

RECEIVED

JUL 27 2026

DEPT. OF WATER RESOURCES

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JUL 30 2026

DEPT. OF WATER RESOURCES
EASTERN REGION

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

NOTICE OF PROTEST
Application for Transfer 90555

July 27, 2026

1. Matter being protested

Application for Transfer 90555 (involving Water Rights 33-00051, 33-00054) filed by Vance Hawley.

2. Name of protestant

United States Department of the Interior
Bureau of Land Management
Idaho State Office
1387 South Vinnell Way
Boise, Idaho 83709-1657

3. Protestant's Representative for service (if different than protestant)

Fredric W. Price (contact person)

4. Service mailing address

same as above

5. Service telephone no.

(208) 373-3831

6. Basis of protest (including statement of facts and law upon which the protest is based).

Pursuant to Idaho Code 42-222(1), BLM files this protest. On June 29th, 2026, Vance Hawley ("Applicant") filed Application for Transfer 90555 involving water rights 33-00051 and 33-00054. The Application for Transfer proposes to change the point of diversion ("POD") for 0.05 cfs. The Application does not seek to change the place of use ("POU"), however, the POU contains a legal description T06N, R28E, S14, SESE on BLM land.

The change in POD does not concern or affect BLM; however, the POU contains the legal description T06N, R28E, S14, SESE which is entirely on BLM. The legal description was approved in Transfer 77831, approved April 20, 2012. Partial Decrees for Water Right Nos. 33-00051, 33-00054 were originally issued May 4, 2004, and did not describe federal land. BLM is negatively impacted and aggrieved by the action of the Director, to approve a transfer containing federal lands (i.e., T06N, R28E, S14, SESE) established in trespass. The Applicant is not authorized to use BLM land. Trespass on federal land is a prohibited act (43 CFR §2808.10(a)).

Although Idaho Code § 42-222(1) does not list "legal access" among the explicit transfer-review criteria, the Department is obligated to "examine all the evidence and available information," including long-standing Idaho water law prohibiting the creation, expansion, or alteration of water rights by means of trespass.

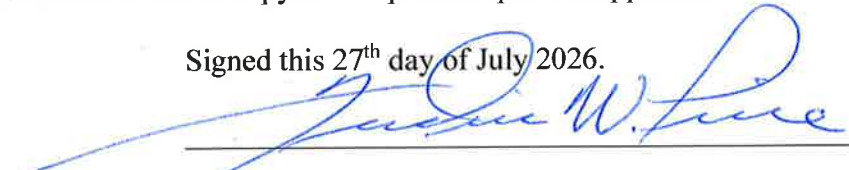
It is quite generally held that a water right initiated by trespass is void; that is to say, one who diverts water and puts it to beneficial use by aid of trespass, does not, pursuant to such trespass, acquire a water right. Any claim of right thus initiated is void. *Bassett v. Swenson*, 51 Idaho 256, 5 P.2d 722 (1931), citing to *Marshall v. Niagra Springs Orchard Company, Ltd.*, 22 Idaho 144, 125 P. 208; *Tobey v. Brentwood*, 22 Idaho, 566, 127 P. 178; *Prentice v. McKay*, 38 Mont. 114, 98 P. 1081; *Weil on Water Rights* (3d Ed.) § 221, and cases cited. A transfer may not be used to introduce new elements—a new point of diversion, or new place of use—when those elements can be exercised only through trespass on federal land. Doing so would, in effect, authorize an unlawful use and create a legally void component of a water right. The Department should not approve a transfer that results in a use that Idaho law declares void or that requires ongoing violation of federal law (43 C.F.R. § 2808.10(a)).

7. What would resolve your protest?

A. Amend the application to remove POU on BLM and exclude federal land from the POU and boundary shape: T06N, R28E, S14, SESE (4.3 acres).

I hereby acknowledge that if I, or my designated representative, fail to appear at any regularly scheduled conference or hearing in the matter of which I have been notified at the address above, the department may issue a notice of proposed default against me in this matter for failure to appear. I also verify that I have served a copy of this protest upon the applicant.

Signed this 27th day of July 2026.



Fredric W. Price
Protestant's Representative

Attachments:

- ◆Maps prepared by BLM for illustrative purposes.
- ◆Master Title Plat: T06N, R28E

FOR DEPARTMENT USE ONLY

Received by MW Date 7.27.26
Fee Paid \$25.00 Date 7.27.26 Received by PW Receipt # C127455

CERTIFICATE OF SERVICE

I certify that on July 27, 2026, I served a true and correct copy of the **"Protest of Application for Transfer No. 90555"** with enclosures upon the following individuals by placing the documents in the United States mail in Boise, Idaho, postage paid, and addressed as follows:

Original to:

Mathew Weaver, Director
Idaho Department of Water Resources (IDWR)
Idaho State Office
P.O. Box 83720
322 E Front St
Boise, ID 83702-7371

Copies to:

Vance Hawley
578 E 49th Street
Idaho Falls, ID 83404

Kristin M. Moore, Representative
Rocky Mountain Environmental Associates, Inc.
482 Constitution Way, Ste. 303
Idaho Falls, ID 83402

John A. Reffit, Field Manager
Aren A. Eddingsaas, Natural Resource Specialist
U.S. Department of the Interior
Bureau of Land Management
Upper Snake Field Office
1405 Hollipark Drive
Idaho Falls, ID 83401

Marina Snyder

Person Serving Documents (print name)

Marina Snyder

Signature of Person Serving Documents

Transfer 90555, 33-00051 & 33-00054



06N

28E

14

SE

SE

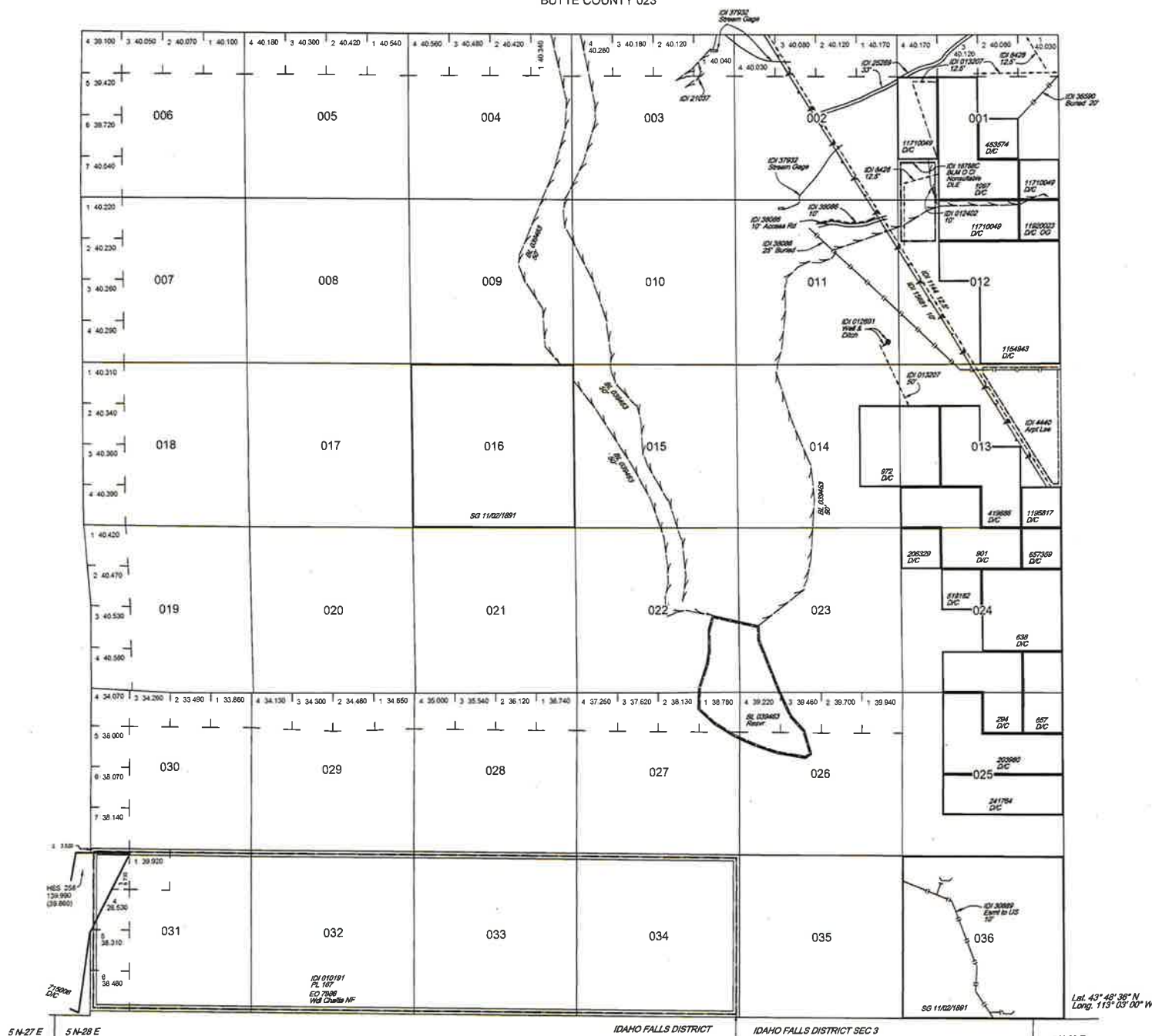
BLM

BUTTE COUNTY 023

MT PLAT

[illegible]

IDI 010191 Det PL 167 (Act of Cong 07/23/1955)
completed 02/24/1961. All NF surface Mgmt by USFS



FOR ORDERS AFFECTING DISPOSAL OR USE OF
UNIDENTIFIED LANDS REFER TO INDEX OF
MISCELLANEOUS DOCUMENTS

FILE REF:	IC0800504629050AM100000.dwg		
CONVERTED TIME:	11/17/2010	BY:	LJM
LAST UPDATED:	04/05/2024	BY:	CO
GA/OC #1:		GA/OC #2:	
POSTED TO PUBLIC RECORDS:		April 5, 2024	
BY:			
PUBLIC LAND SURVEY SYSTEM (PLSS)			
BLM GCSB ACQUIRED:		04/26/2005	
OTHER:		N/A	
PROJECTED COORDINATE SYSTEM		UTM ZONE 12N, NAD 1983	
NOTES:			
USE PLATS:			

Boise Mer.
T. 6 N
R. 28 E