

MEMO

TO: IDWR File for Water Rights 25-2169, 25-2170 and 25-10900

FROM: James Cefalo

DATE: August 25, 2023

RE: Revised Ownership Changes

The Snake River Basin Adjudication (SRBA) Court issued partial decrees for water rights 25-2169, 25-2170 and 25-10900 on September 30, 2005. The water rights included the following elements:

Right No. 25-2169

Decreed Owner: JoAnn Lance

Priority Date: 1/15/1955

Quantity: 2.00 cfs, 400 af

Place of Use: 100 acres within a 172-acre permissible place of use

172 acres = 111 acres in Section 3, T04N, R37E; Section 34, T05N, R37E

61 acres in Section 35, T05N, R37E

Right No. 25-2170

Decreed Owner: JoAnn Lance

Priority Date: 5/26/1967

Quantity: 0.62 cfs, 263 af

Place of Use: 111 acres within a 172-acre permissible place of use (same as described above)

Right No. 25-10900

Decreed Owner: L&S Farms Inc.

Priority Date: 4/1/1985

Quantity: 1.16 cfs, 244 af

Place of Use: 61 acres within a 172-acre permissible place of use (same as described above)

Enlargement of water rights 25-2169 and 25-2170

All three water rights included a condition limiting the three rights, in combination, to a diversion rate of 2.22 cfs, an annual diversion volume of 688 acre-feet, and the irrigation of 172 acres. The three water rights shared the same 172-acre permissible place of use.

Water rights 25-2169 and 25-2170 were originally developed to irrigate 111 acres in Section 3, T04N, R37E and Section 34, T05N, R37E. At the time the rights were developed, the property was owned by the Qualman family. Qualman eventually sold the acres in Sections 3 and 34 to the Lance family. In February 1988, Jack Lance and his neighbor, John Stone, formed a corporation called L&S Farms Inc. The Lance family owned the 111 irrigated acres in Section 3, T04N, R37E and Section 34, T05N, R37E. Stone owned approximately 61 irrigated acres in Section 35, T05N, R37E. L&S Farms farmed the Lance and Stone properties using water from the ground water well authorized under water rights 25-2169 and 25-2170.

In the SRBA, JoAnn Lance filed claims for water rights 25-2169 and 25-2170. Stone filed a claim for water right 25-10900, an enlargement of rights 25-2169 and 25-2170, which reflected the use of ground water on the 61-acre Stone property. While the claims were pending in the adjudication, Roxine Stone (widow of John Stone) sold her 61-acre parcel to L&S Farms. Stone also sold her interest in L&S Farms to Trevor Lance (son of Jack and JoAnn), who continues to operate under the name L&S Farms Inc. Because the Stone (L&S Farms) water right 25-10900 is an enlargement right, it is dependent on the underlying base rights, 25-2169 and 25-2170, to supply the authorized rate for the enlarged acres. Because of this interdependence, the SRBA Court issued decrees for the three rights with a combined 172-acre permissible place of use. The Lance family has never owned the 61 irrigated acres on the L&S property. Stone and L&S Farms have never owned the 111 irrigated acres on the Lance property.

Although the three water rights were decreed with a common 172-acre permissible place of use, the water rights do not overlap. Water rights 25-2169 and 25-2170 are appurtenant to the 111 acres originally owned by Lance. Water right 25-10900 is appurtenant to the 61 acres originally owned by Stone (now owned by L&S Farms). Any other arrangement of the rights would make it very difficult to complete an ownership change. If all three rights are considered appurtenant to both properties and L&S Farms sold its parcel, the new owner would become the owner of water right 25-10900 through the deed for the property but would not become the owner of water rights 25-2169 and 25-2170. To gain an ownership interest in those rights, the new owner of the L&S parcel would have to track down JoAnn Lance or her posterity to have them convey a portion of water rights 25-2169 and 25-2170 in a separate transaction.

To eliminate any ambiguity in the water right ownership records, the Estate of JoAnn Lance and the current owner of the Lance property (5-L LLC) requested that the L&S property be removed from the authorized place of use for water rights 25-2169 and 25-2170. In other words, water rights 25-2169 and 25-2170 will be restored to their original 111-acre place of use. Further, the place of use for water right 25-10900 will be limited to the 61 acres owned by L&S Farms.

The water rights have been updated as follows:

Right No. 25-2169

Owner: 5-L LLC

Priority Date: 1/15/1955

Quantity: 2.00 cfs, 400 af

Place of Use: 100 acres within 111 acres in Section 3, T04N, R37E and Section 34, T05N, R37E

Right No. 25-2170

Owner: 5-L LLC

Priority Date: 5/26/1967

Quantity: 0.62 cfs, 263 af

Place of Use: 111 acres in Section 3, T04N, R37E and Section 34, T05N, R37E

Right No. 25-10900

Owner: L&S Farms Inc.

Priority Date: 4/1/1985

Quantity: 1.16 cfs, 244 af

Place of Use: 61 acres in Section 35, T05N, R37E (enlargement of rights 25-2169 and 25-2170)