



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, Idaho 83402-1718 - (208) 525-7161- Fax (208) 525-7177

EASTERN REGION

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

February 22, 2000

MARC & BRUCE FOSTER
DBA FOSTER FARMS
3018 W 1700 S
ABERDEEN ID 83210

RE: Transfer #5428 for water right(s) 35-02758A and Notice of Completed Administrative Proceeding (NCAP)

Dear Messrs. Foster:

On August 19, 1999, the Idaho Department of Water Resources (IDWR) approved Transfer #5428, modifying the above referenced water right. Based on this transfer, IDWR water right records for the Snake River Basin Adjudication (SRBA) have been updated.

Furthermore, as directed by the SRBA Court, this office mailed a copy of the updated water right record(s) to each party listed on the enclosed NCAP. The intent of this mailing is to ensure each party has a current record of the water right(s) as recorded in the SRBA.

Please feel free to contact me if you have any questions concerning this matter.

Respectfully,

Jennifer Crabtree
Technical Records Specialist

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)

Water Rights: 35-02758A

NOTICE OF COMPLETED
ADMINISTRATIVE
PROCEEDING

IDWR has completed the following Administrative proceeding:

☐ Address change

☐ Substitution of Party

☒ I.C. § 42-222 transfer **5428**

☐ point of diversion ☒ place of use

☐ period of use ☐ nature of use

☐ split of water right ☐ change in ownership

IDWR certifies that it has completed its investigation into the changes to the elements of the water rights listed above as set forth in the attached *Amended Director's Reports* for said water rights. No other changes have been made to the elements of these water rights except as set forth above.

IDWR has served copies of the *Notice of Completed Administrative Proceeding* and *Amended Director's Report(s)* on the claimant(s), prior claimant(s) and all parties in the subcases affected, if any, as reflected on the attached certificate of mailing.

DATED: 7 March 2000



Signature of IDWR Representative

CERTIFICATE OF MAILING

I certify that on 3/10, 2000 mailed the original and copies of this form to the following persons, postage prepaid and addressed as follows:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
PO Box 2707
Twin Falls ID 83303-2707

2. One copy to:

Claimant/Seller for Substitution of Party or attorney of record:
MARC & BRUCE FOSTER
DBA FOSTER FARMS
3018 W 1700 S
ABERDEEN ID 83210

3. One copy to:

Claimant/Purchaser for Substitution of Party, or attorney of record:
N/A

4. One copy to:

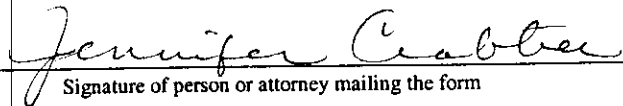
Each party in the subcase, or attorney of record
JOHN ROSHOLT
ROSHOLT ROBERTSON & TUCKER
PO BOX 1906
TWIN FALLS ID 83303-1906

5. One copy each to:

Chief Natural Resources Division
Office of the Attorney General
PO Box 44449
Boise ID 83711-4449

6. One Copy to:

United States Dept of Justice
Environment & Natural Resource Div
550 West Fort Street MSC 033
Boise ID 83724


Signature of person or attorney mailing the form

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

DATE: FEB-22-2000

PAGE: A-1

RIGHTS FROM: SOURCE: GROUNDWATER

RIGHT NUMBER: 35-02758A

NAME & ADDRESS: BRUCE C FOSTER
MARC B FOSTER
DBA FOSTER FARMS
3018 W 1700 S
ABERDEEN ID 83210

SOURCE: GROUNDWATER

QUANTITY: 1.26 CFS
256.0 AFYUSE OF THIS RIGHT WITH RIGHT NO. 35-08370A IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF 1.48 CFS AND TO A TOTAL
COMBINED ANNUAL DIVERSION VOLUME OF 472 AF.

PRIORITY DATE: 01/28/1965

POINT OF DIVERSION: T05S R30E S27 NWNW Within BINGHAM County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	IRRIGATION	04-01 11-01	1.26 CFS 256.0 AFY

PLACE OF USE:	IRRIGATION	Within BINGHAM County
	T05S R30E S27	NWNE 4 SWNE 4 NENW 32 NWNW 23 SWNW 23 SENW 32
	118 ACRES TOTAL	

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 64 ACRES WITHIN
THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

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, SECTION 42-1412(6) IDAHO CODE.

EXPLANATORY MATERIAL: BASIS OF CLAIM - LICENSE

RIGHT NO. 35-08370A IS ALSO DIVERTED THROUGH POINT OF
DIVERSION DESCRIBED ABOVE.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT

TRANSFER NO. 5428
WATER RIGHT NO(S). 35-02758A/35-08370A

RECEIVED

AUG 25 1999

Department of Water Resources
Eastern Region

This is to certify that: MARC B FOSTER
BRUCE C FOSTER
DBA FOSTER FARMS
3018 W 1700 S
ABERDEEN ID 83210

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. 35-02758A : IRRIGATION Priority: 01/28/1965	04/01 to 11/01	1.26 CFS	256.0 AF
Right No. 35-08370A : IRRIGATION Priority: 04/29/1985	04/01 to 10/31	0.70 CFS	216.0 AF
TOTAL:		* 1.48 CFS	472.0 AF

SOURCE

GROUNDWATER

LOCATION OF POINT(S) OF DIVERSION:

NWNW , Sec. 27, Township 05S, Range 30E
BINGHAM County

POU-ID-1549

PLACE OF USE: IRRIGATION

<u>TWN</u>	<u>RGE</u>	<u>SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
05S	30E	27	NWNE 4	SWNE 4	NENW 32	
			NWNW 23	SWNW 23	SEnw 32	118
Total number of acres irrigated:						** 118

CONDITIONS OF APPROVAL AND REMARKS

POU-ID-981

1. The right holder shall measure and annually report diversions of water and/or other pertinent hydrologic and system information as required by Section 42-701, Idaho Code.
2. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the lands above.

TRANSFER NO. 5428
WATER RIGHT NO(S). 35-02758A/35-08370A

CONDITIONS OF APPROVAL AND REMARKS

3. The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
4. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
- ** 5. Right 35-02758A is limited to the irrigation of 64.0 acres in the place of use described above in a single irrigation season.
- ** 6. Right 35-08370A is limited to the irrigation of 54.0 acres in the place of use described above in a single irrigation season.
- * 7. Rights 35-02758A and 35-08370A when combined shall not exceed a total diversion rate of 1.48 cfs.
8. Right 35-08370A is for the use of trust water and is subject to review 20 years after the issuance of the permit to determine availability of water and to re-evaluate the public interest.
9. Diversion and use of water under Right 35-08370A is subject to an annual use fee if rules are subsequently promulgated which provide for the submittal of the fee.
10. The Director retains jurisdiction of Right 35-08370A and may change, add, or remove any requirement as determined to be appropriate.
11. All water rights within Basin 35 are from connected sources of water in the Snake River Basin and shall be administered conjunctively.

Dated this 19th day of August, 1999.

J. Blus-Saxton
Chief, Water Allocation Bureau

RWT E25

POU KPG

EXP F05

C18

MEMORANDUM

TO: Files 35-02758A & 35-08370A

FROM: Pam Skaggs/State Office

SUBJECT: Transfer 5428

DATE: August 19, 1999

Transfer 5428 changes the place of use under the remaining 118.0 irrigated acres under Rights 35-02758A and 35-08370A following approval of companion Transfer 5427. The applicant is rearranging his acres to accommodate a new pivot.

Right 35-08370 was licensed for 176 acres; however, region staff verified that only 166 additional acres were irrigated under this license. The transfer applications split the total of 310 irrigated acres (192 under Transfer 5427 & 118 under Transfer 5428), and adjust the acres under Right 35-08370 to a combined total of 166 under Parts A & B. This right also has a point of diversion overlap limiting condition that was identified on the transferred portions.

Recommended conditions include trust water conditions for Right 35-08370, Basin 35 conjunctive sources, measuring & annual reporting, permissible place of use, combined right limits, irrigation overlap and standard transfer conditions.

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 1

Name of applicant MARK or BRUCE FOSTER dba Foster Farms Phone (208) 397-5832
 Post Office address 3018 W. 1700 S. Aberdeen, ID 83210

A. PURPOSE OF TRANSFER

1. ☐ Change point of diversion ☐ Add diversion point(s) ☒ Change place of use
☐ Change nature of use ☐ Change period of use ☐ Other _____

2. Describe the reason for the proposed changes We are putting these acres into a pivot.

B. DESCRIPTION OF RIGHT(S) OR PORTION THEREOF, AFTER THE REQUESTED CHANGE

1. Right Number	Priority	Amount (cfs/ac-ft)	Nature of Use	Period of Use
<u>35-02758A</u>	<u>1/28/1965</u>	<u>1.26 cfs</u>	<u>Irrigation</u>	<u>4/01</u> to <u>10/31</u>
<u>35-08370A</u>	<u>4/29/1985</u>	<u>0.34 cfs</u>	<u>Irrigation</u>	<u>4/01</u> to <u>10/31</u>
_____	_____	_____	_____	_____ to _____
_____	_____	_____	_____	_____ to _____

2. Total amount of water being transferred 1.60 cubic feet per second and/or _____ acre-feet per annum.

3. Source of water Groundwater tributary to _____

4. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion
		NW	NW	27	5S	30E	Bingham	POD-ID-154E

5. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
5S	30E	27		4	4		32	23	23	32									118

Total acres 118

PART 1

6. General Information:

a. Description of diversion system well, pump + pivot

b. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? yes Yes _____ No. If yes, provide a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes.

c. Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer:
The acres will be dried up and put into the CRP.

d. Remarks:

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No. _____

And said application is hereby _____, subject to the following limitations and conditions:

Witness my hand this _____ day of _____, 19 _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

- a. Decree No. _____ Decreed to _____
in case of _____ vs. _____
dated _____ in _____ county of _____
- b. License No. 35-02758 A issued by the Idaho Department of Water Resources.
- c. Claim No. _____ on file with the Idaho Department of Water Resources.
- d. Transfer No. _____ Pending which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

☒ Tax Notice or ☒ Warranty Deed ☐ Other _____

3. Source of water Groundwater tributary to _____

4. Date or priority 1/28/1965

5. Water is used for the following purpose:

amount 1.26 cfs for _____ purposes from 4/01 to 10/31
amount _____ for _____ purposes from _____ to _____
amount _____ for _____ purposes from _____ to _____
amount _____ for _____ purposes from _____ to _____

6. Total amount of water under right 1.26 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion
	SW	NW	NW	27	SS	30E	Bingham	

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
SS	30E	27					3	20	15	26									64

Total acres 64

9. Describe any other water rights used for the same purpose as described above _____

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?
no If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

(If the entire right is to be changed by the applicant, omit part B and C.)

1. amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)

2. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE %	NW %	SW %	SE %	NE %	NW %	SW %	SE %	NE %	NW %	SW %	SE %	NE %	NW %	SW %	SE %	

Total acres _____

C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT (omit if there is no change)

1. amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)

2. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE %	NW %	SW %	SE %	NE %	NW %	SW %	SE %	NE %	NW %	SW %	SE %	NE %	NW %	SW %	SE %	

Total acres _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

- a. Decree No. _____ Decreed to _____
in case of _____ vs. _____
dated _____ in _____ county of _____
- b. License No. 35-08370 A issued by the Idaho Department of Water Resources.
- c. Claim No. _____ on file with the Idaho Department of Water Resources.
- d. Transfer No. Pending which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

☒ Tax Notice or ☒ Warranty Deed ☐ Other _____

3. Source of water Groundwater tributary to _____

4. Date or priority 4/29/1985

5. Water is used for the following purpose:

amount 0.34 cfs for Irrigation purposes from 4/01 to 10/31
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

6. Total amount of water under right 0.34 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion
		NW	NW	27	SS	30E	Bingham	

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals.
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
SS	30E	27					16	18	6	14									54

Total acres 54

9. Describe any other water rights used for the same purpose as described above _____

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?
no If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

(If the entire right is to be changed by the applicant, omit part B and C.)

1. amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	

Total acres _____

C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT (omit if there is no change)

1. amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion

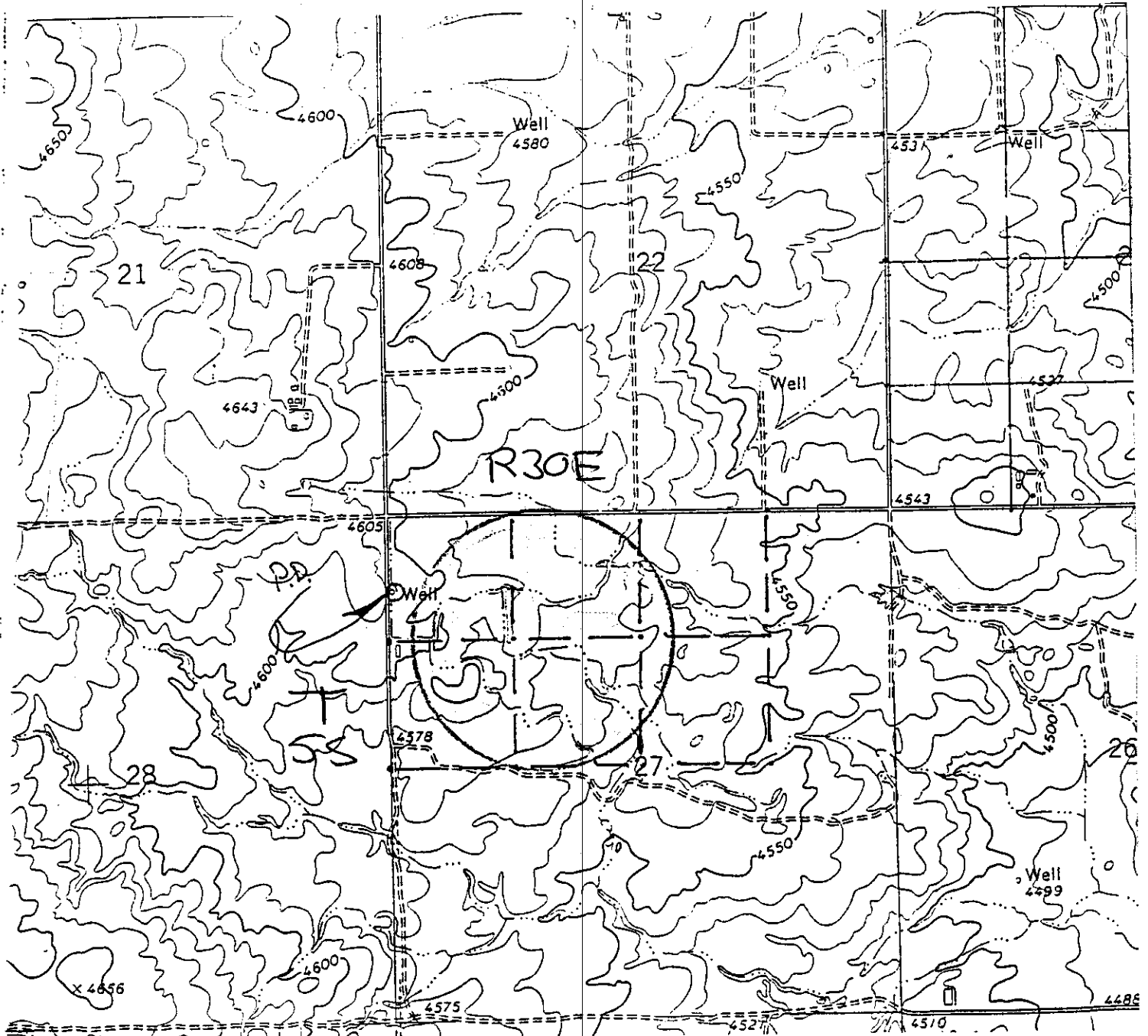
3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	

Total acres _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 3

- A. Draw a map or attach a USGS map indicating the new point(s) of diversion and/or the new place of use for rights described in part 1. Clearly depict the land by section, township and range number.



PART 3

B. CHANGES IN NATURE OF USE

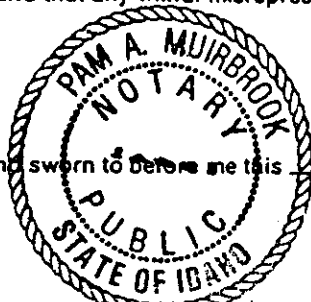
1	New Nature of Use	Amount (cfs/ac-ft)	Hours/days/year	Period of Use
				to
				to

2. Quantity and quality of return flows and location of discharge:

3. Describe effects on other water uses resulting from the proposed change:

I hereby assert that no one will be injured by such change and that the change does not constitute an enlargement in use of the original right. The information contained in this application is true to the best of my knowledge.

I understand that any willful misrepresentations made in this application may result in voiding its approval.



Subscribed and sworn to before me this

16th

day of

March, 19 99

Marc B. Foster
(Signature of Applicant)

Jam A. Hrosh
(Notary Public)

My commission expires

2/12/02

FOR DEPARTMENT USE ONLY

Transfer contains 8 pages and _____ attachmentsReceived by HWT Date 3-16-99

Protest filed by _____

Prelim. check by _____ Fee \$100.00Received by HWT *E024833 Date 3-17-99Published in Morning News

Copies of protest forwarded by _____

Pub. dates April 1 & 8, 1999

Hearing held by _____ Date _____

Watermaster recommendation requested on _____

Recommended for ☐ approval ☐ denial

rec'd. _____

by _____

Copy of transfer sent to lien holder _____



STATE OF IDAHO

Department of Water Resources

Eastern Region

Water Right(s): 35-02758A
35-08370A



0 1320 2640 3960 Feet

LEGEND



Point of Diversion



Place of Use



Section Line



Quarter-section line



GIS Place of Use Illustration
1987/1988 NAPP photography
Prepared by: E. Carlsen
Date: February 2000