

ROGER D. LING
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615 'H' STREET
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RUPERT, IDAHO 83350-0396

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SEP 30 2002

Department of Water Resources

September 27, 2002

Clerk of the District Court
Snake River Basin Adjudication
P. O. Box 2707
Twin Falls, ID 83303-2707

RE: Subcase No. 43-04132

Dear Clerk:

Would you please file the enclosed *Motion for Leave to File Late Objection* to which is attached a proposed *Objection*.

Very truly yours,

/s/ ROGER D. LING

Roger D. Ling

RDL:jb

encs

pc w/encs: IDWR Document Depository
Chief, Natural Resource Div.
U.S. Dept. of Interior - BLM
Arlo and Bonita Lloyd

LING & ROBINSON
ATTORNEYS AT LAW
RUPERT, IDAHO 83350-0396

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Roger D. Ling, Esq.
LING & ROBINSON
P. O. Box 396
Rupert, Idaho 83350
Telephone (208) 436-4717
Facsimile (208) 436-6804
ISB No. 1018

Attorneys for Claimants,
Arlo P. Lloyd and Bonita T. Lloyd

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SEP 30 2002
Department of Water Resources

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	)	Subcase No. 43-04132
Case No. 39576,	)	
	)	MOTION FOR LEAVE TO
	)	<u>FILE LATE OBJECTION</u>
	)	

COME NOW the claimants Arlo P. Lloyd and Bonita T. Lloyd for Water Right No. 43-04132, by and through their attorney Roger D. Ling, and move the Court pursuant to Rule 10j of Administrative Order 1 for leave to file a late Objection in Subcase No. 43-04132, a copy of said Objection being attached hereto and made a part hereof, on the grounds and for the reasons that claimants, who have previously appeared in this matter pro se, verily believe that the recommendations of the Director in this subcase failed to recommend the claim supported by the facts, that this is a contested subcase as a result of Objections filed by the Bureau of Land Management, of the United States of America, that no delay will be incurred as the result of the filing of this Objection, and it is in the

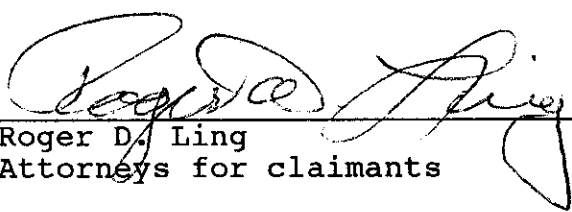
interests of justice that this late Objection be filed to resolve issues raised by the claimants.

ORAL ARGUMENT IS NOT REQUESTED.

Respectfully submitted this 27th day of September, 2002.

LING & ROBINSON

By:

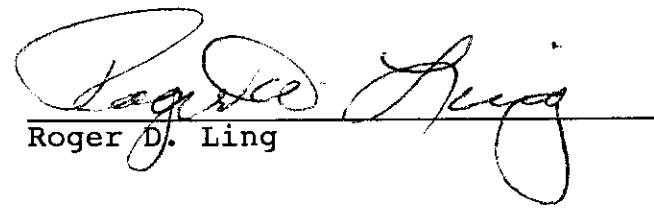

Roger D. Ling
Attorneys for claimants

STATE OF IDAHO)

County of Minidoka)

Roger D. Ling, being first duly sworn, deposes and says:

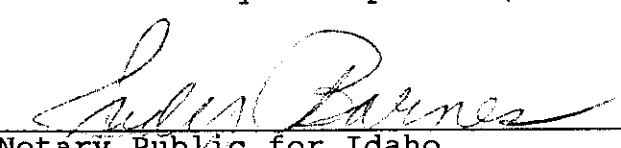
That he is the attorney for the claimants in the above-entitled action, that he has read the above and foregoing Motion for Leave to File Late Objection, knows the contents thereof, and the facts stated he believes to be true.


Roger D. Ling

SUBSCRIBED AND SWORN to before me this 27th day of September, 2002.

(SEAL)

JUDY BARNES
NOTARY PUBLIC
STATE OF IDAHO


Notary Public for Idaho
Residing at: Rupert, Idaho
My commission expires: 02/12/2005

CERTIFICATE OF MAILING

I certify that on this 27th day of September, 2002, I caused to be served a true and correct copy of the foregoing *Motion for Leave to File Late Objection* to the following:

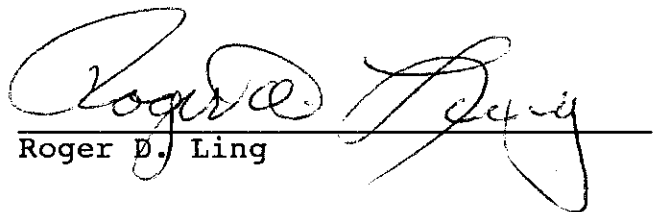
IDWR Document Depository
P. O. Box 83720
Boise, ID 83720-0098

Chief, Natural Resource Division
Office of the Attorney General
State of Idaho
P.O. Box 44449
Boise, Idaho 83711-4449

United States of America
acting through the Department of Interior
Bureau of Land Management
550 West Fort Street, MSC 033
Boise, Idaho 83724

Arlo and Bonita Lloyd
HC 61, Box 1508
Elba, Idaho 83326

by depositing copies thereof in the United States mail, postage prepaid, in envelopes addressed to said parties at the foregoing addresses.


Roger D. Ling

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SEP 30 2002
Department of Water Resources

**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

)
)
)
)
)
)

A. Subcase No. 43-04132

STANDARD FORM 1

OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: Arlo P. Lloyd and Bonita T. Lloyd

Address: HC 61, Box 1508
Elba, Idaho 83326

Daytime Phone (208) 638-5550

Name & Address of Attorney, if any:
ROGER D. LING
LING & ROBINSON
615 H Street, P. O. Box 396
Rupert, Idaho 83350

C. CLAIMANT OF WATER RIGHT AS LISTED IN DIRECTOR'S REPORT

Name: Arlo P. Lloyd and Bonita T. Lloyd

Address: HC 61, Box 1508
Elba, Idaho 83326

D. I object to the following elements as recommended in the Director's Report. (Please check the appropriate box(es).)

1. ☐ **Name and Address**
Should be: _____
2. ☐ **Source**
Should be: _____
3. ☒ **Quantity**
Should be: .67 cfs
4. ☒ **Priority Date**
Should be: April 1, 1909
5. ☐ **Point(s) of Diversion**
Should be: _____
6. ☐ **Instream Flow Description**
Should be: _____
7. ☐ **Purpose(s) of Use**
Should be: _____
8. ☐ **Period of Year**
Should be: _____
9. ☒ **Place of Use**
Should be: 18 acres in NWSE of Section 17
11. **I object because:**
 - ☐ This water right should not exist.
 - ☐ This water right was not recommended, but should be recommended with the elements described above.
 - ☒ This right was recommended, but should be recommended with the elements described above.

E. **REASONS SUPPORTING OBJECTION(S):** 3. Quantity should be increased, as it can be shown that 18 acres has been irrigated, when water is available, since the original license was issued for this water right. 4. Priority date should reflect the date of the license issued for the irrigation from Sand Hollow Spring (Black Sand Hollow Creek) for use in the NWSE of Section 17, and other lands. 9. Place of use should include the 14.3 acres in the NWSE of Section 17, together with the 3.3 acres in the NESE and .4 acres in the SWSE of said Section 17. Evidence has established that water has been used on these acres, when available.

VERIFICATION (Must be Completed)

State of Idaho)

)

County of Minidoka)

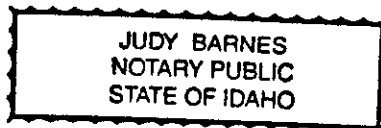
Roger D. Ling, duly sworn, upon oath, deposes and says:
(Name of person filing objection)

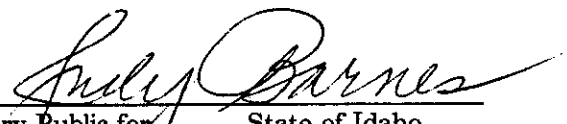
That I am the party/claimant filing this objection, as defined by I.C. § 42-1401A(1) and (6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.

Signature of person filing objection


Attorney signing in representative capacity

Subscribed and sworn to before me on: September 27, 2002




Notary Public for State of Idaho
Residing at: Rupert, Idaho
My Commission Expires: 02/12/2005

INSTRUCTION FOR MAILING

You must mail the objection to the Clerk of the Court. **FAX filings will not be accepted.** You must also send a copy to all the parties listed below in the Certificate of Mailing.

CERTIFICATE OF MAILING

I certify that on September 27, 2002, I mailed the original and copies of this objection, including all attachments, to the following persons:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, Idaho 83303-2707

2. One copy to the claimant of the water right at the following address:

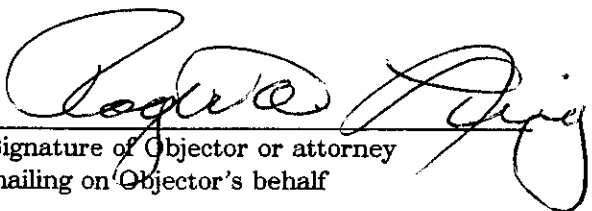
Name: Arlo P. Lloyd and Bonita T. Lloyd
Address: HC 61, Box 1508
Elba, Idaho 83326

3. Copies to:

IDWR Document Depository
P. O. Box 83720
Boise, ID 83720-0098

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. Box 44449
Boise, Idaho 83711-4449

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, Box 033
Boise, Idaho 83734



Signature of Objector or attorney
mailing on Objector's behalf

ROGER D. LING
BRENT T. ROBINSON

JASON D. WALKER
TIMOTHY J. SCHNEIDER
ASSOCIATES

LING & ROBINSON
ATTORNEYS AT LAW
615 'H' STREET
P. O. BOX 396
RUPERT, IDAHO 83350-0396

AREA CODE 208
TELEPHONE 436-4717
FAX 436-6804

September 27, 2002

RECEIVED

SEP 30 2002

Department of Water Resources

Department of Water Resources
Southern Region
1341 Fillmore Street, Suite 200
Twin Falls, ID 83301-3380

RE: Water Right No. 43-4132

Dear Gentlemen:

Enclosed please find an Application for Transfer filed on behalf of Arlo P. Lloyd and Bonita T. Lloyd, husband and wife, for transfer of the place of use for Water Right No. 43-4132. There have been a Claim and a Director's Report filed for this water right, and there are issues now pending before the SRBA Court relating to quantity and place of use. It is recommended that the issues be resolved in the SRBA Court, at least as to the number of acres and quantity, and then we will proceed with the transfer to remove acres now being irrigated that are owned by the United States. I have enclosed our check in the sum of \$250.00 as the filing fee for this transfer.

Very truly yours,

/S/ ROGER D. LING

Roger D. Ling

RDL:jb

encs

pc/enc: Arlo and Bonita Lloyd
Clerk of the SRBA Court
Chief, Natural Resource Div.
IDWR Document Depository
BLM/U.S. Dept. of Interior

SEP 30 2002

Department of Water Resources

Page _____ of _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No. _____

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1

Name of applicant Arlo P. Lloyd and Bonita T. Lloyd Phone (208) 638-5550
Post Office address HC 61, Box 1508 Elba, Idaho 83326

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 Applicant seeks to transfer the place of use from BLM lands now being irrigated under this right to lands owned by the applicant, and to consolidate the place of use onto one parcel.

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

- [illegible]

[illegible]

5. Lands irrigated or place of use:

[illegible]

Total acres 18

PART 1**6. General Information:**

a. Description of diversion system Open ditch from Black Sand Hollow Creek to NE corner of SESE of Section 17, Township 14 South, Range 25 East Boise Meridian, where water is spread over lands by distribution ditches for surface irrigation.

b. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? _____ 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:
Lands belonging to the Bureau of Land Management will no longer be irrigated under this water right; lands of applicant in the NWSE of Section 17 will be dried up; and the entire 18 acres to be irrigated will be in the SESE of said Section 17.

d. Remarks: It is necessary to remove the place of use from 3.3 acres in the NESE of Sec.17, and .4 acres from the SWSE of said Sec. 17, which lands are owned by the Bureau of Land Management, United States of America. Applicant's land in the NWSE of Sec.17 will continue to be irrigated until the transfer has been completed, and distribution works constructed on the SESE of said Sec.17. Actual present place of use under this right & quantity of water is being resolved in the Snake River Basin Adjudication.

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. Recommendation of Director for Right No. 43-4132, which has disputed issues and is
being resolved in the SRBA.

in case of _____ vs. _____
dated _____ in _____ county of _____

- b. Permit 43-4132 issued by the Idaho Department of Water Resources.

- c. Claim No. 43-4132 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 SRBA claim

3. Source of water Black Sand Hollow Creek tributary to sinks

4. Date or priority 10/19/1928 or 04/01/1909

5. Water is used for the following purpose:

Recommended
amount .54 cfs for irrigation purposes from 04/01 to 10/31
(cfs/ac-ft)
Claimed amount .67 cfs for irrigation purposes from 04/01 to 10/31
(cfs/ac-ft)
amount .03 cfs for stockwater purposes from 01/01 to 12/31
(cfs/ac-ft)

6. Total amount of water under right .54 or .67 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
	SE	SE	SW	16	14S	25E	Cassia	

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	
14S	25E	17				3.3				7.7				.4					11.4
Claimed						3.3				14.3				.4					18

Total acres 11.4 or 18

9. Describe any other water rights used for the same purpose as described above (none)

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?
Yes _____ If yes, describe Flows are insufficient to insure use of the entire amount at least once each five (5) years.

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 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	

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

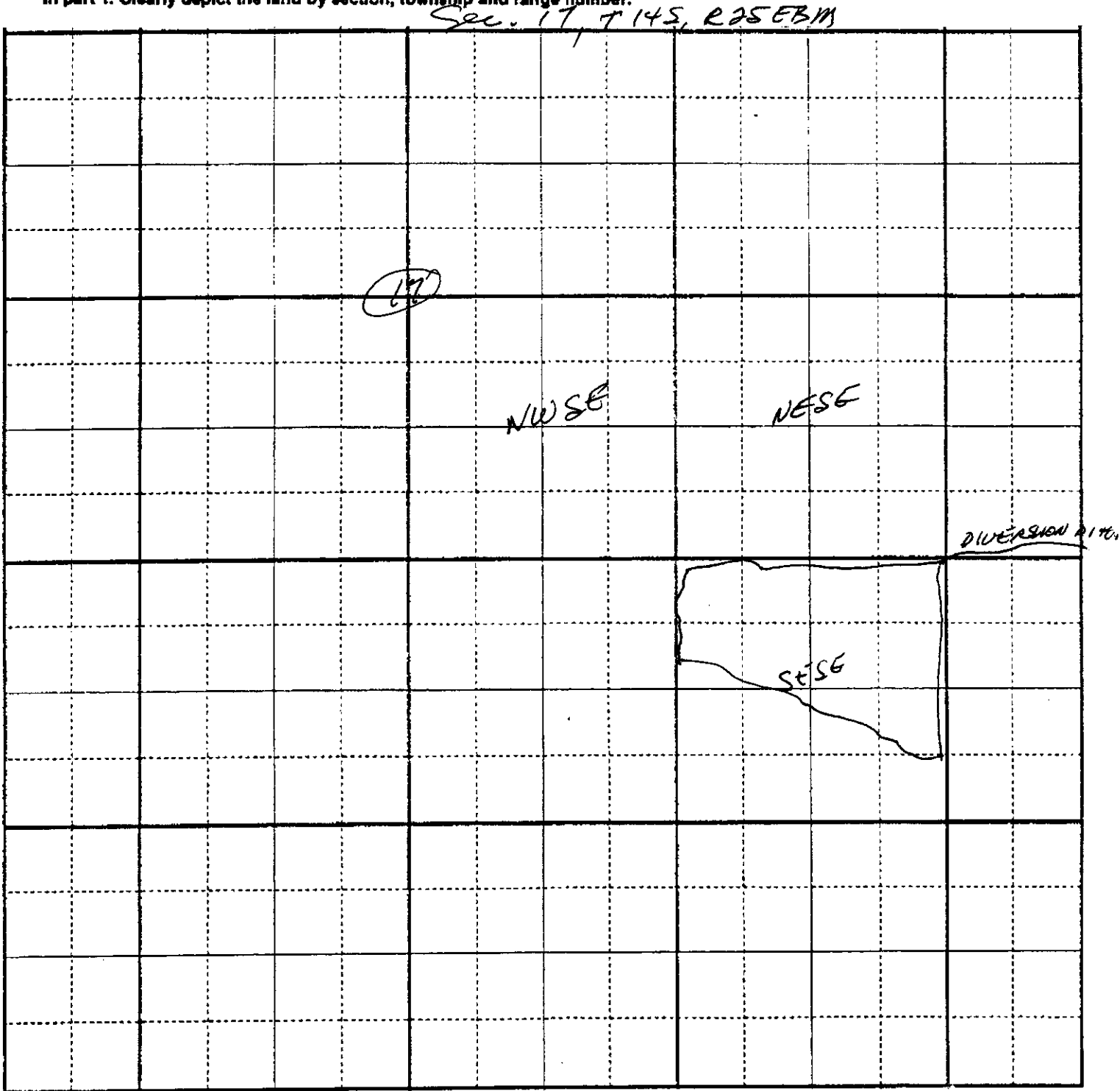
3. Lands irrigated or place of use:

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

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.



SCALE: 2 inches equal 1 mile. Draw plan in ink.

PART 3**B. CHANGES IN NATURE OF USE**

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

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

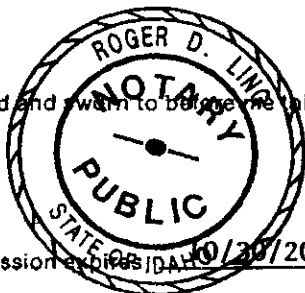
3. Describe effects on other water uses resulting from the proposed change:

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 _____

25th

day of September, 19 2002.

(Signature of Applicant)

(Notary Public)

My commission expires 10/30/2006**FOR DEPARTMENT USE ONLY**

Transfer contains _____ pages and _____ attachments

Received by _____ Date _____ Protest filed by _____

Prelim. check by _____ Fee _____

Receipted by _____ Date _____

Published in _____ Copies of protest forwarded by _____

Pub. dates _____ Hearing held by _____ Date _____

Watermaster recommendation requested on _____ Recommended for ☐ approval ☐ denial

_____ rec'd. _____ by _____

Copy of transfer sent to lien holder _____