RECEIVED
SEP 23 2022
DEPARTMENT OF WATER RESOURCES

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED
SEP 22 2022
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.

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)** KILLGORES SALMON RIVER FRUIT CO. Phone 208-839-2255
2. **MAILING ADDRESS** 13309 HWY 95S #1 City WHITEBIRD
   State ID. Zip 83554-5089 Email

☐ 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.

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

☐ 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.

☐ 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)** 79-14233

☐ 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 2.12 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.

☐ 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 #
	6		NE	SE	22	27N	1E	IDAHO	JOE CREEK	

86922

Transfer No. _____

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:

SEE ATTACHMENT #1

b. Who owns the property at the point(s) of diversion? ERNIE ROBINSON
If other than the applicant, describe the arrangement enabling the applicant to access the property for the diversion system:

VERBAL AGREEMENT

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:

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.

Signature of applicant or authorized agent	Print name and title if applicable	Date
	Kurt Killgore	
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 09/22/2022

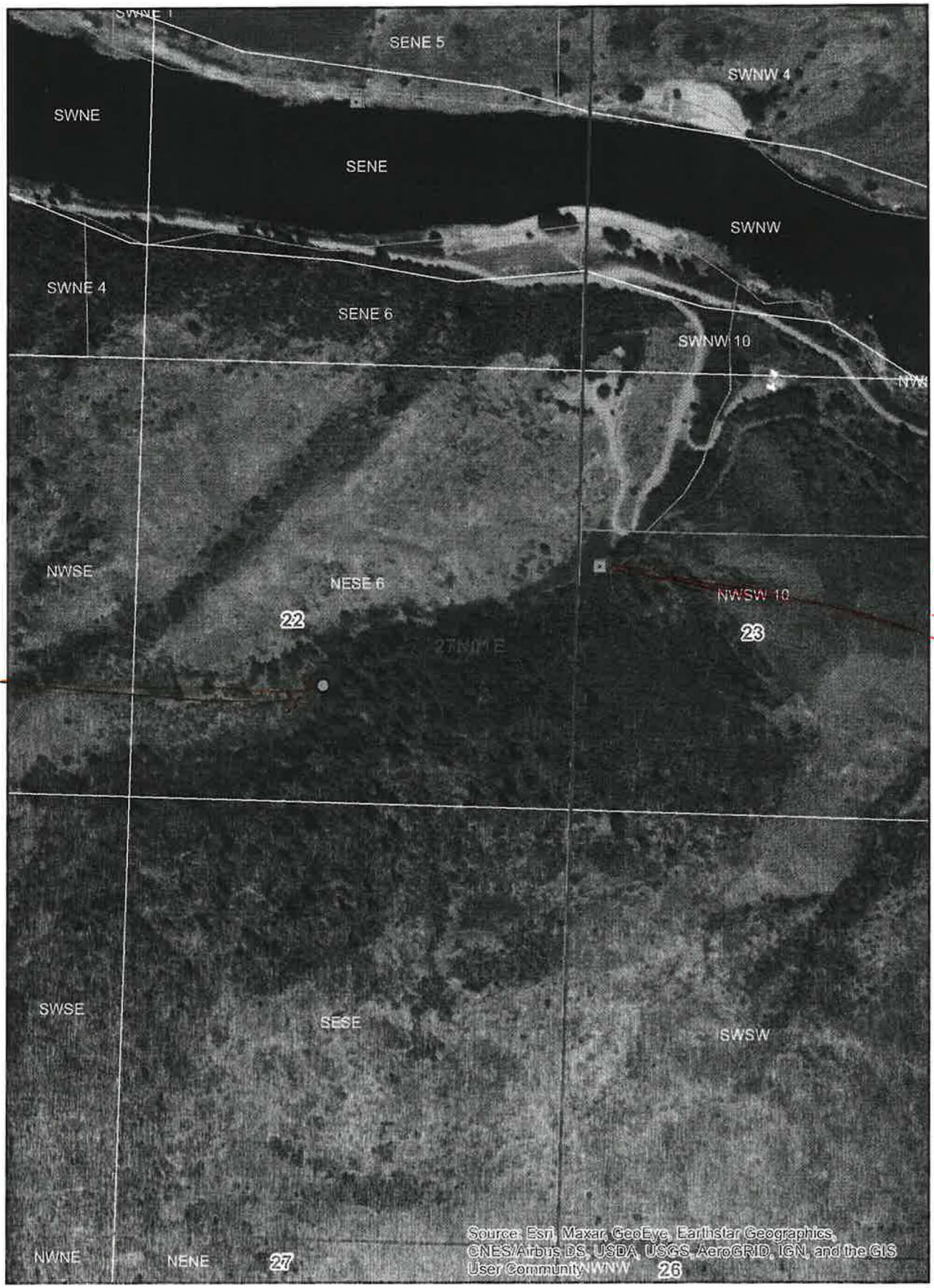
Fee paid $50.00 Date 09/22/2022 Receipted by LE Receipt # W050769

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)

86922



POINT OF DIVERSION

OLD POINT OF DIVERSION

86922

0004851440

STATE OF IDAHO
Office of the secretary of state, Lawerence Denney
ANNUAL REPORT
Idaho Secretary of State
PO Box 83720
Boise, ID 83720-0080
(208) 334-2301
Filing Fee: $0.00

For Office Use Only
-FILED-
File #: 0004851440
Date Filed: 8/7/2022 4:17:53 PM

Entity Name and Mailing Address:

Entity Name:	KILLGORE'S SALMON RIVER FRUIT CO.
The file number of this entity on the records of the Idaho Secretary of State is:	0000160808
Address	13309 HIGHWAY 95 S WHITE BIRD, ID 83554-5089

Entity Details:

Entity Status	Active-Good Standing
This entity is organized under the laws of:	IDAHO
If applicable, the old file number of this entity on the records of the Idaho Secretary of State was:	C49701

The registered agent on record is:

Registered Agent	KURTIS KILLGORE Registered Agent Physical Address 3252 WATERFRONT DR WHITEBIRD, ID 83554 Mailing Address

Corporate Officers and Directors:

Name	Title	Business Address
Kurtis C Killgore	President	3252 WATERFRONT DRIVE WHITE BIRD, ID 83554
Lesly R Killgore	President	3252 WATERFRONT DRIVE WHITE BIRD, ID 83554

The annual report must be signed by an authorized signer of the entity.
Job Title: bookkeeper

Jenny L Hanson — Sign Here
08/07/2022 — Date

B0730-1271 08/07/2022 4:17 PM Received by ID Secretary of State Lawerence Denney

86922

Page 1 of 1

IDAHO DEPARTMENT OF WATER RESOURCES

WATER RIGHT REPORT

9/22/2022

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report

WATER RIGHT NO. 79-14233

Owner Type	Name and Address
Current Owner	KILLGORES SALMON RIVER FRUIT CO 13309 HIGHWAY 95 S # 11 WHITE BIRD, ID 83554-5089 2088392255

Priority Date: 04/01/1965

Basis: Decreed

Status: Active

Source	Tributary
JOE CREEK	SALMON RIVER

Beneficial Use	From	To	Diversion Rate	Volume
IRRIGATION	02/15	11/30	2.12 CFS	
Total Diversion			2.12 CFS	

Location of Point(s) of Diversion:

JOE CREEK | NWSW | Sec. 23 | Township 27N | Range 01E | IDAHO County

Place(s) of use:

Place of Use Legal Description: IRRIGATION IDAHO County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
27N	01E	23		NENE	3.6	1	NENE	31		NWNE	5.2	5	NWNE	6.5
				SWNE	1	5	SWNE	16.7	6	SENE	19			
		24		NWNW	1	2	NWNW	14	2	SWNW	8			

Total Acres: 106

Conditions of Approval:

86922

1.	P21	This right is a split from former right no. 79-4001.
2.	C18	This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.
3.	E60	Right Nos. 79-14231 and 79-14233 are limited to a total combined diversion rate of 2.12 cfs and to a total combined annual diversion volume of 424.0 AF.
4.	C05	Right includes accomplished change in place of use pursuant to Section 42-1425, Idaho Code.
5.	E55	Right Nos. 79-14231 and 79-14233 are limited to the irrigation of a combined total of 106 acres in a single irrigation season.

Dates:

Licensed Date:

Decreed Date: 05/31/2011

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal: S

Owner Name Connector:

Water District Number: NWD

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Civil Case Number:

Old Case Number:

Decree Plantiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

LP 86922

ATTACHMENT 1

MEMO

State of Idaho
Department of Water Resources
322 E Front Street, P.O. Box 83720, Boise, Idaho 83720-0098
Phone: (208) 287-4800 Fax: (208) 287-6700

Amendment to Memo Dated April 10, 2015

Date: July 1, 2015

To: Bryce Farris, Attorney for Killgore's Salmon River Fruit Co. ("Killgore")
Al Barker, Attorney for Daryl and Linda Mullinix ("Mullinix")

From: Tim Luke, Water Compliance Bureau

Subject: Measuring Device Recommendations for Killgore-Mullinix Pipeline Diversion from Joe Creek, near Lucille, Idaho

On October 20, 2014, Judge John R. Stegner, ordered the above referenced parties to arrange for a representative of the Idaho Department of Water Resources ("IDWR" or "Department") to meet with the parties at the diversion on Joe Creek in order for the Department to "recommend an objective water flow measurement device for use at the diversion." *Order Requiring Measuring Device and Irrigation Schedule at 2, Case No. CV-2012-41783(2d Jud. Dist. Ct. 2014).*

On April 2, 2015, I visited with Daryl Mullinix, Heather Killgore, and Kurt Killgore, at the Joe Creek diversion site. A summary of my visit and observations of the diversion and conveyance system are described below, followed by a recommendation for measuring devices.

Creek Diversion and Bubbler System:
The creek diversion consists of a steel frame diversion box set in the creek with a steel slide head gate to control flow to an approximate 8 inch steel pipe (8.60 inch outside diameter "OD"). The 8 inch steel pipe runs approximately 50 feet to a vertical 8.5 inch inside diameter ("ID") steel pipe centered in an approximate 42 inch (3.5 ft) wide by 4 ft high steel cylinder bubbler system. Water discharges from the vertical pipe to the atmosphere above the cylinder and falls on a steel mesh rack with a screen cover to filter trash and debris from the water. Water drops through the screen rack and into the cylinder then discharges from the cylinder to an 8 inch steel pipe (8.05" OD) which runs approximately 70 inches (nearly 6 ft) before making an elbow connection to an 8 inch PVC pipe. A very short section of PVC pipe is exposed before sloping below grade and being buried.

The bubbler canister is mounted to a rectangular steel catchment basin or tray with an outlet spout to direct any water spilling or splashing over the canister from the trash rack back to the creek. The Killgore's stated that the water level in the bubbler canister varies depending on flow from the creek and demand in the system. Water at times may fill the canister and spill over the

86922

canister into the catchment tray and return to the creek. The water level may fill the canister partially and submerge the intake of the 8 inch discharge pipe, or if demand is high and/or creek flow is minimal, the water level in the canister may be below the top of the mainline discharge pipe and only partially fills the 8 inch mainline discharge pipe exiting the bubbler.

The 8 inch PVC mainline pipe discharging from the bubbler is buried for its entire length below the bubbler, except for a short section of 8 inch PVC pipe that tees off the mainline at a location about 890 ft in distance below the bubbler. This section of pipe that tees off the mainline can discharge or return some water back to the creek. The length of pipe that tees from the mainline is buried and may be up to 10 to 12 ft in length, with the last 1 to 2 ft exposed. The exposed section of PVC pipe above the creek has a lockable butterfly valve to control flow or spill to the creek. The Killgores explained that this discharge pipe is used to reduce pressure in the mainline pipe as needed.

The elevation of the creek head gate diversion and bubbler is estimated to be about 1,860 ft, based on GPS field coordinate location and interpretation from the USGS topographic map at 1:24,000 scale.

During the visit, I noted a 2 inch polyethylene ("poly pipe") connected to the bubbler canister that conveys water from the canister down to the Robinson residence located above the mouth of Joe Creek at the Salmon River. The pipe and water conveyance is used to irrigate a yard and trees around the Robinson residence. I estimate the irrigated area to be close to one-half acre. The parcel is located in the SWNW and NWSW of Section 10, T27N, R1E. This irrigation use is not included on any water right and may be considered an unauthorized use. The Killgores mentioned that they could transfer a portion of their water right to Robinson to cover the use. I also observed a second 2 inch poly pipe about half way down the path between the bubbler and the road to the Robinson residence that was coming off the canyon slope above the creek, perhaps from a spring or other water source. This poly pipe appeared to be connected or tied into the poly pipe from the bubbler. I found no water right that might be attributed to this pipe or potential diversion.

Mainline Pipe and Mullinix Re-diversion Pipe

The 8 inch PVC buried mainline follows a contour grade out of the Joe Creek canyon and runs east in a former ditch grade that is prominent between the Mullinix irrigated field and property/fence line. Near the southwestern corner of the Mullinix field, is a buried lateral pipe coming off the mainline to divert water to the Mullinix irrigation sprinkler system. A control valve pipe, irrigation riser connection/control valve, and air relief valve were observed above grade and above the buried lateral pipe. Mr. Mullinix stated that the lateral pipe from the Joe Creek mainline is a 2 inch plastic pipe that connects to a 4 inch lateral irrigation line with risers for connecting sprinkler hand lines. Mullinix estimated that the valve control on the lateral pipe off of the mainline is about 4 ft from the mainline.

About 50 ft east of the 2 inch Mullinix lateral pipe is a 4 inch plastic lateral pipe that is connected to the mainline from Joe Creek. This lateral pipe is not used. It is shut off by a closed control valve that has no control handle or mechanism. Mullinix stated that the Killgore's removed the pipe connection and cut off the control handle/mechanism after Mullinix first installed this pipe. The Mullinix lateral pipes are located at an elevation of roughly 1,635 ft.

86922

From the Mullinix lateral pipes, the Joe Creek mainline extends east about 1,150 ft, then goes down a grade and to the northeast along the Mullinix fence line, under the Mullinix driveway, and along the Karl Killgore fence line to Highway 95. According to Heather Killgore, the eight inch mainline reduces to six inches for approximately 80 to 100 feet before the pipeline leaves the Mullinix property. The pipe goes back to eight inches where it leaves the Mullinix property and goes down the grade towards the highway along the Mullinix fence line and the Carl Killgore fence line[1]. Daryl Mullinex stated that the 8 inch line reduces to a six inch line for approximately 250 ft. going through an inverted siphon. The reduction begins 80 to 100 ft. inside his property line but runs 250 ft[2]. The surface elevation by the entrance of the Carl Killgore property near the highway is roughly 1,570 ft. The mainline reduces to six inches again where it crosses the highway, then goes back to eight inches and extends east to the Killgore place of use which includes open irrigated hay fields and the Kilgore Horseshoe Bend sub-division. The irrigated fields at the top of the hill in the Killgore horseshoe bend area is over 1,680 ft.

The Killgore's explained that the mainline connects to a second pressurized mainline that conveys water pumped from the Salmon River. The two mainlines connect somewhere behind the old fruit stands and in the field between the fruit stands and the sub-division road to the north. From this point, a mainline extends further east and up the Killgore's horseshoe bend hill to irrigate hay fields on top of the hill and around the hill. A lateral pipe or mainline also extends from the commingled Joe Creek-Salmon River mainline to the sub-division for irrigation purposes. This pipe comes off the mainline at or near the connection between the Joe Creek mainline and the Salmon River pump mainline. The Killgores stated that there is no control or check valve on the Joe Creek mainline to prevent water from the Salmon River pump going back up the Joe Creek mainline towards the Mullinix property and Joe Creek.

Measuring Device Recommendations

The Department recommends permanent installation of two flow meters has follows:

- Install a magnetic or ultrasonic flow meter on the Joe Creek 8" mainline at a point just downstream of the Mullinix lateral pipe that comes off the Joe Creek mainline; and

- Install a magnetic or ultrasonic flow meter on the Mullinix lateral pipe coming off the Joe Creek 8 inch mainline. IDWR recommends installing the meter on the lateral pipe above the lateral pipe control valve assuming enough straight length of pipe exists between the mainline and the valve as per meter manufacturer specifications.

The location of the two meters would be on the Mullinix property but the two parties agreed during the site visit that a decreed easement exists for the mainline across the Mullinix property and that Killgores have a right to access the pipeline across the Mullinix property within the decreed easement. Installation of meters at this location will allow both parties to inspect both meters. IDWR recommends that the users install the same type of meter on both pipe lines for purpose of consistency and to minimize additional disputes.

IDWR maintains a published *"List of Approved Closed Conduit Flow Meters"* which is available at the Department's website using the following link:

[1] Personal communication with Heather Killgore, June 22, 2015.
[2] E-mail communication from Daryl Mullinix dated June 24, 2015.

86922

http://idwr.idaho.gov/WaterManagement/WaterMeasurement/PDFs/Approved_flow_meter_list.pdf

The recommended installation location has no accessible power supply. Therefore, the users need to install meters that operate using an internal battery power supply. Given the connection between the Joe Creek mainline and the mainline from the Killgore Salmon River pump, and potential for water pumped from the Salmon River to move up the Joe Creek mainline (towards Mullinix and Joe Creek), IDWR recommends that the meter installed on the Joe Creek mainline be capable of measuring bi-directional flow (upstream and downstream flow directions). There is at least one or more magnetic or ultrasonic meters on IDWR's approved meter list that have both an internal battery power option and bi-directional flow measurement/display. Examples include the Siemens Magflow 8000 meter, and the Netafim Octave ultrasonic meter. Costs for these meters may range between $2,500 and $3,800 depending on pipe size and type of meter selected. Mag and ultrasonic meters are full profile flow meters, meaning that there must be full pipe flow for the meters to operate and measure flow accurately. IDWR believes the recommended meter installation locations will have full pipe flow conditions at all times except when the pipes are drained or being drained.

The Killgores have suggested that a measuring device be installed at or near the creek head gate above the bubbler or perhaps immediately below the bubbler. The Department disagrees with this suggestion. A meter installed on the pipeline above the bubbler will measure the total flow to the bubbler, including water that may spill back to the creek at the bubbler and/or from the mainline through the pressure relief spill pipe/valve located about 900 ft downstream of the bubbler. Water that spills back to the creek is not captured by the mainline and is not available for use by the parties. A meter above the bubbler will not measure the actual amount of water diverted to the mainline and available for use by the parties. IDWR does not understand how measurement of water that may include a portion of water returning to the creek upstream of any water use from the pipeline is going to be helpful towards resolving distribution issues on the pipeline. Additionally, any meter installed on the mainline immediately below the bubbler may not measure water at all times given that the Killgores explained that the mainline at that location is not always a full flowing pipe.

The measuring device recommendations herein are the recommendations of IDWR only. IDWR understands that the parties may propose alternative recommendations to which they agree.

Alternative Suggestion - Rotation Schedule

IDWR is aware that the District Order from October 20, 2014 also ordered the parties to "engage in good faith negotiations to prepare and submit a stipulated irrigation schedule by January 1, 2015." The Department is not aware of whether any such irrigation schedule has been negotiated between the parties, although the parties did discuss some arrangement during the field visit in which Killgore receives up to the first 1 to 1.5 cfs of water in the pipeline, and Mullinix receives the remaining available flow or "excess" water. There was mention that the parties had agreed to this arrangement and/or the Court had approved it. If such a distribution arrangement exists, then measuring devices would be necessary to implement it. However, measuring devices may not necessarily be needed if the parties can agree on an irrigation time schedule where water use is split proportionally on the basis of the authorized rates of flow or irrigated acres. Of course, this alternative would not confirm whether or not the diversions are within the limits of the water rights. This alternative concept was not discussed with the parties during the field visit.

Water Rights Points of Diversion and Place of Use Description Issues

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The IDWR site visit and subsequent review of water rights resulted in the identification of problems with point of diversion and place of use descriptions for water rights owned by both Mullinix and Killgore. The description issues are as follows:

- The point of diversion described on the Joe Creek water rights 79-14233 (Killgores) and 79-14234 (Mullinex) is the NWSW, Section 23, T27N, R1E. The actual point of diversion location, based on IDWR GPS location, is the NESE Lot 6, Section 22, T27N, R1E. IDWR recommends both Mullinix and Killgore change the described points of diversion by filing water right transfer applications.
- The Mullinix Salmon River right 79-14232 lists two points of diversion in the SWNE Lot5, and SENE Lot 6, of Section 23, T27N, R1E. These points of diversion are near the Killgore Salmon River pump station and are the same points of diversion as the Killgore's Salmon River right 79-14231. IDWR understands that the Mullinix river pump station is located either in the SENW or NESW of Section 23, T27N, R1E. IDWR recommends Mullinix change the described point of diversion by filing a water right transfer application.
- IDWR understands that Killgore has one river pump station or point of diversion location from the Salmon River, located within the SWNE Lot 5, Section 23, T27N, R1E. If this is correct, consideration should be given to removing the other point of diversion description from the water right.
- IDWR observed two hose bib taps off the Joe Creek main pipeline along the fence line on the Carl Killgore property and south of the highway. Although any water use from these taps may be minimal, the Carl Killgore property is not included as a place of use on any water rights. Consideration should be given to including this property on the Killgore water rights or simply cease diversion of water from the taps, or remove the taps.
- As noted previously in this memo, there is no water right authorization for the irrigation of up to one-half acre on the Robinson property using water from the bubbler off Joe Creek or any other nearby water source. Robinson should seek to transfer water from Killgore or Mullinix, or cease any further diversion or use of water from the bubbler and diversion off Joe Creek.

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Figure 1 Head gate diversion and 8 inch steel pipe from Joe Creek

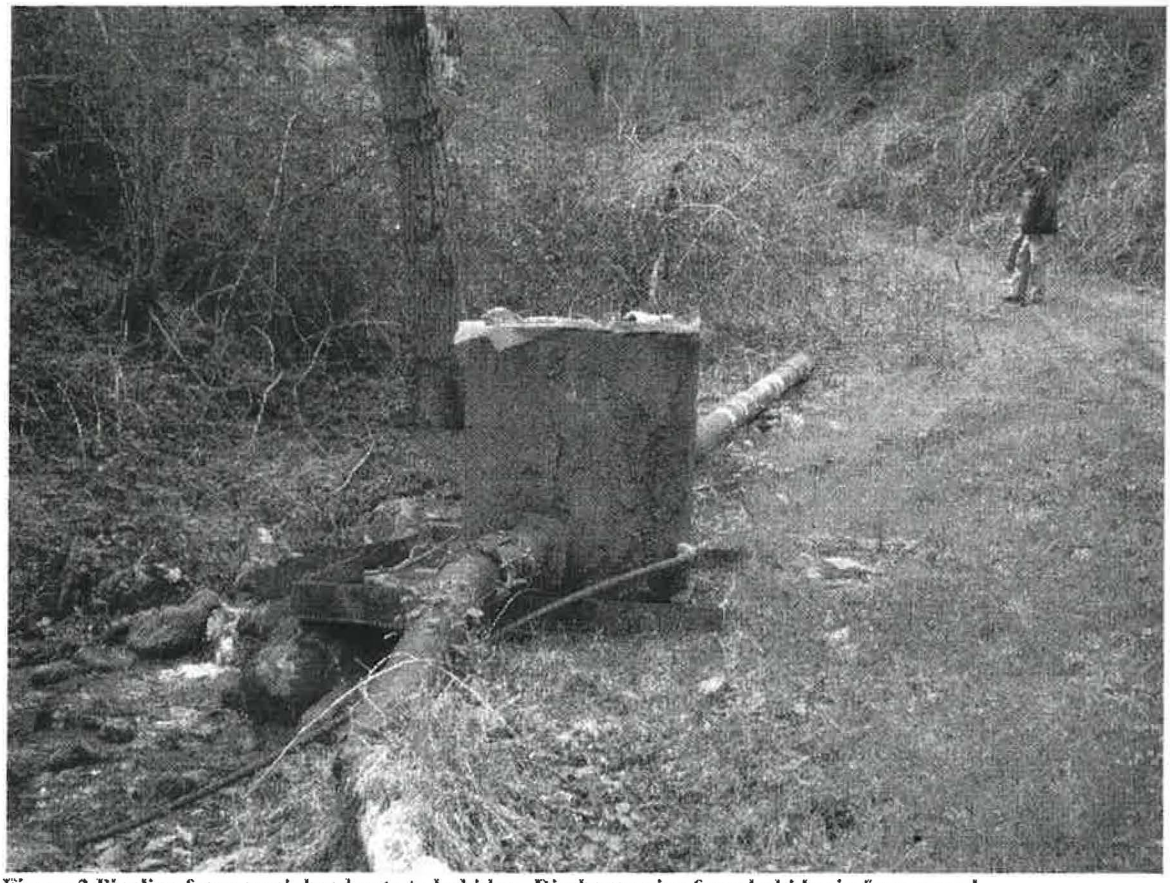


Figure 2 Pipeline from creek head gate to bubbler. Discharge pipe from bubbler in foreground.

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Figure 3 Bubbler on catchment tray with discharge spout to creek. Note 2 inch poly pipe on right to Robinson parcel.

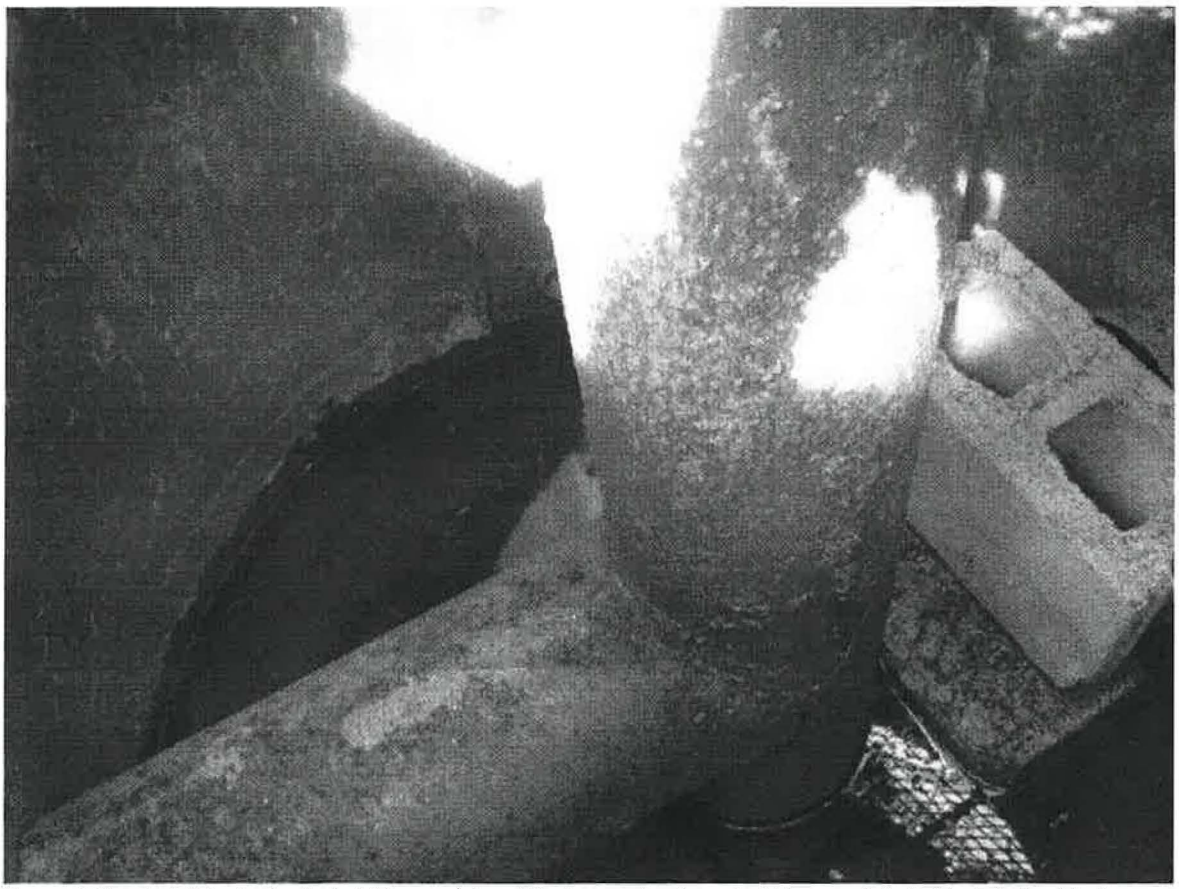


Figure 4 Vertical 8 inch pipe in bubbler canister. Discharge pipe from bubbler on right behind cinder blocks.

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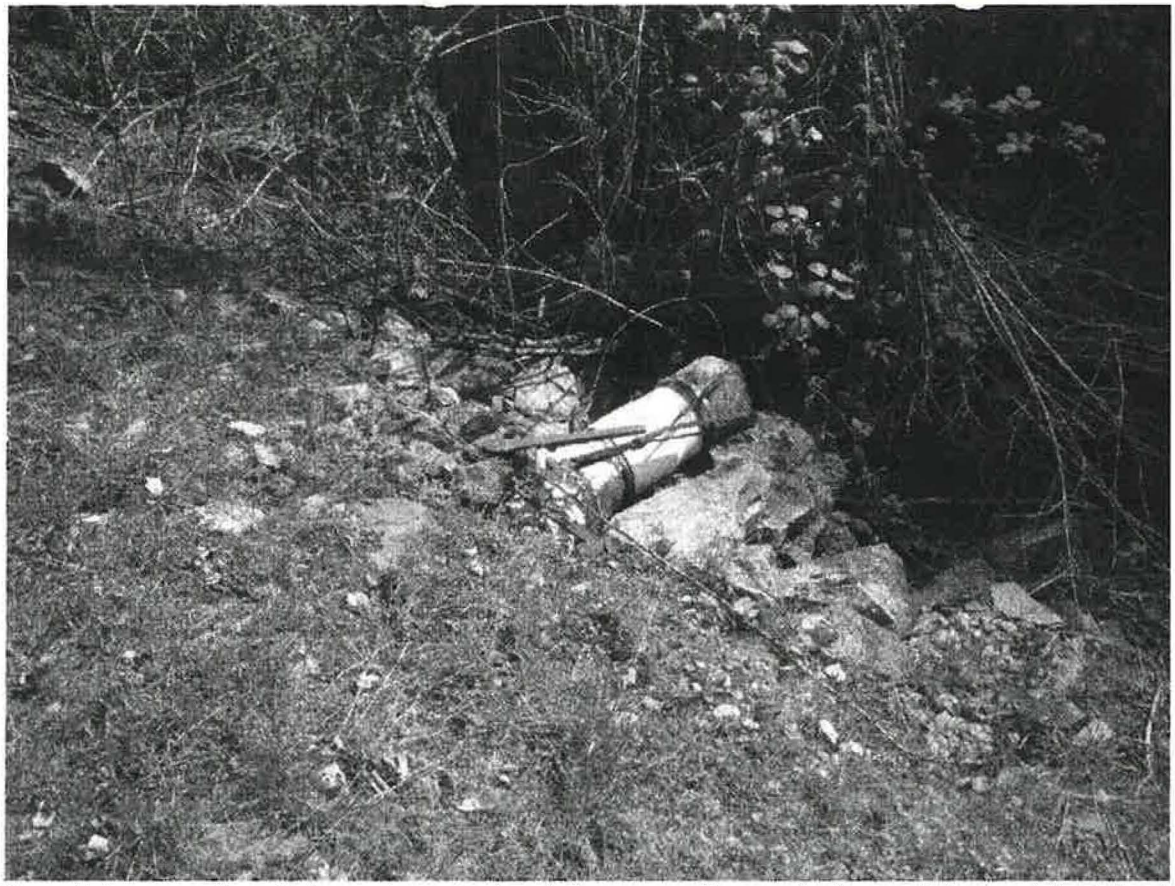


Figure 5 Pressure relieve discharge pipe and valve, discharges or spills water back to creek from mainline below bubbler.



Figure 6 Mullinix buried 2 inch pipe from mainline with black plastic control valve pipe, riser connection and air vac.

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Figure 7 Mullinix 4 inch lateral pipe from mainline (no longer used). Valve with removed control handle on right.

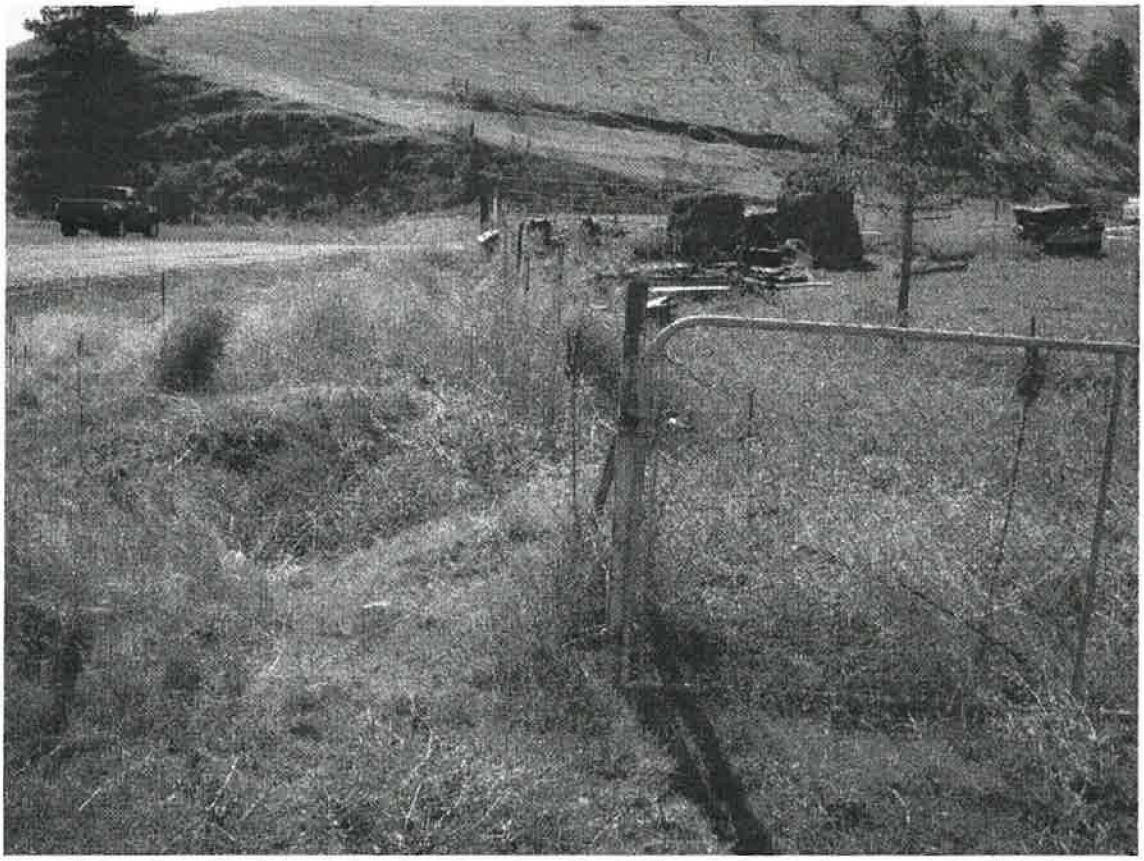


Figure 8 Location of buried mainline along fence lines (Karl Killgore's fence in foreground; Mullinix fence n background). Killgore hose bib/tap is behind metal gate/fence, in tumble weeds.

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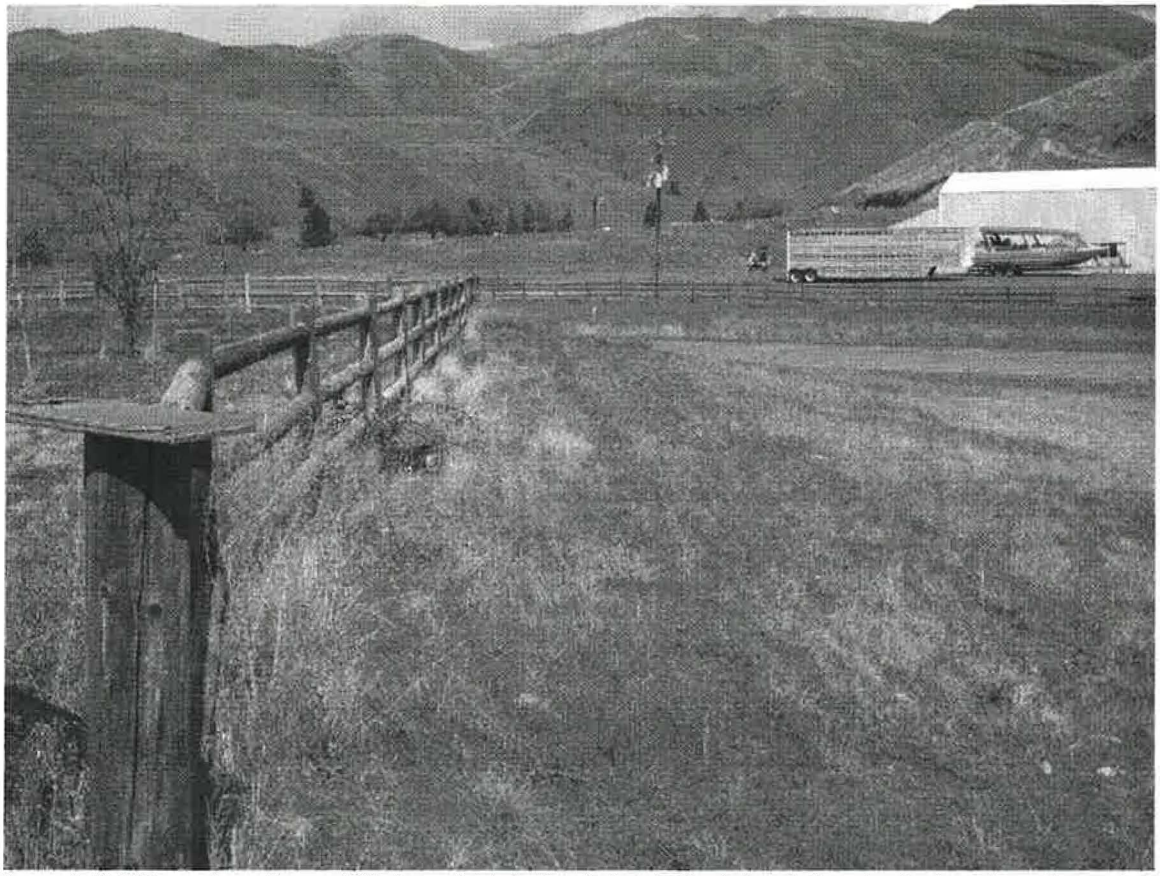


Figure 9 K Killgore fence line and Highway 95 (middle of photo). Buried mainline pipe is along fence line and to right, then crosses highway. Killgore/horseshoe bend property or area is on other side of highway.

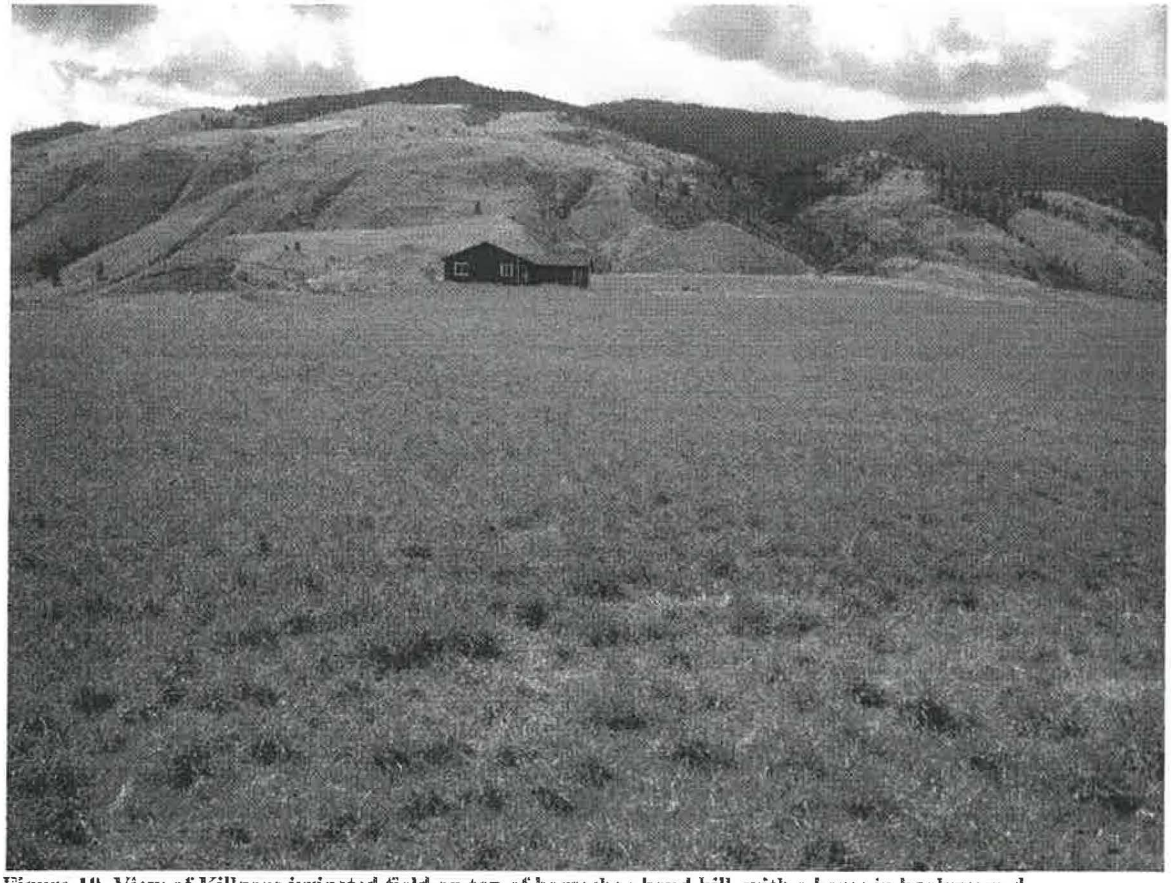


Figure 10 View of Killgore irrigated field on top of horseshoe bend hill, with a home in background.

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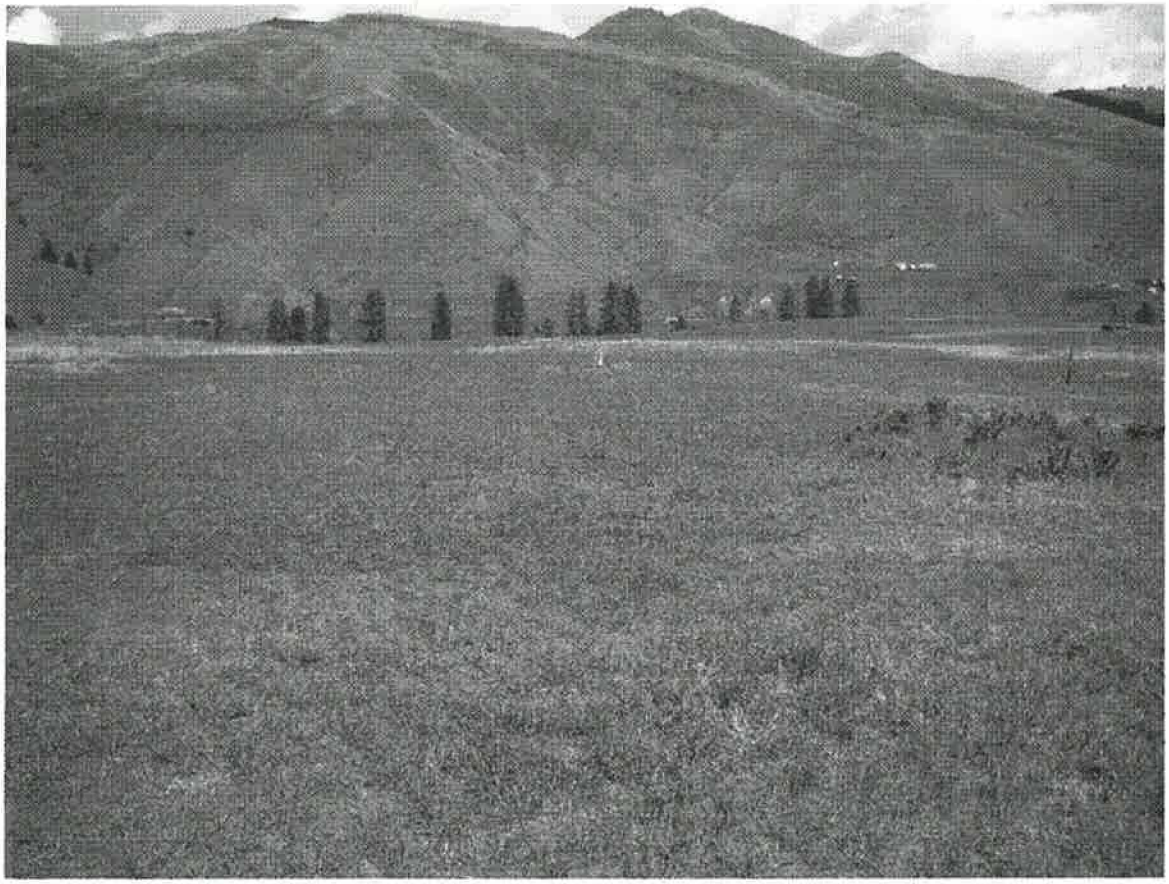


Figure 11 View of Killgore irrigated fields (opposite view, looking back to photo/figure 10).

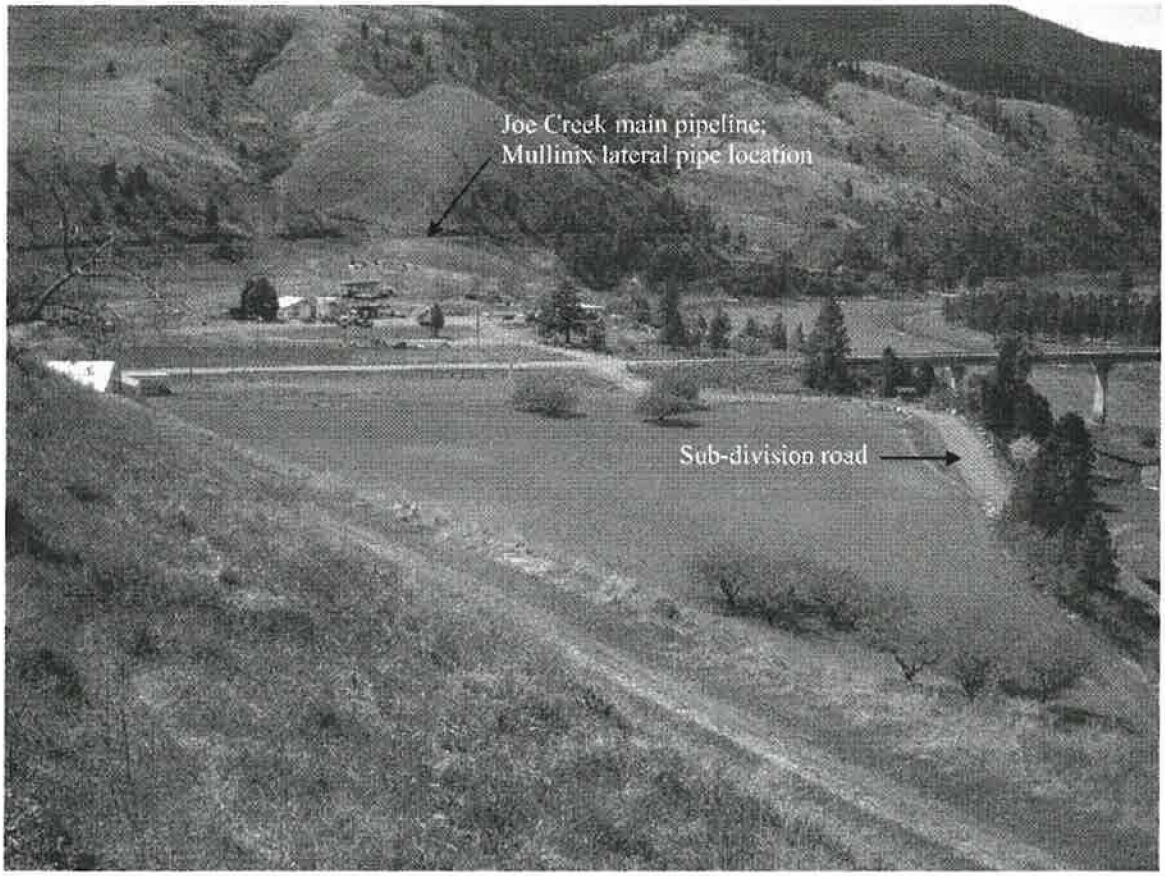


Figure 12 View of lower Killgore irrigated field in foreground; Mullinix irrigated field visible in far background just below old Joe Creek ditch cut or grade where mainline is now buried.

86933

MEMORANDUM

TO:	Transfer No. 86922
FROM:	Shilynn Novak
DATE:	November 6, 2024
RE:	Evaluation of Application

The purpose of this transfer is to change the legal description for 79-14233 from NWSW Sec. 23, Twp 27N, Rge 01E to NESE Gov Lot 6 Sec. 22, Twp 27N, Rge 01E.

The site is located approximately 6.4 miles south of the City of White Bird along Highway 95.

Contact person for the applicant is Kurt Killgore and is represented by Scott King.

Deviations from Transfer Policy Standards

This POD transfer is to update the location of the POD on the water right and not to physically move the actual POD, so the $50 filing fee is correct.

Tim Luke and other IDWR staff completed a field examination April 2, 2015 to recommend an objective water flow measurement device for use at the diversion. Tim wrote a memo (Measuring Device Recommendations for Killgore-Mullinix Pipeline Diversion from Joe Creek, near Lucille, Idaho) recommending Killgore change the description of the POD to NESE Lot 6, Sec 22, T27N, R1E.

Summary of Information Submitted

Western Regional Office received short form for point of diversion (POD) transfer for water right 79-14233 on September 22, 2022 and the transfer was received by IDWR State Office September 23, 2022.

Authority to File: Kurt Killgore filed the transfer application on behalf of Killgores Salmon River Fruit Co. According the Secretary of State annual report, Mr. Killgore is a president of the fruit company. There are no concerns about the authority to file.

Water Right Validity: Aerial imagery suggested that not all acres were being irrigated. A letter was sent to Mr. Killgore to discuss the fee, authorization for POD access, and for validity on March 23, 2023. No supporting documentation was provided until Scott King, at HDR, provided a memo detailing the use of the water on September 19, 2024. This memo included measurements of Joe Creek and stated that the amount of water available from the creek was not sufficient for irrigation of all acres but was still used within the POU.

The partial decree for water right was issued on May 31, 2011. The right is presumed to be valid since beneficial use has occurred within the last five years. Beneficial use confirmed by department aerial imagery, landsat images, google earth images, and Mr. King's memo.

Injury to Other Water Rights: Injury of other water rights is not anticipated. The proposed change on this transfer is not a physical change and to update the location of the POD.

The POD is located on property owned by Ernest Robinson. Mr. King provided a letter dated August 4, 2023 and signed by Mr. Robinson granting Mr. Killgore access to the POD granting access to the POD. The access letter stated the point of diversion had moved, but this move was prior to the decree. The point of diversion was not corrected prior to the decree and this transfer is to update the POD location.

Since this transfer will have no hydrologic impact and access was granted by Mr. Robinson, public notice will not be required.

Enlargement of Use: The proposed changes will not result in enlargement because water use will not increase as a result of the transfer.

Local Public Interest: The transfer proposes updating the POD to reflect the actual location of POD. The change is not a physical change therefore no changes of use are anticipated.

For these reasons this application proposes a change consistent with the local public interest.

Beneficial Use/Conservation of Water Resources: The application proposes beneficial use consistent with conservation of water resources in Idaho.

The application is consistent with criteria of I. C. § 42-222 and should be processed.

Summary

Water Right Overlap
Water rights 79-14231 and 79-14233 both share the same POU. 79-14231 is from the Salmon River whereas 79-14233 is from Joe Creek. Both rights have a combined use limit of 2.12 cfs and a volume of 424.0 AF. Both rights are also limited to a combined total of 106 acres of irrigation in a single season.

There is no POD overlap at the updated location. Water Right 79-14234 was split from 79-4001 and is listed as the same POD location.

Discussion

If approved the following changes should be made to the conditions of this water right.

- Update condition C18 to T19
- Add standard transfer conditions T07 and T08
- Remove C05
- Update E55 and E60 to X35

Assuming protests are not filed and/or other information does not contradict the above analysis, the application can be approved as reflected by the draft approval.

The location of the POD is not physically changing and this transfer should be approved to change the legal description as contemplated by 42-221.0.8.

Novak, Shilynn

From: King, Scott <Scott.King@hdrinc.com>
Sent: Wednesday, October 16, 2024 4:56 PM
To: Novak, Shilynn
Cc: S. Bryce Farris (bryce@sawtoothlaw.com); kurtkillgore@gmail.com
Subject: RE: Killgore

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Hi Shilynn,

The point of diversion (physical location) has not moved since the water right was decreed with the incorrect POD. So even if it was moved in 1985 (I'm not sure if it was or wasn't) the decree was incorrect and there is no physical change since the decree.

Scott

Scott N. King, PE
D +1.208.872-9527

hdrinc.com/follow-us

From: Novak, Shilynn <Shilynn.Novak@idwr.idaho.gov>
Sent: Tuesday, October 15, 2024 12:14 PM
To: King, Scott <Scott.King@hdrinc.com>
Cc: S. Bryce Farris (bryce@sawtoothlaw.com) <bryce@sawtoothlaw.com>; kurtkillgore@gmail.com
Subject: RE: Killgore

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Good afternoon, Scott,

I was looking at the access agreement and it says "The point of diversion on Joe Creek was moved in July 1985. ..." The original application included a $50 fee and according to Idaho Code § 42-221.O.8 the lower fee is for instances when there is no physical change in the location of the point of diversion. Can you clarify if the point of diversion was physically moved? If the point of diversion was moved, then the fee increases to $660 and an additional $610 should be submitted to continue processing. If the additional fee is mailed, please include a small note describing the additional payment is for this transfer so the Front Desk can receipt it accordingly.

Please provide additional information within the next 30 days describing if the point of diversion was physically moved or not. If the point of diversion physically moved, please submit the remaining fee within the next 30 days so we may continue processing this transfer.

Sincerely,
Shilynn

From: King, Scott <Scott.King@hdrinc.com>
Sent: Tuesday, September 24, 2024 11:09 AM
To: Novak, Shilynn <Shilynn.Novak@idwr.idaho.gov>
Subject: Killgore

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.

Shilynn,

Thank you for taking time this morning to discuss the Killgore water right transfer, system, and water use. I meant to confirm that this is a "fix it" transfer application where the original POD has not physically changed with the transfer updating the recorded location, and that the application can be approved without advertising. Hopefully, we can then see an approval soon.

Thank you,
Scott

Scott N. King, PE
Project Manager

HDR
412 E Parkcenter Blvd
Suite 100
Boise, ID 83706
D +1 208 872 9527
scott.king@hdrinc.com

Novak, Shilynn

From: Novak, Shilynn
Sent: Tuesday, October 15, 2024 12:14 PM
To: King, Scott
Cc: S. Bryce Farris (bryce@sawtoothlaw.com); kurtkillgore@gmail.com
Subject: RE: Killgore
Attachments: Section 42-221 – Idaho State Legislature.pdf; application-fee-schedule.pdf

Good afternoon, Scott,

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Sincerely,
Shilynn

IDAHO DEPARTMENT OF WATER RESOURCES

Shilynn Novak
Analyst 3 | Water Allocation Bureau
322 E Front St Ste 648 | Boise ID 83702-7371
IDWR State Office Front Desk: (208) 287-4800

From: King, Scott <Scott.King@hdrinc.com>
Sent: Wednesday, September 25, 2024 9:18 AM
To: Novak, Shilynn <Shilynn.Novak@idwr.idaho.gov>
Cc: S. Bryce Farris (bryce@sawtoothlaw.com) <bryce@sawtoothlaw.com>; kurtkillgore@gmail.com
Subject: RE: Killgore

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Shilynn,

Here is the water access agreement. Please let me know if there is anything else.

Scott

Scott N. King, PE
D +1 208 372-9527

From: Novak, Shilynn <Shilynn.Novak@idwr.idaho.gov>
Sent: Tuesday, September 24, 2024 4:19 PM
To: King, Scott <Scott.King@hdrinc.com>
Subject: RE: Killgore

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Good afternoon, Scott,

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I was looking through the application and noticed that Mr. Killgore has a verbal agreement with Mr. Ernie Robinson for access to the POD. Is this agreement something that you can get in writing from Mr. Robinson? I am trying to be thorough and a written authorization about access to the POD would really help with processing.

Sincerely,
Shilynn

Shilynn Novak
Analyst 3 | Water Allocation Bureau
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Direct: 208.287.4915 | Front Desk: 208.287.4800
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Scott N. King, PE
Project Manager

HDR

412 E Parkcenter Blvd
Suite 100
Boise, ID 83706
D +1 208.872.9527
scott.king@hdrinc.com

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Sent: Wednesday, September 25, 2024 9:18 AM
To: Novak, Shilynn
Cc: S. Bryce Farris (bryce@sawtoothlaw.com); kurtkillgore@gmail.com
Subject: RE: Killgore
Attachments: Joe Creek Water Access Letter.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.

Shilynn,

Here is the water access agreement. Please let me know if there is anything else.

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Scott N. King, PE
D +1.208.872-9527

hdrinc.com/follow-us

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Scott

Scott N. King, PE
Project Manager

HDR
412 E Parkcenter Blvd
Suite 100
Boise, ID 83706
D +1 208 872 9527
scott.king@hdrinc.com

The point of diversion on Joe Creek was moved in July of 1985. The owners, Salmon River Fruit Co, have the right to continue to access and maintain it.

Date: 8/4/2023

Printed Name: Becky Robinson
Ernie Robinson

Signature: Ernie Robinson

Access Letter

Novak, Shilynn

From: King, Scott <Scott.King@hdrinc.com>
Sent: Tuesday, September 24, 2024 4:48 PM
To: Novak, Shilynn
Subject: RE: Killgore

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.

I'll see what we can do.

Scott N. King, PE
D +1.208.872-9527

hdrinc.com/follow-us

From: Novak, Shilynn <Shilynn.Novak@idwr.idaho.gov>
Sent: Tuesday, September 24, 2024 4:19 PM
To: King, Scott <Scott.King@hdrinc.com>
Subject: RE: Killgore

CAUTION: [EXTERNAL] This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

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Shilynn

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Direct: 208.287.4915 | Front Desk: 208.287.4800

From: King, Scott <Scott.King@hdrinc.com>
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To: Novak, Shilynn <Shilynn.Novak@idwr.idaho.gov>
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Scott

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Project Manager

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Suite 100
Boise, ID 83706
D +1.208.872.9527
scott.king@hdrinc.com

Novak, Shilynn

From: King, Scott <Scott.King@hdrinc.com>
Sent: Thursday, September 19, 2024 12:53 PM
To: Novak, Shilynn
Subject: RE: Killgores Salmon River Fruit Co Transfer 86922
Attachments: Killgore Joe Creek Report.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.

Hi Shilynn,

I meant to share this report with you earlier. We can cover it during tomorrow's meeting.

Thank you,

Scott N. King, PE
D +1.208.872-9527

hdrinc.com/follow-us

From: Novak, Shilynn <Shilynn.Novak@idwr.idaho.gov>
Sent: Monday, September 16, 2024 8:22 AM
To: King, Scott <Scott.King@hdrinc.com>
Cc: kurtkillgore@gmail.com
Subject: RE: Killgores Salmon River Fruit Co Transfer 86922

CAUTION: [EXTERNAL] This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good morning Scott,

I have availability on Thursday after 1pm and Friday morning. If you could let me know what time and day works best for you, then I can make sure I put it on my calendar.

Thank you!
Shilynn

IDAHO DEPARTMENT OF WATER RESOURCES

Shilynn Novak
Analyst 3 | Water Allocation Bureau
322 E Front St Ste 648 | Boise ID 83702-7371
Direct: 208.287.4915 | Front Desk: 208.287.4800

From: King, Scott <Scott.King@hdrinc.com>
Sent: Friday, September 13, 2024 4:25 PM
To: Novak, Shilynn <Shilynn.Novak@idwr.idaho.gov>

Cc: kurtkillgore@gmail.com
Subject: Killgores Salmon River Fruit Co Transfer 86922

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.

Hello Shilynn,

How does your schedule look this coming week for a call to discuss the Killgore Application for Transfer 86922? Killgore has engaged HDR to help with this project. I've visited the property a couple of times and would like to discuss their irrigation water use and questions raised in your March 23, 2023 correspondence with Killgore.

Thank you,
Scott

Scott N. King, PE
Project Manager

HDR
412 E Parkcenter Blvd
Suite 100
Boise, ID 83706
D +1 208 872 9527
scott.king@hdrinc.com

HDR | SPF

Memo

Date: Friday, September 13, 2024

Project: Killgore Joe Creek Water Supply

To: Bryce Farris

From: Scott King, P.E.

Subject: Field visit findings and recommendations



Killgore owns water right 79-14233 authorizing diversion from Joe Creek for irrigation use. After spring snowmelts subside, flows in Joe Creek decline substantially. Limited flows and competing demands for the Joe Creek water supply impact Killgore's ability to make full beneficial use of their water rights. Killgore requested HDR's assistance with the Joe Creek water supply. This memorandum report addresses flow measurement of the Joe Creek diversion; the Joe Creek delivery system to Killgore and Mullinix; and irrigation at the Killgore property.

Scott King with HDR, met with Kurt Killgore, his father Les, and his uncle Karl on July 16, 2024 to measure water diverted from Joe Creek into the irrigation system and make observations of the diversion, delivery system, and water use. Joe Creek diversions are authorized by water rights 79-14233 (Killgore's Salmon River Fruit Co.), 79-14234 (Daryl Mullinix), and 79-14260 (Wayne King). The point of diversion and places of use are presented in Figure 1.

Discharge Measurement

The headgate was diverting the entire flow of Joe Creek into an 8-inch steel pipeline to a bubbler system which screens out debris, then continued into the pipeline delivering water to Killgore. Discharge was measured on the bubbler's vertical 8.5-inch diameter pipe using the vertical trajectory method described in the U.S. Bureau of Reclamation's Water Measurement Manual, Chapter 14, Section 13[1]. With a measured maximum jet height of 1.5 inches and inside pipe diameter of 8.5 inches, discharge is calculated at 155 gallons per minute (gpm), equivalent to 0.35 cubic feet per second (cfs). The trajectory method of

[1] https://www.usbr.gov/tsc/techreferences/mands/wmm/chap14_13.html

flow measurement has an estimated accuracy range of +/-15 percent, yielding a range of 132 to 178 gpm for a jet height of 1.5 inches.

Included with this report is the trajectory method flow rating chart for an 8.5-inch inside diameter vertical pipe used to determine measured flow rate. The curve relates discharge in cfs to jet height in inches above the pipe and includes 15% error bars. Based on this chart, a 2 cfs flow rate would have a jet height of approximately 7.6 inches, with 15% discharge rate errors providing a range of about 6.3 to 10 inches. This method does have its inherent inaccuracies that are described in the USBR Water Measurement Manual. However, with an observed jet height of 1.5 inches, the flow was much less than 2 cfs.

To supplement the bubbler discharge measurement, a 3-inch Parshall flume was placed in the Joe Creek channel just upstream of the headgate. With a water depth of 0.25 feet, the Parshall flume indicated a flow of 52 gpm (0.12 cfs)[2]. However, due to the rocky nature of the stream and insufficient sealing materials, an estimated 1/2 to 2/3 of the streamflow was not entering the flume, but instead flowing around and under the device.

System Operation

Located about 700 feet downstream of the headgate is a gate valve which is used to relieve pressure from the pipeline. I visually estimated that 10 to 20 gpm was discharging from this valve back to Joe Creek.

The pressure gage located near the Killgore Adventure store and used by Killgore for observing system operating pressure indicated 90 pounds per square inch (psi). The gauge is marked at 85 and 140 psi, indicating the preferred operating range.

Portable handline sprinklers were operating during the visit, irrigating fields of alfalfa. In addition to irrigating alfalfa fields, Joe Creek water is available to the subdivision residents for irrigating their lawns and landscaping. As Joe Creek water supply declines during the late spring to early summer, subdivision residents may operate a pump diverting from the Salmon River to supplement or replace their Joe Creek water. Killgore also has a separate pump from the Salmon River which can be used to supplement Joe Creek water.

[2] https://www.usbr.gov/tsc/techreferences/mands/wmm/appendix/A8_07-09.pdf

Conflicting Water Demands

The Killgore - Mullinix decision allows Killgore to divert the first 2.2 cfs from Joe Creek, provided the diverted water is beneficially used, and Mullinix to divert up to 0.4 cfs when Joe Creek supply exceeds 2.2 cfs. Flowmeter and control valves have been installed as directed by the decision. The meters and valves are located on Mullinix property, and Killgore reports that Mullinix discourages and/or prevents Killgore access to the meters and controls. In addition, Killgore reports that when flows drop and Mullinix's valve is closed, Mullinix will then open his valve later and take water that should otherwise flow to Killgore.

Irrigated Acreage

Irrigation occurring under water right 79-14233 primarily involves watering of residential lawns and landscaping or watering of alfalfa and hay cropland. The cropped land accounts for approximately 33 acres of alfalfa and hay, and the residential lawns and landscape areas, where irrigation is controlled by the individual lot owners, account for approximately 74 acres (see map in Figure 5.) All lots are stubbed-in to the irrigation water supply. Lot owners are entitled to use the water and pay annual fees for the irrigation service. Killgore reports that the lot owners use the irrigation service when water is available. However, Joe Creek supplies diminish early in the season and the water right suffers a lack of water availability.

Idaho Code §42-223(6) states:

> "No portion of any water right shall be lost or forfeited for nonuse if the nonuse results from circumstances over which the water right owner has no control. Whether the water right owner has control over nonuse of water shall be determined on a case-by-case basis."

As described earlier in this report, Killgore's water supplies are impacted by limited supply and Mullinix operations. The control valves separating the Killgore and Mullinix systems are located on Mullinix property. Mullinix limits Killgore's access to the meters and valves. Mullinix also opens his valve to take Joe Creek water when flows in Joe Creek have dropped below the threshold where Mullinix no longer has authorization to use Joe Creek water. Killgore's 79-14233 right cannot be forfeited due to limited supplies and unauthorized use by Mullinix over which Killgore has no control.

Idaho Code §42-223(6) states:

> "No portion of a water right held by an irrigation district, a Carey Act operating company, or any other company, corporation, association, or entity which holds water rights for distribution to its landowners, shareholders or members shall be lost or forfeited due to nonuse by such landowners, shareholders or members, unless the nonuse is subject to the control of such entity."

Water right 79-14233 is owned by Killgore's Salmon River Fruit Co., a general business corporation in active good standing with the Idaho Secretary of State. Killgore's Salmon River Fruit Co. owns this water right for distribution to users within the Killgore's Horseshoe Bend Estates subdivision. Water supplies are available to users for irrigation of their respective lots. Although some lot owners have installed non-irrigable materials (i.e., driveways and buildings), and some do not make full use of their available irrigation supplies, Killgore's Salmon River Fruit Co. does not have control over users' water use and therefore forfeiture of this water right is prevented by the remedies available in Idaho Code §42-223(6).

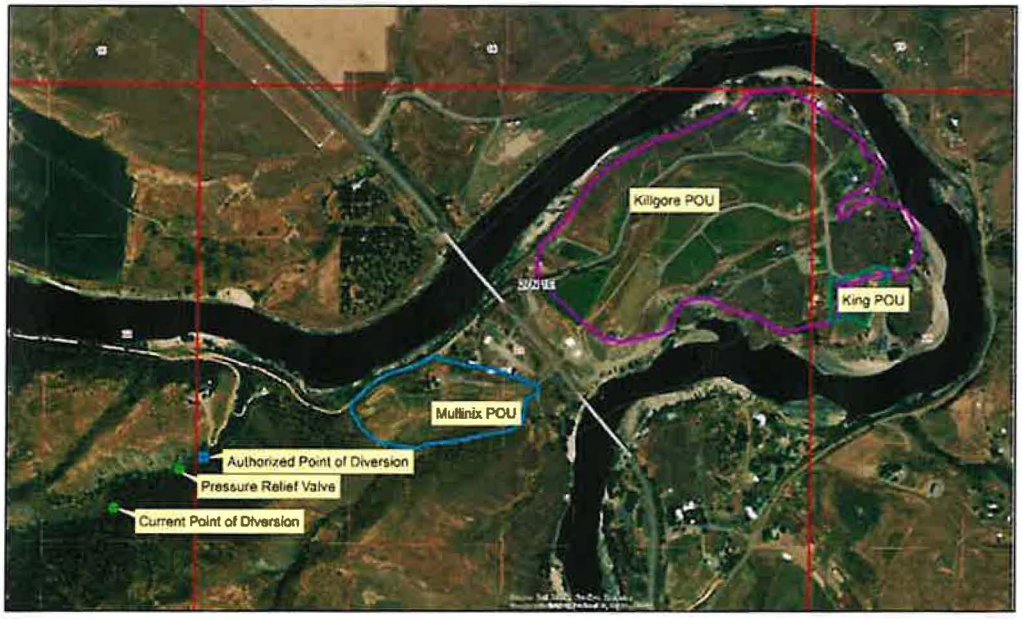


Figure 1: Water rights places of use, points of diversion.



Figure 2: Joe Creek diversion headgate.



Figure 3: Bubbler discharge onto screen.

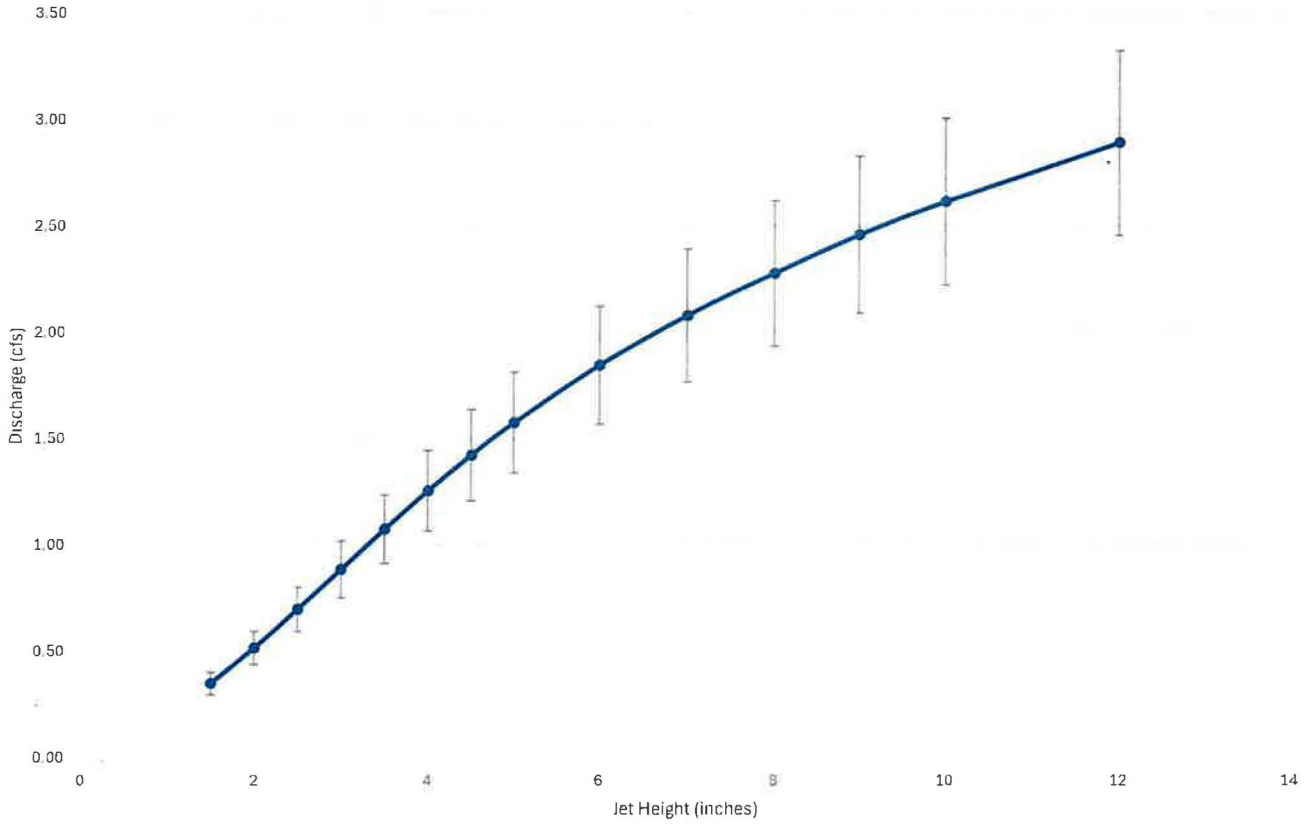


Figure 4: Three-inch Parshall Flume in channel upstream of headgate.



Figure 5: Irrigated areas depicted on 2016 aerial imagery.

Rating for Vertical Pipe Trajectory Method
8.5-inch Inside Diameter
With 15% error bars



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 Mathew Weaver**

March 5, 2024

KILLGORES SALMON RIVER FRUIT CO
13309 HIGHWAY 95 S # 1
WHITE BIRD, ID 83554-5089

COPY

RE: Transfer 86922 – Water Right Validity Information Request

Dear Applicant,

This letter is in response to a transfer application that was received by the Idaho Dept. of Water Resources (IDWR) State Office on September 22, 2022. This transfer application proposed to move the location of the Point of Diversion (POD) from the current location in the NWSW Gov. Lot 10 to the NESE Gov. Lot 6. After discussions with Rob Whitney, it was determined that the fee was correct and POD access information was no longer required.

All transfer applications are evaluated to determine validity of the water rights listed on the application. Part of determining water right validity involves addressing any forfeiture concerns. Water rights need to have been used within the previous, consecutive, five-year period to be considered valid.

Using aerial imagery, it appears that not all the 106 acres of water right 79-14233 were irrigated in the previous five years. It appears that the fields at the top of the hill were the only acres that were irrigated, and they do not total 106 acres of irrigation. I have included a map showing the acres that I believe are irrigated using water from 79-14233.

Please provide documentation demonstrating full beneficial use of the right in the last 5 years.

Examples of appropriate documentation demonstrating beneficial use of the right includes power records used to divert water under the right, Farm Service Agency crop production records, receipts or other evidence of expenditures or revenue from the use of water under the right, and adequate affidavits of objective persons having actual knowledge of the uses of water under the right.

If the whole right has not been used within the previous, consecutive, five-year period, then please provide information showing exceptions to forfeiture. Exceptions to forfeiture include factors such as resumption of use, unavailability of water when needed, or non-use when other water is available.

I have included 42-223, Idaho Code for your convenience which describes additional types of exceptions not stated here. I have also included extra maps so you may draw on them to better explain current irrigation practices.

Please respond with the requested information within the next sixty (60) days. If IDWR does not receive your written response by mail or email within sixty (60) days, your application will be rejected. Your response may include a request for additional time as you obtain additional information. You may receive future correspondence regarding more specific details of your applications.

Please let me know if you have any questions. You may email me at Shilynn.Novak@idwr.idaho.gov or you may call my direct line at (208) 287-4915. Please leave a message if I am unable to answer.

Sincerely,

Shilynn Novak
Water Resource Agent, Sr.
Water Rights Section

CC: Rob.Whitney@idwr.idaho.gov

Enclosures

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**

March 23, 2023

COPY

KILLGORES SALMON RIVER FRUIT CO
13309 HIGHWAY 95 S # 1
WHITE BIRD, ID 83554-5089

RE: Transfer 86922 – Additional Information Request

Dear Applicant,

This letter is in response to a transfer application that was received by the Idaho Dept. of Water Resources (IDWR) State Office on September 22, 2022. This application was to move the location of the Point of Diversion (POD) from the current location in the NWSW Gov. Lot 10 to the NESE Gov. Lot 6.

While completing the initial review, a couple questions needs to be addressed:

Fee

The information submitted with your application indicates that your original POD needed to be moved from the NESW, but the actual location of the POD is in the NESE Lot 6 and this change was done by filing a transfer. The memo does not state if the POD was only recorded wrong on the water right or if the POD was physically relocated after being decreed. If the POD was recorded in the wrong location, the fee is $50. If the POD was physically moved after the decree, the fee is $660 for the 2.12 cfs water right. (Transfer fee schedule enclosed.) Please provide additional information that shows the POD was not physically moved or please provide an additional $610 for the transfer filing fee.

Written Permission

The POD is listed as being on Ernie Robinson's property and a verbal agreement is in place granting access to the property. If Mr. Robinson provides a written permission granting access to his property, it would help with processing this application.

Water Right Validity

All transfer applications are evaluated to determine validity of the water rights listed on the application. Part of determining water right validity involves addressing any forfeiture concerns. Water rights need to have been used within the previous, consecutive, five-year period to be considered valid. Using aerial imagery, it appears that not all of the 106 acres of water right 79-14233 were irrigated in the previous five years. It appears that the fields at the top of the hill were the only acres that were irrigated and they do not total 106 acres of irrigation. I have included a map showing the acres that I believe are irrigated using water from 79-14233.

Please provide documentation demonstrating that the right has been put to beneficial use in the last 5 years. Examples of appropriate documentation includes power records used to divert water under the right, Farm Service Agency crop production records, receipts or other evidence of expenditures or revenue from the use of water under the right, and adequate affidavits of objective persons having actual knowledge of the uses of water under the right. Alternatively, if the whole right has not been used within the previous, consecutive, five-year period, then please provide information showing exceptions to forfeiture. Exceptions to forfeiture include factors such as resumption of use, unavailability of water when needed, or non-use when other water is available. I have included 42-223, Idaho Code for your convenience which describes additional types of exceptions not stated here. I have also included extra maps so you may draw on them to better explain current irrigation practices.

Please respond with the requested information within the next thirty (30) days. If IDWR does not receive your written response by mail or email within thirty (30) days, a refund will be issued for your transfer. Your response may include a request for additional time as you obtain additional information. You may receive future correspondence regarding more specific details of your applications.

IDWR forms and other information are available online at www.idwr.idaho.gov. Please let me know if you have any questions. You may email me at Shilynn.Novak@idwr.idaho.gov or you may call my direct line at (208) 287-4915.

Sincerely,

Shilynn Novak
Water Resource Agent, Sr.
Water Rights Section

Enclosures

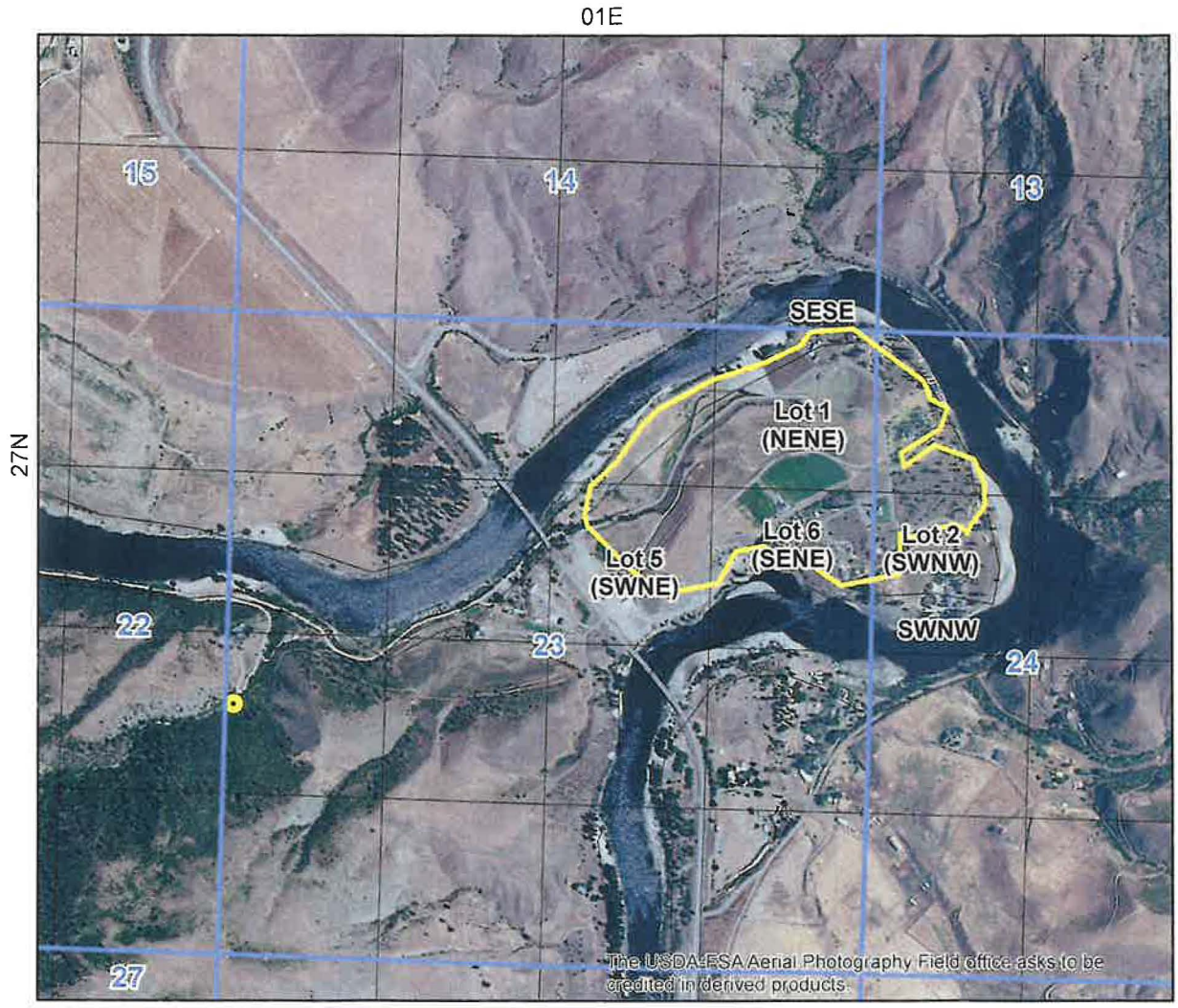
State of Idaho
Department of Water Resources

Water Right

79-14233
IRRIGATION

COPY

Original Place of Use and Point of Diversion for reference



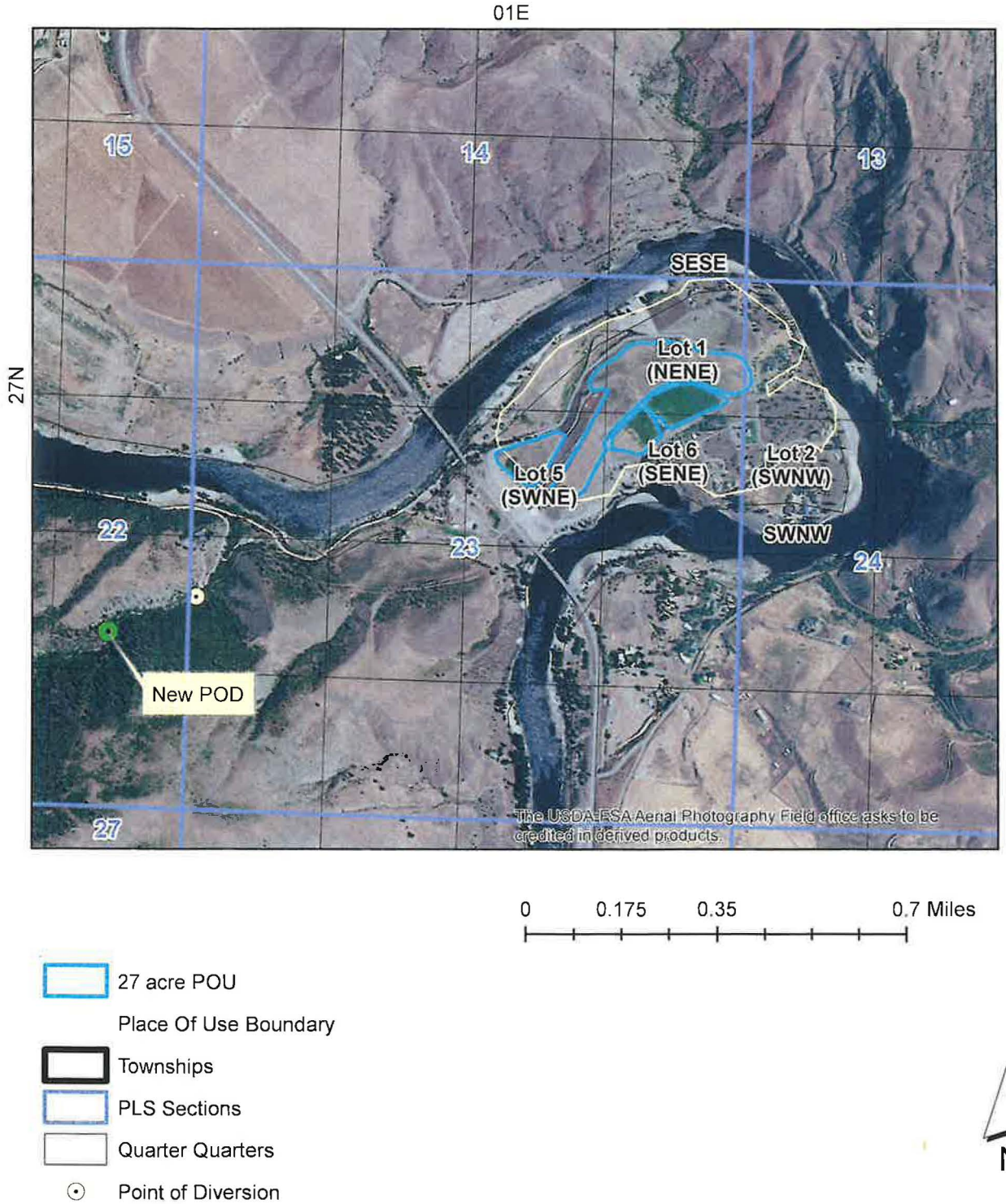
State of Idaho
Department of Water Resources

Water Right

79-14233
IRRIGATION

COPY

27-Acre Place of Use and New Point of Diversion for reference



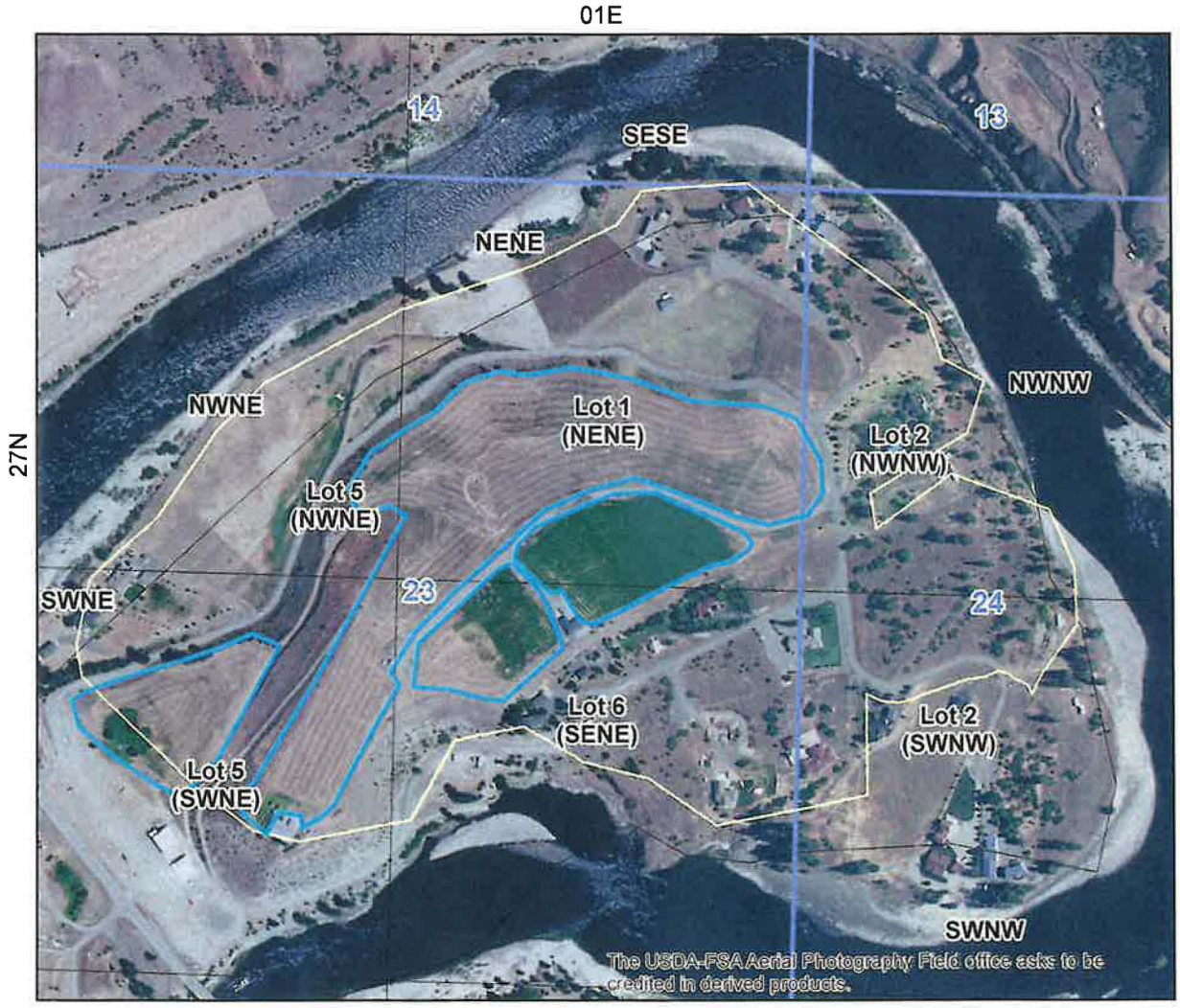
State of Idaho
Department of Water Resources

Water Right

79-14233
IRRIGATION

COPY

Place of Use Only



0 0.05 0.1 0.2 Miles

27 acre POU
Original Place Of Use
Townships
PLS Sections
Quarter Quarters

N

State of Idaho
Department of Water Resources

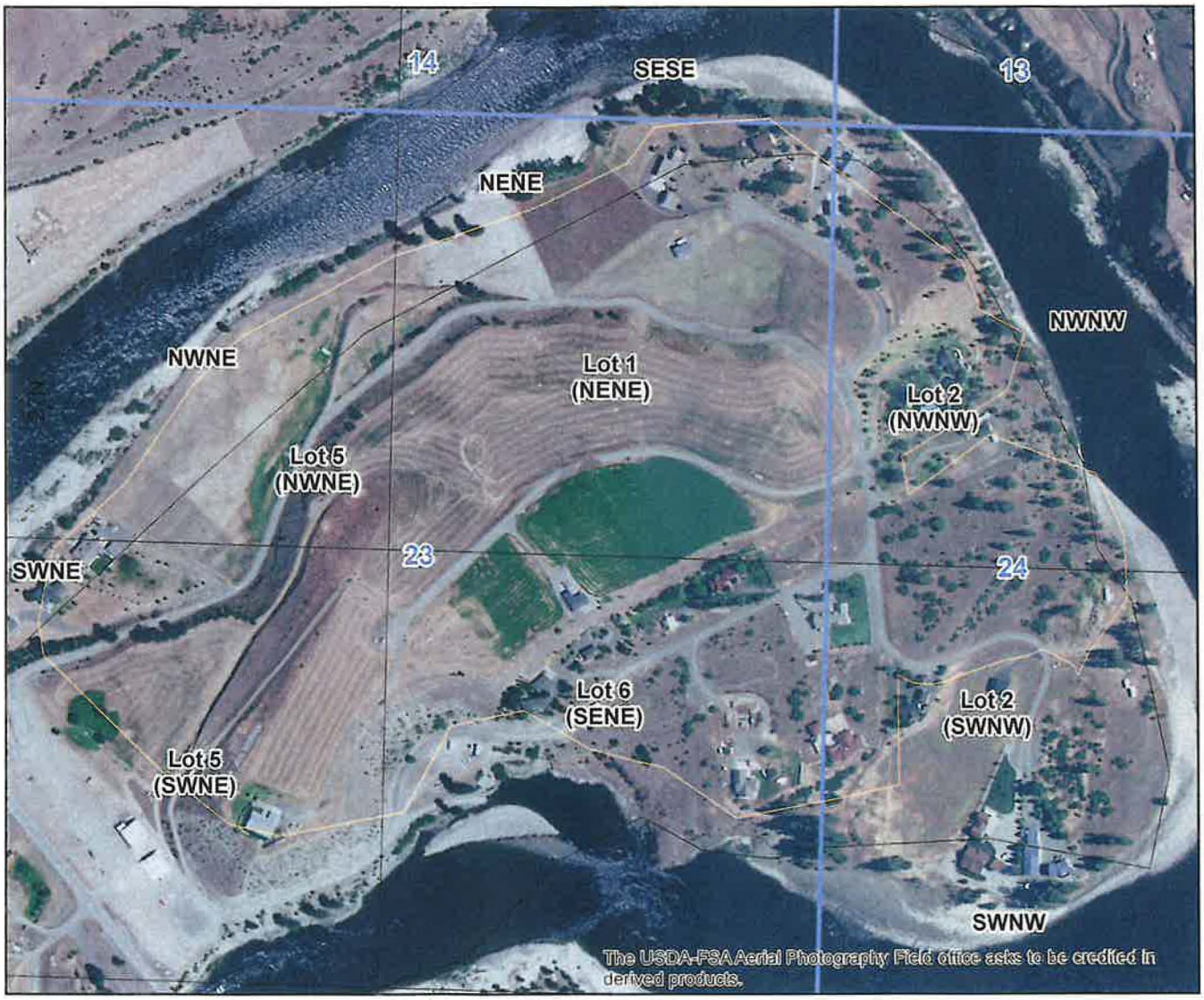
Water Right

79-14233
IRRIGATION

COPY

Place of Use Only

01E



Original Place Of Use
Townships
PLS Sections
Quarter Quarters

0 0.05 0.1 0.2 Miles

N