me at (208) 287-4942.

Jean Hersley

Technical Records Specialist II

Idaho Dept Water Resources

(208) 287-4942

SCANNED

FEB 10 2023

42 222 POD - 07/18

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED
FEB 10 2021
IDAHO DEPARTMENT OF WATER RESOURCES
WESTERN REGION

APPLICATION FOR TRANSFER OF WATER RIGHT – POINT(S) OF DIVERSION

This form may be used to apply to change and/or add points of diversion for existing water rights and to report an ownership change for a water right(s) in connection with the proposed point of diversion change(s). Do not use this form to apply for changes to other elements of a water right. See the *Application for Transfer Instructions* for help completing this form and for mailing addresses of Department offices where your application can be submitted.

WITHDRAWN

Check all that apply:

☐ Change diversion point(s) ☑ Add diversion point(s) ☐ Ownership change ☐ Ownership split

☐ Transfer is for changes pursuant to Idaho Code § 42-221.O.8. Attach an explanation and any supporting documentation.

1. **APPLICANT(S)** Reed and Melinda Mulkey Phone 208-412-2332
2. **MAILING ADDRESS** 327 Airport Rd City Weiser
   State ID Zip 83672 Email reedmulkey@gmail.com

NA ☐ If the applicant is not an individual and not registered to do business in the State of Idaho, attach documentation identifying officers authorized to sign for the applicant.

NA ☐ If the applicant is not the current water right(s) owner, attach documentation of authority to file the application.

NA ☐ If the application includes a change in ownership of water right(s), attach a copy of the conveyance document, such as a warranty deed, court decree, contract of sale, etc. The conveyance document must include a legal description of the property conveyed or description of the water right if no land is conveyed. Additional fee(s) are required for water right ownership changes; see Item 9 for the fee schedule.

If the ownership change resulted in the water right(s) being split, how did the division occur? Mark one:

☐ The water rights or claims were divided as specifically identified in a deed, contract, or other conveyance document.
☐ The water rights or claims were divided proportionately based on the portion of their place(s) of use acquired by the new owner.

N.A ☐ If the application is not signed by the applicant, attach a Power of Attorney or other documentation providing authority to sign for the applicant.

3. **LIST WATER RIGHT NUMBER(S)** 3-10233 and 3-10234

☑ Attach a copy of the water right(s) as recorded, available at *idwr.idaho.gov, Water Right Transfers, Step 1*, or by contacting any Department office.

4. **TOTAL AMOUNT OF WATER** transferred is .15 (diversion rate) cubic feet per second and/or na (storage volume) acre-feet per annum.

5. **POINT OF DIVERSION** – Describe all the point(s) of diversion to be included on the water right(s) after the proposed change.

☒ Attach Eastern Snake Plain Aquifer (ESPA) analysis if this transfer proposes to change a point of diversion affecting the ESPA. ESPA analysis information is available at idwr.idaho.gov, *Water Rights, Water Right Transfers, Modeling Resources.*

New?	Lot	¼	¼	¼	Sec	Twp	Rge	County	Source	Local name or tag #
No	2		NE	SW	17	10N	05W	Washington	Snake River	
Yes	2		NW	SW	17	10N	05W	Washington	Snake River	

SUPPORT DATA
IN FILE # 3-10233

SCANNED
FEB 10 2023 MAY 13 2021

WITHDRAWN

Transfer No. 84717

6. GENERAL INFORMATION

a. Describe the complete diversion system, including how you will accommodate a measuring device and lockable controlling works should they be required now or in the future:

We have one pump active and had applied to move the pump downstream. We now are requesting to leave the exisiting pump where it is and put in a second pump in the new approved location.

b. Who owns the property at the point(s) of diversion? Reed Mulkey

If other than the applicant, describe the arrangement enabling the applicant to access the property for the diversion system:

NA

c. To your knowledge, has/is any portion of the water right(s) proposed to be changed:

Yes	No	
☐	☑	undergone a period of five or more consecutive years of non-use,
☐	☑	currently used in a mitigation plan limiting the use of water under the right(s), or
☐	☑	currently enrolled in a Federal set-aside program limiting the use of water under the right(s)?

If yes, describe:

NA

d. Is any portion of the water right(s) proposed to be changed currently leased to the Water Supply Bank? ☐ Yes ☑ No

☐ If yes and there are multiple owners, attach a Lessor Designation form.
☐ If yes, the individual owner or designated lessor must complete, sign and attach an IRS Form W-9.
(Disregard if these items are on file and ownership has not changed.)

7. **MAP** – ☑ Attach a map of the diversion, measurement, control and distribution system. Include the place of use if a split of the water right occurred. Clearly label the map with township, range, section and ¼ ¼ of section information. You may create a map at idwr.idaho.gov, *Water Rights, Water Right Transfers, File a Transfer Application, Step 2C.*

8. **SIGNATURE** – The information in this application is true to the best of my knowledge. I understand any willful misrepresentations in this application may result in rejection of the application or cancellation of an approval.

Reed Mulkey — Reed Mulkey — 2-6-2021
Signature of applicant or authorized agent — Print name and title if applicable — Date

Melinda Mulkey — Melinda Mulkey —
Signature of applicant or authorized agent — Print name and title if applicable — Date

9. **FEE** – ☑ The application filing fee provided in Idaho Code § 42-221.O, must be submitted with the application for transfer. Applications for changes pursuant to Idaho Code § 42-221.O.8. require a filing fee of $50 per water right. All other application fees are based on the total amount of water proposed for transfer in Item 4: the larger fee for either cubic feet per second (diversion rate) or acre-feet per annum (storage volume). The *Fee Schedule* is available at *www.idwr.idaho.gov, Water Right Transfers, Step 4* and in the *Application for Transfer Instructions*.

FOR DEPARTMENT USE ONLY

Transfer includes _____ pages of attachments. Received by LE Date 2/10/2021

Fee paid $250.00 Date 2/10/2021 Receipted by LE Receipt # W049092

Preliminary review by _____ Date _____ Active in the Water Supply Bank? Yes ☐ No ☐

W-9 received? Yes ☐ No ☐ Name on W-9 _____ W-9 forwarded to fiscal? Yes ☐ No ☐

(Do NOT scan the W-9 – confidential information is held by fiscal only)

6. GENERAL INFORMATION

a. Describe the complete diversion system, including how you will accommodate a measuring device and lockable controlling works should they be required now or in the future:

We have one pump active and had applied to move the pump downstream. We now are requesting to leave the exisiting pump where it is and put in a second pump in the new approved location.

b. Who owns the property at the point(s) of diversion? Reed Mulkey

If other than the applicant, describe the arrangement enabling the applicant to access the property for the diversion system:

NA

c. To your knowledge, has/is any portion of the water right(s) proposed to be changed:

Yes	No	
☐	☑	undergone a period of five or more consecutive years of non-use,
☐	☑	currently used in a mitigation plan limiting the use of water under the right(s), or
☐	☑	currently enrolled in a Federal set-aside program limiting the use of water under the right(s)?

If yes, describe:

NA

d. Is any portion of the water right(s) proposed to be changed currently leased to the Water Supply Bank? ☐ Yes ☑ No

☐ If yes and there are multiple owners, attach a Lessor Designation form.
☐ If yes, the individual owner or designated lessor must complete, sign and attach an IRS Form W-9.
(Disregard if these items are on file and ownership has not changed.)

7. **MAP** – ☑ Attach a map of the diversion, measurement, control and distribution system. Include the place of use if a split of the water right occurred. Clearly label the map with township, range, section and ¼ ¼ of section information. You may create a map at idwr.idaho.gov, *Water Rights, Water Right Transfers, File a Transfer Application, Step 2C.*

8. **SIGNATURE** – The information in this application is true to the best of my knowledge. I understand any willful misrepresentations in this application may result in rejection of the application or cancellation of an approval.

Reed Mulkey — Signature of applicant or authorized agent

Reed Mulkey — Print name and title if applicable

2-6-2021 — Date

Melinda Mulkey — Signature of applicant or authorized agent

Melinda Mulkey — Print name and title if applicable

Date

9. **FEE** – ☑ The application filing fee provided in Idaho Code § 42-221.O, must be submitted with the application for transfer. Applications for changes pursuant to Idaho Code § 42-221.O.8. require a filing fee of $50 per water right. All other application fees are based on the total amount of water proposed for transfer in Item 4: the larger fee for either cubic feet per second (diversion rate) or acre-feet per annum (storage volume). The *Fee Schedule* is available at *www.idwr.idaho.gov, Water Right Transfers, Step 4* and in the *Application for Transfer Instructions*.

FOR DEPARTMENT USE ONLY

Transfer includes _____ pages of attachments. Received by LE Date 2/10/2021

Fee paid $250.00 Date 2/10/2021 Receipted by LE Receipt # W049097

Preliminary review by _____ Date _____ Active in the Water Supply Bank? Yes ☐ No ☐

W-9 received? Yes ☐ No ☐ Name on W-9 _____ W-9 forwarded to fiscal? Yes ☐ No ☐

(Do NOT scan the W-9 – confidential information is held by fiscal only)

SCANNED FEB 10 2023

SCANNED MAY 13 2021

Application for Water Right



Additional location were requested

Current location

6/13/2020, 2:21:08 PM

1:2,257

0 0.01 0.03 0.05 mi

0 0.02 0.04 0.08 km

Areas

Override 1

Override 2

Counties

Quarter Quarter

Section

Township/Range

Idaho Outline

Idaho Mask

Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community, Esri, HERE, Garmin, (c) OpenStreetMap contributors, Created by NRCS from 1:24,000 scale USGS topographic maps., Idaho Department of Water Resources

SCANNED

SCANNED

MAY 13 2021

84717

84186

Idaho Department of Water Resources

Maxar | Created by NRCS from 1:24,000 scale USGS topographic maps. | Idaho Department of Water Resources | USDA Natural Resources Conservation Services | State of Oregon GEO, Esri

IDAHO DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 2A

Current Water Right No.: 3-10234

Current Owner: REED MULKEY
MELINDA MULKEY

Priority Date: 1/15/1907

Origin: Water Right

Status: Active

Basis: Decreed

Source	Tributary
SNAKE RIVER	COLUMBIA RIVER

Beneficial Use	From To	Diversion Rate	Annual Volume
IRRIGATION	03/01 to 11/15	0.05 CFS	
	Total Diversion	0.05 CFS	

Location of Point(s) of Diversion

SNAKE RIVER L2(SW1/4NE1/4SW1/4) Sec. 17, Twp 10N, Rge 05W B.M.
WASHINGTON County

Place of Use

IRRIGATION Within WASHINGTON County

T10N R05W S17	NWSW	1.30	T10N R05W S17	Lot 2	NWSW	1.20

Total Acres: 2.5

Conditions of Approval:

1. C18 This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.
2. F06 The following rights are diverted through point of diversion described above: 3-4005, 3-10227, 3-10228, 3-10229, 3-10230, 3-10231, 3-10232, 3-10233, & 3-10234.
3. This right is a split from former right 3-10214 .
4. T10N, R05W S17 NWSW is unsurveyed, nonfederal land except where noted by GCDB lot number.

Decreed Date: 7/9/2007

IDAHO DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 2A

Current Water Right No.: 3-10234

Current Owner: REED MULKEY
MELINDA MULKEY

Priority Date: 1/15/1907

Origin: Water Right

Status: Active

Basis: Decreed

Source	Tributary
SNAKE RIVER	COLUMBIA RIVER

Beneficial Use	From To	Diversion Rate	Annual Volume
IRRIGATION	03/01 to 11/15	0.05 CFS	
	Total Diversion	0.05 CFS	

Location of Point(s) of Diversion

SNAKE RIVER L2(SW1/4NE1/4SW1/4) Sec. 17, Twp 10N, Rge 05W B.M.
WASHINGTON County

Place of Use

IRRIGATION Within WASHINGTON County

T10N R05W S17	NWSW	1.30	T10N R05W S17	Lot 2	NWSW	1.20
Total Acres: 2.5							

Conditions of Approval:

1. C18 This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.
2. F06 The following rights are diverted through point of diversion described above: 3-4005, 3-10227, 3-10228, 3-10229, 3-10230, 3-10231, 3-10232, 3-10233, & 3-10234.
3. This right is a split from former right 3-10214 .
4. T10N, R05W S17 NWSW is unsurveyed, nonfederal land except where noted by GCDB lot number.

Decreed Date: 7/9/2007

SCANNED
FEB 10 2023
SCANNED
MAY 13 2021

~~84186~~
84717

Page 1 of 1

IDAHO DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 2A

Current Water Right No.: 3-10233

Current Owner: MELINDA MULKEY
REED MULKEY

Priority Date: 1/15/1907

Origin: Water Right

Status: Active

Basis: Decreed

Source	Tributary
SNAKE RIVER	COLUMBIA RIVER

Beneficial Use	From To	Diversion Rate	Annual Volume
IRRIGATION	03/01 to 11/15	0.1 CFS	
	Total Diversion	0.1 CFS	

Location of Point(s) of Diversion

SNAKE RIVER L2(SW1/4NE1/4SW1/4) Sec. 17, Twp 10N, Rge 05W B.M.
WASHINGTON County

Place of Use

IRRIGATION Within WASHINGTON County

T10N R05W S17	NWSW	2.40	T10N R05W S17	Lot 2	NWSW	2.60
Total Acres: 5							

Conditions of Approval:

1. This right is a split from former right 3-10214 .
2. F06 The following rights are diverted through point of diversion described above: 3-4005, 3-10227, 3-10228, 3-10229, 3-10230, 3-10231, 3-10232, 3-10233, & 3-10234.
3. T10N, R05W S17 NWSW is unsurveyed, nonfederal land except where noted by GCDB lot number.
4. C18 This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

Decreed Date: 7/9/2007

SCANNED
MAY 13 2021
SCANNED
FEB 10 2023
84717
~~84186~~

MEMORANDUM

TO: Sascha Marston

FROM: Jean Hersley

DATE: February 10, 2023

RE: Refund: Transfer application withdrawn before publication

Please refund $225.00.

NAME: ALISHA HORTON
RAYMOND HORTON
333 AIRPORT RD
WEISER ID 83672

RECEIPT #: W049092

Thank you.

Jean

SCANNED
FEB 10 2023

Hersley, Jean

From: Hersley, Jean
Sent: Friday, February 10, 2023 11:11 AM
To: IdwrPayable
Subject: refund
Attachments: Horton Transfer.doc

Please process as soon as possible. Thank you.

Jean Hersley
Technical Records Specialist II
Idaho Dept Water Resources
(208) 287-4942

SCANNED
FEB 10 2023

RECEIVED
FEB 07 2023
DEPARTMENT OF WATER RESOURCES

WITHDRAWAL

OF

APPLICATION FOR TRANSFER OF WATER RIGHT(S)

I/We, Reed Mulkey (Applicant's Printed Name) and Melinda Mulkey (Applicant's Printed Name),

Raymond Horton (Applicant's Printed Name) and Alisha Horton (Applicant's Printed Name),

hereby withdraw our Application for Transfer No. 84717 of Water Right No(s). 3-10234.

Signed this 2nd day of February, 20 2023.

(Signature/Title of Applicant)

(Signature/Title of Applicant)

(Signature/Title of Applicant)

(Signature/Title of Applicant)

SCANNED
FEB 10 2023

WITHDRAWAL

OF

APPLICATION FOR TRANSFER OF WATER RIGHT(S)

RECEIVED
FEB 07 2023
DEPARTMENT OF
WATER RESOURCES

I/We, Reed Mulkey (Applicant's Printed Name) and Melinda Mulkey (Applicant's Printed Name),

Alisha Horton (Applicant's Printed Name) and Raymond Horton (Applicant's Printed Name),

hereby withdraw our Application for Transfer No. 3-10233 of Water Right No(s). [redacted] 87501.

Signed this 1st day of February, 20 23.

(Signature/Title of Applicant)

(Signature/Title of Applicant)

(Signature/Title of Applicant)

(Signature/Title of Applicant)

SCANNED
FEB 10 2023

IDAHO DEPARTMENT OF
WATER RESOURCES

322 E Front Street, Suite 648, Boise ID 83702 • PO Box 83720, Boise ID 83720-0098
Phone: 208-287-4800 • Fax: 208-287-6700 • Email: idwrinfo@idwr.idaho.gov • Website: idwr.idaho.gov

Governor Brad Little **Director Gary Spackman**

February 02, 2023

RAYMOND E HORTON
ALISHA HORTON
333 AIRPORT RD
WEISER ID 83672-5757

Re: Change in Ownership for Water Right No(s): 3-10233

Dear Water Right Holder(s):

The Department of Water Resources (Department) acknowledges the receipt of correspondence changing ownership of the above referenced water right(s) to you. The Department has modified its records and has enclosed a computer-generated report for you.

Updating the ownership record for a water right does not reconfirm the validity of the right. When processing a Notice of Change in Water Right Ownership, the Department does not review the history of water use to determine if the right has been forfeited or deliberately abandoned through five years or more of non-use. To read more about water right forfeiture, including how to protect a water right from forfeiture, please see Idaho Code §§ 42-222 and 42-223.

Please note, water right owners are required to report any change of water right ownership and any change of mailing address to the Department within 120 days of the change. Reporting forms are available from any office of the Department, or from the Department's website.

If you have any questions concerning the enclosed information, please contact me at (208) 287-4942.

Sincerely,

Jean Hersley
Technical Records Specialist 2

Enclosure(s)

SCANNED
FEB 10 2023

Hummer, Phill

From: Alisha Horton <arhorton2@gmail.com>
Sent: Tuesday, February 7, 2023 4:47 PM
To: Hummer, Phill
Subject: Re: FW: WR 3-10233 Transfer
Attachments: CCF02072023_00000.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.

Thank you. I attached the withdrawal forms. Thanks for your help.

Alisha

On Wed, Feb 1, 2023 at 4:02 PM Hummer, Phill <Phill.Hummer@idwr.idaho.gov> wrote:

Alisha,

I can work with technical records staff to process the ownership change. They will review the documents and update our records accordingly. We will send the updated records to the address on file once the ownership change has been completed.

Since water right 3-10233 currently authorizes the point of diversion at the place you want it to be in are you going to submit the withdraw of your new transfer application filing? I entered your filing into our system, the application is assigned number 87501. If you submit the attached withdraw you can use this number to reference the filing.

The point of diversion for water right 3-10234 is currently also located at the place marked "new" on the map you sent in. The transfer approval document I sent in my last email (also attached to this email) shows both water rights were included in that approval and the point of diversion move from the "current" site the "new" location was approved. Page 11 of that document is the approval notice letter that shows notice of the approved transfer was mailed to Reed and Melinda Mulkey at 327 Airport Rd Weiser ID 83672 on July 28, 2020.

However, since the transfer was never accomplished (the point of diversion was never physically changed) and both the "new" and "current" location are within the same government lot. I don't think a transfer application to change the location of the POD is necessary. The pump can remain where it is (at the "current" location) and I can make some records changes and the Mulkeys don't need any more applications. All submitted and pending transfer filings can be withdrawn.

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FEB 10 2023

To summarize. The transfer application you submitted along with the assignment of transfer and ownership change documents, application 87501, can be withdrawn. The protested transfer application, application no. 84717, can be withdrawn. You can install a pump at the "new" location for right 3-10233. The Mulkeys can keep their pump at the "current" location for 3-10234. Please submit 2 withdrawal forms, one for each transfer application.

-Phill

From: Alisha Horton <arhorton2@gmail.com>
Sent: Monday, January 30, 2023 6:09 PM
To: Hummer, Phill <Phill.Hummer@idwr.idaho.gov>; Reed Mulkey <reedmulkey@gmail.com>
Subject: Re: FW: WR 3-10233 Transfer

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.

Hi, thank you for your help on this. I have cc'd Reed Mulkey as well.

-I have attached the official signed agreement stating that the protest is withdrawn.

-Part of the current application was to transfer one of the water rights from Reed and Melinda Mulkey to Ray and Alisha Horton because we bought the property. Do you know the status of that approval?

-Location: That's good that we are approved to have the pump in the location marked "new" on our current application, which is showing on your side as the current location. We will go ahead and install our pump there if that is approved, thank you.

-Regarding the location marked "current location" on our new application: This is where Reed Mulkey received approval to put in a pump when they first bought their property on 327 Airport Rd about 15 years ago. They had put in an application to move it at one point but did not receive notice of approval and their pump is still in that location marked "current location". Since they had approval to put it there originally and have decided against moving it, do they need to fill out anything or do anything further?

The same amount of land is being irrigated by the same irrigation system in all this, we are just splitting the irrigation for the two properties/two water rights apart. Thank you

On Fri, Jan 27, 2023 at 2:32 PM Hummer, Phill <Phill.Hummer@idwr.idaho.gov> wrote:

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FEB 10 2023

SETTLEMENT AGREEMENT AND MUTUAL RELEASE OF ALL CLAIMS

This Settlement Agreement and Mutual Release of All Claims ("Agreement"), effective as of September 30, 2022 ("Effective Date"), is entered into by and among Reed Mulkey and Melinda Mulkey, including their attorneys, agents, representatives, predecessors, successors, heirs, assigns, and insurers, specifically including United Heritage Insurance Company (collectively the "Mulkeys"); Robert Patrick, including his attorneys, agents, representatives, predecessors, successors, heirs, assigns, and insurers ("Patrick"); Mary Sue Roach, including her attorneys, agents, representatives, predecessors, successors, heirs, assigns, and insurers ("Roach"); and Sunnyside Orchard Homeowner's Association, Inc., including its attorneys, agents, representatives, officers, members, employees, agents, contractors. and insurers, specifically including Auto-Owners Insurance Company ("Sunnyside HOA"). The Mulkeys, Patrick, Roach, and Sunnyside HOA may be individually referred to herein as a "Party" or collectively referred to as the "Parties."

RECITALS

A. Reed and Melinda Mulkey are a married couple who reside at 327 Airport Road in Weiser, Idaho 83672 located in Washington County.

B. Robert Patrick and Mary Susan Roach are a married couple who both reside at 339 Airport Road in Weiser, Idaho 83672.

C. Sunnyside Orchard Homeowner's Association, Inc. is a corporation that operates in Weiser, Idaho. Mary Susan Roach and Robert Patrick are board members and hold management positions in this corporation.

D. United Heritage Insurance Company is the insurer for Reed and Melinda Mulkey.

E. Auto-Owners Insurance Company is the insurer for Sunnyside HOA.

F. The Parties have disputed the authority of Sunnyside HOA over the Mulkeys' property for several years. Mulkey, Roach and Patrick also had a prior lawsuit between them which resulted in a Settlement Agreement in 2016 (hereinafter "Prior Settlement Agreement").

G. On November 24, 2021, Sunnyside HOA filed a *Verified Complaint for Declaratory Judgment* ("Plaintiff's Complaint") initiating Case No. CV44-21-0480 (hereinafter "Subject Action"). Through the Subject Action Sunnyside HOA sought a declaratory judgment from the Court regarding Sunnyside HOA's authority over the Mulkeys' property, as well as its ability to enforce certain CC&Rs (Instrument No. 202542 and Instrument No. 209797, both filed in Washington County, Idaho) against the Mulkeys' property.

H. On February 4, 2022, the Mulkeys filed an *Amended Answer, Counter-Claim and Third-Party Complaint* ("Mulkeys' Counter-Claim and Third-Party Complaint") which alleged various causes of action against Sunnyside HOA, as a counterclaimant, and

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FEB 10 2023

Roach and Patrick, as third-party defendants.

E. The Parties have agreed to settle their differences and to enter into this Agreement to memorialize the terms of their settlement and to resolve any and all claims that exist or may exist between the Parties.

AGREEMENT

NOW THEREFORE, in consideration of the mutual promises made by and among the Parties, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties each agree as follows:

1. MUTUAL RELEASE OF CLAIMS

In consideration of the Settlement Terms set forth in paragraph 2 of this Agreement the Parties mutually release each other from all past, present, and future claims and actions which were or could have been brought in the Subject Action—whether at law or in equity, under statute, in contract, or in tort; whether known or unknown, now existing or which may accrue later; whether for punitive or actual damages or harm—arising out of, relating to, resulting from, or in any way connected with the facts, circumstances, transactions, CC&Rs, Sunnyside HOA's governance, and other conduct at-issue in Sunnyside HOA's Complaint, the Mulkeys' Counter-Claim and Third-Party Complaint.

The Parties understand and agree that, by execution of this Agreement, they intend to release, and do release, any and all rights, claims, and actions against each other for damages, consequences, and attorney fees and costs that the Parties now have or that may accrue in the future on account of or in any way arising from, relating to, or resulting from any and all known and unknown, foreseen and unforeseen injuries and damages, including but not limited to injuries and damages and the consequences thereof arising out of, related to, or resulting from, or in any way connected with the facts, circumstances, transactions, CC&Rs, Sunnyside HOA's governance, and other conduct at-issue in Sunnyside HOA's Complaint and the Mulkeys' Counter-Claim and Third-Party Complaint.

2. SETTLEMENT TERMS

2.1 **Prior Settlement Agreement**. The Mulkeys, Roach, and Patrick previously entered into the Prior Settlement Agreement in another matter, a copy of which is attached hereto as **Exhibit "A"**. Except to the extent the terms of this Agreement directly conflict with the terms of the Prior Settlement Agreement, the terms of the Prior Settlement Agreement remain binding and enforceable on the Mulkeys, Roach, and Patrick.

2.2 **No Contact**. The Mulkeys, Roach, and Patrick agree that there shall be no contact and a minimum distance of 100 feet between the Mulkeys and Patrick and between the Mulkeys and Roach. They also agree to submit a Mutual No Contact Order for the Court to enter. Roach may have indirect contact with the Mulkeys, as provided below, with respect to the maintenance of the roadway.

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FEB 10 2023

2.3 **Use and Maintenance of the Roadway**. Roach will be permitted to access the portion of Airport Road that abuts 327 Airport Road, 333 Airport Road, and 339 Airport Road in Weiser, Idaho 83672 for recreational purposes. Patrick is not permitted to use the portion of Airport Road that abuts 327 Airport Road and 333 Airport Road for any reason. The responsibility for road maintenance shall be determined according to property line. The Mulkeys and their successors, including Alisha Horton, shall be responsible for the 2/3 of the road that abuts 327 Airport Road and 333 Airport Road. Roach/Patrick shall be responsible for the 1/3 of the road that abuts their property. Roach may contact the Mulkeys once a year regarding routine road maintenance, and this contact must be through Alisha Horton. Roach may have additional contact with Alisha Horton regarding road maintenance if there are circumstances impeding normal usage. Any decisions as to maintenance shall be by a per lot vote which will require a majority to take any affirmative action. As long as Roach/Patrick own property abutting Airport Road, Roach agrees to vote for the Roach/Patrick lot(s).

2.4 **Payment to Sunnyside HOA**. As consideration for this Agreement, the Mulkeys agree pay $3,800 to the trust account of Sawtooth Law Offices, PLLC on behalf of Sunnyside HOA. Sunnyside HOA, via its insurance, will pay $1,900 to the trust account of Brassey Crawford, PLLC on behalf of the Mulkeys.

2.5 **HOA and CC&Rs**. The Parties agree that the Mulkeys are not members of Sunnyside HOA and that Sunnyside HOA (and its affiliates, principals, successors, agents, or otherwise) shall have no power or authority over the Mulkeys, at any time, past, present or future. The Mulkeys owe no dues (past, present or future) and the HOA shall not seek to enforce any rules, CC&Rs or otherwise undertake any enforcement efforts of any kind against the Mulkeys. The CC&Rs at-issue in this matter (Instrument No. 202542 and Instrument No. 209797, both filed in Washington County, Idaho) shall be amended to conform to the agreement of the parties, with the amended CC&Rs to be agreed upon by the parties and subsequently recorded. Reed and Melinda Mulkey shall abide by the Amended CC&Rs. A true and correct copy of the Amended CC&Rs are attached to this Settlement Agreement as **Exhibit B**.

2.6 **Irrigation Pumps**. Sunnyside HOA will be responsible for the operation and maintenance of the Sunnyside HOA pump. Mulkeys will not have access to the Sunnyside HOA pump and will instead maintain and operate a separate pump and diversion to the Mulkeys' property. The Mulkeys will have their daughter, Alicia Horton, who is now the owner of Lot 100 (aka 333 Airport Road), move her pump and/or install a new pump to irrigation the property downstream of the Sunnyside HOA pump. Sunnyside HOA, Patrick, and Roach agree that Horton and the Mulkeys may move their points of diversion for one-half the water right for Lot 100 to the new pump located downstream of the Sunnyside HOA pump and that the Sunnyside HOA will not protest a transfer of the point of diversion. There is currently a pending transfer application filed by the Mulkeys with the Idaho Department of Water Resources and the Sunnyside HOA will withdraw its protest upon clarification that the diversion point for the property currently owned by Alicia Horton will be moved downstream.

SCANNED
FEB 10 2023

3. **AUTHORITY TO EXECUTE AGREEMENT.** The Parties represent and warrant: (a) they have the full authority and all required approvals to execute this Agreement; (b) they have not assigned, transferred, conveyed or otherwise disposed of any interest or claim to be released hereunder, or any direct or indirect interest in any such claim, in whole or in part; and (c) to their knowledge, no other person or entity has any interest in any of the released claims or interests.

4. **COMPROMISE OF DISPUTED CLAIMS.** This Agreement represents the settlement and compromise of disputed claims. Neither the statements nor the promises contained herein are to be construed as an admission of liability on the part of any Party.

5. **WAIVER OF CONSTRUCTION AGAINST DRAFTER.** This Agreement was negotiated and approved by the Parties. Any rule that would otherwise require an ambiguity to be construed against the drafting Party is hereby waived.

6. **ADVICE OF COUNSEL.** Each Party to this Agreement acknowledges that he/she/it has had the benefit of advice, or the opportunity to obtain the advice, of competent legal counsel. The form of this Agreement has been approved by signature of each Party's respective counsel of record in the Subject Action.

7. **ENTIRE AGREEMENT.** The Parties declare and represent: (1) no promise, inducement, or agreement not expressed herein has been made to either of them by the other; (2) this Agreement contains the entire agreement between them (including attachments hereto) as to the subject matter of this Agreement; (3) the terms of this Agreement are contractual and not mere recitals; and (4) any modifications to this Agreement must be in writing and signed by both Parties hereto.

8. **ATTORNEY FEES AND COSTS.** If any Party to this Agreement is required to initiate or defend litigation in any way connected with this Agreement or to otherwise enforce or interpret the terms hereof, the prevailing Party in such litigation or action, whether legal or equitable, shall be entitled to reasonable attorney fees and costs in addition to any other relief which may be granted from the non-prevailing Parties, jointly and severally. Such attorney fees and costs shall include attorney fees and costs incurred on any appeal or in any bankruptcy proceeding.

9. **GOVERNING LAW.** This Agreement shall be construed and interpreted in accordance with Idaho law.

10. **SEVERABILITY.** If a court holds any provision of this Agreement to be illegal, unenforceable, or invalid in whole or in part for any reason, the validity and enforceability of the remaining provisions, or portions of them, will not be affected.

11. **EXECUTION IN COUNTERPARTS.** This Agreement may be signed in one or more counterparts, which when assembled together, shall constitute one instrument.

12. **DISMISSAL OF CLAIMS**. The Parties will execute a stipulation to dismiss the Subject Action, with prejudice, with each party to bear his/her/its own costs and attorneys fees. A

SCANNED
FEB 10 2023

corresponding Judgment shall be filed that outlines the primary terms of this Agreement reached by the Parties.

13. **NON-DISPARAGEMENT CLAUSE.** Patrick and Roach shall not disparage the Mulkeys, or otherwise take any action which could reasonably be expected to adversely affect the Mukleys' reputation or otherwise cause them harm. Similarly, the Mulkeys shall not disparage Patrick and Roach, or otherwise take any action which could reasonably be expected to adversely affect Patrick and/or Roach's reputation or otherwise cause them harm.

(end of text)

THE UNDERSIGNED HAS READ THE FOREGOING RELEASE AND INDEMNITY AGREEMENT AND FULLY UNDERSTANDS IT.

Mary Sue Roach
MARY SUE ROACH

STATE OF Idaho)
) ss.
County of ADA)

On this 4th day of October, 2022, before me, a Notary Public in and for said county and state, personally appeared MARY SUE ROACH, known or identified to me to be the person whose name is subscribed to the within and foregoing instrument, and acknowledged to me that he voluntarily executed the same.

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

COLLEEN WILT NOTARY PUBLIC MY COMMISSION EXPIRES 4-11-2025 STATE OF IDAHO COMMISSION NUMBER 20190775

Notary Public for Colleen Wilt
Residing at Ada Cty
My Commission Expires 4/11/2025

SCANNED
FEB 10 2023

THE UNDERSIGNED HAS READ THE FOREGOING RELEASE AND INDEMNITY AGREEMENT AND FULLY UNDERSTANDS IT.

Mary Sue Roach

MARY SUE ROACH
Signing on behalf of SUNNYSIDE ORACHARD HOMEOWNERS ASSOCIATION, INC. as Agent

STATE OF Idaho)
) ss.
County of Ada)

On this 4th day of October, 2022, before me, a Notary Public in and for said county and state, personally appeared MARY SUE ROACH, known or identified to me to be the person whose name is subscribed to the within and foregoing instrument, and acknowledged to me that he voluntarily executed the same.

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



Notary Public for Colleen Wilt
Residing at Ada County
My Commission Expires 4/11/2025

47810.0241.15049033.1

SCANNED
FEB 10 2023

THE UNDERSIGNED HAS READ THE FOREGOING RELEASE AND INDEMNITY AGREEMENT AND FULLY UNDERSTANDS IT.

ROBERT PATRICK

STATE OF Idaho)
) ss.
County of Ada)

On this 4th day of October, 2022, before me, a Notary Public in and for said county and state, personally appeared ROBERT PATRICK, known or identified to me to be the person whose name is subscribed to the within and foregoing instrument, and acknowledged to me that he voluntarily executed the same.

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

COLLEEN WILT NOTARY PUBLIC MY COMMISSION EXPIRES 4-11-2025 STATE OF IDAHO COMMISSION NUMBER 20190721

Notary Public for Colleen Wilt
Residing at Ada County
My Commission Expires 4/11/2025

47810.0241.15049033.1

SCANNED
FEB 10 2023

THE UNDERSIGNED HAS READ THE FOREGOING RELEASE AND INDEMNITY AGREEMENT AND FULLY UNDERSTANDS IT.

ALIESHIA HORTON

STATE OF Idaho)
) ss.
County of Washington)

On this 4th day of Oct, 2022, before me, a Notary Public in and for said county and state, personally appeared ALIESHIA HORTON, known or identified to me to be the person whose name is subscribed to the within and foregoing instrument, and acknowledged to me that he voluntarily executed the same.

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

TERRI C FRITTS NOTARY PUBLIC Comm No. 32734 STATE OF IDAHO

Notary Public for Idaho
Residing at Weiser ID
My Commission Expires 4-15-2026

47810.0241.15049033.1

SCANNED
FEB 10 2023

THE UNDERSIGNED HAS READ THE FOREGOING RELEASE AND INDEMNITY AGREEMENT AND FULLY UNDERSTANDS IT.

Melinda Mulkey
MELINDA MULKEY

STATE OF Idaho)
) ss.
County of Washington)

On this 3rd day of October, 2022, before me, a Notary Public in and for said county and state, personally appeared MELINDA MULKEY, known or identified to me to be the person whose name is subscribed to the within and foregoing instrument, and acknowledged to me that he voluntarily executed the same.

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

KELSEY SMITH
COMMISSION #20214832
NOTARY PUBLIC
STATE OF IDAHO

Notary Public for Idaho
Residing at Kuna County
My Commission Expires 10/8/2027

47810.0241.15049033.1

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FEB 10 2023

THE UNDERSIGNED HAS READ THE FOREGOING RELEASE AND INDEMNITY AGREEMENT AND FULLY UNDERSTANDS IT.

Reed Mulkey

REED MULKEY

STATE OF Idaho)
) ss.
County of Washington)

On this 3rd day of October, 2022, before me, a Notary Public in and for said county and state, personally appeared REED MULKEY, known or identified to me to be the person whose name is subscribed to the within and foregoing instrument, and acknowledged to me that he voluntarily executed the same.

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

KELSEY SMITH
COMMISSION #20214832
NOTARY PUBLIC
STATE OF IDAHO

Notary Public for Idaho
Residing at Payette County
My Commission Expires 10/5/2027

47810.0241 15049033.1

SCANNED
FEB 10 2023

From: Hummer, Phill
Sent: Friday, January 27, 2023 8:22 AM
To: ahorton2@gmail.com
Subject: RE: WR 3-10233 Transfer

Alisha,

After sending the previous email I began looking at your new transfer application in more detail and I am a little confused. The map included with the filing shows the proposed new location with an arrow marked "new". However, this is the current location of the point of diversion for both rights 3-10233 and 3-10234. Attached is a copy of the approval document for Transfer 84186 showing the location you marked as the "new" location was already approved. The map in those documents is not very clear so I attached a different map showing the current place of use and point of diversion according to current IDWR records. If you are proposing to move the point of diversion to a different location, please submit a new map showing that location (and amended transfer application form if the location is in a different quarter quarter). If you want the current location to remain as it is, you can send in a withdraw form (attached) to withdraw your new filling, make sure you specify that you want a refund for the filing.

Please let me know if you have any questions and how you would like to proceed.

-Phill

From: Hummer, Phill
Sent: Thursday, January 26, 2023 1:46 PM
To: ahorton2@gmail.com
Subject: WR 3-10233 Transfer

Alisha,

I apologize I have taken so long to respond. IDWR received your assignment and new transfer application filing for water right 3-10233. Water right 3-10233 will be removed from transfer application 84717 and processed as a separate application. The change in water right ownership was also received and will be assigned to staff for processing separate from the application for transfer process. If IDWR staff have questions regarding the ownership change they will contact you.

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Your 12/30/22 email contained a copy of a settlement agreement between Reed and Melinda Mulkey and Sunnyside HOA. However, that document appears to be in draft form since it included inserted language in different a color and it is not signed by any party. IDWR has not received a protest withdraw or other documentation from the protestant. At this time the contested case for transfer application 84717 is not resolved. I will continue to work with the applicant and the protestant to resolve this matter.

-Phill

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Veibell, Amanda

From: Alisha Horton <arhorton2@gmail.com>
Sent: Friday, December 30, 2022 9:57 AM
To: IDWR File
Subject: Water Right 3-10233
Attachments: 15049033_1_Settlement Agreement and Mutual Release of Claims.9.26.22.pdf; 2022-12-30.png

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.

Water Right: 3-10233

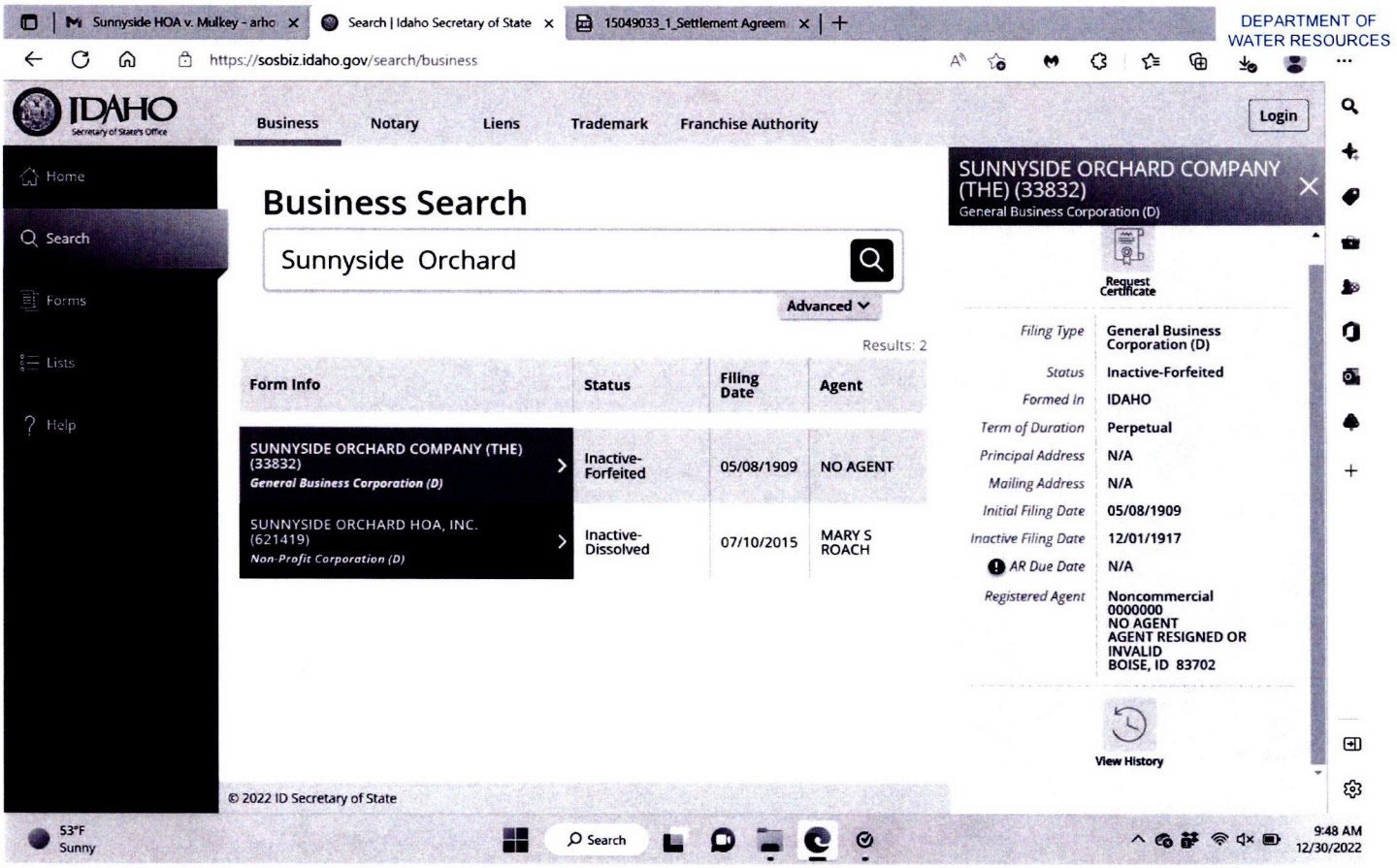
Hi, We put in an application for a transfer of a water right and a new point of diversion. We had put in a previous application that was protested by Sunnyside HOA. Sunnyside HOA agreed to not protest that anymore. (Please refer to attached Settlement Agreement, Section 2.6). In addition, Sunnyside HOA no longer exists so they can no longer protest anything. It was comprised of only a married couple and they sold their property and moved away.(Please refer to the attached information from the Idaho Secretary of State website.) Let me know if you need anything else.

Thank you,

Alisha Horton
Reed Mulkey

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RECEIVED
Dec 30, 2022
DEPARTMENT OF
WATER RESOURCES



SCANNED
FEB 10 2023

RECEIVED
Dec 30, 2022
DEPARTMENT OF
WATER RESOURCES

SETTLEMENT AGREEMENT AND MUTUAL RELEASE OF ALL CLAIMS

This Settlement Agreement and Mutual Release of All Claims ("Agreement"), effective as of September ___, 2022 ("Effective Date"), is entered into by and among Reed Mulkey and Melinda Mulkey, including their attorneys, agents, representatives, predecessors, successors, heirs, assigns, and insurers, specifically including United Heritage Insurance Company (collectively the "Mulkeys"); Robert Patrick, including his attorneys, agents, representatives, predecessors, successors, heirs, assigns, and insurers ("Patrick"); Mary Sue Roach, including her attorneys, agents, representatives, predecessors, successors, heirs, assigns, and insurers ("Roach"); and Sunnyside Orchard Homeowner's Association, Inc., including its attorneys, agents, representatives, officers, members, employees, agents, contractors. and insurers, specifically including Auto-Owners Insurance Company ("Sunnyside HOA"). The Mulkeys, Patrick, Roach, and Sunnyside HOA may be individually referred to herein as a "Party" or collectively referred to as the "Parties."

RECITALS

A. Reed and Melinda Mulkey are a married couple who reside at 327 Airport Road in Weiser, Idaho 83672 located in Washington County.

B. Robert Patrick and Mary Susan Roach are a married couple who both reside at 339 Airport Road in Weiser, Idaho 83672.

C. Sunnyside Orchard Homeowner's Association, Inc. is a corporation that operates in Weiser, Idaho. Mary Susan Roach and Robert Patrick are board members and hold management positions in this corporation.

D. United Heritage Insurance Company is the insurer for Reed and Melinda Mulkey.

E. Auto-Owners Insurance Company is the insurer for Sunnyside HOA.

F. The Parties have disputed the authority of Sunnyside HOA over the Mulkeys' property for several years. Mulkey, Roach and Patrick also had a prior lawsuit between them which resulted in a Settlement Agreement in 2016 (hereinafter "Prior Settlement Agreement").

G. On November 24, 2021, Sunnyside HOA filed a *Verified Complaint for Declaratory Judgment* ("Plaintiff's Complaint") initiating Case No. CV44-21-0480 (hereinafter "Subject Action"). Through the Subject Action Sunnyside HOA sought a declaratory judgment from the Court regarding Sunnyside HOA's authority over the Mulkeys' property, as well as its ability to enforce certain CC&Rs (Instrument No. 202542 and Instrument No. 209797, both filed in Washington County, Idaho) against the Mulkeys' property.

H. On February 4, 2022, the Mulkeys filed an *Amended Answer, Counter-Claim and Third-Party Complaint* ("Mulkeys' Counter-Claim and Third-Party Complaint") which alleged various causes of action against Sunnyside HOA, as a counterclaimant, and

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Roach and Patrick, as third-party defendants.

E. The Parties have agreed to settle their differences and to enter into this Agreement to memorialize the terms of their settlement and to resolve any and all claims that exist or may exist between the Parties.

AGREEMENT

NOW THEREFORE, in consideration of the mutual promises made by and among the Parties, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties each agree as follows:

1. MUTUAL RELEASE OF CLAIMS

In consideration of the Settlement Terms set forth in paragraph 2 of this Agreement the Parties mutually release each other from all past, present, and future claims and actions which were or could have been brought in the Subject Action—whether at law or in equity, under statute, in contract, or in tort; whether known or unknown, now existing or which may accrue later; whether for punitive or actual damages or harm—arising out of, relating to, resulting from, or in any way connected with the facts, circumstances, transactions, CC&Rs, Sunnyside HOA's governance, and other conduct at-issue in Sunnyside HOA's Complaint, the Mulkeys' Counter-Claim and Third-Party Complaint.

The Parties understand and agree that, by execution of this Agreement, they intend to release, and do release, any and all rights, claims, and actions against each other for damages, consequences, and attorney fees and costs that the Parties now have or that may accrue in the future on account of or in any way arising from, relating to, or resulting from any and all known and unknown, foreseen and unforeseen injuries and damages, including but not limited to injuries and damages and the consequences thereof arising out of, related to, or resulting from, or in any way connected with the facts, circumstances, transactions, CC&Rs, Sunnyside HOA's governance, and other conduct at-issue in Sunnyside HOA's Complaint and the Mulkeys' Counter-Claim and Third-Party Complaint.

2. SETTLEMENT TERMS

2.1 **Prior Settlement Agreement**. The Mulkeys, Roach, and Patrick previously entered into the Prior Settlement Agreement in another matter, a copy of which is attached hereto as **Exhibit "A"**. Except to the extent the terms of this Agreement directly conflict with the terms of the Prior Settlement Agreement, the terms of the Prior Settlement Agreement remain binding and enforceable on the Mulkeys, Roach, and Patrick.

2.2 **No Contact**. The Mulkeys, Roach, and Patrick agree that there shall be no contact and a minimum distance of 100 feet between the Mulkeys and Patrick and between the Mulkeys and Roach. They also agree to submit a Mutual No Contact Order for the Court to enter. Roach may have indirect contact with the Mulkeys, as provided below, with respect to the maintenance of the roadway.

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FEB 10 2023

2.3 **Use and Maintenance of the Roadway**. Roach will be permitted to access the portion of Airport Road that abuts 327 Airport Road, 333 Airport Road, and 339 Airport Road in Weiser, Idaho 83672 for recreational purposes. Patrick is not permitted to use the portion of Airport Road that abuts 327 Airport Road and 333 Airport Road for any reason. The responsibility for road maintenance shall be determined according to property line. The Mulkeys and their successors, including Alisha Horton, shall be responsible for the 2/3 of the road that abuts 327 Airport Road and 333 Airport Road. Roach/Patrick shall be responsible for the 1/3 of the road that abuts their property. Roach may contact the Mulkeys once a year regarding routine road maintenance, and this contact must be through Alisha Horton. Roach may have additional contact with Alisha Horton regarding road maintenance if there are circumstances impeding normal usage. Any decisions as to maintenance shall be by a per lot vote which will require a majority to take any affirmative action. As long as Roach/Patrick own property abutting Airport Road, Roach agrees to vote for the Roach/Patrick lot(s).

2.4 **Payment to Sunnyside HOA**. As consideration for this Agreement, the Mulkeys agree pay $3,800 to the trust account of Sawtooth Law Offices, PLLC on behalf of Sunnyside HOA. Sunnyside HOA, via its insurance, will pay $1,900 to the trust account of Brassey Crawford, PLLC on behalf of the Mulkeys.

2.5 **HOA and CC&Rs**. The Parties agree that the Mulkeys are not members of Sunnyside HOA and that Sunnyside HOA (and its affiliates, principals, successors, agents, or otherwise) shall have no power or authority over the Mulkeys, at any time, past, present or future. The Mulkeys owe no dues (past, present or future) and the HOA shall not seek to enforce any rules, CC&Rs or otherwise undertake any enforcement efforts of any kind against the Mulkeys. The CC&Rs at-issue in this matter (Instrument No. 202542 and Instrument No. 209797, both filed in Washington County, Idaho) shall be amended to conform to the agreement of the parties, with the amended CC&Rs to be agreed upon by the parties and subsequently recorded. Reed and Melinda Mulkey shall abide by the Amended CC&Rs. A true and correct copy of the Amended CC&Rs are attached to this Settlement Agreement as **Exhibit B**.

2.6 **Irrigation Pumps**. Sunnyside HOA will be responsible for the operation and maintenance of the Sunnyside HOA pump. Mulkeys will not have access to the Sunnyside HOA pump and will instead maintain and operate a separate pump and diversion to the Mulkeys' property. The Mulkeys will have their daughter, Alicia Horton, who is now the owner of Lot 100 (aka 333 Airport Road), move her pump and/or install a new pump to irrigation the property downstream of the Sunnyside HOA pump. Sunnyside HOA, Patrick, and Roach agree that Horton and the Mulkeys may move their points of diversion for one-half the water right for Lot 100 to the new pump located downstream of the Sunnyside HOA pump and that the Sunnyside HOA will not protest a transfer of the point of diversion. There is currently a pending transfer application filed by the Mulkeys with the Idaho Department of Water Resources and the Sunnyside HOA will withdraw its protest upon clarification that the diversion point for the property currently owned by Alicia Horton will be moved downstream.

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FEB 10 2023

3. **AUTHORITY TO EXECUTE AGREEMENT.** The Parties represent and warrant: (a) they have the full authority and all required approvals to execute this Agreement; (b) they have not assigned, transferred, conveyed or otherwise disposed of any interest or claim to be released hereunder, or any direct or indirect interest in any such claim, in whole or in part; and (c) to their knowledge, no other person or entity has any interest in any of the released claims or interests.

4. **COMPROMISE OF DISPUTED CLAIMS.** This Agreement represents the settlement and compromise of disputed claims. Neither the statements nor the promises contained herein are to be construed as an admission of liability on the part of any Party.

5. **WAIVER OF CONSTRUCTION AGAINST DRAFTER.** This Agreement was negotiated and approved by the Parties. Any rule that would otherwise require an ambiguity to be construed against the drafting Party is hereby waived.

6. **ADVICE OF COUNSEL.** Each Party to this Agreement acknowledges that he/she/it has had the benefit of advice, or the opportunity to obtain the advice, of competent legal counsel. The form of this Agreement has been approved by signature of each Party's respective counsel of record in the Subject Action.

7. **ENTIRE AGREEMENT.** The Parties declare and represent: (1) no promise, inducement, or agreement not expressed herein has been made to either of them by the other; (2) this Agreement contains the entire agreement between them (including attachments hereto) as to the subject matter of this Agreement; (3) the terms of this Agreement are contractual and not mere recitals; and (4) any modifications to this Agreement must be in writing and signed by both Parties hereto.

8. **ATTORNEY FEES AND COSTS.** If any Party to this Agreement is required to initiate or defend litigation in any way connected with this Agreement or to otherwise enforce or interpret the terms hereof, the prevailing Party in such litigation or action, whether legal or equitable, shall be entitled to reasonable attorney fees and costs in addition to any other relief which may be granted from the non-prevailing Parties, jointly and severally. Such attorney fees and costs shall include attorney fees and costs incurred on any appeal or in any bankruptcy proceeding.

9. **GOVERNING LAW.** This Agreement shall be construed and interpreted in accordance with Idaho law.

10. **SEVERABILITY.** If a court holds any provision of this Agreement to be illegal, unenforceable, or invalid in whole or in part for any reason, the validity and enforceability of the remaining provisions, or portions of them, will not be affected.

11. **EXECUTION IN COUNTERPARTS.** This Agreement may be signed in one or more counterparts, which when assembled together, shall constitute one instrument.

12. **DISMISSAL OF CLAIMS**. The Parties will execute a stipulation to dismiss the Subject Action, with prejudice, with each party to bear his/her/its own costs and attorneys fees. A

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FEB 10 2023

corresponding Judgment shall be filed that outlines the primary terms of this Agreement reached by the Parties.

13. **NON-DISPARAGEMENT CLAUSE.** Patrick and Roach shall not disparage the Mulkeys, or otherwise take any action which could reasonably be expected to adversely affect the Mukleys' reputation or otherwise cause them harm. Similarly, the Mulkeys shall not disparage Patrick and Roach, or otherwise take any action which could reasonably be expected to adversely affect Patrick and/or Roach's reputation or otherwise cause them harm.

(end of text)

THE UNDERSIGNED HAS READ THE FOREGOING RELEASE AND INDEMNITY AGREEMENT AND FULLY UNDERSTANDS IT.

_____
MARY SUE ROACH

STATE OF Idaho)
) ss.
County of _____)

On this _____ day of _____, 2022, before me, a Notary Public in and for said county and state, personally appeared MARY SUE ROACH, known or identified to me to be the person whose name is subscribed to the within and foregoing instrument, and acknowledged to me that he voluntarily executed the same.

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

Notary Public for _____
Residing at _____
My Commission Expires _____

SCANNED
FEB 10 2023

THE UNDERSIGNED HAS READ THE FOREGOING RELEASE AND INDEMNITY AGREEMENT AND FULLY UNDERSTANDS IT.

_____
ROBERT PATRICK

STATE OF Idaho)
) ss.
County of _____)

On this _____ day of _____, 2022, before me, a Notary Public in and for said county and state, personally appeared ROBERT PATRICK, known or identified to me to be the person whose name is subscribed to the within and foregoing instrument, and acknowledged to me that he voluntarily executed the same.

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

Notary Public for _____
Residing at _____
My Commission Expires _____

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FEB 10 2023

THE UNDERSIGNED HAS READ THE FOREGOING RELEASE AND INDEMNITY AGREEMENT AND FULLY UNDERSTANDS IT.

_____
MARY SUE ROACH
Signing on behalf of SUNNYSIDE ORACHARD HOMEOWNERS ASSOCIATION, INC. as Agent

STATE OF Idaho)
) ss.
County of _____)

On this _____ day of _____, 2022, before me, a Notary Public in and for said county and state, personally appeared MARY SUE ROACH, known or identified to me to be the person whose name is subscribed to the within and foregoing instrument, and acknowledged to me that he voluntarily executed the same.

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

Notary Public for _____
Residing at _____
My Commission Expires _____

SCANNED
FEB 10 2023

THE UNDERSIGNED HAS READ THE FOREGOING RELEASE AND INDEMNITY AGREEMENT AND FULLY UNDERSTANDS IT.

_____
REED MULKEY

STATE OF Idaho)
) ss.
County of _____)

On this _____ day of _____, 2022, before me, a Notary Public in and for said county and state, personally appeared REED MULKEY, known or identified to me to be the person whose name is subscribed to the within and foregoing instrument, and acknowledged to me that he voluntarily executed the same.

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

Notary Public for _____
Residing at _____
My Commission Expires _____

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FEB 10 2023

THE UNDERSIGNED HAS READ THE FOREGOING RELEASE AND INDEMNITY AGREEMENT AND FULLY UNDERSTANDS IT.

_____
MELINDA MULKEY

STATE OF Idaho)
) ss.
County of _____)

On this _____ day of _____, 2022, before me, a Notary Public in and for said county and state, personally appeared MELINDA MULKEY, known or identified to me to be the person whose name is subscribed to the within and foregoing instrument, and acknowledged to me that he voluntarily executed the same.

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

Notary Public for _____
Residing at _____
My Commission Expires _____

SCANNED
FEB 10 2023

THE UNDERSIGNED HAS READ THE FOREGOING RELEASE AND INDEMNITY AGREEMENT AND FULLY UNDERSTANDS IT.

_____
ALI~~C~~SH~~I~~A HORTON

STATE OF Idaho)
) ss.
County of _____)

On this _____ day of _____, 2022, before me, a Notary Public in and for said county and state, personally appeared ALI~~C~~SH~~I~~A HORTON, known or identified to me to be the person whose name is subscribed to the within and foregoing instrument, and acknowledged to me that he voluntarily executed the same.

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

Notary Public for _____
Residing at _____
My Commission Expires _____

SCANNED
FEB 10 2023

Hummer, Phill

From: Brandon Masingill <brandon@masingilllaw.com>
Sent: Wednesday, October 13, 2021 2:58 PM
To: Bryce Farris
Cc: Hersley, Jean; Hummer, Phill
Subject: Re: Cancelling Status Conference and Notice of Status Conference.pdf

Dear Phill,

Our firm has not a had a chance to meet with our client to find out if we will be representing them in this matter and how they would like to proceed. We have been trying to collect the information that is necessary so we can determine if we can help in this matter and course of action. Our firm is meeting with the clients next week and then we will be able to inform you if we are appearing and if so our unavailable dates.

Also, I would not be the one appearing in this matter, if we take the case. Eben Masingill, who practices in this area of law for our firm would be the one appearing.

Thank you for your understanding and sorry for any confusion.

On Tue, Oct 12, 2021 at 1:38 PM Bryce Farris <bryce@sawtoothlaw.com> wrote:

> Phill:
>
> I still have not heard anything more about his application and thus I am following up. I have also cc'd Brandon Masingill, who was apparently going to enter an appearance for the applicants, on this e-mail so he can respond as necessary.
>
> Thanks,

S. Bryce Farris

Attorney at Law

SAWTOOTH LAW OFFICES, PLLC

1101 W. River St., Ste. 110

Boise, ID 83702

Tel: (208) 629-7447

Fax: (208) 629-7559

bryce@sawtoothlaw.com

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FEB 10 2023

SAWTOOTH LAW
OFFICES, PLLC

From: Bryce Farris
Sent: Friday, September 10, 2021 10:53 AM
To: Hummer, Phill <Phill.Hummer@idwr.idaho.gov>
Cc: Hersley, Jean <Jean.Hersley@idwr.idaho.gov>
Subject: RE: Cancelling Status Conference and Notice of Status Conference.pdf

Phill:

My available dates for October are: October 7, 11-12, 18, 19, 27-29.

My available dates for November are: November 1, 2, 15-17, 29-30.

Thanks,

Bryce

From: Bryce Farris
Sent: Thursday, September 9, 2021 2:40 PM
To: Hummer, Phill <Phill.Hummer@idwr.idaho.gov>
Cc: Hersley, Jean <Jean.Hersley@idwr.idaho.gov>
Subject: RE: Cancelling Status Conference and Notice of Status Conference.pdf

Will do. I am meeting with my client tomorrow and will discuss their availability also and then respond.

Thanks,

SCANNED
FEB 10 2023

S. Bryce Farris

Attorney at Law

SAWTOOTH LAW OFFICES, PLLC

1101 W. River St., Ste. 110

Boise, ID 83702

Tel: (208) 629-7447

Fax: (208) 629-7559

bryce@sawtoothlaw.com

SAWTOOTH LAW
OFFICES, PLLC

From: Hummer, Phill <Phill.Hummer@idwr.idaho.gov>
Sent: Thursday, September 9, 2021 11:41 AM
To: Bryce Farris <bryce@sawtoothlaw.com>
Cc: Hersley, Jean <Jean.Hersley@idwr.idaho.gov>
Subject: RE: Cancelling Status Conference and Notice of Status Conference.pdf

Mr. Farris,

In anticipation of receiving the availability from the other party, will you please send in your availability for October and November. Thank you.

-Phill

From: Alisha Horton [mailto:arhorton2@gmail.com]
Sent: Wednesday, September 8, 2021 3:29 PM

SCANNED
FEB 10 2023

To: Bryce Farris <bryce@sawtoothlaw.com>
Cc: Hummer, Phill <Phill.Hummer@idwr.idaho.gov>; Hersley, Jean <Jean.Hersley@idwr.idaho.gov>
Subject: Re: Cancelling Status Conference and Notice of Status Conference.pdf

We were waiting on the availability of a lawyer who has been out of town. Your client stated under oath yesterday something to the effect that they didn't really have input in this protest and you just decided to file it without them understanding the contents. Is that accurate? Please clarify. We do not intend to withdraw our application at this time but would consider an agreement between parties regarding the situation. Hopefully we can come to a mutual agreement. Our lawyer will be in touch soon

On Wed, Sep 8, 2021, 2:46 PM Bryce Farris <bryce@sawtoothlaw.com> wrote:

All:

I haven't heard anything new on this since the e-mail below. Can someone please provide an update?

Alisha, I still have the same question as to whether the Applicant intends to withdraw the current application and move the point of diversion as was previously approved? If they intend use the point of diversion which was previously approved by the prior Transfer and downstream, then the current application would no longer be necessary. Please advise as to the Applicant's intent.

Thanks,

S. Bryce Farris

Attorney at Law

SAWTOOTH LAW OFFICES, PLLC

1101 W. River St., Ste. 110

Boise, ID 83702

Tel: (208) 629-7447

Fax: (208) 629-7559

bryce@sawtoothlaw.com

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FEB 10 2023

From: Hummer, Phill <Phill.Hummer@idwr.idaho.gov>
Sent: Monday, August 16, 2021 2:21 PM
To: Alisha Horton <arhorton2@gmail.com>; Hersley, Jean <Jean.Hersley@idwr.idaho.gov>
Cc: Bryce Farris <bryce@sawtoothlaw.com>
Subject: RE: Cancelling Status Conference and Notice of Status Conference.pdf

Alisha,

Thank you for bringing this issue to my attention. As you are aware a status conference is scheduled for tomorrow at 3:00 pm. Status conferences and other informal meetings related to contested cases are public meetings, attendance and participation in these meetings is open to any member of the public. It is IDWR's policy not to prevent people from attending status conferences. I do not think it is appropriate for me to specifically exclude Mr. Patrick from attending tomorrow's meeting. It is worth mentioning that enforcing protection orders or restraining orders is well beyond the role and authority of IDWR.

Considering IDWR meetings are public meetings and I do not want to put anyone in a position where they must choose between participating in the water rights process and other legal consequences. I think it would be best if I cancel the meeting scheduled for tomorrow. Please have Mr. Masingill contact IDWR as soon as possible and provide their availability so that I can reschedule this meeting.

Phill Hummer

Water Rights Supervisor

IDWR State Office

(208) 287-4925

From: Alisha Horton [mailto:arhorton2@gmail.com]
Sent: Saturday, August 14, 2021 9:22 AM
To: Hersley, Jean <Jean.Hersley@idwr.idaho.gov>

SCANNED
FEB 10 2023

Cc: Bryce Farris <bryce@sawtoothlaw.com>; Hummer, Phill <Phill.Hummer@idwr.idaho.gov>
Subject: Re: Cancelling Status Conference and Notice of Status Conference.pdf

Hello,

Our protection order hearing was supposed to be on Friday but was rescheduled at the last moment and the temporary protection order was extended until September 7th (Case #CV44-21-002). This states that Robert Patrick must not contact us by phone or other method. I'm requesting that Patrick not be on the call, just Mary Sue Roach and Mr. Farris. On the last call we were under the impression that it would just be Mr. Farris who was the one cc'd on the correspondence . When Patrick suddenly came on the call after I was already on it, they tried to make me get off, which is not how a protection order works. Also, this is regarding my property with which I am under contract with my parents and I'm the one paying for the work. I'm assisting my father Reed Mulkey in this process, as he needs assistance. If it doesn't work to not have Mr. Patrick on the call, then we will need to have our attorney Brandon Masingill do this call instead and would need it rescheduled to a time that works for him.

Thank you,

Alisha Horton

On Thu, Jul 22, 2021 at 11:29 AM Hersley, Jean <Jean.Hersley@idwr.idaho.gov> wrote:

> I have attached the new Notice of Status Conference. Please ignore the first notice that went out in today's mail. Please let me know if you have any questions. Thank you.
>
> *Jean Hersley*
>
> *Technical Records Specialist II*
>
> *Idaho Dept Water Resources*
>
> *(208) 287-4942*

--
Sincerely,

Brandon Masingill

SCANNED
FEB 10 2023

Attorney at Law
Masingill Law, P.A.
P.O. Box 467
Weiser, Idaho 83672
Phone: (208) 414-0665
Fax: (208) 414-0490

Confidentiality Notice:
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SCANNED
FEB 10 2023

Hummer, Phill

From: Hummer, Phill
Sent: Tuesday, July 27, 2021 9:47 AM
To: 'reedmulkey@gmail.com'; 'bryce@sawtoothlaw.com'
Subject: App Transfer 84717 Water Rights Summary
Attachments: 3-10233 & 3-10234 Water Rights Summary.docx

Parties,

During the status conference held July 20, 2021 I volunteered to write a summary of the water rights record specifically describing the location of the point(s) of diversion historically, currently, and the changes proposed on the application for transfer 84717 form. The purpose of this summary is to provide clarification to the proposed project.

A follow up conference has been scheduled for August 17, 2021 to discuss the proposed project, the concerns of Sunnyside Orchard HOA, and the potential for resolution. Please read the attached water rights summary and let me know if you have any questions about *what is written in the summary*. All other matters will need to be discussed during the scheduled conference.

Phill Hummer
Water Rights Supervisor
IDWR State Office
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Water Rights 3-10233 and 3-10234 History and Explanation of Transfer 84717

Prior Transfer Application and Current Authorization

Application for transfer 84186 was received June 24, 2020 proposing to *change* the point of diversion for water rights 3-10233 and 3-10234 to a new location that is separate from other pumps also diverting water from the Snake River. According to the water right reports submitted with the application the authorized POD at the time for both rights was within government lot 2(NESW) Section 17, Township 10 North, Range 05 W, BM. The proposal was further demonstrated by an included map which showed the current location near Airport Rd and the proposed location about 910 feet downstream (to the northwest on the map). Figure 1 demonstrates the proposed change.

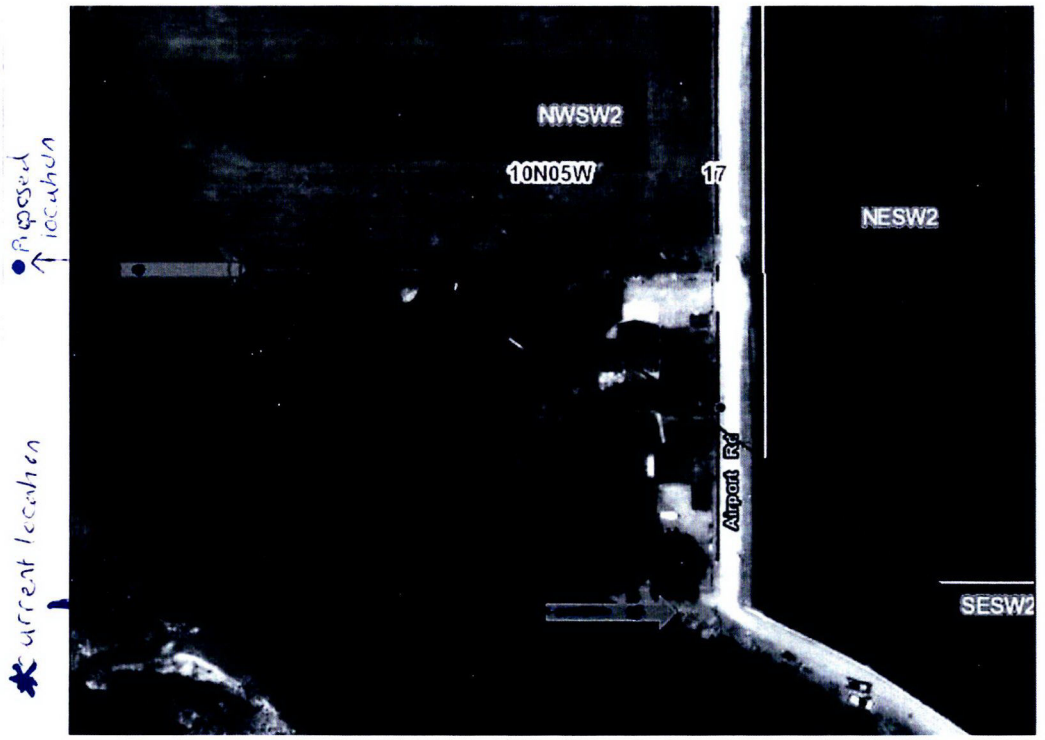


Figure 1. A portion of the map included with application for transfer no. 84186. The arrows indicate the POD locations.

Transfer application 84186 was approved on July 28, 2020. The approval document listed to POD for both water rights as L2 (NWSW) Section 17, Township 10N, Range 05W, BM. As shown on Figure 2.

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Figure 2. A portion of the approval map for transfer no. 84186, the purple dot shows the authorized POD following the transfer approval.

Note the location of the point of diversion show in Figure 2 is the currently authorized location for *both* water rights no. 3-10233 and no. 3-10234.

New Transfer Application and Proposal

Application for transfer no. 84717 was received on February 10, 2021 proposing to *add* a new point of diversion location for water rights no. 3-10233 and 3-10234. The application form indicated the proposal is to add a second point of diversion in Lot 2(NWSW) Section 17, Township 10N, Range 05W, BM. According to the application information this location would be in addition to the location authorized by transfer 84186. The map attached to transfer application 84717 appears to be identical to the map included with transfer application 84186, it is assumed the location marked "Current Location" is now the proposed additional POD.

What this means is that on paper (the application form), the proposal is to add the original location before transfer 84186 was approved back onto *both* water rights. Figure 3 demonstrates what the water rights would look like if transfer application 84717 was approved, in terms of the points of diversion and place of use only.

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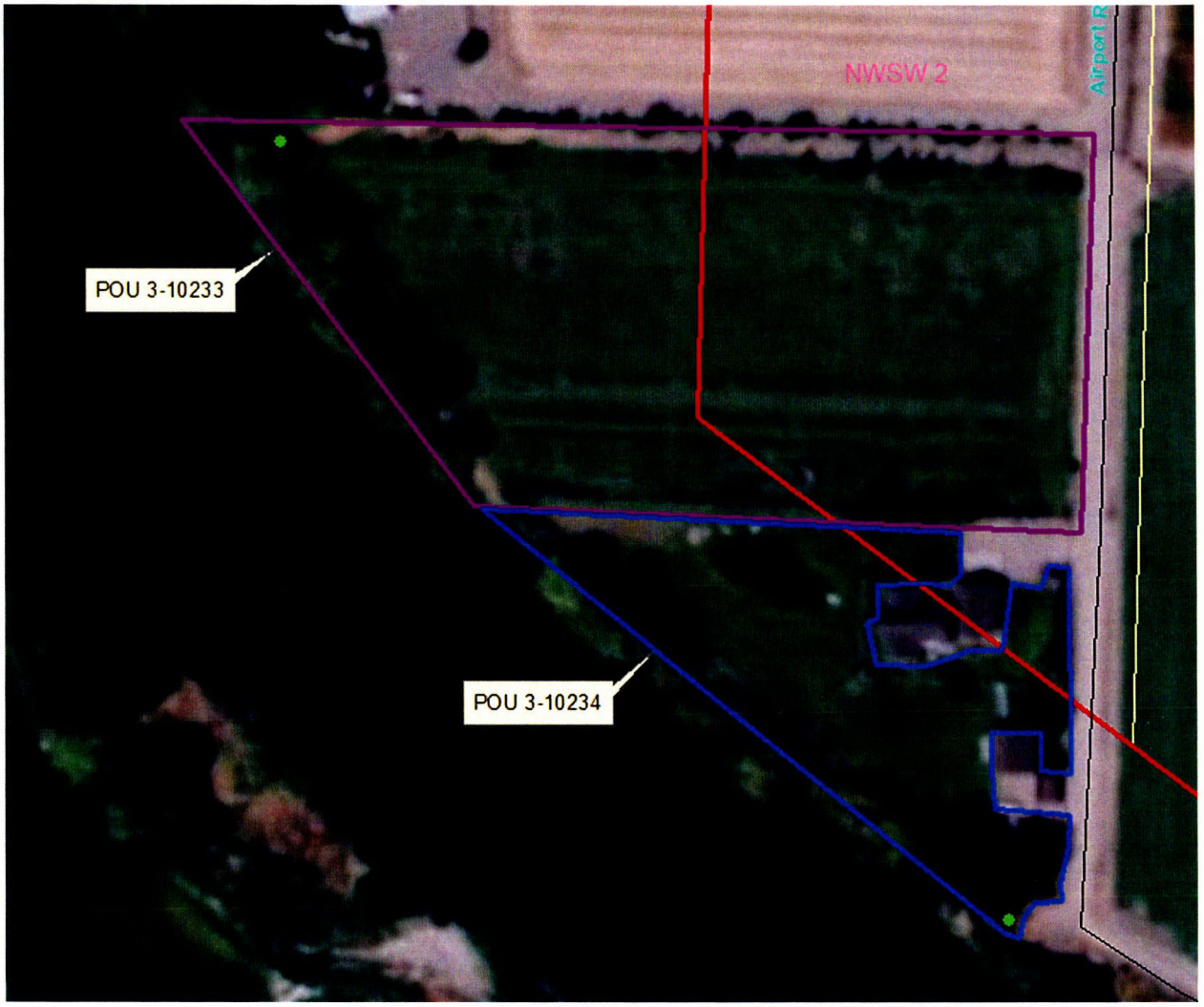


Figure 3. Green dots are the locations of the two points of diversion for both water rights as proposed by transfer application 84717.

Potential Changes to the New Application

On July 20, 2021 IDWR held a status conference with the applicant and protestant to discuss the project proposal and concerns of the protestant. During the conference there was some confusion regarding the history of these two rights and the proposed project, hopefully the previous discussion clarified what actions have occurred and what this current application proposes. Additionally, it was mentioned by Alisha Horton (acting as a representative of Reed Mulkey, co-applicant) that the applicants intent to set up 2 separate water distribution systems, one system for each water right, and that each water rights would have a different point of diversion. This idea is conveyed in Figure 4.

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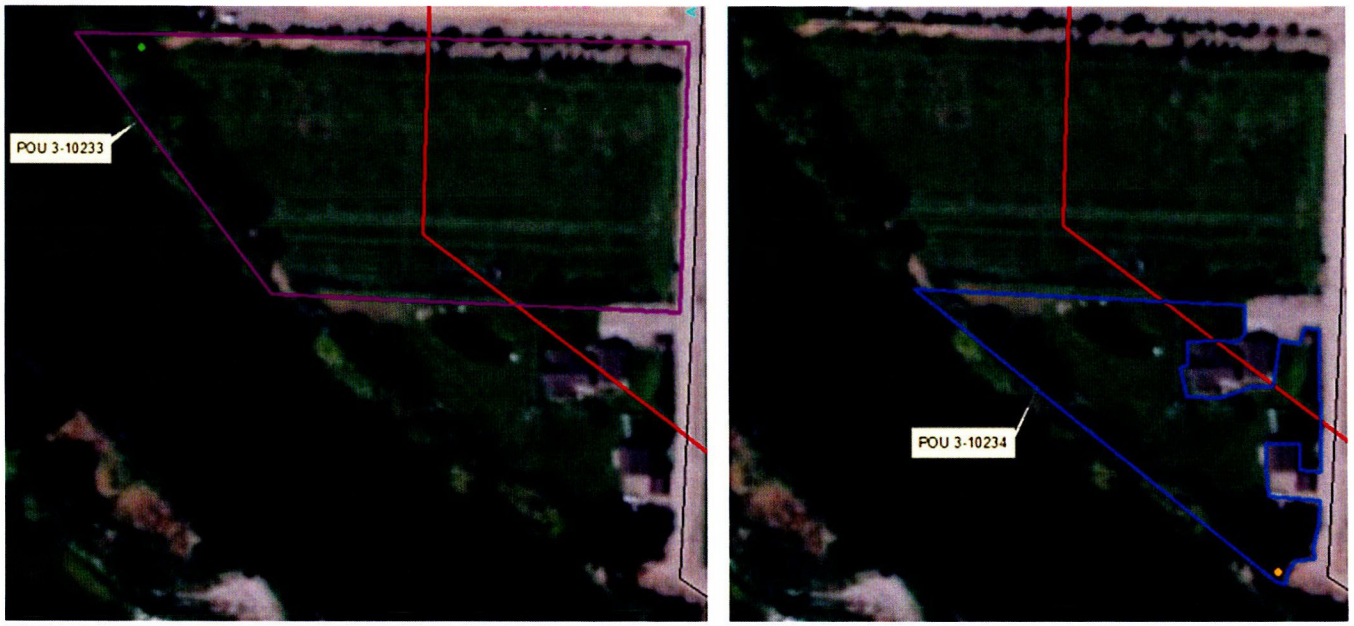


Figure 4. The place of use boundary in purple and point of diversion location as a green dot for right 3-10233 is shown on the left side image. The place of use boundary in blue and point of diversion location as an orange dot for right no. 10234 is shown on the right side image.

Hopefully these descriptions and related figures provide clarification. Included below are some tables showing the PLSS descriptions for the point of diversions in each situation that may also be useful. Note that in all situations the point of diversion is located on un-surveyed land as evidence by the red line (township line) running through the middle of the property in each figure. The QQ descriptions listed in the summary and on the following tables are based on projected lines of the PLSS layer used by IDWR staff.

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Table 1. PLSS descriptions of the point(s) of diversion for both rights in each of the summary Figures.

Figure 1

Water Right No	Township	Range	Section	GL	QQ	Current/Proposed
3-10233	10N	05W	17	2	NESW	Current
	10N	05W	17	2	NWSW	Proposed
3-10234	10N	05W	17	2	NESW	Current
	10N	05W	17	2	NWSW	Proposed

Figure 2

Water Right No	Township	Range	Section	GL	QQ	Current/Proposed
3-10233	10N	05W	17	2	NWSW	Current
3-10234	10N	05W	17	2	NWSW	Current

Figure 3

Water Right No	Township	Range	Section	GL	QQ	Current/Proposed
3-10233	10N	05W	17	2	NWSW	Current
	10N	05W	17	2	NESW	Proposed
	10N	05W	17	2	NWSW	Proposed
3-10234	10N	05W	17	2	NWSW	Current
	10N	05W	17	2	NESW	Proposed
	10N	05W	17	2	NWSW	Proposed

Figure 4

Water Right No	Township	Range	Section	GL	QQ	Current/Proposed
3-10233	10N	05W	17	2	NWSW	Current (unchangec
3-10234	10N	05W	17	2	NWSW	Current
	10N	05W	17	2	NESW	Proposed

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