10/10/2002

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 43-2436A

WATER RIGHT NUMBER: 43-2436A

Owner Type	Name and Address
Current Owner	MONFORT FINANCE CO INC 1770 PROMONTORY CIRCLE GREELEY, CO 80634 (970)506-8000
Directors Report Owner	INTERSTATE FEEDERS INC 1710 S 2450 E MALTA, ID 83342 (208)645-2221
Original Owner	BENCHMARK RANCHES PO BOX 147 MALTA, ID

Priority Date: 01/04/1957

Basis: Decreed

Status: Active

Source	Tributary
GROUND WATER	

Beneficial Use	From	To	Diversion Rate	Annual Volume
STOCKWATER	01/01	12/31	2.020 CFS	78.30 AF
COMMERCIAL	01/01	12/31	2.020 CFS	0.55 AF
		Total Diversion:	2.020 CFS	78.85 AF

Location of Point(s) of Diversion

GROUND WATER NE1/4NE1/4NE1/4 Sec. 20, Twp 13S, Rge 27E, B.M.

CASSIA County

Place of Use

STOCKWATER Within CASSIA County

T13S R27E S17	NESE	T13S R27E S17	NWSE
T13S R27E S17	SWSE	T13S R27E S17	SESE
T13S R27E S20	NENE	T13S R27E S20	NWNE
T13S R27E S20	SWNE	T13S R27E S20	SENE

COMMERCIAL Within CASSIA County

T13S R27E S20 NENE

Conditions of Approval:

1. C05 RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 43-2436A

2. C18 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.

Remarks:

1. Explanatory STOCKWATER USE FOR RIGHT NUMBERS 43-2437, 43-4006, 43-2442, 43-2438A AND 43-2436A WHEN COMBINED SHALL NOT EXCEED 52,000 HEAD OF STOCK.

2. Quantity USE OF THIS RIGHT WITH RIGHT NO. 43-2438A IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 2.02 CFS AND TO A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 78.85 AF.

Dates and Other Information:

Decreed Date: 6/28/2002
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
Defendant:
Plaintiff:
Civil Case Number:
Judicial District:
Notice of Error Flag:
State or Federal: S
Owner Name Connector:
Water District Number:
Generic Max Rate Per Acre:
Generic Max Volume Per Acre:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Carey Act Number:
Mitigation Plan: False

State of Idaho
DEPARTMENT OF WATER RESOURCES
1341 Fillmore Street, Suite 200, Twin Falls ID 83301-3380
Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

October 28, 2002

MONFORT FINANCE CO INC
1770 PROMONTORY CIRCLE
GREELEY CO 80634

RE: Decreed Water Rights 43-2436A, 43-2437, 43-2438A, 43-2442,43-4006

Dear Water Right Holder:

Pursuant to the change in ownership request that has been submitted to the Department, we have changed the record of current ownership to you. Please find the enclosed copies of the computer record of the water right(s) noting the change in owner. Review these records and if there is an error, or you have any questions, please contact this office.

Sincerely,

Trish Fawcett
Technical Records Specialist

enc.

Form 42-248/42-1406 (6) July, 2000

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
NOTICE OF CHANGE IN WATER RIGHT OWNERSHIP

RECEIVED
SEP 19 2002
Department of Water Resources
Southern Region

Please print or type. Attach pages with additional information. Instructions are included at the end of this form. Incomplete forms will be returned.

1. Please list the water right number(s) and/or adjudication claim number(s) (if any) for each water right to be changed. List just the adjudication claim number if there is not corresponding water right record on file with the department. Indicate, by checking in the space provided (under the "split" heading), if the change in ownership is limited to a portion of a water right in which case division of the existing water right or adjudication claim record will be required.

Water Right No(s).	Adjudication Claim No(s).	Split	Water Right No(s).	Adjudication Claim No(s).	Split
43-2437	A43-2437				
43-2442	A43-2442				
43-4006	A43-4006				
	A43-2436A				
	A43-2438A				

2. The following **REQUIRED** information must be submitted with this form:

   A. The appropriate **FILING FEE**. See instructions for fee amounts.

   B. A copy of the most recent **DEED, TITLE POLICY, CONTRACT OF SALE** or other legal document indicating your ownership of the property and water right(s) or claim(s) in question, **WITH ATTACHED LEGAL DESCRIPTION**.

   C. Either of the following (if necessary to clarify diversion of water rights or other complex property descriptions):
   PLAT OF PROPERTY or **SURVEY MAP** clearly showing the location of the point(s) of diversion and place of use of your water right(s) and/or adjudication claims(s) (these are usually attached to your deed or on file with the county.

   OR

   If your water right(s) and/or adjudication claim(s) is for ten or more acres of irrigation you must submit a USDA Farm Service Agency **AERIAL PHOTO** with the irrigated acres outlined and point(s) of diversion clearly marked. The AERIAL PHOTO should be submitted in place of the PLAT OF PROPERTY or SURVEY MAP.

3. Name and Address of Former Owner/Claimant(s): Swift Beef Company (f/k/a ConAgra Beef Company)
   1770 Promontory Circle, Greeley, CO 80634

4. New Owner/Claimant(s): Monfort Finance Company, Inc.
   Name Connector (Check one): [ ] and, [ ] or, [ ] and/or
   New Mailing Address: 1770 Promontory Circle
   City, State and ZIP Code: Greeley, CO 80634
   New Telephone Number: (970) 506-8000

5. Date you acquired the property: April 5, 2002

6. **If the change in ownership affects the entire water right for each water right or adjudication claim number listed in item 1, THEN SKIP THIS ITEM AND GO TO ITEM 7.** If the change in ownership divides the water right(s) amount multiple owners, you must describe, in detail, your portion of each water right after the change. Fill in the appropriate spaces in the box(es) below to describe your water right(s) after the change (one water right per box, you may copy this page as necessary). If your quantity of water is greater than a proportionate split, you must attach documentation to show justification for the larger amount. If you are not sure how to identify your portion of the original water right or adjudication claim records, please contact the nearest IDWR office for assistance.

DESCRIPTION OF YOUR PORTION OF WATER RIGHT
(If the right(s) will not be split, skip this area and proceed to item 7)

Water Right and/or Adjudication Claim Number _____

Water Use	Diversion Rate or Volume (cubic fee per second or acre-feet per anum)	Description (acres, number and type of stock, homes, etc.)
Irrigation		
Stock		
Domestic		
Other_____		
Total		

DESCRIPTION OF YOUR PORTION OF WATER RIGHT
(If the right(s) will not be split, skip this area and proceed to item 7)

Water Right and/or Adjudication Claim Number _____

Water Use	Diversion Rate or Volume (cubic fee per second or acre-feet per anum)	Description (acres, number and type of stock, homes, etc.)
Irrigation		
Stock		
Domestic		
Other_____		
Total		

7. Signature of New Owner(s) or Claimant(s) Debra L. Keith

(include title if applicable) Debra L. Keith, Vice President—Tax

For Snake River Basin Adjudication Claims: Please attach a Notice of Appearance completed by your attorney, if you wish IDWR to correspond with him/her for all matters related to your claims.

For Office Use Only
Received by _____ Date _____ Fee 125.00
Receipted by _____ Date _____ Receipt No. 5025226
Processed by _____ AJ Date 10/10/02 WR _____ Date _____

#93710

Delaware

281102 *The First State*

I, HARRIET SMITH WINDSOR, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF OWNERSHIP, WHICH MERGES:

"E.A. MILLER, INC.", A UTAH CORPORATION,

"INTERSTATE FEEDERS, INC.", A UTAH CORPORATION,

WITH AND INTO "MONFORT, INC." UNDER THE NAME OF "MONFORT, INC.", A CORPORATION ORGANIZED AND EXISTING UNDER THE LAWS OF THE STATE OF DELAWARE, AS RECEIVED AND FILED IN THIS OFFICE THE TWENTY-SIXTH DAY OF JULY, A.D. 1993, AT 9 O'CLOCK A.M.

281102

CASSIA COUNTY, IDAHO
DARRELL G. ROSKELLEY
RECORDER
FEE 6.00 DEPUTY

'02 APR 23 PM 3 08

RECORDED AT THE REQUEST OF
LAND TITLE & ESCROW

Harriet Smith Windsor
Harriet Smith Windsor, Secretary of State

0705607 8100M
020251314

AUTHENTICATION: 1731974

DATE: 04-19-02

STATE OF DELAWARE
SECRETARY OF STATE
DIVISION OF CORPORATIONS
FILED 09:00 AM 07/26/1993
932078204 - 7086607

CERTIFICATE OF OWNERSHIP AND MERGER

OF

E.A. MILLER, INC.
(A Utah Corporation)

and

INTERSTATE FEEDERS, INC.
(A Utah Corporation)

INTO

MONFORT, INC.
(A Delaware Corporation)

I.

The names of the merging corporations are E.A. MILLER, INC., a Utah corporation, and INTERSTATE FEEDERS, INC., a Utah corporation. The name of the surviving corporation is MONFORT, INC., a Delaware corporation.

II.

MONFORT, INC., a Delaware corporation, in accordance with Section 253 of the Delaware Corporation Law, sets forth the following copy of the resolution of its Board of Directors to so merge, such resolution adopted on the 1st day of June, 1993:

WHEREAS, MONFORT, INC. owns 100% of the outstanding shares of E.A. MILLER, INC. and INTERSTATE FEEDERS, INC., hereinafter referred to as the "subsidiaries"; and

WHEREAS, it is in the best interest of MONFORT, INC. to merge the subsidiaries into itself; and

WHEREAS, it has been determined that the laws of such jurisdiction involved permit such merger.

"BE IT RESOLVED, that the subsidiaries be merged into MONFORT, INC. immediately in accordance with Section 253 of the Delaware Corporation Law and other applicable state law and that the officers of the corporation be, and hereby are, authorized and directed to execute, acknowledge and file a Certificate of Ownership and Merger and such other

documents as may be necessary and proper to effect such merger in the appropriate jurisdictions. For accounting purposes, such merger will be effective June 1, 1993."

DATED this 1st day of June, 1993.

ATTEST:

L.R. THOMAS, Secretary

NORPORT, INC.

By:

JOHN J. BILL, Vice President

GIVENS PURSLEY LLP

LAW OFFICES
277 North 6th Street, Suite 200
PO Box 2720, Boise, Idaho 83701
TELEPHONE: 208 388-1200
FACSIMILE: 208 388-1300
WEBSITE: www.givenspursley.com

RECEIVE
SEP 16 2002
Department of Water Resources
Southern Region

Gary G. Allen
Christopher J. Beeson
William C. Cole
Michael C. Creamer
Jeffrey A. De Voe
Emily MacMaster Durkee
Thomas E. Dvorak
Roy Lewis Eiguren
Timothy P. Fearnside
Jeffrey C. Fereday
Steven J. Hippler
Karl T. Klein
Debora K. Kristensen
Anne C. Kunkel
Franklin G. Lee
David R. Lombardi
D. David Lorello, Jr.
Kevin T. Maloney
Kimberly D. Maloney
John M. Marshall
Kenneth R. McClure
Kelly Greene McConnell
Cynthia A. Melillo
Christopher H. Meyer
Kendall L. Miller
L. Edward Miller
Patrick J. Miller
Judson B. Montgomery
Angela K. Nelson
Deborah E. Nelson
W. Hugh O'Riordan
Kenneth L. Pursley
Brad V. Sneed
Conley E. Ward
Robert B. White

Raymond D. Givens
James A. McClure
Stephanie C. Westermeier
OF COUNSEL

September 13, 2002

Idaho Department of Water Resources
Southern Regional Office
1341 Fillmore St., Ste. 200
Twin Falls, ID 83301-3033

Re: Notice of Change in Water Right Ownership
Our File No. 6538-1

To Whom It May Concern:

I am enclosing an original and one copy of Monfort Finance Company, Inc.'s completed Notice of Change in Water Right Ownership for Water Right Nos. 43-2437/A43-2437, 43-2442/A43-2442, 43-4006/A43-4006, A43-2436A, and A43-2438A, with the following supporting documents: Certificate of Amendment changing the name of Conagra Beef Company to Swift Beef Company, Special Warranty Deed, and Farm Service Agency aerial photos showing irrigated acres. Please conform the copy and return it to my office in the enclosed self-addressed, stamped envelope. Also enclosed is a check in the amount of $125.00 to cover the filing fee associated with the Notice.

Please contact me if you have any questions about the Notice or if you need further documentation.

Sincerely,

Deborah E. Nelson

Enclosures

cc: Patrick R. McGill (w/o enclosures)

DEN:kdt S:\CLIENTS\6538\1\2002-09-13 DEN Ltr to IDWR re Notice.DOC

Delaware

The First State

I, HARRIET SMITH WINDSOR, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF AMENDMENT OF "CONAGRA BEEF COMPANY", CHANGING ITS NAME FROM "CONAGRA BEEF COMPANY" TO "SWIFT BEEF COMPANY", FILED IN THIS OFFICE ON THE ELEVENTH DAY OF JULY, A.D. 2002, AT 1 O'CLOCK P.M.

A FILED COPY OF THIS CERTIFICATE HAS BEEN FORWARDED TO THE NEW CASTLE COUNTY RECORDER OF DEEDS.

Harriet Smith Windsor

Harriet Smith Windsor, Secretary of State

0705607 8100

020445294

AUTHENTICATION: 1878595

DATE: 07-11-02

STATE OF DELAWARE
SECRETARY OF STATE
DIVISION OF CORPORATIONS
FILED 01:00 PM 07/11/2002
020463294 – 0705607

CERTIFICATE OF AMENDMENT

OF

CERTIFICATE OF INCORPORATION

OF

CONAGRA BEEF COMPANY

IT IS HEREBY CERTIFIED THAT:

1. The name of the corporation (hereinafter called the "corporation") is CONAGRA BEEF COMPANY.

2. The Certificate of Incorporation of the corporation is hereby amended by striking out ARTICLE I thereof and by substituting in lieu of said Article the following new Article:

ARTICLE I

The name of the corporation is SWIFT BEEF COMPANY.

3. The Amendment of the Certificate of Incorporation herein certified has been duly adopted in accordance with the provisions of Sections 228 and 242 of the General Corporation Law of the State of Delaware.

Dated July 11, 2002.

CONAGRA BEEF COMPANY

By: Debra L. Kizer
Debra Keith, Vice President

280

SPECIAL WARRANTY DEED

FOR VALUE RECEIVED, CONAGRA BEEF COMPANY, a Delaware corporation, formerly known as Monfort, Inc., as evidenced by the Certificate of Amendment attached hereto as EXHIBIT "A", and incorporated herein as though fully set forth ("Grantor"), does hereby grant, bargain, sell and convey unto MONFORT FINANCE COMPANY, INC., a Colorado corporation, whose principal place of business is One ConAgra Drive, CC-237, Omaha, Nebraska 68102 ("Grantee"), the following described premises, in Cassia County, Idaho, to wit:

See EXHIBIT "B" attached hereto and incorporated by reference.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee, its successors and assigns forever. Said Grantor does hereby covenant to and with the said Grantee, that it is the owner in fee simple of said premises; that they are free from all encumbrances except:

(a) Current taxes and assessments which are a lien not yet delinquent;

(b) Applicable laws, regulations, zoning regulations and ordinances, whether federal, state or local; and

(c) Easements, rights-of-way, reservations, covenants and restrictions of record or not of record;

and that it will warrant and defend the same from all lawful claims claimed by or under Grantor.

DATED: April 5, 2002.

CONAGRA BEEF COMPANY , INC., a Delaware corporation

Attest:

By: Kevin L. Wedeking
KEVIN L. WEDEKING
Its: ASST. CORPORATE SECRETARY

By: Debra L. Keith
Its: VICE PRESIDENT - TAX

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

On this 5th day of April, in the year 2002, before me a notary public, personally appeared Debra L. Keith and KEVIN L. WEDEKING known or identified to me to be the Vice President, Tax and the ASST. CORPORATE SECRETARY respectively of the corporation that executed the above instrument and acknowledged to me that such corporation executed the same.

In witness whereof, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

GENERAL NOTARY-State of Nebraska
MANDY WICKERSHAM
My Comm. Exp. April 2, 2005

Mandy Wickersham
Notary Public residing at Omaha, NE
My commission expires on April 2, 2005.

Prepared by and return to:

Patrick R. McGill
McGrath, North, Mullin & Kratz
222 S. 15th Street, Suite 1400
Omaha, Nebraska 68102
(402) 341-3070

RECORDED AT THE REQUEST OF
LAND TITLE & ESCROW
'02 APR 9 PM 2 56
FEE 5.00 DEPUTY
CASSIA COUNTY, IDAHO
DARRELL H. ROSKELLEY
RECORDER
280836

EXHIBIT "A"

State of Delaware

Office of the Secretary of State

I, EDWARD J. FREEL, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF AMENDMENT OF "MONFORT, INC.", CHANGING ITS NAME FROM "MONFORT, INC." TO "CONAGRA BEEF COMPANY", FILED IN THE OFFICE OF THE [illegible] DAY OF AUGUST, A.D. 2000, AT 9 O'CLOCK A.M.

0705607 8100

001443152

Edward J. Freel, Secretary of State

AUTHENTICATION: 0652152

DATE: 08-31-00

STATE OF DELAWARE
SECRETARY OF STATE
DIVISION OF CORPORATIONS
FILED 09:00 AM 08/10/2000
001407187 - 0705607

CERTIFICATE OF AMENDMENT

OF

CERTIFICATE OF INCORPORATION

OF

MONFORT, INC.

IT IS HEREBY CERTIFIED THAT:

1. The name of the corporation (hereinafter called the "corporation") is **MONFORT, INC.**

2. The Certificate of Incorporation of the corporation is hereby amended by striking out ARTICLE I thereof and by substituting in lieu of said Article the following new Article:

ARTICLE I

The name of the corporation is **CONAGRA BEEF COMPANY.**

3. The Amendment of the Certificate of Incorporation herein certified has been duly adopted in accordance with the provisions of Sections 228 and 242 of the General Corporation Law of the State of Delaware.

Dated August 3, 2000.

MONFORT, INC.

By: Debra A. Keith
Debra Keith, Vice President

EXHIBIT "B"

PARCEL NO. 1:

TOWNSHIP 13 SOUTH, RANGE 27 EAST OF THE BOISE MERIDIAN, CASSIA COUNTY, IDAHO

Section 16: All

Section 17: E½

Section 20: E½

Section 21: N½NW¼, S½SW¼

Section 29: E½NE¼, EXCEPTING THEREFROM the following described tracts:

Tract No. 1:

Beginning at the Southeast corner of the SE¼NE¼ of said Section 29, thence North 0°03' East along Section line for 108.55 feet to a point; thence South 89°29' West for 328.54 feet along an assumed county road right-of-way to the True Point of Beginning;
Thence South 89°29' West along said right of way for 328.54 feet to a point;
Thence North 0°04'26" West for 662.30 feet to a point;
Thence North 89°29' East for 329.25 feet to a point;
Thence South 0°00'45" East for 662.30 feet to the True Point of Beginning.

Tract No. 2:

Beginning at the Southeast corner of the SE¼NE¼ of said Section 29; thence North 0°03' East along section line for 108.55 feet to the True Point of Beginning;
Thence South 89°29' West for 328.54 feet along the assumed county road right-of-way to a point;
Thence North 0°00'45" West for 662.30 feet to a point;
Thence North 89°29' East for 329.25 feet to a point on the section line;
Thence South 0°03' West along said Section line for 662.30 feet to the True Point of Beginning.

Tract No. 3:

Beginning at the Southeast corner of the SE¼NE¼ of said Section 29; thence North 0°03' East for 108.55 feet along section line to a point; thence South 89°29' West for 657.08 feet along an assumed County road right-of-way to the True Point of Beginning;
Thence continuing South 89°29' West for 328.54 feet along said right-of-way to a point;
Thence North 0°08'07" West for 662.30 feet to a point;
Thence North 89°29' East for 329.25 feet to a point;
Thence South 0°04'26" East for 662.30 feet to the True Point of Beginning.

SCHEDULE B

PARCEL NO. 2:

TOWNSHIP 13 SOUTH, RANGE 27 EAST OF THE BOISE MERIDIAN,
CASSIA COUNTY, IDAHO

Section 17: E½SW¼

Section 20: E½NW¼

3
151.7

4
75.7

NC

5
41.7

NC

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130.0

8
210

SEE MAP DD26

9
20.5

T1631

19 | 20
30 | 29

1
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2
152.3

20 | 21
29 | 28

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11
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T1632

T1633

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13
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15
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16
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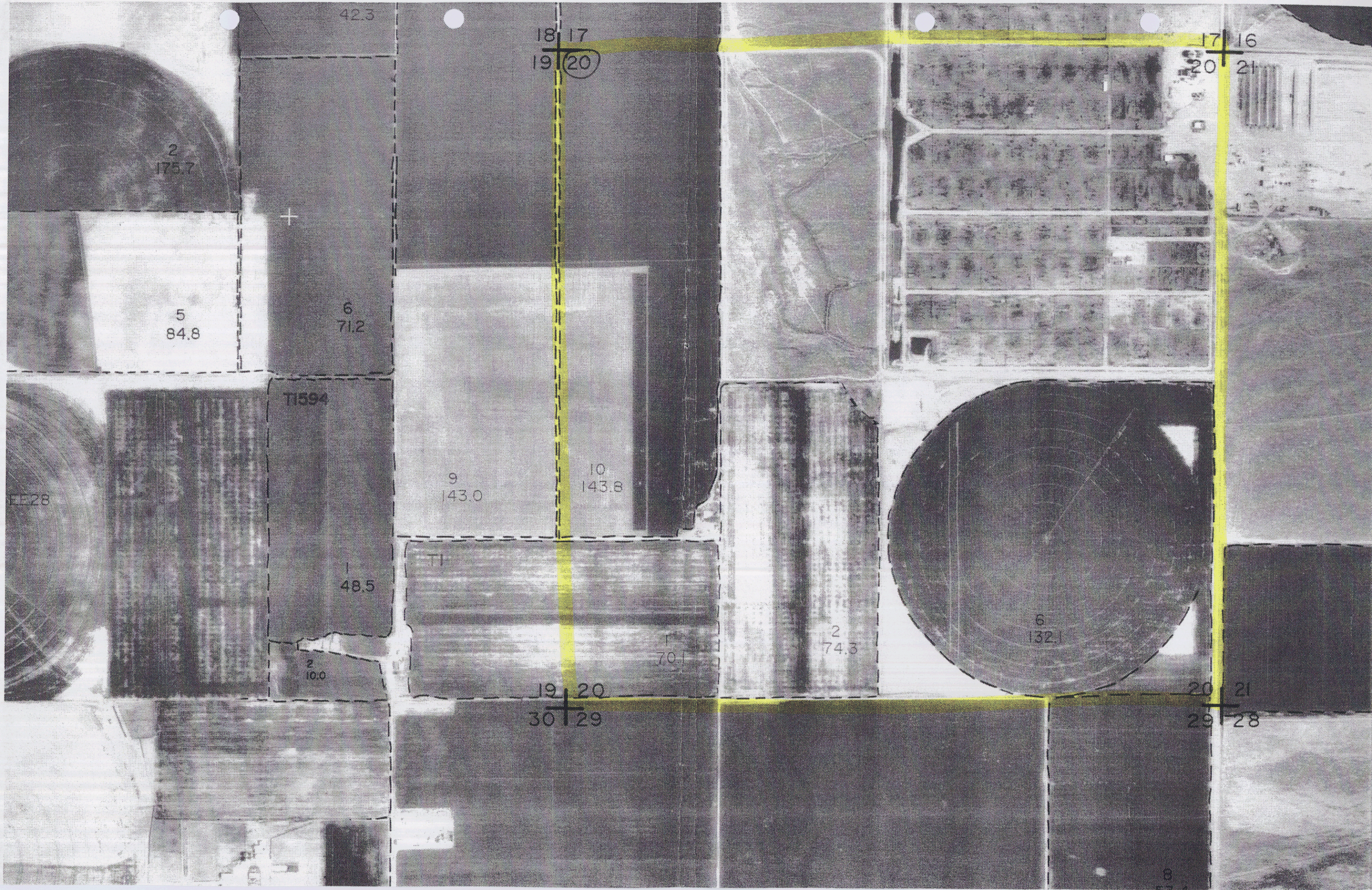
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73.3

T1896

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31 | 32

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32 | 33

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4.8
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2.6
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50.1
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28.6
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78.8
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5.7
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130.4
12
6.5
SEE MAP EE26
20 21
29 28
21 22
28 27
T9346


42.3
18 17
19 20
17 16
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175.7
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84.8
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71.2
T1594
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143.0
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48.5
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R27

EE 26

920 54R

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T2017

T1629

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17 16

MAP EE26

36.5

38.6

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41.0

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41.4

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52.8

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18 17
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17 16
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Parcel #142
Township 13S
Range 37E
Sections
16
17
20
21
29

SEE MAP EE26

PP-49

T13

R27

8 9
17 16 T1629
9 10
16

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123.3
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12.3

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21 22

T1677

454 00

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

RECEIVED
MAY 31 1989
Department of Water Resources

Ident. Number: A43-02436A
Date Received: 5/24/1989
Receipt No: M003772
Received By: AB

NOTICE OF CLAIM TO A WATER RIGHT ACQUIRED UNDER STATE LAW

1. Name: INTERSTATE FEEDERS, INC. 208-645-2221
   Address: HC72 BOX 2086
   MALTA, ID 83342

2. Date of Priority: JAN 04, 1957

3. Source: GROUNDWATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4	Lot	County
13S	27E	20	NE NE NE		CASSIA

5. Description of diverting works:
   WELL 375' DEEP, REDRILLED IN 1969, 75 HP PUMP, AUTO/VALVE TROUGH

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
STOCKWATER	01/01	12/31	2.020		
COMMERCIAL	01/01	12/31	2.020		

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:
   C/FEED MILL, S/ 50,000 FEEDLOT CATTLE

10. Place of Use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
13S	27E	17	SE		STOCK	
		20	NE		STOCK	

MICROFILMED
MAR 03 1993

10. Place of Use: Continued

Township	Range	Section	1/4 of 1/4		Lot	Use	Acres
13S	27E	20	NE	NE		COMMER	

11. Place of use in counties: CASSIA

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

13. Other Water Rights Used:
A43-02438A

14. Remarks:
WHEN THE PROPERTY COVERED BY THIS LICENSE WAS SOLD TO BENCHMARK RANCHES ONLY THE IRRIG. WATERS WERE TRANSFERED TO THEM, AND THE ORIGINAL OWNERS RETAINED THE COMMERCIAL AND STOCKWATER PORTIONS SEE TRANSFER NO. 1838. ALSO SEE ATTACHED LETTER FROM SHERL CHAPMAN CONCERNING THIS WATER RIGHT.

15. Basis of Claim: LICENSE
Water Right Number: 26221

MICROFILMED
MAR 0 3 1993

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 ____ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: 4

For Organizations:

I do solemnly swear or affirm that I am President (Title) of Interstate Feeders (Organization), that I have signed the foregoing document in the space below as President (Title) of Interstate Feeders (Organization) and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent

President--Interstate Feeders
Title and Organization

May 30, 1989
Date

State of ~~Idaho~~ Utah)
) SS.
County of Cache)

Subscribed and sworn (or affirmed) before me this 30th day of May 19 89

Notary Public

Seal

Residing at Logan, Utah

My Commission Expires April 1, 1990

MICROFILMED
MAR 0 3 1993

Well #19, located in the NE, NE, Sec. 20, T13S., R27E., is for the feed lot and mill and irrigation of land in Section 9, T13S., R27E., and is covered under water right #43-2436 and #43-2438. As the rights are established, two points of diversion are utilized in #43-2436. Well #14 is used to irrigate 256 acres in the E/2, Sec. 9, T13S., R27E., and well #19 is utilized to provide water for the feed lot and mill. Under water right #43-2438, well #19 is used again for the feed lot and stock watering purposes, and well #14 is used to irrigate 256 acres in the W/2 of Sec. 9, T13S., R27E. Application for transfer of water right #1838 by Benchmark Ranches included both #43-2436 and #43-2438. Under that transfer, the request by Benchmark for transfering water from both of those rights included only that amount of water that was utilized for irrigation on the lands which had been purchased by Benchmark Ranches. The water utilized primarily from well #19 for the feed lot and mill under both rights were not considered to be a part of the transfer and, as such, remain whole with regard to quantity and priority for use at the feed lot and mill site. I am enclosing copies of transfer #1681, #1844, and #1838 for your review and use as you requested. I have also sent a copy of this letter and transfer applications to Mr. Elbert Davis of Ag-land Mortgage Company and Rodney Moore of Connecticut Mutual Life Insurance Co.

I must appologize for the length of time that it took to get this review completed for you, but I had not received any authorization from Vista Land Company to periodically review and update the water right conditions as they existed on Vista Land Company, and additionally, the owners of Benchmark Ranches did a good deal of work on their own after work that either Jack Barnett or I had done regarding transfer of water rights and modification of their claims. I hope this summary will provide you the information you need and if you have any questions, please feel free to contact me at any time.

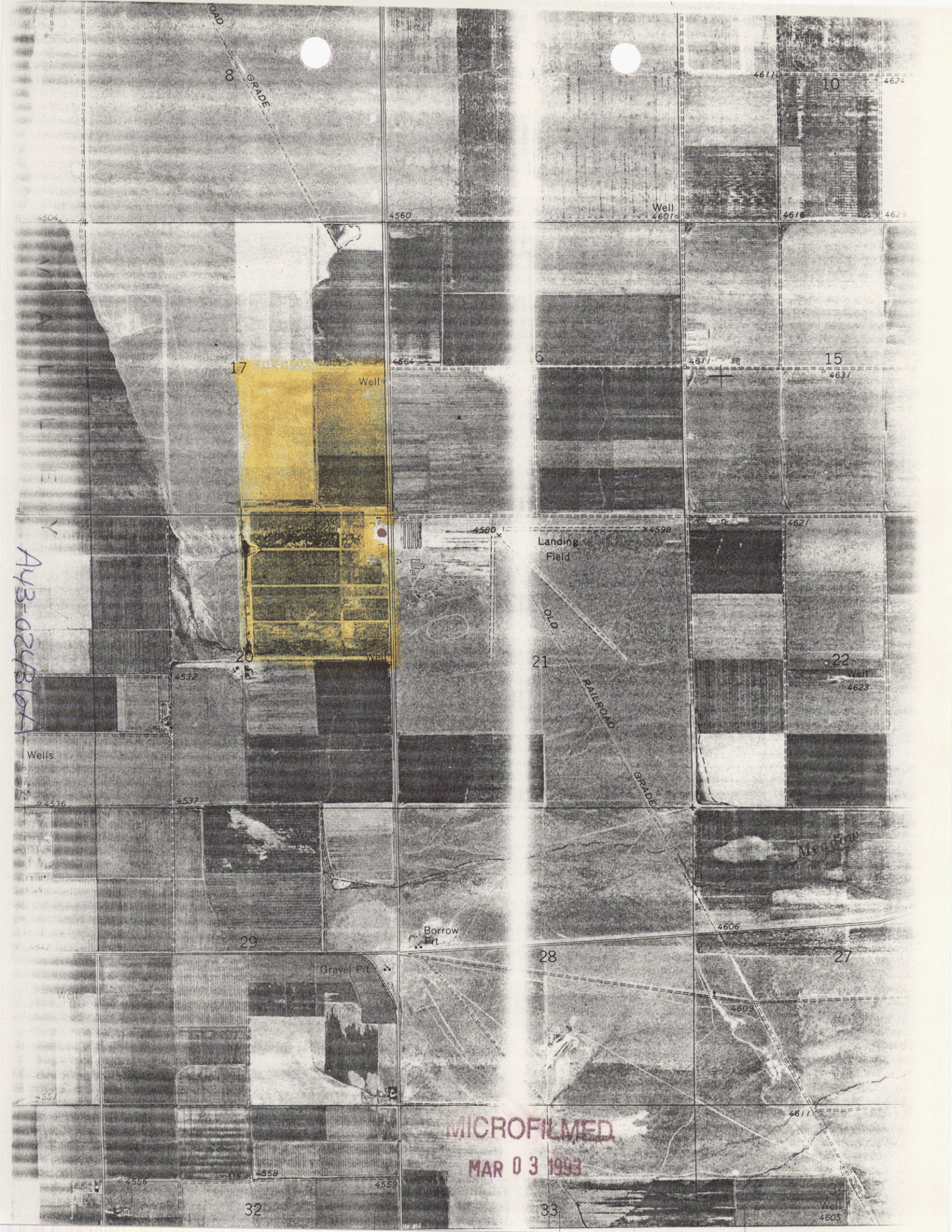
Sincerely yours,

Sherl L. Chapman

Sherl L. Chapman
Consultant

SLC:kje
enclosures

MICROFILMED
MAR 0 3 1993



A43-0278-A

MICROFILMED
MAR 03 1993

IDAHO DEPARTMENT OF WATER RESOURCES

PRELIMINARY PLACE OF USE

43-2436A



T13S, R27E Sections 17 & 20

POINT OF DIVERSION
PLACE OF USE
SECTION LINES
QUARTER/QUATER LINES

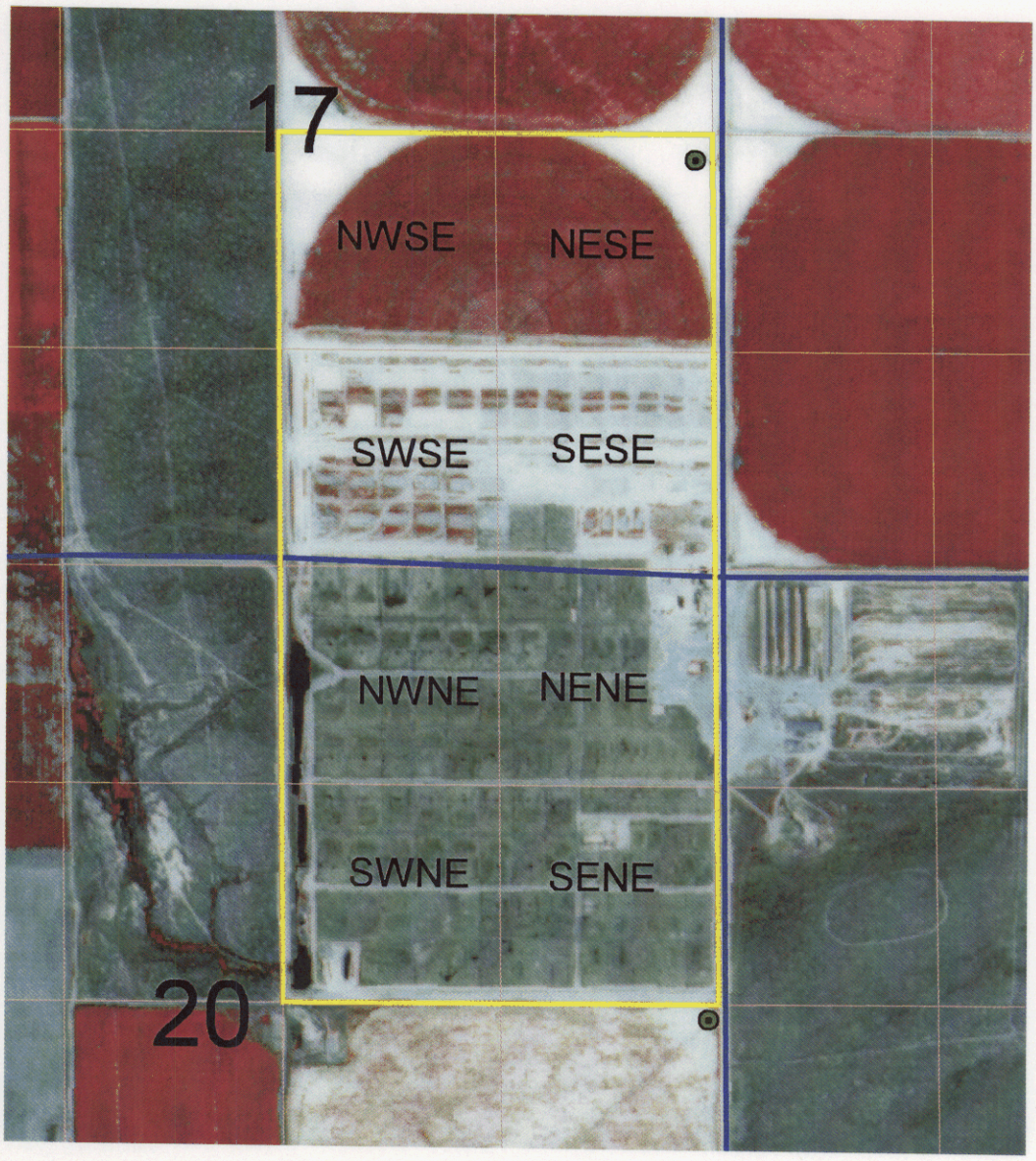
N
W
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Map prepared by: Cbird
December 11, 2000
1987-1988 NAPP Photography

IDAHO DEPARTMENT OF WATER RESOURCES

PRELIMINARY PLACE OF USE

43-2438A



0.3 0 0.3 0.6 Miles

T13S, R27E Sections 17 & 20

POINT OF DIVERSION
PLACE OF USE
SECTION LINES
QUARTER/QUATER LINES

N
W E
S

Map prepared by: Cbird
December 11, 2000
1987-1988 NAPP Photography

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHT CLAIMS PROOF READING REPORT
(REGIONAL)

Water Right Number - 43-02436 Adj. Flag Translation: Standard Water Right Number Old (D) Number - 26221

Last Name	First Name	Address
*** C - CURRENT OWNER ***		
BENCHMARK RANCHES		1 - P.O.BOX 147 2 - 3 - City- MALTA State- ID Zip- 83342 Phone -
*** O - ORIGINAL OWNER ***		
THOMPSON	LESTER	1 - 2 - 3 - City- State- Zip- Phone -

Priority Date	Region	Stage	Status
01/04/1957	17	L - LICENSE	

Source: GROUNDWATER

Tributary:

Point of Diversion

Twn	Rng	Sec	Tract	Lot	RFlg	County
13S	27E	3	NE NW		(31)	CASSIA
13S	27E	3	NW SW		(31)	CASSIA
13S	27E	9	SE NW		(31)	CASSIA
13S	27E	9	SE SE		(31)	CASSIA

Water Use

Code	Description	Period From	Period To	Diversion Rate	Diversion Volume
01	IRRIGATION	04/01	10/31	4.270	
04	STOCKWATER	01/01	12/31	2.020	
10	COMMERCIAL	01/01	12/31	2.020	

Total Div. Rate	Total Div. Volume	Total Div. Capacity
6.400		

Place of Use

Twn	Rng	Sec	Tract	Lot	Acres	Code	Description	County
13S	27E	2	SW NE		36.0	01	IRRIGATION	(31) CASSIA
13S	27E	2	SW NW		37.0	01	IRRIGATION	(31) CASSIA
13S	27E	2	SE NW		37.0	01	IRRIGATION	(31) CASSIA
13S	27E	2	NE SW		37.0	01	IRRIGATION	(31) CASSIA
13S	27E	2	NW SW		37.0	01	IRRIGATION	(31) CASSIA
13S	27E	2	SW SW		36.0	01	IRRIGATION	(31) CASSIA
13S	27E	2	SE SW		37.0	01	IRRIGATION	(31) CASSIA
13S	27E	2	NW SE		36.0	01	IRRIGATION	(31) CASSIA
13S	27E	2	SW SE		35.0	01	IRRIGATION	(31) CASSIA
13S	27E	3	NE NE		36.0	01	IRRIGATION	(31) CASSIA

MICROFILMED
MAR 0 3 1993

Water right number - 43-02436 Adj. flag translation: Standard Water Right Number

Place of Use

Twn	Rng	Sec	Tract	Lot	Acres	Code	Description	County
13S	27E	3	NW NE		36.0	01	IRRIGATION	(31) CASSIA
13S	27E	3	SW NE		37.0	01	IRRIGATION	(31) CASSIA
13S	27E	3	SE NE		36.0	01	IRRIGATION	(31) CASSIA
13S	27E	3	NE NW		36.0	01	IRRIGATION	(31) CASSIA
13S	27E	3	NW NW		36.0	01	IRRIGATION	(31) CASSIA
13S	27E	3	SW NW		37.0	01	IRRIGATION	(31) CASSIA
13S	27E	3	SE NW		37.0	01	IRRIGATION	(31) CASSIA
13S	27E	3	NE SW		37.0	01	IRRIGATION	(31) CASSIA
13S	27E	3	NW SW		18.0	01	IRRIGATION	(31) CASSIA
13S	27E	3	SW SW		36.0	01	IRRIGATION	(31) CASSIA
13S	27E	3	SE SW		37.0	01	IRRIGATION	(31) CASSIA
13S	27E	3	NE SE		36.0	01	IRRIGATION	(31) CASSIA
13S	27E	3	NW SE		37.0	01	IRRIGATION	(31) CASSIA
13S	27E	3	SW SE		37.0	01	IRRIGATION	(31) CASSIA
13S	27E	3	SE SE		36.0	01	IRRIGATION	(31) CASSIA
13S	27E	4	NE NE		36.0	01	IRRIGATION	(31) CASSIA
13S	27E	4	NW NE		35.0	01	IRRIGATION	(31) CASSIA
13S	27E	4	SW NE		36.0	01	IRRIGATION	(31) CASSIA
13S	27E	4	SE NE		37.0	01	IRRIGATION	(31) CASSIA
13S	27E	4	NE SE		36.0	01	IRRIGATION	(31) CASSIA
13S	27E	4	NW SE		36.0	01	IRRIGATION	(31) CASSIA
13S	27E	4	SW SE		36.0	01	IRRIGATION	(31) CASSIA
13S	27E	4	SE SE		36.0	01	IRRIGATION	(31) CASSIA
13S	27E	9	NE NE		36.0	01	IRRIGATION	(31) CASSIA
13S	27E	9	NW NE		36.0	01	IRRIGATION	(31) CASSIA
13S	27E	9	SW NE		36.0	01	IRRIGATION	(31) CASSIA
13S	27E	9	SE NE		36.0	01	IRRIGATION	(31) CASSIA
13S	27E	9	NE NW		36.0	01	IRRIGATION	(31) CASSIA
13S	27E	9	NW NW		35.0	01	IRRIGATION	(31) CASSIA
13S	27E	9	SW NW		35.0	01	IRRIGATION	(31) CASSIA
13S	27E	9	SE NW		29.0	01	IRRIGATION	(31) CASSIA
13S	27E	9	NE SW		36.0	01	IRRIGATION	(31) CASSIA
13S	27E	9	NW SW		35.0	01	IRRIGATION	(31) CASSIA
13S	27E	9	SW SW		34.0	01	IRRIGATION	(31) CASSIA
13S	27E	9	SE SW		35.0	01	IRRIGATION	(31) CASSIA
13S	27E	9	NE SE		36.0	01	IRRIGATION	(31) CASSIA
13S	27E	9	NW SE		36.0	01	IRRIGATION	(31) CASSIA
13S	27E	9	SW SE		35.0	01	IRRIGATION	(31) CASSIA
13S	27E	9	SE SE		35.0	01	IRRIGATION	(31) CASSIA
13S	27E	10	NE NE		36.0	01	IRRIGATION	(31) CASSIA
13S	27E	10	NW NE		37.0	01	IRRIGATION	(31) CASSIA
13S	27E	10	SW NE		37.0	01	IRRIGATION	(31) CASSIA
13S	27E	10	SE NE		36.0	01	IRRIGATION	(31) CASSIA
13S	27E	10	NE NW		37.0	01	IRRIGATION	(31) CASSIA
13S	27E	10	NW NW		36.0	01	IRRIGATION	(31) CASSIA
13S	27E	10	SW NW		36.0	01	IRRIGATION	(31) CASSIA
13S	27E	10	SE NW		37.0	01	IRRIGATION	(31) CASSIA
13S	27E	10	NE SW		37.0	01	IRRIGATION	(31) CASSIA
13S	27E	10	NW SW		36.0	01	IRRIGATION	(31) CASSIA

MICROFILMED
MAR 0 3 1993

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHT CLAIMS PROOF READING REPORT
(REGIONAL)

Water right number - 43-02436 Adj. flag translation: Standard Water Right Number

Place of Use

Twn	Rng	Sec	Tract	Lot	Acres	Code	Description	County
13S	27E	10	SW SW		35.0	01	IRRIGATION	(31) CASSIA
13S	27E	10	SE SW		36.0	01	IRRIGATION	(31) CASSIA
13S	27E	10	NE SE		36.0	01	IRRIGATION	(31) CASSIA
13S	27E	10	NW SE		37.0	01	IRRIGATION	(31) CASSIA
13S	27E	10	SW SE		36.0	01	IRRIGATION	(31) CASSIA
13S	27E	10	SE SE		35.0	01	IRRIGATION	(31) CASSIA
13S	27E	11	NW NE		35.0	01	IRRIGATION	(31) CASSIA
13S	27E	11	SW NE		35.0	01	IRRIGATION	(31) CASSIA
13S	27E	11	NE NW		37.0	01	IRRIGATION	(31) CASSIA
13S	27E	11	NW NW		36.0	01	IRRIGATION	(31) CASSIA
13S	27E	11	SW NW		36.0	01	IRRIGATION	(31) CASSIA
13S	27E	11	SE NW		37.0	01	IRRIGATION	(31) CASSIA
13S	27E	11	NE SW		37.0	01	IRRIGATION	(31) CASSIA
13S	27E	11	NW SW		36.0	01	IRRIGATION	(31) CASSIA
13S	27E	11	SW SW		35.0	01	IRRIGATION	(31) CASSIA
13S	27E	11	SE SW		36.0	01	IRRIGATION	(31) CASSIA
13S	27E	11	NW SE		35.0	01	IRRIGATION	(31) CASSIA
13S	27E	11	SW SE		34.0	01	IRRIGATION	(31) CASSIA

Total Acres: 2751.0

- Diversion Means -

- Non-Irrigation Use - C/FEED MILL.

- Other Rights for Same Use - 43-4029/43-4030/43-2368/43-4031/43-2438 & 43-4032.

Remarks

P/U & P/D COMBINED WITH RTS. 43-4029, 43-4030, 43-4031, 43-4032, 43-2368, 43-2436, 4302438 BY TRANS. 1838. THAT TOTALIZING MEASURING DEVICES OF A TYPE APPROVED BY THE DEPT. OF WATER RESOURCES BE INSTALLED AT THE P/D. THAT IF WATER IS CONTINUED TO BE DIVERTED FROM THE SURFACE WATER SOURCE, THE RATE OF DIVERSION FROM THE WELLS MUST BE DECREASED BY THE AMOUNT AT WHICH WATER IS DIVERTED FROM THE SURFACE WATER SOURCE.
THAT THE APPROVAL OF THIS TRANSFER DOES NOT VALIDATE THE WATER RIGHTS AS CLAIMED UNDER CLAIM NOS. 43-4029, 43-4030, 43-4031 AND 43-4032.
AC. IRR. = 2741.

Conditions of Approval

016 - See remarks for additional conditions of approval.

- Decree Plaintiff - - - Decree Defendant - - - Decree Date -
00/00/0000

Audit Fields -

MICROFILMED
MAR 03 1993

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHT CLAIMS PROOF READING REPORT
(REGIONAL)

Water right number - 43-02436 Adj. flag translation: Standard Water Right Number

+ - Water Rights Dates and Flags Area - +

Proof Due Date	- 00/00/0000	Field Exam Made	- 00/00/0000	Field Exam Fee	-
Approved/Denied	- 00/00/0000	Protested Date	- 00/00/0000	Swan Falls	-
Proof Made Date	- 00/00/0000	Hearing Date	- 00/00/0000	Temporary Right	- P
Start Work Date	- 00/00/0000	Verified Date	- 06/03/1985	DLE/Carey Act	-
Order Show Cause	- 00/00/0000	Receipt Number	-	Water District	-
Licensed Date	- 07/03/1979	Appl Received	- 00/00/0000	Transfer/Amended	- T
Decree Date	- 00/00/0000				

MICROFILMED
MAR 0 3 1993

From: DWR03::FRITSCHLE 24-MAY-1989 11:10
To: DWR10::BAUMHOFF ?ITSCHLE
Subj: TRANSFER OF POR? ?N OF 43-2436 AND 43-2438

HI ANNA;

THERE IS AN ATTACHMENT TO THE TRANSFER APPLICATION IN THE FILE FOR 43-2436 THAT STATES THAT EACH LICENSE (43-2436 AND 43-2438) ALLOWS 4.27 CFS FOR IRRIGATION, AND THE DIVERSION RATE ABOVE THIS 8.54 CFS IS TO RETAINED BY THE FEEDLOT. HOWEVER, THE TRANSFER ORDER IS QUITE LENGTHY AND DOES NOT MENTION ANY WATER FOR THE FEEDLOT. IT DOES HOWEVER, SHOW ONLY THE 4.27 CFS FROM EACH RIGHT AS BEING TRANSFERED. THE FIELD EXAM FOR 43-2436 RECOMMENDED 4.27 CFS FOR IRRIGATION AND 2.13 CFS FOR THE FEEDMILL. THIS AMOUNT APPEARS TO HAVE BEEN "LOST" IN THE TRANSFER PROCESS, IT WAS NOT ASSIGNED A WATER RIGHT NUMBER AND IT IS NOT MENTIONED IN THE TRANSFER. HOWEVER, 2.02 CFS FOR STOCKWATER, AND 2.02 CFS FOR THE FEEDMILL APPEARS ON LICENSE 43-2436 WITH THE CONDITION THAT THEY DO NOT EXCEED THE VOLUMES SPECFIED IN THIS LICENSE (78.3 AF STOCKWATER, .55 AF FEEDMILL) WHEN COMBINED WITH 43-2438 FOR THE SAME USE. THE AMOUNTS AND CONDITIONS ARE IDENTICAL ON LICENSE 43-2438. THE TOTAL DIVERSION RATE OF BOTH WATER RIGHTS MAY BE LIMITED TO 2.02 CFS SINCE IT APPEARS THAT THE SAME WELL WAS EXAMINED FOR BOTH RIGHTS. THIS ONE LOOKS LIKE IT WILL NEED SOME EXTENSIVE REVIEWING TO GET IT ALL SORTED OUT. I WILL KEEP THE FILES AT MY DESK FOR A WHILE IN CASE YOU NEED TO CALL FOR MORE INFORMATION.

HAVE FUN WITH THIS ONE,

CARTER

MICROFILMED
MAR 0 3 1993


DO
NOT
FILM

Water Right Number - 43-02436A Prefix Translation: WATER RIGHT Old (D) Number -

Last Name | First Name | Address

Priority Date: 00/00/0000 | Region: ERROR IN REGION | Stage | Status

Source | Tributary

Point of Diversion

Twn	Rng	Sec	Tract	Lot	RFlg	County	Stream Index (Blank if no Index Code)

Water Use

Code	Description	Period From	Period To	Diversion Rate	Diversion Volume

Total Div. Rate | Total Div. Volume | Total Div. Capacity

Place of Use

Twn	Rng	Sec	Tract	Lot	Acres	Code	Description	County

Diversion Means -

Non-Irrigation Use -

Other Rights for Same Use -

Remarks

No Remarks found.

Old Water Right Numbers

No Old Water Right Numbers found.

Conditions of Approval

No Conditions of Approval found.

Decree Plaintiff | Decree Defendant | Decree Date: 00/00/0000

-Comments-

No Comments Found

Water Rights Dates and Flags Area

Proof Due Date	- 00/00/0000	Field Exam Made	- 00/00/0000	Field Exam Fee	-
Approved/Denied	- 00/00/0000	Protested Date	- 00/00/0000	Swan Falls	-
Proof Made Date	- 00/00/0000	Hearing Date	- 00/00/0000	Temporary Right	-
Exam to S.O. Date	- 00/00/0000	Verified Date	- 00/00/0000	DLE/Carey Act	-
Order Show Cause	- 00/00/0000	Receipt Number	-	Water District	-
Licensed Date	- 00/00/0000	Appl Received	- 00/00/0000	Transfer/Amended	-
Decree Date	- 00/00/0000	Presumption Flag	-		

IDAHO DEPARTMENT OF WATER RESOURCES
PRELIMINARY RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 43-2436A

NAME AND ADDRESS: INTERSTATE FEEDERS INC
HC72 BOX 2086
MALTA, ID 83342

SOURCE: GROUND WATER

QUANTITY: 2.02 CFS
78.85 AFY

USE OF THIS RIGHT WITH RIGHT NO. 43-2438A IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 2.02 CFS AND TO A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 78.85 AF.

PRIORITY DATE: 01/04/1957

POINT OF DIVERSION: T13S R27E S20 NENENE Within CASSIA County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
STOCKWATER	01-01 12-31	2.02 CFS
		78.30 AFY
COMMERCIAL	01-01 12-31	2.02 CFS
		0.55 AFY

PLACE OF USE:

STOCKWATER Within CASSIA County

T13S R27E S17	NESE	40	T13S R27E S17	NWSE	40
T13S R27E S17	SWSE	40	T13S R27E S17	SESE	40
T13S R27E S20	NENE	40	T13S R27E S20	NWNE	40
T13S R27E S20	SWNE	40	T13S R27E S20	SENE	40

COMMERCIAL Within CASSIA County

T13S R27E S20	NENE	

320 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. SECTION 42-1412(6), IDAHO CODE.

EXPLANATORY MATERIAL: BASIS OF CLAIM - License

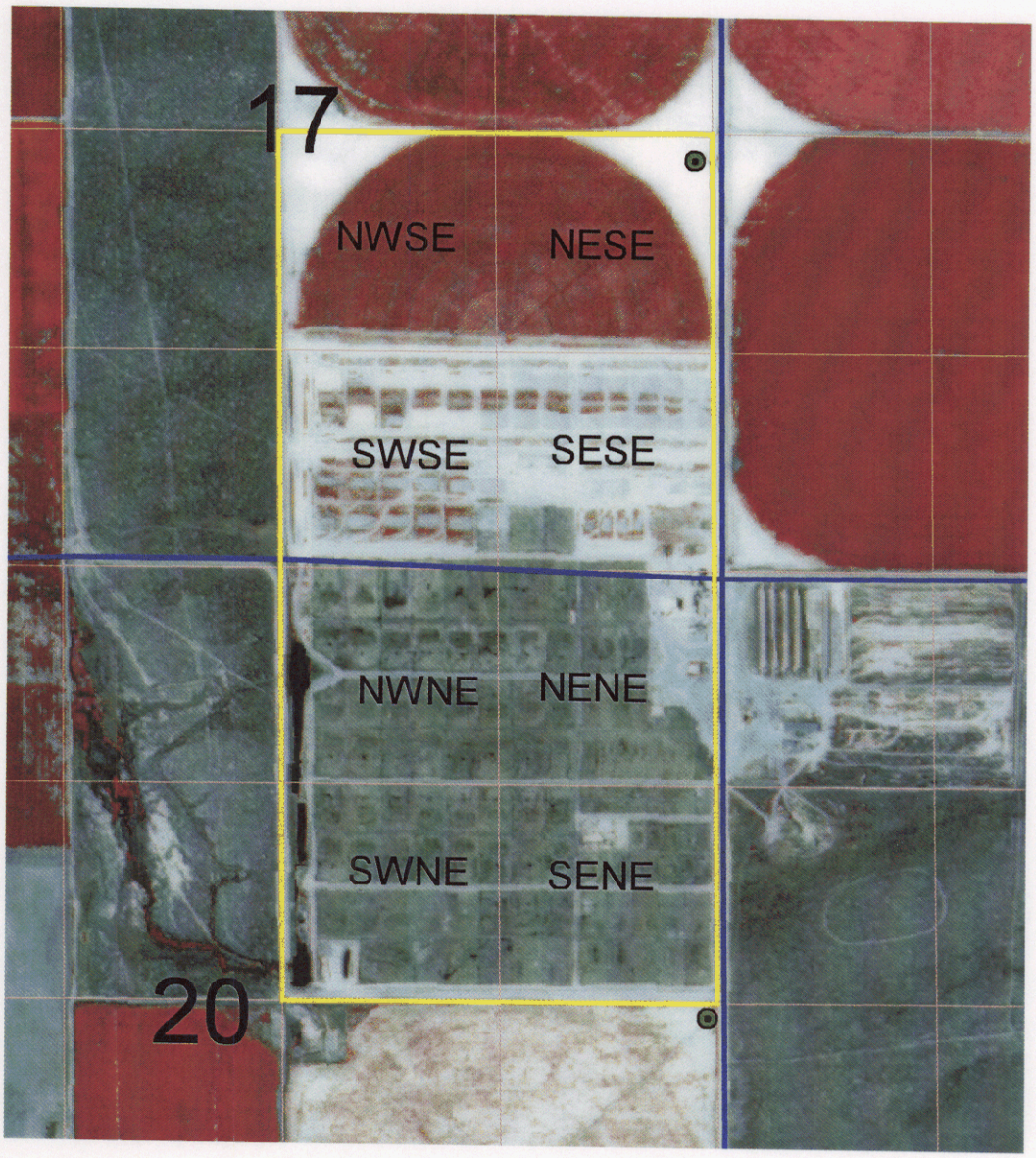
RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.

STOCKWATER USE FOR RIGHT NUMBERS 43-2437, 43-4006, 43-2442, 43-2438A AND 43-2436A WHEN COMBINED SHALL NOT EXCEED 52,000 HEAD OF STOCK.

IDAHO DEPARTMENT OF WATER RESOURCES

PRELIMINARY PLACE OF USE

43-2436A



0.3 0 0.3 0.6 Miles

T13S, R27E Sections 17 & 20

POINT OF DIVERSION
PLACE OF USE
SECTION LINES
QUARTER/QUATER LINES

N
W E
S

Map prepared by: Cbird
December 11, 2000
1987-1988 NAPP Photography

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098
Phone: (208) 327-7900 FAX: (208) 327-7866

December 18, 2000

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

Mike Telford
Interstate Feeders, Inc.
HC 72 Box 2086
Malta, ID 83342

Dear Mike:

Our meeting November 13th was beneficial to discuss some of the issues with Interstate Feeders, Inc claims. As you recall, the original water right licenses, 43-2436 and 43-2438, had some limiting language for the stock water diversion volume. That limiting language created a deficiency in the stock water volume. One way to acquire the volume is to cease irrigating an appropriate number of acres and change the nature of use of the rights from irrigation to stock water. Two hundred and six (206) acres are requested to provide the stock water consumptive use volume. The change in nature of use effects claims 43-2442, 43-2437 and 43-4006. The diversion volume was proportionally distributed between the effected irrigation rights. I've enclosed copies of the recommendations and a map outlining the place of use. The place of use includes the stock water and irrigation uses.

Statutory Claim 43-4079 was filed on 7 collection ponds off the feedlots and used for irrigation. It's my understanding that this was only used for about a year before you determined it wasn't effective and discontinued it. Therefore, I'm not recommending it to the court. I've enclosed a Relinquishment Form on this claim for you to sign and return to me as soon as possible.

The change in nature of use for 43-2437, 43-2442 & 43-4006 requires amending the claims. Normally there is a fee associated with amending claims but the department will waver that fee. Please return the signed Relinquishment form on claim 43-4079. This will reduce the paperwork for both of us. Your cooperation in this matter is greatly appreciated.

If you have any questions, please don't hesitate to call me at (208) 327-5450 or toll free at 1-800-451-4129 extension 5450.

Sincerely,

Cindy E. Bird
Enclosure

CONVERSATION MEMORANDUM

EMPLOYEE: Cindy Bird FILE: A43-2436 CB / 2438A CB

RE: Response to Jeanie's letter on duplicate claims.

DATE 11/6/00 4:03pm per phon call

NAME OF PARTY Mike Telford

March 10, 2000 Mike Telford responded to Jeanie Robertson's letter about Harris Ag & Interstate feeders both claiming the stock water and commercial uses under licenses 43-2436 & 2438.

Mike's documentation about the system was attached to his letter. The documentation placed the POD IN NENESE of Section 20. Mike said that was an error. IT is located in the NENENE of section 20, in one of the buildings.

Second item, system supplies drinking water for 52,00 head of cattle. Mike state it is 50,000 to 52,000 head of cattle.

The System operates at design capacity 1100 gpm, it pressure regulated, so the pump runs constantly.

I also asked Mike Telford if Harris Ag has any interest in the feed lots in section 20. He said NO, they do not.

State of Idaho
DEPARTMENT OF WATER RESOURCES
1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380
Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

March 6, 2000

INTERSTATE FEEDERS
HC 72 BOX 2086
MALTA ID 83342

RE: A43-02436A and A43-02438A

Dear Claimants,

In May of 1989 you filed claims A43-02436A and A43-02438A in the Snake River Basin Adjudication. These claims were for the Stockwater and Commercial portions of the licenses. The "Remarks" stated that when the licenses were sold to Benchmark Ranches, only the irrigation portions were sold and the original owners retained the stockwater and commercial portions.

Please be advised that Harris Ag has also filed claims for the Stockwater and Commercial portions of these two rights. This issue must be resolved before a recommendation can be made for these rights. Please submit proof that either you or the former owners did retain ownership of the stockwater and commercial portions of the rights. I will also be requesting evidence from Harris Ag to try to resolve this matter.

I have also enclosed a change of address form, in case your address needs to be updated. Just complete the form, sign and return to me, if this is the case.

If you have any questions, please feel free to give me a call at the office.

Sincerely,

Jeanie Robertson
Senior Water Resource Agent

IDAHO
CASSIA
Report ID: ASCS-156EZ

U.S. Dept. of Agriculture
Agri. Stab. & Consv. Svc.
Abbreviated 156 Farm Record

FARM 943
Prepared: 12/27/93
Crop Year: 94
Page: 1

OPERATOR: Name, Address & I D No.	FARMLAND	CROPLAND	IRRIGATED CROPLAND	EFFECTIVE CROPLAND	FARM IDENTIFIER	STATUS
87-0280999 E INTERSTATE FEEDERS INC MALTA ID 83342 0000	1500.0	1053.8	1053.8	1053.8		ACTIVE

CRP: .0
IFM: N
RECON: REF. NO.: 000000
OFAV NORMAL PLANTED ACRES: .0

CROP	ROT.	BASE	CRP REDUCTION	ADJ. BASE	DATE	P&CP YEAR	P&CP	YIELD YEAR	YIELD NI	YIELD IR
BARLEY	1	548.5	.0			93	.0	94	25	81
						92	869.8	85	25	83
	IAM	599.4				91	870.7			
	NAW	.0				90	.0		------- HWY -------	
						89	1001.8	94	81	
						88	980.8	85	83	
CORN	1	2.1	.0			93	.0	94	50	65
						92	5.7	85	50	65
	IAM	4.8				91	4.8			
	NAW	.0				90	.0		------- HWY -------	
						89	.0	94	65	
						88	.0	85	65	

No. of Tracts: 1

TRACT NO.	FARMLAND	CROPLAND	IRRIGATED CROPLAND	HEL	027	A027	W	CW	FW	PC	AW	MW	RW	MG	CWTE	CWNA	PCW
								Current Year									
1629	1500.0	1053.8	1053.8	Y	Y	Y		N									N
IDENTIFIER			FF-26 S-16,17,20,21,29 T-13 R-27														
OWNER	1 - INTERSTATE FEEDERS INC																

T 13

HEL/NW

17
16 15 2.7
20
HEL
16 138.5 HEL
17 18 41 HE 3.0
19 145.
21 2.5 HEL
22 2.7
23 140.7 HE
24 4.3 HE
20 21 25 84.2 HEL
29
26 53.4 HEL
NW

December 16, 1974

Re: Transfer of Water Right No. 43-4029, 43-4030, 43-4031, 43-4032, 43-2368, 43-2430, 43-2438

Benchmark Ranches
Box 127
Hazelton, Idaho 83342

Gentlemen:

Enclosed is a copy of your approved application for transfer along with a copy of the Memorandum Decision and Order. We direct your attention to the conditions of approval as set forth in the Order.

Please note that a special condition requiring totalizing measuring devices at the points of diversion has been placed upon this transfer. We have enclosed a letter describing different types of measuring devices accepted by the Department.

Sincerely,

ROBERT D. FLEENOR
Chief, Water Rights

RDF:DR
Enclosures

cc: Jack Barnett / Sheri Chapman

bc: Southern District Office

43-2438

BEFORE THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR TRANSFER OF WATER RIGHT NO. 43-4029, 43-4030, 43-4031, 43-4032, 43-2368, 43-2436, 43-2438 in the name of BENCHMARK RANCHES

MEMORANDUM DECISION AND ORDER

On February 27, 1974, an Application for Transfer of Water Right was filed by Benchmark Ranches requesting a change in the points of diversion and the place of use under the following described rights:

Claim No. 43-4029 is based upon a water right established by the diversion and beneficial use of 5.25 cfs of water from a ground water source, located within the $SW\frac{1}{4}SE\frac{1}{4}$, Sec. 11, Twp. 13 S, Rge. 27 E, B.M., for stockwatering and the irrigation of 1999 acres of land. The priority claimed for this use is April, 1961.

Claim No. 43-4030 is based upon a water right established by the diversion and beneficial use of 4.53 cfs of water from a ground water source located within the $SW\frac{1}{4}SE\frac{1}{4}$, Sec. 2, Twp. 13 S, Rge. 27 E, B.M., for stockwatering and the irrigation of 1054 acres of land. The priority claimed for this use is April, 1962.

Claim No. 43-4031 is based upon a water right established by the diversion and beneficial use of 4.42 cfs of water from a ground water source located within the $SE\frac{1}{4}NE\frac{1}{4}$, Sec. 10, Twp. 13 S, Rge. 27 E, B.M., for stockwatering and the irrigation of 901 acres of land. The priority claimed is April, 1963.

Claim No. 43-4032 is based upon a water right established by the diversion and beneficial use of 4.62 cfs of water from irrigation waste water located within the $NW\frac{1}{4}SW\frac{1}{4}$, Sec. 3, Twp. 13 S, Rge. 27 E, B.M., for stockwatering and irrigation of 231 acres of land. The priorities claimed are April, 1961 - 0.68 cfs; April, 1962 - 0.85 cfs; and August, 1966 - 3.09 cfs.

License No. 43-2368 was issued for the use of 4.53 cfs of water from a ground water source located within the $SW\frac{1}{4}SE\frac{1}{4}$, Sec. 2, Twp. 13 S, Rge. 27 E, B.M., for the irrigation of 360 acres of land.

License No. 43-2436 was issued for the use of 4.27 cfs of water from a ground water source located within the $SE\frac{1}{4}NW\frac{1}{4}$, Sec. 9 and $NE\frac{1}{4}NE\frac{1}{4}$, Sec. 20, both in Twp. 13 S, Rge. 27 E, B.M., for the irrigation of 252 acres of land.

License No. 43-2438 was issued for the use of 4.27 cfs of water from a ground water source located within the $SE\frac{1}{4}NW\frac{1}{4}$, Sec. 9 and $NE\frac{1}{4}NE\frac{1}{4}$, Sec. 20, both in Twp. 13 S, Rge. 27 E, B.M., for the irrigation of 252 acres of land.

A notice of the proposed transfer was caused to be published in the South Idaho Press at Burley, Idaho, on April 2 and April 9, 1974. No protests were received against approval of the transfer application, however, several issues are raised by the proposed transfer. The issues considered are:

(1) Under the existing Idaho Code, can the rate of diversion be increased from 27.13 cfs, that which is presently claimed or licensed, to 37.21 cfs.

(2) Does the increase from 2,741 acres to 3,021 acres of irrigated land constitute an enlargement of the existing water right.

(3) Can a water right established for the use of a surface water source be changed to allow the use of a ground water source.

Based upon the information contained in the application, the records of the Department and the Director's understanding of the law, the Director of the Department of Water Resources makes the following Findings of Fact, Conclusions of Law, and Order:

FINDINGS OF FACT

(1) The rate of diversion licensed or claimed and requested to be transferred is 27.13 cfs; tabulated as follows:

Claim or License No.	Rate of Diversion	* Irrigated Acreage
43-4029	5.25 cfs	1,999
43-4030 & 43-2368	4.53 cfs	7
43-4031	4.42 cfs	0
43-4032	4.62 cfs	231
43-2436 & 43-2438	**8.31 cfs	504
TOTAL	27.13 cfs	2,741

* Indicates acreage not included under other claims or licenses.
** Rate of diversion is restricted by the capacity of the diversion systems.

(2) The rate of diversion of 4.62 cfs under Claim No. 43-4032 is diverted from a surface water source which is caused by the surface irrigation runoff from land irrigated by wells that are the subject of this transfer. This waste water is equal to 22% of the ground water diverted.

(3) The priorities for the diversion of water under Claim No. 43-4032 are April, 1961 for 0.68 cfs; April, 1962 for 0.85 cfs; and August, 1966 for 3.09 cfs. The portion of the water claimed appropriated in August, 1966, was after the July 23, 1963, date when the area was closed to further ground water appropriations.

(4) The applicant is entitled to divert the volume of water necessary to irrigate 2,741 acres of land. The maximum volume found to be reasonable in this area of the state is 4 acre feet for each acre irrigated, or 10,964 acre feet per year.

(5) This area was declared on July 23, 1963, to be a critical ground water area under the provisions of Section 42-233a of the Idaho Code.

(6) There does not appear to be any wells in the area that would adversely affected by a local cone of depression.

CONCLUSIONS OF LAW

(1) There is no provision in the Idaho Code for increasing the rate of diversion

under existing water rights.

(2) It has long been a principle in Idaho that water not used by a prior appropriator upon the land to which it was appropriated must be used to fill the rights of the next appropriator. In this instance, if the volume of water per year is no longer required to irrigate the land to which it has been appropriated, it must remain in the source to be used by the next appropriator in time. Therefore, the number of acres irrigated cannot be increased above 2,741 acres without injuring other existing water rights from the same source.

(3) The water available to be diverted from the surface water source under Claim No. 43-4032 is directly related to the water pumped from the wells named in this transfer. In 1966, the water available for diversion from the pond increased substantially which would indicate that the diversion from the wells must have also increased, which is contrary to the critical ground water designation of that area. Therefore, the only portion of the rate of diversion that may be transferred to be pumped from the wells is the 0.68 cfs with an April, 1961 priority and the 0.85 cfs with an April, 1962 priority. The rate of diversion allowed must be decreased to the amount diverted prior to the July 23, 1963, designation as a critical ground water area as follows:

Amount licensed or claimed	27.13 cfs
(Less) Amount claimed with a priority later than 1963	- 3.09 cfs
Amount allowable under transfer	24.04 cfs

ORDER

IT IS, THEREFORE, ORDERED and Application for Transfer of Water Right No. 43-4029, 43-4030, 43-4031, 43-4032, 43-2368, 43-2436, 43-2438 is hereby APPROVED subject to the following conditions:

(1) That the maximum rate of diversion shall not exceed 24.04 cubic feet per second.

(2) That the volume of water used shall not exceed that required for the efficient irrigation of 2,741 acres of land as follows: All in Twp. 13 S, Rge. 27 E, B.M.

Section 2	(326.24 acres)
SW¼NE¼	35.60
SW¼NW¼	36.59
SE¼NW¼	37.12
NE¼SW¼	37.12
NW¼SW¼	36.59
SW¼SW¼	36.06
SE¼SW¼	36.59
NW¼SE¼	35.50
SW¼SE¼	35.07

Section 3	(560.43 acres)
NE¼NE¼	35.50
NW¼NE¼	35.50
SW¼NE¼	36.59
SE¼NE¼	36.06
NE¼NW¼	35.50
NW¼NW¼	35.50
SW¼NW¼	36.59
SE¼NW¼	36.59
NE¼SW¼	36.59
NW¼SW¼	18.06
SW¼SW¼	36.06
SE¼SW¼	36.59
NE¼SE¼	36.06
NW¼SE¼	36.59
SW¼SE¼	36.59
SE¼SE¼	36.06

Section 4	(287.44 acres)
$NE\frac{1}{4}NE\frac{1}{4}$	35.50
$NW\frac{1}{4}NE\frac{1}{4}$	35.05
$SW\frac{1}{4}NE\frac{1}{4}$	36.06
$SE\frac{1}{4}NE\frac{1}{4}$	36.59
$NE\frac{1}{4}SE\frac{1}{4}$	36.06
$NW\frac{1}{4}SE\frac{1}{4}$	36.06
$SW\frac{1}{4}SE\frac{1}{4}$	36.06
$SE\frac{1}{4}SE\frac{1}{4}$	36.06

Section 10	(577.04 acres)
$NE\frac{1}{4}NE\frac{1}{4}$	36.06
$NW\frac{1}{4}NE\frac{1}{4}$	36.59
$SW\frac{1}{4}NE\frac{1}{4}$	36.59
$SE\frac{1}{4}NE\frac{1}{4}$	36.06
$NE\frac{1}{4}NW\frac{1}{4}$	36.59
$NW\frac{1}{4}NW\frac{1}{4}$	36.06
$SW\frac{1}{4}NW\frac{1}{4}$	36.06
$SE\frac{1}{4}NW\frac{1}{4}$	36.59
$NE\frac{1}{4}SW\frac{1}{4}$	36.59
$NW\frac{1}{4}SW\frac{1}{4}$	36.06
$SW\frac{1}{4}SW\frac{1}{4}$	35.07
$SE\frac{1}{4}SW\frac{1}{4}$	35.50
$NE\frac{1}{4}SE\frac{1}{4}$	36.06
$NW\frac{1}{4}SE\frac{1}{4}$	36.59
$SW\frac{1}{4}SE\frac{1}{4}$	35.50
$SE\frac{1}{4}SE\frac{1}{4}$	35.07

Section 9	(562.04 acres)
$NE\frac{1}{4}NE\frac{1}{4}$	36.06
$NW\frac{1}{4}NE\frac{1}{4}$	36.06
$SW\frac{1}{4}NE\frac{1}{4}$	36.06
$SE\frac{1}{4}NE\frac{1}{4}$	36.06
$NE\frac{1}{4}NW\frac{1}{4}$	36.06
$NW\frac{1}{4}NW\frac{1}{4}$	35.07
$SW\frac{1}{4}NW\frac{1}{4}$	35.07
$SE\frac{1}{4}NW\frac{1}{4}$	29.06
$NE\frac{1}{4}SW\frac{1}{4}$	36.06
$NW\frac{1}{4}SW\frac{1}{4}$	35.07
$SW\frac{1}{4}SW\frac{1}{4}$	34.08
$SE\frac{1}{4}SW\frac{1}{4}$	35.07
$NE\frac{1}{4}SE\frac{1}{4}$	36.06
$NW\frac{1}{4}SE\frac{1}{4}$	36.06
$SW\frac{1}{4}SE\frac{1}{4}$	35.07
$SE\frac{1}{4}SE\frac{1}{4}$	35.07

Section 11	(427.81 acres)
$NW\frac{1}{4}NE\frac{1}{4}$	35.07
$SW\frac{1}{4}NE\frac{1}{4}$	35.07
$NE\frac{1}{4}NW\frac{1}{4}$	36.59
$NW\frac{1}{4}NW\frac{1}{4}$	36.06
$SW\frac{1}{4}NW\frac{1}{4}$	36.06
$SE\frac{1}{4}NW\frac{1}{4}$	36.59
$NE\frac{1}{4}SW\frac{1}{4}$	36.59
$NW\frac{1}{4}SW\frac{1}{4}$	36.06
$SW\frac{1}{4}SW\frac{1}{4}$	35.07
$SE\frac{1}{4}SW\frac{1}{4}$	35.50
$NW\frac{1}{4}SE\frac{1}{4}$	35.07
$SW\frac{1}{4}SE\frac{1}{4}$	34.08

(3) That totalizing measuring devices of a type approved by the Department of Water Resources be installed at the points of diversion.

(4) That if water is continued to be diverted from the surface water source, the rate of diversion from the wells must be decreased by the amount at which water is diverted from the surface water source.

(5) That the approval of this transfer does not validate the water rights as claimed under Claim Nos. 43-4029, 43-4030, 43-4031 and 43-4032.

Dated this 16 day of December, 1974.

R. KEITH HIGGINSON
Director

Ident on No.

Transfer No. 43-4029, 43-4030, 43-4031, 43-4032, 43-2368, 43-2436, 43-2438

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

APPROVED

APPLICATION FOR TRANSFER OF WATER RIGHT
To Change the Point of Diversion and/or the Place of Use

1. Name of Right Holder BENCHMARK RANCHES

   Post office address Box 147 Malta, Idaho 83342

2. Right obtained by: Three licenses and four constitutional use rights

   a. Decree to N/A (Name) in Case of _____

   vs. _____, Dated _____ in _____ (Name of Court)

   Court. County of _____.

   b. License No. 43-4029 43-4030 43-2368 43-4031 43-2436 43-2438 43-4032 / issued by the State of Idaho, Department of Reclamation.

3. Source of water Underground water (Name of stream or source) tributary to _____

4. Date of Priority 43-4029-4/61 43-4030-4/62 43-2368-10/51 43-4031-4/63 43-2436-1/57 43-4032-4/61-8/66 43-2438-1/57

5. Amount of water a. 27.36 c.f.s. and/or 43-4029=5.25 c.f.s. 43-4030=4.53 c.f.s 43-2368= 4.53 c.f.s. 43-4031=4.42 c.f.s 43-2436=4.27 c.f.s. 43-2438=4.27cfs 43-4032=4.62 c.f.s.

   b. 10,994 acre feet/annum

6. Water is used for Irrigation Stockwater from April 1 (Month, Day) to Oct. 31 (Month, Day)

7. Original location of point of diversion is See Below ¼ _____¼ of Section _____, Township 13 S., Range 27 E., B.M., in Cassia County; Additional points of diversion, if any 43-4029 - SW¼ SE¼ Sec. 11, T. 13S. R. 27E; 43-4030 - 43-2368 & SW¼ SE¼ Sec. 2, T. 13S. R 27E; 43-4031 - SE¼ NE¼ Sec. 10, T. 13S. R. 27E; 43-2436 & 43-2438 - SE¼ NW¼ Sec. 9, T. 13S. R. 27E; 43-4032 - NW¼ SW¼ Sec. 3, T. 13S. R. 27E.

8. Lands presently irrigated or place of use:

TWP.	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
13S.	27E.	2			40				40	40	40	40	40	40		40	40		360
		3	35	37	37	37	39	39	38	39	39	30	35	40	37	37	38	37	594
		4	3	10	39	39									38	37	37	28	231
		9	32	31	32	31	32	31	32	31	32	31	32	31	32	31	32	31	504
		10	37	35	37	37	39	39	39	37	37	39	38	37	38	36	36	39	600
		11	2	40	40	2	36	35	36	36	33	36	36	33	3	40	40	4	452
															TOTAL				2,741

Total number of acres presently irrigated 2,741

If applicant was not the original holder of this right explain how it was acquired: All lands have been acquired by Purchase

10. CHANGE IN POINT OF DIVERSION

a. Quantity to be diverted at new point: 37.21 c.f.s. and/or 10,994 acre feet

b. New point of diversion: Wells #5 SE ¼ SE ¼, Section 3, Township 13S, Range 27E, B.M. The five existing points of diversion as described in para. 7, will be retained.

c. Description of method of diversion and conveyance from new points of diversion:

Deep well, vertical turbine pump and pipelines

d. Is water to be conveyed to the lands previously irrigated? Yes X No ____.

If not, the place of use should be changed below.

e. Describe the reasons for applying for a change in the point of diversion:

The reason for applying for a change in point of diversion and also, in part, a change in the place of use, is to more efficiently utilize the water resources, the water rights, and the land resources on the property. The property described in this change application is part of what was once a much larger irrigation ranch operated by the Pewitt-Thompson Corporation. (Continued on additional page)

f. Do you intend to make the transfer permanent? Yes

g. Do you intend to abandon completely the old point of diversion? No

h. Indicate on the above plat the new point of diversion and lands to be irrigated.

11. CHANGE IN PLACE OF USE

a. Describe the new lands on which you wish to use your right.

TWP.	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
13S.	27E.	2			39				39	39	39	39	39	39		39	39		351.0
		3	39	39	40	39	39	39	39	39	39	39	39	39	39	40	39	39	626.0
		4	39	39	40	39									39	40	39	39	314.0
		9	39	39	39	39	39	40	40	39	39	40	39	39	39	39	39	39	627.0
		10	39	39	39	39	39	39	39	39	39	39	39	39	39	39	39	39	624.0
		11	39	39	39	39	39	39	39	39	39	39	39	39	39	39	39	39	624.0

3,166.0

Total number of acres to be irrigated 3,166.0

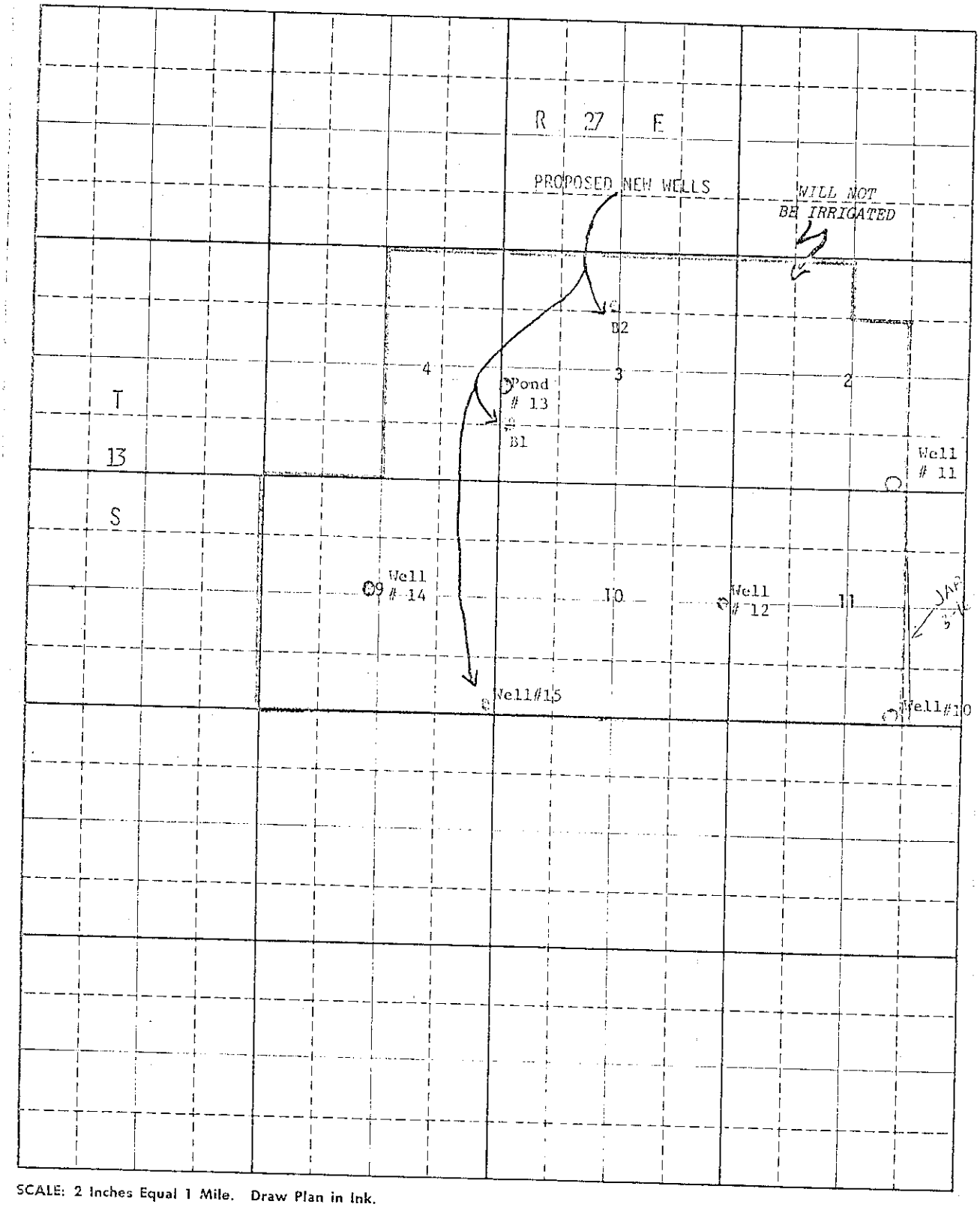
Changes made to reconcile to Village of Wellington

10. e. (Continued)

Over the last ten years, there have been several sales that have occurred and the original large holdings property is now split among several owners. When the property was in one ownership, there was a flexibility of utilizing wells from locations outside of the property now owned by Benchmark Ranches, on the lands owned by Benchmark Ranches. This did mean that as a grain crop might be ripening and not needing irrigation, waters could be taken from wells not now owned by the applicant, transported some long distances and utilized at times when other crops had maximum irrigation demands. Frequently, the water was conveyed several miles in gravel bottom, earth ditches at a significant loss in water. The ditches were often lined with weeds and other wasteful vegetation. It often took many hours to convey the water through previously dry ditches to the new places of use. Estimates available to us from pump and power records indicate that diversions may well have exceeded the four acre feet per acre recommended by the Department of Water Administration as a prudent use of water in this area. Irrigation practices on the land, the applicant believes, were also historically inefficient. Flood irrigation was attempted with an inadequate flow of water over shallow soils underlain with gravel through irrigation runs that were too long. At a significant capital expense, it is proposed by this transfer application to greatly increase the efficiency and the beneficial uses made of ground water pumped. In order to accomplish these efficiencies, it is necessary to request some changes in management practices and water right regulations that may be, in part, novel to this transfer application. If questions arise as to these proposals within this critical ground-water area, the applicant would appreciate an opportunity to discuss, reconsider, and, if necessary, modify or delete various aspects of the application in order to insure its approval.

Ditches will be abandoned and an almost complete system of pipelines will be installed to efficiently accomplish the distribution. One, two, three, or four new wells must be drilled and integrated into the system. Those additional points of diversion are indicated on the map and are identified in paragraph 12.10b The previous irrigation system can, in part, be identified by the attached map which has been marked as Appendix No. 1. The intention is to install sprinkler irrigation equipment to prevent waste. The proposed sprinkler irrigation system is identified by Appendix No. 2. It is proposed herein to increase the rate of diversion from 27.36 c.f.s., to 37.21 c.f.s.. Since the ground-water resource is much like a reservoir, the rate of diversion does not seem to be a controlling factor in a critical ground-water area. Past practices have been to irrigate land late in the irrigation season and early in the spring to attempt to saturate the soil with moisture prior to the maximum demands of the irrigation season because of a fear that inadequate irrigation facilities would not be able to provide enough water at times when crops need water. It is believed that by this transfer application and the authorization of an increased flow rate less total water will need to be diverted from the reservoir. The application proposes to increase the area irrigated from 2741 acres to 3166 acres. The applicant does not believe that this increased acreage will result in an increased depletion of waters from the ground-water aquifer. As stated, previous practices, it is believed, result in the pumping of more than four acre feet per acre. The Department of Water Administration has tentatively identified the need for up to four acre feet per acre. With the improvements proposed herein, we believe that the lands will be adequately irrigated with less than four acre feet per acre and that the total diversion will be less than 10,994 acre feet per year.

Water Right No. 43-2436 and 43-2438 perhaps need an additional explanation. These two applications have both been licensed. A memorandum decision dated January 19, 1970, prior to the issuing of the license, indicated that combined the rights could not be licensed for more than 12.8 c.f.s.. Each of the applications were licensed for 6.29 c.f.s., or a total diversion of 12.58 c.f.s. from both rights, slightly less than the amount allowed under the memorandum. Each of the licenses, however, allow for 4.27 c.f.s. for irrigation or a total of 8.54 c.f.s. for irrigation. The additional licensed flow is to be used in a feed lot and on properties not purchased by Benchmark Ranches. Therefore, only the licensed amount relating to irrigation is included in this application for transfer.



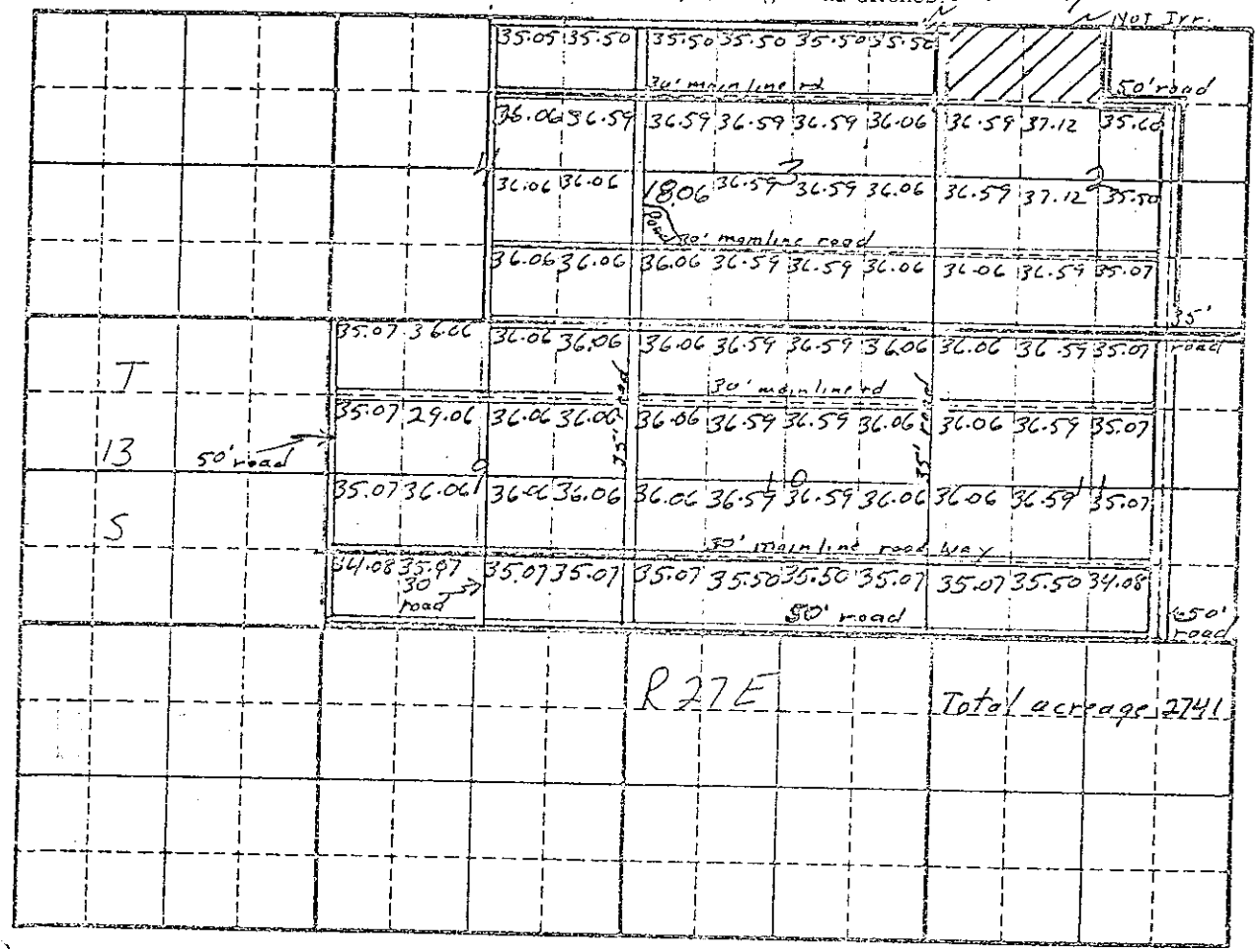
SCALE: 2 Inches Equal 1 Mile. Draw Plan in Ink.

TWP	RANGE	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	
T35	R27E	2	—	—	35.40	—	—	—	36.59	37.12	37.12	36.59	36.06	36.59	—	35.50	35.07	—	326.24
		3	35.50	35.50	36.59	36.06	35.50	35.50	36.59	36.59	36.59	18.06	36.06	36.59	36.06	36.59	36.59	36.06	560.43
		4	35.50	35.05	36.06	36.59	—	—	—	—	—	—	—	—	36.06	36.06	36.06	36.06	287.44
		9	36.06	36.06	36.06	36.06	36.06	35.07	35.07	29.06	36.06	35.07	34.08	35.07	36.06	36.06	35.07	35.07	562.04
		10	36.06	36.59	36.59	36.06	36.59	36.06	36.06	36.59	36.59	36.06	35.07	35.50	36.06	36.59	35.50	35.07	577.04
		11	—	35.07	35.07	—	36.59	36.06	36.06	36.59	36.59	36.06	35.07	35.50	—	35.07	34.08	—	427.81

Submitted by
Sherl L. Chapman 12-11-74
for Ed Bench & John Greer
Appl. for Transfer 43-4029 et al

Total number of acres to be irrigated 2741.00

Complete the following map by showing land and point of diversion as proposed by this amendment. Show 40-acre subdivisions, townships, ranges and ditches.



Scale: 2 inches equal 1 mile

b. Do you in to make the transfer permanent? Yes

c. Are you completely abandoning the lands previously irrigated by this right? If not, explain your plans:

See paragraph 10. e.

d. Describe any other water rights that you claim for the new ground upon which you wish to transfer this right: NONE

e. Indicate on the above plat the new land to be irrigated and the point of diversion.

I hereby assert that no one will be injured by such transfer and that the change will be made at my own risk. The information contained in this application is true to the best of my knowledge.

Secretary-Treasurer

by [signature]
(signature of applicant)

Subscribed and sworn to before me this 9 day of Nov., 19 73

[signature]
(notary public)

My commission expires 7-31-77

ACTION OF DIRECTOR, DEPT. OF WATER RESOURCES AND CERTIFICATE OF TRANSFER

This is to certify that I have examined Application for Transfer of Water Rights No. 43-4029, 43-4030, 43-4031, 43-4032, 43-2368, 43-2436 & 43-2438 and said application is hereby APPROVED.

1. Approval of said application is subject to the following limitations and conditions:

Pursuant to Memorandum Decision and Order of this date.

2. Denial of said application is for the following reasons:

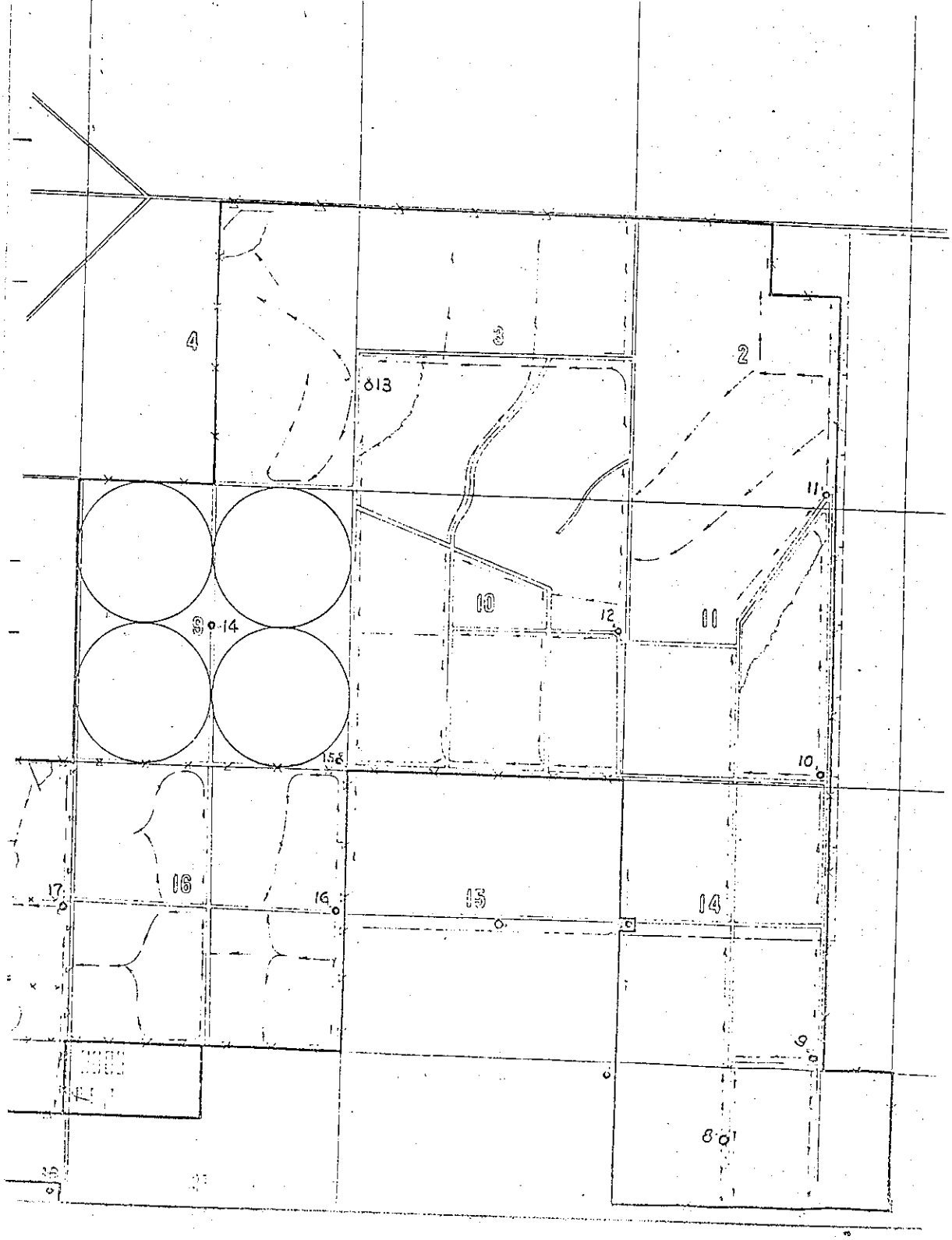
Witness my hand this 16 day of December, 19 74

[signature]
R. KEITH HIGGINSON, Director
Idaho Department of Water Resources

FOR DEPARTMENT USE ONLY

Received by K.W.H. Date 2-27-74
Prelim. check by K.W.H. Date 2-27-74
Fee received by [illegible] Date [illegible] Fee $ [illegible]
1207 Approved for publication by [illegible]
Published in S.I. Press Dates 4-2 & 4-9-74
Hearing held
Watermaster Recommendation sent

Protest filed by:	Date


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STAFF ANALYSIS

COMMENTS ON BENCHMARK RANCHES TRANSFER

4-19-74

In reviewing the transfer for the indicated licenses and claims to water rights, I find we have situations which do not correspond with records filed withour Department. I made a field visit on April 17, 1974 for an investigation of the proposed transfer. I found that the proposed new wells indicated on the map as B-1, B-2 and well #15 are wells which are either completed or in the process of being completed.

Well B-2 was started on 1-6-74 and is complete with the exception of test pumping.

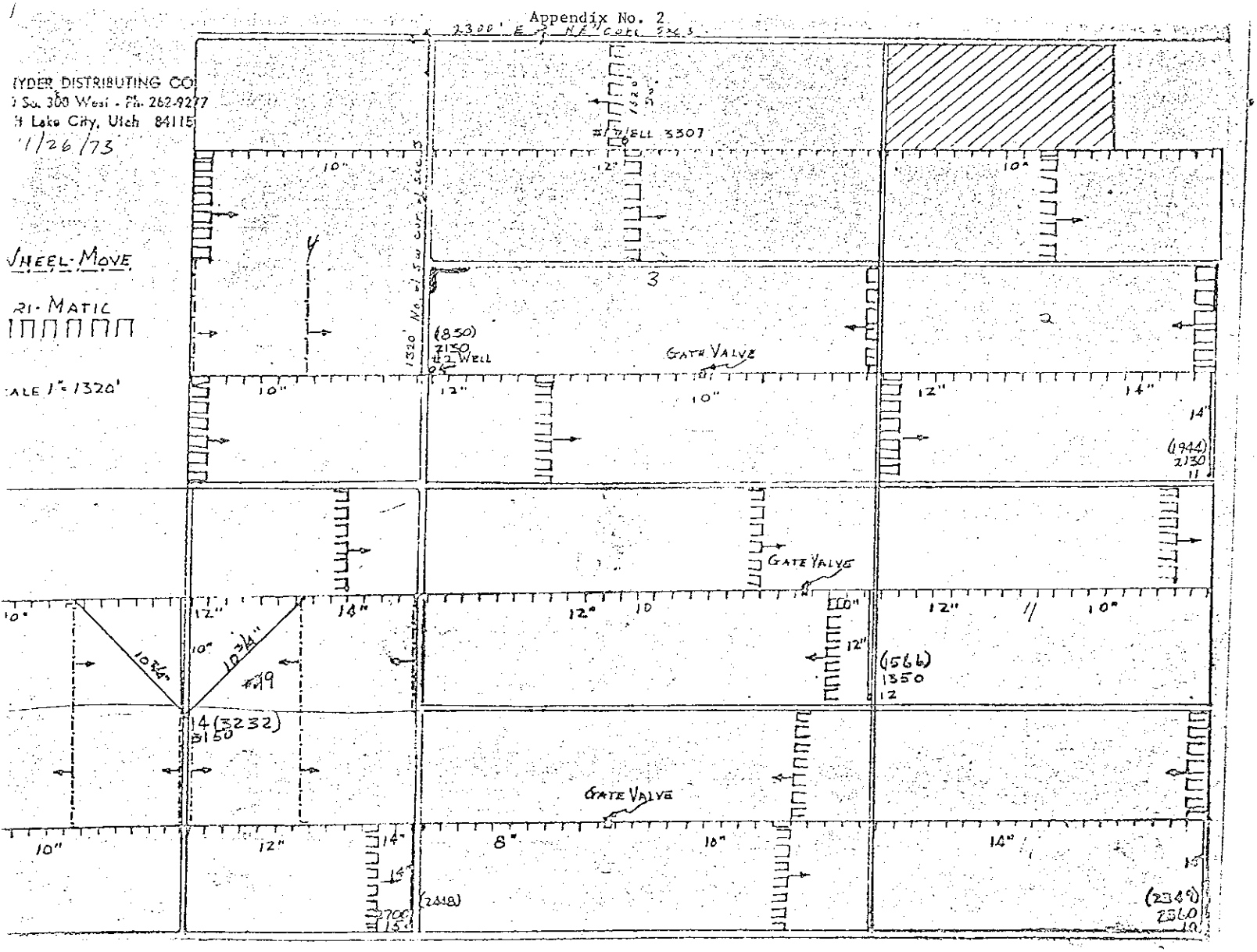
Well B-1 is at the 600 foot level and expected to be drilled an additional 200 feet with the well rig on the hole being operated by C. D. Bishop, Driller #107.

→ I question whether this well is being drilled in the legal description as proposed by the transfer. I suspect that it may be in Section 4. I was unable to determine this specifically since I did not have aerial photos in my possession at the time of the visit.

Well #15 is installed in all respects and has been operated for a period of years. In reviewing the Department files on Well #15, I find that it was filed on original permit for License 43-2436 and 43-2438. However, on November 26, 1969, our files indicate this permit was amended which deleted Well #15 as a point of diversion. The well log indicates that this well was completed August 26, 1964 in the SE¼SE¼, Sec. 9, T 13S, R 27E. In all probability, since the time of the amendment of permit 43-2436 and filing of proof, this well has been illegally operated without a water right. I find no valid licenses or claims which cover this well referred to as #15.

Well B-2 was in violation of being drilled due to the fact that the application for transfer of a water right had not been received by the Department at that time. You will note we received the application 2-27-74.

Appendix No. 2



RYDER DISTRIBUTING CO
[illegible] So. 300 West - Ph. 262-9277
[illegible] Lake City, Utah 84115
11/26/73

WHEEL-MOVE

RAIN-MATIC

SCALE 1" = 1320'

Our files indicate a letter was written by Bob Fleenor to Lester and Lillian Thompson on Jan. 12, 1971 quoting the memorandum decision of January 19, 1970 which required the applicants to submit reports to begin effective 2-1-71 and continue until official notification from this Department was given to cease these reports of the amount of water pumped from the two wells under Licenses 43-2436 and 43-2438.

We have no record in our file of these reports having been submitted. Possibly there is record of this with the Water Rights Division in the State Office.

With the enclosed correspondence that Mr. Barnett submitted, he indicates that claim 43-4032 should also be considered as a groundwater right. I believe this is up for discussion. In all of our other filings, water of this nature appears to be a surface water right and this claim should not be included in this transfer. If the decision is made that this is to be considered a ground water right, I believe this to be invalid since the priority claimed is August 6, 1966, for an amount of 3.09 cfs. With this priority, groundwater was not entitled to be appropriated after March 25, 1963, by ruling of the Supreme Court, without a permit and those since that time are without right and are illegal.

In the event this claim is not considered to be valid, this reduces the total appropriation for which he is entitled prior to this transfer to an amount of 24.27 cfs.

In the remarks sections which were filed with the claims to be transferred, it was indicated that Well #15 existed at that time and was therefore, I feel, being used illegally.

A transfer must be made on 43-2436 and 43-2438 to transfer the feed operation and stockwater use off this point of diversion in the SE¼NW¼, Sec. 9, T 13S, R 27E.

In conclusion, this transfer proposes to expand the acreage by 425 acres and the diversion rate by 12.94 cfs. Therefore, I feel this transfer as proposed should be fully denied.

Should this transfer be approved, then I feel some conditions must be placed on it as follows: (1) Install totalizing meters on all points of diversion proposed. (2) Require monthly reports of total acre feet of water used. (3) Allow a diversion rate of no more than the total right of entitlement, which I feel is 24.27 cfs. (4) Approval of this transfer does not confirm any of the claims to a water right. (5) Show ownership of E½ E½, Sec 11.

Ken Flowerdew

October 10, 1974

MEMORANDUM

TO: BOB FLEENOR

FROM: KEN FLOWERDEW

SUBJECT: BENCHMARK RANCHES TRANSFER

On Tuesday, Oct. 8, 1974, I made an on-site inspection of the acreages and points of diversion indicated under claim numbers 43-4029, 43-4030, 43-4031 and 43-4032. Unfortunately, I did not have the transfer package in my possession or aerial photos available to substantiate the acreages claimed under the above mentioned water rights. However, I did note some substantial differences in the area since my visit of April 17, 1974, while we were processing this transfer.

1. Probably the new wells proposed in the transfer as B-1 and B-2 had been completed with pumps and motors installed. A new well, not mentioned in the transfer, had been drilled with pump and motor in place in the NW¼NE¼ of Section 4. This will require an amendment to this transfer. At 4:55 p.m. on 10-9-74, Sherl Chapman contacted me by telephone regarding this amended transfer and proposes that we complete our decision on this present transfer first. He indicated that the owners would isolate this well from the system and would not use it during the winter months or until a new application for transfer has been submitted and approved by the Department.

2. My own personal thoughts regarding the lands listed under the claims is that the acreage was under-estimated in the various legal descriptions filed on the above listed claims. In all probability, more acreage than that claimed was actually being irrigated; however, they had taken out excessive amounts of acreages when filing for roads and ditches.

3. Apparently, their major increase in acreage that they are proposing will be in Section 9 and the E½ of Section 4. There have been circulars in Section 9 which have been done away with and the corners of these quarter section subdivisions are now being covered with the exception of the SE¼NW¼ in which seven acres contains haystacks and sheds in that area which the owners say they do not intend to irrigate. In the NW¼NE¼ of Section 4 is

drainage pond for the collection of wastewater. It is the intention of the owners in the future to do away with this and apply water to the whole east half of Section 4.

4. The surface water pond under claim 43-4032 of which the sump pump number 13 had been pumping in previous years still exists and will continue to exist; however, two of the owners, John Creer and Ed Bench, who accompanied me on the inspection, indicated it would not be pumped from in the future for part of their irrigation system. It may be used for the collection of wastewater from lands to the shouth of theirs, but will only be used for stock purposes. The pond is presently dry and since all of the lands listed in this transfer are under sprinkler system, there will be no wastewater runoff to be collected in this pond for future irrigation purposes. The sump pump does not tie in to their mainlaine system.

5. There are a total of 8 wells involved in their sprinkler system with 4 main lines, two pumps tied into each mainline. Apparently, all eight pumps were in operation this summer supplying the sprinkler systems which are set up at the present time. However, the tri-matic sprinklers are pulled to the ends of the fields and disconnected, grain harvest was in operation, all water has been shut off for the year according to the owners. All eight of the installed pumps with the exception of No. 13 which is not in the system have measuring devices installedaat the discharges. Three of the meters are old Badger meters which were installed previous to the change in the system. The five new meters installed are Rockwells. The following is a computation of the manufacturer, meter sizes, serial numbers and present readings.

Pump No.	Manufacturer	Size	Serial Number	Present Reading
13	Rockwell	12"	10527	172.81 AF
11	Badger	10"	MO 336094	132,145,000 gal.
12	Rockwell	10"	11309	187.76 AF
14	Badger	10"	MO 336088	64,803,000 gal.
15	Rockwell	12"	11313	135.16 AF
B-1	Rockwell	12"	10358	211.00 AF
B-2	Badger	10"	MO 336089	131,055,000 gal.
B-3	Rockwell	10"	11311	116.44 AF

As you will note, the new meters on Pumps B-1 and B-3 have been pumped this summer for a total of 327.44 AF. I am also sure that B-2 was also pumped into this system this summer, which is, if you will note, in violation of Sec. 42-108 of the Idaho Code.

6. Even though Well No. 15 is listed on the transfer as a proposed new well, it is not. As indicated in my previous staff analysis, it was drilled and completed in 1984.

7. I still have not been able to determine the ownership of the lands claimed in the E½E½, Sec. 11, a total of 11 acres. This is not indicated in the sale contract of Benchmark Ranches.

3.

8. I do have the pump data from the 8 pumps on this land, however, I do not feel it would be of any significance to supply you with this data since the owners indicated to me that the motors had been changed recently in setting up their new system and therefore, would not be of any benefit even if these wells could be pumped at this time in supplying us with the pumping capacities which were claimed under this transfer.

9. I have reviewed your proposed Memorandum Decision and Order for my own personal benefit. I only have one comment and that is under the Order. In Item 2, does this indicate that 2741 acres is the total that water can be applied to or does this say that the volume of water may be applied to a larger number of acres so long as it does not exceed the 10,964 AF each year for the requirement of the 2741 acres?

Item 4 in the Order states that should the surface water source be used as a diversion, then the diversion from the wells must be decreased by that amount. However, in Item 1, you have already placed this restriction on the groundwater sources and it appears to me whatever they pump from the surface pond would be over and above your restriction in Item 1.

10. My final comment on this is with regard to Sharl Chapman's proposal of processing this application as is and that they will submit a transfer at a later date to include well No. B-3. This may be satisfactory; however, may I say that Pump No. 13. is no longer a part of this transfer due to the information submitted by the owners to me on my visit and even though the system has already been changed, this transfer still does not reflect the situation they presently have even though they would isolate B-3 from the system.

11. I expended all my sources of information in trying to get aerial photos from a flight around 1960-62. None are available. I did acquire some from a 1966 flight which are enclosed for your use.

RECEIVED
APR 1 1974
Department of Water Administration
Southern District Office

DEC 30 1974
Department of Water Resources
Southern District Office

CONTRACT OF SALE OF REAL ESTATE

AND SECURITY AGREEMENT

THIS AGREEMENT, made and entered into this 2nd day of November, 1973, between VISTA LAND COMPANY, a Utah Corporation, qualified to do business in Idaho, herein called the "Seller", and BENCHMARK RANCHES, a partnership, composed of RANCHO, INC., a Colorado Corporation, qualified to business in Idaho, L. E. BENCH, MARION J. GILMORE and STEPHEN M. CREER, herein called the "Buyer", whose address is Oakley, Idaho.

W I T N E S S E T H:

In consideration of the mutual covenants, conditions, and agreements herein contained, the parties mutually agree as follows:

1. SALE: The Seller agrees to sell and convey to the Buyer and the Buyer agrees to buy the following described real estate in the County of Cassia, State of Idaho, to-wit:

Township 13 South, Range 27 East of the Boise Meridian, Cassia County, Idaho.

Section 2: W½, SW¼NE¼, W½SE¼
Section 3: ALL
Section 4: E½
Section 9: ALL
Section 10: ALL
Section 11: W½, W½E½

together with all and singular the tenements, hereditaments, and appurtenances thereunto belonging and all water rights appurtenant, and the following personal property:

1. G. E. pump 200 HP #EDJ 515140
2. Johnson pump - no number
3. 200 HP pump U.S. Motor #1243800
4. Wintroath pump #10041
5. 200 HP U.S. Motor #1125580
6. Layne & Bowler pump #25044
7. G. E. Motor - PUJ 303005-250Hp-Wintroath pump10022
8. G. E. Motor - DJJ411132-250HP-Layne & Bowler D06651
9. Sump pump-Hercules G286012D-Fairbanks Morse 34859

2. PURCHASE PRICE: The Buyer agrees to pay to the Seller for the real estate the sum of Six Hundred Thirty-Two Thousand Dollars ($632,000.00), in lawful money of the United

PARSONS & SMITH
LAWYERS
BURLEY, IDAHO

to the usual printed exceptions and 2 through 14 of said title report plus accruing taxes, levies and assessments.

8. TIME IS OF THE ESSENCE: Time is of the essence of this Agreement in all particulars.

9. ASSIGNMENT: The Buyer agrees not to assign, transfer, convey or in any other manner dispose of the interest in this contract and to the real estate without the prior written consent of the Seller, PROVIDED, HOWEVER, that the consent shall not be unreasonably withheld by the Seller.

10. WATER: The Seller shall transfer and assign to the Buyer any and all water rights and permits. The Buyer agrees to prove up on any permits that have not yet been licensed by the Department of Water Administration of the State of Idaho. The Seller agrees to cooperate with the Buyer in any assistance needed in making this perfection.

11. FORFEITURE AND TERMINATION: In the event that The Buyer shall fail, refuse, or neglect to pay when due any of the payments of principal and interest required to be made hereunder, or to perform any other covenants and conditions of this agreement it shall be optional with the Seller upon sixty (60) days written notice, to declare the contract as terminated. At any time within the period of sixty (60) days the Buyer shall have the right to pay any and all of the payments which may be then in default and to cure any other defaults and the escrow holder shall have the authority to receive all or part of the payments which the Buyer may then be in default and the Buyer shall have the further right to perform any other covenant, condition or agreement then in default. Unless the total amount for which the Buyer is in default at the time of the receipt of the notice plus any amount which has become payable during the sixty (60) day period and any attorney fees are paid within such sixty (60) day period all right of the Buyer to complete

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BURLEY, IDAHO

and Paul H. Pewitt will release the liens against the real estate and personal property. This evidence is necessary because the liens securing the obligations also involve other land and personal property and are required to be performed by the Seller. The evidence shall also include any other requirements to obtain the releases.

IN WITNESS WHEREOF, the parties have executed this Agreement.

VISTA LAND COMPANY

BY _____
President

ATTEST:

_____
Secretary

BENCHMARK RANCHES,
A Partnership

_____
Partner

_____
Partner

_____
Partner

RANCHCO, INC.

BY _____ Title _____
Partner

STATE OF Utah)
) ss
County of Cache)

On this 2nd day of November, 1973, before me, the undersigned, a Notary Public in and for said State, personally appeared ERNEST J. MILLER and JOHN E. CLAY, known to me to be the President and Secretary of VISTA LAND COMPANY, the Corporation that executed the foregoing instrument, and acknowledged to me that such Corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

_____
Notary Public for Utah
Residing at Hyrum, Utah
My commission expires July 1, 1974

PARSONS & SMITH
LAWYERS
BURLEY, IDAHO

STATE OF IDAHO)
) ss
County of Cassia)

On this 19th day of February, 1974, before me, the undersigned, a Notary Public in and for said State, personally appeared L. E. BENCH, known to me to be one Partner in the Partnership of BENCHMARK RANCHES, and the Partner who subscribed said Partnership name to the foregoing instrument, and acknowledged to me that they executed the same in said Partnership name.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

Notary Public for Idaho
Residing at Burley, Idaho

STATE OF Ohio)
) ss
County of Hamilton)

On this 11 day of Feb, 1974, before me, the undersigned, a Notary Public in and for said State, personally appeared ~~MARION J. GILLMORE~~ Stephen M. Green, known to me to be one of the Partners in the Partnership of BENCHMARK RANCHES, and one of the Partners who subscribed said Partnership name to the foregoing instrument, and acknowledged to me that they executed the same in said Partnership name.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

Ernestine E. Bauer
Notary Public for
Residing at 3661 Rosedale Rd

ERNESTINE E. BAUER
Notary Public, Hamilton County, Ohio
My Commission Expires Aug. 23, 1977

STATE OF Utah)
) ss
County of Davis)

On this 14th day of Feb., 1974, before me, the undersigned, a Notary Public in and for said State, personally appeared ~~STEPHEN M. GREEN~~ Marion J. Gillmore, known to me to be one of the Partners in the Partnership of BENCHMARK RANCHES, and one of the Partners who subscribed said Partnership name to the foregoing instrument, and acknowledged to me that they executed the same in said Partnership name.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

Notary Public for Utah
Residing at Bountiful
Appointment Aug 4th 1977

PARSONS & SMITH
LAWYERS
BURLEY, IDAHO

R PROOF

CVR

MAPS

PHOTOS

MISC