

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

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM.

CIVIL CASE NUMBER: 39576

Ident. Number: A47-00187
Date Received: 12/15/1988
Receipt No: S004523
Received By: SEC

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: BRENT FUNK 208-432-6650
Address: RT. 1
MURTAUGH, ID 83344

2. Date of Priority: JUN 29, 1911

3. Source: ROCK CREEK Trib. to: SNAKE RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
12S	18E	1	SW	SW	SW		TWIN FALLS

5. Description of diverting works:
HEADGATES AND OPEN DITCH TO PUMPS AND SPRINKLERS.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	03/15	11/15	2.500		

7. Total Quantity Appropriated is:
2.500 C.F.S. (and/or) A.F.A.

8. Total consumptive use is 936.0 Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
11S	19E	31	NE	NE		IRR	40.0
			NW	NE		IRR	40.0
			SW	NE		IRR	40.0
			SE	NE		IRR	38.0

A47-00187

Page 1

Date: 12/15/88

MICROFILMED
MAR 11 1993

10. Place of Use: Continued

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
11S	19E	31	NE	SE		IRR	34.0
			NW	SE		IRR	40.0
			SW	SE		IRR	40.0
			SE	SE		IRR	40.0
						Section Acres	312.0
						Total Acres	312.0

11. Place of use in counties: TWIN FALLS

12. Do you own the property listed above as place of use? YES

13. Other Water Rights Used:
SEE REMARKS.

14. Remarks:

P/D GIVEN INCORRECTLY IN DECREE AS NENW S1 12S 18E.
CORRECT P/D VERIFIED BY WATERMASTER.
OTHER WR: A47-00173, 174, 175, 176, 188, A47-02509, A47-02496,
A47-04107A, A47-04110, A47-00137A, A47-07529
ALL THESE WR ARE COMBINED INTO ONE IRRIGATION SPRINKLER SYSTEM
AND USED AT P/U UNDER TWO PIVOTS.

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date: 3/27/1942

HARRIET E. MCDERMIT
Decree Plaintiff

vs

MAGNUS LARSEN ET AL
Decree Defendant

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not x wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: 1

For Individuals:

I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): Dent Lusk Date: 12/15/88

Date: _____

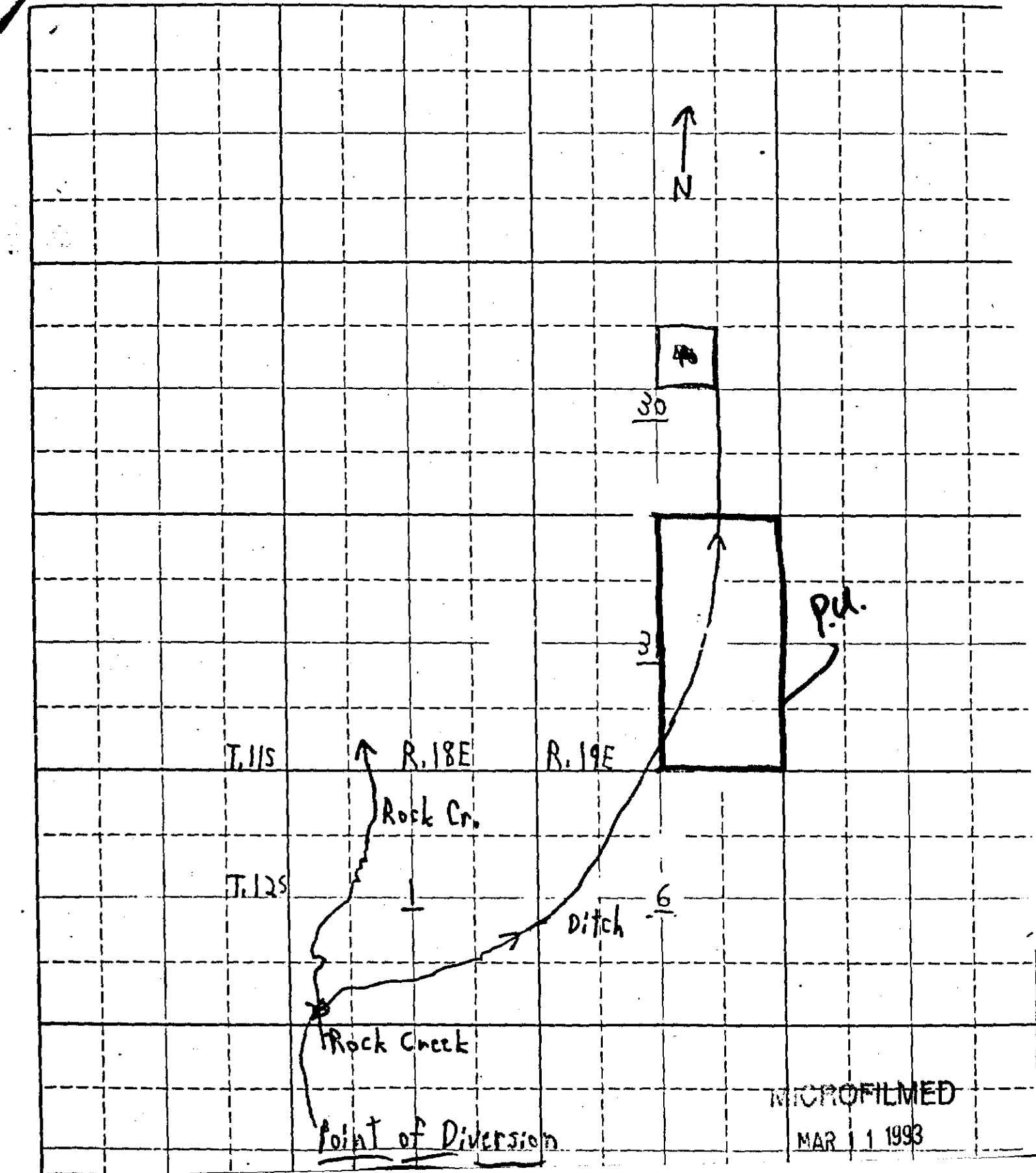
State of Idaho)
County of Twin Falls) SS.

Subscribed and sworn (or affirmed) before me this 15th day
of December 19 88 Steve Collins
Notary Public

Seal

Residing at Twin Falls
My Commission Expires Dec 7, 1994

- b. Draw a map indicating the new point(s) of diversion and/or the new land to be irrigate. Show clearly the land involved by section, township and range number.



A47-00187

INTER-DEPARTMENT MEMO

TO: Brent Funk Transfer Apps.SUBJECT: Follow-Up MemoFROM: Jim StantonDATE: 7-8-94

Mr. Funk was in the office yesterday at my request. Due to problems with the original transfers, I re-did the applications to include all rights on this farm. This generated a third transfer on 47-02509. All three transfer apps. now describe the permissible place of use as it will be after the dairy is completed.

There is a question on 47-00137. Both Brent and his neighbor Mr. Willis have claimed all of this right (1.2 cfs). Watermaster records show Willis as owning it all. Brent said that he had no deeds, etc., showing that he owned of this right, but that Willis should have to show that he owns it all. Since Brent owns 1/3 of the land under the decree, I showed his part as 1/3 of the water right. SRBA will ultimately have to determine ownership, but hopefully we can approve this transfer with a standard condition for later SRBA findings.

() For your information


signature

() Response required

MICROFILMED

OCT 27 1994

INTER-DEPARTMENT MEMO

TO: Brent Funk Transfer Apps.

SUBJECT: Analysis, Site Inspection

FROM: Jim Stanton

DATE: 6-29-94

I previously visited this property. Mr. Funk has drilled two wells and is operating this large dairy illegally prior to approval of the transfers.

The irrigation system in the E $\frac{1}{2}$ Sec. 31 consists of 3 wells and a ditch from Rock Creek. All water is comingled in a pond and pressurized for 2 pivots and various handlines.. This system represents a permissible place of use involving Rts. 47-00137, 00175, 00176, 00187, 00188, 02496, 02509, 07529. The transfers seek to remove rights from the SE $\frac{1}{2}$ SE $\frac{1}{2}$ Sec. 31 so that this tract can be converted to dairy use. Since some of these rights are not decreed/ licensed to this tract, they are not involved in these transfers. I found a total of 298 irrigable acres prior to dairy construction. Twenty acres must be dried up to provide dairy water, but the dairy will actually cover about 37 acres. 278 acres could be irrigated, in

() For your information

signature

() Response required

TO: _____

SUBJECT: _____

FROM: _____

DATE: _____

addition to operating the dairy, without obviously increasing the present water usage. However, there are 204 acres of licensed groundwater use on this property. Of all the Rock Creek water appurtenant to this land, only 60 inches is of good priority; almost all is late-priority rights that are probably available for only a short period of high/ high runoff. In all likelihood, the wells provide most of the water for this place. It is quite possible that an expansion of groundwater use has already occurred here. At any rate, 204 acres would allow 816 AFA of groundwater to be used. With 79.6 AFA for the proposed dairy, 4.6 AFA for 1 acre of irrigation, and 1.2 AFA for culinary use in 2 homes, 84.8 AFA could be allowed to be pumped from the 2 dairy wells. This leaves 731.2 AFA allowable from the irrigation wells. The groundwater transfer should be so conditioned. The remaining surface and groundwater irrigation rights should be limited to 261 acres of irrigation and

() For your information

signature

() Response required

OCT 27 1994

INTER-DEPARTMENT MEMO

TO: _____

SUBJECT: _____

FROM: _____

DATE: _____

to the pumping capacity of the re-lift pumps (plus ditch loss for the surface rights. I
did not try to determine the capacity of these pumps. Even the rights that have not been
included in these transfers should be included in the approval conditions. I did not speak
to the watermaster concerning the Rock Creek rights, as his comments are requested anyway.
Any question of forfeiture may be settled in the SRBA recommendations or in the protest
hearing if one occurs.

(X) For your information

() Response required


signature

MICROFILMED
OCT 27 1994

Log for claim A47-00187

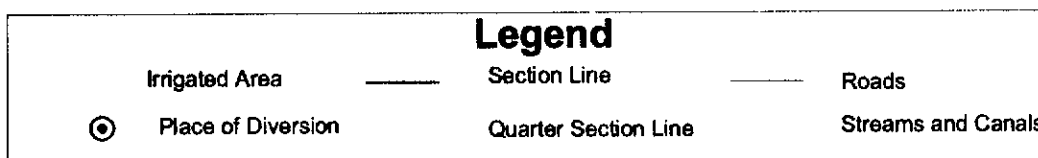
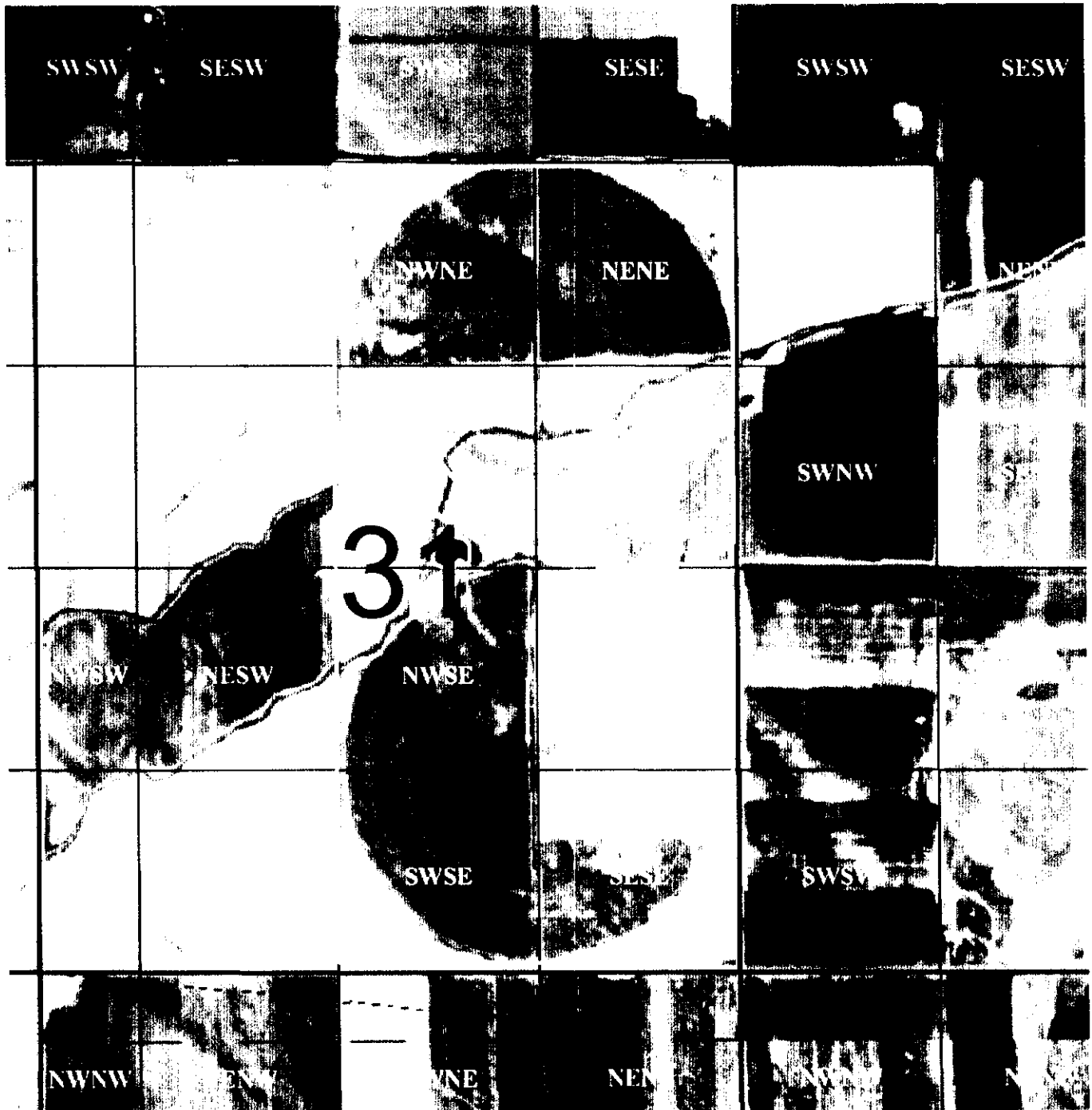
Spatial Dynamics BTd

10/19/00

TR	SEC	QQ	Acres Claimed	Acres Found	COMMENT
11s19e	31	NENE	40	39	
11s19e	31	NWNE	40	39	
11s19e	31	SWNE	40	39	
11s19e	31	SENE	38	38	
11s19e	31	NESE	34	33	
11s19e	31	NWSE	40	40	
11s19e	31	SWSE	40	38	
11s19e	31	SESE	40	37	
Totals:			312	303	

Water Right Claim Number A47-00187
Township , 11S19E

10/19/2000
See A47-00176



600 0 600 1200 Feet



AJ5809NP
No. A47-00187

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT

DATE: 10/03/00
PAGE: 161

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	BRENT FUNK RT 1 MURTAUGH ID 83344 (208) 432-6650	06/29/1911	IRRIGATION	03-15 11-15	2.500 CFS	
				TOTAL DIVERSION: CONSUMPTIVE USE:	2.500 CFS	936.00 AFA

Water Source: ROCK CREEK

Tributary to: SNAKE RIVER

Stage: DECREED

Point(s) of Diversion: T12S R18E S01 SWSWSW

TWIN FALLS County

Place of use Legal Description for: IRRIGATION

NE												NW				SW				SE				
T	R	S	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	SUM			
11S	19E	31	40		40		40		38								34		40		40	312.0		
TOTAL ACRES																					312.0			

POU County: TWIN FALLS

Other Rights: SEE REMARKS.

Other Water Rights with Same Point(s) of Diversion with Stage (Includes All Sources):

A47-00137A	A47-00137B	A47-00140	A47-00141	A47-00142	A47-00147B	A47-00168	A47-00169	A47-00170	A47-00171
A47-00173	A47-00174	A47-00175	A47-00176	A47-00177B	A47-00177D	A47-00177E	A47-00177F	A47-00177G	A47-00178
A47-00179	A47-00180	A47-00181	A47-00182	A47-00183	A47-00184A	A47-00184B	A47-00188	A47-00189	A47-00190
A47-00191	A47-00192	A47-00193	A47-02484A	A47-07529	A47-16640B	A47-16640D	A47-16640E	A47-16640F	A47-16640G
R47-00137B	R47-00183	R47-00184A	R47-02484A						

Other Water Rights Listing Overlapping Place(s) of Use:

A47-00137 A47-00137A A47-00175 A47-00176 A47-00188 A47-02484 A47-02496 A47-02509 A47-07529

Remarks: GEN P/D GIVEN INCORRECTLY IN DECREE AS NENW S1 12S 18E.
CORRECT P/D VERIFIED BY WATERMASTER.
OTHER WR: A47-00173, 174, 175, 176, 188, A47-02509, A47-02496,
A47-04107A, A47-04110, A47-00137A, A47-07529
ALL THESE WR ARE COMBINED INTO ONE IRRIGATION SPRINKLER SYSTEM
AND USED AT P/U UNDER TWO PIVOTS.

Dates: Exam Made Date: Verified Date: 05/06/1985 Objection Filed Date:

Misc: Water District Number: 470 Field Inspection Flag:
Presumption Flag: D

Audit: 12/15/88 CLELLAND 03/30/95 POST-STD

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT

TRANSFER NO. 4422
WATER RIGHT NO(S). 47-00175/47-00176/47-00187/47-00188

This is to certify that: BRENT FUNK
2951 N 4000 E
HANSEN ID 83334

has requested a change to the above captioned water right(s). This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code, provided the conditions listed below are met.

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL VOLUME</u>
Right No. 47-00175 :			
IRRIGATION	04/01 to 10/31	0.40 CFS	169.0 AF
Priority: 01/01/1918			
Right No. 47-00176 :			
IRRIGATION	04/01 to 10/31	1.60 CFS	640.0 AF
Priority: 09/23/1929			
Right No. 47-00187 :			
IRRIGATION	04/01 to 10/31	2.50 CFS	640.0 AF
Priority: 06/29/1911			
Right No. 47-00188 :			
IRRIGATION	04/01 to 10/31	1.17 CFS	494.3 AF
Priority: 11/29/1918			
TOTAL:		* 5.67 CFS	* 1,024.0 AF

SOURCE

ROCK CREEK

TRIBUTARY OF

SNAKE RIVER

LOCATION OF POINT(S) OF DIVERSION:

SWSW , Sec. 1, Township 12S, Range 18E
TWIN FALLS County

PLACE OF USE: IRRIGATION

<u>TWN RGE SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
11S 19E 31	NENE 38	NWNE 39	SWNE 34	
	SENE 36	NESE 33	NWSE 37	
	SWSE 39			256

Total number of acres irrigated: ** 256

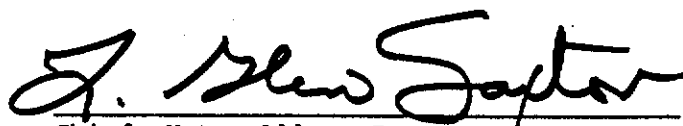
OCT 30 1995

TRANSFER NO. 4422
WATER RIGHT NO(S). 47-00175/47-00176/47-00187/47-00188

CONDITIONS OF APPROVAL AND REMARKS

1. Use of water under this water right will be regulated by the watermaster of State Water District No. 47-0.
2. A measuring device of a type approved by this Department shall be maintained as a part of the diverting works.
- * 3. This right when combined with all other rights shall provide no more than .02 cfs per acre nor more than 4.0 afa per acre for the lands above.
4. After specific notification by the department, the right holder shall annually report the amount of water diverted to the department.
5. The change authorized by this transfer shall be accomplished within one (1) year of the date of this approval.
6. Failure to comply with the conditions of this transfer is cause for the director to issue an order to show cause why the approval of the transfer should not be rescinded.
7. Approval of this transfer does not preclude the opportunity for review of the validity of the water right(s) in the ongoing Snake River Basin Adjudication.
- ** 8. Combined Right Nos. 47-00175 and 47-00176 are limited to the irrigation of 160 acres in the place of use described above in a single irrigation season.
- ** 9. Right No. 47-00187 is limited to the irrigation of 160 acres in the place of use described above in a single irrigation season.
- ** 10. Right No. 47-00188 is limited to the irrigation of 160 acres in the place of use described above in a single irrigation season.
11. See accompanying Order.

Dated this 10th day of October, 1995


Chief, Water Alloc. Bureau

335

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR)
TRANSFER NO. 4422 FILED IN THE)
NAME OF BRENT FUNK)

PRELIMINARY ORDER

This matter having come before the Idaho Department of Water Resources (department), as a result of the filing of application for transfer no. 4422, the department makes the following Findings of Fact, Conclusions of Law and Order:

FINDINGS OF FACT

1. On July 7, 1994, Brent Funk (applicant) filed application for transfer no. 4422 (application) with the department seeking to change the place of use of water right nos. 47-00175, 47-00176, 47-00187, 47-00188, 47-07529 and 47-00137B. The applicant seeks a permissible place of use for the water rights.

2. Information from the records of the watermaster of Water District No. 47-0 and from water right records of the department do not show that the applicant owns water right no. 47-00137.

3. Water right nos. 47-00175, 47-00176, 47-00187, and 47-00137 provide 0.02 cfs of water for the 256 acre place of use.

CONCLUSIONS OF LAW

1. Section 42-202, Idaho Code, provides in pertinent part as follows:

In case the proposed right of use is for agricultural purposes, the application shall give the legal subdivisions of the land proposed to be irrigated, with the total acreage to be reclaimed as near as may be; provided, that no one shall be authorized to divert for irrigation purposes more than one cubic foot of water per second of the normal flow for each fifty (50) acres of land to be so irrigated unless it can be shown to the satisfaction of the department of water resources that a greater amount is necessary.

2. Section 42-222, Idaho Code, provides in pertinent part as follows:

(1) Any person, entitled to the use of water whether represented by license issued by the department of water

OCT 20 1995

resources, by claims to water rights by reason of diversion and application to a beneficial use as filed under the provisions of this chapter, or by decree of the court, who shall desire to change the point of diversion, place of use, period of use or nature of use of all or part of the water, under the right shall first make application to the department of water resources for approval of such change.

The director of the department of water resources shall examine all the evidence and available information and shall approve the change in whole, or in part, or upon conditions, provided no other water rights are injured thereby, the change does not constitute an enlargement in use of the original right, and the change is consistent with the conservation of water resources within the state of Idaho and is in the local public interest as defined in section 42-203A(5), Idaho Code;

3. The applicant has not shown that he is entitled to the use of water under right no. 47-00137.

4. The applicant is not entitled to divert more than 0.02 cfs of water per acre.

5. The department should not approve transfer no. 4422 authorizing a change in the place of use of right nos. 47-00137 and 47-07529.

ORDER

IT IS THEREFORE, HEREBY ORDERED that application for transfer no. 4422 is **PARTIALLY APPROVED** as shown on the attached transfer document; and

IT IS FURTHER, HEREBY ORDERED that transfer no. 4422 does not make changes to rights 47-00137 or 47-07529.

Dated this 10th day of October, 1995.


L. GLEN SAXTON, Chief
Water Allocation Bureau

0.00137

①

47-0-2
45-J-2
✓

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

HARRIET E. McDERMID,

Plaintiff,

vs.

MAGNUS LARSEN, Watermaster of
Water District #30 of the State
of Idaho in charge of the dis-
tribution of the waters of Rock
Creek, Twin Falls County, Idaho,

Defendant,

and

CLYDE EDMINSTER, EDNA M. KEMP,
H. B. TILLEY, O. D. TILLEY,
MARIAN GILLETTE, Administratrix
of the Estate of W. H. Turner,
deceased, and Executrix of the
Estate of Cynthia G. Turner,
deceased; KENNETH LARSEN: and
EARL MURRAY,

Interveners.

D E C R E E

The above entitled action came on regularly for trial
at the March, 1942 term of the above court, and having been
tried by the Court on the 27th day of March, 1942, Honorable
James W. Porter, district judge, presiding; James R. Bothwell, Esquire,
appearing for plaintiff, Harriet E. McDermid; Messrs.
Parry and Thoman appearing for Clyde Edminster, Edna M. Kemp,
H. B. Tilley and O. D. Tilley, interveners; Frank L. Stephan,
Esquire, appearing for Marian Gillette, administratrix of the
estate of W. H. Turner, deceased, and executrix of the estate of
Cynthia G. Turner, deceased, intervener; S. T. Hamilton, Esquire,
appearing for Kenneth Larsen, intervener; and A. J. Myers,
Esquire, appearing for Earl Murray, intervener; and the defendant
Magnus Larsen not appearing, and his default having heretofore
been entered by the Clerk; and after hearing the allegations and
proofs of the parties, which consisted of a Stipulation of Facts,

RECORDED
OCT 30 1995

Elliott ditch at a point in the Northeast Quarter of the Northwest Quarter (NE $\frac{1}{4}$ NW $\frac{1}{4}$) of Section One (1), Township Twelve (12) South, Range Eighteen (18) East Boise Meridian, Twin Falls County, Idaho. And further there is awarded to the said inter-

47-0185 ✓
~~45-0444~~
superseder
47-0137
vener, Marian Gillette, administratrix and executrix, as afore-
said, the right to conduct at all times sixty (60) inches of
water, which was acquired on the 9th day of April, 1921, from
Henry Jones and Wilmoth Jones, husband and wife, with a priority
47-0186 ✓
~~45-0445~~
April 20, 1880, through said ditch, and sixty-two (62) inches of
water diverted and appropriated from certain wells located in
Section Twelve (12), Township Twelve (12) South, Range Eighteen
(18) East Boise Meridian, Twin Falls County, Idaho, for use after
the flood season and at a time when there is excess capacity in
the ditch.

VII

That there is hereby awarded to Kenneth Larsen, inter-
vener, and his successors in interest, for use upon the following
described lands situated in Twin Falls County, Idaho, to-wit:

The East half (E $\frac{1}{2}$) of Section Thirty-one (31),
Township Eleven (11) South, Range Nineteen
(19) East Boise Meridian,

a water right from Rock Creek, Twin Falls County, Idaho, and its
tributaries, of

47-0187 ✓
~~45-0416~~
2 5/10 miner's inches of water per second of time
with a priority date of June 29, 1911, for use
upon the Southeast Quarter (SE $\frac{1}{4}$) of Section Thirty-
one (31), Township Eleven (11) South, Range Nine-
teen (19) East Boise Meridian; and

47-0188 ✓
~~45-0417~~
58.75 miner's inches of water per second of time
with a priority date of November 29, 1918, for use
upon the Northeast Quarter (NE $\frac{1}{4}$) of Section Thirty-
one (31), Township Eleven (11) South, Range Nineteen
(19) East Boise Meridian,

all to be diverted from Rock Creek into the Romig-Osborne-Elliott
ditch at a point in the Northeast Quarter of the Northwest Quarter
(NE $\frac{1}{4}$ NW $\frac{1}{4}$) of Section One (1), Township Twelve (12) South, Range
Eighteen (18) East Boise Meridian, Twin Falls County, Idaho.

DEPT. OF AGRICULTURE (U. S. DEPARTMENT OF AGRICULTURE) (T) JOURNAL JAN 1916 (13)