



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 #5427 (water right 35-02758, 35-02758A, 35-02758B)
and Notice of Completed Administrative Proceeding (NCAP)

Dear Messrs. Foster:

On August 19, 1999, the Idaho Department of Water Resources (IDWR) approved Transfer #5427, modifying a portion of the above referenced water right(s). Based on this transfer, IDWR water right records for the Snake River Basin Adjudication (SRBA) have been updated with new water right numbers reflecting the division of the water right.

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)

Water Rights: 35-02758,
35-02758A, 35-02758B

Case No. 39576)

NOTICE OF COMPLETED
ADMINISTRATIVE
PROCEEDING

IDWR has completed the following Administrative proceeding:

☐ Address change

☐ Substitution of Party

☒ I.C. § 42-222 transfer **5427**

☒ point of diversion

☒ place of use

☐ period of use

☐ nature of use

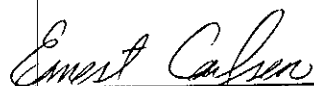
☒ split of water right

☐ 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

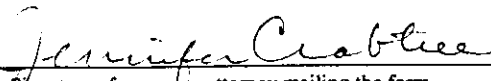


Signature of IDWR Representative

CERTIFICATE OF MAILING

I certify that on 3/10, 2000, I 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

AJ5856NP

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

DATE: FEB-22-2000

PAGE: A-2

RIGHTS FROM: SOURCE: GROUNDWATER

RIGHT NUMBER: 35-02758B

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

SOURCE: GROUNDWATER

QUANTITY: 1.58 CFS
320.0 AFYUSE OF THIS RIGHT WITH RIGHT NO. 35-08370B IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF 2.42 CFS AND TO A TOTAL
COMBINED ANNUAL DIVERSION VOLUME OF 768.0 AF.

PRIORITY DATE: 01/28/1965

POINT OF DIVERSION: T06S R30E S05 SWSE Within BINGHAM County
S08 NWNEPURPOSE AND
PERIOD OF USE: PURPOSE OF USE PERIOD OF USE QUANTITY
IRRIGATION 04-01 11-01 1.58 CFS
320.0 AFYPLACE OF USE: IRRIGATION Within BINGHAM County
T06S R30E S05 NESE 30 NWSE 30 SWSE 30 SESE 30
S08 NENE 30 NWNE 4 SWNE 30 SENE 8
192 ACRES TOTALTHIS RIGHT IS LIMITED TO THE IRRIGATION OF 80 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

AJ5856NP

IDAH0 DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

DATE: FEB-22-2000
PAGE: A-3

RIGHTS FROM: SOURCE: GROUNDWATER

RIGHT NUMBER: 35-02758B (CONT)

EXPLANATORY MATERIAL: (CONT)

RIGHT NO. 35-08370B IS ALSO DIVERTED THROUGH POINTS OF
DIVERSION DESCRIBED ABOVE.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

AUG 25 1999

TRANSFER OF WATER RIGHT

TRANSFER NO. 5427
WATER RIGHT NO(S). 35-02758B/35-08370B

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. 35-02758B :			
IRRIGATION	04/01 to 11/01	1.58 CFS	320.0 AF
Priority: 01/28/1965			
Right No. 35-08370B :			
IRRIGATION	04/01 to 10/31	1.44 CFS	448.0 AF
Priority: 04/29/1985			
TOTAL:		* 2.42 CFS	* 768.0 AF

SOURCE
GROUNDWATER

LOCATION OF POINT(S) OF DIVERSION: SWSE , Sec. 5, Township 06S, Range 30E
NWNE , Sec. 8, Township 06S, Range 30E
BINGHAM County

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>
06S	30E	5	NESE 30	NWSE 30	SWSE 30	
			SESE 30			120
		8	NENE 30	NWNE 4	SWNE 30	
			SENE 8			72

Total number of acres irrigated: ** 192

CONDITIONS OF APPROVAL AND REMARKS

1. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.
2. 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.

TRANSFER NO. 5427
WATER RIGHT NO(S). 35-02758B/35-08370B

CONDITIONS OF APPROVAL AND REMARKS

3. 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.
4. The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
5. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
- * 6. The total instantaneous diversion of water from all points of diversion under Transfer 5427 shall not exceed 2.42 cfs, nor a total combined annual volume of 768.0 af. *QNT EZS*
- ** 7. Right 35-02758B is limited to the irrigation of 80.0 acres in the place of use described above in a single irrigation season. *POH KOG*
- ** 8. Right 35-08370B is limited to the irrigation of 112.0 acres in the place of use described above in a single irrigation season. *EXP FOS*
- * 9. Rights 35-02758B and 35-08370B when combined shall not exceed a total diversion rate of 2.42 cfs.
10. Right 35-08370B 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.
11. Diversion and use of water under Right 35-08370B is subject to an annual use fee if rules are subsequently promulgated which provide for the submittal of the fee.
12. The Director retains jurisdiction of Right 35-08370B and may change, add, or remove any requirement as determined to be appropriate.
13. 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. Glen Saylor
Chief, Water Allocation Bureau

CIB

MEMORANDUM

TO: Files 35-02758 & 35-08370

FROM: Pam Skaggs^{CS}/State Office

SUBJECT: Transfer 5427

DATE: August 19, 1999

Transfer 5427 adds and changes the point of diversion, and changes the place of use under a portion of Rights 35-02758 and 35-08370, splitting each right into Parts A and B. The remaining portions of the rights, Part As, are transferred also under companion transfer 5428. The applicant is using these two rights to complete two existing pivots under Transfer 5427 and develop another under Transfer 5428.

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, drilling permit requirements, multiple points of diversion, 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 397-8222
(208) 397-5832
 Post Office address 3018 W. 1700 S. Aberdeen, ID 83210

A. PURPOSE OF TRANSFER

- ☒ Change point of diversion
 ☐ Add diversion point(s)
 ☒ Change place of use
☐ Change nature of use
 ☐ Change period of use
 ☐ Other _____
- Describe the reason for the proposed changes We want to fill in 2 pivots in the new place of use.

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

- | Right Number | Priority | Amount (cfs/ac-ft) | Nature of Use | Period of Use |
|-------------------|------------------|--------------------|-------------------|----------------------|
| <u>35-02758 B</u> | <u>1/28/1965</u> | <u>1.58</u> | <u>Irrigation</u> | <u>4/01 to 10/31</u> |
| <u>35-08370 B</u> | <u>4/29/1985</u> | <u>0.72</u> | <u>" "</u> | <u>" "</u> |
| _____ | _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ | _____ |
- Total amount of water being transferred 2.30 cubic feet per second and/or _____ acre-feet per annum.
- Source of water Groundwater tributary to _____
- Point(s) of Diversion: _____

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion
		SW	SE	5	6S	30E	Bingham	1941 P10-ID
		NW	NE	8	"	"		1940 P10-ID

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	
6S	30E	5													30	30	30	30	120
		8	30	4	30	8													72

Total acres 192

PART 1

6. General Information:

a. Description of diversion system 2 wells + pumps to 3 pivotsb. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? X 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 in CRP

d. Remarks:

License 35-08370 was licensed for 176 acres when in fact only 166 new acres were irrigated. This transfer + its companion bring those acres back to 166 total.

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 _____

PART 2

TRANS NO. 5427

A. DESCRIPTION OF RIGHT AS RECORDED:

Water Right No. 35-08370

STAGE: LICENSE

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL VOLUME</u>
IRRIGATION	04/01 to 10/31	2.14 CFS	704.0 AF

SOURCE

GROUNDWATER

Priority: 04/29/1985

LOCATION OF POINT(S) OF DIVERSION:NWNW , Sec. 27, Township 05S, Range 30E
BINGHAM CountyPLACE OF USE: IRRIGATION

<u>TWN RGE SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
05S 30E 27	NENE 25	NWNE 23	SWNE 38	
	SENE 10	NENW 16	NWNW 10	
	SWNW 24	SENW 14	NESW 6.5	
	NWSW 2.5	NESE 0.5	NWSE 6.5	176
		Total number of acres irrigated:		176

CONDITIONS/REMARKS:

1. This right 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.
2. Diversion and use of water under this right is subject to an annual use fee if rules are subsequently promulgated which provide for the submittal of the fee.
3. The Director retains jurisdiction of the right and may change, add, or remove any requirement as determined to be appropriate.
4. 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 irrigation of the lands above.
5. The total combined rate of diversion under this right and Right 35-02758 shall not exceed 3.90 cfs.
6. Right 35-02758 is also diverted through the point of diversion described above.

(over)

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 0.72 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) _____

2. 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	

3. 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	25	23	38			10			6.5	2.5			0.5	6.5			112

Total acres 112

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

1. 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) _____

2. 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	

3. 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		24	14									54

Total acres 54

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: SRBA Recommendationa. Decree No. 35-02758 Decreed to Lava Rock Ranch
in case of _____ vs. _____

dated _____ in _____ county of _____

b. License No. _____ issued by the Idaho Department of Water Resources.

c. Claim No. _____ on file with the Idaho Department of Water Resources.

d. Transfer No. _____ 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☐ 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 2.84 cfs for Irriagation purposes from 4/01 to 11/01
 (cfs/ac-ft) amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft) amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft) amount _____ for _____ purposes from _____ to _____

6. Total amount of water under right 2.84 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	5S	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	
5S	30E	27	14	17	2	19	23	28	15	26									144

Total acres 1449. Describe any other water rights used for the same purpose as described above 35-08370 onadjacent acres

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 1.58 cfs for Irrigation purposes from 4/01 to 11/01
 (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
	SW	NW	NW	27	SS	30E	Bingham	

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE %	NW %	SW %	SE %	NE %	NW %	SW %	SE %	NE %	NW %	SW %	SE %	NE %	NW %	SW %	SE %	
SS	30E	27	14	17	2	19	20	8											80

Total acres 80

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

1. amount 1.26 cfs for Irrigation purposes from 4/01 to 11/01
 (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
	SW	NW	NW	27	SS	30E	Bingham	

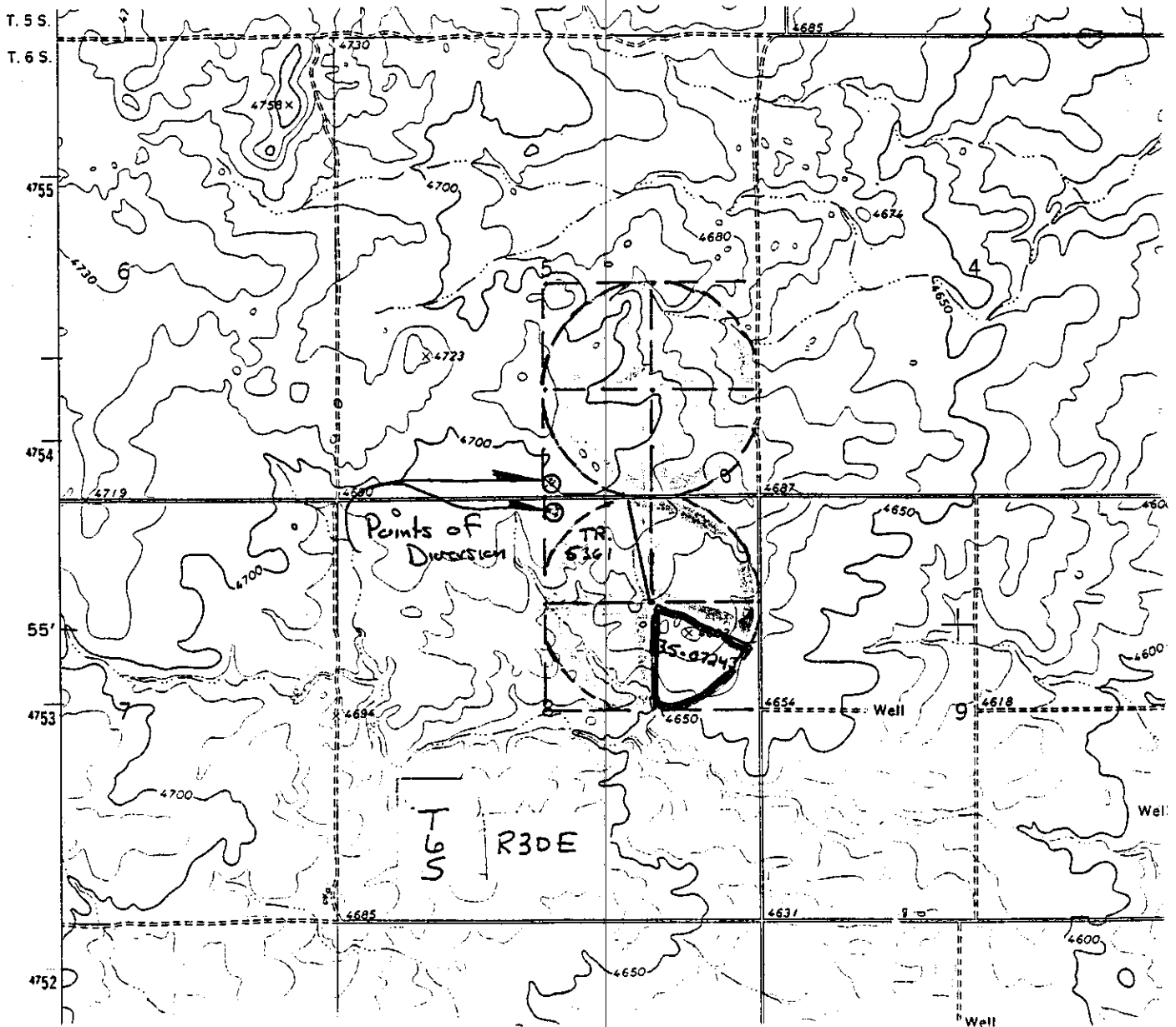
3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE %	NW %	SW %	SE %	NE %	NW %	SW %	SE %	NE %	NW %	SW %	SE %	NE %	NW %	SW %	SE %	
SS	30E	27					3	20	15	26									64

Total acres 64

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

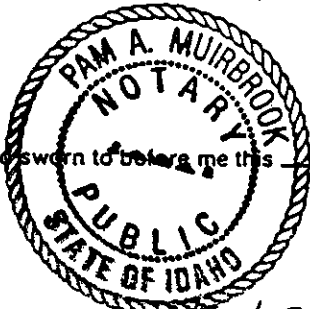
1	New Nature of Use	Amount (cfs/ac-ft)	Hours/days/year	Period of Use
				to
				to

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.



Marc B. Foster
(Signature of Applicant)

Subscribed and sworn to before me this 16th day of March, 1999.

Pam A. Muirbrook
(Notary Public)

My commission expires 2/12/02

FOR DEPARTMENT USE ONLY

Transfer contains 8 pages and _____ attachments

Received by HWT Date 3-16-99

Protest filed by _____

Prelim. check by _____ Fee \$100

Receipted by AUT #E024833 Date 3-17-99

Published 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 _____



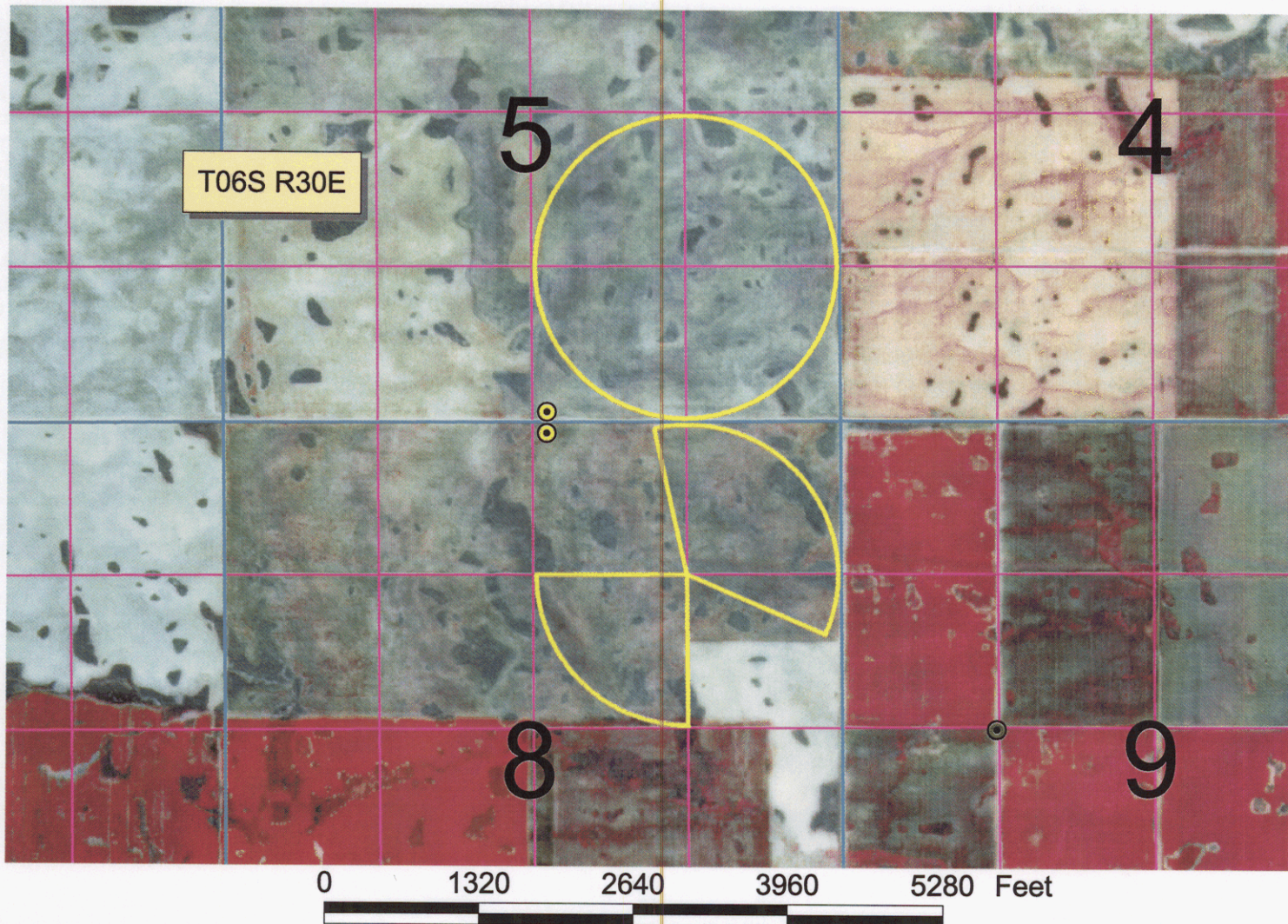
STATE OF IDAHO

Department of Water Resources

Eastern Region

not found

Water Right(s): **35-02758B**
35-08370B



LEGEND

Point of Diversion

Place of Use

Section Line

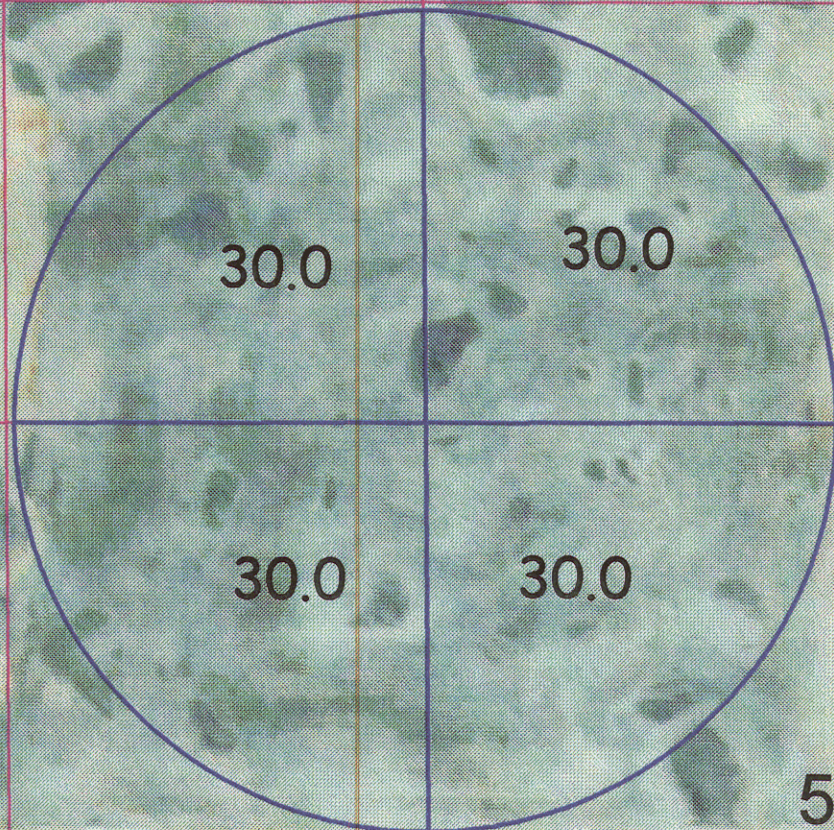
Quarter-section line



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

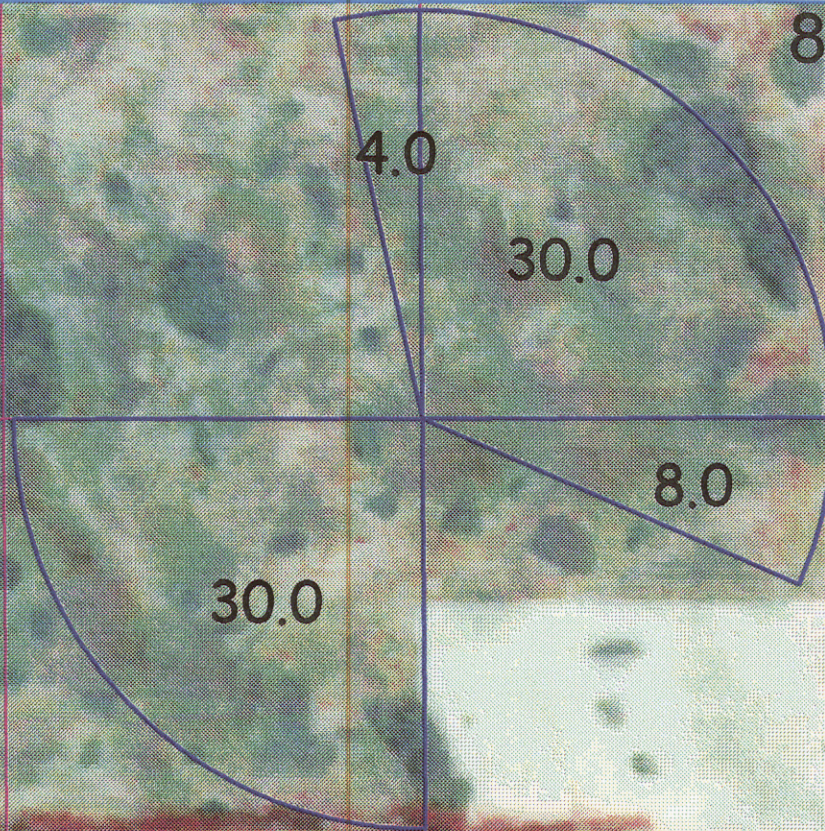
-02758B

-08370B



T06S R30E

5 4
8 9



$$A = \pi r^2 \quad 1289$$