

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA)
)
Case No. 39576)
)
PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 74-00734A

NAME AND ADDRESS: MARYANN C BORDEN
STEVEN T BORDEN
PO BOX 309
PAUMA VALLEY, CA 92061

SOURCE: WIMPEY CREEK TRIBUTARY: LEMHI RIVER

QUANTITY: 0.09 CFS

PRIORITY DATE: 04/01/1912

POINT OF DIVERSION: T21N R23E S34 SWSESE Within Lemhi County

PURPOSE AND			
PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	0.09 CFS

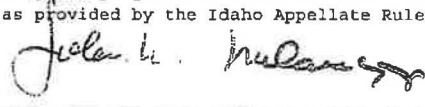
PLACE OF USE: Irrigation Within Lemhi County
T20N R23E S03 LOT 2 (NWNE) 4.5
4.5 Acres Total

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.



John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication



Pedigree Search History

Adjudication Pedigree For 74-734

Water Right Number	Status	Reason for Split
74-734 (parent)		Ownership Change
-->74-734 A	Closed	Ownership Change
-->74-734 B	Closed	Ownership Change
-->74-734 C	Closed	Ownership Change
-->74-734 D	Closed	Ownership Change
-->74-734 E	Closed	Ownership Change
-->74-734 F	Closed	Ownership Change
-->74-734 G	Closed	Ownership Change
-->74-734 H	Closed	Ownership Change
-->74-10144	Closed	Ownership Change

Water Right Pedigree For 74-734

No pedigree information found.



PROPOSED FINDING OF WATER RIGHTS - LEMHI RIVER DRAINAGE

SOURCE: Wimpey Creek

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE		MAXIMUM RATE OF DIVERSION (cfs)	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED		BASIS OF RIGHT and REMARKS
				From	To					
74-0209	RIGGAN, Clark H. and/or Harriet C. Baker, Idaho	5 -1 -1897	Irrigation	4/1	11/1	0.36	NE $\frac{1}{4}$ NW $\frac{1}{4}$, S.25 T21N, R23E	Sec. 25 NE $\frac{1}{4}$ NW $\frac{1}{4}$, 1.3 NW $\frac{1}{4}$ NW $\frac{1}{4}$, 0.7 SW $\frac{1}{4}$ NW $\frac{1}{4}$, 12.6 Sec. 26 SE $\frac{1}{4}$ NE $\frac{1}{4}$, 0.7 NE $\frac{1}{4}$ SE $\frac{1}{4}$, 11.2 SE $\frac{1}{4}$ SE $\frac{1}{4}$, 1.4 T21N, R23E 27.9		Decree Wimpey Creek
74-0213A	BOWMAN, Chester and/or Lucille Route 1 Salmon, Idaho	5 -1 -1900	Irrigation	4/1	11/1	0.50	SE $\frac{1}{4}$ NW $\frac{1}{4}$, S.30 T21N, R24E	Sec. 25 NE $\frac{1}{4}$ SE $\frac{1}{4}$, 12.7 NW $\frac{1}{4}$ SE $\frac{1}{4}$, 5.5 SE $\frac{1}{4}$ SE $\frac{1}{4}$, 33.0 T21N, R23E 51.2		Decree East Fork Wimpey Creek
74-0213B	SKINNER, Ray and/or Ruby Route 1 Salmon, Idaho	5 -1 -1900	Irrigation	4/1	11/1	1.50	Sec. 35 NE $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ T21N, R23E	Sec. 34 NE $\frac{1}{4}$ SE $\frac{1}{4}$, 3.0 SE $\frac{1}{4}$ SE $\frac{1}{4}$, 27.0 Sec. 35 NE $\frac{1}{4}$ SW $\frac{1}{4}$, 1.2 NW $\frac{1}{4}$ SW $\frac{1}{4}$, 13.2 T21N, R23E 44.4		Decree Wimpey Creek
74-1838	BOWMAN, Chester and/or Lucille Route 1 Salmon, Idaho	5 -6 -1910	Irrigation	4/1	11/1	0.52	SE $\frac{1}{4}$ NW $\frac{1}{4}$, S.30 T21N, R24E	Sec. 25 NE $\frac{1}{4}$ SE $\frac{1}{4}$, 12.7 NW $\frac{1}{4}$ SE $\frac{1}{4}$, 5.5 SE $\frac{1}{4}$ SE $\frac{1}{4}$, 33.0 T21N, R23E 51.2		Beneficial Use East Fork Wimpey Creek
74-0734	KORNELL, William and/or Charlotte P. O. Box 521	4 -1 -1912	Irrigation	4/1	11/1	0.56	SW $\frac{1}{4}$ SE $\frac{1}{4}$, S.34 T21N, R23E	Sec. 3 Lot 2, 22.2 Lot 3, 5.7 T20N, R23E 27.9		Beneficial Use Wimpey Creek

EXHIBIT

tabbles

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The Nature Conservancy in Idaho
950 W Bannock St., Ste 210
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October 28, 2022

RECEIVED

Oct 28, 2022

DEPARTMENT OF
WATER RESOURCES

State of Idaho Department of Water Resources
Eastern Regional Office
900 N SKYLINE DR STE A
IDAHO FALLS ID 83402-1718

RE: Application of Transfer of Water right number 86951 and 86942 in the Name of Rohn R Nelson and Lori A. Nelson

To whom it may concern:

The Nature Conservancy (TNC) is the holder of the 2017 conservation easement on the Pratt Creek Ranch that includes Wimpey Creek, which is designated as critical habitat for Snake River spring/summer Chinook salmon pursuant to the Endangered Species Act. The easement was partially funded by the Bonneville Power Administration (BPA) to fulfill BPA's mitigation responsibilities under the Pacific Northwest Electric Power Planning and Conservation Act, 16 U.S.C. § 839b(h), and the Endangered Species Act, 16 U.S.C. §§ 1531-1544 for the Federal Columbia River Power System dams. A copy of the recorded conservation easement is attached for your reference.

The water right transfer application numbers 86951 and 86942 will directly impact the conservation values described above that the conservation easement was intended to protect. We respect the rights of property owners to amend their water rights, but changing the point of diversion and conveyance system will, directly impact the local public interest (as set forth in Idaho Code § 42-240(5)) of the natural systems of Wimpey Creek and the anadromous fish spawning and rearing habitat that it supports and the likely diversion and use of more water than originally permitted (as set forth in Idaho Code § 42-211).

TNC is an international non-profit organization dedicated to protecting the lands and waters on which all life depends. Our work in Idaho has been successful at achieving lasting benefits to natural systems and local economies by partnering with working landscapes that include ranches, rangelands, and forests. We have been working in the Upper Salmon Basin for the last three decades and with the Upper Salmon Basin Watershed Program (USBWP) to develop collaborative solutions within the community to manage water resources to promote economic viability and to protect natural communities, open space, and critical anadromous fish habitat.

The purpose of the Conservation Easement is to preserve and protect in perpetuity the following conservation values that benefit the people of Lemhi County, and the people of the State of Idaho. These include maintaining and preserving watershed functions, water quality and quantity in the Lemhi River, Pratt Creek, Wilson Creek, and Wimpey Creek which is important spawning and rearing habitat for native anadromous and resident fish including Chinook salmon, steelhead trout, bull trout, and cutthroat trout. The property also supports functioning riparian and wetland ecosystems and associated native flora and fauna that represent important local biodiversity and provides unfragmented open space corridors for the unimpaired passage of wildlife. Collectively, the natural communities protected by the conservation easement provide habitat for native wildlife species including, resident and anadromous salmonids, raptors, waterfowl, elk, deer, sage grouse, moose, as well as many species of common and rare plants and animals.



Tributaries to the Lemhi River are important refuge habitat for these fish, especially in the summer months when the Lemhi is low and warm. The cooler waters of tributaries like Wimpey Creek are critical for these fish and the habitat on Wimpey Creek has been protected and improved by the conservation easement by allowing fish the ability to survive those warm temperature months. Since the conservation easement was created, TNC has been working with the owner to implement the water management practices to augment flows when irrigation demand and low natural in-stream flows could otherwise prevent sufficient flow in Wimpey Creek for migration, spawning and rearing of steelhead, trout, salmon, and bull trout. Further, 2017-18 stream and riparian corridor restoration projects completed on Wimpey Creek by Trout Unlimited (and funded by the Idaho Governor's Office of Species Conservation, Pacific Coast Salmon Recovery Fund, and BPA, improved stream conditions and floodplain connectivity to support spawning and rearing habitat for anadromous fish.

The actions outlined in transfer applications 86951 and 86942 will change the place of use and point of diversion (POD) of water from Wimpey Creek and negatively impact connectivity of this important anadromous fish spawning habitat. Further, changes to the POD and conveyance system will reduce stream flows in Wimpey Creek during the summer months in an already water-strapped creek and will require additional CFS to effectively deliver the prescribed water right to the place of use due to evaporative and infiltrative losses in the much longer open ditch conveyance system.

It should also be noted that the applicants, Rohn R Nelson and Lori A. Nelson do not own the water rights (74-210A, and 74.734A) that they have applied to transfer. According to the water right reports on the IDRW webpage, these water rights are owned by Ronald E Beyers. The parties are apparently involved in a legal dispute over the water rights, and any transfer application over disputed rights and filed by a party who is not the owner of record may be premature.

The impacts of these proposed actions in transfer application 86951 and 86942 will undermine decades of collaborative work that the local community and partners have done to improve natural systems and to reconnect important spawning and rearing tributaries for anadromous fish. We respectfully request that IDWR consider the information contained in this letter as it considers the subject transfer applications.

Thank you, .



Dusty Perkins
Land Stewardship Manager

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nature.org/Idaho

The Nature Conservancy
Idaho Chapter

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Hailey, ID 83333

Physical Address:
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Boise, Idaho 83702



Instrument # 0000305082 # Pages: 51
LEMHI COUNTY, Idaho
Apr 20, 2017 12:04 PM Fee: \$ 180.00
For: Alliance Title - Salmon Office
TERRI J. MORTON, Recorder

When recorded, return to:
The Nature Conservancy
Legal Department
559 East South Temple
Salt Lake City, UT 84102

AT219086

DEED OF CONSERVATION AND RESTORATION EASEMENT

Lemhi River (Pratt Creek Ranch) Idaho

THIS DEED OF CONSERVATION AND RESTORATION EASEMENT ("Conservation Easement") is made this 14 day of April, 2017 by and between PRATT CREEK RANCH Limited Partnership, an Idaho Limited Partnership, its successors and assigns, whose address is 178 Pratt Creek Road, Salmon, ID 83467 ("Grantor") and THE NATURE CONSERVANCY, a District of Columbia nonprofit corporation, its successors and assigns, whose principal address is 4245 North Fairfax Drive, Suite 100, Arlington, Virginia 22203 (the "Grantee" or "Conservancy"), each hereinafter individually, "Party" or collectively "Parties", and the UNITED STATES OF AMERICA, acting by and through the United States Department of Energy, Bonneville Power Administration ("BPA"), an intended third party beneficiary of this Conservation Easement.

RECITALS

- A. Grantor owns real property in Lemhi County, Idaho, which is legally described in Exhibit A and shown for reference purposes on Exhibit B ("Property Map"), together with all appurtenances thereto, including the water rights listed on Exhibit A ("Water Rights") (collectively, as the "Property").
- B. The Property consists of approximately 2,316 acres, composed primarily of prime farmland, sagebrush steppe rangeland, Lemhi River tributaries including Pratt Creek, Wilson Creek and Wimpey Creek, and associated riparian areas and wetlands, and associated Development Areas all of which are shown on Exhibit B and further documented in the Baseline Documentation Report.
- C. All waters of the Salmon River drainage, including the Lemhi River and its tributaries, portions of which are located on the Property, were designated as critical habitat for Snake River spring/summer Chinook salmon on December 28, 1993 (Fed. Reg., Vol. 58, No. 68545) pursuant to the Endangered Species Act, which listed spring/summer Chinook salmon as threatened on April 22, 1992 (Fed. Reg. Vol. 58, No. 78). The Conservancy entered into a Memorandum of Agreement on April 4, 2017 with BPA under which BPA agreed to provide the funding toward this Conservation Easement to fulfill BPA's mitigation responsibilities under the Pacific Northwest Electric Power Planning and Conservation Act, 16 U.S.C. § 839b(h), and the Endangered Species Act, 16 U.S.C. §§ 1531-1544 for the Federal Columbia River Power System dams. In return, the