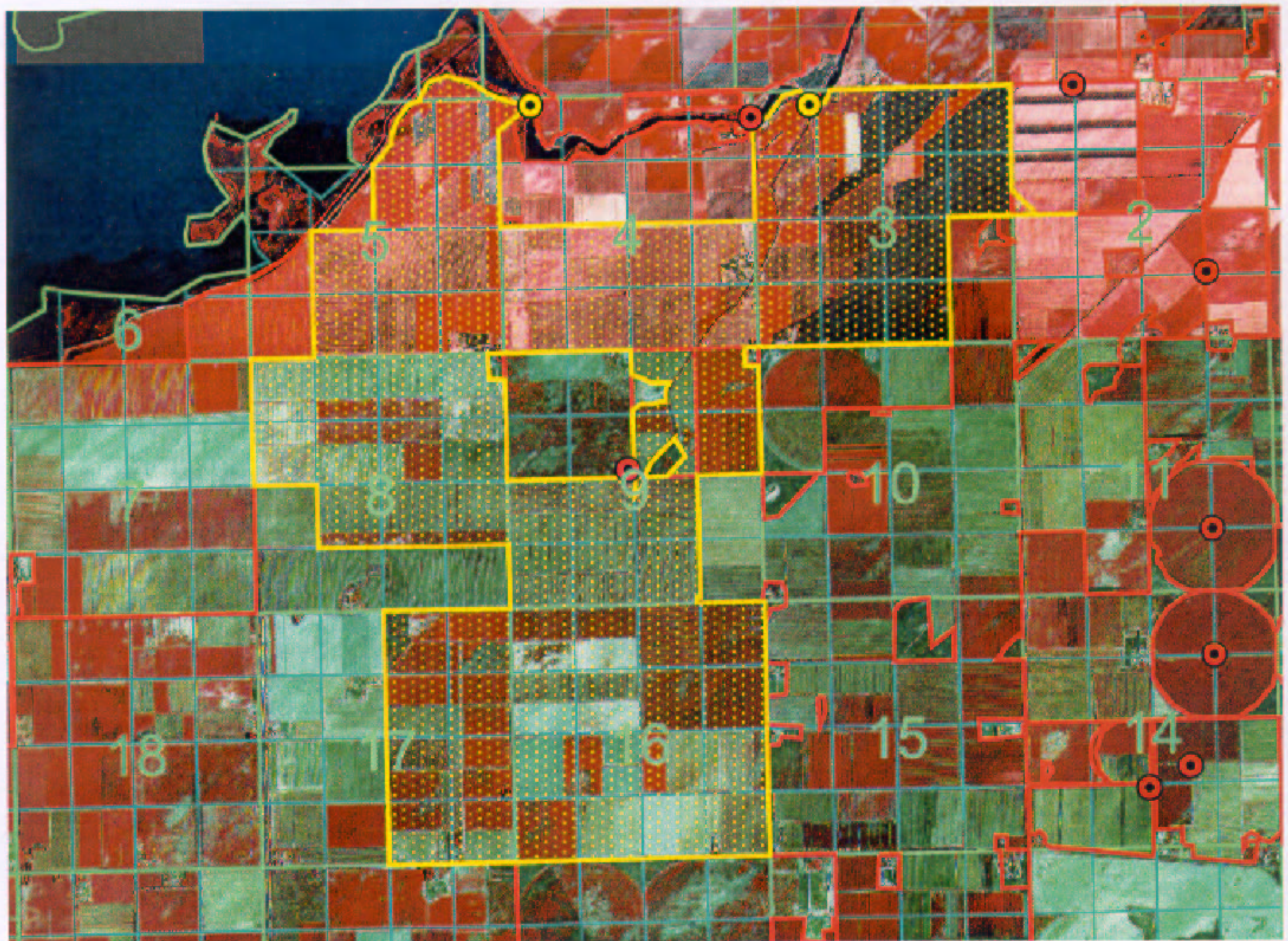


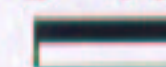
Idaho Department of Water Resources

"Jackett" Water Rights, Numbers 31-31-134, 31-135, 31-143
31-144, 31-190, 31-192



Township 6N Range 35E

0 1320 Feet



-  Point of Diversion
-  Point of Diversion - Other Rights
-  Place of Use
-  Place of Use - Other Rights
-  Quarter-quarter Sections
-  Section Lines

SCANNED
NOV 25 2002



GIS Illustration prepared from 1987/1988 NAPP photography by B. Contor 12/2000

01/05/2001

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommended Right Report

WATER RIGHT NO. 31-134

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	MUD LAKE WATER USERS INC 1400 E 1500 N PO BOX 68 TERRETON, ID 83450 (208)663-4359
Original Owner	JACKETT CANAL COMPANY HOLDEN KIDWELL HAHN & CRAPO PO BOX 50130 IDAHO FALLS, ID 83405 (208)523-0620

Priority Date: 03/20/1911
Basis: Decreed
Status: Valid

<u>Source</u>	<u>Tributary to</u>
MUD LAKE	SINKS

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>	<u>Subuse Code</u>
IRRIGATION STORAGE	01/01	12/31		861 AFA	
IRRIGATION FROM STORAGE	04/01	10/31		861 AFA	
Total Diversion				861 AFA	

Location of Point(s) of Diversion:

MUD LAKE	NENWNW Lt 4	Sec. 03	Township 06N	Range 35E	JEFFERSON County
MUD LAKE	NENWNW Lt 4	Sec. 04	Township 06N	Range 35E	JEFFERSON County

IRRIGATION FROM STORAGE Use:
Acre Limit: 141.6

Place(s) of use: No POUs found for this right

Conditions of Approval:

- 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.
- C05 RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.
- C03 RIGHT INCLUDES ACCOMPLISHED CHANGE IN POINT OF DIVERSION PURSUANT TO SECTION 42-1425, IDAHO CODE.

Remarks:

- Place of Use - Irrigation USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 24261.3 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 31-327, 31-328, 31-329, 31-330, 31-331, 31-332, 31-336B, 31-337B, 31-371, 31-2239, 31-2265, 31-2289, 31-2290, 31-2297, 31-2310, 31-2317A, 31-2317B, 31-2321, 31-2341, 31-2342, 31-2343, 31-2344, 31-2345, 31-7005, 31-11430, 31-11432, (GROUNDWATER), 31-2276, (WASTEWATER), 31-6, 31-34, 31-35, 31-36, 31-37, 31-38, 31-52, 31-65, 31-104, 31-105, 31-147A, 31-159, 31-162, 31-163, 31-166, 31-168, 31-169, 31-184, 31-185, 31-186, 31-187, 31-188, 31-232, 31-237, 31-263, 31-363,

Water Right 31-134

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NOV 25 2007

(OWLSEY DIVISION SURFACE WATER), 31-134, 31-135, 31-143, 31-144, 13-190, 31-192, (JACKETT DIVISION SURFACE WATER), 31-344, 31-345, 31-354, 31-355, 31-360, 31-361, 31-10957, 31-10958, 31-10959, 31-10960, 31-10961, 31-10962, 31-11437 (HOLLEY DIVISION SURFACE WATER).

2. Place of Use - Irrigation USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 3107.3 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 31-134, 31-135, 31-143, 31-144, 31-190, 31-192.
3. Place of Use - Irrigation PLACE OF USE WITHIN THE BOUNDARY OF THE JACKETT DIVISION OF MUD LAKE WATER USERS, INC. TOTAL IRRIGATED ACRES 3107.3.
4. Quantity FOR THIS RIGHT, THE DIVERSION VOLUME DESCRIBED ABOVE WAS CALCULATED BY MULTIPLYING A DIVERSION RATE OF 3.5 CFS BY A FACTOR OF 2 ACRE FEET PER DAY FOR 123 DAYS (MAY 1ST TO SEPTEMBER 1ST).
5. Place of Use - Irrigation THIS RIGHT IS LIMITED TO THE IRRIGATION OF 141.63 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

Comments:

<u>Author</u>	<u>Date</u>	<u>Subject</u>	<u>Comment</u>
bcontor	1/3/01	Recommendation	This recommendation is the template for all the "Jackett" surface rights of MLWU. Recommended per merger and documentation in special paper file "Mud Lake Storage" as is consistent with pre-1987 conditions.
bcontor	1/3/01	Source	Source changed to Mud Lake to reflect historical practice of delivering this right as a storage right out of the lake. See paper file "Mud Lake Storage."

Dates:

Licensed Date:
 Claim Received Date: 12/05/1988
 Enlargement Use Priority Date:
 Enlargement Statute Priority Date:
 Decreed Date: 11/01/1930
 Date Filed with Court:
 Objection Filed Date:
 SF5 Filed:
 Special Master Recom Signed Date:

Element Reviewed/Verified Dates:

<u>Element</u>	<u>Last Review Date</u>	<u>Reviewer</u>	<u>Last Verified Date</u>	<u>Verifier</u>	<u>Status</u>
POD	1/3/01 3:38:46 PM	bcontor			In Process
POU	1/5/01 11:50:10 AM	bcontor			In Process
Priority Date	1/3/01 3:33:50 PM	bcontor			In Process
Quantity	1/5/01 12:05:39 PM	bcontor			In Process
Season	1/5/01 12:04:37 PM	bcontor			In Process
Source	1/3/01 4:04:01 PM	bcontor			In Process
Summary	1/5/01 12:11:38 PM		1/5/01 12:11:38 PM	bcontor	Complete
Use	1/5/01 11:52:09 AM	bcontor			In Process

Other Information:

Receipt Number(s):
 State or Federal: S
 Owner Name Connector:
 Water District Number:
 Generic Max Rate per Acre:
 Generic Max Volume per Acre:
 Civil Case Number:
 Old Case Number:
 Decree Plaintiff:
 Decree Defendant:
 PresumptionFlag:
 Notice of Error Flag:C
 Swan Falls Trust or Nontrust:
 Swan Falls Dismissed:
 DLE Act Number:
 Cary Act Number:
 Mitigation Plan: False

Verification Log:

<u>Element</u>	<u>Date Time Stamp</u>	<u>Reviewer</u>	<u>Log Text</u>
POD	1/3/01 3:38:44 PM	bcontor	1. (NO) The basis is not beneficial use. 2. (YES) Parent right has a Point of Diversion. 3. (NO) The claimed Point of Diversion can not be verified using the water right file. 4. (YES) There is evidence that there has been a change in the Point of Diversion. 5. (YES) The change can be verified as an accomplished transfer. Comment for 5: Field inspection 6. (YES) The file contains all the necessary information to verify the POD. Comment for 6: See special paper file "Mud Lake Storage" 8. (NO) Point of Diversion remark was not required. 9. (NO) Point of Diversion condition was not required.
POD	1/3/01 3:38:01 PM	bcontor	Edited PLS
POD	1/3/01 3:36:56 PM	bcontor	Edited PLS
POD	12/4/00 1:28:32 PM	bcontor	Edited PLS
POD	12/4/00 1:28:07 PM	bcontor	Edited point location
POD	12/4/00 1:26:51 PM	bcontor	Edited PLS
POD	12/4/00 1:26:10 PM	bcontor	Edited point location
POU	1/5/01 11:50:08 AM	bcontor	1. (YES) The POU is required. 2. (NO) The basis of claim is not beneficial use. 3. (YES) The Parent Right has a POU. 4. (NO) The claimed POU can not be verified using the water right file. 5. (YES) There is evidence that there has been a change in the POU. 6. (YES) The change can be verified as an accomplished transfer. Comment for 6: GIS, T 5335 of overlapping service area of GW rights, merger documents. 9. (YES) The file contains all the necessary information to verify the POU. Comment for 9: See also data in paper files "Mud Lake Storage" and "Mud Lake Water Users" 12. (YES) POU remark was required. 13. (NO) POU condition was not required.
Priority Date	1/3/01 3:33:48 PM	bcontor	1. (NO) There has not been a later court decree of the water right(s) from the water source. 4. (NO) The basis of claim is not beneficial use. 5. (NO) The basis of claim is not a posted notice. 6. (YES) Parent right has a priority date. 7. (NO) The basis of claim is not an application or permit. 12. (YES) The claim is recommended. 13. (YES) The claim is coded correctly. 14. (NO) Priority remark was not required. 15. (NO) Priority condition was not required.
Quantity	1/5/01 12:05:24 PM	bcontor	1. (NO) The basis of claim is not beneficial use. 2. (NO) The basis of claim is not a posted notice. 3. (YES) The parent right has a diversion rate and/or diversion volume. 4. (YES) The claimed diversion rate and/or volume can be verified using the water right file. 7. (YES) The parent right has an annual diversion volume limit. 8. (YES) Irrigation is a purpose of use. 9. (YES) Quantity remark was required. 10. (NO) Quantity condition was not required.
Season	1/5/01 12:04:20 PM	bcontor	1. (NO) The basis of claim is not beneficial use. 2. (NO) The parent right does not have a period of use. 4. (NO) There is not evidence that there has been a change to the period of use. 9. (YES) The file contains all the necessary information to verify the period of use. 11. (NO) The basis of is not a decree, license, or a transferred beneficial use right that has had the period of use administratively determined. 13. (YES) Irrigation is the purposed use. 15. (NO) Period of Use remark was not required. 16. (NO) Period of Use condition was not required.
Source	1/3/01 4:03:58 PM	bcontor	1. (NO) The basis is not beneficial use. 2. (YES) Parent right has a source. 3. (NO) The claimed source can not be verified using the water right file. 4. (YES) There is evidence that there has been a change in the Source. 5. (YES) The change can be verified as an accomplished transfer. Comment for 5: See paper file "Mud Lake Storage."

Summary 1/5/01 12:11:34 PM bcontor

7. (YES) The file contains all of the necessary information to verify the source.

8. (YES) The source is surface water.

10. (NO) Source remark was not required.

11. (NO) Source condition was not required.

1. (NO) The basis of the claim is not beneficial use.

3. (NO) There is no indication that there has been a five year period of continuous nonuse that could result in a recommendation of forfeiture or partial forfeiture.

5. (NO) General remark was not required.

6. (NO) Explanatory remark was not required.

7. (YES) Additional condition was required.

8. (YES) Wanted to view the recommended right.

9. (NO) This is not a split right.

10. (NO) This is not a combined right.

11. (NO) Documents were not linked or attached to this file.

12. (YES) Set the verification date.

Use 1/5/01 11:52:07 AM bcontor

1. (NO) The basis of claim is not beneficial use.

2. (YES) The parent right has a purpose of use.

3. (YES) The claimed purpose of Use can be verified using the water right file.

11. (NO) Purpose of Use remark was not required.

12. (NO) Purpose of Use condition was not required.

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

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

CIVIL CASE NUMBER: 39576

Ident. Number 31-134
Date Received: 12/5/88
Receipt No:
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

MUD LAKE WATER USERS INC Phone: (208)663-4359

1400 E 1500 N
PO BOX 68
TERRETON ID 83450

2. Date of Priority: 03/20/1911

3. Source: CAMAS CREEK Trib. to: MUD LAKE

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County
07N	35E	7	SW SW	JEFFERSON
06N	35E	3	NW NW 4	JEFFERSON

5. Description of diverting works:

5 PUMPS/CAMAS CREED TO DITCHES TO PLACE OF USE

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	4/01	11/01	3.5	
IRRIGATION STORAGE	11/02	3/31	0	45000

7. Total Quantity Appropriated is:
3.5 C.F.S.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres			
06N	35E	3	NE	NE	1	IRRIGATION	41.9		
			NW	NE	2	IRRIGATION	41.7		
			SW	NE		IRRIGATION	40		
			SE	NE		IRRIGATION	40		
			NE	NW	3	IRRIGATION	41.5		
			NW	NW	4	IRRIGATION	35		
			SW	NW		IRRIGATION	40		
			SE	NW		IRRIGATION	40		
			NE	SW		IRRIGATION	40		
			NW	SW		IRRIGATION	40		
			SW	SW		IRRIGATION	40		
			SE	SW		IRRIGATION	40		
			NW	SE		IRRIGATION	40		
			SW	SE		IRRIGATION	40		
			Section Acres						560.1
			06N	35E	4	NW	NW	4	IRRIGATION
NE	SW					IRRIGATION	40		
NW	SW					IRRIGATION	40		
SW	SW					IRRIGATION	40		
SE	SW					IRRIGATION	40		
NE	SE					IRRIGATION	40		
NW	SE					IRRIGATION	40		
SW	SE					IRRIGATION	40		
SE	SE					IRRIGATION	40		
Section Acres						327			
06N	35E	5	NE	NE	1	IRRIGATION	41.2		
			NW	NE	2	IRRIGATION	38		
			SW	NE		IRRIGATION	40		
			SE	NE		IRRIGATION	40		
			NE	SW		IRRIGATION	40		
			SE	SW		IRRIGATION	40		
			NE	SE		IRRIGATION	40		
			NW	SE		IRRIGATION	40		
			SW	SE		IRRIGATION	40		
			SE	SE		IRRIGATION	40		
Section Acres						399.2			
06N	35E	8	NE	NE		IRRIGATION	40		
			NW	NE		IRRIGATION	40		
			SW	NE		IRRIGATION	40		
			SE	NE		IRRIGATION	40		
			NE	NW		IRRIGATION	40		
			NW	NW		IRRIGATION	40		
			SW	NW		IRRIGATION	40		

			SE	NW	IRRIGATION	40	
			NE	SW	IRRIGATION	40	
			NE	SE	IRRIGATION	40	
			NW	SE	IRRIGATION	40	
					Section Acres	440	
06N	35E	9	NE	NE	IRRIGATION	40	
			NW	NE	IRRIGATION	40	
			SW	NE	IRRIGATION	40	
			SE	NE	IRRIGATION	40	
			NE	SW	IRRIGATION	40	
			NW	SW	IRRIGATION	40	
			SW	SW	IRRIGATION	40	
			SE	SW	IRRIGATION	40	
			NW	SE	IRRIGATION	40	
			SW	SE	IRRIGATION	40	
					Section Acres	400	
06N	35E	16	NE	SE	IRRIGATION	40	
			NW	SE	IRRIGATION	40	
			SW	SE	IRRIGATION	40	
			SE	SE	IRRIGATION	40	
			NE	NE	IRRIGATION	40	
			NW	NE	IRRIGATION	40	
			SW	NE	IRRIGATION	40	
			SE	NE	IRRIGATION	40	
			NE	NW	IRRIGATION	40	
			NW	NW	IRRIGATION	40	
			SW	NW	IRRIGATION	40	
			SE	NW	IRRIGATION	40	
			NE	SW	IRRIGATION	40	
			NW	SW	IRRIGATION	40	
			SW	SW	IRRIGATION	40	
			SE	SW	IRRIGATION	40	
					Section Acres	640	
06N	35E	17	NE	NE	IRRIGATION	40	
			NW	NE	IRRIGATION	40	
			SW	NE	IRRIGATION	40	
			SE	NE	IRRIGATION	40	
			NE	SE	IRRIGATION	40	
			NW	SE	IRRIGATION	40	
			SW	SE	IRRIGATION	40	
			SE	SE	IRRIGATION	40	
					Section Acres	320	
07N	35E	32	SW	SE	8	IRRIGATION	2
			SE	SE	7	IRRIGATION	18
					Section Acres	20	
07N	35E	33	SW	SW		IRRIGATION	1

Section Acres 1
Total Acres 3107.3

11. Place of use in counties: JEFFERSON

12. Do you own the property listed above as place of use? No

13. Other Water Rights Used:

14. Remarks:

WTR. RTS. CONT'D 31-2290, 31-2297, 31-2310, 31-2317, 31-2321 THIS WATER RIGHT IS HELD BY THE CANAL COMPANY FOR THE BENEFIT OF THE LANDS OF ITS STOCKHOLDERS
CONT. ITEM 5 ----- 5 PUMPS ARE LOCATED ON CAMAS CREEK IN LOT 4 OF SEC. 3 T6N R35E; 3 PUMPS ARE LOCATED ON CAMAS CREEK IN THE SW SW SEC. 33 T7N R35E. THESE PUMPS DIVERT WATER UNDER RIGHTS IN CAMAS CREEK AS WELL AS REDIVERTING WATER BROUGHT TO CAMAS CREEK THROUGH THE INDEPENDENT DITCH FROM THE COMPANY'S WELLS

THE PUMPS DIVERT UP TO ABOUT 75 CFS FROM CAMAS CREEK UNDER A COMBINATION OF THE CAMAS CREEK RIGHTS AND THE WELL RIGHTS WHICH ARE USED TO SUPPLEMENT FLOWS IN CAMS CREEK. THERE ARE SEVEN WELLS W/ PUMPS THAT PUMP INTO DITCHES WHICH BRING THE WATER TO CAMAS CREEK FOR REDIVERSION. SEE TRANSFER NO. 2303. CONFORMED ATTORNEY MAILING ADDRESS DMS
CHANGED OWNERSHIP PER REQUEST/CV/10/30/00

15. Basis of Claim: Decreed

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

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

CIVIL CASE NUMBER: 39576

Ident. Number: A31-00134
Date Received: 12/05/1988
Receipt No: E004936
Received By: ES/Eden

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: JACKETT CANAL COMPANY 208-523-0620
Address: C/O HOLDEN, KIDWELL, HAHN &
CRAPO
P.O. BOX 50130
IDAHO FALLS, ID 83405

2. Date of Priority: MAR 20, 1911

3. Source: CAMAS CREEK Trib. to: MUD LAKE

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
06N	35E	3		NW	NW	4	JEFFERSON
07N	35E	7		SW	SW		JEFFERSON

5. Description of diverting works:
5 PUMPS/CAMAS CREEK TO DITCHES TO PLACE OF USE

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/01	11/01	3.500		
IRRIGATION STORAGE	11/02	03/31			45000.00

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

8. Total consumptive use is 10875.0 Acre Feet Per Annum.

9. Non-irrigation uses:
NONE

A31-00134

Page 1

Date: 02/07/89

MICROFILMED

DEC 09 1992

10. Place of Use:

Township	Range	Section	1/4	of	1/4	Lot	Use	Acres
06N	35E	3	NE		NE	1	IRR	41.9
			NW		NE	2	IRR	41.7
			SW		NE		IRR	40.0
			SE		NE		IRR	40.0
			NE		NW	3	IRR	41.5
			NW		NW	4	IRR	35.0
			SW		NW		IRR	40.0
			SE		NW		IRR	40.0
			NE		SW		IRR	40.0
			NW		SW		IRR	40.0
			SW		SW		IRR	40.0
			SE		SW		IRR	40.0
			NW		SE		IRR	40.0
			SW		SE		IRR	40.0

Section Acres 560.1

4	NW	NW	4	IRR	7.0
	NE	SW		IRR	40.0
	NW	SW		IRR	40.0
	SW	SW		IRR	40.0
	SE	SW		IRR	40.0
	NE	SE		IRR	40.0
	NW	SE		IRR	40.0
	SW	SE		IRR	40.0
	SE	SE		IRR	40.0

Section Acres 327.0

5	NE	NE	1	IRR	41.2
	NW	NE	2	IRR	38.0
	SW	NE		IRR	40.0
	SE	NE		IRR	40.0
	NE	SW		IRR	40.0
	SE	SW		IRR	40.0
	NE	SE		IRR	40.0
	NW	SE		IRR	40.0
	SW	SE		IRR	40.0

Section Acres 399.2

8	NE	NE		IRR	40.0
	NW	NE		IRR	40.0
	SW	NE		IRR	40.0
	SE	NE		IRR	40.0

MICROFILMED

DEC 09 1992

100-1000

100-1000

10. Place of Use: Continued

Township	Range	Section	1/4	of	1/4	Lot	Use	Acres
06N	35E	8	NE		NW		IRR	40.0
			NW		NW		IRR	40.0
			SW		NW		IRR	40.0
			SE		NW		IRR	40.0
			NE		SW		IRR	40.0
			NE		SE		IRR	40.0
			NW		SE		IRR	40.0
Section Acres								440.0
9			NE		NE		IRR	40.0
			NW		NE		IRR	40.0
			SW		NE		IRR	40.0
			SE		NE		IRR	40.0
			NE		SW		IRR	40.0
			NW		SW		IRR	40.0
			SW		SW		IRR	40.0
			SE		SW		IRR	40.0
			NW		SE		IRR	40.0
SW		SE		IRR	40.0			
Section Acres								400.0
16			NE		NE		IRR	40.0
			NW		NE		IRR	40.0
			SW		NE		IRR	40.0
			SE		NE		IRR	40.0
			NE		NW		IRR	40.0
			NW		NW		IRR	40.0
			SW		NW		IRR	40.0
			SE		NW		IRR	40.0
			NE		SW		IRR	40.0
			NW		SW		IRR	40.0
			SW		SW		IRR	40.0
			SE		SW		IRR	40.0
			NE		SE		IRR	40.0
			NW		SE		IRR	40.0
			SW		SE		IRR	40.0
SE		SE		IRR	40.0			
Section Acres								640.0
17			NE		NE		IRR	40.0
			NW		NE		IRR	40.0
			SW		NE		IRR	40.0

MICROFILMED

DEC 09 1992

10. Place of Use: Continued

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
06N	35E	17	SE	NE		IRR	40.0
			NE	SE		IRR	40.0
			NW	SE		IRR	40.0
			SW	SE		IRR	40.0
			SE	SE		IRR	40.0
						Section Acres	320.0
07N	35E	32	SW	SE	8	IRR	2.0
			SE	SE	7	IRR	18.0
						Section Acres	20.0
		33	SW	SW		IRR	1.0
						Section Acres	1.0
						Total Acres	3107.3

11. Place of use in counties: JEFFERSON

12. Do you own the property listed above as place of use? NO

13. Other Water Rights Used:

31-0135, 31-0143, 31-0144, 31-0190, 31-0336, 31-0337, 31-228

14. Remarks:

WTR. RTS. CONT'D 31-2290, 31-2297, 31-2310, 31-2317, 31-2321
THIS WATER RIGHT IS HELD BY THE CANAL COMPANY FOR THE BENEFIT
OF THE LANDS OF ITS STOCKHOLDERS.

CONT. ITEM 5 ---- 5 PUMPS ARE LOCATED ON CAMAS CREEK IN LOT 4 OF
SEC. 3 T6N R35E; 3 PUMPS ARE LOCATED ON CAMAS CREEK IN THE
SW SW SEC. 33 T7N R35E. THESE PUMPS DIVERT WATER UNDER RIGHTS
IN CAMAS CREEK AS WELL AS REDIVERTING WATER BROUGHT TO CAMAS
CREEK THROUGH THE INDEPENDENT DITCH FROM THE COMPANY'S WELLS.
THE PUMPS DIVERT UP TO ABOUT 75 CFS FROM CAMAS CREEK UNDER A
COMBINATION OF THE CAMAS CREEK RIGHTS AND THE WELL RIGHTS
WHICH ARE USED TO SUPPLEMENT FLOWS IN CAMS CREEK. THERE ARE
SEVEN WELLS W/ PUMPS THAT PUMP INTO DITCHES WHICH BRING THE
WATER TO CAMAS CREEK FOR REDIVERSION. SEE TRANSFER NO. 2303.

15. Basis of Claim: DECREED

Water Right Number: 310134

Case Number: 635

Court :

Decree date: 11/01/1930

ERNEST SAUVE

Decree Plaintiff

W. H. ABBOTT, ET AL

vs

Decree Defendant

16. Signature(s)

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

Number of attachments: _____

For Individuals:

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

Signature of Claimant(s): _____ Date: _____

_____ Date: _____

State of Idaho)
County of _____) SS.

Subscribed and sworn (or affirmed) before me this _____ day
of _____ 19 _____

Notary Public

Seal

Residing at _____

My Commission Expires _____

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DEC 09 1992

RECEIVED
NOV 17 1982

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: 39356

Ident. Number 31-0134

Date Received 28 Nov 1988

Receipt Number 8004936

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

RECEIVED

NOV 28 1988

Department of Water Resources
Eastern District Office

Please type or print clearly

1. Name of Claimant (s) Jackett Canal Company Phone (208) 523-0620
Mailing Address c/o Holden, Kidwell, Hahn & Crapo
P. O. Box 50130, Idaho Falls, Idaho Zip 83405

2. Date of Priority (Only one (1) per claim) March 20, 1911

3. Source of water supply (a) Camas Creek
which is tributary to (b) Mud Lake

4. a. Location of existing point of diversion is: Township 6N. Range 35E. Section 3,
1/4 of 1/4 of 1/4, Govt. Lot, 4 B.M., County of Jefferson.

Additional points of diversion if any: SW1/4SW1/4 Sec. 33, T. 7 N., R. 35 E.

b. If instream flow, beginning point of claimed instream flow is:

Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of _____ 1/4,

Govt. Lot _____ B.M., County of _____

ending point is: Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of

_____ 1/4, Govt. Lot _____ B.M., County of _____

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc), including the dates of any changes or enlargements in use, the dimensions of the diversion works as constructed and as enlarged and the depth of each well. 5 pumps are located on Camas Creek in Lot 4 of Sec. 3, T 6 N., R. 35 E.; 3 pumps are located on Camas Creek in the SW1/4SW1/4 of Sec. 33, T. 7 N. R. 35 E. These pumps divert water under rights in Camas Creek as well as rediverting water brought to Camas Creek through the Independent Ditch from the company's wells. The pumps divert up to about 75 cfs from Camas Creek under a combination of the Camas Creek rights and the well rights which are used to supplement flows in Camas Creek. There are seven wells with pumps that pump into ditches which bring the water to Camas Creek for rediversion. See Transfer No. 2303.

A3100134



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Copies: White-State, Yellow-Claimant

6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For Irrigation purposes from April 1 to Nov. 1 amount 3.5 or _____

For Irrigation Storage purposes from _____ to _____ amount _____ or See Attachment "A"

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 3.5 (cfs) and/or (b) See Attachment "A" (acre feet)

8. Total consumptive use claimed is 10,875 acre feet per annum.

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) _____

10. Description of place of use:

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

b. If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	

Total number of acres irrigated 3107.23

11. In which county (ies) are lands listed above as place of use located? Jefferson

12. Do you own the property listed above as place of use? Yes _____ No X

If your answer is No, describe in Remarks below the authority you have to claim this water right.

13. Describe any other water rights used at the same place and for the same purposes as described above.

31-0135, 31-0143, 31-0144, 31-0190, 31-0336, 31-0337, 31-2289, 31-2290, 31-2297, 31-2310, 31-2317 and 31-2321 or None ()

14. Remarks:

This water right is held by the canal company for the benefit of the lands of its stockholders.

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Last Name Jackett Canal Company Ident No. 31-0134

Copies: White - State, Yellow - Land

DEC 9 1992

15. Basis of Claim (check one) Beneficial Use _____ Posted Notice _____ License _____ Permit _____
Decree X

If applicable provide IDWR Water Right Number 31-0134
Court U. S. District Case Number 635 Decree Date Nov. 1, 1930
Plaintiff vs Defendant Ernest Sauve v. W. H. Abbott, et al.

16. Signature (s)

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

Number of attachments 3

For Individuals: I do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant (s) _____ Date _____

_____ Date _____

For Organizations: I do solemnly swear or affirm that I am Secretary _____ Title _____

of Jackett Canal Company _____, that I have signed the foregoing
Organization

document in the space below as Secretary _____ of said company _____
Title Organization

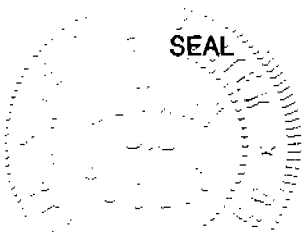
and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent _____

Title and Organization Sec. _____, Jackett Canal Company Date 11-28-88

State of Idaho/or _____)
County of Bonneville) SS.

Subscribed and sworn (or affirmed) before me this 28th day of November 19 88



Notary Public Kent W. Foster

Residing at Idaho Falls, Idaho

My Commission Expires November 10, 1992

Please Print Name

17. Notice of Appearance:

Notice is hereby given that I, Kent W. Foster will be acting as attorney at law on behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature Kent W. Foster

Address P. O. Box 50130, Idaho Falls, Idaho 83402

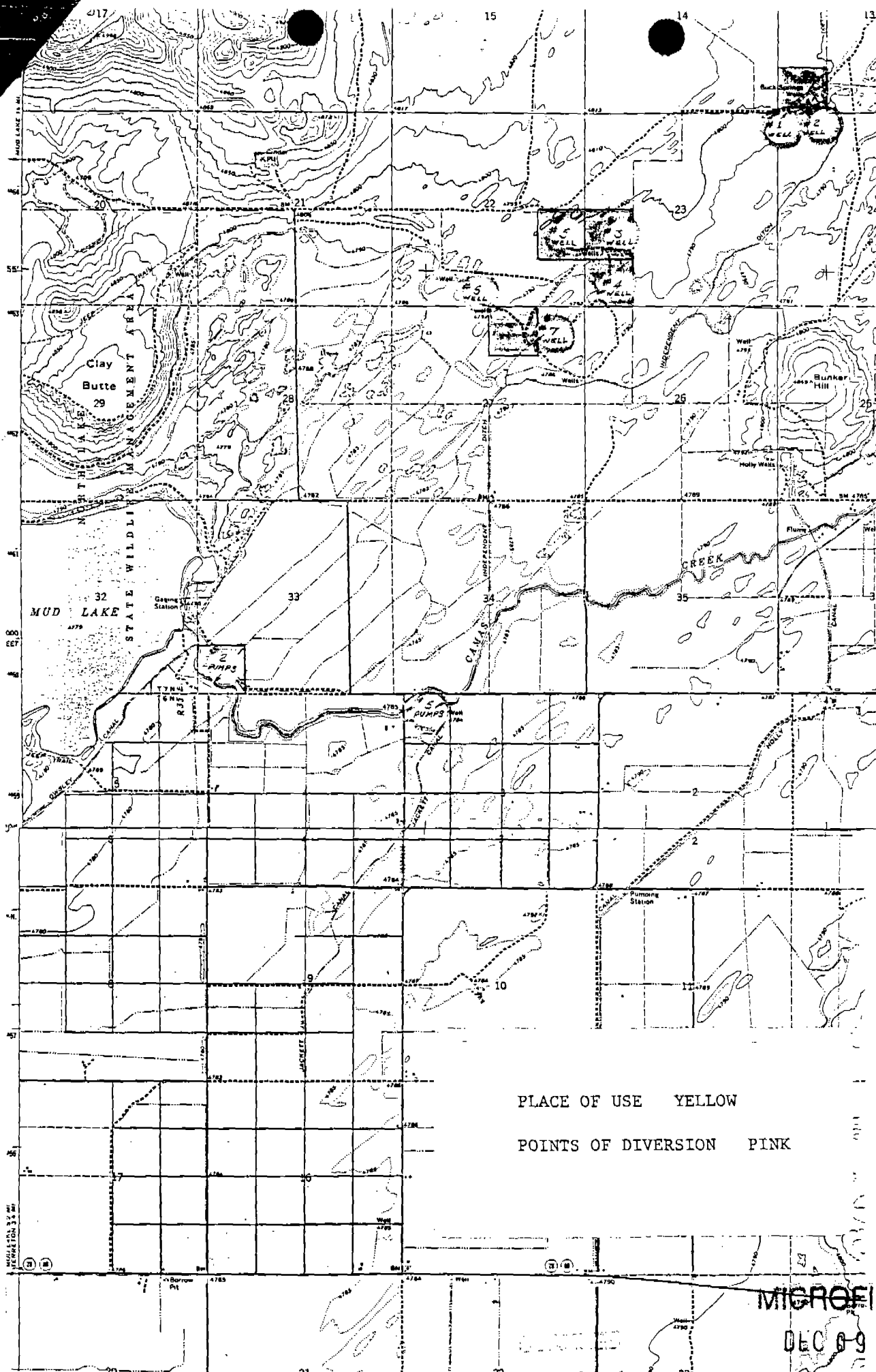
Date November 28, 1988

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DEC 09 1992

Last Name Jackett Canal Company Ident. Number 31-0134

Copies White-State, Yellow-Claimant



PLACE OF USE YELLOW

POINTS OF DIVERSION PINK

MICROFILMED

DEC 6-9 1992

STORAGE RIGHTS

IN

MUD LAKE

Under the federal court decree in the case of Ernest Sauve v. W. H. Abbott, et al., Case No. 635, entered November 1, 1930, the watermaster is charged with the responsibility of accounting for water stored in Mud Lake during the nonirrigation season on the basis of priorities to the use of the waters of Mud Lake and its tributaries during the irrigation season.

As a result of the drilling of wells which for many years resulted in the flow of significant amounts of water therefrom without the necessity of pumping, other court decrees have resulted which also impact such storage rights. Notable among such decrees is the one entered by the District Court of the Ninth Judicial District for Jefferson County in the case of Owsley Canal Company v. Ernest Bauerle, et al., Case No. 1739, on October 14, 1940.

By the early 1960's, most of such flowing wells had ceased to flow in average water years, either during the irrigation or nonirrigation season. Pumps were installed and in very recent years some wells have been deepened in order to provide the

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DEC 09 1992

required amounts of water. Coincidentally with the increased number of groundwater diversions in the areas surrounding Mud Lake, wintertime flows from Camas Creek and the other tributaries have, in many of the past twenty to twenty-five years, been insufficient to fill Mud Lake.

In response to the need to fill Mud Lake during the nonirrigation season, for the benefit of all holders of natural flow and storage rights therein; a practice has developed of pre-irrigation season pumping from many of the same wells which are the subject of the Owsley v. Bauerle decree, as well as some other wells. The pre-season pumping has been done pursuant to an agreement entered into by all those who hold rights to the use of the waters of Mud Lake. A copy of the agreement currently in effect is attached hereto.

Claimant has made a claim for storage rights under each of its natural flow rights. The storage capacity of Mud Lake is only 45,000 acre feet, which is far less than the combined total of the potential storage rights of all holders of such rights. In addition to the limitations imposed upon such claimed storage rights by nature, by the size of the storage facility, by the applicable decrees of courts and the priorities provided therein, such storage rights have been and are presently subject to the practice described in the attached current pre-season pumping agreement.

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DEC 09 1992

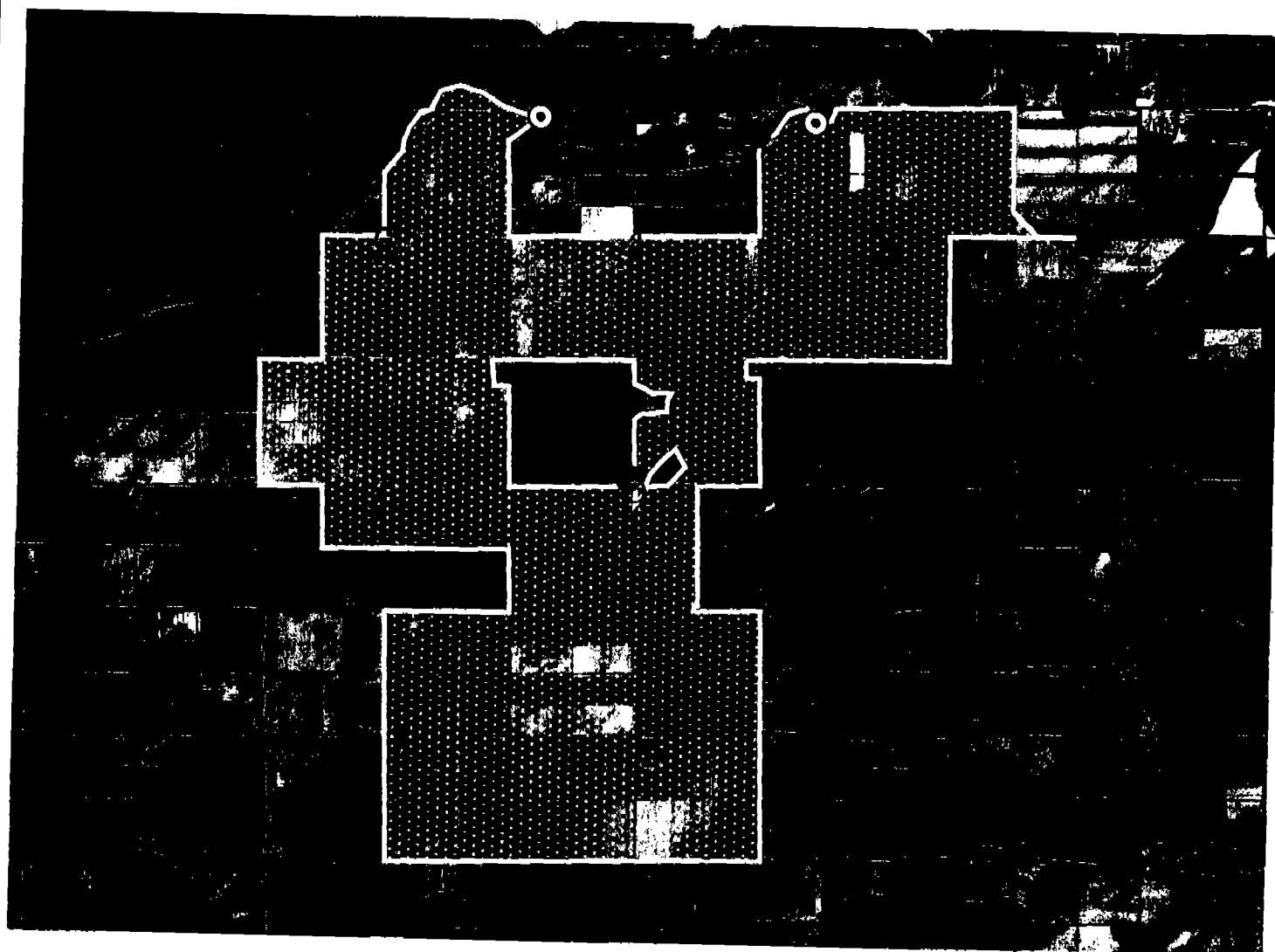
COPIED

10/24/92

[illegible]

Idaho Department of Water Resources

"Jackett" Water Rights, Numbers 31-31-134, 31-135, 31-143
31-144, 31-190, 31-192

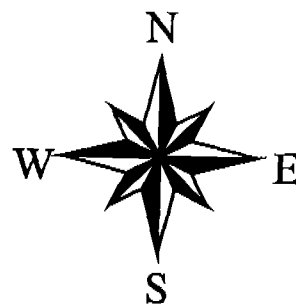


Township 6N Range 35E

0 1320 Feet

- ⊙ Point of Diversion
- Point of Diversion - Other Rights
- Place of Use
- Place of Use - Other Rights
- Quarter-quarter Sections
- Section Lines

COPIED
NOV 25 2002



GIS Illustration prepared from 1987/1988 NAPP photography by B. Contor 12/2000

01/16/2001

NOTICE OF ERROR
REPLY

Please type or print clearly, fill out this form completely and mail.

Return this reply form to IDWR by the deadline date printed below if you want IDWR to change your recommendation or you want to let IDWR know that you agree with its recommendation.

YOUR DEADLINE FOR RETURNING A NOTICE OF ERROR REPLY IS: March 9, 2001

Water right number: 31-134

MUD LAKE WATER USERS INC
1400 E 1500 N
PO BOX 68
TERRETON, ID 83450

Daytime Telephone Number: (208)663-4359
Evening Telephone Number:

1. Describe the portion of the proposed recommendation with which you disagree (e.g. priority date, period of use, source):

2. Describe the changes you wish to make in the proposed recommendation:

3. Give a brief explanation as to why you disagree with these portions:

☒ I AGREE with this proposed recommendation: no changes need to be made.

DATE: 2-12-2001 SIGNATURE: South Rodgers

Please print your name:

MUD LAKE WATER USERS, INC.
P. O. BOX 68
TERRETON, ID 83450

IDWR Regional Office, 900 N Skyline, Idaho Falls, ID 83402, (208) 525-7161

Los Angeles First National
Bank & Trust Company (for-
merly First National Bank
of Los Angeles), a corpora-
tion.

1911 - March 20

3.5 c.f.s.

Source: Camas Creek, a tributary
of Mud Lake.

Point of Diversion: In Lot 4,
Section 4, Township 6 North, Range
35 East, B. M.

For use on the following described
land, to-wit:

7.38 acres in Lot 7, Section 32, Town-
ship 7 North, Range 35
East, B. M.

41. acres in Lot 4, Section 4;

41. acres in Lot 1, Section 4;

52.25 acres in Lot 2, Section 8; all
in Township 6 North,
Range 35 East, B. M.

1912 - June 10

2.5 c.f.s.

Source: Mud Lake.

Point of Diversion: Near the center
of the Southwest Quarter of Section
5, Township 6 North, Range 35 East, B. M.

For use on the following described
land, to-wit: 320 acres as follows:

40 acres in the Northwest Quarter of
the Northwest Quarter;

40 acres in the Northeast Quarter of
the Northwest Quarter;

40 acres in the Southwest Quarter of
the Northwest Quarter;

40 acres in the Southeast Quarter of
the Northwest Quarter;

40 acres in the Northwest Quarter of
the Northeast Quarter;

40 acres in the Southwest Quarter of
the Northeast Quarter;

40 acres in the Northwest Quarter of
the Southeast Quarter;

40 acres in the Northeast Quarter of
the Southwest Quarter;

all in Section 8, Township 6 North,
Range 35 East, B. M.



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

EASTERN REGION

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

November 2, 2000

MUD LAKE WATER USERS INC
PO BOX 68
TERRETON ID 83450

RE: CHANGE IN OWNERSHIP FOR A31-00134, A31-00135,
A31-00143, A31-00144, A31-00190, A31-00192, A31-00331,
A31-00332, A31-00344, A31-00345, A31-00354, A31-00355,
A31-00360, A31-00361, A31-00371, A31-02289, A31-02290,
A31-02297, A31-02310, A31-02317A, A31-02317B, A31-
02321, A31-10957, A31-10958, A31-10959, A31-10960, A31-
10961, A31-10962

Dear Claimant:

The request for Change in Ownership concerning the
Notice(s) of Claim in the above reference has been
processed and the Notice(s) modified to reflect you as
the new owner(s).

Enclosed is a copy of the Notice(s) of Claim, with your
name shown as the current owner. Review the forms and
if there are other corrections or questions, feel free
to contact this office.

**If there are no questions or corrections, please keep
this Notice(s) for your records.**

Respectfully submitted,

Cheri Vandermeulen

Cheri Vandermeulen
Records Clerk

Enclosure: Notice(s) of Claim

SCANNED

NOV 25 2002



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

EASTERN REGION

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

To: Mud Lake Water Users Files
Fr: Bryce Contor
Date: 10/31/2000

A handwritten signature in cursive script that reads "Bryce A. Contor".

Re: Attorney

Garth Soderquist of Mud Lake Water Users called today and ask that we remove Kent Foster as attorney on all of the Mud Lake Water Users adjudication claims.

SCANNED

NOV 25 2002

Ok

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

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 no corresponding water right record on file with the department. Indicate, by checking in the space provided, 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	Adjudication	
Right No(s).	Claim No(s).	Split

A31-00134^x
A31-00135^x
A31-00143^x
A31-00144^x
A31-00190^x

Water	Adjudication	
Right No(s).	Claim No(s).	Split

A31-00192*

A31-2257 _____ A31-2321

A31-1050 _____

A31-2155 _____

A31-2155 _____

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 division 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 claim(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) are 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)

Jackett Canal Co.

4. New Owner/Claimant(s)

Mud Lake Water Users Inc

Name Connector (Check one): ☐ and, ☐ or, ☐ and/or

New Mailing Address

Po Box 68

City, State and ZIP Code

Territory ID 83450

New Telephone Number

() _____

5. Date you acquired the property

Filed 98 Jan 13 PM 1:18

Secretary of State
State of Idaho

SCANNED

NOV 7 5 2002

To: Change of Ownership for Jackett Canal rights in B31 ✓
Change of Ownership for Holley Canal rights in B31
Fr: Bryce Contor
Date: 10/27/2000 *Bryce*

Re: Documentation

The merger documents provided with these two Notices of Change of ownership are not signed. However, the merged corporation "Mud Lake Water Users Inc" demonstrated ownership of these companies' groundwater rights for transfer 5335, and the attached download from the Secretary of State indicates the merger has been approved and duly registered.

Further, in working with claimants and water users in the area, it is the common opinion and belief that the companies are merged as indicated. If there is an error, the NOE and objection process will provide a forum to address the error.

SCANNED

NOV 25 2000

**Idaho Secretary of State
Business Entity Search**

MUD LAKE WATER USERS, INC.

1400 E 1500 N
TERRETON, ID 83450

Type of Business: CORPORATION, WATER USERS ASSOCIATION

Status: GOODSTANDING, REINSTATED 07 May 1925

State of Origin: IDAHO

Date of 20 May 1914

Origination/Authorization:

Current Registered Agent: GARTH SODERQUIST
1683 N 1300 E
TERRETON, ID 83450

Filing Number: C-9932

Number of Authorized N/A
Stock Shares:

Date of Last Annual Report: 30 Jul 1999

Related Documents: 20 May 1914 - INCORPORATION (OWSLEY CANAL COMPANY)
05 Apr 1920 - REINSTATEMENT
11 Jun 1921 - REINSTATEMENT
21 Dec 1921 - REINSTATEMENT
07 Apr 1923 - REINSTATEMENT
07 May 1925 - REINSTATEMENT
02 Jul 1925 - UNKNOWN (OTHER (INC. NO OF DIRECTORS))
05 Dec 1963 - UNKNOWN (OTHER (AMDT. CORP. EXIST. TO PERPETUAL))
06 Jun 1979 - UNKNOWN (OTHER (RA))
29 Jan 1982 - UNKNOWN (OTHER (AMDT. ADDING ART. VII, VIII, IX, & X))
17 Sep 1984 - UNKNOWN (OTHER (CHG RA))
10 Aug 1989 - 1989 ANNUAL REPORT
30 Aug 1990 - 1987 ANNUAL REPORT
15 Oct 1990 - 1990 ANNUAL REPORT
19 Jul 1991 - 1991 ANNUAL REPORT

SCANNED

10 Sep 1991 - 1988 ANNUAL REPORT
19 Oct 1992 - 1992 ANNUAL REPORT
01 Nov 1993 - 1993 ANNUAL REPORT
23 Jul 1994 - 1994 ANNUAL REPORT
07 Aug 1995 - 1995 ANNUAL REPORT
22 Jul 1996 - 1996 ANNUAL REPORT
08 Aug 1997 - 1997 ANNUAL REPORT
13 Jan 1998 - MERGER (MERGED WITH
HOLLY WATER USERS ASSOCIATION INC)
13 Jan 1998 - MERGER (MERGED WITH
JACKETT CANAL COMPANY)
20 Jul 1998 - 1998 ANNUAL REPORT
22 Mar 1999 - NAME CHANGE (MUD LAKE
WATER USERS, INC.)
30 Jul 1999 - 1999 ANNUAL REPORT

Get a certificate of existence for MUD LAKE WATER USERS, INC.



SCANNED

NOV 25 2002

THE
PROPOSED
MERGER
OF THE
OWSLEY CANAL COMPANY
HOLLEY WATER USERS
AND
JACKETT CANAL COMPANY

SCANNED

NOV 25 2007

**STATE OF IDAHO
CORPORATION FILING FEES**

DOMESTIC CORPORATION
\$30.00

PAYABLE TO:
PETE T. CENARRUSA
SECRETARY OF STATE

ROOM 203, STATEHOUSE
BOISE, ID 83720
(208) 334-2300

SCANNED

NOV 25 2002

ARTICLES OF MERGER
OF DOMESTIC CORPORATIONS
INTO
OWSLEY CANAL COMPANY, INC.

Pursuant to the provisions of Section 30-1-74 of the Idaho Business Corporation Act, the undersigned corporations adopt the following Articles of Merger for the purpose of merging them into one of such corporations.

FIRST: The following Plan of Merger was approved by the shareholders of each of the undersigned corporations in the manner prescribed by the Idaho Business Corporation Act:

I.

RECITALS

A. Owsley Canal Company, Inc. is validly organized, existing and in good standing under the laws of the State of Idaho. All of the merging corporations are validly organized, existing and in good standing under the laws of the State of Idaho.

B. Owsley Company Canal, Inc., the surviving Corporation, has an authorized capital of 17,818 shares of Common Stock, irrigating 17,818 acres of land. One share per acre. Par value of \$1.00 each.

C. Holley Water Users has 2,978 shares of Common Stock, irrigating 2,978 acres. One share each acre. Par value of \$1.00 per share.

D. Jackett Canal Company has 3,107.3 shares of Common Stock irrigating 3,107.3 acres of land. One share per acre. Par value of \$1.00 each.

E. The Board of Directors of the Constituent Corporations will consider the proposed plan, and if they determine that it is in the best interests of their respective corporations and stockholders that the Merging Corporations merge with and into Owsley Canal Company, Inc., in accordance with the provisions of applicable statutes of the State of Idaho, they will submit it to the stockholders of the respective Merging Corporations.

SCANNED

NOV 25 2002

II.

PLAN OF MERGER

The plan is to have the Constituent Corporations agree, each with the other, to merge into a single corporation which shall be Owsley Canal Company Inc., the Surviving Corporation, (whose name shall not be changed and whose Articles of Incorporation shall not be amended in any respect as provided herein) pursuant to the laws of the State of Idaho, and shall agree upon and prescribe the terms and conditions of the statutory merger, the mode of carrying it into effect and the manner and basis of converting the shares of the Merging Corporations into shares of the Surviving Corporation, as herein set forth:

On the effective date of the merger, the Merging Corporations shall be merged with and into Owsley Canal Company, Inc., an Idaho Corporation, and the separate existence of the Merging Corporations shall cease; the Constituent Corporations shall become a single corporation named Owsley Canal Company, Inc., an Idaho corporation, which shall be the Surviving Corporation.

III.

ARTICLES OF INCORPORATION OF SURVIVING CORPORATION

The Articles of Incorporation of Owsley Canal Company, Inc., the Surviving Corporation, which are set forth in Exhibit "A" to this Plan, shall not be amended, and shall continue to be the Articles of Incorporation of the Surviving Corporation until further amended in accordance with the Corporation Laws of the State of Idaho.

Such Articles of Incorporation, as thus set forth, were certified by the Secretary of State of the State of Idaho on April 7, 1994.

IV.

BY-LAWS OF SURVIVING CORPORATION

The By-Laws of the Owsley Canal Company, Inc., in effect immediately prior to the effective date of the merger shall continue to be the By-Laws of the Surviving Corporation, until altered or repealed in the manner provided by law and such By-Laws.

V.

DIRECTORS AND OFFICERS OF SURVIVING CORPORATION

The Directors and Officers of the Owsley Canal Company, Inc., immediately prior to the effective date of the merger shall continue to be the Directors of the Surviving Corporation, to hold office for the terms specified in the By-Laws of the Surviving Corporation and until their respective successors are duly elected and qualified.

VI.

MANNER AND BASIS OF CONVERSION OF SHARES

A. All shares of the merging companies, (a) Owsley Canal Company, Inc., (17,818 shares); (b) Holley Water Users (2,978 shares); and (c) Jackett Canal Company (3,107.3 shares) have been filed in the Water Right Adjudication claims files of the Idaho Department of Water Resources as required by law. The water rights so claimed by these companies, as being equal, on a basis of one full share per one acre of ground.

B. Each share of the Merging Corporation's Common Stock which is issued and outstanding immediately prior to the effective date of the merger, shall by virtue of the merger be converted into and become, without action on the part of the holder of such Common stock, fully paid and assessable shares of a Class of the Common Stock of the Surviving Corporation. Each outstanding certificate for Common Stock of the Merging Corporations shall thereupon be deemed for all purposes to evidence ownership of the number of shares of Common Stock of the Surviving Corporation into which the same shall have been converted at the rate set forth above.

C. As soon as practicable after the effective date of the merger, each holder of outstanding certificates for Common Stock theretofore issued by the Merging Corporations shall be entitled, upon surrender of the same by such holder for cancellations, as directed by the Surviving Corporation to receive new certificates for the number of shares of Common Stock of the Surviving Corporation to which he is entitled.

VII. EFFECT OF MERGER

A. On the effective date of the merger, the Surviving Corporation shall possess all the rights, privileges, powers, and franchises of a public as well as a private nature of each of the Constituent Corporations, and shall become subject to all the restrictions, disabilities and duties of each of the Constituent Corporations and all of the singular rights, privileges, powers and franchises of each of the Constituent Corporations. All water rights, canals, diversionary works, cash, bank, checking and savings accounts, and all other property, real, personal and mixed and debts due to each of the Constituent Corporations of whatever account, as well as all other things in action or belonging to each of the Constituent Corporations shall be vested in the Surviving Corporation; and all property, assets, rights, privileges, powers, franchises and immunities, and all and every other interest shall be thereafter as effectually the property of the Surviving Corporation as they were of the respective Constituent Corporations; and the title to any real estate vested by deed or otherwise, in either of the Constituent Corporations, shall not revert or be in any way impaired by reason of the merger; provided, however, that all of the creditors and liens upon any property of either of the Constituent Corporations shall be preserved unimpaired, and all debts, liabilities, obligations and duties of the respective Constituent Corporations shall thenceforth attach to the Surviving Corporation, and may be enforced against it to the same extent as if said debts, liabilities, obligations and duties had been incurred or contracted by it.

B. If at any time after the merger becomes effective it shall appear to the Surviving Corporation that any further assignments or assurances are necessary or desirable to evidence the vesting in the Surviving Corporation of the title to any of the property or rights of the Merging Corporations, those persons who were proper officers and directors of the Merging Corporations as of the effective date of the merger shall execute, acknowledge and deliver such assignments or other instruments and do such acts as may be necessary or appropriate to evidence the vesting of title to such property or rights in the Surviving Corporation. For such purposes the capacity and authority of the Merging Corporations and their officers shall be deemed to be continuing.

C. The Surviving Corporation shall agree that it may be served with process in the State of Idaho and shall irrevocably appoint the Secretary of State of Idaho as its agent to accept service of process, in any proceeding for the enforcement of any obligation of the Merging Corporations arising in the State of Idaho prior to the effective date of the merger, and in any proceedings for the enforcement of the rights of a dissenting shareholder of the Merging Corporations against the Surviving Corporation.

VIII.

ACCOUNTING AND STATE CAPITAL

When the merger becomes effective, subject to such changes, adjustments or eliminations as may be made in accordance with generally accepted accounting principles, (a) the assets and liabilities of the Constituent Corporations shall be recorded in the accounting records of the Surviving Corporation at the amounts at which they shall be carried at that time in the accounting records of the Constituent Corporations, (B) the amount of stated capital with which the new Surviving Corporation shall begin business immediately after the effective date of the merger is \$1,323,499.00.

IX.

ABANDONMENT

This plan and Agreement of Merger may be abandoned by action of the Board of Directors of either Owsley Canal Company, Inc., or the Merging Corporations at any time prior to the effective date of the merger, whether before or after submission to their respective stockholders, upon the happening of the following:

1. If the merger fails to obtain the requisite vote of stockholders of Owsley Canal Company, Inc., or of Stockholders of the Merging Corporations not later than January 20, 1998.

X.

REPRESENTATIONS AND WARRANTIES

Owsley Canal Company, Inc., and the Merging Corporations shall each represent and warrant to the other that between the date hereof and the time when the merger becomes effective they will not enter into any employment contracts, grant any stock options or issue any stock or securities, or declare or pay any dividends in stock or cash or make any other distribution on or with respect to their outstanding stock.

XI.

EFFECTIVE DATE

The effective date of the merger provided for by this Agreement shall be the date on which the last act prior to recording required to complete the merger under the respective laws of the State of Idaho is performed.

SECOND: As to each of the undersigned corporations, the total number of shares voted for and against such Plan, respectively, and, as to each class entitled to a vote thereon as a class, the number of shares of such class voted for and against such Plan, respectively, are as follows:

	<u>Number of Shares</u>		
	<u>Total</u> <u>Voted</u> <u>For</u>	<u>Total</u> <u>Voted</u> <u>Against</u>	<u>Total</u> <u>Shares</u>
Owsley Canal Company	12,256	0	17,818
Holley Water Users	2,828	0	2,978
Jackett Canal Company	3,078	0	3,107.3

OWSLEY CANAL COMPANY, INC.
An Idaho Corporation
(the "Surviving Corporation")

By: Garth Soderquist
Garth Soderquist, President
12-27-97

ATTEST:

Kevin J. Christensen
Kevin J. Christensen, Secretary
Owsley Canal Company, Inc.

HOLLEY WATER USERS
An Idaho Corporation
(a "Merging Corporation")

By: Dwain Kirkham
Dwain Kirkham, President

ATTEST:

LaMoyne Barney
LaMoyne Barney, Secretary
Holley Water Users

JACKETT CANAL COMPANY
An Idaho Corporation
(a "Merging Corporation")

By: Edgar Green
Edgar Green, President

ATTEST:

Todd Simmons
Todd Simmons, Secretary
Jackett Canal Company

NOTARIZE

ARTICLES OF MERGER — Page 7

SCANNED

NOV 25 2002

E.D. Van Wagner
1400 E. 1500 N
TERRA, IDA 83450.
17 JUNE 2003

PLAN OF MERGER

BETWEEN

OWSLEY CANAL COMPANY, INC.
An Idaho Corporation
(The Surviving Corporation)

and

THE HOLLEY WATER USERS, an Idaho Corporation; and THE JACKETT CANAL
COMPANY, and Idaho Corporation, the Merging Corporations

FIRST

RECITALS

A. Owsley Canal Company, Inc., is validly organized, existing and in good standing under the laws of the State of Idaho. All of the Merging Corporations are validly organized, existing and in good standing under the laws of the State of Idaho.

B. Owsley Canal Company, Inc., the Surviving Corporation, has an authorized 17,818 shares of common stock, irrigating 17,818 acres of land. Par value of \$1.00 per share. The By-laws of the Owsley Canal Company, Inc., with an effective date of January 19, 1981, show the Company with 17,527 shares, and two thousand seven hundred and forty-three (2,743) held in reserve as treasury stock.

At present the Company has issued 291 stock certificates to the original 17,527 of stock to make the 17,818 listed as the Surviving Corporation's stock to 17,818 shares of stock and 2,182 shares held by the corporation of as treasury stock.

C. Holley Water Users has 2,978 shares of common stock, irrigating 2,978 acres of land.
Par Value of \$1.00 per share.

SCANNED
NOV 25 2002

D. Jackett Canal Company has 3,107.3 shares of common stock, irrigating 3,107.3 acres of land. Par value of \$1.00 per share.

E. The Boards of Directors of the Constituent Corporations will consider the proposed plan and if they determine that it is in the best interests of their respective corporations and stockholders that the Merging Corporations merge with and into Owsley Canal Company, Inc., in accordance with the provisions of applicable statutes of the States of Idaho, they will submit it to the stockholders of the respective Merging Corporations

SECOND

PLAN OF MERGER.

The plan is to have the Constituent Corporations agree, each with the other, to merge into a single corporation which shall be Owsley Canal Company, Inc., the Surviving Corporation, (whose name shall not be changed and whose Articles of Incorporation shall not be amended in any respects as provided herein) pursuant to the laws of the State of Idaho, and shall agree upon and prescribe the terms and conditions of the statutory merger, the mode of carrying it into effect and the manner and basis of converting the shares of the Merging Corporations into shares of the Surviving Corporation, as herein set forth:

On the effective date of the merger, the Merging Corporations shall be merged with and into Owsley Canal Company, Inc., an Idaho Corporation, and the separate existence of the Merging Corporations shall cease; the Constituent Corporations shall become a single corporation named Owsley Canal Company, Inc., an Idaho Corporation, which shall be the Surviving Corporation.

THIRD

ARTICLES OF INCORPORATION OF SURVIVING CORPORATION

The Articles of Incorporation of Owsley Canal Company, Inc., the Surviving Corporation, which are set forth in Exhibit "A" to this Plan, shall not be amended, and shall continue to be the Articles of Incorporation of the Surviving Corporation until further amended in accordance with the Corporation Laws of the State of Idaho.

Such Articles of Incorporation, as thus set forth, were certified by the Secretary of State of the State of Idaho on April 7, 1994.

FOURTH

BY-LAWS OF SURVIVING CORPORATIONS

The By-Laws of Owsley Canal Company, Inc., in effect immediately prior to the effective date of the merger shall continue to be the By-Laws of the Surviving Corporation, until altered or repealed in the manner provided by law and such By-Laws.

FIFTH

DIRECTORS AND OFFICERS OF SURVIVING CORPORATION

The Directors and Officers of the Owsley Canal Company, Inc., immediately prior to the effective date of the merger shall continue to be the Directors of the Surviving Corporation, to hold office for the terms specified in the By-Laws of the Surviving Corporation and until their respective successors are duly elected and qualified.

SIXTH

DIRECTORS OF THE MERGING CORPORATIONS

A. Two new directors, one each from the Merging Corporations, (a) the Jackett Canal Company, and (b) the Holley Water Users shall be added to the present five member Board of the Surviving Corporation. The two new Board members shall be elected in the manner provided by the By-Laws of the Surviving Corporation. One new member shall be elected from the geographical location within the boundaries of the present boundaries of the Holley Water Users. One new member shall be elected from the present boundaries of the Jackett Canal Company.

B. After the effective date of the merger, the Surviving Corporation's By-Laws shall be amended or altered to reflect the changes of the two new Board member additions. The amended By-Laws shall also describe the lands that will be used as a geographical area to be represented by the new additional directors. The By-Law changes shall be in the merger provided by law, and the By-Laws of the Surviving Corporation.

SEVENTH

MANNER AND BASIS OF CONVERSION OF SHARES

A. All shares of the Merging Corporations, (a) The Owsley Canal Company, Inc., (17,818 shares); (b) The Holley Water Users (2,978 shares); (c) The Jackett Canal Company (3,107.3 shares) have been approved by the Idaho Department of Water Resources as being equal. One share of water per one acre of ground.

B. No shares of the capital stock of the Surviving Corporation have been issued. All stock to be issued by the Surviving Corporation, at the time of this merger, shall be issued to the shareholders of the Merging Corporations.

C. Each share of the Merging Corporation's Common Stock, which is issued and outstanding immediately prior to the effective date of the merger, shall by virtue of the merger be converted into and become, without action on the part of the holder of such Common Stock, fully paid and assessable shares of a Class of the Common Stock of the Surviving Corporation. Each outstanding certificate for Common Stock of the Merging corporations shall thereupon be deemed for all purposes to evidence ownership of the number of shares of Common Stock of the Surviving Corporation into which the same shall have been converted at the rate set forth above.

D. As soon as practicable after the effective date of the merger, each holder of outstanding certificates for Common Stock theretofore issued by the Merging Corporations shall be entitled, upon surrender of the same by such holder for cancellation, as directed by the Surviving Corporation, to receive new certificates for the number of shares of Common Stock of the Surviving Corporation to which he is entitled.

EIGHTH

EFFECT OF MERGER

A. On the effective date of the merger, the Surviving Corporation shall possess all the rights, privileges, powers, and franchises of a public as well as a private nature of each of the Constituent Corporations, and shall become subject to all the restrictions, disabilities, and duties of each of the Constituent Corporations and all of the singular rights, privileges, powers and franchises

of each of the Constituent Corporations. All water rights, canals, diversionary works, cash, bank, checking and savings accounts, and all other property, real personal and mixed, and debts due to each of the Constituent Corporations on whatever account, as well as all other things in action or belonging to each of the Constituent Corporations shall be vested in the Surviving Corporation; and all property, assets, rights, privileges, powers, franchises and immunities, and all and every other interest shall be thereafter as effectually the property of the Surviving Corporation as they were of the respective constituent Corporations; and the title to any real estate vested by deed or otherwise, in either of the Constituent Corporations, shall not revert or be in any way impaired by reason of the merger; provided, however, that all of the creditors and liens upon any property of either of the Constituent Corporations shall be preserved unimpaired, and all debts, liabilities, obligations and duties had been incurred or contracted by it.

B. If at any time after the merger becomes effective it shall appear to the Surviving Corporation that any further assignments or assurances are necessary or desirable to evidence the vesting in the Surviving Corporation of the title to any of the property or rights of the Merging Corporations, those persons who were proper officers and directors of the Merging Corporations as of the effective date of the merger shall execute, acknowledge and deliver such assignments or other instruments and do such acts as may be necessary or appropriate to evidence the vesting of title to such property or rights in the Surviving Corporation. For such purposes the capacity and authority of the Merging Corporations and their officers shall be deemed to be continuing.

C. The Surviving Corporation shall agree that it may be served with process in the State of Idaho and shall irrevocably appoint the Secretary of State of Idaho as its agent to accept service of process, in any proceeding for the enforcement of any obligation of the Merging

Corporations arising in the State of Idaho prior to the effective date of the merger, and in any proceedings for the enforcement of the rights of a dissenting shareholder of the Merging Corporations against the Surviving Corporation.

NINTH

ACCOUNTING AND STATE CAPITAL

When the merger becomes effective, subject to such changes, adjustments or eliminations as may be made in accordance with generally accepted accounting principles, (a) the assets and liabilities of the Constituent Corporations shall be recorded in the accounting records of the Surviving Corporation at the amounts at which they shall be carried at that time in the accounting records of the Constituent Corporations, (b) the amount of stated capital with which the Surviving corporation shall begin business immediately after the effective date of the merger is \$888,623.00.

TENTH

ABANDONMENT

This plan and Agreement of Merger may be abandoned by action of the Board of Directors of either Owsley Canal Company, Inc., or the Merging Corporations at any time prior to the effective date of the merger, whether before or after submission to their respective stockholders upon the happening of any one of the following events:

1. If the merger fails to obtain the requisite vote of stockholders of Owsley Canal Company, Inc., or of Stockholders of the Merging Corporations not later than January 20, 1998.

2. If, in the judgment of the Board of Directors of Owsley Canal Company, Inc., or of the Merging Corporations, the merger would be impracticable because of the number of stockholders of either thereof who assert their right to have their stock appraised and to receive payment therefore as provided in the Corporation Law of the State of Idaho.

ELEVENTH

REPRESENTATIONS AND WARRANTIES

The Owsley Canal Company, Inc., and the Merging Corporations shall each represent and warrant to the other that between the date hereof and the time when the merger becomes effective they will not enter into any employment contracts, grant any stock options or issue any stock or securities, or declare or pay any dividends in stock or cash or make any other distribution on or with respect to their outstanding stock.

TWELFTH

EFFECTIVE DATE

The effective date of the merger provided for by this Agreement shall be the date on which the last act prior to recording required to complete the merger under the respective laws of the State of Idaho is performed.

BY-LAWS
OF
OWSLEY CANAL COMPANY
(1981)

ARTICLE I

CORPORATE PURPOSE AND AUTHORITY

Section 1. This corporation was originally organized and now exists under and by virtue of the laws of the State of Idaho as a non-profit corporation for the sole and exclusive purpose of appropriating and owning rights to the use of the public waters, and for the construction, operating and maintenance of an irrigation system for diverting such waters from the public supply in order to convey and deliver the same in a convenient and economical manner to its stockholders their use upon their lands.

Section 2. Except as otherwise provided in these By-Laws, the Articles of Incorporation of this corporation and the laws of the State of Idaho, all authority and power with respect to the corporation shall be vested in the stockholders.

Section 3. The principal office of the corporation in the State of Idaho shall be located in the City of Terretton, County of Jefferson.

Section 4. The moneys of the corporation shall be deposited in the name of the corporation in such depository or depositories as may be designated by the Board of Directors, and shall be withdrawn therefrom only by appropriate instruments signed by the officer or officers designated by resolution of the Board of Directors.

Section 5. All books, papers and records of the corporation in the hands of any officer of the corporation shall be subject to inspection by any officers, director, or stockholder of the corporation during the corporation's regular hours of business or during any regular or special meeting of the Board of Directors or stockholders.

ARTICLE II

SERVICE AREA, IRRIGATION SYSTEM AND WATER RIGHTS

Section 1. (a) The service area of the corporation shall include those lands generally shown in the map attached hereto as Exhibit "A".

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And,

(b) such additional lands of the stockholders as may be conveniently irrigated through the same irrigation system of the corporation, without injury to the water rights or irrigation system of the corporation, provided, that such lands are added to the service area or that the service area of the corporation is modified in compliance with the provisions of Idaho law and these By-Laws. Delivery of water through the irrigation system of the company to lands which are not, or have not formally been included as provided by these By-Laws within the service area of the corporation, whether such delivery be by agreement or otherwise, whether such land is owned by a stockholder or some other person, and whether the water so conveyed was diverted from the public or a private source of supply under rights of the corporation, a stockholder or any other person, shall not constitute a dedication of such water right to such land, shall not constitute a formal corporation, and shall not obligate the corporation to continue to deliver such water except under the terms of any formal agreement to do so into which the corporation may be authorized by law or these By-Laws to enter.

Section 2. (a) The irrigation system of the corporation shall consist of all works, structures, facilities and equipment, including any and all dams, overflows, checks, weirs, headgates, canals, ditches, laterals, pipelines flumes, culverts, pumps, wells and measuring devices, as well as all real and personal property rights of every name, nature and description, including any prescriptive easements, owned or used by the corporation, or which may be acquired or used hereafter by the corporation for the purpose of diverting water under the water rights of the corporation from the public, or any private, water supply and conveying the same to the lands of its stockholders for use thereon.

(b) The corporation hereby reasserts ownership of the above described irrigation system, including specifically, but without limitation, the head gates, canals, and other structures necessary for the diversion into and delivery and distribution of water from said irrigation system to lands of stockholders of the corporation, whether served individually or jointly by said system. NO changes other than minor improvements or repairs in the irrigation system, whether by means of rerouting any portion thereof, or by deleting from or adding to the same shall be made, except with the approval by majority vote of the stockholders present at any regular or special stockholders' meeting. The corporation, having heretofore assumed the obligation of construction, operation and maintenance of the irrigation system of the corporation, hereby reasserts its obligation to operate, maintain, protect, repair and replace such irrigation system and all essential and proper parts thereof during the life of the corporation. Any part of said system which the corporation may permit to be undertaken by any individual stockholder or group thereof is on the condition that such structure remains in the ownership of the corporation and that such construction or maintenance shall be in accordance with plans and specifications approved by designated officers of the corporation.

(c) The corporation shall, at corporate expense, originally install and thereafter maintain, repair and replace, as necessary, headgates or other appropriate structures at each point of delivery from the corporation's system where such points are presently located or as they may hereafter be

relocated or modified by the Board of Directors, through which water shall be delivered into the receiving facilities of each stockholder or group of stockholders in accordance with the respective rights of each, which headgates or other structures shall be equipped with a satisfactory measuring device, by means of which the corporation's Superintendent or his assistant may readily measure and ascertain the amount of water being delivered to such stockholder or group of stockholders at any time. Each such headgate or other delivery structure shall also be equipped so that the flow of water through it may be adjusted and completely stopped, as well as locked in any position.

Section 3. The corporation is also the holder of water rights appropriated under the laws of the State of Idaho for the benefit of the lands lying within the service area of the corporation.

Section 4. No use shall be made of the irrigation system or water rights of the corporation other than for the conveyance of water by and for the corporation and its stockholders, nor shall any stockholder or other person or entity permit the draining of seepage and waste water into the system or erect or maintain any structure on or across any portion of the system without the written permission of the Board of Directors. Any such use or activity shall be permitted only on the condition that such permitted use or activity will not interfere with the proper operation and maintenance of any part of the system by the corporation.

ARTICLE III

ROTATION POLICY

Section 1. In order to insure an adequate supply of water to all stockholders throughout the irrigation season, the corporation hereby adopts a policy of rotating water for use among the stockholders. During times of shortage each stockholder shall be allotted a maximum of 300 miners' inches for use upon each 160 acres of land of such stockholder, such water to be used for a maximum period of four (4) consecutive days. Those stockholders who have used the least amount of water during the period of shortage shall have priority in allocation of water. Notwithstanding the foregoing, however, allocation of water during any period of shortage shall be subject to the complete discretion of the Board of Directors and the Superintendent of the irrigation system.

Section 2. In order to alleviate and forestall any problems arising from the use of sprinkler irrigation systems within the service area of the corporation, the corporation hereby adopts the following policy. No pump supplying water to any sprinkler irrigation shall be located in or on the bank of, any canal or lateral of the corporation's irrigation system. The Board of Directors shall determine, and have complete control over, the distance any such pump shall be located from any canal or lateral. Any pipe, placed into a canal or lateral of the corporation's irrigation system for the purpose of drawing water to supply a sprinkler irrigation system, shall be equipped with a headgate, control lock or valve. Such headgate, control lock or valve shall be equipped with a

locking device so that the flow of water through it may be adjusted and completely stopped, or locked in any position.

The corporation shall have no responsibility, and shall not be liable for, any damage caused by moss in the sprinkler system.

ARTICLE IV

STOCK

Section 1. The corporation has previously issued stock or shares of the corporation represented by certificates of the corporation showing the name of the person to whom such stock was issued, the number of shares, the date of issuance and other information. There are presently twenty thousand (20,000) shares of stock authorized for issuance by the corporation. Of such total, seventeen thousand five hundred twenty seven (17,527) shares have been issued, of which seventeen thousand five hundred twenty seven (17,527) are outstanding in the names of the individual stockholders of the corporation and two thousand four hundred seventy three (2,743) are held by the corporation as treasury stock.

Section 2. Each share of stock represents, measured at the corporation's point of diversion from the public water supply, the same proportionate share of water to which the corporation is at any given time entitled by virtue of the rights held by the corporation as said share of stock bears to the total issued and outstanding shares of stock of the corporation, less the same proportion of the total transmission losses incurred by the corporation in the conveyance of water through the irrigation system, together with the right to have such water conveyed through the corporation's irrigation system and delivered from the designated point of delivery on said receiving facilities of the holder of such stock for use upon the lands of such stockholder, his proportionate share of the water to which the corporation is entitled, less his proportionate share of all transmission losses; provided, however, the corporation may, in the discretion and by the approval of the Board of Directors, carry and transport additional water, the right to the use of which is owned or rented by a stockholder or other person or entity, for a carrying charge to be determined by the Board of Directors, so long as such service does not interfere with the efficient and orderly management of the corporation's irrigation system.

Section 3. Each stockholder of the corporation who now holds stock therein shall be entitled to retain the certificate or certificates showing the amount of stock in the corporation, and each stockholder of the corporation who hereafter acquires stock from the corporation shall, when that stock has been paid for in full, be entitled to a certificate or certificates. The ownership of the amount of stock of the corporation represented by any such certificate shall be recorded in the stock transfer book of the corporation in the name of the stockholder. Stock certificates shall be issued in numerical order from the "Stock Certificate Book". Including stock that has heretofore been issued by the corporation, shall bear the serial number and the date of issuance, shall be signed by the President and Secretary, shall have affixed thereto the seal of the corporation and, subject to

statutory requirements, shall be in the form prescribed by the Board of Directors. A full record of each stock certificate, heretofore issued and hereafter to be issued, shall be entered on the corresponding stub of the Stock Certificate Book. Stock certificates outstanding as of November 17, 1980, will not be called in for reissue, but the respective liabilities, rights and privileges of the holders of those certificates in relation to the corporation will be governed by the Articles of Incorporation and these By-Laws.

Section 4. All of the water rights and conveyance or ditch rights of the corporation are appurtenant to the lands of the stockholders, identified herein as the "service area" of the corporation, which are benefitted thereby. Except as otherwise provided in this section, and subject to the provisions of article VIII, Section 1 of these By-Laws, no share of stock may be owned except by the record title holder of the specific land to which the water and conveyance rights represented by such share are appurtenant. Except as otherwise provided in this section and except as otherwise provided in Article VIII, Section 1 of these By-Laws, no share of stock may be transferred, retained or otherwise dealt with unless it is involving the specific land to which the water and conveyance rights represented by such share of stock are appurtenant. Any conveyance of record title to such land also constitutes a transfer of the water and ditch rights appurtenant thereto. If the record title to any land within the corporation's service area, to which water and conveyance rights represented by reason, the ownership of such shares of stock shall also be changed or modified on the records of the corporation to reflect the change or modification in the record title to such land. The stock certificate shall be surrendered to the Secretary of the corporation, and the Secretary shall make the new certificate or certificates necessary to reflect such changes in ownership of said land and stock in accordance with the procedures for transfers of stock set out in Section 6 of this Article.

Section 5. Whenever a stockholder desires to change the place of use of all or any portion of the proportionate share of corporation's water and ditch rights represented by shares of stock outstanding in his name, or to change the location where water is delivered from the corporation's irrigation system to this lands, or the manner in which such delivery is made, he shall request the same in writing, and such request shall be delivered to the Secretary. Such request shall describe the proposal in detail. In the case of a request to change the location of the point of delivery or the manner or means thereof, the request shall describe both the present point and the proposed new location, as well as any proposed modification in structures or other proposed modifications. In the case of a proposed change in place of use, the request shall identify the amount of the water right proposed to be transferred, the specific acres of land where water has been used pursuant to such right, the specific acres to which the right is proposed to be transferred and the reasons for such proposed transfer. The Secretary shall present any such written request at the next regular or special meeting of the Board of Directors, which shall consider such request but shall not be required to make a decision until satisfied that it has adequate information; provided, that such decision shall be rendered in any event within sixty (60) days of receipt by the secretary of such written request. If the Board of Directors finds that such transfer or change can be made without injury to the rights of the corporation and its stockholders and would not violate any applicable provisions of Idaho law, they shall approve the same. The decision of the Directors shall be in writing, and a copy thereof, together with the written request of the stockholder, shall be kept in the records of the corporation.

Whenever any request is made to transfer the place of use to lands not currently within the service are of the corporation, or whenever otherwise required by law, the directors shall further determine whether such lands can be conveniently irrigated through the irrigation system of the corporation, and in the event such determination is in the affirmative, the stockholder requesting the transfer shall make appropriate application therefore to the Idaho State Department of Water Resources, pursuant to Idaho Code, Sections 42-108, and 42-222, or any other applicable sections. The decision of the Board of Directors shall be contingent on the decision of such Department. A copy of the decision of the Idaho State Department of Water Resources shall be furnished to the Secretary and shall be attached to the stockholder's original request along with the decision of the Board of Directors.

Section 6. Transfers of stock shall be made only by the Secretary or other person designated by the Board of Directors to transfer stock on the transfer books of the corporation, which shall be kept at the office of the corporation. Before a new certificate is issued, the old certificate, properly endorsed by the stockholder show name the certificate bears, shall be surrendered for cancellation. A new certificate shall not be issued before the original cost and all assessments against the shares of the stock, represented by the old certificate shall have been fully paid. Before the new certificate is issued the person requesting the transfer of stock shall pay a fee to the Secretary in such amount as shall be fixed from time to time by the Board of Directors.

Section 7. Stockholders registered on the books of the corporation shall be the only persons treated by the corporation as the holders of stock standing in their respective names, and the corporation shall not be bound to recognize an equitable or other claim to, or interest in, any stock certificate on the part of any other person, whether or not the corporation has actual or constructive notice thereof, except as otherwise expressly provided by law.

Section 8. In the event of loss or destruction of any certificates of stock, another may be issued in its place on satisfactory proof of such loss or destruction furnished to the Secretary. Satisfactory proof of loss or destruction shall be made by Affidavit and a bond of indemnity shall be given to the corporation in such amount as the Directors may decide. Any such new certificate shall be plainly marked "Duplicate" on the face thereof. In the event of the death or incompetency of any stockholder, no transfer of stock outstanding on the records of the corporation in his name shall be made unless satisfactory proof thereof be furnish to the Secretary in the form of an Affidavit by the person seeking to have the certificate reissued in his name showing the reasons therefore and satisfactory information to prove he is the proper person to whom the certificate should be reissued, and such person give a satisfactory bond of indemnity as in the case of a lost or destroyed certificate.

ARTICLE V

STOCKHOLDERS MEETINGS

Section 1. The annual meeting of the stockholders of the corporation shall be held, commencing with the year 1981, on the third Monday of January of each year of the corporation's existence, or on such other date as the Board of Directors may decide. This meeting shall be held in Terreton, Jefferson County, Idaho, or at such other place in Jefferson County, as may be designated by the Board of Directors, starting at 2:00 O'clock P.M., unless a different hour is specified by the Board of Directors. At this meeting, an election shall be held to elect directors to the offices for which the terms of office of the current directors have expired. The term of office of the directors so elected shall be as prescribed in these By-Laws or until their successors have been elected and qualified.

Officers of the corporation shall present their annual reports; and such other business relating to the corporation may be transacted as shall properly come before the meeting.

Section 2. At all meetings of the stockholders the following order of business shall be observed so far as consistent with the purposes of the meeting:

- | | |
|------------------------|--------------------------|
| 1. Call to Order | 6. Report of Secretary |
| 2. Proxy Report | 7. Election of Directors |
| 3. Reading of Minutes | 8. Unfinished Business |
| 4. Report of President | 9. New Business |
| 5. Report of Treasurer | |

Section 3. Special meetings of the stockholders of the corporation may be held at the place indicated for the holding of annual meetings, or such other place as shall be determined from time to time by the Board of Directors. The place at which such meeting is to be held shall be stated in the notice and Call of the meeting.

Section 4. Special meetings of the stockholders shall be held whenever called by the Board of Directors. Such meeting shall also be called by the President or Secretary on the request, in writing, of the stockholders holding shares representing in the aggregate, one-fifth (1/5) of the votes of all outstanding shares. If upon such request, the President neglects for five (5) days to call a special meeting, then the stockholders making the request may call a special meeting. No business other than that specified in the Notice shall be considered at any such meeting.

Section 5. Written or printed Notice of every regular or special meeting of stockholders, stating the time and place of the meeting shall be prepared and mailed by the Secretary, or in his absence, or if he fails to do so, the other officers or the stockholders calling said meeting, postage prepaid, to the last known post office address of each stockholder at least ten (10) days before the date of such meeting. In the case of special meetings, the Notice shall also state the purpose of the meeting.

Section 6. Notice of the time, place and purpose of any meeting of the stockholders need not be given to any stockholder who attends such meeting in person or by proxy; and, if any stockholder shall waive notice of any stockholders' meeting by a writing filed in the records of the meetings notice thereof need not be given to him. No Notice of any reconvened meeting, regular or special, need be given when the regular or special meeting was properly called but was recessed for lack of a quorum, or by reason of inability to complete the business that was properly before the original meeting.

Section 7. (a) At each regular or special stockholders' meeting, each stockholder shall be entitled to one (1) vote, either in person or by proxy, for each share of stock outstanding and registered in his name at the time of the closing of the transfer books for that meeting. The transfer books of the corporation shall be closed twenty (20) days prior to any such meeting.

(b) Each ballot cast shall have endorsed thereon the number of shares voted thereby and for whom or for what the vote is cast. Each ballot shall be signed by the holder thereof or by the person holding the proxy therefore and shall contain the name of the person for whom the proxy acts. A plurality of votes cast for any one candidate shall be sufficient to elect the candidate to the office of director. All other matters shall be decided by a majority of the votes cast, unless otherwise specifically provided by law or by these By-Laws.

Section 8. Each stockholder entitled to vote may be represented at any regular or special meeting of the stockholders by proxy, which shall be evidenced by a writing designating the person who may exercise the proxy. The person exercising the proxy need not be a stockholder, but the proxy shall be in sufficient form to meet the requirement of law, shall be in writing and signed by the stockholder, and the signature shall be witnessed in writing. No proxy shall be recognized unless executed within six (6) months prior of the date of the meeting at which it is presented. The proxy shall be filed with the Secretary prior to the transaction of any business at any stockholders' meeting. The sufficiency of such proxy must be determined by the stockholders at such meeting prior to voting on any matter or the election of Directors.

Section 9. A complete list of the stockholders entitled to vote at any stockholder's meeting, whether regular or special, arranged in alphabetical order, and the number of voting shares held by each, shall be prepared by the Secretary and shall be available for examination and review by any director, officer or stockholder at the home of the Secretary at least five (5) days before the meeting at which such election is to occur. Such list shall be available for examination during the usual hours of business and during the whole time of election for which it is filed at the place of election.

Section 10. For the purpose of electing directors or voting any matter submitted to a vote of the stockholders, those stockholders who are present in person or represented by proxy at any regular annual or special meeting shall constitute a quorum. Provided, however, that for purposes of amending the Articles of Incorporation, or amending or adopting new By-Laws, a quorum shall consist of fifty percent (50%) of the outstanding shares of the corporation, present either in person or by proxy.

ARTICLE VI

DIRECTORS: POWERS, DUTIES AND MEETINGS

Section 1. The management of all the affairs, property and interests of the corporation shall be vested in a Board of Directors. The Board of Directors shall have all authority and power conferred on the Board by law, by the Articles of Incorporation and the By-Laws, and the Board of Directors is given the power to do all lawful acts and things in furtherance of the purposes of the corporation. Without limitation by this enumeration, the powers of the Board shall include the power to acquire property and property rights of any kind; to incur indebtedness in connection with the acquisition, maintenance and operation of those property rights; and to levy assessments at such time and in such amounts as may be necessary for paying the indebtedness of, and for carrying on the business of, the corporation.

Section 2. The Board of Directors of the corporation shall consist of five (5) directors. Directors shall be elected for a term of two (2) years at the regular annual meetings of the stockholders. They shall hold office, when qualified, for the duration of their term and until their successors are elected and qualified. The terms of the directors shall be staggered in such manner that no more than three (3) directors are elected in any one (1) year. The present directors shall serve the remainder of their terms of office, which are as follows:

<u>Director</u>	<u>Term of Office</u>
Rex Coleman	1981
Nile Wilding	1981
James D. Shively	1982
Walter V. Speelmon	1982
Frank Skidmore	1982

(a) Qualifications of Directors. No person shall be eligible to be elected or to serve as a director of the corporation unless he is a stockholder of the corporation and holds the recorded title to land within the corporation's service area. Failure to possess any of the foregoing qualifications at anytime during his term of office shall operate as an immediate resignation and constitute a forfeiture of his office.

(b) Election of Directors. The election of directors shall be held at the regular annual meeting of the stockholders for each of the positions of director for which the term of office of the present director expires. All of the stockholders of the corporation shall be entitled to vote for each director to be elected.

Section 3. All vacancies in the Board of Directors shall be filled by appointment by the remaining members of the Board of Directors at any regular or special meeting. The director thus selected to fill any vacancy shall hold office for the unexpired term for which he is appointed and until his successor is elected and qualified.

Section 4. The Board of Directors elected at the annual meeting shall hold its first organizational meeting on the first Monday following the election of the members of the Board as provided in this Article. Thereafter, regular meetings of the Board of Directors shall be held on the first Monday of each month. Special meetings of the Board may be called at any time by the President, or in his absence or disability, by the Vice-President, or by any two (2) directors.

Section 5. Subject to obtaining written waivers of notice, meetings of the Board of Directors may be called on the giving of oral advance notice.

Section 6. Notice of any meeting need not be given to a director if he shall waive notice in writing by a waiver which is filed with the records of the Secretary, either before or after the meeting. Any business may be transacted at any meeting at which every director is present and to which every director agrees even though the business is not indicated in the notice or call of the meeting. Any meeting of the Board shall be a valid meeting without notice thereof being given to the individual directors if all the directors shall be present at that meeting or shall subsequently waive notice of the meeting.

Section 7. A majority of the whole Board of Directors shall be necessary to constitute a quorum for the transaction of business, and the majority of the members in attendance at any Board meeting shall, in the presence of a quorum, be decisive of the action of the Board, except as otherwise provided in the By-Laws or Articles of Incorporation, or as required by law. If, however, by reason of resignation or otherwise, the remaining directors at any given time comprise less than a quorum, they may meet to fill vacancies as herein provided

Section 8. The directors shall receive no salary, but shall be paid the sum of Ten Dollars (\$10) for attendance at each regular or special meeting of the Board of Directors, except as this limit may be revised by the Board of Directors from time to time. The directors shall also be paid their expenses, actually and necessarily incurred, in behalf of the corporation, whether in attendance at the corporation's meetings or otherwise.

Section 9. Each director and officer of the Corporation, now or hereafter serving as such, shall be indemnified and held harmless by the Corporation against any and all claims and liabilities to which he has or shall become subject by reason of serving or having served as a director or officer of the Corporation, except for claims and liabilities arising out of said directors purposeful misconduct or gross negligence.

ARTICLE VII

Officers

Section 1. The officers of the corporation shall be a President, a Vice-President, a Secretary and a Treasurer, each of whom shall be elected by the directors at the regular annual meeting of the Board of Directors. These officers shall hold office for one (1) year, and until their successors have been elected and qualified. The officers shall be elected from among the directors, except that the offices of Secretary and Treasurer may be filled by persons other than directors or stockholders. The Board, in its discretion, may provide that the office of Secretary be combined with that of Treasurer to be held by one (1) person.

Section 2. President. The President shall preside at all the meetings of the directors and of the stockholders. He shall, under the general supervision of the Board of Directors, have supervision of all the affairs of the corporation. He shall sign all certificates of stock issued by the corporation. He shall, except as otherwise directed by the Board of Directors, sign or countersign, as may be necessary, all bills, notes, checks, contracts and other instruments as may pertain to the ordinary course of the corporation's business. He shall sign, when authorized by the Board of Directors, all contract, deeds, bonds, mortgages and other instruments of a similar nature. He shall perform such other duties as may properly be required of him by the Board of Directors. The President may vote at all meetings, including any stockholders' meetings.

Section 3. Vice-President. The Vice-President shall possess all of the powers and perform all of the duties of the President in the event of the death, absence or disability or refusal to act on the part of the President, such authority to extend until a new President has been elected and qualified; the Vice-President shall also have such powers and discharge such other duties as may be assigned to him from time to time by the Board of Directors.

Section 4. Secretary. The Secretary shall: (1) keep full minutes of all meetings of the stockholders and directors; (2) give notice of meetings of stockholders and directors in accordance with the provisions of these By-Laws; (3) be the custodian of the stock certificate book; (4) sign, with the President, all certificates of stock issued or reissued by the corporation; (5) be custodian of the corporation's seal, attesting all contracts and other documents requiring the corporation's seal and affixing the seal thereto; (6) be custodian of the corporation's Articles of Incorporation and By-Laws; and (7) perform such other duties as may be assigned by the Board of Directors.

Section 5. Treasurer. (a) The Treasurer shall: (1) have custody of and be responsible for all moneys and securities of the corporation with the exception of the stock certificate book; (2) keep a full and accurate record of accounts in books belonging to the corporation, showing the transactions of the corporation, its accounts, liabilities and financial condition; (3) deposit in the name of the corporation all moneys and other forms of negotiable receipts that may come into his hands for the corporation's account, in such depository or depositories as are valuable corporate

papers, except as provided in Section 4 hereof; and (5) disburse the funds of the corporation in payment of just demands against the corporation or in accordance with general or special directions of the Board of Directors making proper vouchers for such disbursements.

(b) The Treasurer shall prepare and submit a full report of the financial condition of the corporation to the annual meeting of the stockholders, and generally, shall perform all duties incident to the position of Treasurer, subject to the control of the Board of Directors.

(c) The Treasurer shall give such bond as the Board of Directors may require for the faithful performance of the duties of his office and for the restoration to the corporation, in the event of his death, resignation or removal from office, of all books, papers, vouchers, money or other property of whatsoever kind in his possession belonging to the corporation.

Section 6. In the event of the absence or inability to act of any officer of the corporation, or of any person herein authorized to act in his place, the Board of Directors from time to time may delegate the powers and duties of such office to such other officer, or to any director, or to any other stockholder whom they may select. Vacancies in any office arising from any cause may be filled by the Board of Directors at any regular meeting or any special meeting called for that purpose.

Section 7. The salaries and fees of all officers and agents of the corporation other than the directors shall be fixed by the Board of Directors.

Section 8. Any officer elected by the Board of Directors may be removed at any time, with or without cause, by the Board of Directors.

ARTICLE VIII

SUPERINTENDENT OF IRRIGATION SYSTEM

Section 1. The Board of Directors at any regular or any special meeting shall provide for the employment of a Superintendent who shall work under the supervision and direction of the Board of Directors and the President. No person shall be eligible to serve as Superintendent while holding the office of a director of the corporation, but the Superintendent may be a stockholder of the corporation. The Board of Directors shall employ a Superintendent each year on such terms and for such compensation as may be agreed upon by the Board of Directors and such Superintendent.

Section 2. It shall be the duty of the Superintendent, and such assistants as may from time to time be employed by the Board of Directors, to operate and maintain the irrigation system of the corporation under the control and direction of the Board of Directors to effect the purposes of the corporation; specifically, the Superintendent and any assistants shall:

(a) Operate and maintain the irrigation system of the corporation to permit the diversion, by the corporation through its diversion works, and the conveyance through its system of canals, ditches and other structures, of water which the corporation is entitled to divert from the public water supply pursuant to its water rights. The Superintendent shall do all things necessary and proper as directed by the Board of Directors to keep the diversion works and the conveyance system of the corporation clean and in good repair, to the end that water may be diverted and delivered to the stockholders for the proper irrigation of their lands.

(b) Deliver the water diverted from the public supply by the corporation to each stockholder at such stockholder's designated point of delivery from the corporation's system in the proportion each such stockholder's shares bear to the total outstanding shares of the corporation, less the proportionate share of transmission losses. It shall be the duty of each stockholder or group of stockholders entitled to receive water through any designated point of delivery to keep his or their facilities for receiving water, after the same has passed through the headgate or other delivery structure of the corporation, in such condition that such facilities will receive, without waste, the water to which such stockholder or group of stockholders is entitled. The Corporation assumes no responsibility for damage to stockholders or third parties from the use or misuse of water after such water has been delivered through the delivery structure of the corporation at any point of delivery from the corporation's system. If the Superintendent determines that the facilities for receiving water from the headgate or other structure at any point of delivery from the corporation's system cannot for any reason receive the water to which any stockholder or group of stockholders is entitled, he shall so notify such stockholder or stockholders and shall have no responsibility for delivering more water than can in the sole discretion of the Superintendent, be received, unless and until adequate measure are taken by such stockholder or group of stockholders to place such receiving facilities in proper condition to receive the full water entitlement.

(c) Have exclusive control of the adjustment and locking of all headgates or other delivery structures through which stockholders receive water, as well as exclusive control of all measuring devices at such headgates or other structures. The Superintendent shall measure as accurately as practicable all water delivered through each such point of delivery and shall keep daily records of such deliveries, which records shall be available for examination and inspection by stockholders as provided in Article I, Section 5 of these By-Laws. To the extent practicable and consistent with the optimum use of the entire system of the corporation and in accordance with his entitlement by virtue of stock ownership, each stockholder shall be entitled to receive water in such amounts and at such times as he may desire. To the extent possible, all requests to the Superintendent by stockholder for increases or decreases in the amount of water any such stockholder is receiving shall be made not less than twelve (12) hours before the increase or decrease is to be made.

ARTICLE IX

ASSESSMENTS

Section 1. Moneys necessary for the payment of corporate indebtedness, for carrying on the business of the corporation, for maintaining and operating the corporation's irrigation system, or for any other purpose the directors determine to be in the best interests of the corporation, shall be raised by assessments levied from time to time in the manner provided by the laws of the State of Idaho and these By-Laws. Such assessments shall be based on the number of outstanding shares of stock held or owned by the owners of land within the corporation's service area, excluding shares of stock held by the corporation as treasury stock. In addition to such assessments, the corporation may make reasonable charges to offset related expenses in connection with the diversion, conveyance, drainage or delivery of water to any shareholder or other person or entity with whom the corporation may contract. Nothing herein shall be construed to prevent or limit the power of the corporation to borrow or enter into appropriate financing agreements.

(a) On or before the first day of March of each year, the Board of Directors shall meet and determine the amount of the assessment to be levied for the coming year and shall divide said assessment by the number of issued outstanding shares of stock of the corporation, excluding shares held as treasury stock, to determine the amount to be assessed per share. No assessment shall be levied while any portion of a previous assessment remains unpaid, unless the power of the corporation has been exercised in accordance with the provisions of law and these By-laws for the purpose of collecting such previous assessment.

(b) As a result of such meeting, the Board of Directors shall make an order levying assessment, in the form set forth under subsection (g) (1) of this Article, specifying therein the amount of the assessment, and when and to whom payable, including the address of the officer to whom assessments shall be paid. Said order of assessment shall also fix the day subsequent to the full term of publication of the assessment notice on which the unpaid assessments will be delinquent, which day shall be not less than thirty (30) nor more than (60) days from the time of making the order levying the assessment, and shall fix a date for the sale of delinquent shares which shall be not less than fifteen (15) days nor more than sixty (60) days from the day the shares are declared delinquent.

(c) Upon making the order, the Secretary shall prepare a notice in the form set forth in subsection (g) (2) of this Article and shall cause the same to be published once a week, for four (4) successive weeks, in a newspaper of general circulation, published in the county where the registered office is situated, or if no paper is published in said county, then in some newspaper having general circulation therein. The Secretary shall also cause a copy of said notice to be mailed to each stockholder at his last known address. The responsibility for providing such address to the Secretary shall be that of each stockholder. The copy of the notice sent to each individual stockholder shall show, in addition to all other information required by law, the total amount of the assessment for which each such stockholder is obligated.

(d) The Board of Directors may also, at its discretion, provided in the making of the order levying assessment, that no water will be delivered until the assessment for the current year is paid or reasonable security given for payment thereof. In such event, the notice shall also contain a statement to such effect. Delivery of water may not be withheld for the purpose of collecting assessments due from previous years.

(e) If any portion of an assessment due from any stockholder remains unpaid on the day specified in the notice for declaring the shares delinquent, the secretary shall, unless otherwise ordered by the Board of Directors, cause to be published, for ten (10) consecutive days, excluding Sundays and legal holidays if a daily newspaper, or once each week for two (2) successive weeks if a weekly newspaper, a notice in the form set forth in subsection (g) (3) of this Article, a copy of which shall also be mailed by registered or certified mail to the last known address of the delinquent stockholder. The responsibility for providing such address to the Secretary shall be that of each stockholder. The date specified in such notice for sale of so much of the stock of the delinquent stockholder as may be necessary to pay the delinquent assessment, together with costs of sale, publication and interest, shall not be sooner than ten (10) days following the date of first publication. Only so much stock of the delinquent stockholder as is necessary to pay the delinquent assessment, costs of sale, publication and interest shall be sold. The sale of delinquent stock shall be held and conducted in the manner provided by law; however, the stock shall only be offered for sale to the corporation, to those stockholders of the corporation owning land within the corporation's service area, and to such persons owning land adjacent to the corporation's service area which may be conveniently irrigated through the irrigation system of the corporation without injury to the water rights or the irrigation system of the corporation.

(f) In addition, the Secretary shall, on or before the first day of April of each year, file for record with the county recorder of the county or counties in which the service area of the corporation lies, a statement in writing in the form set forth in subsection (g) (4) of this Article. In the event any amount of the assessment remains unpaid by November 1 of such year, the Secretary shall file a claim of lien against the lands of each individual stockholder whose stock is then delinquent, before the first day of the following January in the form set forth in subsection (g) (5) of this Article. No delinquency shall be allowed to remain so by the Board of Directors shall institute appropriate legal proceedings to foreclose such lien within said two (2) year period.

(g) Unless and until otherwise provided by law or these By-Laws, the forms to be used for the foregoing referenced "Order Levying Assessment", "Notice of Assessment", "Notice of Delinquent Assessment", "Statement of Assessment", and "Claim of Lien", shall be as follows:

(1) Order Levying Assessment

The Board of Directors of _____, having met on the _____ day of _____, _____, and having determined the total expenses of the corporation for the previous year and having estimated the probable expenses of the corporation for the coming year, now hereby levy the assessment for the period commencing _____, and ending _____, _____, as follows:

1. Total amount of assessment: _____
2. Amount per share: _____
3. Payable on or before: _____
4. All payments of assessment are to be made to the Secretary-Treasurer of the corporation: _____, in person or at the following address: _____
5. The day subsequent to the full term of publication of the assessment notice, On which the unpaid assessments will be delinquent is, _____
The date fixed for sale of delinquent shares is _____, _____
6. No water shall be delivered through the irrigation system of the corporation to any stockholder whose share of this assessment remains unpaid during the coming irrigation season until such assessment be paid in full or reasonable security be given for payment thereof.

By Order of the Directors

(Seal)

President

Attest:

Secretary

(2) Notice of Assessment

(Name of corporation), (address of registered office)

NOTICE IS HEREBY GIVEN that at a meeting of the Directors held on _____, _____, an assessment of \$ _____ per share was levied upon the capital stock of the corporation payable to the Secretary-Treasurer of the corporation, _____ (name), in person or at his address, (address of secretary-treasurer), on or before _____, _____. Any shares upon which the assessment remains unpaid on _____, _____, (date assessments due), will be delinquent and advertised for sale at public auction, and unless payment is made before, will be sold on _____, _____ (Date fixed for sale of delinquent shares), to pay the delinquent assessment, together with interest thereon at the rate of eight percent (8%) per annum, from the date of delinquency, costs of advertising and expenses of sale.

(Optional: No water will be delivered during the coming irrigation season until such assessment is paid or reasonable security, satisfactory to the Board of Directors, is given therefore.)

Secretary

Address of Registered Office

The copy of this Notice which is sent to each individual stockholder shall contain the additional following information to be set forth at or near the bottom of the Notice:

Stockholder's name: _____
Certificate No. : _____ Total
Number of Shares: _____ Total
Amount of your Assessment: _____

(3) Notice of Delinquent Assessment

(Name of corporation), (Address of registered office)

There is delinquent upon the following described shares on account of assessment levied on (date of order levying assessment), (and assessments previous thereto, if any), the several amounts set opposite the names of the respective shareholders as follows:

<u>Name</u>	<u>No. Of Certificate</u>	<u>No. Of Shares</u>	<u>Delinquent Amount</u>
-------------	-------------------------------	--------------------------	------------------------------

and in accordance with the law, so many shares of each parcel of such stock as may be necessary, will be sold at (address of place of sale) on (date of sale) at _____ o'clock __M. of such day, to pay delinquent assessments thereon, together with interest thereon at the rate of eight percent (8%) per annum from the date of delinquency, the cost of advertising and expenses of sale.

Secretary

Address of Registered Office

(4) Statement of Assessment

(Name of Corporation), (Address of registered office), which owns and operates an irrigation system for diverting water and conveying the same to the lands of the stockholders of the corporation, which system is generally referred to as the (Common name of canal system and irrigation works), has levied an annual assessment of \$ _____ Per share, all of which is due and payable on or before (Date).

Secretary

(5) Claim of Lien

(Name of corporation), (Address of registered office), the owner and operator of the canal system and irrigation works known generally as (general or common name), hereby claims and demands a lien for unpaid and delinquent assessments for the purpose of maintaining and operating its irrigation works and conducting the business of the corporation. The amounts of claimant's demands after deducting all just credits and offsets, with a description of the particular tracts or parcels of land to be charged with the lien and the name of the owner or reputed owner of each such tract or parcel are set forth below:

1. Name of owner or reputed owner: _____
Amount of demand: \$ _____
Description of tract to be charged: _____

2. (Same as 1., etc.)
State of Idaho)
) ss.
County of)

_____, being first duly sworn, deposes and says, that he is the duly elected and acting secretary of (Name of Corporation), that he is responsible for preparing and keeping the assessment records of the corporation, and that he verily believes the foregoing claims of lien for delinquent assessments to be accurate and just.

Secretary

Subscribed and sworn to before me this _____ day of _____, _____.

(Seal)

Notary Public for Idaho
Residing at: _____
My commission expires: _____

ARTICLE X

CORPORATE SEAL

The corporation shall have an official seal in the following form, which seal shall be impressed on certificates of stock and other agreements entered into by the corporation, which by law requires the seal of the corporation to be so impressed.

ARTICLE XI

AUDITS

It shall be the duty of the Board of Directors to require an annual audit, in such form and manner as the Board of Directors shall determine, of the records of the corporation by competent accountants prior to the annual meeting each year. The results of said audit are to be available for inspection by the directors or any stockholder as provided in Article I, Section 5 of these By-laws.

ARTICLE XII

AMENDMENTS

These By-Laws may be altered, amended or repealed and new By-Laws may be adopted at any regular or special meeting of the stockholders, after proper notice thereof has been given as required by the laws of the State of Idaho, by an affirmative vote of the stockholders which vote meets the minimum requirements of Section 42-2401 of the Idaho Code, as it may be amended.

CERTIFICATION

The above and foregoing is a true and correct copy of the By-Laws adopted at an annual meeting of the shareholders of Owsley Canal Company, held at Terreton, Jefferson County, Idaho, on Monday the 19th day of January, 1981, at 2:30 o'clock P.M.

(Corporate Seal)

/s/ Robert M. Saunders, Secretary

To Change the Point of Diversion and/or the Place of Use

APPROVED

Post office address c/o HOLDEN, KIDWELL, HAHN & CRAPO, Box 129, Idaho Falls, Idaho

1. Right evidenced by:

(Name)

in case of _____ vs _____

dated _____ in _____ county of _____

(Name of court)

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

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

2. If applicant is not the original holder of this right, explain how it was acquired and attach a copy of the deed or other evidence of ownership of the land to which the right is appurtenant.

3. Source of water _____ tributary to _____

4. Date of priority _____

5. Water is used for the following purposes:

amount _____ for _____ purposes from _____ to _____

amount _____ for _____ purposes from _____ to _____

amount _____ for _____ purposes from _____ to _____

(month/day – both dates inclusive)

6. Total amount of water under right: a. _____ cubic feet per second

&/or

b. $\frac{67.61}{\text{acre feet per annum}}$

7. Location of original point of diversion is $\frac{1}{4}$ of _____ $\frac{1}{4}$ of Section _____

Township _____ Range _____, B.M., in _____ County

Additional points of diversion, if any _____

8. Lands irrigated or place of use:

[illegible]

Total number of acres to be irrigated

SCANNED

NOV 7 5 1967

31-00134/31-00135

NOV 25 1981

SCANNED

3. Remarks _____

I hereby assert that no one will be injured by such change and 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.

Rulao R. Yeasley
 (Signature of applicant)

Subscribed and sworn to before me this 26 day of JUNE, 19 78

Frank W. Foster
 (Notary public)

My commission expires LIFE

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No. 31-0190 and said application is hereby approved.

31-0134	31-0143	31-0135
31-0144	31-0337	
31-0336	31-2289	
31-2290	31-2297	31-2310
31-2317	31-2321	

- Approval of said application is subject to the following limitations and conditions:
 (1) Any future transfer of any of these rights will cause the remaining rights to revert back to the original acreage. (2) The intent of this transfer is to record water delivery practices that have existed since 1956 - no change in delivery patterns is authorized. (3) Diversion of water authorized by this transfer shall not exceed 9321 acre feet per annum. (4) Measuring devices and controlling works of a type approved by this Department must be permanently installed and maintained at the points of diversion from groundwater. The existing measuring methodology shall be maintained at the points of diversion/re-diversion from Camas Creek. (5) Use of water under this transfer is subject to control by the watermaster of Water District No. 31, Mud Lake and tributaries.

Witness my hand this 23rd day of June, 1981.

Norma C. Young
 Administrator, Resources Admin. Div.

FOR DEPARTMENT USE ONLY

Received by dh Date 3-13-79
BP 7-7-78
 Prelim. check by EMC Fee \$135.00
 Receipted by dh Date 3-13-79 #12955
 Published in Rigby Star

Pub. dates April 4 and 11, 1979
 Watermaster recommendation requested on 3/29/79
 rec'd 4/16/79

Protest filed by _____
 Copies of protest forwarded by _____
 Hearing held by _____ Date _____
 Recommended for approval denial
 by EMC Jim DRT

JUL 7 1978

A. DESCRIPTION OF RIGHTS AS RECORDED:

Department of Water Resources
Eastern District Office

1. Rights evidenced by:

a. Decreed Rights:

- (1) Ernest Sauve, Plaintiff, vs. W. H. Abbott, et al, Defendants;
dated November 1, 1930; in the District Court of the United States for the District of Idaho, Eastern Division. Proceedings were held in Pocatello, Bannock County, Idaho, but the decree purports to allocate the waters of Mud Lake in Jefferson County, Idaho, and its tributaries. All lands irrigated through applicant's system are in Jefferson County. These rights were conveyed to applicant by an instrument entitled "Water Deed", dated May 1, 1956, recorded as Instrument No. 116320 in the records of Jefferson County, Idaho, on September 15, 1958; also in Book 55 of Water Deeds at page 309. A copy of this deed is attached hereto. The information for each such water right is listed as follows:

- (a) Right No. - 31-0134 (Page 47 of Decree, No. 70)
Decreed to - Los Angeles First National Bank and Trust Company (formerly First Nat'l Bank of Los Angeles), a corporation.
Source - Camas Creek, a tributary of Mud Lake.
Priority Date - March 20, 1911.
Water Used For - Irrigation
Amount - 3.5 cfs
Point of Diversion - In Lot 4, Section 4, Township 6 North, Range 35 East, B.M.
Place of Use - 7.38 acres in Lot 7, Section 32, Township 7 North, Range 35 East, B.M. 41. acres in Lot 4, Section 4; 41. acres in Lot 1, Section 4; 52.25 acres in Lot 2, Section 5; all in Township 6 North, Range 35 East, B.M.
- (b) Right No. - 31-0135 (Page 47 of Decree, No. 70)
Decreed to - Los Angeles First Nat'l Bank and Trust Company (formerly First Nat'l Bank of Los Angeles), a corporation.
Source - Mud Lake
Priority Date - June 10, 1912
Water Used For - Irrigation
Amount - 2.5 cfs
Point of Diversion - Near the Center of the Southwest Quarter of Section 5, Township 6 North, Range 35 East, B.M.

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Place of Use - 320 acres as follows: 40 acres in the Northwest Quarter of the Northwest Quarter; 40 acres in the Northeast Quarter of the Northwest Quarter; 40 acres in the Southwest Quarter of the Northwest Quarter; 40 acres in the Southeast Quarter of the Northwest Quarter; 40 acres in the Northwest Quarter of the Northeast Quarter; 40 acres in the Southwest Quarter of the Northeast Quarter; 40 acres in the Northwest Quarter of the Southeast Quarter; 40 acres in the Northeast Quarter of the Southwest Quarter - all in Section 8, Township 6 North, Range 35 East B.M.

- (c) Right No. - 31-0143 (Page 49 of Decree, No. 75)
 Decreed to - Clarence O. McGill and G. B. Adams.
 Source - Camas Creek, a tributary of Mud Lake.
 Priority Date - March 29, 1911
 Water Used For - Irrigation
 Amount - 1.0 cfs
 Point of Diversion - In Lot 4, Section 3, Township 6 North, Range 35 East B.M.
 Place of Use - Lots 3rd and 4th, the Southwest Quarter of the Northwest Quarter; the Southwest Quarter of the Southwest Quarter, the Northeast Quarter of the Southwest Quarter, and the Northwest Quarter of the Southwest Quarter, all in Section 3, Township 6 North, Range 35 East, B.M.
- (d) Right No. - 31-0144 (Page 49 of Decree, No. 75)
 Decreed to - Clarence O. McGill and G.B. Adams
 Source - Camas Creek, a tributary of Mud Lake
 Priority Date - September 21, 1912.
 Water Used For - Irrigation
 Amount - 1.0 cfs
 Point of Diversion - Same as 31-0143.
 Place of Use - Same as 31-0143.
- (e) Right No. - 31-0190 (Page 60 of Decree, No. 99)
 Decreed to - Merritt M. Owsley
 Source - Camas Creek, a tributary of Mud Lake.
 Priority Date - October 14, 1913.
 Water Used For - Irrigation
 Amount - 5.9 cfs
 Point of Diversion - A point South 73.75° East 1222 feet from the Northwest Corner of Section 3, Township 6 North, Range 35 East, B.M.
 Place of Use - The Southwest Quarter, the West Half of the Southeast Quarter, and the West Half of the Northeast Quarter, of Section 9, Township 6 North, Range 35 East, B.M.

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(2) The Owsley Canal Company, Plaintiff, vs. Ernest Bauerle, et al, Defendants; dated October 14, 1940; in the District Court of the Ninth Judicial District of the State of Idaho, In and For Jefferson County. These rights were conveyed to applicant by instrument entitled "Water Deed", dated December 20, 1956, recorded as Instrument No. 120684, in the records of Jefferson County, Idaho on December 11, 1959; also in Book 81 of Water Deeds, at Page 56. A copy of this deed is attached. By this deed, Independent Water Users of Mud Lake, Inc., conveyed to applicant:

"An undivided one-third (1/3) in and to all of the water and water rights and diversion works of every kind, nature and description owned by said First Party, or in which First Party has any interest and particularly, but not limited thereto, an undivided one-third (1/3) interest in and to the water rights evidenced by Idaho Water License No. 17690 and Idaho Water Permit No. 17763."

The Bauerle Decree recites that Independent Water Users of Mud Lake, Inc., is the owner of this license and permit and appears to confirm or decree the rights represented in both the license and the permit. Subsequently the Permit, No. 17763/31-2254 was canceled for failure to submit proof of beneficial use. However, water has been diverted and applied to beneficial use each year in reliance on this right and the applicant has always relied on the decree as evidence of the rights, rather than the license or permit. We are attaching a copy of a letter from Mr. Bobby D. Fleenor of the Department to Don Shenton, dated June 4, 1974, explaining that the permit was canceled because after the entry of the Decree there was no longer any need to prove up on the permit, and the filing was unnecessary. The rights under this decree are described as follows:

(a) Right No. - 31-0336 (License No. 17690/31-2253)
 Decreed to - Independent Water Users of Mud Lake, Inc.
 Source - Ground Water
 Priority Date - April 27, 1932
 Water Used For - Irrigation
 Amount - Decree says 32.50 cubic feet per second, but combined with Right No. 31-0337 "an amount not exceeding in the aggregate the equivalent of 91.8 cubic feet per second, flowing continuously during the irrigation season from May 1 to November 1 of each year."
 Point of Diversion - Northeast Quarter Northwest Quarter Section 3, Township 6 North, Range 35 E.B.M., Jefferson County.
 Place of Use -

Twp	Range	Section	Forty-Acre Tract	No. Acres Actually Irrigated
7N.	35 E.	32	Lot 7 (SE $\frac{1}{4}$ SE $\frac{1}{4}$)	38
6N.	35 E.	4	Lot 4	35
			NE $\frac{1}{4}$ SW $\frac{1}{4}$	40
			NW $\frac{1}{4}$ SW $\frac{1}{4}$	40
			SW $\frac{1}{4}$ SW $\frac{1}{4}$	40
			SE $\frac{1}{4}$ SW $\frac{1}{4}$	40
			NE $\frac{1}{4}$ SE $\frac{1}{4}$	40
			NW $\frac{1}{4}$ SE $\frac{1}{4}$	40
			SW $\frac{1}{4}$ SE $\frac{1}{4}$	40
			SE $\frac{1}{4}$ SE $\frac{1}{4}$	40
		5	Lot 1 (NE $\frac{1}{4}$ NE $\frac{1}{4}$)	40
			Lot 2 (NW $\frac{1}{4}$ NE $\frac{1}{4}$ and part of NE $\frac{1}{4}$ NW $\frac{1}{4}$)	25
			SW $\frac{1}{4}$ NE $\frac{1}{4}$	40
			SE $\frac{1}{4}$ NE $\frac{1}{4}$	35
			NE $\frac{1}{4}$ SW $\frac{1}{4}$	40
			SE $\frac{1}{4}$ SW $\frac{1}{4}$	40
			NE $\frac{1}{4}$ SE $\frac{1}{4}$	40
			NW $\frac{1}{4}$ SE $\frac{1}{4}$	40
			SW $\frac{1}{4}$ SE $\frac{1}{4}$	40
			SE $\frac{1}{4}$ SE $\frac{1}{4}$	40
		8	NE $\frac{1}{4}$ NE $\frac{1}{4}$	40
			NW $\frac{1}{4}$ NE $\frac{1}{4}$	40
			SW $\frac{1}{4}$ NE $\frac{1}{4}$	30
			SE $\frac{1}{4}$ NE $\frac{1}{4}$	20
			NW $\frac{1}{4}$ SW $\frac{1}{4}$	40
			NW $\frac{1}{4}$ NW $\frac{1}{4}$	40
			SW $\frac{1}{4}$ NW $\frac{1}{4}$	35
			SE $\frac{1}{4}$ NW $\frac{1}{4}$	40
			NE $\frac{1}{4}$ SW $\frac{1}{4}$	40
			NW $\frac{1}{4}$ SE $\frac{1}{4}$	15
		9	NE $\frac{1}{4}$ NE $\frac{1}{4}$	35
			SE $\frac{1}{4}$ NE $\frac{1}{4}$	20
			NE $\frac{1}{4}$ NW $\frac{1}{4}$	40
			NW $\frac{1}{4}$ NW $\frac{1}{4}$	20
			SW $\frac{1}{4}$ NW $\frac{1}{4}$	20
			SE $\frac{1}{4}$ NW $\frac{1}{4}$	40
		10	NW $\frac{1}{4}$ NW $\frac{1}{4}$	20
			SW $\frac{1}{4}$ NW $\frac{1}{4}$	20

Total Number of Acres Irrigated 1,328

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(b) Right No. - 31-0337 (Permit No. 17763/31-2254)
Decreed To - Independent Water Users of Mud Lake, Inc.

Source - Ground Water

Priority Date - December 15, 1932

Water Used For - Irrigation

Amount - 50 cfs (however, decree provides that this right, together with Right No. 31-0336 shall be permitted to develop up to 91.8 cubic feet per second as quoted above).

Points of Diversion - Southwest Quarter of Section 13, Northwest Quarter of Section 24, in Township 7 North, Range 35 E.B.M., Northeast Quarter Northwest Quarter of Section 3, Township 6 North, Range 35 E.B.M., Northwest Quarter Northwest Quarter of Section 7, Township 6 North, Range 34 E.B.M., Northeast Quarter Northwest Quarter of Section 1, Township 6 North, Range 34 E.B.M.

Place of Use -

Twp.	Range	Section	Forty-Acre Tract	No. Acres Actually Irrigated
7N.	33 E.	36	NE $\frac{1}{4}$ NE $\frac{1}{4}$	40
			NW $\frac{1}{4}$ NE $\frac{1}{4}$	40
			SW $\frac{1}{4}$ NE $\frac{1}{4}$	40
			SE $\frac{1}{4}$ NE $\frac{1}{4}$	40
			NE $\frac{1}{4}$ SW $\frac{1}{4}$	40
			SW $\frac{1}{4}$ SW $\frac{1}{4}$	40
			SE $\frac{1}{4}$ SW $\frac{1}{4}$	40
			NE $\frac{1}{4}$ SE $\frac{1}{4}$	40
			NW $\frac{1}{4}$ SE $\frac{1}{4}$	40
			SW $\frac{1}{4}$ SE $\frac{1}{4}$	40
	34 E.	31	SE $\frac{1}{4}$ SE $\frac{1}{4}$	40
			NE $\frac{1}{4}$ NW $\frac{1}{4}$	40
			NW $\frac{1}{4}$ NW $\frac{1}{4}$	40
			SW $\frac{1}{4}$ NW $\frac{1}{4}$	40
			SE $\frac{1}{4}$ NW $\frac{1}{4}$	40
			NE $\frac{1}{4}$ SW $\frac{1}{4}$	40
			NW $\frac{1}{4}$ SW $\frac{1}{4}$	40
			SW $\frac{1}{4}$ SW $\frac{1}{4}$	40
			SE $\frac{1}{4}$ SW $\frac{1}{4}$	40
			NE $\frac{1}{4}$ NE $\frac{1}{4}$	40
6N.	33 E.	1	NW $\frac{1}{4}$ NE $\frac{1}{4}$	40
			SW $\frac{1}{4}$ NE $\frac{1}{4}$	40
			SE $\frac{1}{4}$ NE $\frac{1}{4}$	40
			NE $\frac{1}{4}$ NW $\frac{1}{4}$	40
			NW $\frac{1}{4}$ NW $\frac{1}{4}$	40
			SW $\frac{1}{4}$ NW $\frac{1}{4}$	40
			SE $\frac{1}{4}$ NW $\frac{1}{4}$	40
	34 E.	6	NE $\frac{1}{4}$ NW $\frac{1}{4}$	40
			NW $\frac{1}{4}$ NW $\frac{1}{4}$	40
			SW $\frac{1}{4}$ NW $\frac{1}{4}$	40
			SE $\frac{1}{4}$ NW $\frac{1}{4}$	40
			NE $\frac{1}{4}$ NE $\frac{1}{4}$	40
			NW $\frac{1}{4}$ NE $\frac{1}{4}$	40
			SW $\frac{1}{4}$ NE $\frac{1}{4}$	40

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Twp.	Range	Section	Forty-Acre Tract	No. Acres Actually Irrigated
6N	34 E.	12	NE $\frac{1}{4}$ NE $\frac{1}{4}$	40
			NW $\frac{1}{4}$ NE $\frac{1}{4}$	40
			SW $\frac{1}{4}$ NE $\frac{1}{4}$	40
			SE $\frac{1}{4}$ NE $\frac{1}{4}$	40
			NE $\frac{1}{4}$ NW $\frac{1}{4}$	40
			SE $\frac{1}{4}$ NW $\frac{1}{4}$	40
			NE $\frac{1}{4}$ SW $\frac{1}{4}$	40
			NE $\frac{1}{4}$ SE $\frac{1}{4}$	40
			NW $\frac{1}{4}$ SE $\frac{1}{4}$	40
			SW $\frac{1}{4}$ SE $\frac{1}{4}$	40
	35 E.	7	SE $\frac{1}{4}$ SE $\frac{1}{4}$	40
			NE $\frac{1}{4}$ NE $\frac{1}{4}$	40
			NW $\frac{1}{4}$ NE $\frac{1}{4}$	40
			SW $\frac{1}{4}$ NE $\frac{1}{4}$	40
			SE $\frac{1}{4}$ NE $\frac{1}{4}$	40
			NE $\frac{1}{4}$ NW $\frac{1}{4}$	40
			NW $\frac{1}{4}$ NW $\frac{1}{4}$	34.75
			SW $\frac{1}{4}$ NW $\frac{1}{4}$	34.75
			SE $\frac{1}{4}$ NW $\frac{1}{4}$	40
			NE $\frac{1}{4}$ SW $\frac{1}{4}$	40
			NW $\frac{1}{4}$ SW $\frac{1}{4}$	34.8
			SW $\frac{1}{4}$ SW $\frac{1}{4}$	34.8
			SE $\frac{1}{4}$ SW $\frac{1}{4}$	40
			NE $\frac{1}{4}$ SE $\frac{1}{4}$	40
			NW $\frac{1}{4}$ SE $\frac{1}{4}$	40
			SW $\frac{1}{4}$ SE $\frac{1}{4}$	40
			SE $\frac{1}{4}$ SE $\frac{1}{4}$	40
	35 E.	9	NW $\frac{1}{4}$ NE $\frac{1}{4}$	40
			SW $\frac{1}{4}$ NE $\frac{1}{4}$	40
			NE $\frac{1}{4}$ SW $\frac{1}{4}$	40
			NW $\frac{1}{4}$ SW $\frac{1}{4}$	40
			SW $\frac{1}{4}$ SW $\frac{1}{4}$	40
			SE $\frac{1}{4}$ SW $\frac{1}{4}$	40
			NW $\frac{1}{4}$ SE $\frac{1}{4}$	40
			SW $\frac{1}{4}$ SE $\frac{1}{4}$	40

Total Number of Acres Irrigated 2,619.1

b. Licensed Rights:

(1) Right No. - G-20891/31-2289
 Licensed To - Calvin Passey
 Source - Ground Water
 Priority Date - January 13, 1949
 Water Used For - Irrigation
 Amount - 3.2 cfs
 Point of Diversion- Northwest Quarter Northeast
 Quarter Section 27, Township 7
 North, Range 35 E.B.M., Jefferson
 County.
 Place of Use - Northeast Quarter Northeast Quarter,
 Northwest Quarter Northeast Quarter,
 Southwest Quarter Northeast Quarter,
 Southeast Quarter Northeast Quarter
 all in Section 8, Township 6 North
 Range 35 E.B.M.

- (2) Right No. - G-20948/31-2290
 Licensed To - J.R. Bixby
 Source - Ground Water
 Priority Date - February 14, 1949
 Water Used For - Irrigation
 Amount - 3.6 cfs
 Point of Diversion - Northwest Quarter Northeast Quarter, Section 27 Township 7 North, Range 35 E.B.M., Jefferson County.
 Place of Use - Northeast Quarter Southeast Quarter, Northwest Quarter Southeast Quarter, Southwest Quarter Southeast Quarter, Southeast Quarter Southeast Quarter, Northeast Quarter Southwest Quarter, and Southeast Quarter Southwest Quarter, all in Section 5, Township 6 North, Range 35 E.B.M.
- (3) Right No. - G-21322/31-2297
 Licensed To - Rulan R. Yearsley
 Source - Ground Water
 Priority Date - December 29, 1949
 Water Used For - Irrigation
 Amount - 6.0 cfs
 Point of Diversion - Northwest Quarter Northeast Quarter, Section 27, Township 7 North, Range 35 E.B.M. in Jefferson County.
 Place of Use - 20 acres in Northwest Quarter of Northeast Quarter, 20 acres in Southwest Quarter Northeast Quarter, 20 acres in Southeast Quarter Northeast Quarter, 30 acres in Northeast Quarter Northwest Quarter, 30 acres in Southeast Quarter Northwest Quarter, 40 acres in Northeast Quarter Southwest Quarter, 30 acres in Northwest Quarter Southwest Quarter, 30 acres in Southwest Quarter Southwest Quarter, 20 acres in Southeast Quarter Southwest Quarter, all in Section 3, 30 acres in Southwest Quarter Southeast Quarter of Section 4, 35 acres in Northwest Quarter Northeast Quarter and 35 acres in Southwest Quarter Northeast Quarter of Section 9, all in Township 6 North Range 35 E.B.M.
- (4) Right No. - G-23076/31-2310
 Licensed to - Blaine E. Miller
 Source - Ground Water
 Priority Date - September 24, 1962
 Water Used For - Irrigation 1752
 Amount - 5.8 cfs
 Point of Diversion - Southwest Quarter Southwest Quarter Section 23, Township 7 North, Range 35 E.B.M. Jefferson County.

Place of Use - 35 acres in Northeast Quarter North-east Quarter, 30 acres in Northwest Quarter Northeast Quarter, Southwest Quarter Northeast Quarter, Southeast Quarter Northeast Quarter, Northeast Quarter Southeast Quarter, Northwest Quarter Southeast Quarter, 35 acres in Southwest Quarter Southeast Quarter, 30 acres in Southeast Quarter South-east Quarter, all in Section 17, Township 6 North, Range 35 E.B.M.

(5) Right No. - G-23836/31-2317 (two Rights under this Right No.)
 Licensed to - Frank S. Jackett
 Source - Ground Water
 Priority Date - February 28, 1953 and October 27, 1956
 Water Used For - Irrigation
 Amounts - 8.08 cfs under February 28, 1953 priority and 1.90 cfs under October 27, 1956 priority.

Points of Diversion - Northwest Quarter Southwest Quarter, Section 23 and Northeast Quarter Southeast Quarter, Section 22, all in Township 7 North, Range 35 E.B.M.

Place of Use - 25 acres in Northeast Quarter North-east Quarter, Northwest Quarter North-east Quarter, 20 acres in Southwest Quarter Northeast Quarter, 25 acres in Southeast Quarter Northeast Quarter, Northeast Quarter Northwest Quarter, Northwest Quarter Northwest Quarter, Southwest Quarter Northwest Quarter, Southeast Quarter Northwest Quarter, Northeast Quarter Southeast Quarter, 20 acres in Northwest Quarter South-east Quarter, 25 acres in Southwest Quarter Southeast Quarter, Southeast Quarter Southeast Quarter, Northeast Quarter Southwest Quarter, Northwest Quarter Southwest Quarter, 10 acres in Southwest Quarter Southwest Quarter, 13 acres in Southeast Quarter South-west Quarter, all in Section 16, Township 6 North, Range 35 E.B.M.

(6) Right No. - G-24047/31-2321
 Licensed To - Dennis Green
 Source - Ground Water
 Priority Date - April 25, 1953
 Water Used For - Irrigation
 Amount - 1.92 cfs
 Point of Diversion - Northwest Quarter Northeast Quarter Section 27, Township 7 North Range 35 E.B.M.

Place of Use - 36 acres in Northeast Quarter South-west Quarter, 34 acres in North-east Quarter Southeast Quarter, 26 acres in Northwest Quarter Southeast Quarter all in Section 8, Township 6 North, Range 35 E.B.M.

All of the above described Licensed Rights were deeded to the Jackett Canal Company shortly after its organization in 1956. copies of all of the deeds are attached.

C. DESCRIPTION OF RIGHT OR PORTION THEREOF, AFTER THE REQUESTED CHANGE:

1. Change in point of diversion:

- a. Amount of water to be diverted - the combination of all of the above described rights of the Jackett Canal Company amounts to 75 cubic feet per second. The decreed rights from Camas Creek are pumped out of Camas Creek at the points of diversion described below, so long as water is available to fill these rights. The seven wells maintained by the company are used only to the extent necessary to supplement the creek rights. Usually, this requires an increased use of the wells as the season progresses. Although the wells are usually operated to some extent from the time the irrigation season begins, in a sense, the wells are used as supplemental to the decreed rights from the creek.

b. Points of diversion -

- (1) Southwest Quarter Southwest Quarter, Section 13,
Township 7 North, Range 35 E.B.M., Jefferson County.
- (2) Northwest Quarter Southeast Quarter, Section 22,
Township 7 North, Range 35 E.B.M., Jefferson County.
- (3) Northwest Quarter Southwest Quarter, Section 23,
Township 7 North, Range 35 E.B.M., Jefferson County.
- (4) Southwest Quarter Southwest Quarter, Section 23,
Township 7 North, Range 35 E.B.M., Jefferson County.
- (5) Northwest Quarter Northeast Quarter, Section 27,
Township 7 North, Range 35 E.B.M., Jefferson County.
- (6) Southwest Quarter Southwest Quarter, Section 33,
Township 7 North, Range 35 E.B.M., Jefferson County.

(7) Lot 4 (Northwest Quarter Northwest Quarter), Section 3,
Township 6 North, Range 35 E.B.M., Jefferson County.

- c. Description of diverting works - The Jackett Canal Company diverts both its decreed water rights from Camas Creek as well as the decreed and licensed rights from its seven wells at two locations on Camas Creek. The company maintains two pumps on Camas Creek in the Southwest Quarter of the Southwest Quarter of Section 33, Township 7 North, Range 35 E.B.M., and five pumps on Camas Creek in Lot 4 (Northwest Quarter Northwest Quarter), Section 3, Township 6 North, Range 35 E.B.M. The seven wells are located two to three miles north and east of the company's diversions from Camas Creek. Each of the wells discharges water into ditches which convey the well water into the Independent Ditch which empties into Camas Creek upstream from the two diversion points of the company. The Independent Ditch commences at a point in the Southwest Quarter of the Southwest Quarter of Section 13 where several wells are located at a point known as Buck Springs and flows in a generally southwest direction to the center of Section 27, Township 7 North, Range 35 E.B.M., and then directly south for approximately a mile where it discharges into Camas Creek in Section 34, Township 7 North, Range 35 E.B.M. In addition to assisting with the maintenance of the Independent Ditch and the small conveyances which discharge into the Independent Ditch, as well as the Jackett Canal system for distributing water to the lands of the stockholders south of Camas Creek, the company owns and maintains seven wells and fourteen pumps with electric motors ranging in size from 50 hp down to 20 hp.
- d. Describe the reasons for applying for a change in the points of diversion - The purpose of this entire application for

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transfer is to conform the records of the department to the actual practice of the company which has been carried on since its organization in 1956. Some of the points of diversion as far as the actual records are concerned may be somewhat confusing because of the changes that were made at that time, as well as a result of the numerous deeds which the company received from individual stockholders as well as the Independent Water Users of Mud Lake, Inc. at the time of the organization. In fact, in reviewing the language of the deed from Independent Water Users of Mud Lake, Inc. to Jackett Canal Company in 1956, we observed that the deed purported to convey an undivided one-third interest in the wells and pumps and other diverting works, as well as the conveyance system and water right itself. There are actually five wells at Buck Springs, all located in the Southwest Quarter of the Southwest Quarter of Section 13, Township 7 North, Range 35 E.B.M. In actual practice, Jackett Canal Company has been treated as owning the two western most wells and Independent Water Users of Mud Lake, Inc. the three eastern most wells. In order to clarify this situation, the two companies have exchanged quit claim deeds on these wells, again to make the records conform to the actual practice. Copies of those deeds are enclosed with this application.

2. Change in place of use:

- a. Describe the lands or place of use to which the right will be transferred:

TWP	RNG	SEC	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$				TOTAL
			NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	
7N	35E	32															lt 8 2	lt 7 18	20.00
		33											1						1.00
6N	35E	3	lt 1 41.89	lt 2 41.68	40	40	lt 3 41.46	lt 4 35	40	40	40	40	40	40		40	40		560.03
		4						lt 4 7			40	40	40	40	40	40	40	40	327.00
		5	lt 1 41.20	lt 2 38	40	40					40			40	40	40	40	40	399.20

TWP	RNG	SEC	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$				TOTALS
			NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	
		8	40	40	40	40	40	40	40	40	40				40	40			440.00
		9	40	40	40	40					40	40	40	40		40	40		400.00
		16	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640.00
		17	40	40	40	40									40	40	40	40	320.00

Total number of acres to be irrigated 3,107.23

- b. Draw a map indicating the new points of diversion and/or the new land to be irrigated. Show clearly the land involved by section, township, and range number. The attached map showing lands of the company irrigated by its stockholders colored in yellow with points of diversion and location of wells shown in blue.
3. Remarks - An attempt has been made by the applicant to identify the exact property of its stockholders upon which the company water is to be used, as well as the points of diversion. Essentially, the actual practice of the company has been as shown for a period of nearly 22 years. Recently, when the company began to review its water rights, it was discovered that although they were deeded to the company in 1956, no effort had been made to transfer the water rights so that an equal amount was appurtenant to each acre of ground within the system. Indeed, we discovered that the records would show that some land had several water rights appurtenant and some of the company land had no water rights appurtenant. It is the desire and intention of the company that all of the company's water rights be transferred to all of the company's lands so that each acre has an equal amount of each of the company's rights appurtenant to it since this is the way the company has actually operated.

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CAMAS

JACKETT WELL #1

JACKETT WELL #26

JACKETT WELL #8

JACKETT WELL #85

JACKETT WELL #2

JACKETT WELL #5

JACKETT WELL #1

Bunker Hill

NATIONAL

WILD LIFE

Owsley Wells

Holly Wells

CREEK

CANAL

WAYS

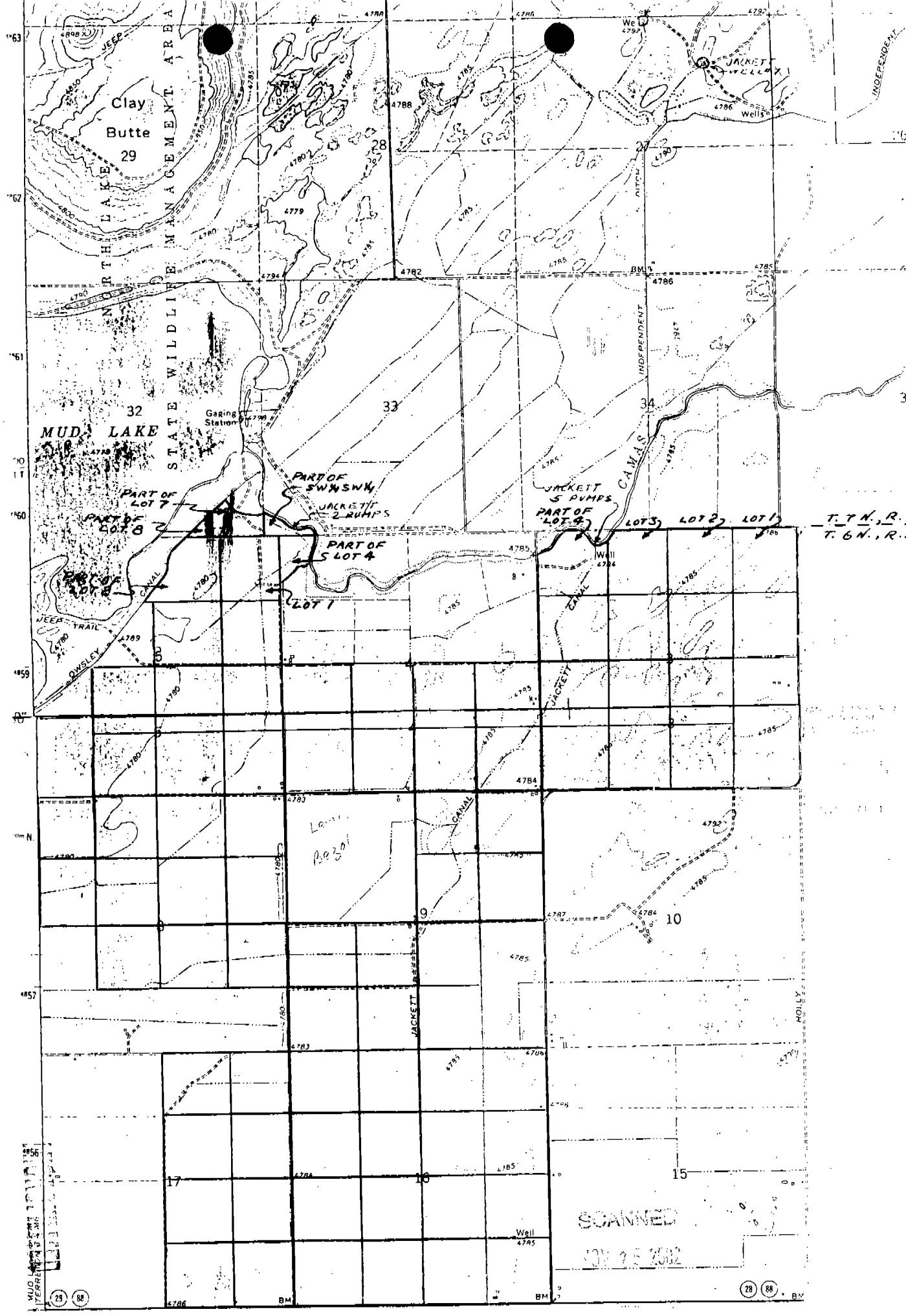
JACKETT 5 PUMPS
PART OF
LOT 4

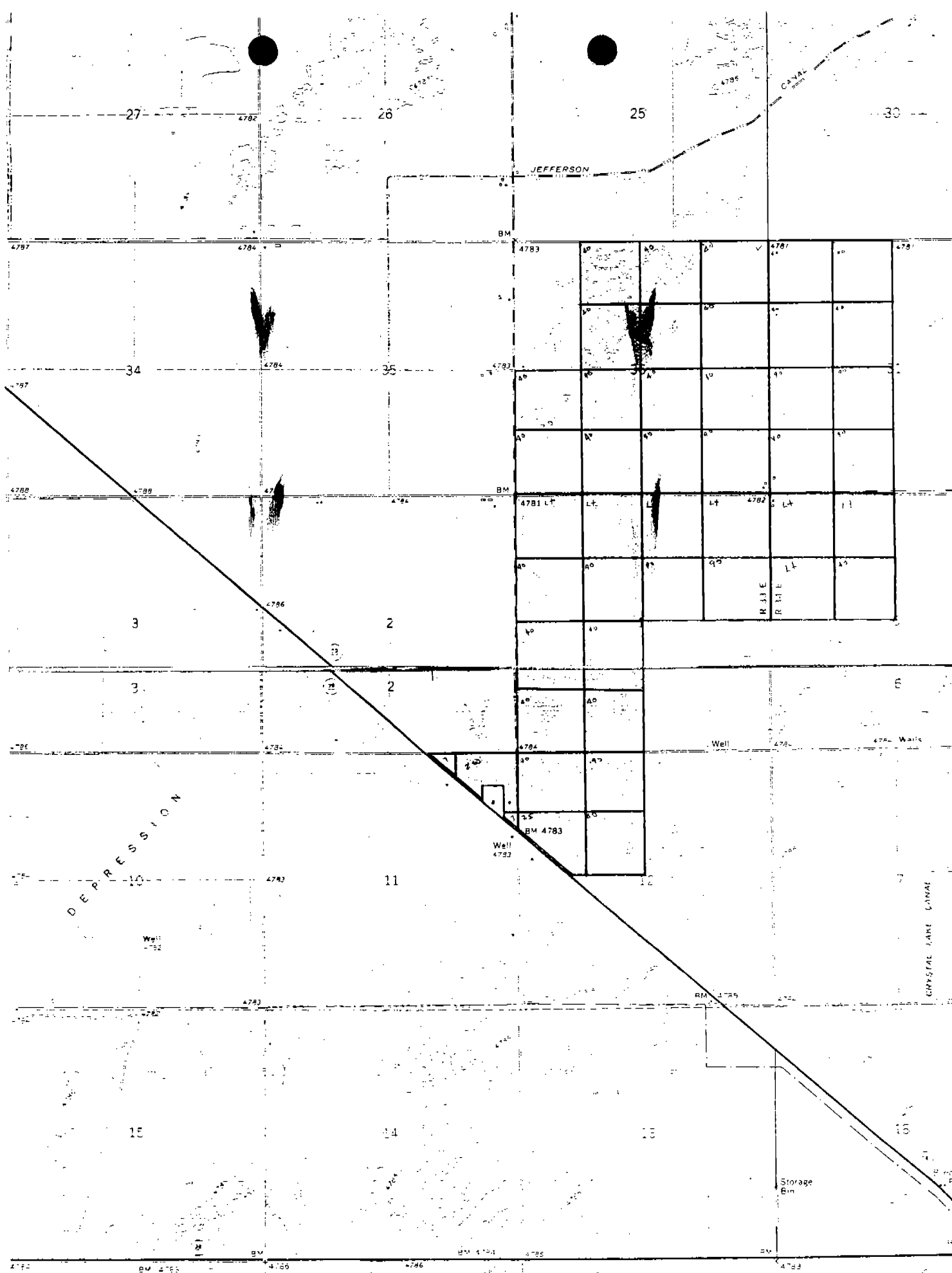
LOT 3, LOT 2, LOT 1

T. 6 N., R. 35 E.

T. 6 N., R. 35 E.

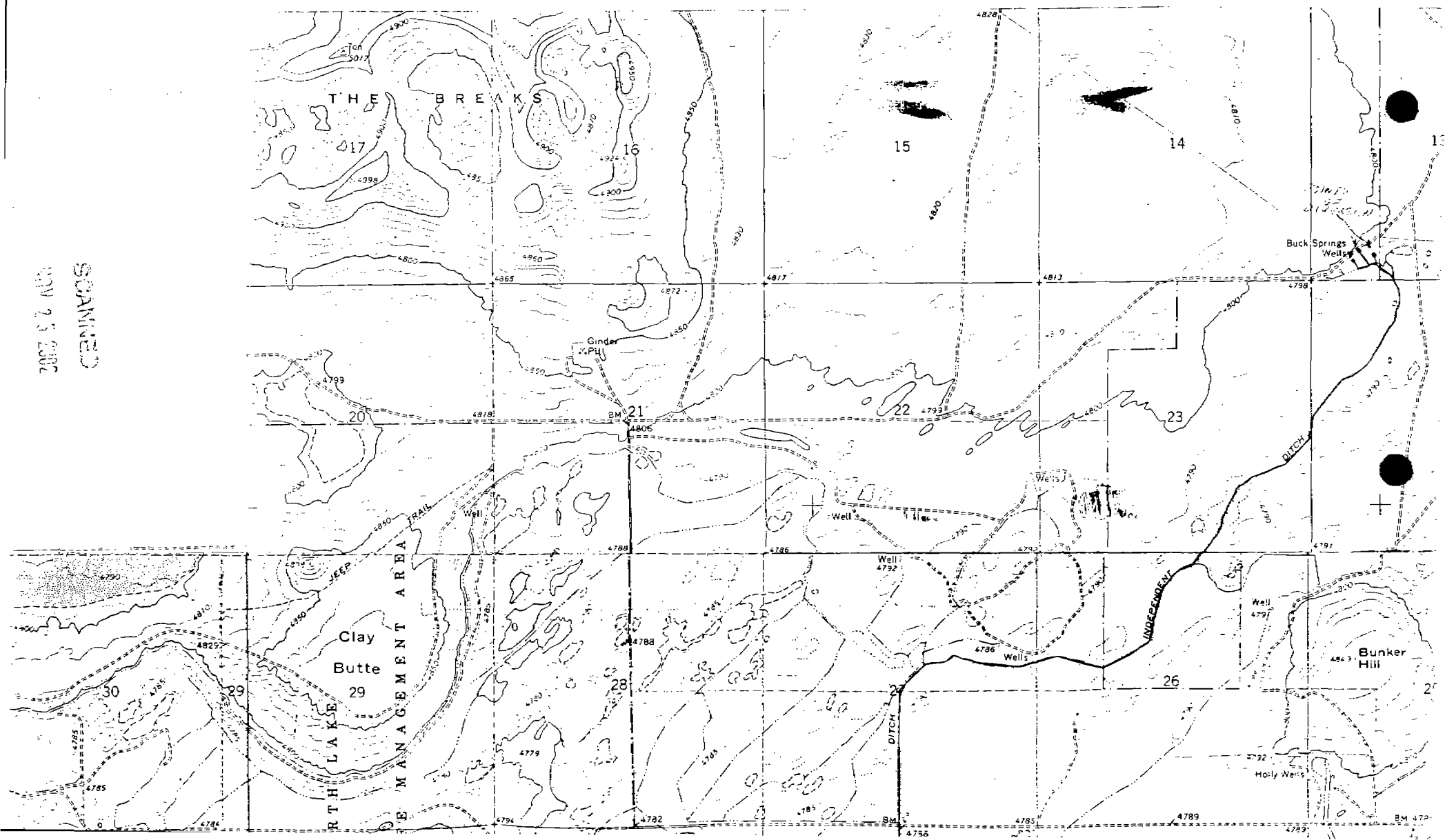
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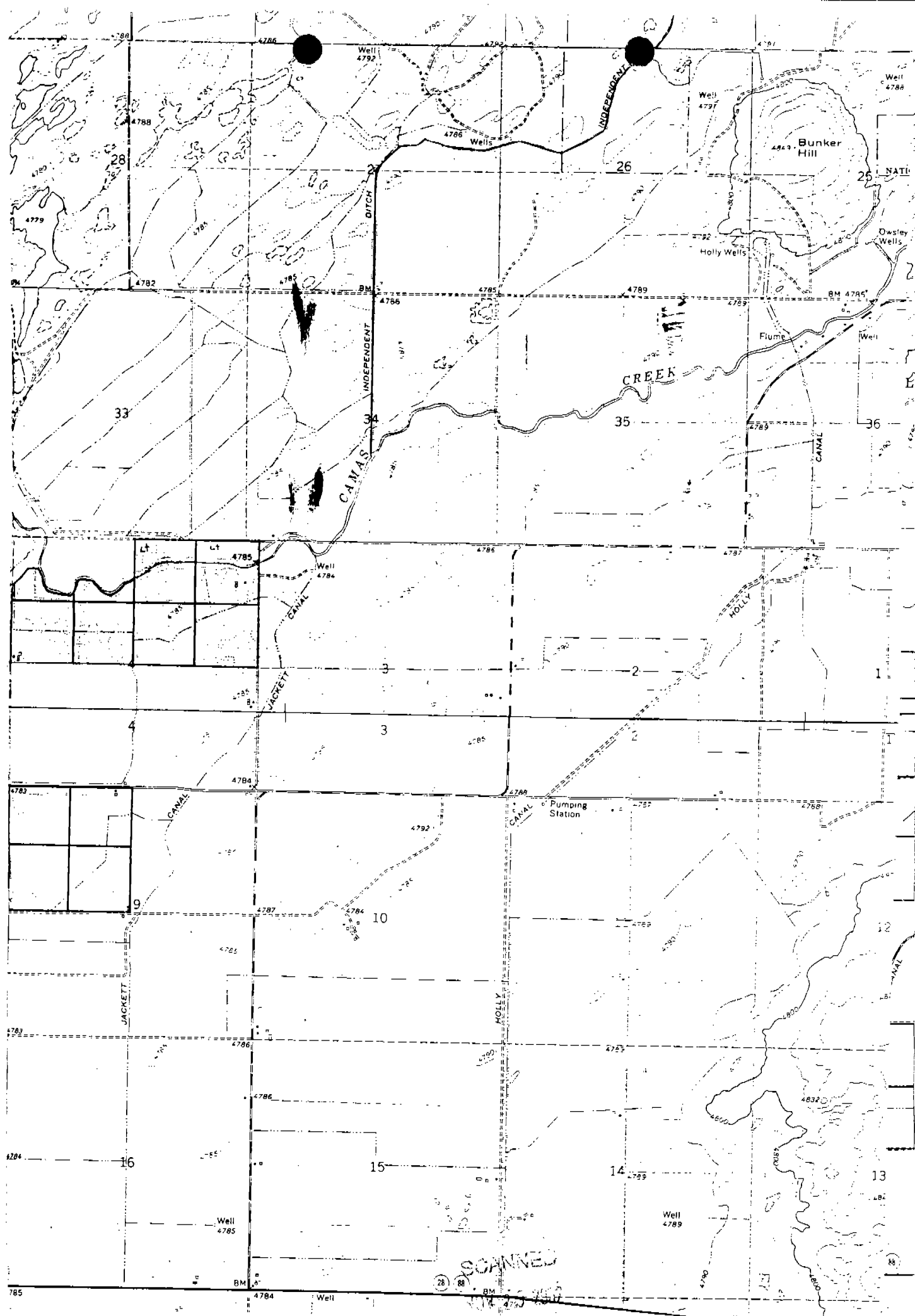


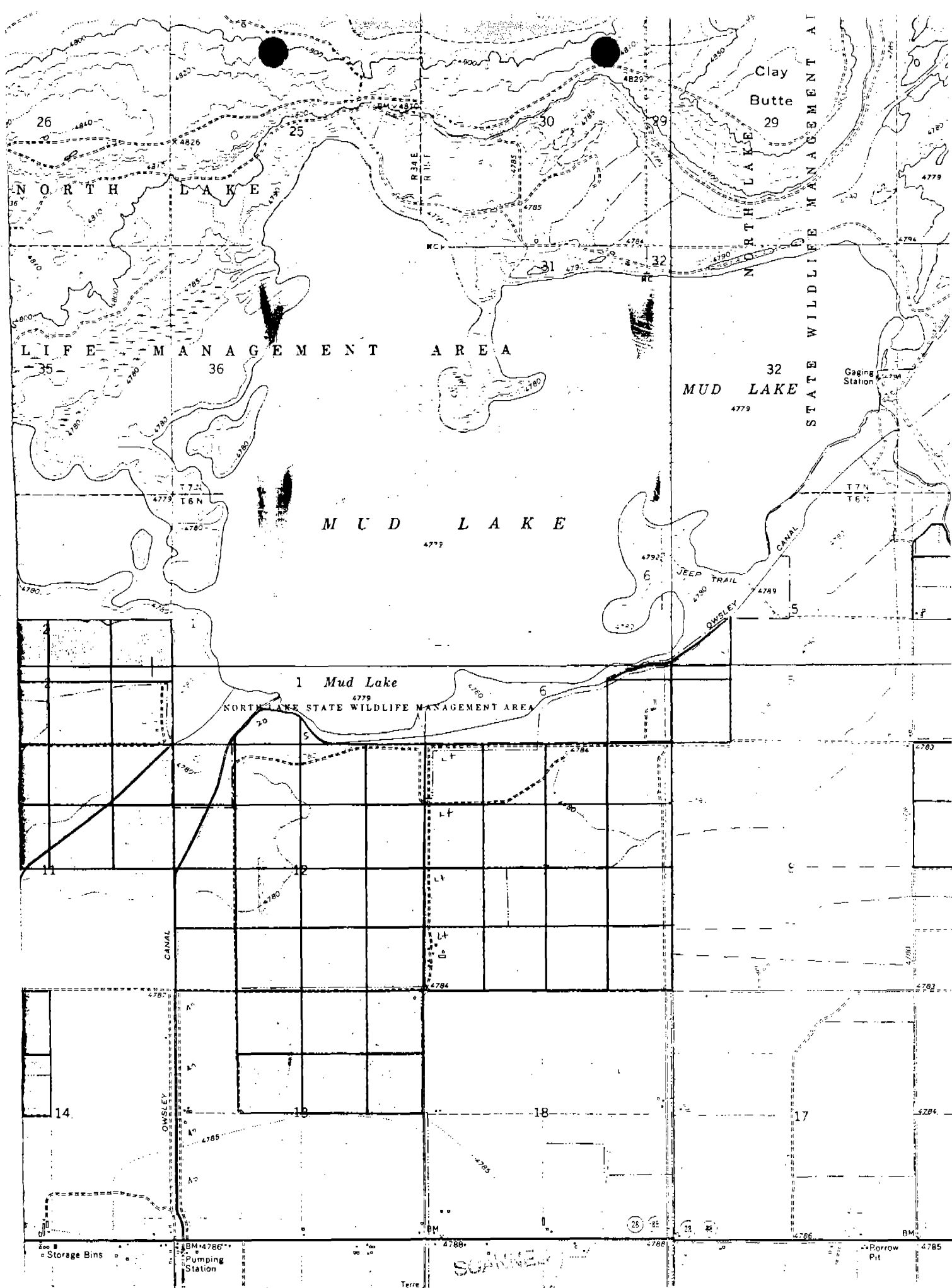


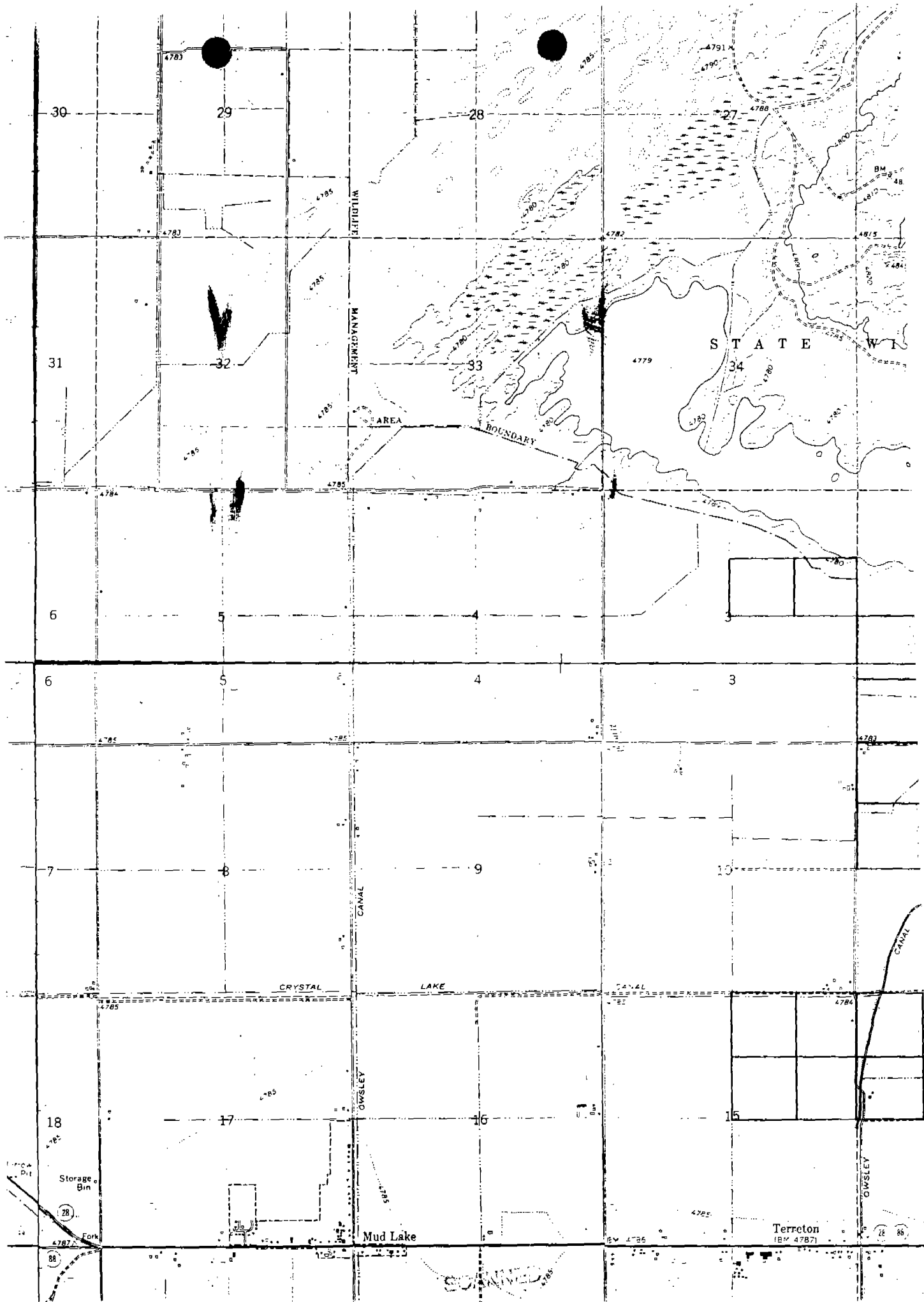
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And affiant further says that at newspaper was made up of at least four printed from type matter of at least s depth; and that there are at least two Jefferson County.

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SCANNED

Subscribed in my presence and sworn to
day of April, 19 79.
[SEAL]

Eve
Notary
Residence and

My commission

Publication Fee: \$ 73.39

REFILED

Idaho Falls, Idaho,
April 23, 1979
/s/ C. Stephen

31-0143 Amount: 1.00 cfs. Priority:
March 29, 1911.

31-0144 Amount: 1.00 cfs Priority:
Apr. 21, 1912

These two rights are diverted within
Lot 4, Sec. 3, T. 6N, R. 35E, and used to
irrigate lands within Lots 3 & 4,
SW $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$,
Sec. 3, T. 6N, R. 35E.

31-0190 Decree to Merritt M. Owsley
in case of Ernest Sauve-vs-W. H.
Abbott dated Nov. 1, 1930, in U.S.
District Court, County of Bannock and
recorded as:

Amount: 5.90 cfs

Priority: Oct. 14, 1913

Decreed Point of Diversion: NW
Corner, Sec. 3, T. 6N, R. 35E

Place of Use: W $\frac{1}{2}$ E $\frac{1}{2}$, SW $\frac{1}{4}$, Sec. 9,

Decreed rights from ground-water
sources.

31-0336 Decree to Independent Water
Users in case of Owsley Canal
Co.-vs-Ernest Bauerle dated Oct. 14,
1940 in Ninth District Court, County of
Jefferson and recorded as:

Amount: 32.5 cfs

Priority: Apr. 27, 1932

Decreed Point of Diversion:

NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 3, T. 6N, R. 35E.

Place of Use: Lot 7, Sec. 32, T. 7N, R.

35E; Lot 4, S $\frac{1}{2}$, Sec. 4, Lots 1 & 2,

SW $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$, Sec. 5,

NE $\frac{1}{4}$, - W $\frac{1}{2}$ NW $\frac{1}{4}$, - SE $\frac{1}{4}$ NW $\frac{1}{4}$,

N $\frac{1}{2}$ SW $\frac{1}{4}$, - NW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 8,

E $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, Sec. 9, W $\frac{1}{2}$ NW $\frac{1}{4}$,

Sec. 10, T. 6N, R. 35E.

31-0337 (same decree as 31-0336)

Amount: 50.0 cfs

Priority: Dec. 15, 1932

Decreed Point of Diversion: SW $\frac{1}{4}$,

Sec. 13, NW $\frac{1}{4}$, Sec. 24, T. 7N, R. 35E;

NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 3, T. 6N, R. 35E;

NW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 7, NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec.

T. 6N, R. 34E.

Place of Use: E $\frac{1}{2}$, E $\frac{1}{2}$ SW $\frac{1}{4}$,

SW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 36, T. 7N, R. 33E;

SW $\frac{1}{4}$, Sec. 31, T. 7N, R. 34E; N $\frac{1}{2}$, Sec.

T. 6N, R. 33E; NW $\frac{1}{4}$, Sec. 6, E $\frac{1}{2}$,

SW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 12, T. 6N,

R. 35E; Sec. 7, W $\frac{1}{2}$ E $\frac{1}{2}$, SW $\frac{1}{4}$, Sec. 9,

T. 6N, R. 35E.

Decreed ground-water rights

Amount: 3.20 cfs

Priority: Jan. 13, 1949

Point of Diversion: NW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec.

T. 7N, R. 35E.

Place of Use: NE $\frac{1}{4}$, Sec. 8, T. 6N, R.

31-2290

Amount: 3.60 cfs

Priority: Feb. 14, 1949

Point of Diversion: NW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec.

T. 7N, R. 35E.

Place of Use: E $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$, Sec.

T. 6N, R. 35E.

31-2297

Amount: 6.00 cfs

Priority: Dec. 29, 1949

Point of Diversion: NW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec.

T. 7N, R. 35E.

NOV 25 2007
SCANNED

ORIGINAL FILED

NOTICE IS HEREBY GIVEN
Jackett Canal Company has applied to
the Department of Water Resources for
a change in the points of diversion and
places of use of the water from
ground-water sources and surface water
from Camas Creek. The rights to be
changed are evidenced as follows:
Decreed rights from Camas Creek
31-0134 Decree to Los Angeles First
National Bank & Trust Co. in case of
Ernest Sauve vs W. H. Abbott dated
Nov. 1, 1930 in U.S. District Court,
County of Bannock and recorded as:
Amount: 3.50 cfs.
Priority: 3-20-1911
Decreed Point of Diversion:
Sec. 4, T. 6N, R. 35E
Place of use: Lot 7, Sec. 32, T. 7N, R. 35E,
Lot 4, Lot 1, Sec. 4, Lot 2, Sec. 5,
T. 6N, R. 35E.
31-0135 Decree to Los Angeles First
National Bank in case of Ernest Sauve
vs W. H. Abbott dated Nov. 1, 1930 in
U.S. District Court, County of Bannock
and recorded as:
Amount: 2.50 cfs.
Priority: June 10, 1912
Decreed Point of Diversion: Center
SW 1/4, Sec. 5, T. 6N, R. 35E
Place of Use: W 1/2 NE 1/4, NW 1/4
NW 1/4 SW 1/4, NW 1/4 SE 1/4, Sec. 8, T. 6N,
R. 35E.
31-0143 and 31-0144 Decree to
Clarence O. McGill & G. B. Adams in
case of Ernest Sauve vs W. H. Abbott
dated Nov. 1, 1930 in U.S. District
Court, County of Bannock and recorded
as:
31-0143 Amount: 1.00 cfs. Priority:
March 29, 1911.
31-0144 Amount: 1.00 cfs. Priority:
Sept. 21, 1912.
These two rights are diverted within
Lot 4, Sec. 3, T. 6N, R. 35E, and used to
irrigate lands within Lots 3 & 4,
SW 1/4 NW 1/4, N 1/2 SW 1/4, SW 1/4 SW 1/4,
Sec. 3, T. 6N, R. 35E.
31-0190 Decree to Merritt M. Owsley
in case of Ernest Sauve vs W. H. Abbott
dated Nov. 1, 1930, in U.S.
District Court, County of Bannock and
recorded as:
Amount: 5.90 cfs
Priority: Oct. 14, 1913
Decreed Point of Diversion: NW
Corner, Sec. 3, T. 6N, R. 35E
Place of Use: W 1/2 E 1/2, SW 1/4, Sec. 3,
T. 6N, R. 35E
Decreed rights from ground-water
sources.
31-0336 Decree to Independent Water
Users in case of Owsley Canal
Co. vs Ernest Bauerle dated Oct. 14,
1940 in Ninth District Court, County of
Jefferson and recorded as:

STATE OF IDAHO,
County of Jefferson

I, Karl Hanosky
Publisher

newspaper as defined by law,
amended, and that said news,
published at Rigby, Jefferson County,
said county, and that said news is a
weekly newspaper, in said county,
to the first publication of the attached

And affiant further says that said
publication as per clipping attached
regular and entire issue thereof, a
for 2 consecutive issues thereof
the

and the last publication on the

And affiant further says that at
newspaper was made up of at least four
printed from type matter of at least
depth; and that there are at least two
Jefferson County.

Subscribed in my presence and sworn to
day of April, 19 79.
[SEAL]

Notary
Residence and

My commission

THE RIGBY STAR

APR 2

Department of
Eastern

NE 1/4, SE 1/4 NE 1/4
Sec. 3, SW 1/4 SE 1/4
Sec. 9, T. 6N, R. 35E
Place
E 1/2 NW 1/4
Sec. 4, W
31-2310
Amount: 5.80 cfs
Priority: Sept. 24, 1952
Point of Diversion: SW 1/4 SW 1/4, Sec.
23, T. 7N, R. 35E.
Place of Use: E 1/2, Sec. 17, T. 6N, R.
31-2317
Amount: 8.08 cfs Priority: Feb.
Amount: 1.90 cfs Priority: Oct.
1956
Point of Diversion: NW 1/4 SW 1/4, Sec.
23, NE 1/4 SE 1/4, Sec. 22 T. 7N, R. 35E
Place of Use: Sec. 16, T. 6N, R. 35E
31-2321
Amount: 1.92 cfs
Priority: Apr. 25, 1953
Point of Diversion: NW 1/4 NE 1/4, Sec.
27, T. 7N, R. 35E
Place of Use: NE 1/4 SW 1/4, N 1/2 SE 1/4
Sec. 8, T. 6N, R. 35E.
The above rights are for the purpose
of irrigation of lands within Jefferson
County.

TO BE CHANGED AS FOLLOWS

The combination of all of the above
described rights of the Jackett Canal
Co. amounts to 75 cubic feet per second,
and will be diverted from several wells
located at a point known as Buck's
Springs within the SW 1/4 SW 1/4, Sec. 13,
T. 7N, R. 35E (Independent Ditch)
from points within the NW 1/4 SE 1/4, Sec.
22, NW 1/4 SW 1/4, SW 1/4 SW 1/4, Sec. 23,
NW 1/4 NE 1/4, Sec. 27, two pumps
within the SW 1/4 SW 1/4, Sec. 33 (Camas
Creek) T. 7N, R. 35E (Independent
located within Lot 4, Sec. 3 (Camas
Creek), T. 6N, R. 35E. B.M. Jefferson
County; and used to irrigate 3107.23
acres within Lots 7 & 8, Sec.
SW 1/4 SW 1/4, Sec. 33, T. 7N, R. 35E
N 1/2, SW 1/4, W 1/2 SE 1/4, Sec.
NW 1/4 NW 1/4, S 1/2, Sec.
E 1/2 SW 1/4, Sec. 5, N 1/2 NW 1/4,
N 1/2 SE 1/4, Sec. 8, Sec. 16, E
T. 6N, R. 35E, B.M.
The Jackett Canal Co. continues
ground-water and surface water,
making this transfer to remain
the company. approval of the

WILLIAM S. HOLDEN
R. VERN KIDWELL
FRED J. HAHN
TERRY L. CRAPO
KENT W. FOSTER
ROBERT E. FARNAM
WILLIAM D. FALER
STEPHEN E. MARTIN

CHARLES A. HOMER
GARY L. MEIKLE
CURT R. THOMSEN
RANDALL K. BARTON

LAW OFFICES
HOLDEN, KIDWELL, HAHN & CRAPO
IDAHO FIRST NATIONAL BANK BUILDING
P. O. BOX 129
IDAHO FALLS, IDAHO 83401

ARTHUR W. HOLDEN (1877-1967)
ROBERT S. HOLDEN (1911-1971)

TELEPHONE 523-0620
AREA CODE 208

March 28, 1979

Mr. Ernest M. Carlson
Department of Water Resources
Eastern District Office
1515 Lincoln Road
Idaho Falls, Idaho 83401

Re: ~~Application~~ for Transfer - Jackett Canal

Dear Ernie:

We apologize for the oversight in enclosing a copy of the water deed for License No. 31-2317. We are enclosing with this letter, a photocopy of that deed. Actually it is for permit No. G-3836 then, of course, the new number is 31-2317. If we can provide any further assistance, please call upon us.

Yours very truly,

Kent
Kent W. Foster

KWF:jt

Enclosure

RECEIVED

MAR 29 1979

Department of Water Resources
Eastern District Office

SCANNED

NOV 25 2002

Merritt M. Owsley

1912 - April 15

31 1912 ✓
7.0 c.f.s.

Source: Mud Lake

Point of Diversion: About one-half mile North of the Northeast Quarter of Section 12, Township 6 North, Range 34 East, B. M.

For use on the following described land, to-wit: The East Half of Section 12, Township 6 North, Range 34 East, B. M.; the West Half of SW $\frac{1}{4}$ of Section 7, Township 7 North, Range 35 East, B. M.

1917 - September 8

31 1922 ✓
3.0 c.f.s.

Source: Mud Lake.

Point of Diversion: A point common to the Northwest corner of Section 7, Township 6 North, Range 35 East, B. M., and the Northeast corner of Section 12, Township 6 North, Range 34 East, B. M.

For use on the following described land, to-wit: The Northeast Quarter of Section 7, Township 6 North, Range 35 East, B. M.

RECEIVED

May 3, 1978

JUL 7 1978

TO: THE JACKETT CANAL COMPANY
FROM: JOSEPH M. AND ELLA M. MARTY

Department of Water Resources
Eastern District Office

Gentlemen:

This letter will acknowledge that we have been advised that the Jackett Canal Company is proceeding under the provisions of Idaho Code, Section 42-222, to transfer water rights owned by the canal company for the purpose of conforming the records of the Idaho State Department of Water Resources to the actual practices of the canal company with respect to the places of use of the canal company's water rights since its organization in 1956.

We understand that for whatever reason, the current records of the department show a portion of the Jackett Canal Company's water right as being appurtenant (attached) to some of our land which is not irrigated with Jackett Canal Company water.

31-0336

Specifically, it appears that a portion of Right No. 31-0036 (decreed in the case of the Owsley Canal Company vs. Ernest Bauerle, October 13, 1940 - formerly License No. 17690/31-2253) is shown on the department records as being appurtenant to certain of our lands in Lot 4, Section 4, Township 6 North, Range 35 E.B.M., north and east of Camas Creek.

By this letter, we wish to verify that Jackett Canal Company water is not used on any of our land north and east of Camas Creek. We have not been assessed by the company for any such water, and do not claim any right to its use on this land. This land is irrigated with other water rights.

We understand that this error was discovered during the company's efforts to verify the records of the department, and that the Jackett Canal Company does not intend to levy or attempt to collect from us, any assessments, either for prior years or in the future, for the water rights which are erroneously assigned to the above described land.

Joseph M. Marty
Joseph M. Marty

Ella M. Marty
Ella M. Marty

SCANNED

NOV 25 1981

RECORDED

STATE OF IDAHO)
) ss.
County of Jefferson)

On this 9th day of May, 1978, before me, the under-
signed, a Notary Public in and for said state, personally
appeared JOSEPH M. and ELLA M. MARTY, his wife, known to me
to be the persons whose names are subscribed to the within
instrument, and ~~acknowledged~~ to me that they 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.

Patricia A. Carver
Notary Public for Idaho
Residing at: Lewburg, Id
My Commission Expires 10-26-80

(Seal)

NOTARY PUBLIC

SCANNED
02-15-2002

May 3, 1978

RECEIVED

JUL 7 1978

TO: THE JACKETT CANAL COMPANY
FROM: J. T. and ESTHER B. FURNESS

Department of Water Resources
Eastern District Office

Gentlemen:

This letter will acknowledge that we have been advised that the Jackett Canal Company is proceeding under the provisions of Idaho Code, Section 42-222, to transfer water rights owned by the canal company for the purpose of conforming the records of the Idaho State Department of Water Resources to the actual practices of the canal company, with respect to the places of use of the canal company's water rights since its organization in 1956.

We understand that for whatever reason, the current records of the department show a portion of the Jackett Canal Company's water right as being appurtenant (attached) to some of our land which is not irrigated with Jackett Canal Company water.

Specifically, it appears that a portion of Right No. 31-0134 (a right decreed in the case of Ernest Sauve vs. W.H. Abbott, et al, dated November 1, 1930, as No. 70, at page 47 of said decree) and is shown as being appurtenant to our land in Lot 1 (Northeast Quarter Northeast Quarter) of Section 4, Township 6 North, Range 35 E.B.M., north and east of Camas Creek.

By this letter, we wish to verify that Jackett Canal Company water is not used on any of our land described above. We have not been assessed by the company for any such water, and do not claim any right to its use on this land. This land is irrigated with other water rights.

We understand that this error was discovered during the company's efforts to verify the records of the department, and that the Jackett Canal Company does not intend to levy or attempt to collect from us, any assessments, either for prior years or in the future, for the water rights which are erroneously assigned to the above described land.

J. T. Furness
J. T. Furness

Esther B. Furness
Esther B. Furness

ENCLOSURE

NOV 25 2006

RECORDED

STATE OF IDAHO)
) ss.
County of Terreton)

On this 10th day of May, 1978, before me, the undersigned, a Notary Public in and for said state, personally appeared J.T. and ESTHER B. FURNESS, his wife, known to me to be the persons whose names are subscribed to the within instrument, and acknowledged ~~to me~~ that they 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.

Jay A. McGee
Notary Public for Idaho
Residing at Harmer, Id.
My Commission Expires 1-23-82

(Seal)

RECORDED

May 3, 1978

RECEIVED

JUL 7 1978

TO: THE JACKETT CANAL COMPANY

Department of Water Resources
Eastern District Office

FROM: RULAN YEARSLEY AND ESTHER YEARSLEY
and MERLIN H. MC AFFEE AND FAYE MC AFFEE

Gentlemen:

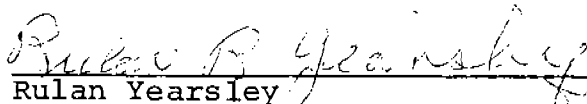
This letter will acknowledge that we have been advised that Jackett Canal Company is proceeding under the provisions of Idaho Code, Section 42-222, to transfer water rights owned by the canal company, for the purpose of conforming the records of the Idaho State Department of Water Resources to the actual practices of the canal company, with respect to the places of use of the canal company's water rights since its organization in 1956.

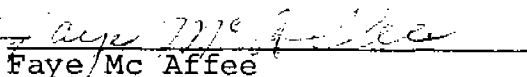
In the past, a portion of the canal company's water right has been appurtenant to and used upon the West Half of the Northwest Quarter of Section 10, Township 6 North, Range 35 E.B.M. Recently, Permit No. 31-7172 was issued for the irrigation of this land, as well as some other land which we own.

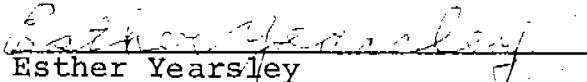
By this letter, we wish to verify that the Jackett Canal Company is no longer used on the land described above. We do not claim any right to the use of Jackett Canal Company water for this land since our lands are now irrigated with the water rights under the Permit No. 31-7172.

We hereby release any right which we may have by virtue of rights of the Jackett Canal Company being appurtenant to our lands, and consent to their transfer to other lands under the company system. In so doing, we understand that the canal company does not intend to levy or to attempt to collect from us, any assessments, either for prior years or in the future, for such canal company water rights.


Merlin H. Mc Affee


Rulan Yearsley


Faye Mc Affee


Esther Yearsley

RECEIVED

RECEIVED

JUL 23 1978

STATE OF IDAHO)
) ss.
County of Jefferson)

On this 11th day of May, 1978, before me, the undersigned, a Notary Public in and for said state, personally appeared RULAN YEARSLEY and ESTHER YEARSLEY, his wife, known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they 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.

(Seal)

Layne A. McAffee
Notary Public for Idaho ^{Hamer}
Residing at ~~Idaho Falls~~, Idaho
My Commission Expires: 1-23-82

STATE OF IDAHO)
) ss.
County of Jefferson)

On this 11th day of May, 1978, before me, the undersigned, a Notary Public in and for said state, personally appeared MERLIN H. Mc AFFEE and FAYE Mc AFFEE, his wife, known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they 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.

(Seal)

Layne A. McAffee
Notary Public for Idaho
Residing at Hamer, Id
My Commission Expires: 1-23-82

CORPORATION QUITCLAIM DEED

JUL 7 1978

THIS INDENTURE, Made this day of Department of Water Resources, in the
Eastern District Office
year of our Lord one thousand nine hundred and seventy eight....., between

INDEPENDENT WATER USERS OF MUD LAKE, INC.

a corporation duly organized and existing under the laws of the State of Idaho....., and
having its principal office in Idaho at County of Jefferson
State of Idaho, the party of the first part, and

JACKETT CANAL COMPANY, INC.

of County of Jefferson, State of Idaho
the party of the second part.

WITNESSETH, That the said party of the first part, having been hereunto duly authorized by
resolution of its Board of Directors, for and in consideration of the sum of
TEN AND NO/100-..... DOLLARS,
lawful money of the United States of America, to it in hand paid by the said party of the second
part, the receipt whereof is hereby acknowledged, has remised, released, and forever quitclaimed and does
by these presents remise, release, and forever QUITCLAIM, unto the said party of the second part,
and to its heirs and assigns, ... all certain lot piece or parcel
of land, situate, lying, and being in County of Jefferson, State of
Idaho, bounded and particularly described as follows, to-wit:

The two westernmost wells of the five wells
located at Buck Springs within the southwest
quarter of the southwest quarter (SW $\frac{1}{4}$ SW $\frac{1}{4}$) of
Section 13, Township 7 North, Range 35 E B.M.,
Jefferson County, Idaho, against all pumps and
other diversion works and structures located
at and used in connection with said wells.

Microfilm No. 192971

37 Days 1978

At O'Clock M.

Robert J. Barrow

Jefferson Co. Recorder

Fee \$3.75 Deputy

Recorded At request of

John H. Beckwith, State

4/2/80.

MICROFILMED

SCANNED

NOV 13 1978

116318

Instrument No.

State of Idaho, }
County of Jefferson, }

I hereby certify that the within
instrument was filed for record at the
request of

Ralph L. Allbaugh

on the 15 day of Sept 1958

at 15 minutes past 9 o'clock

a M. and recorded in Book 55

of Water Right page 302

records of Jefferson County.

Eileen M. Smith

Recorder.

By Oliver M. Moore

Deputy

Recorder's Fee \$ 1.00

116317

Instrument No.

State of Idaho, }
County of Jefferson, } ss.

I hereby certify that the within
instrument was filed for record at the
request of

Ralph L. Dwyer
on the 15 day of Sept 1956
at 10 minutes past 9 o'clock

a M. and recorded in Book 65
of Water Right page 306
records of Jefferson County.

Eileen M. Hunt

Recorder.

By [Signature] Deputy

Recorder's Fee 1.20

SCANNED

116319

Instrument No.

State of Idaho,
County of Jefferson, } ss.

I hereby certify that the within
instrument was filed for record at the
request of

Ralph L. Callaghan

on the 15 day of Sept, 1958

at 20 minutes past 9 o'clock

a M. and recorded in Book 55

of Water Right page 308

records of Jefferson County.

William M. Mason

Recorder.

By Chas. L. Lamm

Deputy

Recorder's Fee \$ 1.00

COPIED

116316

Instrument No.

State of Idaho, }
County of Jefferson, } ss.

I hereby certify that the within
instrument was filed for record at the
request of

Ralph L. Albright

on the 15 day of Sept 1958

at 5 minutes past 9 o'clock

AM and recorded in Book 55

of Water Right page 306

records of Jefferson County.

Edgar M. Nelson

Recorder.

B. Chas. L. Johnson

Deputy

Recorder's Fee \$ 1.00

ATT. 1 31-0134
31-0135
31-0143
31-0144
31-0190

W A T E R D E E D

THIS INDENTURE, made this 1st day of May, in the year of our Lord, One Thousand Nine Hundred and Fifty-six, by and between FRANK S. JACKETT and BESSIE JACKETT, his wife, of Jefferson County, Idaho, the parties of the first part, and JACKETT CANAL COMPANY, a corporation, of Jefferson County, Idaho, the party of the second part,

W I T N E S S E T H

That the said parties of the first part, for and in consideration of Four Hundred (400) shares of the capital stock of said Jackett Canal Company, to them in hand paid and delivered by the party of the second part, the receipt whereof is hereby acknowledged, have bargained and sold, and by these presents do assign, sell, convey and transfer unto the said party of the second part and to its successors and assigns forever, the following described water rights to appropriate the public waters of the State of Idaho near Hamer, in Jefferson County, Idaho, decreed in the United States District Court in and for the District of Idaho, Eastern Division, in the case of *Sauve v. Abbott*, said decreed rights being more particularly described as follows, to-wit:

<u>DECREEED OWNER</u>	<u>DATE OF PRIORITY</u>	<u>AMOUNT</u>
Los Angeles First National Bank & Trust Company	March 20, 1911	3.5 c.f.s.
Los Angeles First National Bank & Trust Company	June 10, 1912	2.5 c.f.s.
Clarence O. McGill & G.B. Adams	March 29, 1911	1.0 c.f.s.
Clarence O. McGill & G.B. Adams	September 21, 1912	1.0 c.f.s.
Merritt M. Owsley	October 14, 1913	5.9 c.f.s.

And together with all the canals, ditches and diversion works constructed for diverting, carrying and using the said water and water rights.

TO HAVE AND TO HOLD, all and singular the above mentioned and described water and water rights and the appurtenances thereunto

RECORDED
NOV 23 1956

Instrument No. **116320**

State of Idaho,
County of Jefferson, } S.S.

I, hereby certify that the within
instrument was filed for record at the
request of

Ralph L. Salbaugh

on the 15 day of Sept 1955

at 25 minutes past 9 o'clock

A.M. and recorded in Book 55

of Water Right page 309

records of Jefferson County.

Eileen M. Mason

Recorder.

By Clark R. Harmon

Deputy

Recorder's Fee \$ 1.00

SCAM
10/1

W A T E R D E E D

THIS INDENTURE, made this 20th day of December, in the year of our Lord, One Thousand Nine Hundred and Fifty-six, by and between INDEPENDENT WATER USERS OF MUD LAKE, INC., A Corporation, of Jefferson County, State of Idaho, party of the first part, and JACKETT CANAL COMPANY, A Corporation, of Jefferson County, State of Idaho, party of the second part,

W I T N E S S E T H

That the said party of the first part, for and in consideration of ONE THOUSAND ELEVEN (1011) shares of the capital stock of said Independent Water Users of Mud Lake, Inc., to it in hand paid and delivered by the said party of the second part for cancellation, the receipt whereof is hereby acknowledged, has bargained and sold and by these presents does assign, sell, grant, convey and transfer unto the party of the second part and to its successors and assigns an undivided one-third (1/3) interest in and to all of the water and water rights and diversion works of every kind, nature and description owned by the said first party, or in which first party has any interest and particularly, but not limited thereto, an undivided one-third (1/3) interest in and to the water rights evidenced by Idaho Water License No. 17690 and Idaho Water Permit No. 17763, 31-12511

TO HAVE AND TO HOLD all and singular the above mentioned and described water and water rights, diversion works and the appurtenances thereunto belonging or in anywise appertaining unto the party of the second part, and to its successors and assigns forever.

IN WITNESS WHEREOF, the party of the first part has caused these presents to be executed in its corporate name and behalf and its corporate seal to be hereunto affixed by its officers thereunto duly authorized under and pursuant to a resolution heretofore adopted by its stockholders.

INDEPENDENT WATER USERS OF MUD LAKE, INC.

By 21310 [Signature]
President

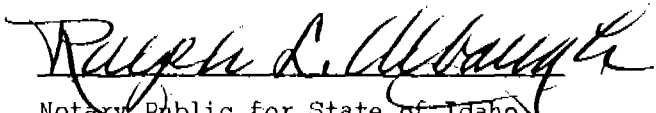
By [Signature]
Secretary

NOV 25 2002

STATE OF IDAHO)
 : ss
County of Bonneville)

On this 20th day of December, 1956, before me the undersigned notary public in and for said state, personally appeared M. M. OWSLEY and GARNET LEWIS, known to me to be the president and secretary of the corporation that executed the within 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 State of Idaho
Residing at Idaho Falls, Idaho

SCANNED
NOV 15 2007

120681

Super 16mm
11-1-59 DEC 159

Photo Dues 81
Edmund M. ...

RECEIVED
JAN 25 2002

WATER DEED

THIS INDENTURE, made this 1st day of May, in the year of our Lord, One Thousand Nine Hundred and Fifty-six, by and between FRANK S. JACKETT and BESSIE JACKETT, his wife, of Jefferson County, Idaho, the parties of the first part, and JACKETT CANAL COMPANY, a corporation, of Jefferson County, Idaho, the party of the second part,

WITNESSETH

That the said parties of the first part, for and in consideration of Six Hundred Forty (640) shares of the capital stock of said Jackett Canal Company, to them in hand paid and delivered by the party of the second part, the receipt whereof is hereby acknowledged, have bargained and sold, and by these presents do assign, sell, convey and transfer unto the said party of the second part and to its successors and assigns forever, the following described water permit to appropriate the public waters of the State of Idaho, near Hamer, in Jefferson County, Idaho, issued by the State Reclamation Engineer of the State of Idaho, and more particularly described as follows, to-wit:

<u>PERMIT NUMBER</u>	<u>DATE</u>	<u>APPLICANT</u>	<u>QUANTITY</u>
G-23836	March 7, 1953	Frank S. Jackett	12.8 cfs

And together with all the irrigation wells, pumps, ditches, canals, electric transformers and diversion works constructed, drilled and installed for developing, carrying and using the water appropriated and used under said permit, and all the water and water rights which have been or may be hereafter developed, appropriated and used under said water permit.

TO HAVE AND TO HOLD, all and singular, the above mentioned and described water and water rights and the appurtenances thereunto

SCANNED
MAY 25 2002

IN WITNESS WHEREOF, the parties of the first part have
hereunto set their hands and seals the day and year first above writ-
ten.

Frank S. Jackett (SEAL)
Bessie M. Jackett (SEAL)

STATE OF IDAHO)
County of Bonneville) ss

On this 1st day of May, 1956, before me, the undersigned
Notary Public in and for the State of Idaho, personally appeared
FRANK S. JACKETT and BESSIE JACKETT, his wife, known to me to be the
persons whose names are subscribed to the within instrument and
acknowledged to me that they 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.

Ralph L. Albright
Notary Public for State of Idaho
Residing at Idaho Falls, Idaho

MICROFILMED

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF IDAHO, EASTERN DIVISION

ERNEST SAUVE,

Plaintiff,

No. 635. -- In Equity

- vs -

D E C R E E

To W. H. Abbott, Ray Abbott, Mary Abbotts, Allen Almonda, G. B. Allen, Allen & Harn, a co-partnership, consisting of G. B. Allen and H. R. Harn; Wm. A. Andrews, Joseph Andrasen, Anderson Bros. Bank, a corporation; Gerret Auldhouse (sometimes known as Gerret Oldhouse); Clausen Auldhouse (sometimes known as Clausen Oldhouse), William Axline, Ernest Bauerle, Edward C. Barnes, May L. Barnes, Lovisa Barney, Arthur J. Barber, Charles Bartlett, Ambrose J. Beckner, Laura E. Beckner, William Beck, David Bethune, Lloyd Bennett, Gus E. Brauer, Administrator of the Estate of Annie J. Bennett, deceased; A. W. Belnap, C. W. Belnap, The Bennett Investment Company, Limited, a corporation; Gussie Binnard, Burka Binnard, Horace L. Birch, Binnard Ranch Company, a corporation; B. Binnard, Sarah Binnard and E. F. Mobley, Trustees for Binnard Ranch Company, a defunct corporation; Charles O. Rickman, as Trustee in Bankruptcy of Binnard Ranch Company, a corporation; Oscar A. Johanneson, as Receiver of Binnard Ranch Company, a corporation; Heber J. Blackburn, W. B. Boucher, Ray Bohney, R. T. Boatman, Mary Nicholas Boyd, Frank Boe, Charles E. Brosic, E. L. Browning, Adna E. Bramwell Afton Bradshaw, Theresa Brinkmann, Lottie Burcham, G. F. Burcham, Kate

MICROFILMED

Los Angeles First National Bank & Trust Company (formerly First National Bank of Los Angeles), a corporation.

31 134 ✓

T. 2303

1911 - March 20

3.5 c.f.s. ✓

Source: Camas Creek, a tributary of Mud Lake.

Point of Diversion: In Lot 4, Section 4, Township 6 North, Range 35 East, B. M.

For use on the following described land, to-wit:

7.38 acres in Lot 7, Section 32, Township 7 North, Range 35 East, B. M.

41. acres in Lot 4, Section 4;

2.25 acres in Lot 1, Section 4;

52.25 acres in Lot 2, Section 5; all in Township 6 North, Range 35 East, B. M.

31 135 ✓ T. 2303

1912 - June 10

2.5 c.f.s. ✓

Source: Mud Lake.

Point of Diversion: Near the center of the Southwest Quarter of Section 5, Township 6 North, Range 35 East, B. M.

For use on the following described land, to-wit: 320 acres as follows:

40 acres in the Northwest Quarter of the Northwest Quarter;

40 acres in the Northeast Quarter of the Northwest Quarter;

40 acres in the Southwest Quarter of the Northwest Quarter;

40 acres in the Southeast Quarter of the Northwest Quarter;

40 acres in the Northwest Quarter of the Northeast Quarter;

40 acres in the Southwest Quarter of the Northeast Quarter;

40 acres in the Northwest Quarter of the Southeast Quarter;

40 acres in the Northeast Quarter of the Southwest Quarter, --

all in Section 8, Township 6 North, Range 35 East, B. M.

June 23, 1981

Jackett Canal Company
% Holden, Kidwell, Hahn & Crapo
Box 129
Idaho Falls, Idaho 83401

Dear Sirs,

RE: Transfer of Water Right No.'s 31-0143/0144/0190/0336/2297/2317/0134/0135/0337
2289/2290/2310/2321

Enclosed is a copy of your approved Application for Transfer of the above referenced water rights (Transfer No. 2303). Be sure to note the conditions of approval as listed on the fourth page.

Sincerely,

L. GLEN SAXTON
Chief, Operations Bureau

LGS:mr
Enclosure

SCANNED
NOV 23 2001

MICROFILMED

CONVERSATION MEMORANDUM

DATE June 10, 1981FILE T 2303NAME OF PARTY Don ShentonEMPLOYEE Dave TuthillRE: Transfer No. 2303

1. Mr. Shenton feels that the existing rating system on Camas Creek is quite satisfactory, but that ~~measuring~~ devices are needed on the Buck Springs wells.

2. Note that water right 31-0192 will be transferred via a newly submitted transfer app (see Don Shenton's letter dated 4-12-1979).

MICROFILMED

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NOV 25 2002

MEMORANDUM

TO: Norm Young *NCT*
THRU: Glen Saxton, Bob Fleenor *DF*
FROM: Dave Tuthill *DET*
DATE: May 28, 1981
RE: Approval of Application for Transfer No. 2303.

The Jackett Canal Company Application for Transfer No. 2303 was originally filed with this Department on July 7, 1978. Since that date many problems have been raised related to the application. The intent of this memo is to (1) identify the two problems that have not yet been clearly resolved, (2) propose a suggested solution for each problem, and (3) list a suggested set of conditions of approval for the transfer.

Problem No. 1

Water rights nos. 31-0336 and 31-0337 represent a major conflict relating to this application for transfer. At the time the Owsley Canal Company vs. Ernest Bauerle decree was signed on October 14, 1940, two of the rights shown to be represented as valid permits were nos. 17690 and 17763. These rights were identified in paragraph V of the decree as follows:

That the defendant Independent Waters Users of Mud Lake, Inc., a corporation, is now the owner by assignment of water permit no. 17690 (31-2253) originally issued by the Department of Reclamation to Frank S. Jackett, for the diversion by means of wells of 32.50 cubic feet per second of underground water in the vicinity of Mud Lake; and is also the owner of water permit No. 17763 (31-2254), originally issued by said Department of Reclamation of Idaho to Merritt M. Owsley, for the diversion by means of wells of 50 cubic feet per second of underground water in the vicinity of Mud Lake.

Decreed right nos. 31-0336 and 31-0337 were assigned to the aforementioned water rights, respectively.

The two rights were also mentioned in part (d) of paragraph XII of the decree as follows:

For all or any of the wells constructed or to be constructed under water permits nos. 17690 and 17763 (both belonging to Independent Water Users of Mud Lake, Inc.), an amount not exceeding in the aggregate the equivalent of 91.8 cubic feet per second, flowing continuously during the irrigation season from May 1st to November 1st of each year.

The descriptions of the two water rights in the decree contain two major discrepancies. First, at the time the decree was signed on October 14, 1940, permit no. 17690 had already been licensed for nearly six months. The license was issued on April 23, 1940 for 28.0 cfs on 1328 acres.

- OK but*
- ① Be sure Shenton's comments on both X's are fully addressed.
 - ② Totalizing meters are very costly. Be sure Shenton needs before we require
 - ③ Give the Judge the benefit of the doubt on the 91.8 cfs *NCT*
 - ④ Emphasize only approving the present practice existing since 1956. No change in status.

SCANNED

NOV 25 2002

UNRECORDED

TO: Norm Young
THRU: Glen Saxton, Bob Fleenor
DATE: May 28, 1981
PAGE: 2

Therefore, the decree was incorrect in describing water right no. 17690 as a permit for 32.5 cfs.

The second major discrepancy was that the maximum total rate of flow for the two rights was "limited" to 91.8 in part (d) of paragraph XII of the decree. This quantity was obviously in error considering that the two permits were initially described within the decree as 32.5 cfs and 50.0 cfs, for a total of 82.5 cfs. The clear intent of paragraph XII within the context of the decree was to limit the season of diversion to May 1st through November 1st. No expansion or enlargement of the two permit rights was indicated in any other location within the decree so the total of 91.8 cfs must be considered to be in error, even though it is the contention of Jackett Canal Company that the total of 91.8 cfs be used as a measure of the permit rights.

To further add to the confusion of the extent of the two water rights, permit no. 17763 was cancelled on April 25, 1974 after all mandatory notification procedures were completed by the Department. As stated in a memo from Phil Rassier dated August 28, 1979, the validity of the right represented by decree no. 31-0337 was therefore in question. However, a letter from a Department representative dated June 4, 1974, indicated that "the right to the use of water from the wells proposed by the permit was confirmed by the decree". Thus for many years we have supported the contention that decreed right 31-0337 is valid. Per a draft memo from Phil Rassier dated May 6, 1980, this should have a significant bearing on our current interpretation of validity.

As a solution to the described situation, we can consider that (1) the figure of 91.8 cfs is totally unsubstantiated and was an error in the decree, (2) at the time the decree was signed, the water right represented by decree no. 31-0336 was already licensed for 28.0 cfs, and (3) we are committed to interpreting 31-0337 as a valid decreed right. ~~we should recognize the following rates for the purposes of transfer:~~

31-0336	28.0 cfs
31-0337	<u>50.0</u> cfs
	78.0 cfs

This interpretation has an effect on the other permits identified in the Owsley Canal Company vs. Ernest Bauerle, et.al. decree. To be consistent, the other permits should be field examined by regional office personnel at the earliest opportunity to determine their current validity. A memo should be attached to decree which identifies the extent to which water rights described by the permits are still being utilized. To the extent they are currently utilized, the permit rights should be considered to be decreed.

RECORDED
NOV 15 2001

TO: Norm Young
THRU: Glen Saxton, Bob Fleenor
DATE: May 28, 1981
PAGE: 3

Problem No. 2

The places of use of the various water rights represent the other major conflict of this transfer application. As shown in Table 1, the total acreage shown on the water rights originally summed 3965. As indicated in Kent Foster's letter dated November 3, 1978, only about 3300 unique acres are included in that total.

The original place of use ~~described in the transfer application~~ for 31-0336 is the place of use shown on license no. 31-2253; 1328 acres within T. 7 N., R. 35 E. and T. 6 N., R. 35 E. The original place of use described in the transfer application for 31-0337 is the place of use shown on permit no. 31-2254; 2619.1 acres within T. 7 N., R. 33-34 E. and T. 6 N., R. 33-35 E. Thus, the sum of acreage under the two water rights is 3947.1 acres. This application for transfer purports to change the place of use of 1/3 of each right (1316 acres total) to all acres served by Jackett Canal Company.

The lands within Jackett Canal Company currently total 3107.23 acres. If the water rights to be transferred were all from the same source there would be no problem with combining all the lands under all the rights. However, in this situation 20% of the rights are from surface water and the remainder are from groundwater. Therefore, if the transfer is approved it would authorize the surface water to be applied to 5 times as many acres as prior to the transfer. This is a problem cited by Ron Carlson in his letter dated October 30, 1978. In spite of the problem, the Director agreed combine the rights in a conference with the applicant's attorney on November 10, 1978. It appears that in light of the other factors associated with this transfer the Director opted to consider this situation to be acceptable. Thus, the solution regarding place of use is to accept the Jackett Canal Company land list as the place of use for the combination of rights being transferred.

Another concern regarding place of use has been ~~that~~ ~~effect~~ ~~this transfer may~~ ~~have on the remaining 2/3 of the~~ ~~31-0336 and~~ ~~the name of~~ Independent Water Users of Mud Lake, Inc. This concern is alleviated by Application for Transfer No. 2461 which proposes to clarify the place of use on the remaining 2/3 portions. This transfer application will be reviewed separately but is mentioned here as an indication that future possible disputes between Independent and Jackett will be reduced via these transfers.

SCANNED

NOV 25 2002

MICROFILMED

TABLE NO. 1

WATER RIGHTS OF JACKETT CANAL COMPANY

<u>WATER RIGHT NO.</u>	<u>CFS</u>	<u>ACRES</u>	<u>DATE OF PRIORITY</u>	<u>SOURCE</u>
31-0134	3.5	142	03/20/1911	Camas Creek
31-0135	2.5	320	06/10/1912	Mud Lake
31-0143	1.0	242	03/29/1911	Camas Creek
31-0144	1.0	same as above	09/21/1912	Camas Creek
31-0190	5.9	320	~~10/14/1913~~	Camas Creek
31-2289	3.2	~~160~~	~~01/13/1949~~	Groundwater
31-2290	3.6	~~240~~	02/14/1949	Groundwater
31-2297	6.0	340	12/29/1949	Groundwater
31-2310	5.8	290	09/24/1952	Groundwater
31-2317-A	8.08	404	02/28/1953	Groundwater
31-2317-B	1.90	95	10/27/1956	Groundwater
31-2321	1.92	96	04/25/1953	Groundwater
31-0336	9.33*	443*	04/27/1932	Groundwater
31-0337	<u>16.67***</u>	<u>873**</u>	12/15/1932	Groundwater
	<u>70.4</u>	<u>3965</u>		
31-0192	3.0		9/8/1917	MUD LAKE *

(Some overlapping so only 3300 acres are unique)

* This right is claimed by JACKETT CANAL COMPANY AND DELIVERED TO ITS SHARE
HOLDERS. D.S.

* 1/3 of 28 cfs
 ** 1/3 of 1328 acres
 *** 1/3 of 50 cfs
 **** 1/3 of 2619 acres

MICROFILMED

SCANNED
 NOV 25 2007

SUGGESTED CONDITIONS OF APPROVAL

1. Any future transfer of any of these rights will cause the remaining rights to revert back to the original acreage.*
2. Diversion of water authorized by this transfer shall not exceed 9321 acre feet per anum.
3. Totalizing measuring devices of a type approved by this Department must be permanently installed and maintained at the point of injection into Camas Creek in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 34 T. 7 N., R. 35 E. B.M., and at the points of diversion/rediversion in Lot 4 (NW $\frac{1}{4}$ NW $\frac{1}{4}$) Sec.3, T. 6 N., R. 35 E. B.M., and SW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 33, T. 7 N., R. 35 E., B.M.
4. Use of water under this transfer is subject to control by the water-master of Water District No. 31, Mud Lake and tributaries.

Modified
Per Norm
Young's
Comments

MICROFILMED

* This condition came from the November 10, 1978 meeting between Allred, Carlson and Foster.

COPIED

NOV 15 1982

STATE OF IDAHO
DEPARTMENT OF WATER ADMINISTRATION

Statehouse - Annex 2
Boise, Idaho 83707
(208) 384-2215



R. Keith Higginson
Director

Water Rights Administration
Water Resource Investigations
Dam and Reservoir Safety
Water Well Drilling
Flood Plain Management
Irrigation and
Flood Control Districts

IN THE MATTER OF CANCELLATION OF PERMIT)
TO APPROPRIATE THE PUBLIC WATERS OF THE)
STATE OF IDAHO 17763/31-2254)
IN THE NAME OF Independent Water Users of)
Mud Lake, Inc.)

ORDER OF CANCELLATION

WHEREAS, the permit holder has failed to submit proof of beneficial use of water due on February 23, 1943 ; and,

WHEREAS, on March 11, 1974, notice was sent to the holder of said permit to appear before the Director of the Department of Water Administration on or before April 20, 1974, to show cause why said permit should not be cancelled; and,

WHEREAS, the holder of said permit has failed to comply with the requirements of said permit and has not shown adequate cause why such permit should not be cancelled;

IT IS THEREFORE ORDERED and Permit 17763/31-2254 is hereby CANCELLED.

Dated this 23th day of April, 19 74.

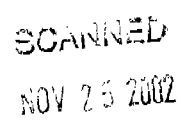

R. KEITH HIGGINSON
Director

31 2254

SCANNED

NOV 25 1992

F c E d D c C



Corrected application received

February 19, 1933.

APPROVAL OF COMMISSIONER OF RECLAMATION

The number of this permit is 17763
 Recorded in Book 64 Page 17763 Approved February 23, 1933
 This is to certify that I have examined the within application for a permit to appropriate the public waters of the State of Idaho, and
 hereby approve the same, subject to the following limitations and conditions:
 Bond in the sum of \$ 2000.00 to be filed on or before April 26, 1933
 Work to begin on or before and to continue diligently and uninterruptedly to completion,
 unless temporarily interrupted by circumstances over which permit holder has no control.
 One-fifth of the work above specified to be completed on or before August 23, 1933
 The whole of said work to be completed on or before February 23, 1935
 Beneficial use of water appropriated in accordance herewith, to be made on or before February 23, 1943

Witness my hand this 19th day of February, 1933.

R. E. FARNS
 Commissioner of Reclamation

Remarks:

14.

Twp.	Range	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Total
			Ac.	Ac.	Ac.	Ac.	Ac.	Ac.	Ac.	Ac.	Ac.	Ac.	Ac.	Ac.	Ac.	Ac.	Ac.	Ac.	
7 N	36 E	36	60	60	60	60					60	60	60	60	60	60	60	60	600
		31					60	60	60	60	60	60	60	60					240
6 N	36 E	1	60	60	60	60	60	60	60	60									240
		6					60	60	60	60									240
		13	60	60	60	60	60			60				60	60	60	60	60	480
		7	60	60	60	60	60	24.75	24.75	60	60	24.8	24.8	60	60	60	60	60	619.1
		8	60	60						60	60	60	60	60	60	60	60	60	240

Total number of acres to be irrigated..... 2619.1

REMARKS: The intention is to drill a series of deep wells, tapping the underground water, and diverting them into Cane Creek and Red Lake. The wells will be located on the NE 1/4 of Section 12 and the NW 1/4 of Section 34, T. 7 N., R. 36 E., S. 2 E., there being one or more wells on each 60 acre subdivision, depending upon the amount of flow from each well. From the well a ditch will carry the water about 3/4 of a mile down the center of the section, continuing to Cane Creek and Red Lake. Part of the water will be diverted from Red Lake at a point in the NE 1/4 of Section 12, T. 7 N., R. 36 E., S. 2 E. Part of the water will be diverted from Red Lake at a point on the lake near the SE corner of the NE 1/4 of Section 7, T. 6 N., R. 36 E., S. 2 E. The balance will be diverted from Red Lake at a point in the NW 1/4 of Section 1, T. 6 N., R. 36 E., S. 2 E. The pumping plants have been installed, ditches leading on to the lands have been completed, and the greater part of the acreage is now under cultivation.

There are two pumping plants on Red Lake, and water will be stored in the lake during that portion of the year when not irrigating. Water is pumped from Cane Creek and Red Lake by means of three pumping plants, pumping directly into ditches.

RECORDED

RECORDED
 FEB 23 1933

of T 2303

4-27-32 10.83 cfs

12-15-32 19.77 cfs

~~0.60~~

$$91.8 - 82.5 = 9.3 \text{ cfs}$$

31-0336

$$\frac{32.50}{82.50} = 39.39\% \times 9.3 \text{ cfs} = 3.66 \text{ cfs}$$

31-0337

$$\frac{50.00}{82.50} = 60.61\% \times 9.3 \text{ cfs} = 5.64 \text{ cfs}$$

100.00%

$$31-0336; 32.50 + 3.66 = 36.16 \text{ cfs}$$

$$31-0337; 50.00 + 5.64 = 55.64 \text{ cfs}$$

91.80 cfs

MICROFILMED

SCANNED

NOV 25 2002

JACKET CANAL

$$3,947.1 \text{ Acres} \times .02 = 18.9 \text{ cfs}$$

$$\frac{91.8 \text{ cfs}}{3,947.1 \text{ Acres}} = 0.023 \text{ cfs/acre}$$

RECEIVED
NOV 25 2002

4590 Acres Decree
4125 Acres Permit
465 Acres (Difference)

RECORDED
NOV 25 2002

JACKETT CANAL CO.
TRANSFER # 2303

4-25-80
RJR

Rights to be transferred:

<u>Decreed Rights</u>	<u>Priority</u>	<u>Amt.</u>	<u>Source</u>	<u>Acres</u>
<u>31-0134</u>	3-20-11	3.5 cfs	CANAS Cr.	141.63

~~31-0135~~	6-10-12	2.5 cfs	Mud Lake	320.0
--------------------	---------	---------	----------	-------

<u>31-0143</u>	3-29-11	1.0 cfs	CANAS Cr.	
----------------	---------	---------	-----------	--

<u>31-0144</u>	9-21-12	1.0 cfs	CANAS Cr.	
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<u>31-0190</u>	10-14-13	5.9 cfs	CANAS Cr.	
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* Owsley Canal Co. v. Baevle says that 31-0336 and 31-0337 combined shall not exceed 91.8 cfs.

(same) { Water Lic. 17690/
31-2253
Permit No. 17763/
31-2254 (Cancelled)

JACKETT CANAL CO.
owns 1/3 of this right.

(0.024)	→ 31-0336	4-27-32	* 32.50	Groundwater	1,328.0
---------	-----------	---------	---------	-------------	---------

(0.019)	→ 31-0337	12-15-32	* 50.00	Groundwater	2,619.1
---------	-----------	----------	---------	-------------	---------

$$\frac{91.80}{3} = (30.6 \text{ cfs}) \quad \frac{3,947.1}{(1,315.1) = \frac{1}{3}}$$

Licensed Rights

(0.02)	G-2086/31-2287	1-13-49	3.2	Groundwater	160.0
	G-2094/31-2290	2-14-49	3.6	Groundwater	
(0.018)	G-2132/31-2297	1-29-49	6.0	Groundwater	340.0
(0.02)	G-2306/31-2310	9-24-62	5.8	Groundwater	290.0

EXPIRED

NOV 25 2001

2

		<u>Priority</u>	<u>Amt</u>	<u>Source</u>	<u>Acres</u>
(0.02) {	G-23836/31-2317	2-28-53	8.08	Groundwater	498.0
		10-27-56	1.90	Groundwater	
(0.02)	G-24047/31-2321	4-25-53	1.92	Groundwater	96.0

SCANNED

10V 25 2012

Draft

May 6, 1980

M E M O R A N D U M

TO: Dave Tuthill
FROM: Phil Rassier
RE: JACKETT CANAL CO. TRANSFER

I have completed a review of the file in this matter.

~~The issues are as described in Jim Johnson's memo of January 31, 1980.~~ At this point it appears that what is required is an administrative decision on the following issues:

- (1) In transferring rights 31-0336 and 31-0337, should Jackett Canal Co. be allowed to transfer 30.60 cfs (1/3 of 91.80 cfs) as requested, based upon the decree, or should they be restricted to 27.5 cfs (1/3 of 82.50)?
- (2) If the larger quantity is allowed, should it consist of 10.83 cfs (1/3 of 32.50 cfs) with a 4-27-32 priority (31-0336) and 19.77 cfs (1/3 of 59.3) with a 12-15-32 priority (31-0337); or should the extra 9.3 cfs under the decree be apportioned equally between the two rights, i.e., 12.05 cfs (1/3 of 36.16) under 31-0336 and 18.55 cfs (1/3 of 55.64) under 31-0337?

As to the first question, based upon the apparent long understanding of the parties and the Department that the 1940 decree in The Owsley Canal Co. v. Bauerle superceded permits No. 17690/31-2253 and No. 17763/31-2254, it would not appear to be appropriate for the Department to now change its interpretation of the decree to the detriment of the holders of permit rights mentioned in the decree. Whether such a result was actually intended under the decree, however, is quite questionable.

A remaining issue is raised by the fact that the applicant, Jackett Canal Co., seeks to transfer a one-third undivided interest in rights 31-0336 and 31-0337 which it acquired by water deed from Independent Water Users of Mud Lake, Inc. on December 20, 1956. The problem is that the water right represented by the one-third undivided interest was not made appurtenant to a separate one-third of the lands irrigated under the original rights. Now that Jackett Canal Co. seeks to transfer its one-third undivided interest in the two water rights, it would appear advisable to require that an agreement of partition concerning the one-third undivided interest be entered into by Jackett Canal Co. and Independent. The purpose of the agreement would be to

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identify the lands from which the right is being transferred to protect against an expansion of the remaining two-thirds of rights 31-0536 and 31-0537.

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MEMO

TO: Dave Tuthill *DET*
FROM: Jim Johnson
RE: Jackett Canal Co. Transfer

DATE: 1-31-80

Dave. This particular transfer has been in the State office for some time. The reason for the delay is because of the complex and contradicting situations that make proper evaluation of the water rights identified in this transfer very difficult.

I will attempt to identify the main problem areas, however, I am not sure that I have a clear view of how to remedy the situation.

Proper Identification of Water Rights

The Jackett Canal Co. claims to own 1/3 interest in two water rights issued by the Department and also identified in the Oswley Canal Co. vs. Bauerle et al, decree.

As you are aware questions concerning the Bauerle Decree were raised as to whether the Decree actually decreed the water permits or licenses identified in the Decree.

In Phil Rassier's memo to you dated 8-28-79 he indicated that the decree did not eliminate the need for the permit holders to comply with licensing procedures. This as you also know conflicts with a letter response by the Department to the water-master of Water District 34, dated 6-4-74. ^{copy} (attached)

I have discussed this transfer over with both Bob Fleenor and Norm Young and they are of the opinion that the transfer should be processed in accordance to the interpretation made in the letter to the watermaster dated 6-4-74.

My problem is that if we do what Bob and Norm recommend, adjustments will have to be made to the Departments records which can affect several other rights identified in the decree but not included in this transfer. I am not sure, however, exactly how these changes should be made, since there are a couple of alternatives.

Further, I don't think that we have properly identified the rights being transferred even if we follow Bob and Norm's recommendation.

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Let me try to explain. Eastern Region had a copy of the Bauerle Decree which had assigned decree numbers to each of the water rights listed within. In preparing the transfer application and legal notice, Eastern region used these numbers to identify two of the Jackett Canal Rights. The two rights identified in the decree were originally issued by the Department and given No.'s 17690/31-2253 and 17763/31-2254. The court action simply confirmed these rights and set a maximum rate of diversion when these rights were combined. However, the court, in this particular case, set the limit 9.3 cfs higher than^N the combined sum of the two rights.

I am not sure how to interpret this additional amount in relation to the two permit rights.

1. Did the court have evidence that the diversions developed under the two permits exceeded 82.5 cfs and simply allow^a recognition of how much was actually diverted? Right No. 31-2254 was later licensed and the diversion was measured at ²⁸32.5 cfs. Does this mean that permit No. 31-2253 actually diverted 59.3 cfs instead of the applicants request for 50.0 cfs?

Did the court intend to decree an additional amount in excess of permit No. 31-2253?

2. What is the amount of the rights 82.5 cfs or 91.8 cfs?

The transfer application only recognizes 82.5 cfs but perhaps the amount should be 91.8 cfs. Once this decision is made then we can correct the Department records accordingly.

Possible Injury to Independent Canal Co.

In a memo to the file dated 6-27-79 by Ernest C., he identified possible conflicts between the rights identified on the Jackett Canal Co. transfer. This issue is also identified in a memo written by Ron C. dated 12-5-78.

I have reviewed the overlapping lands issue and cannot think of a recommendation which would properly protect the Independent Canal Company from injury, nor prevent expansion without requesting additional information.

Because there are so many unanswered questions remaining at this time that

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can affect the rights identified in this transfer I cannot recommend that this transfer application be approved.

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NOV 23 2000

Retake 31-2254

June 4, 1974

Re: Permit No. 17763/31-2254 - Independent Water Users of Mud Lake

Don Shenton
Box 331
Dubois, ID 83423

Dear Don:

You called today concerning the effect of the cancellation of Permit No. 31-2254 (Old No. 17763) upon the water rights of the Independent Water Users of Mud Lake, Inc.

A review of the District Court decree, entitled The Owsley Canal Company, a corporation, -vs- Ernest Beverle, et al, indicates that the right to the use of water from the wells proposed under the permit was confirmed by the decree.

Therefore, the cancellation of this permit should not effect the operation of the Independent Water Users, since they are using water under their existing decreed rights. This cancellation simply removed from our permit records a filing that was unnecessary.

If we can be of any further assistance, or if you have additional questions, please let us know.

Sincerely

BOBBY D. FLETCHER
Assistant Director

BDf:jg

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JUN 25 2000

INTER-DEPARTMENT MEMO — 1

DATE 9-21-79

FROM: Eastern Region
Ernest

Jim Johnson

SUBJECT: App/Transfer -- Jackett Canal

Please place the attached letter from Kent Foster in the file for Jackett Canal Company's application for transfer and, if possible, send a status report on the processing of this application to Mr. Foster.

Thank you.

To: File

RE: telecon w/ Kent Foster

From: Jim Johnson

10/11/79

This P.M. I talked to Mr. Foster concerning the status of this transfer.

SIGNATURE

MICROFILMED

NOV 28 1979

WILLIAM S. HOLDEN
R. VERN KIDWELL
FRED J. HAHN
TERRY L. CRAPO
KENT W. FOSTER
ROBERT E. FARNAM
WILLIAM D. FALER
STEPHEN E. MARTIN
CHARLES A. HOMER
GARY L. MEIKLE
CURT R. THOMSEN
RANDALL K. BARTON
MICHAEL D. CRAPO

LAW OFFICES
HOLDEN, KIDWELL, HAHN & CRAPO
IDAHO FIRST NATIONAL BANK BUILDING
P. O. BOX 129
IDAHO FALLS, IDAHO 83401

TELEPHONE 523-0620
AREA CODE 208

ARTHUR W. HOLDEN (1877-1967)
ROBERT B. HOLDEN (1911-1971)

September 14, 1979

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OCT 2 1979

Department of Water Resources
Eastern District Office
1515 Lincoln Road
Idaho Falls, Idaho 83401

Department of Water Resources

~~Wackett Canal Transfer~~

Gentlemen:

We would appreciate it if you would give us a status report on this particular transfer at your earliest convenience so that we can report to our client.

Thank you for your kind attention to this matter.

Yours very truly,

Kent W. Foster
Kent W. Foster

KWF:jt

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Department of Water Resources
Eastern District Office

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NOV 25 2007

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State of Idaho

DEPARTMENT OF WATER RESOURCES

STATE OFFICE, 373 W. Franklin Street, Boise, Idaho

JOHN V. EVANS
Governor

C. STEPHEN ALLRED
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 384-2215

MEMORANDUM

TO: Dave Tuthill *DT*

DATE: 8/28/79

FROM: ~~PH [REDACTED]~~ *FJR*

RE: Decree in The Owsley Canal Company vs. Bauerle [Jefferson
County Civil No. 1739, (1940)]

You have asked me to review the above-noted document to see if the permit rights identified in the decree should be treated by the Department as adjudicated rights or whether they should continue to be treated as permit or licensed rights.

My reading of the decree is that it does not purport to be an adjudication of the individual groundwater rights which it mentions. The action was apparently filed to answer the question of whether, or to what extent, these groundwater rights could be exercised without causing interference with existing surface water rights in Mud Lake as decreed in the 1930 federal court adjudication entitled Sauve v. Abbott, et al.

The decree resolves the issue by accepting the stipulation of the parties which limits the period of use under the groundwater permits to the period from May 1 to November 1 of each year. In addition, the decree sets maximum rates of diversion for various groups of rights which in some instances differ from the rates listed under the permits. The parties to the action are enjoined from interfering with each other's rights to the extent they are set out in the decree.

It is my opinion that the decree did not eliminate the need for the permit holders to comply with the applicable licensing procedures for their water rights.

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STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

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AGW 25 208

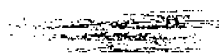
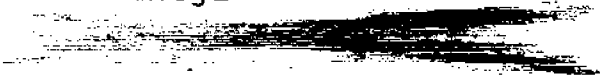
Memo to Dave Tuthill

8/28/79

Page 2

In administering these water rights, the Department should comply with the May 1 to November 1 period of use. Also, the rates of flow described in the decree should be considered as maximum rates but not as minimum rates which may be delivered under the various rights.

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Conditions of Approval

Jackett Canal Transfer

1. Any future transfer of these rights will cause the remaining rights to revert back to the original acreage.
2. Diversion of water authorized by this transfer shall not exceed 9321.7 acre feet per annum (3 acre feet).
3. Totalizing measuring devices of a type approved by this Department shall be permanently installed and maintained at the points of diversion for groundwater and points of re-diversion from Camas Creek.
4. Use of water under this transfer is subject to control by the ~~Department of State Water District No. 31, Mud Lake and~~ ~~tributaries.~~

2010-08-20

2010-08-20

MEMO

FROM: Ernest

TO: File

DATE: June 27, 1979

This application for transfer involved decreed rights from Mud Lake, Camas Creek (a tributary of Mud Lake), decreed ground water rights, and licensed ground water rights. Although it is rare for a transfer to consist of rights from more than one source, it was agreed between Steve Allred, Director; Ron Carlson, Regional Supervisor; and Kent Foster, Attorney for the applicant, to receipt the application provided that all rights were combined in such a way that a transfer of any of the rights would cause all of the rights to revert back to the original acreages.

Review of the application identified two problems with decreed rights 31-0336 and 31-0337. One, the sum of these two rights equals 82.50 c.f.s.; however, the decree states the use of these two rights in combination cannot exceed the equivalent of 91.8 c.f.s. Two, as explained in Ron Carlson's memorandum of December 5, 1978, Jackett Canal does not irrigate an even one-third of the lands covered by these rights and the transfer does not specify the lands their one-third of the rights were appurtenant to.

Although the expansion of these rights by 9.30 c.f.s. when used in combination is certainly questionable, it is not within our jurisdiction to take corrective actions. Some compensation might be realized in conditioning the transfer to three acre feet per acre per annum.

Jackett Canal's warrantee deed to one-third of the water under these rights confirms their entitlement to transfer the water; however, with no land list describing their one-third interest, would the Department be allowing for injury to that portion of the right retained by Independent Canal Company? To eliminate this possibility and to provide an accurate description of how lands irrigated were divided, it was suggested that an application involving both canal companies would be more suitable. However, the applicant's attorney was not receptive to this idea.

Prior to final action on this application, some consideration should be given to the condition of rights 31-0336 and 31-0337 after the transfer. If they can satisfactorily be defined as to place of use, without injury to Independent Canal Company's entitlement, I have no objection to the approval of this application.

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JUN 28 1979

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APR 16 1979

Department of Water Resources
Eastern District Office

P.O. Box 33
Dubois, Idaho 83423
April 12, 1979

Dept. of Water Resources
1515 Lincoln Road
Idaho Falls, Idaho 83401
Attn: Ron Carlson

RE: Jackett Canal Co.
Change of Water Rights

Dear Ron:

I fully endorse the change as proposed with exception to the numbering of the wells on the map attached to the application. The wells at Bucks Springs proper are numbered 7 and 8. The wells to the South and West of Buck Springs and located in Joe Marty's field are numbered 1, 2, 3, 4, and 5. All past pumping records are identified to these numbers. The applicant must give up his pumping records or his numbering system and historical data.

Mr. Yearsley tells me he would like a correction made to correspond with Water District #31 records.

An amendment should not be needed as the numbers above were not mentioned in the advertisement of April 4 and 11, 1977. ~~Just a simple change on the map referred to:~~

Well #7 should be Well #1
Well #4 should be Well #2
Well #3 should be Well #3
Well #5 should be Well #4
Well #6 should be Well #5
Well #2 should be Well #6
Well #1 should be Well #7

← Changes made on map DRT
6/9/81

It also appears that you have omitted one of their decreed rights from Camas Creek as follows: 3.0 c.f.s. September 8, 1917.

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APR 16 1979
DEPT. OF WATER RESOURCES
EASTERN DISTRICT OFFICE

Ron Carlson
April 12, 1979
Page 2

Decree #99-B part 2 or maybe your department #31-0192. This should be corrected as my records show ownership to the Jackett Canal Company.

The remaining changes appear to be in order. This should straighten the record up as to the past and present practices of the Company.

I know of no protesters to the change.

Sincerely,



Donald W. Shenton
Water Master
Water District #31

DWS/ts

cc: Rulon Yearsley
President of Jackett Canal Co.
Kent Foster
Attorney for Jackett Canal Co.

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NOV 25 2002

March 27, 1979

Mr. Don Shenton, Watermaster
Water District # 31
Dubois, Idaho 83423

Dear Mr. Shenton:

Re: Application for Transfer - Jakkett Canal

We are enclosing a copy of an application that may be of interest to your water district. Please review the application and submit any comments you may have to our Department as soon as possible. The last date of protest is April 23, 1979, and we are required to take final action shortly thereafter.

If we may be of further assistance, please feel free to contact us.

Very truly yours,

RONALD D. CARLSON
Supervisor
Eastern Region

RDC:dh

Enclosure

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OCT 23 1981



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
EASTERN REGION

John V. Evans
Governor

C. Stephen Allred
Director

1515 Lincoln Road
Idaho Falls, Idaho 83401
(208) 523-7186

March 23, 1979

Kent Foster, Attorney
Holden, Kidwell, Hahn & Crapo
P. O. Box 129
Idaho Falls, Idaho 83401

Dear Kent:

Re: Application for Transfer - Jackett Canal

In reviewing the file for Jackett Canal's application for transfer, we seem to have water deeds for all the water rights except License 31-2317 in the name of Frank S. Jackett.

The Department is proceeding with advertising of the application with the last date of protest scheduled to be April 16, 1979. However, prior to forwarding the application to Boise for final action, proof of ownership of License 31-2317 by the Jackett Canal Company will have to be provided for the file.

Your cooperation in this matter is appreciated.

Respectfully submitted,

ERNEST M. CARLSEN
Water Resource Analyst

EMC:dh

RECORDED
NOV 25 1981

March 23, 1979

The Rigby Star
P. O. Box 37

Rigby, Idaho 83442

Re: Jakkett Canal Transfer

Gentlemen:

Enclosed you will find a legal notice which we wish to have published once a week for two consecutive weekly issues of your newspaper. We have inserted the publication dates allowing time for you to submit us a galley proof for review before publication.

After sending us a galley proof, proceed with the publication on the dates we have inserted, assuming the notice is correct. If we have any corrections, we will notify you before the first publication. If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill.

Very truly yours,

RONALD D. CARLSON
Supervisor
Eastern Region

Bill submitted 4-23-79 by _____

RDC:dh

Enclosure

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NOTICE OF PROPOSED CHANGE OF WATER RIGHTS

Notice is hereby given that the Jackett Canal Company has applied to the Department of Water Resources for a change in the points of diversion and places of use of the waters of ground-water sources and surface water from Camas Creek. The rights sought to be changed are evidenced as follows:

Decreed rights from Camas Creek

31-0134 Decree to Los Angeles First National Bank & Trust Co. in case of Ernest Sauve -vs- W. H. Abbott dated Nov. 1, 1930 in U. S. District Court, County of Bannock and recorded as:

AMOUNT: 3.50 cfs PRIORITY: 3-20-1911

DECREED POINT OF DIVERSION: Lot 4, Sec. 4, T. 6N, R. 35E.

PLACE OF USE: Lot 7, Sec. 32, T. 7N, R. 35E, Lot 4, Lot 1, Sec. 4, Lot 2, Sec. 5, T. 6N, R. 35E.

31-0135 Decree to Los Angeles First National Bank in case of Ernest Sauve -vs- W. H. Abbott dated Nov. 1, 1930 in U. S. District Court, County of Bannock and recorded as:

AMOUNT: 2.5 cfs PRIORITY: June 10, 1912

DECREED POINT OF DIVERSION: Center SW $\frac{1}{4}$, Sec. 5, T. 6N, R. 35E.

PLACE OF USE: W $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 8, T. 6N, R. 35E.

31-0143 and 31-0144 Decree to Clarence O. McGill & G. B. Adams in case of Ernest Sauve -vs- W. H. Abbott dated Nov. 1, 1930 in U. S. District Court, County of Bannock and recorded as:

31-0143 AMOUNT: 1.00 cfs PRIORITY: March 29, 1911

31-0144 AMOUNT: 1.00 cfs PRIORITY: Sept. 21, 1912

These two rights are diverted within Lot 4, Sec. 3, T. 6N, R. 35E, and used to irrigate lands within Lots 3 & 4, SW $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 3, T. 6N, R. 35E.

31-0190 Decree to Merritt M. Owsley in case of Ernest Sauve -vs- W. H. Abbott dated Nov. 1, 1930, in U. S. District Court, County of Bannock and recorded as:

AMOUNT: 5.90 cfs PRIORITY: Oct. 14, 1913

DECREED POINT OF DIVERSION: NW Corner, Sec. 3, T. 6N, R. 35E.

PLACE OF USE: W $\frac{1}{2}$ E $\frac{1}{2}$, SW $\frac{1}{4}$, Sec. 9, T. 6N, R. 35E.

Decreed rights from ground-water sources

31-0336 Decree to Independent Water Users in case of Owsley Canal Co. -vs- Ernest Bauerle dated Oct. 14, 1940 in Ninth Dist. Court, County of Jefferson and recorded as:

AMOUNT: 32.5 cfs PRIORITY: Apr. 27, 1932

DECREED POINT OF DIVERSION: NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 3, T. 6N, R. 35E.

NOV 15 1940

PLACE OF USE: Lot 7, Sec. 32, T. 7N, R. 35E, Lot 4, S $\frac{1}{2}$, Sec. 4, Lots 1 & 2, S $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$, Sec. 5, NE $\frac{1}{4}$, W $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 8, E $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, Sec. 9, W $\frac{1}{2}$ NW $\frac{1}{4}$, Sec. 10, T. 6N, R. 35E.

31-0337 (same decree as 31-0336)

AMOUNT: 50.0 cfs PRIORITY: Dec. 15, 1932

DECREED POINT OF DIVERSION: SW $\frac{1}{4}$, Sec. 13, NW $\frac{1}{4}$, Sec. 24, T. 7N, R. 35E; NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 3, T. 6N, R. 35E; NW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 7, NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 1, T. 6N, R. 34E.

PLACE OF USE: E $\frac{1}{2}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 36, T. 7N, R. 33E; W $\frac{1}{2}$, Sec. 31, T. 7N, R. 34E; N $\frac{1}{2}$, Sec. 1, T. 6N, R. 33E; NW $\frac{1}{4}$, Sec. 6, E $\frac{1}{2}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 12, T. 6N, R. 34E; Sec. 7, W $\frac{1}{2}$ E $\frac{1}{2}$, SW $\frac{1}{4}$, Sec. 9, T. 6N, R. 35E.

Licensed ground-water rights

31-2289 AMOUNT: 3.20 cfs PRIORITY: Jan. 13, 1949

POINT OF DIVERSION: NW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 27, T. 7N, R. 35E.

PLACE OF USE: NE $\frac{1}{4}$, Sec. 8, T. 6N, R. 35E.

31-2290 AMOUNT: 3.60 cfs PRIORITY: Feb. 14, 1949

POINT OF DIVERSION: NW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 27, T. 7N, R. 35E.

PLACE OF USE: E $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$, Sec. 5, T. 6N, R. 35E.

31-2297 AMOUNT: 6.00 cfs PRIORITY: Dec. 29, 1949

POINT OF DIVERSION: NW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 27, T. 7N, R. 35E.

PLACE OF USE: W $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, Sec. 3, SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 4, W $\frac{1}{2}$ NE $\frac{1}{4}$, Sec. 9, T. 6N, R. 35E.

31-2310 AMOUNT: 5.80 cfs PRIORITY: Sept. 24, 1952

POINT OF DIVERSION: SW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 23, T. 7N, R. 35E.

PLACE OF USE: E $\frac{1}{2}$, Sec. 17, T. 6N, R. 35E.

31-2317 AMOUNT: 8.08 cfs PRIORITY: Feb. 28, 1953

AMOUNT: 1.90 cfs PRIORITY: Oct. 27, 1956

POINT OF DIVERSION: NW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 23, NE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 22, T. 7N, R. 35E.

PLACE OF USE: Sec. 16, T. 6N, R. 35E.

31-2321 AMOUNT: 1.92 cfs PRIORITY: Apr. 25, 1953

POINT OF DIVERSION: NW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 27, T. 7N, R. 35E.

PLACE OF USE: NE $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, Sec. 8, T. 6N, R. 35E.

The above rights are for the purpose of irrigation of lands within Jefferson County.

TO BE CHANGED AS FOLLOWS

The combination of all of the above described rights of the Jackett Canal Co. amounts to 75 cubic feet per second, and will be diverted from several wells located at a point known as Buck Springs within the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 13, T. 7N, R. 35E (Independent Ditch); from points within the NW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 22, NW $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 23, NW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 27, two pumps located within the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 33 (Camas

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Creek) T. 7N, R. 35E, five pumps located within Lot 4, Sec. 3 (Camas Creek), T. 6N, R. 35E. B.M., Jefferson County; and used to irrigate 3,107.23 acres within Lots 7 & 8, Sec. 32, SW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 33, T. 7N, R. 35E; N $\frac{1}{2}$, SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, Sec. 3, NW $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$, Sec. 4, E $\frac{1}{2}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, Sec. 5, N $\frac{1}{2}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, Sec. 8, NE $\frac{1}{4}$, SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, Sec. 9, Sec. 16, E $\frac{1}{2}$, Sec. 17, T. 6N, R. 35E, B.M.

The Jackett Canal Co. comingles its ground-water and surface water and is making this transfer to reflect the practices of the company.

Any protest against approval of the above proposed change of water rights must be filed with the Idaho Department of Water Resources, 1515 Lincoln Road, Idaho Falls, Idaho, 83401, on or before April ²³16, 1979.

C. STEPHEN ALLRED
Director

Published in the Rigby Star, Rigby, Idaho, on March ²⁴29 and April ¹¹5, 1979.

RECEIVED
JUN 25 1979

NOTICE OF PROPOSED CHANGE OF WATER RIGHTS

Notice is hereby given that the Jackett Canal Co., has applied to the Department of Water Resources for a change in the points of diversion and places of use of the waters of ground-water sources and surface water from Camas Creek. The rights sought to be changed are evidenced as follows:

Decreed rights from Camas Creek

✓ 31-0134 Decree to Los Angeles First National Bank & Trust Co. in case of Ernest Sauve -vs- W. H. Abbot dated Nov. 1, 1930 in U. S. District Court, County of Bannock and recorded as:

AMOUNT: 3.50 cfs PRIORITY: 3-20-1911

DECREED POINT OF DIVERSION: Lot 4, Sec. 4, T. 6N, R. 35E, Jefferson County.

PLACE OF USE: ^{Lot 7} SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 32, T. 7N, R. 35E, NE $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 4, NW $\frac{1}{4}$ NE $\frac{1}{4}$,
Sec. 5, T. 6N, R. 35E.

31-0135 Decree to Los Angeles First National Bank in case of Ernest Sauve -vs- W. H. Abbott dated Nov. 1, 1930 in U. S. District Court, County of Bannock and recorded as:

AMOUNT: 2.50 cfs PRIORITY: June 10, 1912

DECREED POINT OF DIVERSION: Center SW $\frac{1}{4}$, Sec. 5, T. 6N, R. 35E.

PLACE OF USE: W $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 8, T. 6N, R. 35E.

31-0143 and 31-0144 Decree to Clarence O. McGilll & G. B. Adams in case of Ernest Sauve -vs- W. H. Abbott dated Nov. 1, 1930 in U. S. District Court, County of Bannock and recorded as:

31-0143 AMOUNT: 1.00 cfs PRIORITY: Mar. 29, 1911

31-0144 AMOUNT: 1.00 cfs PRIORITY: Sept. 21, 1912

These two rights are diverted within Lot 4, Sec. 3, T. 6N, R. 35E, and used to irrigate lands within the ^{Lot 3 & 4} NE $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 3, T. 6N, R. 35E.

31-0190 Decree to Merritt M. Owsley in case of Ernest Sauve -vs- W. H. Abbott dated Nov. 1, 1930, in U. S. District Court, County of Bannock and recorded as:

AMOUNT: 5.90 cfs PRIORITY: Oct. 14, 1913

DECREED POINT OF DIVERSION: ^{NW CORNER} NW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 3, T. 6N, R. 35E.

PLACE OF USE: W $\frac{1}{2}$ E $\frac{1}{4}$, SW $\frac{1}{4}$, Sec. 9, T. 6N, R. 35E.

Decreed rights from ground-water sources

31-0336 Decree to Independent Water Users in case of Owsley Canal Co. -vs- Ernest Bauerle dated Oct. 14, 1940 in Ninth Dist. Court, County of Jefferson and is recorded as:

AMOUNT: 32.5 cfs PRIORITY: Apr. 27, 1932

DECREED POINT OF DIVERSION: NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 3, T. 6N, R. 35E. ^{Lot 1 & 2} SE $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$

PLACE OF USE: ^{Lot 7} SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 32, T. 7N, R. 35E, ^{Lot 4} NW $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$, Sec. 4, E $\frac{1}{2}$ E $\frac{1}{2}$ SW $\frac{1}{4}$,
Sec. 5, (NE $\frac{1}{4}$, W $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 8, E $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, Sec. 9, W $\frac{1}{2}$ NW $\frac{1}{4}$,
Sec. 10, T. 6N, R. 35E.

31-0337 (same decree as 31-0336)

AMOUNT 50.0 cfs PRIORITY: Dec. 15, 1932

DECREED POINT OF DIVERSION: SW $\frac{1}{4}$, Sec. 13, NW $\frac{1}{4}$, Sec. 24, T. 7N, R. 35E;
NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 3, T. 6N, R. 35E; NW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 7, NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 1, T. 6N, R. 34E.

(NOT ADU)

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PLACE OF USE: E $\frac{1}{2}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 36, T. 7N, R. 33E; W $\frac{1}{2}$, Sec. 31, T. 7N, R. 34E; N $\frac{1}{2}$, Sec. 1, T. 6N, R. 33E; NW $\frac{1}{4}$, Sec. 6, E $\frac{1}{2}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 12, T. 6N, R. 34E; Sec. 7, W $\frac{1}{2}$ E $\frac{1}{2}$, SW $\frac{1}{4}$, Sec. 9, T. 6N, R. 35E.

Only portions of right No. 31-0336 and 31-0337 are being transferred.

Licensed ground-water rights

31-2289 AMOUNT: 3.20 cfs PRIORITY: Jan. 13, 1949
POINT OF DIVERSION: NW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 27, T. 7N, R. 35E
PLACE OF USE: NE $\frac{1}{4}$, Sec. 8, T. 6N, R. 35E.

31-2290 AMOUNT: 3.60 cfs PRIORITY: Feb. 14, 1949
POINT OF DIVERSION: NW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 27, T. 7N, R. 35E.
PLACE OF USE: NE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 5, T. 6N, R. 35E.

31-2297 AMOUNT: 6.00 cfs PRIORITY: Dec. 29, 1949
POINT OF DIVERSION: NW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 27, T. 7N, R. 35E.
PLACE OF USE: W $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, Sec. 3, SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 4, W $\frac{1}{2}$ NE $\frac{1}{4}$, Sec. 9, T. 6N, R. 35E.

31-2310 AMOUNT: 5.80 cfs PRIORITY: Sept. 24, 1952
POINT OF DIVERSION: SW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 23, T. 7N, R. 35E.
PLACE OF USE: E $\frac{1}{2}$, Sec. 17, T. 6N, R. 35E.

31-2317 AMOUNT: 8.08 cfs PRIORITY: Feb. 28, 1953
AMOUNT: 1.90 cfs PRIORITY: Oct. 27, 1956
POINT OF DIVERSION: NW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 23, NE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 22, T. 7N, R. 35E.
PLACE OF USE: Sec. 16, T. 6N, R. 35E.

31-2321 AMOUNT: 1.92 cfs PRIORITY: Apr. 25, 1953
POINT OF DIVERSION: NW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 27, T. 7N, R. 35E.
PLACE OF USE: NE $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, Sec. 8, T. 6N, R. 35E.

The above rights are for the purpose of irrigation of lands within Jefferson County.

75.0 cfs

TO BE CHANGED AS FOLLOWS

Only 30.5 cfs of licensed ground water rights and 35.71 cfs of decreed ground-water rights will be diverted within the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 13, NW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 22, NW $\frac{1}{4}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$, Sec. 23, NW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 27, T. 7N, R. 35E, Jefferson County. Surface water from Camas Creek amounting to 13.9 c.f.s. will be diverted within the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 33, T. 7N, R. 35E; Lot 4 (NW $\frac{1}{4}$ NW $\frac{1}{4}$), Sec. 3, T. 6N, R. 35E, B.M., Jefferson County; and used to irrigate 3,107.3 acres within the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 32, SW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 33, T. 7N, R. 35E; N $\frac{1}{2}$, SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, Sec. 3, NW $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$, Sec. 4, E $\frac{1}{2}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, Sec. 5, N $\frac{1}{2}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, Sec. 8, NE $\frac{1}{4}$, SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, Sec. 9, Sec. 16, E $\frac{1}{2}$, Sec. 17, T. 6N, R. 35E, B.M.

The Jackett Canal Co. comingles its ground-water and surface water and is making this transfer to reflect the practices of the company.

Any protest against approval of the above proposed change of water right must be filed with the Idaho Department of Water Resources, 1515 Lincoln Road, Idaho Falls, Idaho, 83401, on or before December 18, 1978.

C. STEPHEN ALLRED
Director

Published in the Rigby Star, Rigby, Idaho, on November 30 and December 7, 1978.

RECORDED

March 23, 1979

Kent Foster, Attorney
Holden, Kidwell, Hahn & Crapo
P. O. Box 129
Idaho Falls, Idaho 83401

Dear Kent:

Re: Application for Transfer - Jackett Canal

In reviewing the file for Jackett Canal's application for transfer, we seem to have water deeds for all the water rights except License 31-2317 in the name of Frank S. Jackett.

The Department is proceeding with advertising of the application with the last date of protest scheduled to be April 16, 1979. However, prior to forwarding the application to Boise for final action, proof of ownership of License 31-2317 by the Jackett Canal Company will have to be provided for the file.

Your cooperation in this matter is appreciated.

Respectfully submitted,

ERNEST M. CARLSEN
Water Resource Analyst

EMC:dh

MICROFILMED

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MAY 11 1979

March 13, 1979

Mr. Kent Foster, Attorney
Holden, Kidwell, Hahn & Crapo
P. O. Box 129
Idaho Falls, Idaho 83401

Dear Kent:

Re: Application for Transfer - Jackett Canal

Attached herewith is Departmental receipt No. 12955 in the amount of \$135.00 for the above referenced application.

Very truly yours,

RONALD D. CARLSON
Supervisor
Eastern Region

RDC:dh

Attachment

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MARCH 14 1979

RECEIVED
MARCH 15 1979

WILLIAM S. HOLDEN
R. VERN KIDWELL
FRED J. HAHN
TERRY L. CRAPO
KENT W. FOSTER
ROBERT E. FARNAM
WILLIAM D. FALER
STEPHEN E. MARTIN

CHARLES A. HOMER
GARY L. MEIKLE
CURT R. THOMSEN
RANDALL K. BARTON

LAW OFFICES
HOLDEN, KIDWELL, HAHN & CRAPO

IDAHO FIRST NATIONAL BANK BUILDING

P. O. BOX 129

IDAHO FALLS, IDAHO 83401

TELEPHONE 523-0620

AREA CODE 208

ARTHUR W. HOLDEN (1877-1967)
ROBERT B. HOLDEN (1911-1971)

March 9, 1979

Mr. Ronald D. Carlson, Supervisor
Department of Water Resources
Eastern District Office
1515 Lincoln Road
Idaho Falls, Idaho 83401

Re: Jackett Canal Company

Dear Ron:

By now you have probably received the letter which we wrote yesterday with a new application form signed and notarized and our check for \$35.00. However, since you sent back the old file, I have gone ahead and notarized Mr. Yearsley's signature on that application form as well, and we are enclosing our check in the amount of \$100.00 to make up the difference mentioned in your letter of March 8th.

We have also reviewed the items you noted in red pencil on the application, and we have had our secretary retype the number to conform the correct number.

Please advise us if there is anything further we can do.

Yours very truly,


Kent W. Foster

KWF:jt

Enclosure

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MAR 13 1979

Department of Water Resources
Eastern District Office

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March 8, 1979

Mr. Kent Foster, Attorney
Holden, Kidwell, Hahn & Crapo
301 Shoup Avenue
Idaho Falls, Idaho 83401

Dear Kent:

Re: Jackett Canal Company

I am sure you are aware of my desire to see all of the pieces of this puzzle fit together. Representatives of the Independent Water Users have requested a meeting with the Department to discuss the possibility of their filing a transfer to improve the records of their water rights. This meeting has tentatively been scheduled to occur within the next couple of weeks, but no date has been set and, of course, the outcome of that meeting is uncertain.

I do not feel we can hold up action on the Jackett transfer application any longer in anticipation of this meeting. I am returning your original application for signature. The processing fee necessary to cover the advertising costs of this application will be \$135.00. Before returning the application, you may want to review the items we have noted in red pencil.

Very truly yours,

RONALD D. CARLSON
Supervisor
Eastern Region

RDC:dh

Enclosure

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WILLIAM S. HOLDEN
R. VERN KIDWELL
FRED J. HAHN
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LAW OFFICES
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TELEPHONE 523-0620
AREA CODE 208

ARTHUR W. HOLDEN (1877-1967)
ROBERT B. HOLDEN (1911-1971)

March 8, 1979

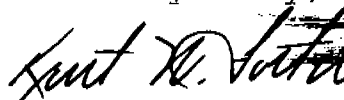
Mr. Ronald D. Carlson
Department of Water Resources
Eastern District Office
1515 Lincoln Road
Idaho Falls, Idaho 83401

Dear Ron:

As we understood from our most recent conversation regarding the Jackett Canal Company transfer, you planned to institute publication of the Notice right away. As I recall, you advised that the application form which came with our package several months ago had not been notarized. We have since obtained Mr. Yearsley's signature as President of the company, and have acknowledged his signature on a new application form which is enclosed with this letter. We are also again returning the filing fee of \$35.00. However, as we have indicated previously, the company is willing to assist with the rest of the publication costs and if you will advise us of the additional amount, we will be happy to obtain the company's check and forward it to you.

Please let us know if there is anything else we can do to expedite this matter. Thank you for your kind assistance.

Yours very truly,


Kent W. Foster

KWF:jt

Enclosure

cc: Rulan Yearsley

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WILLIAM S. HOLDEN
R. VERN KIDWELL
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KENT W. FOSTER
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LAW OFFICES
HOLDEN, KIDWELL, HAHN & CRAPO

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P. O. BOX 129

IDAHO FALLS, IDAHO 83401

TELEPHONE 523-0620
AREA CODE 208

ARTHUR W. HOLDEN (1877-1967)
ROBERT B. HOLDEN (1911-1971)

February 2, 1979

Mr. Ronald D. Carlson
Department of Water Resources
Eastern District Office
1515 Lincoln Road
Idaho Falls, Idaho 83401

Re: Jackett Canal Transfer

Dear Ron:

It has now been about three months since we last wrote to you on this matter and a couple of months since we last conferred.

In light of the dissatisfaction expressed by the Department with our clients' application, and the substantial delays, perhaps it is understandable that our clients are quite concerned and would appreciate, if possible, some sort of status report. Thank you for your kind attention to this matter.

Yours very truly,


Kent W. Foster

KWF:tjr
cc: Mr. Rulan Yearsley

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FEB 5 1979

Department of Water Resources
Eastern District Office

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NOV 25 2002

MEMORANDUM

TO: File
FROM: Ron Carlson
DATE: December 5, 1978
SUBJ: JACKETT TRANSFER

I met with Kent Foster to discuss the proposed transfer I had prepared to transfer the Jackett rights. We came to an impass when I showed him my proposal for handling the Independent water rights 31-0336 and 31-0337. The problem results from the fact that the Independent water users sold Jackett an undivided one-third interest in these water rights. In going over the land list I found that on the basis of acreage irrigated, Jackett was entitled to 80 percent of right 31-0336 and 12 percent of right 31-0337, or about 38 percent of the two rights. Kent said the deeds showed his clients had obtained one-third of each right and that was how he wanted the transfer to read. I told him that we could do that but the Independent water users and the Jackett Company would have to get together and decide upon the lands from which the water would be removed under each right. I told Kent that our records were not clear on the intent of the agreements between Jackett and Independent. He said copies of all of the deeds were supposed to have been provided with his transfer application. He said he would see that we got them. Thirty minutes later his secretary brought the enclosed deeds to our office.

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NOV 25 2002

M E M O R A N D U M

November 10, 1978

FROM: Ron Carlson

Steve Allred, Kent Foster and I reviewed the proposed Jackett transfer. After considerable discussion, Steve indicated that he would consider a transfer that lumped all of rights in the Jackett system if several conditions were observed.

1. All of the rights were combined in such a way that a transfer of any of the rights would cause all of the rights to revert back to the original acreages.
2. That it be prepared in such a way that the legal advertising of the intent of the transfer is clear.
3. If the required fees are not sufficient to cover costs of advertising the applicants will pay the advertising.

Steve indicated he would not mind having ground water and surface water on the same application if that makes the intent more clear.

I told Kent Foster I would try to put together something that we felt would be adequate and get it back to him for his consideration.

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LAW OFFICES

HOLDEN, KIDWELL, HAHN & CRAPO

IDAHO FIRST NATIONAL BANK BUILDING

P. O. BOX 129

IDAHO FALLS, IDAHO 83401

TELEPHONE 523-0620

AREA CODE 208

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CURT R. THOMSEN
RANDALL K. BARTON

ARTHUR W. HOLDEN (1877-1967)
ROBERT B. HOLDEN (1911-1971)

November 3, 1978

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NOV 6 1978

Department of Water Resources

Eastern District Office

Mr. Ronald D. Carlson
Department of Water Resources
Eastern District Office
1515 Lincoln Road
Idaho Falls, Idaho 83401

Re: Jackett Transfer

Dear Ron:

We have now had an opportunity to review the contents of your letter of October 30, 1978. While we appreciate your comments on the department's views concerning the nature of water rights, about the only way we know how to respond is to say that we don't know why you view it otherwise, but our understanding of our client's intent and certainly our intent, in filing the application for transfer, was to change only the place of use of the original rights listed in the application.

We will have to confess that we are baffled as to how you found that decreed surface water rights from Camas Creek were expanded to additional acreage at the time they were assigned to the company. We would be very interested in the additional water rights which you suspect were established, except that our clients do not claim any and know of no new or additional diversions made and no new or additional applications to beneficial use, either at that time or since. Since you refer to these rights as "unsubstantiated", we assume that you might ~~mean they would be~~ "constitutional" or "use" rights of which ~~there is no record.~~ As we understand Idaho law, the appropriation of such a right would require at least a diversion and application to beneficial use of the water sought to be appropriated. The Jackett Canal Company does not claim to have done any such thing. The company has continued to divert water from the same old points of diversion listed in the decrees and licenses, in no greater amounts than is listed in the decrees and licenses. Except for a minor reduction in acreage, the company has continued to deliver and the stockholders have continued to apply the water to essentially the same number of acres listed in the decrees and licenses. The only thing that has changed is the place of use of these rights.

If you will kindly indulge us, let us try to explain again what we understand to have happened, both factually and legally in 1956 and since. When the deeds to the water rights

NOV 15 1978

Mr. Ronald D. Carlson
November 3, 1978
Page Two

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NOV 6 1978
Department of Water Resources
Bureau of Water Control

consisting of decreed rights under the Sauve and Bauerle Decrees and the licensed rights were delivered to the company and recorded in 1956, record title to these real property rights became that of the company. Those are the only rights that the company claims to have ever acquired. Therefore, as of that time, the company's rights under the Sauve Decree consisted of 13.9 cfs (695 miner's inches) appurtenant to 1267.05 acres of land, an undivided one-third of 91.8 cfs under the Bauerle Decree appurtenant to 3947.1 acres; and 30.5 cfs of licensed rights (1525 miner's inches) appurtenant to 1624 acres of land. The Jackett Canal Company's share of the Bauerle Decree rights would be 30.6 cfs (1530 miner's inches) and the number of acres to which one-third of the water would have been appurtenant would be 1315.7. 242 ac counted twice

If the amounts of water rights and acreages are totaled, this would have been 75 cfs (3750 miner's inches) appurtenant to 4206.75 acres. However, as you are aware, some of these rights overlapped in the sense that in several cases, more than one right was appurtenant to the same acres. If one prepares a map showing where each right was appurtenant, it appears that the combination of these rights (3750 miner's inches) were really appurtenant under the decrees and licenses to some 3300.39 acres of land.

Remember, we are speaking only of the rights acquired in 1956 by Jackett Canal Company, and not, for instance, Independent Water Users remaining two-thirds of the Bauerle Decree rights. Such a map also discloses that 2480.69 of these acres were lands owned by stockholders of the newly formed Jackett Canal Company; 40 of these acres were located in about the center of the Jackett lands, but the owner of this land did not purchase Jackett stock because he had other rights, and other arrangements for the delivery of such rights; and 779.7 of these acres were lands which we understand to have been owned by stockholders of Independent.

Today there are some 3107.23 acres of shareholder's lands actually irrigated with the combination of these Jackett rights. This is not substantially different from the amount actually irrigated in 1956. However, a review of the records would have disclosed then, as now, that the rights acquired in 1956 by Jackett were appurtenant in part to lands other than those of its stockholders and that the water rights of other entities and individuals, such as Independent Water Users of Mud Lake, Inc., were appurtenant in part, to lands of the Jackett shareholders. As we have already pointed out with respect to the Jackett, we suspect that neither Independent, nor any other entities or individuals in this area, whose water rights are not

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Mr. Ronald D. Carlson
November 3, 1978
Page Three

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NOV 6 1978
Dep. Dir. of Resources
Bureau of Land Mgmt.

shown by the records to be appurtenant to the lands where actually used, have ever appropriated any additional water rights since 1956. We doubt that the water master's records will show additional diversions at different points or application to additional lands. The major change has been in the place of use of the various water rights which were shuffled at that time. In fact, in the case of the Jackett, there has been a slight reduction in acreage, if anything. Even though in 1956 the Jackett rights appear to have been appurtenant to 3300.39 acres, today the stockholders are actually irrigating 3107.23.

Please keep in mind that this application does not propose to solve anyone's problems except those of Jackett Canal Company. We have no authority, nor do you, to try to solve the remaining problems such as the fact that a portion of Independent's rights may still appear of record to be appurtenant to lands of Jackett shareholders. Neither Jackett nor its shareholders claim any interest in any such rights or have ever used them. The solution of such problems will have to await proper action by Independent or others as the case may be.

We would like to emphasize that both the Jackett Canal Company and the water master were getting along fine in the use and administration of the Jackett rights until department personnel, in conversations with the officers of the company, caused them to fear the loss of their rights. The application was not prepared until after detailed discussion with you personally and assurances that what was contemplated and proposed would indeed solve the problems which the department personnel had pointed out. The application has been prepared in good faith and with an effort to be thorough. ~~It has been prepared at substantial expense to the company and after other alternatives,~~ such as doing nothing, filing claims, or some sort of adjudicatory procedure in district court, had been considered at length. If so much about the genesis of this matter has been forgotten in the four months since the application was filed, we are tempted to become just a little skeptical about the quality of the examination it received.

While probably of lesser importance, we have no recollection of having requested the department to prepare an application. We assumed that we had accomplished that task and were therefore entitled to have it examined. In fact, our file contains a record of a communication with you, dated April 25, 1978, regarding this point. As a result of a particularly unsatisfactory previous experience with the department's personnel having re-prepared an application after it had been submitted, we were somewhat sensitive and requested that if, after examination of the application prepared by the applicant, the director found it to be not

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NOV 13 1978

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Mr. Ronald D. Carlson
November 3, 1978
Page Four

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NOV 6 1978

Department of Agriculture
Bureau of Reclamation

"otherwise proper", the applicant be advised of that finding and perhaps some of the reasons, so that the applicant could revise the application or bring his mandamus action, as he chose. We just cannot find a requirement in Idaho Code, Section 42-222 for the department to prepare the application.

We note from our file that our filing fee was returned last July because it was thought the application would take considerable time to review. We cannot tell for ~~certain~~ if your letter is intended as a formal notice that our application is not "otherwise proper", but we are again enclosing the filing fee and are hereby requesting that our application be examined and processed in the manner provided in 42-222. If the director determines that the application is not "otherwise proper", we would very much appreciate being formally advised of this decision as well as the reasons, so that we can take appropriate action.

If we can provide assistance in helping you to understand the intent of the application or our understanding of the physical facts, please feel free to call upon us at your convenience.

Thank you for your kind consideration.

Yours very truly,



Kent W. Foster

KWF:jt

cc: Jackett Canal Company

Encl:

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NOV 15 1978



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
EASTERN REGION

John V. Evans
Governor

C. Stephen Allred
Director

1515 Lincoln Road
Idaho Falls, Idaho 83401
(208) 523-7186

October 30, 1978

Mr. Kent Foster, Attorney
Holden, Kidwell, Hahn & Crapo
P. O. Box 129
Idaho Falls, Idaho 83401

Dear Kent:

Re: Jackett Transfer

After reviewing your proposed transfer of the water rights for the Jackett Canal Company, we find it very difficult to prepare an application for transfer that will accomplish what your clients seek and yet remain consistent with the Department's interpretation of the statutes. As you are aware, the Department takes the position that a water right is composed of several distinct parts, none of which may be changed without affecting the original right. If a change is desired, the only change that can be recognized is one that is executed pursuant to Section 42-222 of the Idaho State Code and changes only the point of diversion and place of use. All other parameters must remain consistent with the original right, including flow rate and acreage.

In the case of Jackett Canal Company, we find that the decreed surface water rights from Camas Creek were expanded to additional acreage at the time they were assigned to the company. In keeping with the Department's interpretation of the statutes, we must conclude that an additional water right bearing the priority of the assignment was established at that time. Similar ground-water rights were apparently established at about the same time. The undivided one-third interest that was sold by the Independent Water Users represents an additional complication. It appears that all of the land originally irrigated by the Independent Water Users is still being watered by the two-thirds they retained. In addition, the one-third sold to Jackett Canal Company comprises part of the water supply for all of the lands under that system. Again, it appears that additional water rights were established at the time of this sale and bear a priority of approximately that date.

If the Department had on record a description of these additional

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NOV 1 1978

rights, then perhaps a transfer could be completed that would accomplish what you are proposing. Your clients and the Independent Water Users certainly could file claims to evidence additional rights they have established, but that would leave them in a position that ultimately would end in court action when the watermaster refused to deliver water to the claimed rights during a period of scarcity. The director might also have reservations about approving a transfer that is so intimately dependent upon unsubstantiated rights.

At this point, I am of the opinion that the cleanest way to resolve the problems that now exist would come through asking the court to readjudicate your clients' water rights. We will take no further action on trying to handle the consolidation of the Jackett Water Canal Company's water rights until we have heard from you. If you would like to discuss this matter further before deciding what action you wish to take, please contact me.

Very truly yours,

RONALD D. CARLSON
Supervisor
Eastern Region

RDC:dh

MICROFILMED

July 12, 1978

RE: APPLICATION OF TRANSFER OF WATER RIGHTS - JACKETT CANAL CO.

Mr. Kent W. Foster
Attorney at Law
HOLDEN, KIDWELL, HAHN & CRAPO
P. O. BOX 129
Idaho Falls, Idaho 83401

Dear Mr. Foster:

The Department has received the Application for Transfer your office submitted recently on behalf of the Jackett Canal Company. Preliminary examination of the application indicated it will take considerable time for a proper review to determine if it is in form to receipt. We are, therefore, returning check No. A 4499 representing the filing fee of \$35.00. Your office will be advised of the results when the review is completed.

The cover letter accompanying the application mentioned a color-coded plat map, showing the place of use and points of diversion; however, I was unable to find it in the enclosures. If you happen to come across this map, please forward it to our office.

Respectfully submitted,

ERNEST CARLSEN
Water Resource Agent

EC:bp

Enclosure

MICROFILMED

3016
JUL 13 1978
NOV 13 1978

LAW OFFICES

HOLDEN, KIDWELL, HAHN & CRAPO

IDAHO FIRST NATIONAL BANK BUILDING

P. O. BOX 129

IDAHO FALLS, IDAHO 83401

TELEPHONE 523-0620

AREA CODE 208

WILLIAM S. HOLDEN
R. VERN KIDWELL
FRED J. HAHN
TERRY L. CRAPO
KENT W. FOSTER
ROBERT E. FARNAM
WILLIAM D. FALER
STEPHEN E. MARTIN
CHARLES A. HOMER
GARY L. MEIKLE
CURT R. THOMSEN

ARTHUR W. HOLDEN (1877-1967)
ROBERT B. HOLDEN (1911-1971)

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June 26, 1978

JUL 7 1978

Department of Water Resources
Eastern District Office

State of Idaho
Department of Water Resources
Eastern District Office
1515 Lincoln Road
Idaho Falls, Idaho 83401

Re: Jakkett Canal Company - Transfer of Water Rights

Gentlemen:

We are enclosing with this letter a completed Application for Transfer of Water Right form, together with our check in the amount of \$35.00 for the filing fee. The application form was inadequate to contain all of the information required on this application so there is a fairly extensive attachment and a larger map enclosed as well.

Finally, we have enclosed numerous copies of deeds and other documents to explain and support the application.

As always, if you have any questions, please contact our office at your convenience.

Thank you for your assistance in this matter.

Yours very truly,



Kent W. Foster

KWF:tjr

Enclosures

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20 JUN 27 1978

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRANSFER ANALYSIS SHEET

INITIAL REVIEW BY: Ernest

1. Right number 31-0134 Applicant Spickett
2. Type of right: ☒ Decree ☐ License ☐ Claim
3. Purpose of transfer: ☐ Change point of diversion ☒ Add diversion point(s) ☒ Change place of use
☐ Other _____
4. Check:
 - a. ☒ Source ☒ Priority ☒ Amount ☒ Purpose ☒ Period of use *Period as May 1. to Sept. 1.*
 - b. ☒ Description of original point of diversion.
 - c. ☒ Description of original place of use.
5. Amount of land &/or water transferred:
 - a. ☒ All of right.
 - b. ☐ Part of right (NOTE! Part B should be filled in only if part of the right is owned by the applicant).
 - c. ☒ Check description of point(s) of diversion.
 - d. ☒ Check description of place of use.
 - e. ☒ Check map (shows p.d. and p.u. after transfer).
 - f. ☒ Check for correct signature, notarization, and fee.
 - g. ☒ Check proof of ownership of right &/or land from which water is transferred.
 - h. ☒ Check for expansion in use of right. Comments Water Dred & letter of disclaimer.
Intent of transfer is to merge
all the rights appurtenant to all the lands.
 - i. ☐ Check for existing water rights from same source, on land water is being transferred to.
Right number(s) _____
 - j. ☒ Is use within a Watermaster District? ☒ Yes ☐ No
If yes, what district? 31 - Mud Lake & Tribulations.

FINAL PROCESSING REVIEW BY: Ernest

1. Watermaster recommendation requested on March 27, 1979 Received on April 16, 1979
2. Is transfer published correctly? ☒ Yes ☐ No
3. Protest received? ☐ Yes ☒ No

RECOMMENDED ACTION

1. ☒ Approve
2. ☐ Deny
3. Conditions* See attached conditions of approval.

4. By Ernest Carlson Date 7/10/79

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRANSFER ANALYSIS SHEET

INITIAL REVIEW BY: _____

1. Right number 31-0135 Applicant _____
2. Type of right: ☒ Decree ☐ License ☐ Claim
3. Purpose of transfer: ☐ Change point of diversion ☒ Add diversion point(s) ☒ Change place of use
☐ Other _____
4. Check:
 - a. ☒ Source ☒ Priority ☒ Amount ☒ Purpose ☒ Period of use
 - b. ☒ Description of original point of diversion.
 - c. ☒ Description of original place of use.
5. Amount of land &/or water transferred:
 - a. ☒ All of right.
 - b. ☐ Part of right (NOTE! Part B should be filled in only if part of the right is owned by the applicant).
 - c. ☐ Check description of point(s) of diversion.
 - d. ☐ Check description of place of use.
 - e. ☐ Check map (shows p.d. and p.u. after transfer).
 - f. ☐ Check for correct signature, notarization, and fee.
 - g. ☒ Check proof of ownership of right &/or land from which water is transferred.
Water Deed
 - h. ☒ Check for expansion in use of right. Comments See 31-0135 Staff
 - i. ☐ Check for existing water rights from same source, on land water is being transferred to.
Right number(s) _____
 - j. ☒ Is use within a Watermaster District? ☒ Yes ☐ No
If yes, what district? 31

FINAL PROCESSING REVIEW BY: _____

1. Watermaster recommendation requested on _____ Received on _____
2. Is transfer published correctly? ☐ Yes ☐ No
3. Protest received? ☐ Yes ☐ No

RECOMMENDED ACTION

1. ☐ Approve
2. ☐ Deny
3. Conditions* _____

4. By _____ Date _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRANSFER ANALYSIS SHEET

INITIAL REVIEW BY: _____

1. Right number 31-0143, 31-0144 Applicant _____
2. Type of right: ☒ Decree ☐ License ☐ Claim
3. Purpose of transfer: ☐ Change point of diversion ☒ Add diversion point(s) ☒ Change place of use
☐ Other _____
4. Check:
 - a. ☒ Source ☒ Priority ☒ Amount ☒ Purpose ☒ Period of use
 - b. ☒ Description of original point of diversion.
 - c. ☒ Description of original place of use.
5. Amount of land &/or water transferred:
 - a. ☐ All of right.
 - b. ☐ Part of right (NOTE! Part B should be filled in only if part of the right is owned by the applicant).
 - c. ☐ Check description of point(s) of diversion.
 - d. ☐ Check description of place of use.
 - e. ☐ Check map (shows p.d. and p.u. after transfer).
 - f. ☐ Check for correct signature, notarization, and fee.
 - g. ☒ Check proof of ownership of right &/or land from which water is transferred.
Water Right
 - h. ☒ Check for expansion in use of right. Comments See 31-0144 stuff.
 - i. ☐ Check for existing water rights from same source, on land water is being transferred to.
Right number(s) _____
 - j. ☒ Is use within a Watermaster District? ☒ Yes ☐ No
If yes, what district? 31

FINAL PROCESSING REVIEW BY: _____

1. Watermaster recommendation requested on _____ Received on _____
2. Is transfer published correctly? ☐ Yes ☐ No
3. Protest received? ☐ Yes ☐ No

RECOMMENDED ACTION

1. ☐ Approve
2. ☐ Deny
3. Conditions* _____

4. By _____ Date _____

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JUN 26 2001

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRANSFER ANALYSIS SHEET

INITIAL REVIEW BY: _____

1. Right number 31-0110 Applicant _____
2. Type of right: ☒ Decree ☐ License ☐ Claim
3. Purpose of transfer: ☐ Change point of diversion ☒ Add diversion point(s) ☒ Change place of use
☐ Other _____
4. Check:
 - a. ☒ Source ☒ Priority ☒ Amount ☒ Purpose ☒ Period of use
 - b. ☒ Description of original point of diversion.
 - c. ☒ Description of original place of use.
5. Amount of land &/or water transferred:
 - a. ☒ All of right.
 - b. ☐ Part of right (NOTE! Part B should be filled in only if part of the right is owned by the applicant).
 - c. ☐ Check description of point(s) of diversion.
 - d. ☐ Check description of place of use.
 - e. ☐ Check map (shows p.d. and p.u. after transfer).
 - f. ☐ Check for correct signature, notarization, and fee.
 - g. ☒ Check proof of ownership of right &/or land from which water is transferred.
Water Deed.
 - h. ☒ Check for expansion in use of right. Comments See 31-0110 * 5th
 - i. ☐ Check for existing water rights from same source, on land water is being transferred to.
Right number(s) _____
 - j. ☒ Is use within a Watermaster District? ☒ Yes ☐ No
If yes, what district? 31

FINAL PROCESSING REVIEW BY: _____

1. Watermaster recommendation requested on _____ Received on _____
2. Is transfer published correctly? ☐ Yes ☐ No
3. Protest received? ☐ Yes ☐ No

RECOMMENDED ACTION

1. ☐ Approve
2. ☐ Deny
3. Conditions* _____

4. By _____ Date _____

RECEIVED
NOV 15 2001

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRANSFER ANALYSIS SHEET

INITIAL REVIEW BY: _____

1. Right number 31-0534 Applicant _____
2. Type of right: ☒ Decree ☐ License ☐ Claim
3. Purpose of transfer: ☐ Change point of diversion ☒ Add diversion point(s) ☒ Change place of use
☐ Other _____
4. Check:
 - a. ☒ Source ☒ Priority ☒ Amount ☒ Purpose ☒ Period of use
 - b. ☒ Description of original point of diversion.
 - c. ☒ Description of original place of use.
5. Amount of land &/or water transferred:
 - a. ☐ All of right.
 - b. ☒ Part of right (NOTE! Part B should be filled in only if part of the right is owned by the applicant).
 - c. ☐ Check description of point(s) of diversion. *31 of right*
 - d. ☐ Check description of place of use.
 - e. ☐ Check map (shows p.d. and p.u. after transfer).
 - f. ☐ Check for correct signature, notarization, and fee.
 - g. ☒ Check proof of ownership of right &/or land from which water is transferred.
Corporation Quitclaim Deed & 7 letters of disclaimers.
 - h. ☐ Check for expansion in use of right. Comments _____
 - i. ☐ Check for existing water rights from same source, on land water is being transferred to.
Right number(s) _____
 - j. ☒ Is use within a Watermaster District? ☒ Yes ☐ No
If yes, what district? 31

FINAL PROCESSING REVIEW BY: _____

1. Watermaster recommendation requested on _____ Received on _____
2. Is transfer published correctly? ☐ Yes ☐ No
3. Protest received? ☐ Yes ☐ No

RECOMMENDED ACTION

1. ☐ Approve
2. ☐ Deny
3. Conditions* _____

4. By _____ Date _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRANSFER ANALYSIS SHEET

INITIAL REVIEW BY: _____

1. Right number 31-0337 Applicant _____
2. Type of right: ☒ Decree ☐ License ☐ Claim
3. Purpose of transfer: ☐ Change point of diversion ☐ Add diversion point(s) ☒ Change place of use
☐ Other _____
4. Check:
 - a. ☒ Source ☒ Priority ☒ Amount ☒ Purpose ☒ Period of use
 - b. ☒ Description of original point of diversion.
 - c. ☒ Description of original place of use.
5. Amount of land &/or water transferred:
 - a. ☐ All of right.
 - b. ☒ Part of right (*NOTE! Part B should be filled in only if part of the right is owned by the applicant.*)
2 of right.
 - c. ☐ Check description of point(s) of diversion.
 - d. ☐ Check description of place of use.
 - e. ☐ Check map (shows p.d. and p.u. after transfer).
 - f. ☐ Check for correct signature, notarization, and fee.
 - g. ☒ Check proof of ownership of right &/or land from which water is transferred.
Corporation Quitclaim. Deed.
 - h. ☒ Check for expansion in use of right. Comments _____

 - i. ☐ Check for existing water rights from same source, on land water is being transferred to.
Right number(s) _____
 - j. ☒ Is use within a Watermaster District? ☒ Yes ☐ No
If yes, what district? 31

FINAL PROCESSING REVIEW BY: _____

1. Watermaster recommendation requested on _____ Received on _____
2. Is transfer published correctly? ☐ Yes ☐ No
3. Protest received? ☐ Yes ☐ No

RECOMMENDED ACTION

1. ☐ Approve
2. ☐ Deny
3. Conditions* _____

4. By _____ Date _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRANSFER ANALYSIS SHEET

INITIAL REVIEW BY: _____

1. Right number 31-2289 Applicant _____
2. Type of right: ☐ Decree ☒ License ☐ Claim
3. Purpose of transfer: ☐ Change point of diversion ☐ Add diversion point(s) ☐ Change place of use
☐ Other _____
4. Check:
 - a. ☒ Source ☒ Priority ☒ Amount ☒ Purpose ☒ Period of use
 - b. ☒ Description of original point of diversion.
 - c. ☒ Description of original place of use.
5. Amount of land &/or water transferred:
 - a. ☒ All of right.
 - b. ☐ Part of right (NOTE! Part B should be filled in only if part of the right is owned by the applicant).
 - c. ☐ Check description of point(s) of diversion.
 - d. ☐ Check description of place of use.
 - e. ☐ Check map (shows p.d. and p.u. after transfer).
 - f. ☐ Check for correct signature, notarization, and fee.
 - g. ☒ Check proof of ownership of right &/or land from which water is transferred.
water deed.
 - h. ☐ Check for expansion in use of right. Comments _____
 - i. ☐ Check for existing water rights from same source, on land water is being transferred to.
Right number(s) _____
 - j. ☒ Is use within a Watermaster District? ☒ Yes ☐ No
If yes, what district? 31

FINAL PROCESSING REVIEW BY: _____

1. Watermaster recommendation requested on _____ Received on _____
2. Is transfer published correctly? ☐ Yes ☐ No
3. Protest received? ☐ Yes ☐ No

RECOMMENDED ACTION

1. ☐ Approve
2. ☐ Deny
3. Conditions* _____

4. By _____ Date _____

* All uses within Watermaster Districts require special conditions.

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NOV 15 2002

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRANSFER ANALYSIS SHEET

INITIAL REVIEW BY: _____

1. Right number 31- 2290 Applicant _____
2. Type of right: ☐ Decree ☐ License ☐ Claim
3. Purpose of transfer: ☐ Change point of diversion ☐ Add diversion point(s) ☐ Change place of use
☐ Other _____
4. Check:
 - a. ☒ Source ☒ Priority ☒ Amount ☒ Purpose ☒ Period of use
 - b. ☒ Description of original point of diversion.
 - c. ☒ Description of original place of use.
5. Amount of land &/or water transferred:
 - a. ☒ All of right.
 - b. ☐ Part of right (NOTE! Part B should be filled in only if part of the right is owned by the applicant).
 - c. ☐ Check description of point(s) of diversion.
 - d. ☐ Check description of place of use.
 - e. ☐ Check map (shows p.d. and p.u. after transfer).
 - f. ☐ Check for correct signature, notarization, and fee.
 - g. ☒ Check proof of ownership of right &/or land from which water is transferred.
Water Deed
 - h. ☐ Check for expansion in use of right. Comments _____

 - i. ☐ Check for existing water rights from same source, on land water is being transferred to.
Right number(s) _____
 - j. ☒ Is use within a Watermaster District? ☒ Yes ☐ No
If yes, what district? 31 _____

FINAL PROCESSING REVIEW BY: _____

1. Watermaster recommendation requested on _____ Received on _____
2. Is transfer published correctly? ☐ Yes ☐ No
3. Protest received? ☐ Yes ☐ No

RECOMMENDED ACTION

1. ☐ Approve
2. ☐ Deny
3. Conditions* _____

4. By _____ Date _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRANSFER ANALYSIS SHEET

INITIAL REVIEW BY: _____

1. Right number 3/- 2297 Applicant _____
2. Type of right: ☐ Decree ☒ License ☐ Claim
3. Purpose of transfer: ☐ Change point of diversion ☐ Add diversion point(s) ☒ Change place of use
☐ Other _____
4. Check:
 - a. ☒ Source ☒ Priority ☒ Amount ☒ Purpose ☒ Period of use
 - b. ☒ Description of original point of diversion.
 - c. ☒ Description of original place of use.
5. Amount of land &/or water transferred:
 - a. ☒ All of right.
 - b. ☐ Part of right (*NOTE! Part B should be filled in only if part of the right is owned by the applicant.*)
 - c. ☐ Check description of point(s) of diversion.
 - d. ☐ Check description of place of use.
 - e. ☐ Check map (shows p.d. and p.u. after transfer).
 - f. ☐ Check for correct signature, notarization, and fee.
 - g. ☒ Check proof of ownership of right &/or land from which water is transferred.
Water Deed
 - h. ☐ Check for expansion in use of right. Comments _____
 - i. ☐ Check for existing water rights from same source, on land water is being transferred to.
Right number(s) _____
 - j. ☒ Is use within a Watermaster District? ☒ Yes ☐ No
If yes, what district? 31

FINAL PROCESSING REVIEW BY: _____

1. Watermaster recommendation requested on _____ Received on _____
2. Is transfer published correctly? ☐ Yes ☐ No
3. Protest received? ☐ Yes ☐ No

RECOMMENDED ACTION

1. ☐ Approve
2. ☐ Deny
3. Conditions* _____

4. By _____ Date _____

8-15-2006

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRANSFER ANALYSIS SHEET

INITIAL REVIEW BY: _____

1. Right number 31-2310 Applicant _____
2. Type of right: ☐ Decree ☒ License ☐ Claim
3. Purpose of transfer: ☐ Change point of diversion ☐ Add diversion point(s) ☒ Change place of use
☐ Other _____
4. Check:
a. ☒ Source ☒ Priority ☒ Amount ☒ Purpose ☒ Period of use
b. ☒ Description of original point of diversion.
c. ☒ Description of original place of use.
5. Amount of land &/or water transferred:
a. ☒ All of right.
b. ☐ Part of right (NOTE! Part B should be filled in only if part of the right is owned by the applicant).
c. ☐ Check description of point(s) of diversion.
d. ☐ Check description of place of use.
e. ☐ Check map (shows p.d. and p.u. after transfer).
f. ☐ Check for correct signature, notarization, and fee.
g. ☒ Check proof of ownership of right &/or land from which water is transferred.
h. ☒ Check for expansion in use of right. Comments Water Need
i. ☐ Check for existing water rights from same source, on land water is being transferred to.
Right number(s) _____
j. ☒ Is use within a Watermaster District? ☒ Yes ☐ No
If yes, what district? 31

FINAL PROCESSING REVIEW BY: _____

1. Watermaster recommendation requested on _____ Received on _____
2. Is transfer published correctly? ☐ Yes ☐ No
3. Protest received? ☐ Yes ☐ No

RECOMMENDED ACTION

1. ☐ Approve
2. ☐ Deny
3. Conditions* _____

4. By _____ Date _____

6/15/2004
JUN 15 2004

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRANSFER ANALYSIS SHEET

INITIAL REVIEW BY: _____

1. Right number 31-2312 Applicant _____
2. Type of right: ☐ Decree ☒ License ☐ Claim
3. Purpose of transfer: ☐ Change point of diversion ☐ Add diversion point(s) ☐ Change place of use
☐ Other _____
4. Check:
 - a. ☒ Source ☒ Priority ☒ Amount ☒ Purpose ☒ Period of use
 - b. ☒ Description of original point of diversion.
 - c. ☒ Description of original place of use.
5. Amount of land &/or water transferred:
 - a. ☒ All of right.
 - b. ☐ Part of right (NOTE! Part B should be filled in only if part of the right is owned by the applicant).
 - c. ☐ Check description of point(s) of diversion.
 - d. ☐ Check description of place of use.
 - e. ☐ Check map (shows p.d. and p.u. after transfer).
 - f. ☐ Check for correct signature, notarization, and fee.
 - g. ☐ Check proof of ownership of right &/or land from which water is transferred.
 - h. ☐ Check for expansion in use of right. Comments _____

 - i. ☐ Check for existing water rights from same source, on land water is being transferred to.
Right number(s) _____
 - j. ☐ Is use within a Watermaster District? ☐ Yes ☐ No
If yes, what district? _____

FINAL PROCESSING REVIEW BY: _____

1. Watermaster recommendation requested on _____ Received on _____
2. Is transfer published correctly? ☐ Yes ☐ No
3. Protest received? ☐ Yes ☐ No

RECOMMENDED ACTION

1. ☐ Approve
2. ☐ Deny
3. Conditions* _____

4. By _____ Date _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRANSFER ANALYSIS SHEET

INITIAL REVIEW BY: _____

1. Right number 3/-2321 Applicant _____
2. Type of right: ☐ Decree ☐ License ☐ Claim
3. Purpose of transfer: ☐ Change point of diversion ☐ Add diversion point(s) ☐ Change place of use
☐ Other _____
4. Check:
 - a. ☒ Source ☒ Priority ☒ Amount ☐ Purpose ☐ Period of use
 - b. ☒ Description of original point of diversion.
 - c. ☒ Description of original place of use.
5. Amount of land &/or water transferred:
 - a. ☒ All of right.
 - b. ☐ Part of right (NOTE! Part B should be filled in only if part of the right is owned by the applicant).
 - c. ☐ Check description of point(s) of diversion.
 - d. ☐ Check description of place of use.
 - e. ☐ Check map (shows p.d. and p.u. after transfer).
 - f. ☐ Check for correct signature, notarization, and fee.
 - g. ☒ Check proof of ownership of right &/or land from which water is transferred.
Water right lists different priority and amount than was transferred.
 - h. ☒ Check for expansion in use of right. Comments _____

 - i. ☐ Check for existing water rights from same source, on land water is being transferred to.
Right number(s) _____
 - j. ☒ Is use within a Watermaster District? ☒ Yes ☐ No
If yes, what district? 3/ _____

FINAL PROCESSING REVIEW BY: _____

1. Watermaster recommendation requested on _____ Received on _____
2. Is transfer published correctly? ☐ Yes ☐ No
3. Protest received? ☐ Yes ☐ No

RECOMMENDED ACTION

1. ☐ Approve
2. ☐ Deny
3. Conditions* _____

4. By _____ Date _____

WR5809NP
No. 31-00134

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHT PROFILE REPORT

DATE: 02/15/00
PAGE: 5

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	JACKETT CANAL CO. C/O HOLDEN, KIDWELL, HAHN & CRAPO P.O. BOX 129 IDAHO FALLS ID 83401	03/20/1911	IRRIGATION STOCKWATER DOMESTIC	05/01 09/01 00/00 00/00 00/00 00/00	3.500 CFS	
TOTAL DIVERSION:					3.500 CFS	

Water Source: CAMAS CREEK

Tributary to: MUD LAKE

Stage: DECREED

Point(s) of Diversion:

T06N R35E S03 lot 04(NWNW)
T07N R35E S13 SWSW
S22 NWSE
S23 NWSW
S27 NWNE
S33 SWSW

SWSW

JEFFERSON County
JEFFERSON County
JEFFERSON County
JEFFERSON County
JEFFERSON County
JEFFERSON County

Place of use Legal Description for: IRRIGATION

				NE				NW				SW				SE								
T	R	S	:	NENE	NWNE	SWNE	SENE	:	MENW	MWNW	SWNW	SENW	:	NESW	NWSW	SWSW	SESW	:	NESE	NWSE	SWSE	SESE	:	SUM
				Lt	Ac	Lt	Ac		Lt	Ac	Lt	Ac		Lt	Ac	Lt	Ac		Lt	Ac	Lt	Ac		
06N	35E	3	:	01-42	02-42	40	40	:	03-41	04-35	40	40	:	40	40	40	40	:	40	40	40	40	:	560.0
06N	35E	4	:					:		04-07			:	40	40	40	40	:	40	40	40	40	:	327.0
06N	35E	5	:	01-41	02-38	40	40	:					:	40			40	:	40	40	40	40	:	399.0
06N	35E	8	:	40	40	40	40	:	40	40	40	40	:	40	40			:	40	40			:	440.0
06N	35E	9	:	40	40	40	40	:					:	40	40	40	40	:	40	40	40		:	400.0
06N	35E	16	:	40	40	40	40	:	40	40	40	40	:	40	40	40	40	:	40	40	40	40	:	640.0
06N	35E	17	:	40	40	40	40	:					:					:	40	40	40	40	:	320.0
07N	35E	32	:					:					:					:			08-02	07-18	:	20.0
07N	35E	33	:					:					:			01		:					:	1.0
TOTAL ACRES																							3107.0	

Place of use location for STOCKWATER is the same location as described for: IRRIGATION

Place of use location for DOMESTIC is the same location as described for: IRRIGATION

Pou County: JEFFERSON

Remarks: GEN TRANS. 2303.
AC. IRR.=3107.23.

Dates: App. Received: Priority Date: 03/20/1911
Proof Due Date:
Exam Made Date: Proof Made Date:
Licensed Date: Exam Sent to S.O.:

Misc: Water District Number: 31 Field Exam Fee:

*claim includes
Storage*

claim 3107.3

WR5809NP
No. 31-00134

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHT PROFILE REPORT

DATE: 02/15/00
PAGE: 4

Audit: 07/15/85 05/22/88 CONVERT 02/06/98 CLEARFLD

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NOV 23 2001

LAW OFFICES
HOLDEN, KIDWELL, HAHN & CRAPO

IDAHO FIRST NATIONAL BANK BUILDING
P.O. BOX 50130
IDAHO FALLS, IDAHO 83405

TELEPHONE (208) 523-0620
TELEFAX (208) 523-9518

ARTHUR W. HOLDEN (1877-1967)
ROBERT B. HOLDEN (1911-1971)
TERRY L. CRAPO (1939-1982)
R. VERN KIDWELL, OF COUNSEL

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MICHAEL D. CRAPO
JAMES D. HOLMAN
GAYLE A. SORENSON
DONALD L. HARRIS
GREGOR S. CHVISUK
RANDALL B. REED
G. LANCE NALDER
J. MICHAEL WHEELER
MARIE T. FEELEY

December 8, 1988

Department of Water Resources
150 Shoup Avenue
Idaho Falls, Idaho 83402

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DEC 8 1988

Department of Water Resources
Eastern District Office

RE: Jakkett Canal Company

Gentlemen:

One of the documents referred to in our letter and enclosures of November 28, 1988 in the above referenced matter was not in fact enclosed. It is the Pre-Irrigation Season Pumping Agreement and a copy is enclosed with this letter for filing with the claims as indicated in the attachments.

Yours very truly,

Kent W. Foster /sm

Kent W. Foster

#0445.00
5400g/sam

Enclosure

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NOV 25 1988

07/1988

FBA CLAIMS RECEIVING CHECKLIST

A31-00135, A31-00136
A31-00143, A31-00144
A31-00190

CLAIMANT'S NAME Jacket Canal Co.

CLAIM IDENT. NO.

DATE RECEIVED 28 Nov 1988

CK # 277

AMOUNT \$

YES

NO

Is the name and address complete with zip code? ☒

Is a priority date entered? ☒

Is the water use exempt from the Permit requirements, or if it is not exempt, has a Permit been approved or a License issued?

A Permit is required: (1) for groundwater developed after March 25, 1963 (except single family domestic and stockwater wells using less than 13,000 gpd), or (2) for surface water developed after May 20, 1971 (except for instream stockwater). USE CARE IF CLAIM IS RETURNED. REFER TO ADJUDICATION MEMOS # 1 (ADJ. CLAIMS/APPLICATIONS) AND # 9 (REJECTION OF CLAIMS). EXPLAIN IN COMMENTS.

(a) Is a source entered? ☒

(b) Is a tributary to entered? (if required) ☒

N/A

Is the legal description of the p.d. sufficient? ☒

Is there a description of the diverting works? ☒

Are the water uses appropriate for the form? The short form is limited to domestic and stockwater uses with direct diversion. All claims that include storage or instream stockwater must use long form. ☒

Is the period of use included? ☒

Is a quantity claimed for each use? ☒

Is a total quantity claimed entered? ☒

If required is a consumptive use entered? ☒

N/A

Is the consumptive use correct? ☒

N/A

Are the non-irrigation uses listed properly? If this claim is on the short form, and more than one domestic use is listed, single ownership must be stated. If not under single ownership, see Adjudication Memo # 4. ☒

N/A

0. Is (are) the place(s) of use entered? ☒

1. Is (are) the county(ies) entered? ☒

2. Is the ownership of p.u. checked? ☒

3. Are other water rights listed or "none" indicated? ☒

4. If required, are remarks correct? (If the claimant does not own the place of use, authority for filing the claim must be explained in the remarks.) ☒

N/A

5. Is the basis of the claim checked? ☒

6. Is the claim signed by the claimant, and is the signature appropriate? (If an individual is the claimant, has that individual signed the claim, or if an organization is the claimant, is the organization signature block complete?) ☒

Has the claim been signed, sealed, and dated by a notary? ☒

Has this claim filed on time, or was an extension granted? ☒

Is the fee enclosed correct? ☒

Exempt

If this claim is based on an existing water right, has the identification number been entered? ☒

N/A

Should this claim be receipted and data entered? ☒

Claim checked by: Emmett

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Comments: Letter to claimant - please see map and not assistant

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File for adjudication

all notices.

A31-00135/00134/00143/00144/00190/00336/00337/02289/02290/
~~00~~02297/02300/02317A/02317B/02321.

Place of use entered in accordance with map, and not Attachment B. Based on the ~~map~~ ^{Comparison of} ~~data comparing the~~ map and Attachment B ~~it~~ revealed 3 discrepancies.

- 1) The 40 acres in ~~the~~ ³⁶ Twp. 6N Rge 35E Sec 5 SE $\frac{1}{4}$ SW $\frac{1}{4}$ was illustrated as a place of use ^(on map) but was not listed on Attachment B. (data entered)
2. The 40 acres in Twp 6N Rge 35E Sec 8 NE $\frac{1}{4}$ SW $\frac{1}{4}$ was listed on Attachment B but not illustrated on the map. (not data entered).
3. The 40 acres in Twp 6N Rge 35E Sec 8 NE $\frac{1}{4}$ SW $\frac{1}{4}$ was illustrated as place of use on map but was not listed on Attachment B. (data entered).

Notices with ground water as source.

- The points of diversion were entered in accordance with map, and not the legal descriptions described in Item 4 of the notices. Comparison of the map and Item 4 reveal two discrepancies.

PRE-IRRIGATION SEASON
PUMPING AGREEMENT

THIS AGREEMENT, made and entered into by and between the undersigned parties, each of whom is entitled by virtue of valid appropriated rights of record to divert and use certain of the waters of Mud Lake, all within the boundaries of Water District #31, in Jefferson County, State of Idaho, for irrigation purposes,

WITNESSETH:

WHEREAS, the undersigned water users and water user entities constitute all of the persons and parties who are entitled by law to divert water from Mud Lake and apply the same to beneficial use upon their lands or to distribute the same for the beneficial use upon the lands of their stockholders; and

WHEREAS, such rights to the use of the waters of Mud Lake have previously been described and awarded by courts of competent jurisdiction in the following decrees:

1. A decree entered in the District Court of the United States for the District of Idaho, Eastern Division, in the case of Ernest Sauve, plaintiff, v. W. H. Abbott, et al, Equity No. 635 by the Honorable Charles C. Cavanah.

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Abbott decree, and natural artesian flows from various wells as described and set forth in the above-referenced Owsley v. Bauerle decree; and

WHEREAS, during the years of such shortages, the water users and the watermaster of said Water District have developed the practice of causing the wells described in the Owsley v. Bauerle decree to be pumped prior to May 1, so as to augment the flows into Mud Lake in order to fill the lake and supply all of the rights to use of water therefrom; and

WHEREAS, such practice is the most practical method of insuring the filling of Mud Lake in the manner necessary to permit distribution of water in accordance with the maximum rights of the parties hereto; and

WHEREAS, the undersigned parties now desire to define in a formal manner, the details and terms of this Agreement and practice,

NOW, THEREFORE, for and in consideration of the mutual promises and conditions hereinafter set forth, the parties hereto agree as follows:

1. This Agreement shall become binding upon the execution hereof by all parties and shall extend through the

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2. The duly elected watermaster of Water District #31 of the State of Idaho, shall administer this Agreement, but shall have no obligation other than to exercise his best judgment in the determinations, decisions and actions he is required to perform hereunder.

AFTER consultation with the Presidents of the ~~the~~ Canal Co's and IND. WATER USER ASSOC

3. At such time as said watermaster shall, prior to May 1 of any year, notify the parties hereto in writing, each agrees to commence pumping his or its respective wells at his or its own proper cost and expense, at such rates as said watermaster may from time to time request, and allow the water pumped therefrom to flow by the usual means into Mud Lake to the end that said lake may be filled, prior to May 1 of each year, to such maximum height on the United States geological survey gauge located on Mud Lake at the mouth of Camas Creek, as said watermaster may determine is warranted by existing conditions.

4. The watermaster shall keep accurate records of all amounts of water pumped from the wells of the parties hereto prior to May 1, pursuant to this Agreement, and shall record the same as a separate item on the record kept by him known as the "Mud Lake Allotment Sheet," under the heading "Well Water Balances." All such amounts pumped prior to May 1, after deduction therefrom of the amount of water pumped from the wells of the parties hereto after May 1, shall be the net amount of water pumped from the wells of the parties hereto prior to May 1.

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shall deduct amounts determined by the watermaster to be necessary to compensate for transmission and storage losses. No credits for such amounts pumped shall be carried past November 1 of such year, whether or not all of the amount credited to any individual or entity was used during the irrigation season.

5. It is understood that said pre-irrigation season pumping shall be in lieu of any natural or artesian flows which may have occurred during the same period, and the parties hereto agree that each has a valid and existing right to engage in and continue the practice of pre-irrigation season pumping, as described herein, by virtue of the above-referenced court decrees, and having done so over a period of many years. No party claims any right other than or in addition to the rights set forth in said decrees and as further described herein, by virtue of this Agreement or other written or oral agreements made for the same or similar purposes in the past, or the actual practices in previous years. Each party hereto hereby releases each and every other party and the watermaster of and from any and all claims of every name, nature, and description, which may arise out of, or in the course of, the administration of or in compli-

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JACKETT CANAL COMPANY

By: Ray B. Zofel
Its Pres

LEVEL CANAL COMPANY

By: Werner Schmitt
Its Pres

HOLLEY WATER USERS, INC.

By: Carl R. Haggan pres
Its _____

DOBSEN-STEWART RANCHES, INC.

By: Wm. R. Sch
Its Chairman

Jay T. Furness
JAY T. FURNESS

Joe B. Potter
JOE B. POTTER

LEVERE PARKS ESTATE

By: Blaine Park
Personal Representative

INDEPENDENT WATER USERS OF MUD LAKE, Inc

By: Frank Sadoway Vice Pres

Water District #31

Box 33
Dubois, Idaho 83423
(208) 374-5230

Donald W. Shenton
Watermaster

ATTACHMENT TO, AND PART OF, PRE IRRIGATION SEASON PUMPING AGREEMENT

We the undersigned do hereby agree to pay our appropriate per cent cost of charges assessed by the actual billings of the following:

1. Power bill charges made to the sub pump owners of waters pumped and returned into Mud Lake due to high lake levels caused by pre season pumping.
2. Maintenance bills of above pumps for service, and parts to maintain said pumps.
3. The pumpers eligible for payment shall be Art Dobsen, Jay Furness, and Blaine Park and Joe Marty.
4. All waters pumped, that are paid for by this agreement shall be credited to Mud Lake losses and evaporation and not for any individual or corporation credit.
5. Method of collection Pump owners shall pay said bills as charged. At the end of sub-pump season a copy of said bills with a copy of receipt of payment shall be presented to the Watermaster of Water Dist. #31, which in turn will be pro-rated and assessed by per cent as follows. The Watermaster would then return checks of proper amounts to pump owners.

Percent Break-down

	Acres	
Owsley Canal Co.	17,800	.6840
Jackett Canal Co.	2,821	.1084
Ind. Water Users	4,803	.1846
Holley Water Users	600	.0230
	26,024	1.0000

Owsley Canal Co.

By Mike Wilkerson

Its Pres

Ind. Water Users

By Werner Schmitt

Its Pres

Jackett Canal Co.

By Dean B. Kofel

Its Pres.

Holly Water Users.

By Carl R. Hoggan

Its Pres

Signed this 5 day of March 1982.