ATTACHMENT 2

IDAHO DEPARTMENT OF WATER RESOURCES

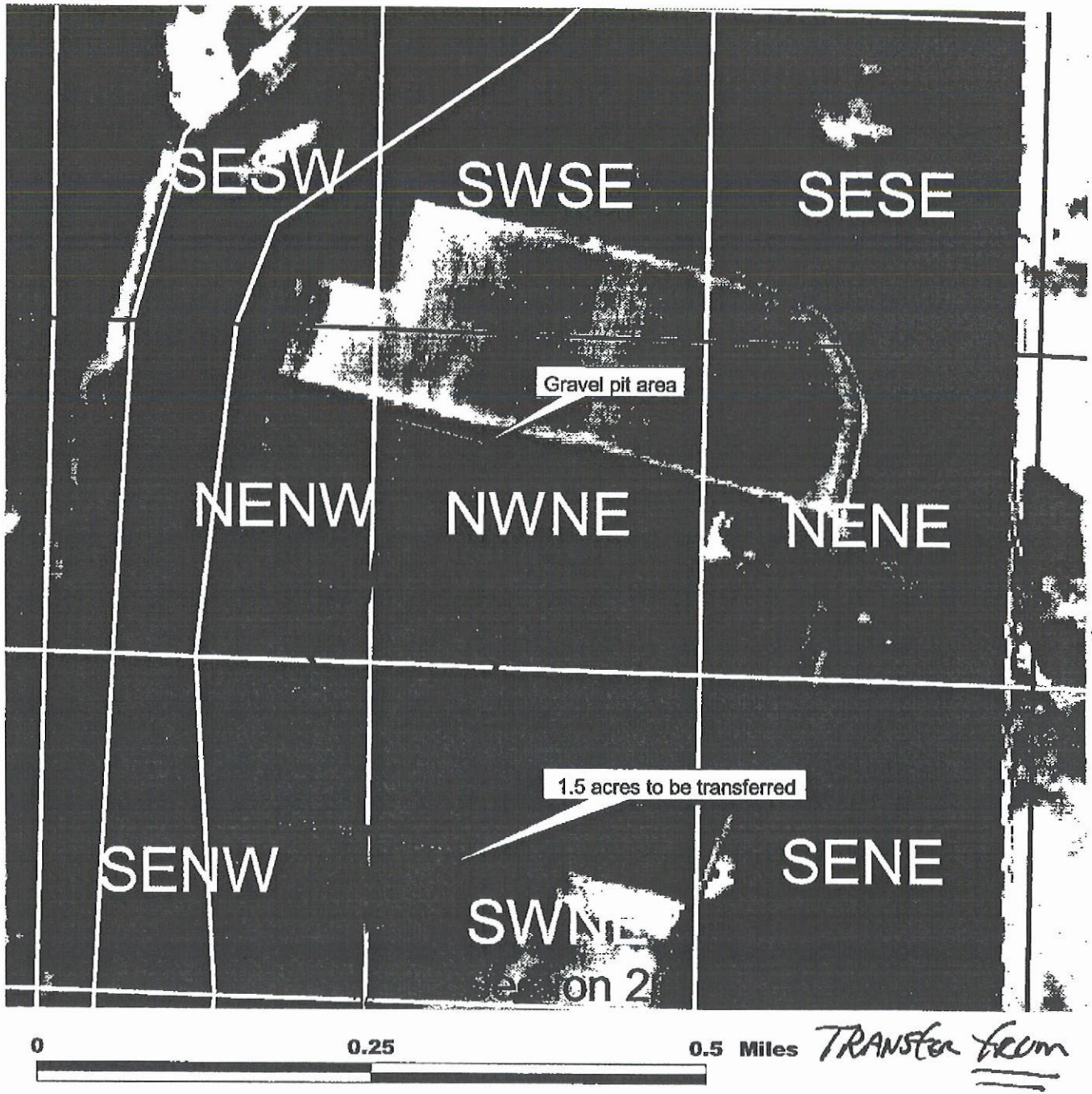
T7N, R2E SEC. 26

1987 NAPP

Section Lines

1/41/4

Transfer 65-3103
DR&J Investment



N
W E
S

PART 3 A

TRANSFER FROM

on 2

IDAHO DEPARTMENT OF WATER RESOURCES

ATTACHMENT 3

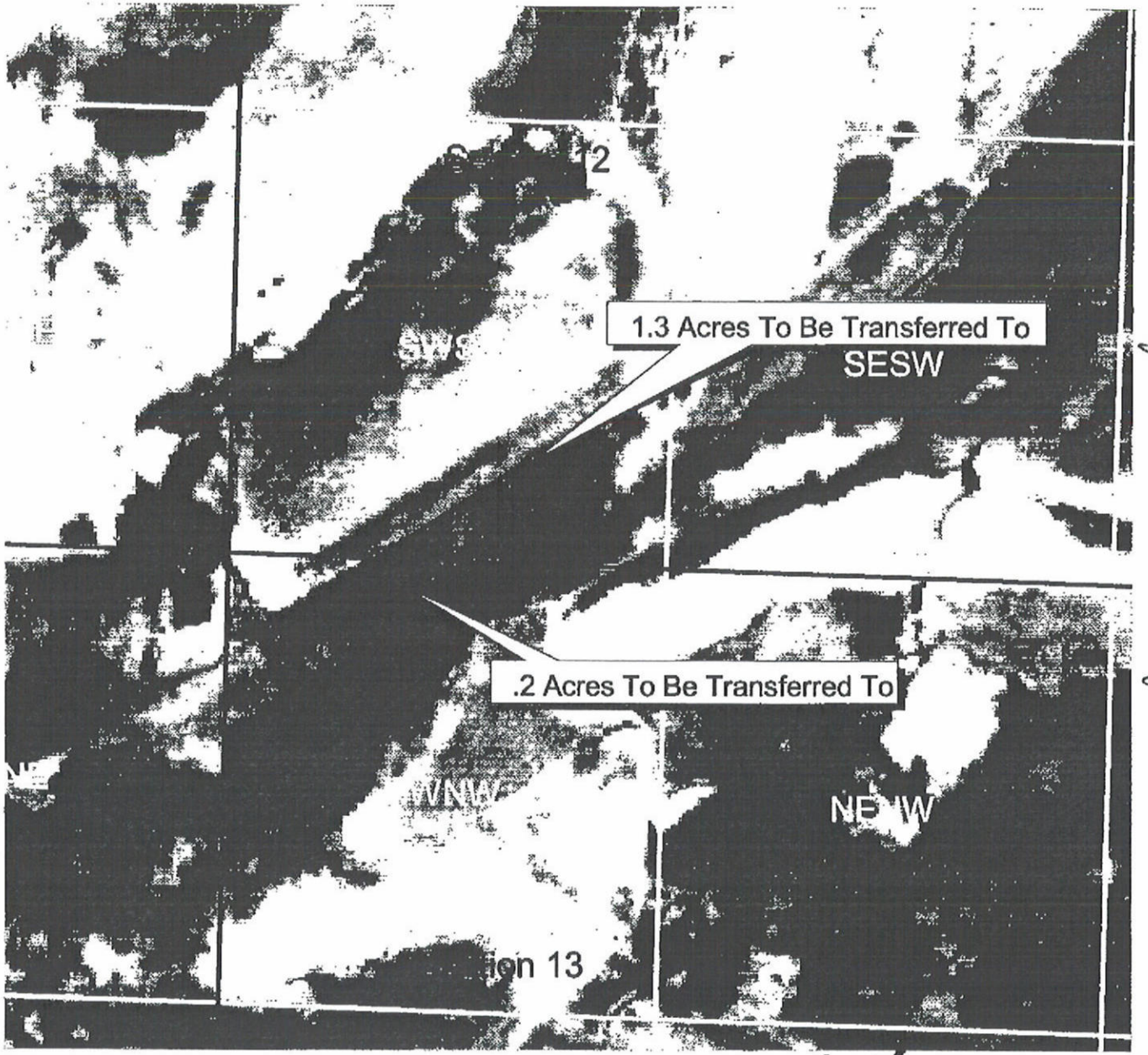
T7N R2E
Sec 12 & 13

1987 NAPP

Section Lines

1/41/4

Transfer 65-3103
DR&J Investment



PART 3A continued

TRANSFER TO

N
W
E
S

First Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

RETURN TO SENDER

fee due 60

US POSTAL SERVICE
PS FORM 3547

RECEIVED
MAR 2 1 2001
WATER RESOURCES
WESTERN REGION

65-

65-00538A

DEPARTMENT OF WATER RESOURCES
WESTERN REGIONAL OFFICE
5 AIRPORT WAY
BOISE, IDAHO 83705

Rumsey

D R & J INVESTMENTS LIMITED
PARTNERSHIP
1197 MAIN ST
BOISE ID 83702

RUMS197 837022016 1300 07 03/15/01
FORM 3547
RUMSEY
8973 W STATE ST
BOISE ID 83703-1729

Claim No(s): 65-01151, 65-02138, 65-01317, 65-02532A, 65-2540, 65-03103, 65-10747, 65-10748, 65-10749, 65-11393A

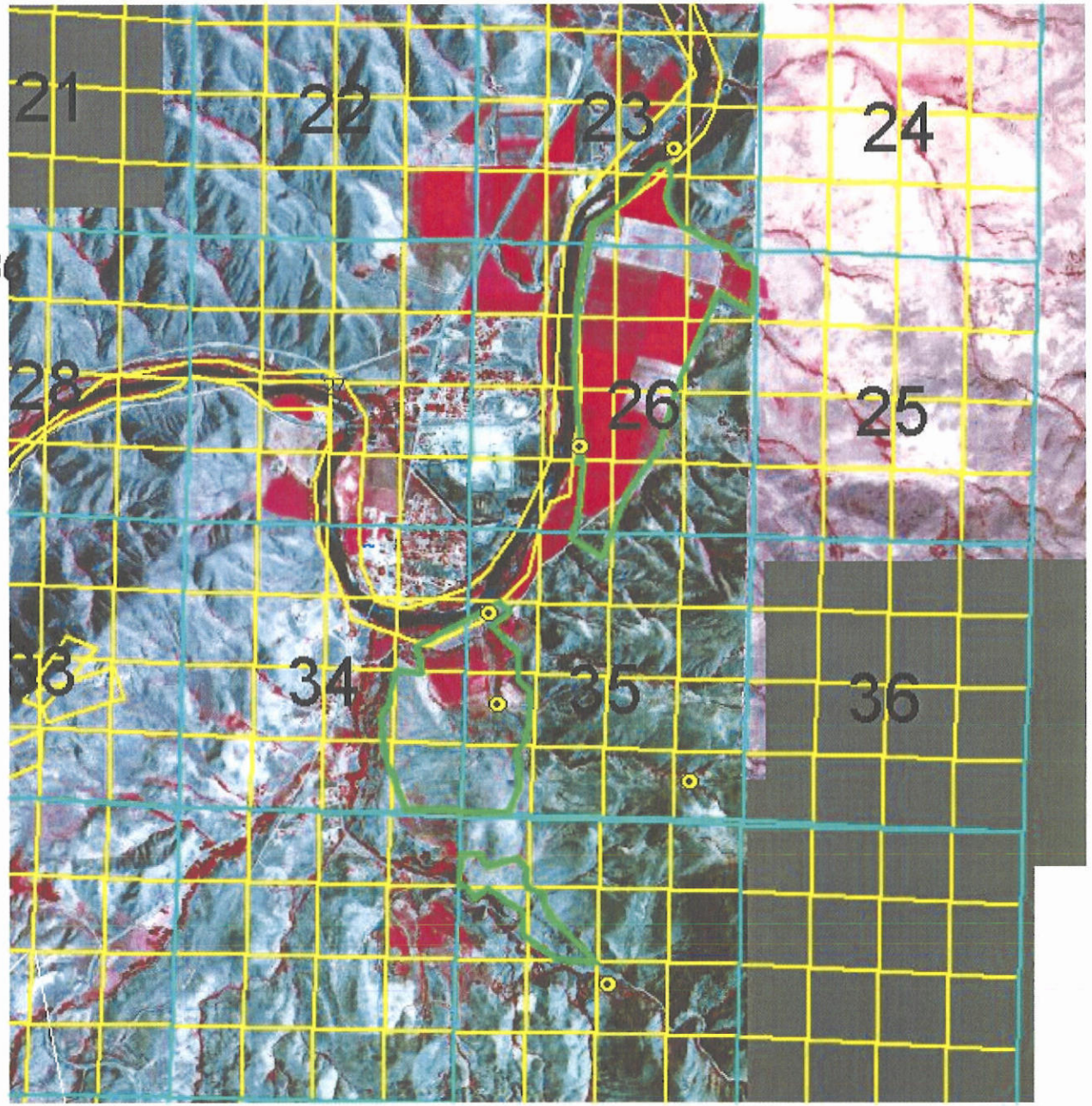
T07N, R02E, S23,25,26,35,3

T06N, R02E, S 2

Prepared by: Sue Bock

Date: 1/17/2001

Idaho Dept. of Water Resources



1987 NAPP Photo

Place of Use

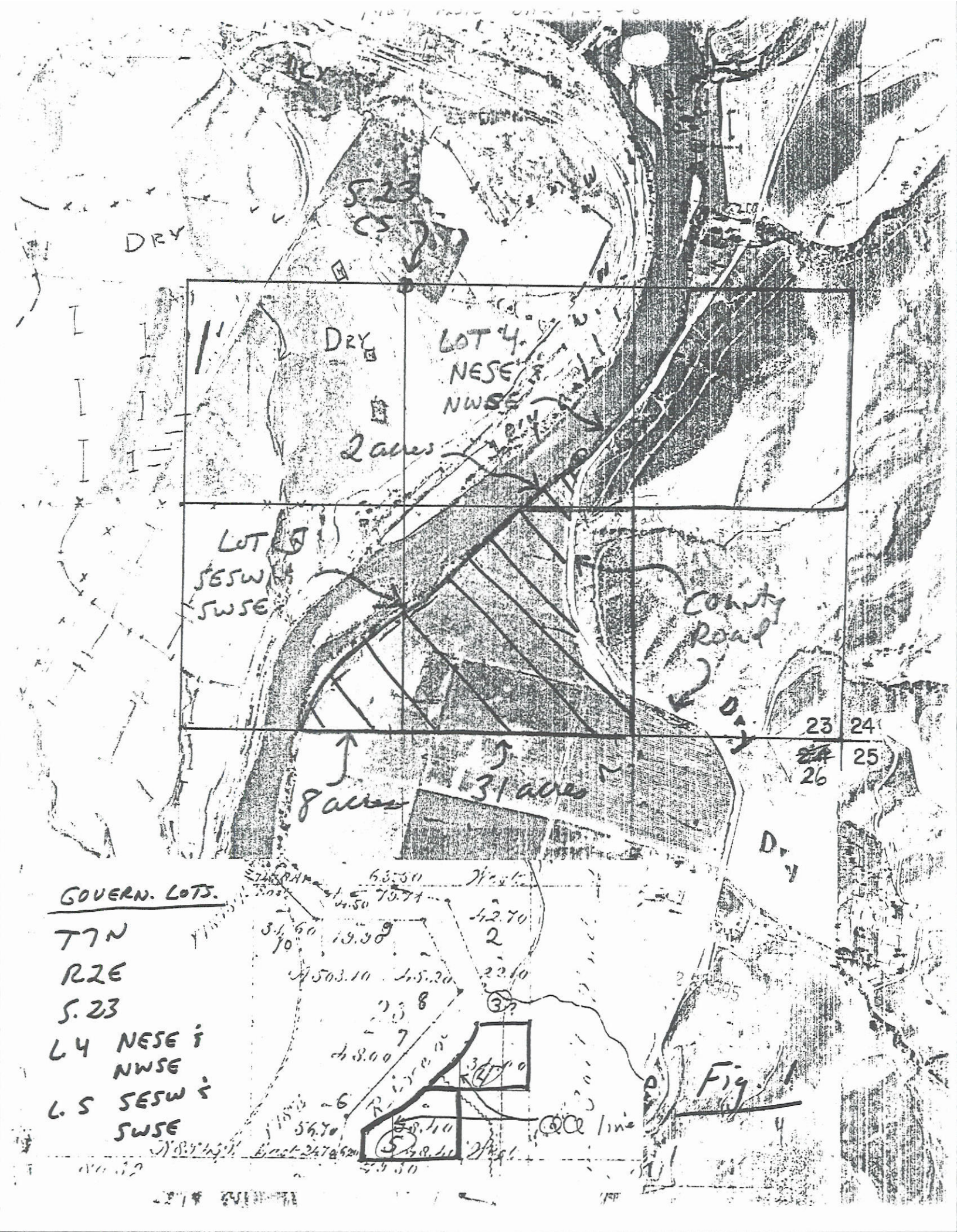
Point of Diversion

Section lines

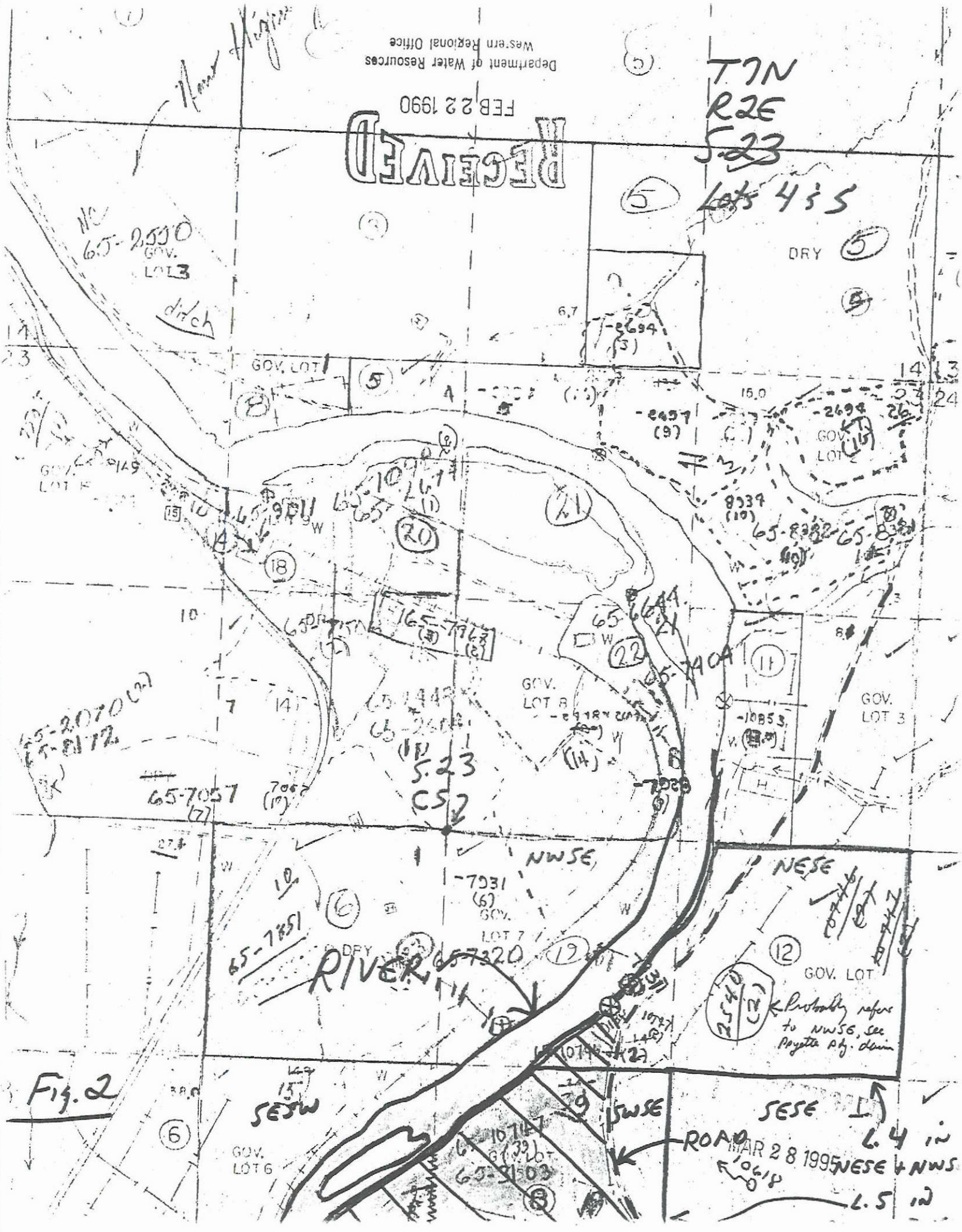
1/4 1/4 lines

N W E S

0 0.4 0.8 Miles


S.23
C.S.
DRY
DRY
LOT 4
NESE
NWSE
2 acres
LOT 5
SESW
SWSE
County Road
23
24
25
26
8 acres
31 acres
DRY
GOVERN. LOTS.
T7N
R2E
S. 23
L4 NESE ¼
NWSE
L5 SESW ¼
SWSE
QQ line
Fig. 1

RECEIVED
FEB 22 1990
Department of Water Resources
Western Regional Office



IN THE DI[S]T[R]ICT COURT OF THE [THIRD] JUDICIAL DISTRICT

OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF [GEM]

IN THE MATTER OF THE GENERAL DETERMINATION OF RIGHTS TO THE USE OF ____ PAYETTE RIVER DRAINAGE BASIN.

NOTICE OF CLAIM TO A WATER RIGHT

IDENT. NO. 65-10747 MAP NO. 7-2-D,E

RECEIVED AUG 12 1977

Notice is hereby given that Double Diamond Inc., c/o Don Rumsey (Name of Claimant)

Horseshoe Bend, ID 83629 (Mailing Address) claims a right to the diversion and beneficial use of the surface or groundwater, of or tributary to Snake River;

The extent and nature of said claim is as follows:

(1) Date of priority: (When was the water first applied to a beneficial use, or date that permit was issued) April 1, 1950

(2) Describe the source of water: (Name of stream, lake, spring, etc., or groundwater) Payette River

(3) Describe the purpose for which the water has been used and the time during the year when you have used the right claimed:

881.3 / 383 AFA

Quantity .9 cfs (CFS. GPD. AF.) Use irrigation (Domestic, irrigation, stock, etc.) Period of Use From Apr 1 (Mo., Day) To Oct 31 (Mo., Day) (Both Dates Inclusive) (1-1)

Quantity ____ (CFS. GPD. AF.) Use ____ (Domestic, irrigation, stock, etc.) Period of Use From ____ (Mo., Day) To ____ (Mo., Day) (Both Dates Inclusive)

Quantity ____ (CFS. GPD. AF.) Use ____ (Domestic, irrigation, stock, etc.) Period of Use From ____ (Mo., Day) To ____ (Mo., Day) (Both Dates Inclusive)

(4) .9 cfs (CFS. GPD. AF.) TOTAL QUANTITY CLAIMED.

(5) A) Point of Diversion: Give location of point where water is diverted from its source ____ ¼ ____ ¼, Sec. 23, Twp. 7 ____, Rge. 2E, B.M.; and if other points: LOT 4

B) Describe means of diversion of water: (Pump and pipeline, well, diversion dam, reservoir, length of ditch and field, etc.) Give sizes and capacities; be as specific as possible. PUMP, SPRINKLER SYSTEM

(6) A) Describe location of use by listing number of irrigated acres within each 40-acre tract in appropriate box. If use is not for irrigation, place an "X" in appropriate box to show location.

T	R	SEC.	NE¼				NW¼				SW¼				SE¼				TOTAL
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
7N	2E	23														21 (Lot 4)	19 (Lot 3)	1	42
		23	13	40	30	3 (Lot 1)	23			22 (Lot 2)	37 (Lot 3)					141			166

39

Total No. of acres 208

B) If water is used for other than irrigation, fully describe that use, being as specific as possible: ____

(7) Effluent, sewage waste, or return water from this use is discharged into ____

(8) If you are claiming water as a member of an organization, list name of organization. ____

(9) Remarks NOTE: NEW, LARGER PUMP INSTALLED AT THIS TIME (This right when combined with rights 65-3103 and 65-10746 and 65-2540 shall provide no more than .02 cfs/acre duty for 365 AFA/year)

(10) Basis of claim (Check one)

☐ A) Right based on diversion and beneficial use.

☐ B) Right decreed by court, cite title of case. ____

☐ C) Right based on application, permit, license, or claim filed with the Idaho Department of Water Administration. ____

Be it known that the undersigned, after being duly sworn on oath, depose(s) and say(s) that all statements included herein are true and accurate to the best of (his, her, their) knowledge.

Individual

Aug 9 1977 (Date) (Signature of Claimant)

(Signature of Spouse)

MAR 9 1982

State of California

Organization Seal

Organization Double Diamond Inc

(Signature of Authorized Agent)

County of Los Angeles ss

On this ____ day of August, in the year 1977, before me, ____, a notary public, personally appeared ____, known to me to be the person(s) whose name(s) are subscribed to the above instrument, and acknowledged to me that (he, she, they, corporation, partnership or ____) executed the same.

OFFICIAL SEAL
WILLIAM R. FECHO
NOTARY PUBLIC - CALIFORNIA
LOS ANGELES COUNTY
My comm. expires FEB 25, 1980

Notary Public residing at ____

My commission expires 5/24/1978

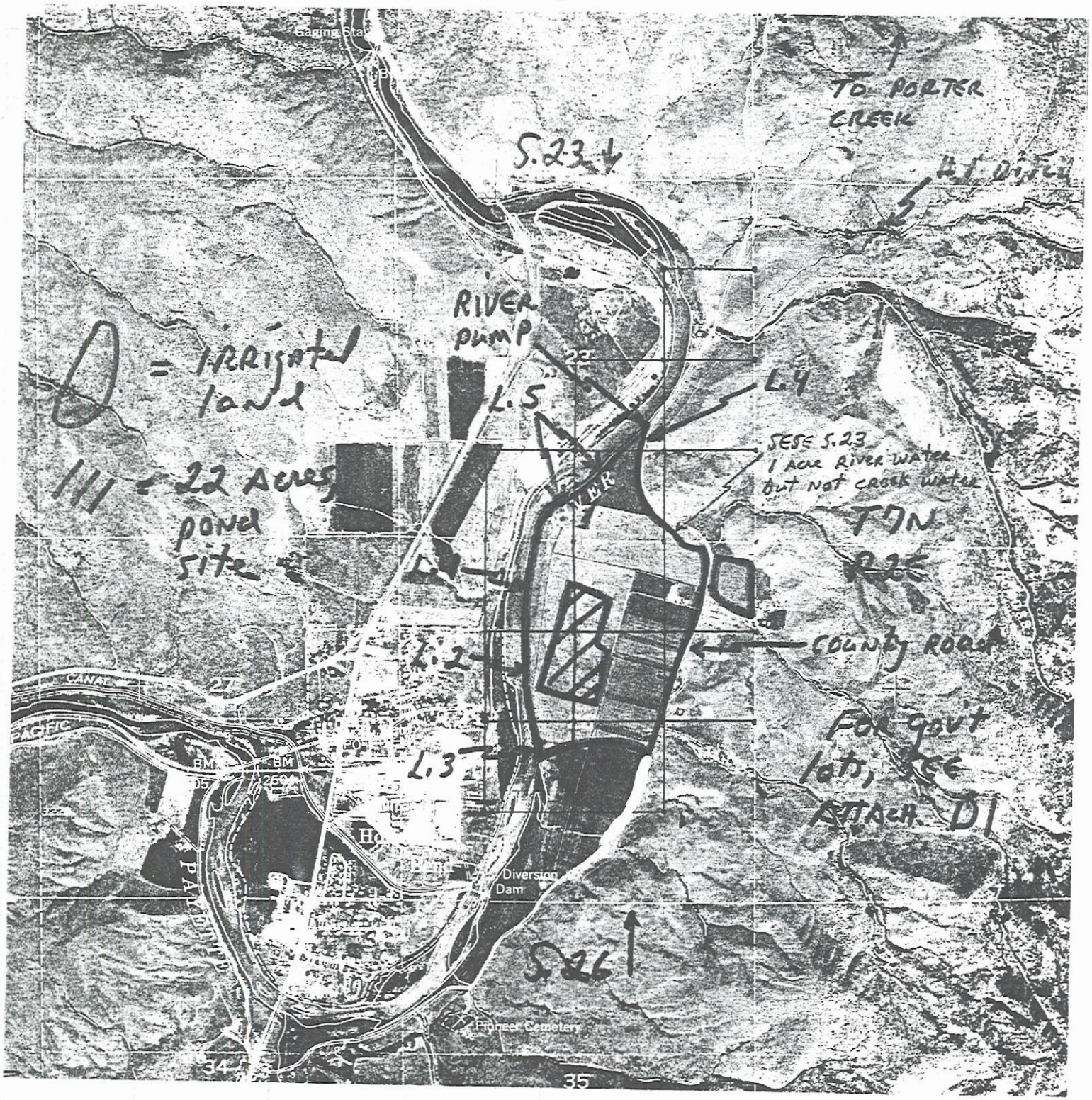
DRT 11-18-77

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

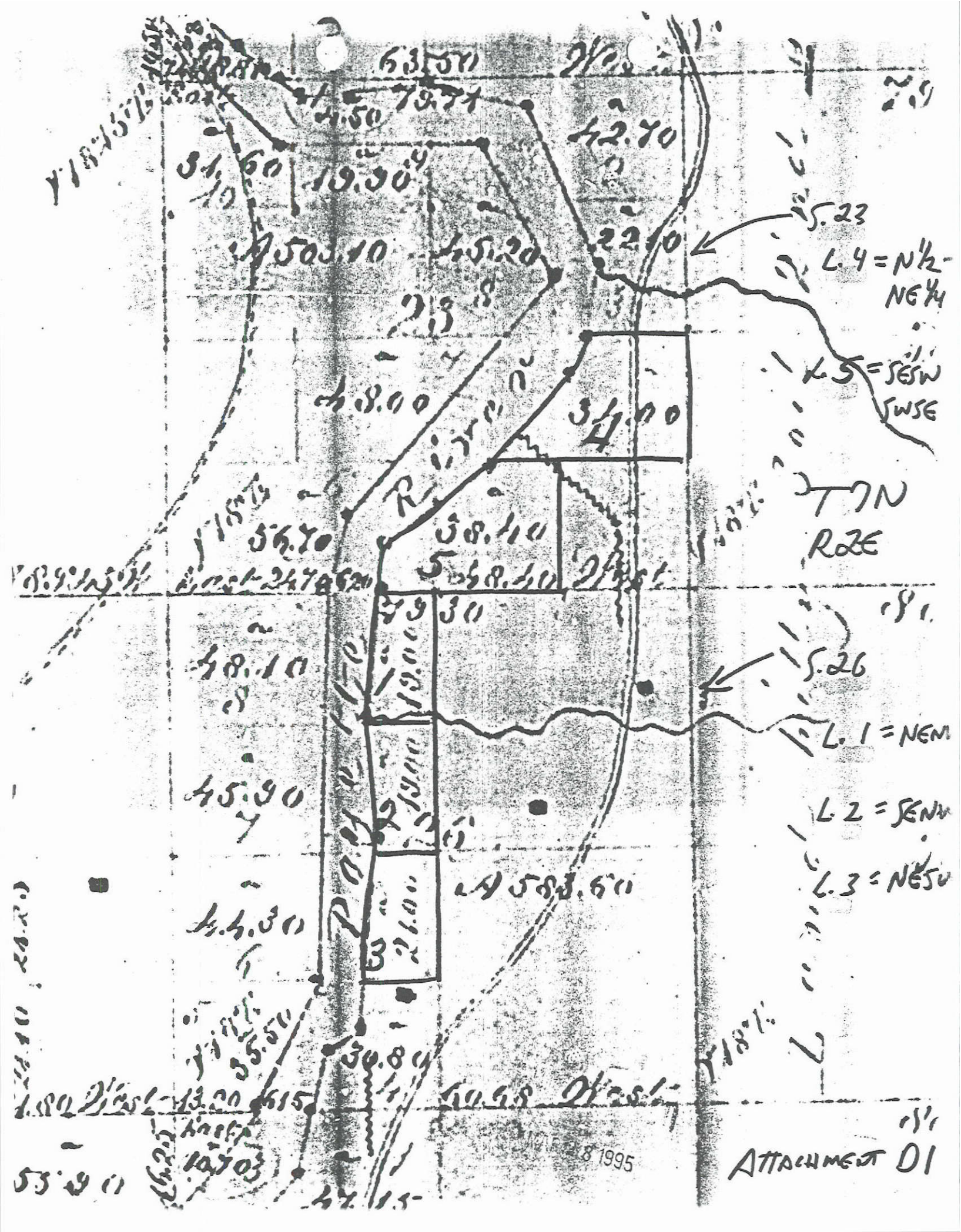
PART 3

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

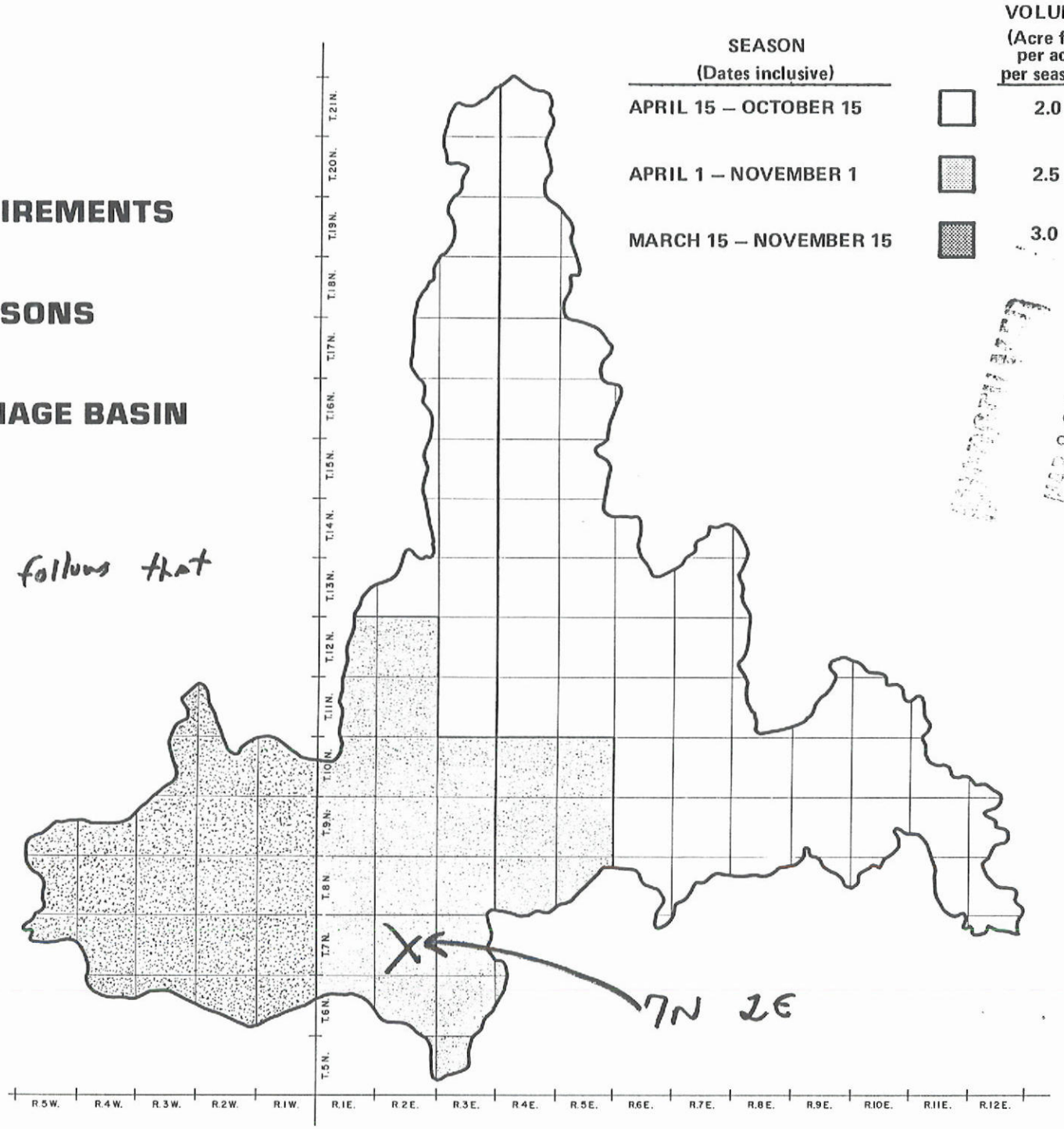


SCALE: 2 inches equal 1 mile. Draw plan in ink.

MAR 2 8 1995


L.4 = N½ NE¼
L.5 = SESW SWSE
T7N
R2E
L.1 = NENW
L.2 = SENW
L.3 = NESW
ATTACHMENT 01

CONSUMPTIVE REQUIREMENTS and IRRIGATION SEASONS in the LAYETTE RIVER DRAINAGE BASIN



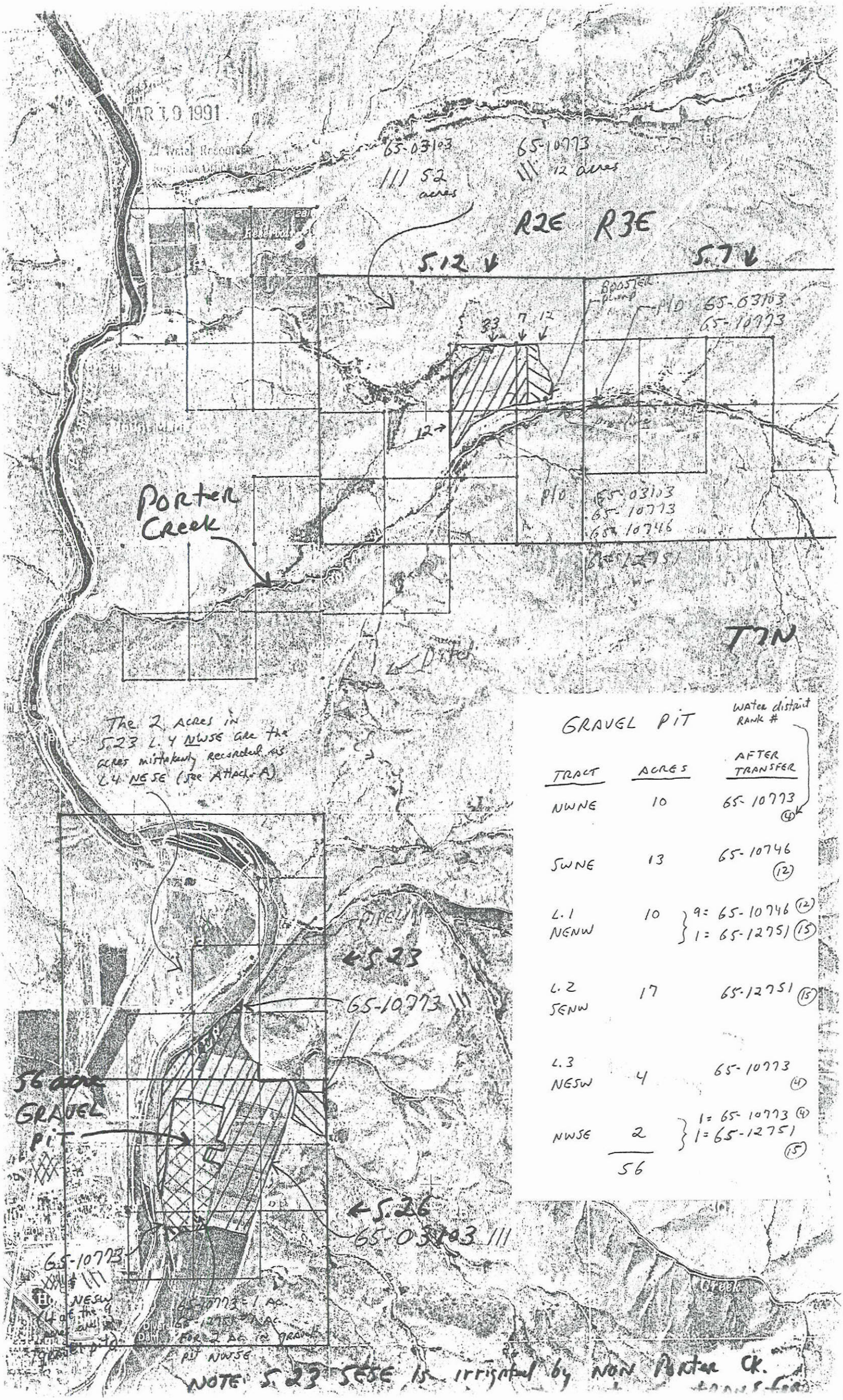
MAR 2 8 1995

if c.u. = 2.5, it follows that

div. vol. = 3.5

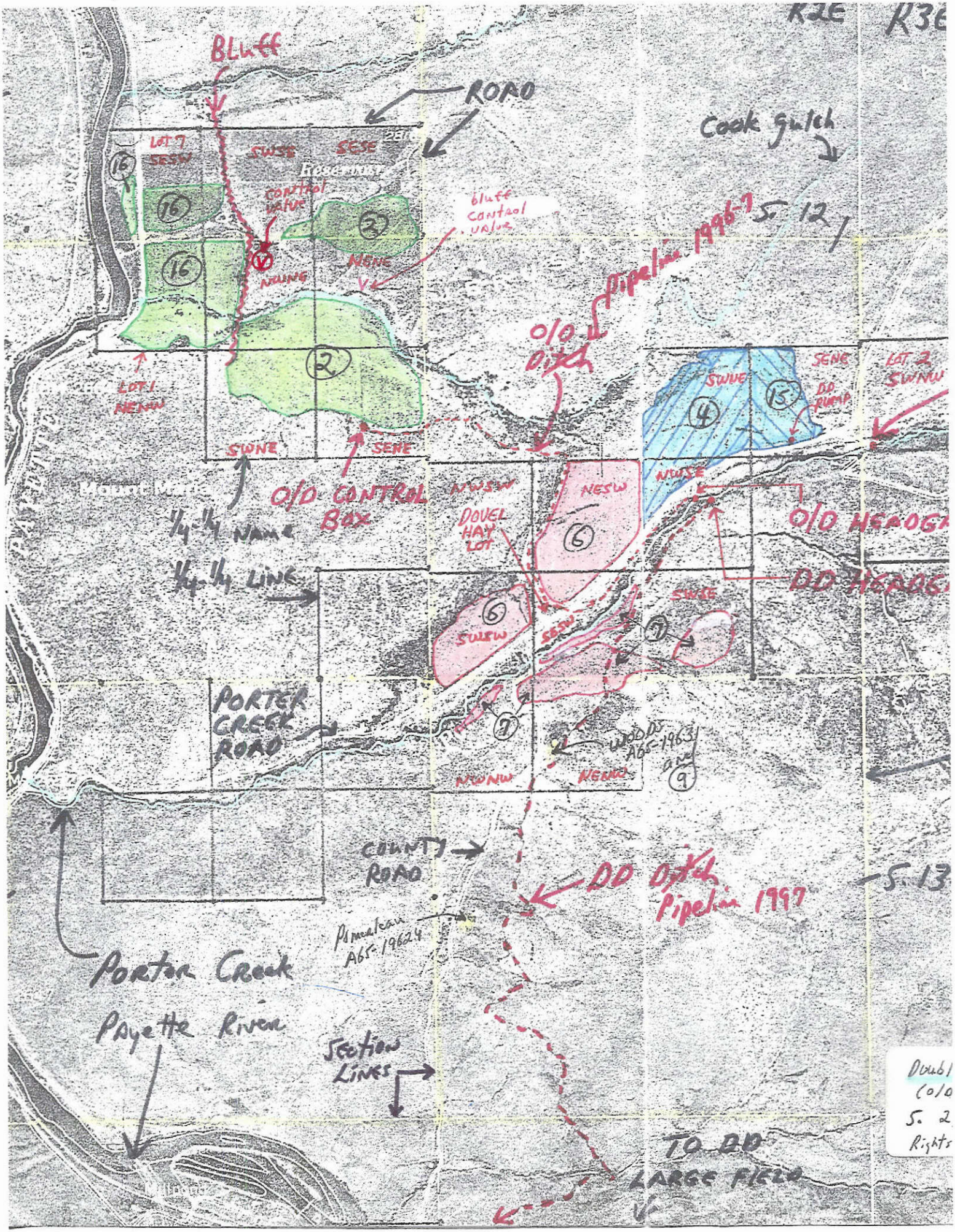
(3.5)(.7) ≈ 2.5

Figure 2.



GRAVEL PIT

TRACT	ACRES	AFTER TRANSFER (Water district rank #)
NWNE	10	65-10773 (4)
SWNE	13	65-10746 (12)
L.1 NENW	10	9 = 65-10746 (12); 1 = 65-12751 (15)
L.2 SENW	17	65-12751 (15)
L.3 NESW	4	65-10773 (4)
NWSE	2	1 = 65-10773 (4); 1 = 65-12751 (15)
	56	


R2E
R3E
Bluff
ROAD
Cook Gulch
LOT 7 SE5W
SW5E
SE5E
Rose
control valve
bluff control valve
NW5E
NW5W
Pipeline 1996-7
S. 12
O/O ditch
LOT 1 NE¼NW¼
SW¼NE¼
SE¼NE¼
O/O CONTROL BOX
¼-¼ NAME
¼-¼ LINE
NW5W
DOVEL HAY LOT
NE5W
SW5E
SE5E
LOT 2 SW¼NW¼
DD PUMP
O/O HEADGA
DD HEADG
SW5W
SE5W
PORTER CREEK ROAD
NW¼NW¼
NE¼NW¼
WOODS ABS-19631
COUNTY ROAD
DD Ditch Pipeline 1997
S. 13
Pomeroy ABS-19624
Porter Creek
Payette River
Section Lines
TO DD LARGE FIELD
Doubl
C o/o
S. 2
Rights

State of Idaho
DEPARTMENT OF WATER RESOURCES
WESTERN REGION, 2735 Airport Way, Boise, Idaho 83705 • (208) 334-2190

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

July 14, 1988

DISTRIBUTION: Attached Mailing List

RE: Water Distribution on Porter Creek

Dear Interested Party:

On July 6, 1988, I accompanied the Watermaster of Water District 65-B, Porter Creek and tributaries, on an inspection of diversion facilities and water uses from Porter Creek. We made a number of observations and determined that some modifications to the water delivery systems are required. Since the inspection, the watermaster has discussed some of the items with individual waterusers, and some corrections to the system have been made.

The purposes of this letter are to apprise interested parties of the current status of water delivery on Porter Creek and to require that improvements be made to specified diversion systems. Improvements specified in this letter must be completed prior to August 1, 1988. Those not completed by that date are subject to legal action by the Department in conjunction with the Water District. Specific observations are as follows:

1. The pipe that flows into the Double Diamond measuring device at the upper diversion (located in the SW1/4 NW1/4 Sec. 7, T 7 N, R 3 E) appeared to be leaking initially, causing the measuring device to be inundated. However, during the past week the area around the pipe has appeared to be dry so the leak may have ceased. If any leaking resumes the pipe should be corrected accordingly.

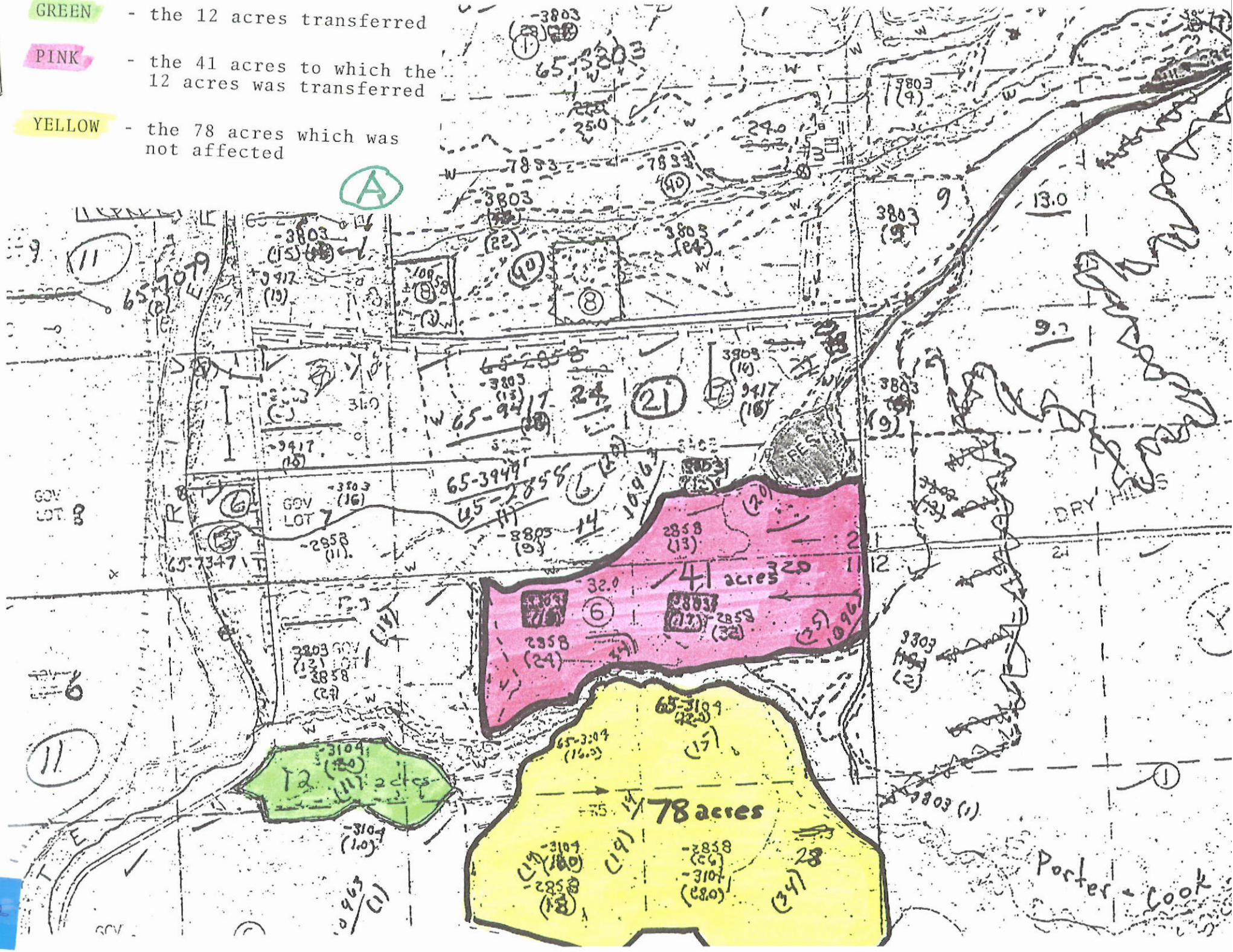
2. The diversion system for the Double Diamond first priority water right at the lower diversion (located in the NW1/4 SE1/4 Sec. 12, T 7 N, R 2 E) was leaking at the time of the inspection, but has since been sealed. It is important that this seal be maintained during periods when other water rights are shut off.

3. The headgate for the Double Diamond first priority water right at the lower diversion (located in the NW1/4 SE1/4 Sec. 12, T 7 N, R 2 E) cannot now be regulated and locked. It is important that the watermaster have the capability to regulate this diversion in the same manner as the other diversions on the stream. Thus, a proper, lockable headgate must be installed.

GREEN - the 12 acres transferred

PINK - the 41 acres to which the 12 acres was transferred

YELLOW - the 78 acres which was not affected

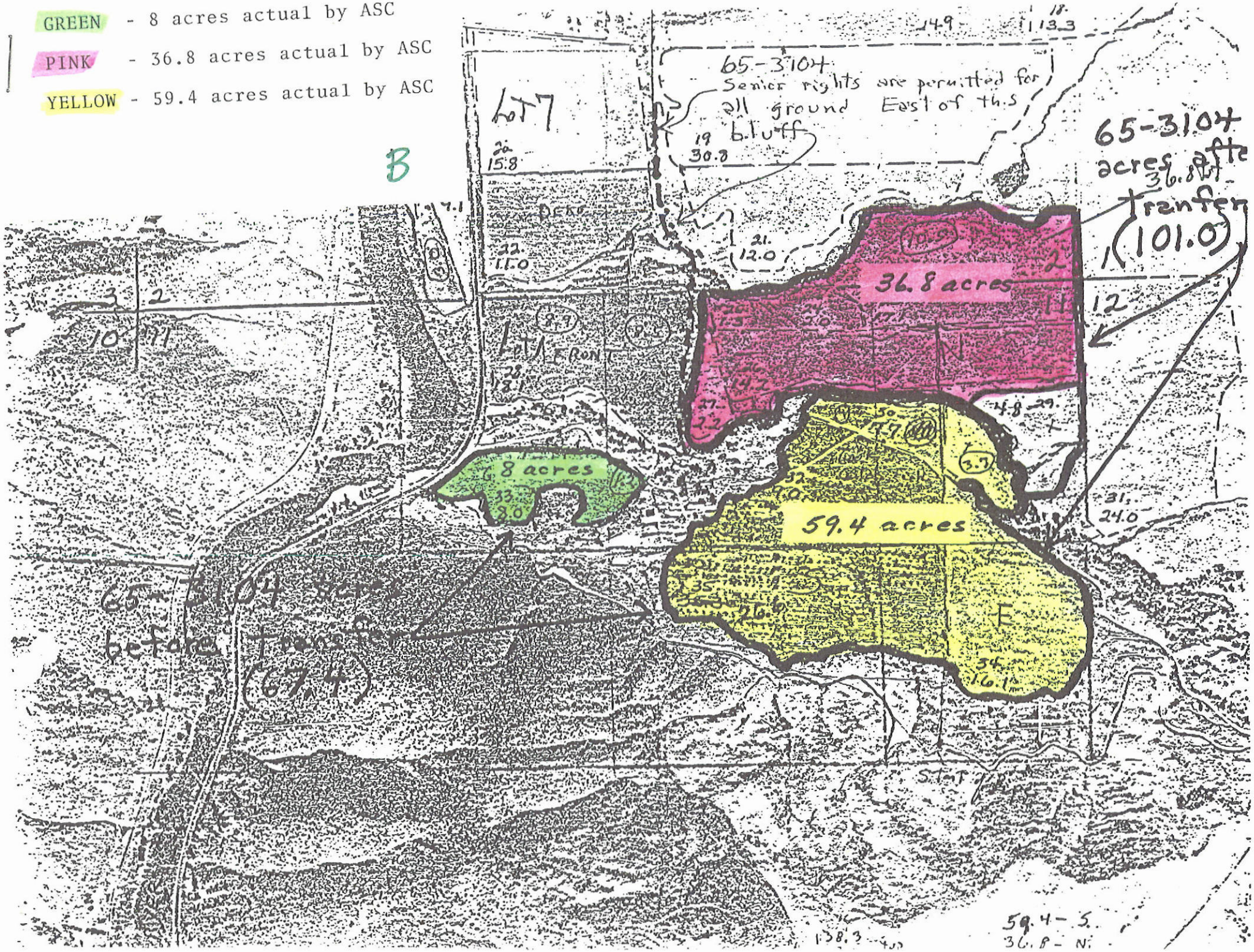


GREEN - 8 acres actual by ASC

PINK - 36.8 acres actual by ASC

YELLOW - 59.4 acres actual by ASC

B



65-12812 65-13079 GLEN VH

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region, 2735 Airport Way, Boise, Idaho 83705 - (208) 334-2190

CECIL D. ANDRUS
GOVERNOR
R. KEITH HIGGINSON
DIRECTOR

JUL 19 1989
Department of Water Resources

July 18, 1989

Mr. George Dovel
Route 1, Box 61
Horseshoe Bend, Id. 83629

Re: Porter Creek Water Distribution

Dear Mr. Dovel:

In response to your July 4, 1989 letter, Mr. Steve Lester of the Western Regional Office made field investigation trips to Porter Creek on July 6, 12, and 14, 1989. His visit of June 28, 1989 was also useful to respond to various issues. The Water Master, Zippy Pattee, is aware that delivery of Porter Creek water must proceed according to priority dates, decreed flows, and proper places of use as well as lockable headgates and suitable measuring devices. The Water Master was appointed by Certificate of Appointment on June 29, 1989.

The main points of your letter included accurate delivery to proper fields, lockable and controllable valves to prevent intermingling of Porter Creek and other waters, identifying senior and junior right fields, an aerial photo to assist the Water Master in delivery of water, wasting of water through ditch problems, and wasting of water at or near the Oliver-Dobson dam. The items are addressed below.

1) Accurate delivery to proper fields can be achieved by adequate and controllable diversions, suitable measuring devices, and a map outlining the various water rights to be delivered by the Water Master. The diversion dams, lockable headgates, and measuring devices for the Double Diamond and Oliver-Dobson rights are properly in place and functional. For example, on July 14 only a few inches were flowing past the Oliver-Dobson dam while their diversion measured 0.99 cfs or 49.5 inches. This dam and diversion, and the Double Diamond dam and diversion by inference as an upstream diversion, were functioning properly. An orthophotoquad map delineating the places of use for the water rights is being prepared by the Western Region staff.

2) Lockable valves to prevent co-mingling of Porter Creek and other waters were in place and under the Water Master's control as of July 14 for the Double Diamond and Oliver-Dobson fields. The valve in the NW1/4 SE1/4 Sec. 26 is locked to prevent Porter Creek and other waters from co-mingling on Double Diamond fields. Similar control was established by the same day for the Oliver-Dobson lands in Sec. 2 and 11. Three controllable valves are located in Sec. 11 in the NE1/4 NE1/4, NW1/4 NE1/4, and SE1/4 NE1/4. The condition concerning such valves, discussed in my July 14, 1988 letter, has been met.

State of Idaho
DEPARTMENT OF WATER RESOURCES (208) 327-7900
1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - [redacted]

CECIL D. ANDRUS
GOVERNOR
R. KEITH HIGGINSON
DIRECTOR

June 2, 1989

George Dovel
Rt. 1, Box 61
Horseshoe Bend, ID 83629

f

RE: LETTER DATED MAY 24, 1989

Dear Mr. Dovel:

On June 1, 1989, Steve Lester of the department's Western Regional office met with Zippy Pattee, the Porter Creek watermaster. The field review was in response to your letter dated May 24, 1989 and was for the purpose of determining compliance or non-compliance with department permits and to look for obvious waste of water. Since alleged damage associated with failure to maintain a ditch is a civil matter outside the jurisdiction of the department and the watermaster, the alleged damage was not assessed.

The diversion into the Tom Oliver-Steve Dobson (Oliver-Dobson) ditch was inspected and was found to have a suitable measuring device and a lockable headgate. Flow into the Oliver-Dobson ditch was measured to be approximately 1.6 cfs which is the rate of diversion for decreed right 65-3104. There did not appear to be a problem where the ditch crossed the county road or a waste of the water.

The department's approval of Permit 65-12842, required the submittal of plans and specifications of proposed changes to the Oliver-Dobson ditch before the 0.84 cfs authorized by the permit may be diverted. The department has not yet received those plans and specifications, so the diversion of the 0.84 cfs in addition to the 1.6 cfs under right 65-3104 is not yet authorized. By copy of this letter, the watermaster, Oliver and Dobson will be advised of this matter.

Also by copy of this letter, Oliver and Dobson are reminded to use their water rights only on the land to which it is appurtenant. Failure to comply with this basic principle of a water right will result in appropriate action by the department.

The department does not plan to utilize cease and desist orders which you requested, since the department has authority to instruct the watermaster in the proper delivery of the water rights. Water management through a watermaster is more expedient and efficient than utilizing cease and desist orders.

Working copy

06/03/2002

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

9

RIGHT NUMBER: 65-3104B

NAME AND ADDRESS: O & D PARTNERSHIP
PO BOX 366
HORSESHOE BEND ID 83629

SOURCE: PORTER CREEK TRIBUTARY: PAYETTE RIVER

QUANTITY: 1.530 CFS

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 0.02 CFS PER ACRE AT FIELD HEADGATE.
COMBINED RIGHT NOS.: 65-03803C, 65-02858A, 65-09417A, 65-10963.

12/23/88 → 7/29/66 → 4/1/58 → 7/7/69

PRIORITY DATE: 01/01/1883

POINT OF DIVERSION: T07N R02E S12 NWSE Within BOISE County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	4/01 11/01	1.530 CFS

PLACE OF USE: IRRIGATION Within BOISE County

T07N R02E S02	NESW	2.4	T07N R02E S02	SESW	22.0
T07N R02E S02	NESE	2.9	T07N R02E S02	NWSE	2.8
T07N R02E S02	SWSE	~~39.0~~ 2	T07N R02E S02	SESE	~~36.0~~ 9
T07N R02E S11	NENE	~~91.0~~ 20	T07N R02E S11	NWNE	~~37.0~~ 14
T07N R02E S11	SWNE	18.0	T07N R02E S11	SENE	~~24.0~~ 27
T07N R02E S11	NENW	24.0	T07N R02E S11	SENW	2.0

90 acres

241.1 ACRES TOTAL

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 86 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(6), IDAHO CODE.

EXPLANATORY MATERIAL: BASIS OF CLAIM - 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: **A65-02532A**
Date Received: 5/23/1989
Receipt No: X777777
Received By: _____

COPY FOR YOUR FILES | **NOTICE OF CLAIM TO A WATER RIGHT ACQUIRED UNDER STATE LAW** | **COPY FOR YOUR FILES**

1. Name: D R & J INVESTMENTS LIMITED PARTNERSHIP 208-345-2137
   Address: 1197 MAIN ST
   BOISE ID 83702

2. Date of Priority: SEP 14, 1950

3. Source: PAYETTE RIVER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4	Lot	County
07N	02E	26	SE NW	2	BOISE

5. Description of diverting works:

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	04/01	11/01	1.300		

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
07N	02E	26	NE SW	3	IRR	8.0
			SE SW	4	IRR	11.0
			NW SE		IRR	19.0
			SW SE		IRR	15.0

10. Place of Use: Continued

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
				Section Acres		53.0
		35	NE NW	1	IRR	7.0
				Section Acres		7.0
				Total Acres		60.0

11. Place of use in counties: BOISE

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

13. Other Water Rights Used:

14. Remarks:
ADDRESS CHANGED PER CLAIMANT LETTER. LH
THIS RIGHT WHEN COMBINED WITH RIGHTS 65-1317 & 65-11393 SHALL PROVIDE NO MORE THAN .02 CFS/ACRE.
THIS CLAIM IS A RESULT OF A CHANGE OF OWNERSHIP OF A65-02532 5/20/1996 BY MTS, NO FEE REQUIRED
NAME CHANGED PER CLAIMANT REQUEST. DB 6/21/2000.

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date: 1/21/1986

STATE OF IDAHO
Decree Plaintiff

vs

A & C CORP., ET AL.
Decree Defendant

RECEIVED
JUN 1 - 2000
Department of Water Resources

RECEIVED
JUN 09 2000
WATER RESOURCES
WESTERN REGION

Form 42-248/42-1409(6) March 26,1999

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

Please print or type. Attach pages with additional information. Instructions are on the back of this page.
Incomplete forms will be returned.

1. Water Right No(s).: 65-01151, 65-01154, 65-01317, 65-02138, 65-02532A, 65-02540, 65-03103, 65-10746, 65-10747, 65-10748, 65-10749, 65-11393, 65-12751, 65-12754
65-01150, 65-01152, 65-03800, A65-01151, A65-01317, A65-02138, A65-02532A, A65-02540,
Adjudication Claim No(s).: A65-03103, A65-03803B, A65-10746, A65-10747, A65-10748, A65-10749, A65-11393A

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

A. A copy of the most recent **DEED, TITLE POLICY, CONTRACT OF SALE** or other legal document indicating your ownership of the property and water rights or claims in question, **WITH ATTACHED LEGAL DESCRIPTION.**

AND

B. **PLAT OF PROPERTY** or **SURVEY MAP** showing the location of the place of use of the water right(s) or claim(s). (These are usually attached to your deed or on file with the county.)

OR

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

3. Name and Address of Former Owner/Claimant: Double Diamond, Inc. or Double Diamond Ranch or Double Diamond Ranches
1197 Main Street
Boise, ID 83702

4. New Owner/Claimant(s): DR & J Investments Limited Partnership
Name Connector (Check one): ☐ and, ☐ or, ☐ and/or
New Mailing Address: 1197 Main Street
City, State and ZIP Code: Boise, ID 83702
New Telephone Number: (208) 345-2137

5. Date you acquired the property: 1/1/00

6. **Did you acquire all of the former owner's property? If you did, skip this item and go to item 7.** If you acquired only a portion of the former owner's property, IDWR may need to split the water right(s) or adjudication claim(s). Describe in detail your portion of each water right or adjudication claim in the spaces in the box below **only if the water right(s) or claim(s) need to be split between owners.** If necessary, attach additional pages. If a water right or adjudication claim is being split and you are not sure how to identify your portion of the original right or claim, please contact the nearest IDWR office for assistance.

Number of acres you irrigate with this water right _____ Number and type of stock _____
Diversion rate in CFS _____ Number of homes you acquired _____ Other uses _____

7. Signature of New Owner(s) or Claimant(s)
DR & J Investments Limited Partnership
DR Holdings, Inc., General Partner
By: Donald J. Rumsey
Donald J.Rumsey, President

Corporations or other organizations must submit a list of directors and/or officers demonstrating authority to sign form.

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

RECEIVED
JUN 0 9 2000
WATER RESOURCES
WESTERN REGION

LAW OFFICE
D. JOHN THORNTON & ASSOCIATES, P.A.
TAX • BUSINESS • ESTATE PLANNING • WEALTH PRESERVATION

THE GOLDEN EAGLE AT FOREST RIVER
1101 WEST RIVER STREET, SUITE 340
BOISE, IDAHO 83702-7067

POST OFFICE BOX 7156
BOISE, IDAHO 83707-1156

TELEPHONE (208) 344-8600
FACSIMILE (208) 344-8720

D. JOHN THORNTON
GREGORY A. BYRON, LL.M.

NICHOLAS S. MARSHALL, LL.M.
AMBER R. MYRICK, LL.M.
MARK P. THOMAS, LL.M.

KATHLEEN A. ROCKNE
LEGAL ASSISTANT

LICENSED TO PRACTICE IN
IDAHO, OREGON, WASHINGTON, CALIFORNIA

STRATEGIC LEGAL ALLIANCES:
ARIZONA, NEVADA, UTAH

May 31, 2000

Ms. KariLynn Townsend
State of Idaho
Department of Water Resources
1301 N. Orchard
Boise, ID 83706-2237

RECEIVED
JUN 1 - 2000
Department of Water Resources

Re: Donald J. Rumsey

Dear KariLynn:

As we discussed earlier today, enclosed are Assignments of Permits and Notices of Change of Water Right Ownership to the following named limited partnerships:

TO DR & J INVESTMENTS L.P.:

1. Five Assignments of Permit ##65-02869, 65-07833, A65-02869, A65-12751 and A65-07833, together with our check for assignment fees in the amount of $125; and
2. Notice of Change of Water Right Ownership for various water rights and adjudication claims in Boise County.

TO DR & T PROPERTIES L.P.:

3. Notice of Change of Water Right Ownership for one water right and two adjudication claims in Elmore County.

If you have any questions or need additional information, please call. Thank you in advance for your assistance.

Very truly yours,

Kathleen A. Rockne
Legal Assistant

/K
Enclosures

COPY

RECEIVED
JUN 0 9 2000
WATER RESOURCES
WESTERN REGION

CONSENT TO ACTION OF SOLE DIRECTOR IN LIEU OF ORGANIZATIONAL MEETING OF DR HOLDINGS, INC.

RECEIVED
JUN 1 - 2000
Department of Water Resources

* * * * * *

THE UNDERSIGNED sole director of DR HOLDINGS, INC., a Nevada corporation, hereby consents to, adopts, ratifies and approves in writing the following corporate actions, without a meeting, pursuant to the provisions of Title 7, Chapter 78, Nevada Revised Statutes:

INITIAL FORMATION OF CORPORATION:

BE IT HEREBY RESOLVED, that the Articles of Incorporation of the Corporation, as filed, are approved and adopted and shall be inserted in the minute book of the Corporation, together with the Certificate of Incorporation issued by the Secretary of State of Nevada on December 31, 1998.

BE IT FURTHER RESOLVED, that the form of Bylaws for the regulation of the affairs of the Corporation, approved and adopted this date, shall be filed in the corporate minute book.

CONFIRMATION OF SOLE DIRECTOR:

BE IT FURTHER RESOLVED, that the following person, who is named as the initial sole director in the Articles of Incorporation, is hereby ratified and confirmed as the sole director of this Corporation, to serve for the ensuing year or until his successor shall have been elected and qualified:

DONALD J. RUMSEY

ELECTION OF OFFICERS:

BE IT FURTHER RESOLVED, that the following persons are elected as officers of the Corporation, to serve for the ensuing year or until their successors shall have been elected and qualified:

President:	DONALD J. RUMSEY
Vice President:	DONALD J. RUMSEY
Secretary:	LEECHA R. HERNANDEZ
Treasurer:	DONALD J. RUMSEY

CONDUCT OF CORPORATE BUSINESS:

BE IT FURTHER RESOLVED, that the secretary of this corporation shall procure all such record books, transfer books, books of account, stationery, and other office supplies as may be necessary, for the proper conduct of this corporation's business; that the form of stock certificate attached to this Consent is adopted as the stock certificate of the Corporation; and that the form of corporate seal that is impressed hereon, or an impression of which is attached to this Consent, is adopted as the corporate seal of the Corporation.

BE IT FURTHER RESOLVED, that the secretary be, and hereby is authorized and directed to pay out of any funds belonging to this corporation the expenses incurred in connection with its incorporation and for the supplies ordered or to be purchased in connection with the organization of the corporation and the establishment of its business, and such other obligations, if any, as the corporation has incurred incidental to its organization.

BE IT FURTHER RESOLVED, that this corporation shall open a bank account for the general banking business of this corporation with a banking institution in the State of Nevada or in any other state, as the officers of this corporation may deem appropriate, and the standard banking resolution used by said bank for a corporate account is hereby adopted as if said resolution had been set forth herein in full; and that the officers of this Corporation are hereby authorized and directed to execute all necessary forms of corporate resolution of authority for bank accounts and borrowings with said banking institution.

ORIGINAL STOCK ISSUE:

BE IT FURTHER RESOLVED, that, for good and valuable consideration, the receipt of which is hereby acknowledged, the Corporation shall issue shares of common stock pursuant to that certain Subscription and Investment Agreement dated December 31, 1998, as set forth below:

SUBSCRIBER	VOTING SHARES:	NONVOTING SHARES:
DONALD J. RUMSEY	100	900

DR & J PROPERTIES L.P.:

WHEREAS, this Corporation and Donald J. Rumsey have agreed to enter into and execute that certain Agreement of Limited Partnership dated January 1, 1999 (the "Agreement"), wherein this Corporation will contribute certain assets to DR & J Properties L.P., a Nevada limited partnership (the "Partnership") in exchange for a one percent (1.0%) general partner interest in said Partnership; and

WHEREAS, pursuant to such Agreement, this Corporation will become the sole General Partner of said Partnership and as such, will assume all of the rights, duties and obligations of a General Partner as set forth in said Agreement;

NOW, THEREFORE, BE IT HEREBY RESOLVED, that, effective January 1, 1999, the officers of this Corporation be, and they hereby are authorized and empowered to enter into and execute the Agreement wherein this Corporation will become the sole General Partner of said Partnership and shall assume all of the rights, duties and obligations of a General Partner as set forth in said Agreement.

BE IT FURTHER RESOLVED, that thereafter the officers of this Corporation be, and they hereby are authorized and empowered to conduct the business of said Partnership as its General Partner, consistent with all the rights and powers granted to a General Partner under the Agreement and acting in the fiduciary capacity as described therein.

DR & T PROPERTIES L.P.:

WHEREAS, this Corporation and Donald J. Rumsey have also agreed to enter into and execute that certain Agreement of Limited Partnership dated January 1, 1999 (the "Agreement"), wherein this Corporation will contribute certain assets to DR & T Properties L.P., a Nevada limited partnership (the "Partnership") in exchange for a one percent (1.0%) general partner interest in said Partnership; and

WHEREAS, pursuant to such Agreement, this Corporation will become the sole General Partner of said Partnership and as such, will assume all of the rights, duties and obligations of a General Partner as set forth in said Agreement;

NOW, THEREFORE, BE IT HEREBY RESOLVED, that, effective January 1, 1999, the officers of this Corporation be, and they hereby are authorized and empowered to enter into and execute the Agreement wherein this Corporation will become the sole General Partner of said Partnership and shall assume all of the rights, duties and obligations of a General Partner as set forth in said Agreement.

BE IT FURTHER RESOLVED, that thereafter the officers of this Corporation be, and they hereby are authorized and empowered to conduct the business of said Partnership as its General Partner, consistent with all the rights and powers granted to a General Partner under the Agreement and acting in the fiduciary capacity as described therein.

FURTHER ACTIONS:

BE IT FURTHER RESOLVED, that the officers of this Corporation be, and they hereby are, authorized and empowered to enter into and execute contracts, leases,

agreements and other legal documents of whatever kind or nature, specifically including agreements of limited partnership, as may be agreed to be necessary in the course of business, and that thereafter the Corporation shall be authorized to perform according to the same.

DATED this 31st day of December, 1998.

SOLE DIRECTOR:

DONALD J. RUMSEY

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: **A65-02532A**
Date Received: 5/23/1989
Receipt No: X777777
Received By: _____

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: DOUBLE DIAMOND RANCHES 208-336-4801
   Address: DON & DALE RUMSEY
   311 4TH ST N EXT
   NAMPA ID 83687-3247

2. Date of Priority: SEP 14, 1950

3. Source: PAYETTE RIVER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4	of 1/4	of 1/4	Lot	County
07N	02E	26		SE	NW	2	BOISE

5. Description of diverting works:

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	04/01	11/01	1.300		

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4	of 1/4	Lot	Use	Acres
07N	02E	26	NE	SW	3	IRR	8.0
			SE	SW	4	IRR	11.0
			NW	SE		IRR	19.0
			SW	SE		IRR	15.0

MICROFILMED
OCT 18 1996

Form 42-1409(7)

RECEIVED
MAY 0 6 1996
WATER RESOURCES
WESTERN REGION

NEW PROPERTY OWNER
NOTICE OF CHANGE OF WATER RIGHT OWNERSHIP

Please print or type
(see instructions on back of page)

DATE OF CLOSING: 3/31/94 and 12/22/95

LEGAL DESCRIPTION OF PROPERTY: Township * Range *
Section *, * 1/4 of * 1/4 of (1/4, Govt. Lot *, BM.
Lot ,Block, ,Subdivision/Townsite .
If you have additional legal descriptions, please attach separate sheet.

*See Attachment #1 for legal descriptions

[ ] Served Only by a Public Service Water Supply (all water is received from a city or company who maintains water supply system, owns the water right, and bills the customer on a regular basis)

[x] Water Right Number(s) Assigned by IDWR: A65-02532 and A65-11393

[x] Name and Address of Former Owner/Claimant(s)(Seller): Rumsey Co. (also known as Double Diamond, Inc.)
c/o Don Rumsey
Horseshoe Bend, Idaho 83629

[x] New Owner/Claimant (Purchaser): Horseshoe Bend Hydroelectric Company

[x] New Mailing Address: P.O. Box 2797
1401 Shoreline Drive
Boise, Idaho 83701

[x] New Telephone Number: (208) 345-7515

[x] Does the change in ownership result in a splitting of the water right owned/claimed? x yes ___ no
If yes, then describe the portion of the water right that is now owned/claimed by the new owner:
* That portion of the above designated water right permits which are deemed to be appurtenant to the land acquired from the former owner.

[x] Attach proof of ownership, describe proof attached: Deed (Attachment #2), Correction Affidavit (Attachment #3) and Boundary Line Agreement (Attachment #4) re 3/31/94 purchase of 22.6 acres ±; and Deed (Attachment #5) re 12/22/95 purchase of .62 acres ±

(proof of ownership must describe either the property conveyed or include the claim number. Proof of ownership is not required if this form is signed by the former owner/claimant.)

[x] Signature of New Owner/Claimant(s): Horseshoe Bend Hydroelectric Company Date 5-3-96
By Christopher W. Clark Corporate Secretary Date

[x] Signature of Former Owner/Claimant(s): Date
Date

(Signature of former claimant(s) is not required if proof of ownership is attached.)

* See legal documents in A65-02532B

FOR IDWR USE ONLY:
Initial Review and Data-Entry
Date: **By:**
Further Action Needed:

Further Action Taken
Date: **By:**
Final Review and Data-Entry
Date: 5-21-96 **By:** MTS
Claim Numbers of Split, if any:

Original to be mailed to Idaho Department of Water Resources
Copies to Former Owner and New Owner

MICROFILMED
OCT 18 1996

10. Place of Use: Continued

Township	Range	Section	1/4 of 1/4		Lot	Use	Acres
						Section Acres	53.0
		35	NE	NW	1	IRR	7.0
						Section Acres	7.0
						Total Acres	60.0

11. Place of use in counties: BOISE

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

13. Other Water Rights Used:

14. Remarks:
ADDRESS CHANGED PER CLAIMANT LETTER. LH
THIS RIGHT WHEN COMBINED WITH RIGHTS 65-1317 & 65-11393 SHALL PROVIDE NO MORE THAN .02 CFS/ACRE.
THIS CLAIM IS A RESULT OF A CHANGE OF OWNERSHIP OF A65-02532 5/20/1996 BY MTS, NO FEE REQUIRED

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date: 1/21/1986

STATE OF IDAHO
Decree Plaintiff

vs

A & C CORP., ET AL.
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: _____

MICROFILMED
OCT 18 1996

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)
) SS.
County of _____)

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

of _____ 19 _____

_____
Notary Public

Seal

Residing at _____

My Commission Expires _____

MICROFILMED
OCT 18 1996

Split Tree A65-02532

A65-02532 N/O Double Diamond Ranches
QR: 1.80 cfs
P/D: 7N, 2E, S26, Lt2 (SENW)
P/U: 7N, 2E, S26, Lt3 (NESW) -10 ac
Lt4 (SESW -25 "
NWSE -19 SWSE -15
S35, Lt1 (NENW) -14 ac (83 ac)

-02532A N/O Double Diamond Ranches
QR: 1.30
P/D: 7N, 2E, S26, Lt2 (SENW)
P/U: 7N, 2E, S26, Lt3, (NESW) - 8 ac
Lt4, (SESW) - 11
NWSE -19 SWSE -15
S35, Lt1 (NENW) - 7 (60)

-02532B N/O Horseshoe Bend Hydro
QR: .50
P/D: same as above
P/U: 7N, 2E, S26, Lt3 (NESW) - 2 ac
Lt4 (SESW) -14
S35, Lt1 (NENW) - 7 (23)

MICROFILMED
OCT 18 1996

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: **A65-02532**
Date Received: 5/23/1989
Receipt No: X999999
Received By: _____

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: DOUBLE DIAMOND RANCHES 208-336-4801
   Address: DON & DALE RUMSEY
   311 4TH ST N EXT
   NAMPA ID 83687-3247

2. Date of Priority: SEP 14, 1950

3. Source: PAYETTE RIVER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4	Lot	County
07N	02E	26	SE NW	2	BOISE

5. Description of diverting works:

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	04/01	11/01	1.800		

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
07N	02E	26	NE SW	3	IRR	10.0
			SE SW	4	IRR	25.0
			NW SE		IRR	19.0
			SW SE		IRR	15.0

MICROFILMED
OCT 18 1996

10. Place of Use: Continued

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
				Section Acres		69.0
		35	NE NW	1	IRR	14.0
				Section Acres		14.0
				Total Acres		83.0

11. Place of use in counties: BOISE

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

13. Other Water Rights Used:

14. Remarks:
ADDRESS CHANGED PER CLAIMANT LETTER. LH
THIS RIGHT WHEN COMBINED WITH RIGHTS 65-1317 & 65-11393 SHALL PROVIDE NO MORE THAN .02 CFS/ACRE.

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date: 1/21/1986

STATE OF IDAHO
Decree Plaintiff

vs

A & C CORP., ET AL.
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: _____

MICROFILMED
OCT 18 1996

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)
) SS.
County of _____)

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

of _____ 19 _____

_____
Notary Public

Seal

Residing at _____

My Commission Expires _____

MICROFILMED
OCT 18 1996

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: **A65-02532**
Date Received: 5/23/1989
Receipt No: X999999
Received By: _____

AMENDED **NOTICE OF CLAIM TO A WATER RIGHT ACQUIRED UNDER STATE LAW** **AMENDED**

1. Name: DOUBLE DIAMOND RANCHES 208-336-4801
   Address: DON & DALE RUMSEY
   200 SUNRISE RIM ROAD
   BOISE, ID 83705

2. Date of Priority: SEP 14, 1950

3. Source: PAYETTE RIVER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4	of 1/4	of 1/4	Lot	County
07N	02E	26		SE	NW	2	BOISE

5. Description of diverting works:

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	04/01	11/01	1.800		

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4	of 1/4	Lot	Use	Acres
07N	02E	26	NE	SW	3	IRR	10.0
			SE	SW	4	IRR	25.0
			NW	SE		IRR	19.0

MICROFILMED
OCT 18 1996
MICROFILMED
SEP 10 1992

10. Place of Use: Continued

Township	Range	Section	1/4 of 1/4		Lot	Use	Acres
07N	02E	26	SW	SE		IRR	15.0
					Section Acres		69.0
		35	NE	NW	1	IRR	14.0
					Section Acres		14.0
					Total Acres		83.0

11. Place of use in counties: BOISE

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

13. Other Water Rights Used:

14. Remarks:
THIS RIGHT WHEN COMBINED WITH RIGHTS 65-1317 & 65-11393 SHALL PROVIDE NO MORE THAN .02 CFS/ACRE.

15. Basis of Claim: DECREED
Case Number:
Court :
Decree date: 1/21/1986

STATE OF IDAHO (Decree Plaintiff) vs A & C CORP., ET AL. (Decree Defendant)

MICROFILMED OCT 18 1996 MICROFILMED SEP 18 1992

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)
) SS.
County of _____)

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

of _____ 19 _____

_____
Notary Public

Seal

Residing at _____

My Commission Expires _____

MICROFILMED
SEP 18 1992
MICROFILMED
OCT 18 1996

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. No.

ATTACHMENT TO
NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

Please type or print clearly:

Name of Claimant(s) DOUBLE DIAMOND RANCHES
DON & DALE RUMSEY

Mailing Address (include Zip Code) 200 SUNRISE RIM ROAD
BOISE, ID 83705

Phone Number (208) 336-4801

MICROFILMED
OCT 18 1996

MICROFILMED
SEP 18 1992

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: 65-02532
DATE RECEIVED: 5/23/89
RECEIPT NO: 2996669
RECEIVED BY: _____

NOTICE OF CLAIM TO A WATER RIGHT ACQUIRED UNDER STATE LAW

1. NAME: DOUBLE DIAMOND INC.
   ADDRESS: C/O DON RUMSEY
   HORSESHOE BEND, ID 83629

2. DATE OF PRIORITY: SEP 14, 1950

3. SOURCE: PAYETTE RIVER TRIB. TO:

4. POINT OF DIVERSION:

TOWNSHIP	RANGE	SECTION	1/4 OF 1/4 OF 1/4	LOT	COUNTY
07N	02E	26		2	BOISE

5. DESCRIPTION OF DIVERTING WORKS:

6. WATER IS USED FOR THE FOLLOWING PURPOSES:

PURPOSE	FROM	TO	C.F.S (OR)	A.F.A.
IRRIGATION	04/01	11/01	1.800	

7. TOTAL QUANTITY APPROPRIATED IS:
   1.800 C.F.S. (AND/OR) A.F.A.

8. TOTAL CONSUMPTIVE USE IS ACRE FEET PER ANNUM.

9. NON-IRRIGATION USES:

10. PLACE OF USE:

TOWNSHIP	RANGE	SECTION	1/4 OF 1/4		LOT	USE	ACRES
07N	02E	26	NE	SW	3	IRR	10.0
			SE	SW	4	IRR	25.0
			NW	SE		IRR	19.0
			SW	SE		IRR	15.0
					SECTION ACRES		69.0

MICROFILMED
OCT 18 1996
MICROFILMED
SEP 18 1992

10. PLACE OF USE: CONTINUED

TOWNSHIP	RANGE	SECTION	1/4 OF 1/4		LOT	USE	ACRES
07N	02E	35	NE	NW	1	IRR	14.0
					SECTION ACRES		14.0
					TOTAL ACRES		83.0

11. PLACE OF USE IN COUNTIES: BOISE, BOISE

12. DO YOU OWN THE PROPERTY LISTED ABOVE AS PLACE OF USE? (YES)

13. OTHER WATER RIGHTS USED:

14. REMARKS:
THIS RIGHT WHEN COMBINED WITH RIGHTS 65-1317 & 65-11393 SHALL PROVIDE NO MORE THAN .02 CFS/ACRE.

15. BASIS OF CLAIM: DECREED
CASE NUMBER:
COURT :
DECREE DATE: 1/21/1986

STATE OF IDAHO
DECREE PLAINTIFF
VS
A & C CORP., ET AL.
DECREE DEFENDANT

MICROFILMED MICROFILMED
OCT 18 1996 SEP 18 1992

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: _____

FOR ORGANIZATIONS:

I DO SOLEMNLY SWEAR OR AFFIRM THAT I AM President OF
TITLE
Dr. Ho Diamond Ranches, THAT I HAVE SIGNED THE FOREGOING
ORGANIZATION
DOCUMENT IN THE SPACE BELOW AS President OF
TITLE
Dr. Ho Diamond Ranches AND THAT THE STATEMENTS CONTAINED IN THE
ORGANIZATION
FOREGOING DOCUMENT ARE TRUE AND CORRECT.

Donald Gunsley
SIGNATURE OF AUTHORIZED AGENT

President
TITLE AND ORGANIZATION

5-17-89
DATE

STATE OF IDAHO)
) SS.
COUNTY OF Ada)

SUBSCRIBED AND SWORN (OR AFFIRMED) BEFORE ME THIS 17 DAY
OF May 19 89

Susan McLaren
NOTARY PUBLIC

SEAL

RESIDING AT Boise, Idaho

MY COMMISSION EXPIRES June 1991

MICROFILMED
OCT 18 1996
MICROFILMED
SEP 18 1992

1/30/1989 SRBA CLAIMS RECEIVING CHECKLIST #2

CLAIMANT'S NAME Double Diamond Ranches CLAIM IDENT. NO. A65 02532

DATE RECEIVED 5/23/89 CK # exempt AMOUNT $ exempt

	YES	NO	Required Info?
1. Is the name and address complete with zip code?	✓		*
2. Is a priority date entered?	✓		*
Is the priority date acceptable in view of mandatory filing dates? **See Adjudication Memos #1 and #4 to determine if a Permit is required.**	✓		*
3. (a) Is a source entered?	✓		*
(b) Is a tributary to entered? (if required) N/A	✓		
4. Is the legal description of the p.d. sufficient?		✓	*
5. Is there a description of the diverting works?		✓	
6. 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?	✓		*
7. Is a total quantity claimed entered?	✓		
8. If required is a consumptive use entered? N/A	✓		
Is the consumptive use correct? N/A	✓		
9. 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	✓		*
10. Is (are) the place(s) of use and purpose(s) indicated?	✓		*
11. Is (are) the county(ies) entered?	✓		
12. Is the ownership of p.u. checked?	✓		
13. Are other water rights listed or "none" indicated?	✓		
14. 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	✓		
15. Is the basis of the claim indicated?	✓		
16. If the claimant requested a monthly docket sheet, is payment enclosed? (If yes, describe payment status in "Comments" below.) N/A	✓		
17. Is the claim signed by the claimant, and is the signature appropriate? Organizations must complete the organization block.	✓		*
18. Has the claim been signed, sealed, and dated by a notary?	✓		*
19. Was this claim filed on time, or was an extension granted?	✓		*
20. Is the fee enclosed correct? Exempt	✓		*
21. If this claim is based on an existing water right, has the identification number been entered? N/A	✓		
22. Should this claim be receipted and data entered?	✓		

Claim checked by: [illegible] Date: 8-15-89

Claim must be returned to claimant: ___(Yes) ___(No)

Claimant must be notified of modifications: ___(Yes) ___(No)

Receipt Prepared by: _____ Date: _____

Claim data entered by: _____ Date: _____ Checked by: _____ Date: _____

Sent to claimant by: _____ Date: _____

Comments: _____

MICROFILMED OCT 18 1996

MICROFILMED SEP 18 1992

DISTRICT COURT-SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho

JUN 29 2004

By _____ Clerk

_____ Deputy Clerk

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

In Re SRBA)
)
Case No. 39576)
)

PARTIAL DECREE PURSUANT TO I.R.C.P. 54(b) FOR

Water Right 65-02532A

NAME AND ADDRESS: D R & J INVESTMENTS LIMITED PA
8973 W STATE ST
BOISE, ID 83703-1729

SOURCE: PAYETTE RIVER TRIBUTARY: SNAKE RIVER

QUANTITY: 1.30 CFS

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 0.02 CFS AND TO A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 4.5 AF PER ACRE AT FIELD HEADGATE. COMBINED RIGHT NOS.: 65-01151, 65-10749, 65-01317, 65-10748, 65-11393A, 65-02138, 65-02540, 65-10747, 65-02869, 65-22775, 6522778.

PRIORITY DATE: 09/14/1950

POINT OF DIVERSION: T07N R02E S26 LOT 2 (SENW) Within Boise County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
Irrigation	04-01 TO 11-01	1.30 CFS

PLACE OF USE: Irrigation

			Within Boise County
T06N R02E S02 LOT 4	(NWNW)	14.0	SWNW 6.3
	SENW	16.0	NESW 0.1
T07N R02E S23	SESW	6.0	NWSE 1.4
	SWSE	28.5	SESE 3.0
S26	NENE	28.0	NWNE 39.0
	SWNE	38.0	SENE 3.5
	NENW	19.0	SENW 21.1
	NESW	19.6	SESW 18.0
	NWSE	28.0	SWSE 8.3
S34	SENE	13.9	NESE 39.0
	NWSE	3.8	SWSE 1.6
	SESE	34.0	
S35	NENW	4.4	SWNW 20.5
	NWSW	34.0	SWSW 28.0

477.0 Acres Total

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 60 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 477 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 65-01151, 65-10749, 65-01317, 65-10748, 65-11393A, 65-02138, 65-02540, 65-10747, 65-02869, 65-22775, 6522778.

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

05/11/2004

IDAHO DEPARTMENT OF WATER RESOURCES

RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 65-2532A

NAME AND ADDRESS: D R & J INVESTMENTS LTD PARTNERSHIP
8973 W STATE ST
BOISE ID 83703-1729

SOURCE: PAYETTE RIVER TRIBUTARY: SNAKE RIVER

QUANTITY: 1.300 CFS

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 0.02 CFS AND TO A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 4.5 AF PER ACRE AT FIELD HEADGATE. COMBINED RIGHT NOS.: 65-01151, 65-10749, 65-01317, 65-10748, 65-11393A, 65-02138, 65-02540, 65-10747, 65-02869, ~~65-3103~~, 65-22775, 65-22778.

PRIORITY DATE: 09/14/1950

POINT OF DIVERSION:

T07N R02E S26 SENW Lot 2 Within BOISE County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	4/01 11/01	1.300 CFS

PLACE OF USE: IRRIGATION Within BOISE County

T06N R02E S02 Lot 4	NWNW	14.0	T06N R02E S02	SWNW	6.3
T06N R02E S02	SENW	16.0	T06N R02E S02	NESW	0.1
T07N R02E S23	SESW	6.0	T07N R02E S23	NWSE	1.4
T07N R02E S23	SWSE	28.5	T07N R02E S23	SESE	3.0
T07N R02E S26	NENE	28.0	T07N R02E S26	NWNE	39.0
T07N R02E S26	SWNE	38.0	T07N R02E S26	SENE	3.5
T07N R02E S26	NENW	19.0	T07N R02E S26	SENW	21.1
T07N R02E S26	NESW	19.6	T07N R02E S26	SESW	18.0
T07N R02E S26	NWSE	28.0	T07N R02E S26	SWSE	8.3
T07N R02E S34	SENE	13.9	T07N R02E S34	NESE	39.0
T07N R02E S34	NWSE	3.8	T07N R02E S34	SWSE	1.6
T07N R02E S34	SESE	34.0	T07N R02E S35	NENW	4.4
T07N R02E S35	SWNW	20.5	T07N R02E S35	NWSW	34.0
T07N R02E S35	SWSW	28.0			

477 ACRES TOTAL

USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 477 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 65-01151, 65-10749, 65-01317, 65-10748, 65-11393A, 65-02138, 65-02540, 65-10747, 65-02869, ~~65-3103~~, 65-22775, 65-22778.

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 60 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(6), IDAHO CODE.

EXPLANATORY MATERIAL: Decreed

WATER RIGHT NO. 65-2532A
As Modified by Transfer No. 70464

In accordance with the approval of Transfer No. 70464, Water Right No. 65-2532A is now described as follows.

Right Holder: D R & J INVESTMENTS LTD PARTNERSHIP
8973 W STATE ST
BOISE ID 83703-1729

Priority Date: September 14, 1950

Source: PAYETTE RIVER **Tributary:** SNAKE RIVER

BENEFICIAL USE	From	To	Diversion Rate	Volume
IRRIGATION	4/01	11/01	1.30 CFS	
			1.30 CFS	

LOCATION OF POINT(S) OF DIVERSION:
PAYETTE RIVER L2 (SENW) Sec. 26 Twp 07N Rge 02E BOISE County

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06N 02E 2						14.0 L 4	6.3	16.0	.1								36.4
07N 02E 23												6.0		1.4	28.5	3.0	38.9
07N 02E 26	28.0	39.0	38.0	3.5	19.0			21.1	19.6			18.0		28.0	8.3		222.5
07N 02E 34				13.9									39.0	3.8	1.6	34.0	92.3
07N 02E 35					4.4		20.5			34.0	28.0						86.9

Total Acres: 477

CONDITIONS OF APPROVAL

1. 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.

2. Use of this right with the rights listed below is limited to the irrigation of a combined total of 477 acres in a single irrigation season. Combined right nos.: 65-10748, 65-11393A, 65-1317, 65-1151, 65-10749, 65-2138, 65-2540, 65-10747, 65-2869, 65-22775, 65-22778.

3. Use of this right with the rights listed below is limited to a total combined diversion rate of 0.02 cfs and to a total combined annual diversion volume of 4.5 af per acre at the field headgate. Combined right nos.: 65-10748, 65-11393A, 65-1317, 65-1151, 65-10749, 65-2532A, 65-2540, 65-10747, 65-2869, 65-22775, 65-22778.

4. This right is limited to the irrigation of 60 acres within the place of use described above in a single irrigation season.

This water right is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.

Dated this 22nd day of April, 2004

Gary Spackman

Chief, Water Allocation Bureau

Form I-222
12-82 (Internet)

Page 1 of 4

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No. 70464

RECEIVED
MAR 0 3 2003
WATER RESOURCES
WESTERN REGION

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 1 REVISED: 2-25-03

Name of applicant D R & J Investments Limited Partnership Phone 853-1371

Post Office address 8973 W State St., Boise ID 83703-1729

A. PURPOSE OF TRANSFER

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

2. Describe the reason for the proposed changes To transfer 1.5 acres per attached stipulation.

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

1. Right Number	Priority	Amount (cfs/ac-ft)	Nature of Use	Period of Use	
portion of 65-3103	1-1-1872	.04	Irrigation	4-1	to 11-1
					to
					to
					to

2. Total amount of water being transferred .04 cubic feet per second and/or 6.75 acre-feet per annum.

3. Source of water Porter Creek tributary to Payette River

4. Point(s) of Diversion: No Change

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
2		SW	NW	7	7N	3E	Boise	Dowel/Heffner Pipeline

5. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	2E	12											1.3						1.3
		13						.2											.2
																			1.5

Total

Transfer No. _____

PART 1

6. General Information:

a. Description of diversion system Pipeline, control valve & measuring device, gravity irrigation system

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

c. Describe the effect on the land now irrigated if the place of use is changed pursuant to this transfer:

Will be irrigated with #6 Porter Creek right being transferred from George Dovel under Right No. 65-22327 per signed stipulation.

d. Remarks:

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

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

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

Witness my hand this _____ day of _____, 19____.

_____

Attachment 1

PART 2 A - Right as Recorded

12/18/2002

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 65-3103 V2

WATER RIGHT NUMBER: 65-3103 V2

Owner Type	Name and Address
Original Owner	DOUBLE DIAMOND INC C/O DONALD RUMSEY RT 1 BOX 54 HORSESHOE BEND, ID 83629
Original Owner	DOUBLE DIAMOND RANCHES C/O DON & DALE RUMSEY 311 4TH ST N EXT NAMPA, ID 83687-3247 (208)336-4801
Current Owner	D R & J INVESTMENTS LIMITED PARTNERSHIP 8973 W STATE ST BOISE, ID 83703-1729

Priority Date: 01/01/1872

Basis: Decreed

Status: Active

Source	Tributary
PORTER CREEK	PAYETTE RIVER

Beneficial Use	From	To	Diversion Rate	Annual Volume
IRRIGATION	04/01	11/01	3.820 CFS	868.50 AF
		Total Diversion:	3.820 CFS	868.50 AF

Location of Point(s) of Diversion

PORTER CREEK NW1/4SE1/4 Sec. 12, Twp 07N, Rge 02E, B.M.

BOISE County

Place of Use

IRRIGATION Within BOISE County

T06N R02E S02 Lot	4	NWNW 14.0	T06N R02E S02	SWNW	6.3
T06N R02E S02		SENW 16.0	T06N R02E S02	NESW	0.1
T07N R02E S23		SESW 6.0	T07N R02E S23 Lot	7 NWSE	1.4
T07N R02E S23		SWSE 28.5	T07N R02E S23	SESE	3.0
T07N R02E S26		NENE 28.0	T07N R02E S26	NWNE	39.0
T07N R02E S26		SWNE 38.0	T07N R02E S26	SENE	3.5
T07N R02E S26		NENW 19.0	T07N R02E S26	SENW	21.1
T07N R02E S26		NESW 19.6	T07N R02E S26	SESW	18.0
T07N R02E S26		NWSE 28.0	T07N R02E S26	SWSE	8.3
T07N R02E S34		SENE 13.9	T07N R02E S34	NESE	39.0
T07N R02E S34		NWSE 3.8	T07N R02E S34	SWSE	1.6
T07N R02E S34		SESE 34.0	T07N R02E S35	NENW	4.4
T07N R02E S35		SWNW 20.5	T07N R02E S35	NWSW	34.0
T07N R02E S35		SWSW 28.0			

Total Acres: 477

Conditions of Approval:

Attachment 1

PART 2A - continued

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 65-3103 V2

1. C18 This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

Remarks:

1. Place of Use - Irrigation: USE OF THIS RIGHT WITH THE RIGHTS L ISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 477 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 65-1151, 65-1317, 65-2138, 65-2532A, 65-2540, 65-2869, 65-10747, 65-10748, 65-10749, 65-11393A.
2. Quantity: USE OF THIS RIGHT WITH RIGHTS L ISTED BELOW IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 0.02 CFS AND TO A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 4.5 AF PER ACRE AT FIELD HEADGATE. COMBINED RIGHT NOS.: 65-02532A, 65-10749, 65-01151, 65-01317, 65-10748, 65-11393A, 65-02138, 65-10747, 65-02540, 65-02869.
3. Place of Use - Irrigation: THIS RIGHT IS LIMITED TO THE IRRIGATION OF 1 93 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

Dates and Other Information:

Decreed Date:
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
Defendant:
Plaintiff:
Civil Case Number:
Judicial District:
Notice of Error Flag:
State or Federal: S
Owner Name Connector:
Water District Number: 65
Generic Max Rate Per Acre:
Generic Max Volume Per Acre:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Carey Act Number:
Mitigation Plan: False

Element Reviewed/Verified Dates:

Element	Last Reviewed Date	Reviewer	Last Verified Date	Verifier	Status
Summary			08/02/2002	sbock	Active
Summary			12/17/2002	jshurte	Active

PART 2

Transfer No. _____

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?

NO If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

1. amount .04 (cfs/ac-ft) for Irrigation purposes from 4-1 to 11-1
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion: No Change

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
		NW	SE	12	7N	2E	Boise	D R & J Pipeline

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	2E	26			1.5														1.5

Total acres 1.5

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

1. amount 3.78 (cfs/ac-ft) for Irrigation purposes from 4-1 to 11-1
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion: No Change

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
		NW	SE	12	7N	2E	Boise	D R & J Pipeline

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
8N	2E	2						L.4 14	6.3	16	.1								36.4
7N	2E	23												6		L.7 1.4	28.5	3	38.9
		26	28	39	36.5	3.5	19			21.1	19.6			18		28	8.3		221
		34				13.9									39	3.8	1.6	34	92.3
		35					4.4		20.5			34	28						86.9

Limited to 191.5 acres within this place of use →

Total acres 475.5

ATTACHMENT 2

IDAHO DEPARTMENT OF WATER RESOURCES

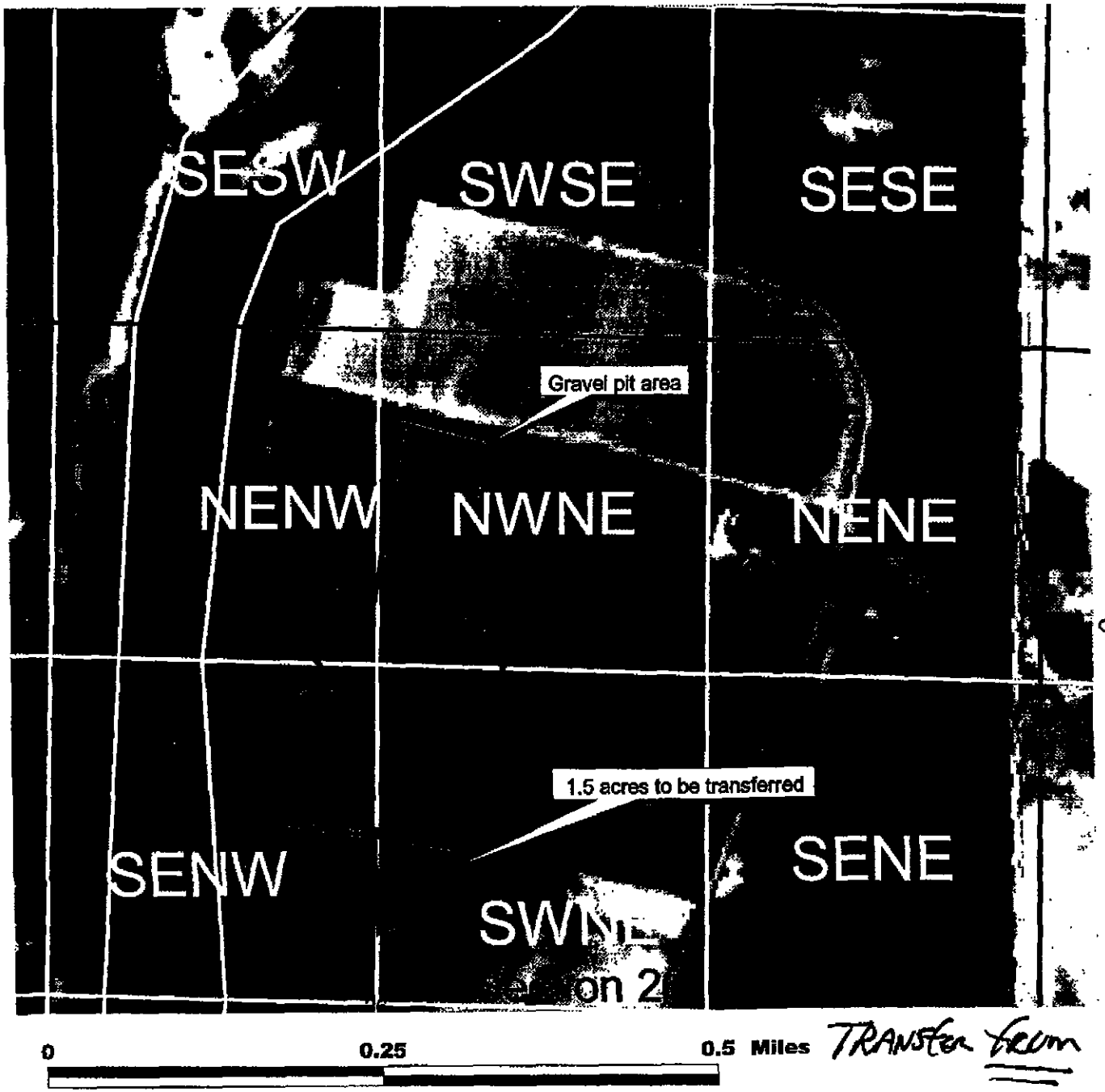
T7N, R2E
SEC. 26

1987 NAPP

Section Lines

1/41/4

Transfer 65-3103
DR&J Investment



PART 3 A

TRANSFER FROM

IDAHO DEPARTMENT OF WATER RESOURCES

ATTACHMENT 3

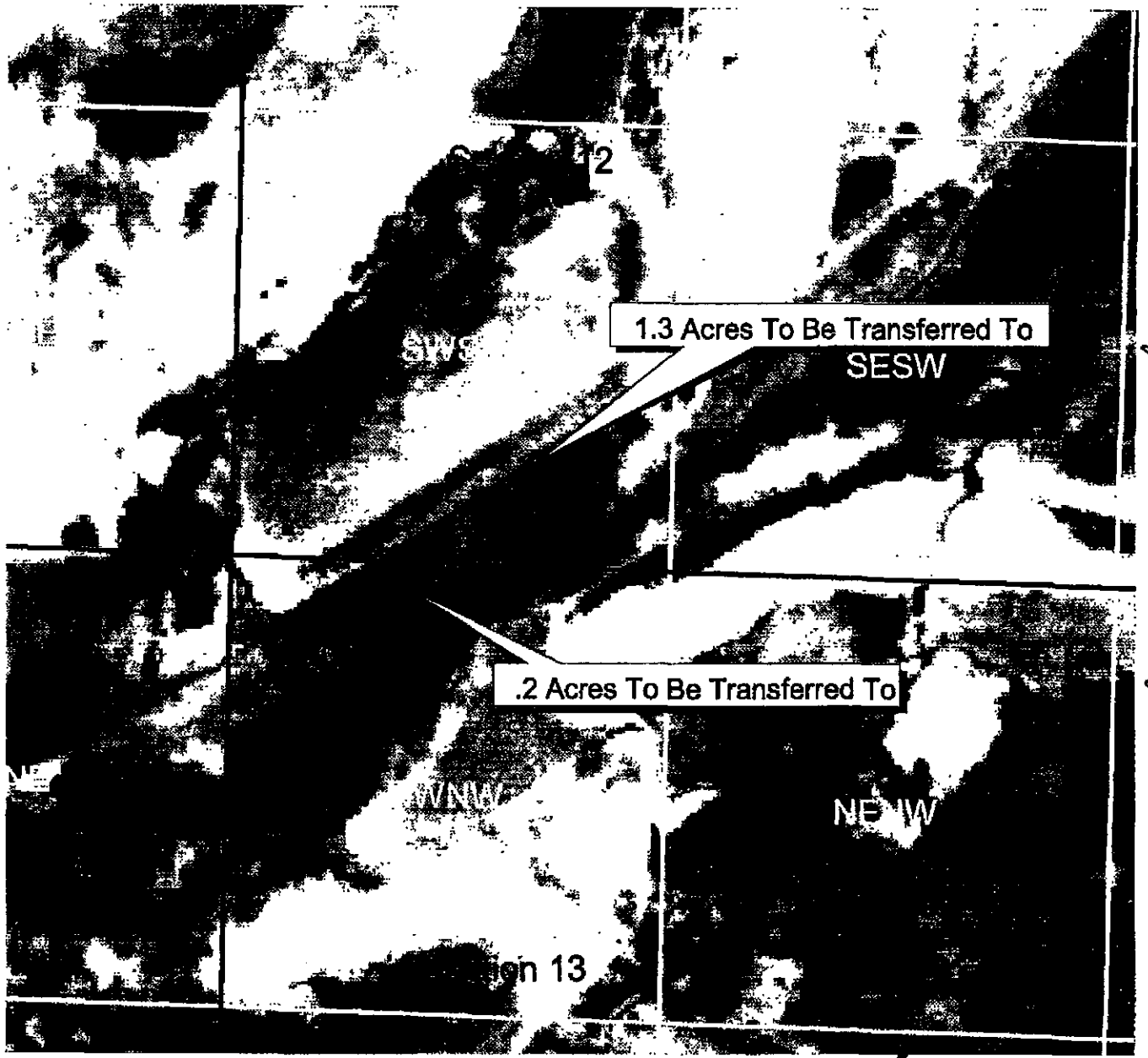
T7N R2E
Sec 12 & 13

1987 NAPP

Section Lines

1/41/4

Transfer 65-3103
DR&J Investment



TRANSFER TO

PART 3A CONTINUED

N
W
E
S

Transfer No. _____

PART 3

B. CHANGES IN NATURE OF USE

NO CHANGE

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

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

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

No change

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

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

Ronald L Kramer - Owner
(Signature of Applicant)

Subscribed and sworn to before me this 5th day of December, 19 2002

Jan Shute
(Notary Public)

JAN SHUTE NOTARY PUBLIC STATE OF IDAHO

My commission expires 9-14-2006

FOR DEPARTMENT USE ONLY

Transfer contains 4 pages and 4 attachments

Received by _____ Date 12-6-02 Protest filed by _____

Prelim. check by _____ Fee $100.00 _____

Receipted by _____ Date 12-6-02 RECEIPT # W029910

Published in _____ Copies of protest forwarded by _____

Pub. dates _____ Hearing held by _____ Date _____

Watermaster recommendation requested on _____ Recommended for ☐ approval ☐ denial

_____ rec'd. _____ by _____

Copy of transfer sent to lien holder _____

ATTACHMENT 4

COPY

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED _____
2002 OCT 28 PM 2 45

GARRICK L. BAXTER
Idaho State Bar No.: 6301
Deputy Attorney General
Idaho Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098
Telephone: (208) 327-7900
Fax: (208) 327-5400

Attorneys for IDWR

RECEIVED
OCT 30 2002
Department of Water Resources

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT

OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA	**SUBCASE NO.: 65-3103** (uncontested overlaps: 65-02532A ,65-10749 65-01151, 65-01317, 65-10748, 65-11393A 65-02138, 65-10747, 65-02540, & 65-02869)
Case No. 39576	**STIPULATION TO RESOLVE OBJECTION**

DESCRIPTIVE SUMMARY

This is a stipulation by and between, the parties herein, George Dovel, DR & J Investments Ltd., and the Idaho Department of Water Resources (IDWR), to the resolution of the objection filed by George Dovel and response filed by DR & J Investments Ltd. as follows:

STIPULATION

In order to resolve the dispute over the above-captioned water right, the Idaho Department of Water Resources (IDWR), DR & J Investments Ltd., (claimant) by its attorney of record, Jack C. Riddlemoser, and George Dovel (the objector), hereby stipulate and agree that:

1. D R & J Investments Ltd. will apply for a transfer of water in the amount of .04 cfs (2 inches of water) and reduce the total acres of the place of use by 1.5 acres for water right number: 65-3103.
2. George Dovel will withdraw and dismiss, with prejudice, his objection and future objections, to subcase no. 65-3103. Further, DR & J Investments Ltd.'s response shall be dismissed.
3. George Dovel will apply for a transfer to DR & J Investments Ltd. of .04 cfs and reduce the place of use for his water right number: 65-22327 by 1.5 acres.
4. George Dovel will install a device to limit the flow of Porter Creek to .04 cfs at the point of diversion for water right number: 65-22327, which point of diversion is described as: Township 07 North, Range 03 East, Section 07, SWNW quarter-quarter.
5. The parties agree that the above-referenced changes will be allowed so long as the change does not increase the total number of irrigated acres.
6. This stipulation and agreement herein is contingent upon the approval by IDWR of the transfer application. By signing this agreement, IDWR does not represent that the transfer will be approved.
7. This settlement and this stipulation have been reached through good faith negotiations for the purpose of resolving legal disputes, including pending litigation, and all parties agree that no offers and/or compromises made in the course thereof shall be construed as admissions against interest or be used in any legal proceeding, and that this agreement is not and shall not be used as precedent for any other claim to a water right.
8. This settlement and this stipulation were entered into and executed voluntarily by all parties in good faith, and without any fraud, misunderstanding, overreaching, misrepresentation, duress, or undue influence whatsoever.

By: _____ Dated: 10/22/02
JACK C. RIDDLEMOSER
Attorney for DR & J Investments, Ltd.

_____

CERTIFICATE OF MAILING

I certify that on October 23, 2002, I mailed the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

1. Original to:

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

2. Copies to:

Jack C. Riddlemoser
712 East Fairview Avenue
Meridian, ID 83642

George Dovel
434 Pioneer Road
Horseshoe Bend, ID 83629

DR & J Investments, Ltd.
8973 W. State St.
Boise, ID 83703-1729

US Dept of Justice (courtesy copy)
Environment & Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724

Cathy Howard
Signature of person or attorney mailing the form

By: George Dovel
GEORGE DOVEL

Dated: Oct. 22, 2002

IDWR Concurrence:

By: _____
GARRICK L. BAXTER
Deputy Attorney General for
IDWR

Dated: 10/22/02

By: Jan Shurte
~~RON HOWERTON~~ JAN SHURTE
~~Senior Water Right Agent~~ WATER RIGHTS SUPERVISOR

Dated: 10-22-02

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

In Re SRBA	)	**Water Rights:** 65-1151, 65-1317,
	)	65-2138, 65-2532A, 65-2540,
Case No. 39576	)	65-2869, 65-10747, 65-10748,
	)	65-10749, 65-11393A
	)	**NOTICE OF COMPLETED**
	)	**ADMINISTRATIVE**
	)	**PROCEEDING**

IDWR has completed the following administrative proceeding:

☐ Address change

☐ Substitution of Party

XX IC § 42-222 transfer

- ☐ Point of diversion ☐ Place of use
- ☐ Period of use ☐ Nature of use
- ☐ Split of water right ☐ Change in ownership
- XX Other – Conditions & Remarks

☐ IC § 42-219 license

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

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

DATED: 5-25-04

Signature of IDWR Representative

CERTIFICATE OF MAILING

I certify that on May 25, 2004, I delivered the original and copies of this form, including all attachments, to the following persons, postage prepaid if required and addressed as follows:

1. Original to:

Clerk of the District Court Snake River Basin Adjudication P.O. Box 2707 Twin Falls, ID 83303-2707	___ overnight mail XX regular mail ___ hand-delivered ___ facsimile

2. Copies to:

Clive Strong Off ice of the Attorney General P.O. Box 44449 Boise, ID 83711-4449	___ overnight mail XX regular mail ___ hand-delivered ___ facsimile
United States Dept of Justice Environment & Natural Resource Div 550 West Fort Street MSC 033 Boise ID 83724	___ overnight mail XX regular mail ___ hand-delivered ___ facsimile

3. Copies to all parties to the subcase:

D R & J Investments 8973 W. State. St. Boise, ID 83703-1729	___ overnight mail XX regular mail ___ hand-delivered ___ facsimile
Jack C. Riddlemoser 1905 Garrison Ln. Kuna, ID 83634	___ overnight mail XX regular mail ___ hand-delivered ___ facsimile

Lori Harris

Signature of person mailing this document

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 65-2532A V1

WATER RIGHT NUMBER: 65-2532A V1

Owner Type	Name and Address
Original Owner	DOUBLE DIAMOND INC C/O DONALD RUMSEY RT 1 BOX 54 HORSESHOE BEND, ID 83629
Current Owner	D R & J INVESTMENTS LIMITED PARTNERSHIP 8973 W STATE ST BOISE, ID 83703-1729
Original Owner	DOUBLE DIAMOND RANCHES C/O DON & DALE RUMSEY 311 4TH ST N EXT NAMPA, ID 83687-3247 (208)336-4801

Priority Date: 09/14/1950

Basis: Decreed

Status: Active

Source	Tributary
PAYETTE RIVER	SNAKE RIVER

Beneficial Use	From To	Diversion Rate	Annual Volume
IRRIGATION	4/01 to 11/01	1.300 CFS	
	Total Diversion:	1.300 CFS	

Location of Point(s) of Diversion

PAYETTE RIVER L2 (SE1/4NW1/4) Sec. 26, Twp 07N, Rge 02E, B.M.

BOISE County

Place of Use

IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06N 02E 2						14.0 L 4	6.3	16.0	.1								36.4
07N 02E 23												6.0		1.4	28.5	3.0	38.9
07N 02E 26	28.0	39.0	38.0	3.5	19.0			21.1	19.6			18.0		28.0	8.3		222.5
07N 02E 34				13.9									39.0	3.8	1.6	34.0	92.3
07N 02E 35					4.4		20.5			34.0	28.0						86.9

Total Acres: 477

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 65-2532A V1

Conditions of Approval:

1. C18 THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(6), IDAHO CODE.

Remarks:

1. Place of Use - Irrigation USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 477 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 65-01151, 65-10749, 65-01317, 65-10748, 65-11393A, 65-02138, 65-02540, 65-10747, 65-03103, 65-02869.
2. Quantity USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 0.02 CFS AND TO A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 4.5 AF PER ACRE AT FIELD HEADGATE. COMBINED RIGHT NOS.: 65-01151, 65-10749, 65-01317, 65-10748, 65-11393A, 65-02138, 65-02540, 65-10747, 65-03103, 65-02869.
3. Place of Use - Irrigation THIS RIGHT IS LIMITED TO THE IRRIGATION OF 60 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

Comments:

1. sbock 8/12/2002 change
Comment: 65-3103 was objected to, TO SETTLE THE OBJECTION ON THAT RIGHT I AM TAKING THE PORTER CREEK WATER OUT OF A PPU AND STRIKING THE REMARK ON THE ASSOCIATED RIGHTS.

2. jshurte 12/19/2002 OBJECTION UPDATE
Comment: The actual resolution of the objection to 65-3103 has been to exchange .04 cfs/1.5 acres of the #1 Porter Ck right(65-3103) for .04 cfs/1.5 acres of George Dovels #6 Porter Ck right and allow these rights plus 65-3103 to remain as a permissable place of use. 65-3103 has been put back into these remarks as a part of the ppu. Transfers have been filed and still need to be approved.

Dates and Other Information:

Decreed Date:
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
Defendant:
Plaintiff:
Civil Case Number:
Judicial District:
Notice of Error Flag:
State or Federal: S
Owner Name Connector:
Water District Number: 65
Generic Max Rate Per Acre:
Generic Max Volume Per Acre:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Carey Act Number:
Mitigation Plan: False

Element Reviewed/Verified Dates:

Element	Last Reviewed Date	Reviewer	Last Verified Date	Verifier	Status
Contacts	1/18/2001 9:46:52 AM	mrodrigu			Active

Priority Date	1/18/2001 9:47:37 AM	mrodrigu	Active

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 65-2532A V1

POD	1/18/2001 9:47:51 AM	mrodrigu			Active
Source	1/18/2001 9:48:09 AM	mrodrigu			Active
POU	1/18/2001 9:49:48 AM	mrodrigu			Active
Use	1/18/2001 9:50:05 AM	mrodrigu			Active
Season	1/18/2001 9:50:28 AM	mrodrigu			Active
Quantity	1/18/2001 9:50:48 AM	mrodrigu			Active
Summary			01/18/2001	mrodrigu	Active

Verification Log:

Element	Date Time Stamp	Reviewer	Log text
POD	1/18/2001 3:05:14 PM	sbock	Edited point location
Contacts	1/18/2001 9:46:50 AM	mrodrigu	1. Appointment has not been scheduled.
Priority Date	1/18/2001 9:47:36 AM	mrodrigu	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.
POD	1/18/2001 9:47:50 AM	mrodrigu	1. (NO) The basis is not beneficial use. 2. (YES) Parent right has a Point of Diversion. 3. (YES) The claimed Point of Diversion can be verified using the water right file. 8. (NO) Point of Diversion remark was not required. 9. (NO) Point of Diversion condition was not required.
Source	1/18/2001 9:48:06 AM	mrodrigu	1. (NO) The basis is not beneficial use. 2. (YES) Parent right has a source. 3. (YES) The claimed source can be verified using the water right file. 8. (YES) The source is surface water. 9. (YES) The source is a standard source. 10. (NO) Source remark was not required. 11. (NO) Source condition was not required.
POU	1/18/2001 9:49:46 AM	mrodrigu	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. (YES) The claimed POU can be verified using the water right file. 12. (NO) POU remark was not required. 13. (NO) POU condition was not required.
Use	1/18/2001 9:50:03 AM	mrodrigu	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

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 65-2532A V1

Season	1/18/2001 9:50:27 AM	mrodrigu	1. (NO) The basis of claim is not beneficial use. 2. (YES) The parent right has a period of use. 3. (YES) The claimed Period of Use can be verified using the water right file. 12. (YES) Irrigation is the purposed use. 14. (NO) The period of use on the decree, license or transfer is not shorter on either the start or end date than allowable under IDWR's current standard. 15. (NO) Period of Use remark was not required. 16. (NO) Period of Use condition was not required.
Quantity	1/18/2001 9:50:47 AM	mrodrigu	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. 6. (NO) The source is not ground water and the purpose of use does not require a diversion volume limit. 7. (NO) The parent right does not have an annual diversion volume limit. 9. (NO) Quantity remark was not required. 10. (NO) Quantity condition was not required.
Summary	1/18/2001 9:58:08 AM	mrodrigu	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. (YES) General remark was required. 6. (NO) Explanatory remark was not required. 7. (NO) Additional condition was not required. 8. (YES) Wanted to view the recommended right. 9. (YES) This is 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.

SubCase:

SubCase Number: 65-2532A
Class: 1
SF5 Filed Date:
Special Master Recom Signed Date:
Attorney Assigned:
Adjudication Agent: mrodrigu (N/A)
Basis of Claim: Decreed

08/12/2002

IDAHO DEPARTMENT OF WATER RESOURCES

RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 65-2532A

NAME AND ADDRESS: D R & J INVESTMENTS LIMITED PARTNERSHIP
8973 W STATE ST
BOISE ID 83703-1729

SOURCE: PAYETTE RIVER TRIBUTARY: SNAKE RIVER

QUANTITY: 1.30 CFS

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 0.02 CFS AND TO A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 4.5 AF PER ACRE AT FIELD HEADGATE. COMBINED RIGHT NOS.: 65-01151, 65-10749, 65-01317, 65-10748, 65-11393A, 65-02138, 65-02540, 65-10747, 65-03103, 65-02869.

PRIORITY DATE: 09/14/1950

POINT OF DIVERSION:

T07N R02E S26 SENW Lot 2 Within BOISE County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	*PERIOD OF USE*	*QUANTITY*
IRRIGATION	4/01 11/01	1.300 CFS

PLACE OF USE: IRRIGATION Within BOISE County

T06N R02E S02 Lot 4	NWNW	14.0	T06N R02E S02	SWNW	6.3
T06N R02E S02	SENW	16.0	T06N R02E S02	NESW	0.1
T07N R02E S23	SESW	6.0	T07N R02E S23	NWSE	1.4
T07N R02E S23	SWSE	28.5	T07N R02E S23	SESE	3.0
T07N R02E S26	NENE	28.0	T07N R02E S26	NWNE	39.0
T07N R02E S26	SWNE	38.0	T07N R02E S26	SENE	3.5
T07N R02E S26	NENW	19.0	T07N R02E S26	SENW	21.1
T07N R02E S26	NESW	19.6	T07N R02E S26	SESW	18.0
T07N R02E S26	NWSE	28.0	T07N R02E S26	SWSE	8.3
T07N R02E S34	SENE	13.9	T07N R02E S34	NESE	39.0
T07N R02E S34	NWSE	3.8	T07N R02E S34	SWSE	1.6
T07N R02E S34	SESE	34.0	T07N R02E S35	NENW	4.4
T07N R02E S35	SWNW	20.5	T07N R02E S35	NWSW	34.0
T07N R02E S35	SWSW	28.0			

477 ACRES TOTAL

USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 477 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 65-01151, 65-10749, 65-01317, 65-10748, 65-11393A, 65-02138, 65-02540, 65-10747, ~~65-03103~~, 65-02869.

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 60 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(6), IDAHO CODE.

EXPLANATORY MATERIAL: Decreed

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 65-2532A V1

WATER RIGHT NUMBER: 65-2532A V1

Owner Type	Name and Address
Original Owner	DOUBLE DIAMOND INC C/O DONALD RUMSEY RT 1 BOX 54 HORSESHOE BEND, ID 83629
Current Owner	D R & J INVESTMENTS LIMITED PARTNERSHIP 8973 W STATE ST BOISE, ID 83703-1729
Original Owner	DOUBLE DIAMOND RANCHES C/O DON & DALE RUMSEY 311 4TH ST N EXT NAMPA, ID 83687-3247 (208)336-4801

Priority Date: 09/14/1950

Basis: Decreed

Status: Active

Source	Tributary
PAYETTE RIVER	SNAKE RIVER

Beneficial Use	From To	Diversion Rate	Annual Volume
IRRIGATION	4/01 to 11/01	1.300 CFS	
	Total Diversion:	1.300 CFS	

Location of Point(s) of Diversion

PAYETTE RIVER L2 SE1/4NW1/4 Sec. 26, Twp 07N, Rge 02E, B.M.

BOISE County

Place of Use

IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06N 02E 2						14.0 L 4	6.3	16.0	.1								36.4
07N 02E 23												6.0		1.4	28.5	3.0	38.9
07N 02E 26	28.0	39.0	38.0	3.5	19.0			21.1	19.6			18.0		28.0	8.3		222.5
07N 02E 34				13.9									39.0	3.8	1.6	34.0	92.3
07N 02E 35					4.4		20.5			34.0	28.0						86.9

Total Acres: 477

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 65-2532A V1

Conditions of Approval:

1. C18 THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. *SECTION* 42-1412(6), IDAHO CODE.

Remarks:

1. Place of Use - Irrigation USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 477 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 65-01151, 65-10749, 65-01317, 65-10748, 65-11393A, 65-02138, 65-02540, 65-10747, 65-03103, 65-02869.
2. Quantity USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 0.02 CFS AND TO A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 4.5 AF PER ACRE AT FIELD HEADGATE. COMBINED RIGHT NOS.: 65-01151, 65-10749, 65-01317, 65-10748, 65-11393A, 65-02138, 65-02540, 65-10747, 65-03103, 65-02869.
3. Place of Use - Irrigation THIS RIGHT IS LIMITED TO THE IRRIGATION OF 60 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

Comments:

1. sbock 8/12/2002 change
Comment: 65-3103 was objected to, TO SETTLE THE OBJECTION ON THAT RIGHT I AM TAKING THE PORTER CREEK WATER OUT OF A PPU AND STRIKING THE REMARK ON THE ASSOCIATED RIGHTS.

Dates and Other Information:

Decreed Date:
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
Defendant:
Plaintiff:
Civil Case Number:
Judicial District:
Notice of Error Flag:
State or Federal: S
Owner Name Connector:
Water District Number: 65
Generic Max Rate Per Acre:
Generic Max Volume Per Acre:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Carey Act Number:
Mitigation Plan: False

RIGHT NUMBER: 65-2532A

NAME AND ADDRESS: D R & J INVESTMENTS LIMITED PARTNERSHIP
8973 STATE ST
BOISE ID 83703

SOURCE: PAYETTE RIVER TRIBUTARY: SNAKE RIVER

QUANTITY: 1.30 CFS

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 0.02 CFS AND TO A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 4.5 AF PER ACRE AT FIELD HEADGATE. COMBINED RIGHT NOS.: 65-01151, 65-10749, 65-01317, 65-10748, 65-11393A, 65-02138, 65-02540, 65-10747, 65-03103, 65-02869.

PRIORITY DATE: 09/14/1950

POINT OF DIVERSION:

T07N R02E S26 SENW Lot 2 Within BOISE County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	4/01 11/01	1.300 CFS

PLACE OF USE:

IRRIGATION Within BOISE County

T06N R02E S02 Lot 4	NWNW	14.0	T06N R02E S02	SWNW	6.3
T06N R02E S02	SENW	16.0	T06N R02E S02	NESW	0.1
T07N R02E S23	SESW	6.0	T07N R02E S23	NWSE	1.4
T07N R02E S23	SWSE	28.5	T07N R02E S23	SESE	3.0
T07N R02E S26	NENE	28.0	T07N R02E S26	NWNE	39.0
T07N R02E S26	SWNE	38.0	T07N R02E S26	SENE	3.5
T07N R02E S26	NENW	19.0	T07N R02E S26	SENW	21.1
T07N R02E S26	NESW	19.6	T07N R02E S26	SESW	18.0
T07N R02E S26	NWSE	28.0	T07N R02E S26	SWSE	8.3
T07N R02E S34	SENE	13.9	T07N R02E S34	NESE	39.0
T07N R02E S34	NWSE	3.8	T07N R02E S34	SWSE	1.6
T07N R02E S34	SESE	34.0	T07N R02E S35	NENW	4.4
T07N R02E S35	SWNW	20.5	T07N R02E S35	NWSW	34.0
T07N R02E S35	SWSW	28.0			

477 ACRES TOTAL

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 60 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 477 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 65-01151, 65-10749, 65-01317, 65-10748, 65-11393A, 65-02138, 65-02540, 65-10747, 65-03103, 65-02869.

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(6), IDAHO CODE.

EXPLANATORY MATERIAL: Decreed

IDAHO DEPARTMENT OF WATER RESOURCES 12/27/2001

RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

WATER RIGHT NUMBER: 65-2532A

NAME AND ADDRESS: D R & J INVESTMENTS LIMITED PARTNERSHIP
8973 W STATE ST
BOISE ID 83703-1729

SOURCE: PAYETTE RIVER TRIBUTARY: SNAKE RIVER

QUANTITY: 1.30 CFS

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 0.02 CFS AND TO A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 4.5 AF PER ACRE AT FIELD HEADGATE. COMBINED RIGHT NOS.: 65-01151, 65-10749, 65-01317, 65-10748, 65-11393A, 65-02138, 65-02540, 65-10747, 65-03103, 65-02869.

PRIORITY DATE: 09/14/1950

POINT OF DIVERSION:

T07N R02E S26 SENW Lot 2 Within BOISE County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	4/01 11/01	1.300 CFS

PLACE OF USE: IRRIGATION Within BOISE County

T06N R02E S02 Lot 4 NWNW 14.0		T06N R02E S02	SWNW 6.3
T06N R02E S02	SENW 16.0	T06N R02E S02	NESW 0.1
T07N R02E S23	SESW 6.0	T07N R02E S23	NWSE 1.4
T07N R02E S23	SWSE 28.5	T07N R02E S23	SESE 3.0
T07N R02E S26	NENE 28.0	T07N R02E S26	NWNE 39.0
T07N R02E S26	SWNE 38.0	T07N R02E S26	SENE 3.5
T07N R02E S26	NENW 19.0	T07N R02E S26	SENW 21.1
T07N R02E S26	NESW 19.6	T07N R02E S26	SESW 18.0
T07N R02E S26	NWSE 28.0	T07N R02E S26	SWSE 8.3
T07N R02E S34	SENE 13.9	T07N R02E S34	NESE 39.0
T07N R02E S34	NWSE 3.8	T07N R02E S34	SWSE 1.6
T07N R02E S34	SESE 34.0	T07N R02E S35	NENW 4.4
T07N R02E S35	SWNW 20.5	T07N R02E S35	NWSW 34.0
T07N R02E S35	SWSW 28.0		

477 ACRES TOTAL

USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 477 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 65-01151, 65-10749, 65-01317, 65-10748, 65-11393A, 65-02138, 65-02540, 65-10747, 65-03103, 65-02869.

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 60 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(6), IDAHO CODE.

EXPLANATORY MATERIAL: 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 SRBA	)	**SUBCASE NO. 65-1151, 65-1317, 65-2138, 65-2532A, 65-2540, 65-2869, 65-3103, 65-3803B, 65-7833, 65-10746, 65-10747, 65-10748, 65-10749, 65-11393A and 65-12751**
Case No. 39576	)	**NOTICE OF COMPLETED ADMINISTRATIVE PROCEEDING**

IDWR has completed the following Administrative proceeding: **CHANGE OF ADDRESS**

Name and New Address of Claimant:

D R & J INVESMENTS LIMITED PARTNERSHIP
8973 W STATE ST
BOISE ID 83703-1729

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

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

Dated: December 28, 2001

Signature of IDWR Representative

CERTIFICATE OF MAILING

I certify that on December 28, 2001, I mailed the original and copies of this form to the following persons, postage prepaid and addressed as follows:

1. Original to:
   Clerk of the District Court
   Snake River Basin Adjudication
   PO Box 2707
   Twin Falls ID 83303-2707

2. One Copy to:
   Claimant or attorney of record:
   D R & J Investments Limited Partnership
   8973 W State St
   Boise ID 83703-1729

3. One Copy to:
   Each party in the subcase or attorney of record:
   N / A

4. One Copy to:
   Chief Natural Resources Division
   Office of the Attorney General
   PO Box 44449
   Boise ID 83711-4449

5. One Copy to:
   United States Dept of Justice
   Environment & Natural Resource Div
   550 West Fort Street MSC 033
   Boise ID 83724

Signature of person or attorney mailing the form

RECEIVED
OCT 31 2001
Department of Water Resources

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

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

September 27, 2001

RECEIVED
DEC 10 2001
WATER RESOURCES
WESTERN REGION

D R & J INVESTMENTS LIMITED PARTNERSHIP
~~C/O DOUBLE DIAMOND RANCH~~
8973 W STATE ST
BOISE ID 83703-1729

RE: Snake River Basin Adjudication (SRBA)
Water Rights #65-1150, 65-1151, 65-1152, 65-1317, 65-2138, 65-2532A, 65-2540, 65-2869, 65-3103, 65-3803, 65-7833, 65-10746, 65-10747, 65-10748, 65-10749, 65-11393A and 65-12751

Dear Water Right Holders:

Mail we sent you was returned to us by the Postal Service. The Postal Service advised us your address has changed to the above address. We have enclosed the returned mail.

Although we have reached you at the address above, we need your written confirmation this is your correct mailing address before we can change our records.

Please sign your name at the bottom of this letter and return it to this office. Make corrections to your name and address if necessary before returning this letter, **list any other water rights you have,** and return this letter by October 12, 2001. Thank you for your help.

If your mail delivery address changes in any form, please contact us in writing so we can update our records. Be sure to list your water right numbers.

If there has been a change in ownership of the property connected with the water rights referenced above, please call this office toll-free at 1/800-451-4129 to obtain a form to make this required change to the water right records.

Sincerely,

Sally Sherman
Technical Records Specialist
Adjudication Bureau

SS:region
Enclosure:
Returned Mail

Donald Rumsey

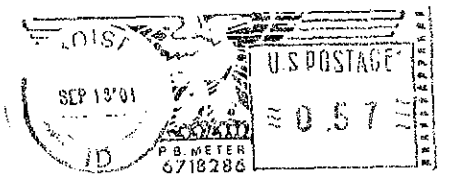
ok – original claimant on Double Diamond Ranch.

######

The address is correct as shown above or as otherwise changed.

Water Right Holder's Signature Telephone No.

ADDRESS SERVICE
REQUESTED



RECEIVED
SEP 24 2001
Department of Water Resources

65-3805B
65-10746
0-charge?

IDAHO DEPARTMENT OF WATER RESOURCES
1301 North Orchard St
PO Box 83720
Boise, ID 83720-0098
(208) 327-7900

TO

DOUB197 837022006 1300 04 09/22/01
FORWARD TIME EXP RTN TO SEND
:DOUBLE DIAMOND RANCH
8973 W STATE ST
BOISE ID 83703-1729

RETURN TO SENDER

65-1151 recan
-1317.
-2138.
-2532A.
-2540.
-2869.
-3103.
-7833.
-10746
-10747.
-10748.
-10749.
-11393A
-12751
1150. w/c.

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

May 25, 2004

D R & J Investments
8973 W. State St.
Boise ID 83703-1729

Dear Sirs:

Enclosed is a copy of the Notice of Completed Administrative Procedure and pertinent water right(s) recently sent to the Snake River Basin Adjudication Court in Twin Falls. These documents are now required to be filed by the Department in order to notify the Court of any changes to your water right(s).

The change to your water right(s) was a result of an approved transfer. This notification to the Court does not affect the previous approval of this transfer or your water right(s). You will be notified of any future action on your water right(s) by the SRBA Court or Water Resources.

Please contact this office if you have any questions concerning this notification.

Sincerely,

Lori Harris

Lori Harris
Technical Records Specialist
Adjudication Section
Western Region Office

JS:lh
Enclosures

cc: Jack C. Riddlemoser
George Dovel

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

December 28, 2001

D R & J INVESTMENTS LIMITED PARTNERSHIP
8973 W STATE ST
BOISE ID 83703-1729

RE: Water Right No. 65-1151, 65-1317, 65-2138, 65-2532A, 65-2540, 65-2869, 65-3103, 65-3803B, 65-7833, 65-10746, 65-10747, 65-10748, 65-10749, 65-11393A & 65-12751

Dear Property Owners:

Enclosed is a copy of the above referenced water right, which reflects your change in address. Also enclosed is a copy of the Notice of Completed Administrative Proceedings, which has been sent to the Snake River Basin Court as notification of the change.

Thank you for your patience and cooperation, as we have had several water right changes to process. If you have any questions concerning the enclosed water rights, please feel free to contact this office.

Sincerely,

Denise Buffington

Denise Buffington
Office Specialist 1
Adjudication Section
Western Region

DB: db

Enclosures

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

May 4, 2001

Dear Basin 65 water user:

This letter is to inform you that you may be eligible to file a stockwater claim with the Idaho Department of Water Resources (IDWR) in connection with the Snake River Basin Adjudication (SRBA). IDWR is sending this letter to water users in Basin 65 who might have relied upon the non-irrigation season stockwater provision in the Payette Adjudication. This provision states:

> "When stockwater is not a specifically mentioned use for a right that includes irrigation, a reasonable flow is implied and included for the watering of livestock during the non-irrigation season."

In another basin, the Idaho Supreme Court struck down general provisions that contained similar language. The non-irrigation season stockwater language quoted above was not included in the General Provisions for Basin 65 because of the Idaho Supreme Court's ruling.

IDWR recognizes that in reliance on the non-irrigation season stockwater language in the Payette Adjudication, water users might not have filed stockwater claims in the SRBA to cover the non-irrigation season period. Individuals who historically watered livestock during the non-irrigation season without a separate stockwater claim might desire to file a new stockwater claim with IDWR.

To be eligible for a new non-irrigation season stockwater claim:

1. You must have actually and historically watered livestock during the non-irrigation season without a separate stockwater right.
2. You must have filed a surface water irrigation claim in both the Payette Adjudication and the SRBA.
3. You must not have filed a stockwater claim with the surface water irrigation claim.

If you meet these three requirements, you may file a Notice of Claim form for stockwater with IDWR. **To have a timely filing you must file this claim with IDWR by May 25, 2001.** IDWR will waive filing fees for these stockwater claims if filed before this deadline. Failure to file your claim in a timely manner may prevent you from claiming it in the future. Notice of Claim forms are available on IDWR's website at www.idwr.state.id.us/info/water/srba/forms.htm or from any IDWR office. Claimants can call IDWR, Western Region at (208) 334-2190 to make an appointment if they need assistance filling out a Notice of Claim form.

Sincerely,

David R. Tuthill, Jr., P.E.
Adjudication Bureau Chief

RIGHT NUMBER: 65-2532A

NAME AND ADDRESS: D R & J INVESTMENTS LIMITED PARTNERSHIP
8973 STATE ST
BOISE ID 83703

SOURCE: PAYETTE RIVER TRIBUTARY: SNAKE RIVER

QUANTITY: 1.30 CFS

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 0.02 CFS AND TO A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 4.5 AF PER ACRE AT FIELD HEADGATE. COMBINED RIGHT NOS.: 65-01151, 65-10749, 65-01317, 65-10748, 65-11393A, 65-02138, 65-02540, 65-10747, 65-03103, 65-02869.

PRIORITY DATE: 09/14/1950

POINT OF DIVERSION:

T07N R02E S26 SENW Lot 2 Within BOISE County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	4/01 11/01	1.300 CFS

PLACE OF USE:

IRRIGATION Within BOISE County

T06N R02E S02 Lot 4	NWNW	14.0	T06N R02E S02	SWNW	6.3
T06N R02E S02	SENW	16.0	T06N R02E S02	NESW	0.1
T07N R02E S23	SESW	6.0	T07N R02E S23	NWSE	1.4
T07N R02E S23	SWSE	28.5	T07N R02E S23	SESE	3.0
T07N R02E S26	NENE	28.0	T07N R02E S26	NWNE	39.0
T07N R02E S26	SWNE	38.0	T07N R02E S26	SENE	3.5
T07N R02E S26	NENW	19.0	T07N R02E S26	SENW	21.1
T07N R02E S26	NESW	19.6	T07N R02E S26	SESW	18.0
T07N R02E S26	NWSE	28.0	T07N R02E S26	SWSE	8.3
T07N R02E S34	SENE	13.9	T07N R02E S34	NESE	39.0
T07N R02E S34	NWSE	3.8	T07N R02E S34	SWSE	1.6
T07N R02E S34	SESE	34.0	T07N R02E S35	NENW	4.4
T07N R02E S35	SWNW	20.5	T07N R02E S35	NWSW	34.0
T07N R02E S35	SWSW	28.0			

477 ACRES TOTAL

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 60 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 477 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 65-01151, 65-10749, 65-01317, 65-10748, 65-11393A, 65-02138, 65-02540, 65-10747, 65-03103, 65-02869.

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(6), IDAHO CODE.

EXPLANATORY MATERIAL: Decreed

03/07/2001

RECEIVED
APR 0 5 2001
Department of Water Resources

NOTICE OF ERROR
REPLY

25324

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: April 13, 2001

Water right number: 65-2532A

D R & J INVESTMENTS LIMITED PARTNERSHIP
8973 STATE ST
BOISE ID 83703
Telephone Number: (208) 583-1371

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:

RECEIVED
APR 0 6 2001
WATER RESOURCES
WESTERN REGION

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: 4-3-01 **SIGNATURE:** Donald Ramsey

Please print your name: DONALD RAMSEY

IDWR Regional Office, 2735 Airport Way, Boise, ID 83705, (208) 334-2190

First Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

RETURN TO SENDER

fee due 60

US POSTAL SERVICE
PS FORM 3547

RECEIVED
MAR 2 1 2001
WATER RESOURCES
WESTERN REGION

65-8538A

65-

D R & J INVESTMENTS LIMITED
PARTNERSHIP
1197 MAIN ST
BOISE ID 83702

RUMS197 837022016 1300 07 03/15/01
FORM 3547
RUMSEY
8973 W STATE ST
BOISE ID 83703-1729

01/18/2001

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

RIGHT NUMBER: 65-2532A

NAME AND ADDRESS: D R & J INVESTMENTS LIMITED PARTNERSHIP
8973 STATE ST
BOISE, ID 83703

SOURCE: PAYETTE RIVER TRIBUTARY: SNAKE RIVER

QUANTITY: 1.3 CFS

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 0.02 CFS AND TO A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 3.5 AF PER ACRE AT FIELD HEADGATE. COMBINED RIGHT NOS.: 65-01151, 65-10749, 65-01317, 65-10748, 65-11393A, 65-02138, 65-02540, 65-10747, 65-03103.

PRIORITY DATE: 09/14/1950

POINT OF DIVERSION: T07N R02E S26 LOT 2 SENW Within BOISE County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	4-01 11-01	1.30 CFS

PLACE OF USE:

IRRIGATION Within BOISE County

T06N R02E S2	LOT 4	NWNW	14	T06N R02E S2		SWNW	6.3
T06N R02E S2		SENW	16	T06N R02E S2		NESW	0.1
T07N R02E S23		SESW	0.3	T07N R02E S23		SESW	5.7
T07N R02E S23		NWSE	1	T07N R02E S23		NWSE	0.4
T07N R02E S23		SWSE	1.5	T07N R02E S23		SWSE	27
T07N R02E S23		SESE	3	T07N R02E S26		NENE	28
T07N R02E S26		NWNE	39	T07N R02E S26		SWNE	38
T07N R02E S26		SENE	3.5	T07N R02E S26		NENW	19
T07N R02E S26		SENW	2.1	T07N R02E S26		SENW	19
T07N R02E S26		NESW	0.6	T07N R02E S26		NESW	19
T07N R02E S26		SESW	18	T07N R02E S26		NWSE	28
T07N R02E S26		SWSE	8.3	T07N R02E S34		SENE	1.9
T07N R02E S34		SENE	12	T07N R02E S34		NESE	39
T07N R02E S34		NWSE	3.8	T07N R02E S34		SWSE	1.6
T07N R02E S34		SESE	34	T07N R02E S35		NENW	4.4
T07N R02E S35		SWNW	1.5	T07N R02E S35		SWNW	19
T07N R02E S35		NWSW	34	T07N R02E S35		SWSW	28

477 ACRES TOTAL

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 60 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 477 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 65-01151, 65-10749, 65-01317, 65-10748, 65-11393A, 65-02138, 65-02540, 65-10747, 65-03103.

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF *THIS* WATER RIGHT:

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(6), IDAHO CODE.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

CLAIM NUMBER: A65-02532A

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM	USE PERIOD TO	DIVERSION RATE	DIVERSION VOLUME
C	DOUBLE DIAMOND RANCHES	09/14/1950	IRRIGATION	04-01	11-01	1.300 CFS	
					TOTAL DIVERSION:	1.300 CFS	

Water Source: PAYETTE RIVER Tributary to: Snake

Stage: DECREED

Point(s) of Diversion: T07N R02E S26 Lot02(SENW) BOISE County

Place of use Legal Description for: IRRIGATION

	NE				NW				SW				SE				
	NENE	NWNE	SWNE	SENE	NENW	NWNW	SWNW	SENW	NESW	NWSW	SWSW	SESW	NESE	NWSE	SWSE	SESE	
T R S	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	SUM
07N 02E 26									03-08			04-11		19	15		53.0
07N 02E 35					01-07												7.0
																TOTAL ACRES	60.0

POU County: BOISE

Remarks: NAM ADDRESS CHANGED PER CLAIMANT LETTER. LH

QNT GEN THIS RIGHT WHEN COMBINED WITH RIGHTS 65-[illegible] & 65-11393 SHALL PROVIDE NO MORE THAN .02 CFS/ACRE.
THIS CLAIM IS A RESULT OF A CHANGE OF OWNERSHIP OF A65-02532 5/20/1996 BY MTS, NO FEE REQUIRED

Dates: Exam Made Date: Verified Date: Objection Filed Date:

Misc: Water District Number: 65 Field Inspection Flag:
Presumption Flag:

QNT
1151
10749
1317
10748
11393A
2138
2540 .02
10747 3.5
3103

C18
POU 1 K06 QNT 3 103 2540, 10747, 11393A,
60
E14 473

Split OK
25328 west to Horseshoe Bend Hydro
w/Transfer nt

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHT PROFILE REPORT

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM	USE PERIOD TO	DIVERSION RATE	DIVERSION VOLUME
P	DOUBLE DIAMOND RANCHES DON & DALE RUMSEY 200 SUNRISE RIM ROAD BOISE ID 83705 (208) 336-4801	09/14/1950	IRRIGATION	04/01	11/01	1.300 CFS	
			TOTAL DIVERSION:			1.300 CFS	
C	DOUBLE DIAMOND INC C/O DON RUMSEY HORSESHOE BEND ID 83629						

Water Source: PAYETTE RIVER Tributary to: Stage: DECREED

Point(s) of Diversion: T07N R02E S26 Lot 02( ) BOISE County

Place of use Legal Description for: IRRIGATION

			NE				NW				SW				SE				
			NENE	NWNE	SWNE	SENE	NENW	NWNW	SWNW	SENW	NESW	NWSW	SWSW	SESW	NESE	NWSE	SWSE	SESE	
T	R	S	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	SUM
07N	02E	26									03-08			04-11		19	15		53.0
07N	02E	35					01-07												7.0
																TOTAL ACRES			60.0

Pou County: BOISE

Remarks: GEN THIS RIGHT WHEN COMBINED WITH RIGHTS 65-1317 & 65-11393 SHALL PROVIDE NO MORE THAN .02 CFS/ACRE.

Dates: App. Received: Priority Date: 09/14/1950
Proof Due Date: Proof Made Date:
Exam Made Date: Exam Sent to S.O.:
Licensed Date:

Misc: Water District Number: 65 Field Exam Fee:

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

June 21, 2000

D R & J INVESTMENTS LIMITED PARTNERSHIP
1197 MAIN ST
BOISE ID 83702

Re: Notice of Claim to a Water Right No. A65-01151, A65-01317, A65-02138, A65-02532A, A65-02540, A65-02869, A65-03103, A65-03803B, A65-10746, A65-10747, A65-10748, A65-10749, A65-11393A, A65-12751 and A65-07833

Dear Claimant:

This letter is to inform you that the name has been changed on the above referenced claims, for the land and appurtenant water right(s) covered under the original filing.

The Department will contact you in the future concerning any requirements that may be needed in order to process these claims for final court decree. The final recommendation for these claims will be mailed in September, at which time you will receive copies.

Please note, the name has also been changed on water right numbers 65-01150, 65-01152 and 65-03800, which have been decreed by the SRBA Court.

Thank you for your patience and cooperation, as we have had several ownership changes to process. If you have any questions concerning this letter, please contact Sue Bock at this office.

Sincerely,

Denise Buffington

Denise Buffington
Office Specialist 1
Adjudication Section
Western Region Office

DB:db

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region. 2735 Airport Way, Boise. Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

May 21, 1996

CHRISTOPHER CLARK
CORPORATE SECRETARY
HORSESHOE BEND HYDROELECTRIC CO
PO BOX 2797
BOISE ID 83701

Re: A65-02532B & A65-11393B

Dear Kit:

Enclosed for your records are the SRBA claims representing Horseshoe Bend Hydroelectric's portion of the rights associated with the Double Diamond Ranches purchase. There is nothing else you need to do at this time concerning the claims. If we need additional information when we complete our formal review we will contact you at that time.

If you have any questions call me at the number below.

Sincerely,

Mel Schulte

Mel Schulte
ADJUDICATION BUREAU
Department of Water Resources
Western Region Office
(208) 334-2190

Enc.

MICROFILMED
OCT 18 1996

HORSESHOE BEND HYDROELECTRIC COMPANY
P.O. BOX 2797
1401 SHORELINE DRIVE
BOISE, IDAHO 83701
FACSIMILE NO.: (208)345-7028
TELEPHONE NO.: (208)345-7515

RECEIVED
MAY 0 6 1996
WATER RESOURCES
WESTERN REGION

May 3, 1996

Mr. Mel Schulte
Adjudication Bureau
Department of Water Resources
Western Region Office
2735 Airport Way
Boise, Idaho 83705-5082

RE: New Owner Application/Notice of Change of Water Right Ownership

Deal Mel:

Enclosed herewith you will find a re-submission by Horseshoe Bend Hydroelectric Company relating to the splitting of water rights previously held by the Rumsey Company (also known as Double Diamond, Inc.) under water right numbers 65-02532 and A65-11393.

Pursuant to your letter of March 12, 1996 and my meeting with you at the Department of Water Resources, I have modified the application form and communicated the proposed modification on April 8, 1996 to Don and Dale Rumsey through their legal counsel, Jim Jones. As of this date, I have not received any objection or response from Mr. Jones or his clients and, as such, Horseshoe Bend Hydroelectric Company is proceeding to submit this Notice of Change of Water Right Ownership without the joint signature of the Rumseys. In accordance with the provisions allowing a new owner to submit its notice of change of ownership without concurrence by the seller, enclosed herewith you will find our application and documentation which reflects proof of Horseshoe Bend Hydroelectric Company's ownership.

Thank you very much for your attention to this matter.

Best Regards,

Kit Clark

Kit Clark
General Counsel and
Corporate Secretary

KC/vw
Enclosures

5-4-004.96

cc: Joe Davis
Kathy Pfister

MICROFILMED
OCT 1 8 1996

Split Tie A65-02532

A65-02532 N/O Double Diamond Ranches
DR: 1.80 cfs
P/D: 7N, 2E, S26, Lt2 (SENW)
P/U: 7N, 2E, S26, Lt3 (NESW) -10 oc
Lt4 (SESW -25 "
NWSE -19 SWSE -15
S35, Lt1 (NENW) -14 oc (83oc)

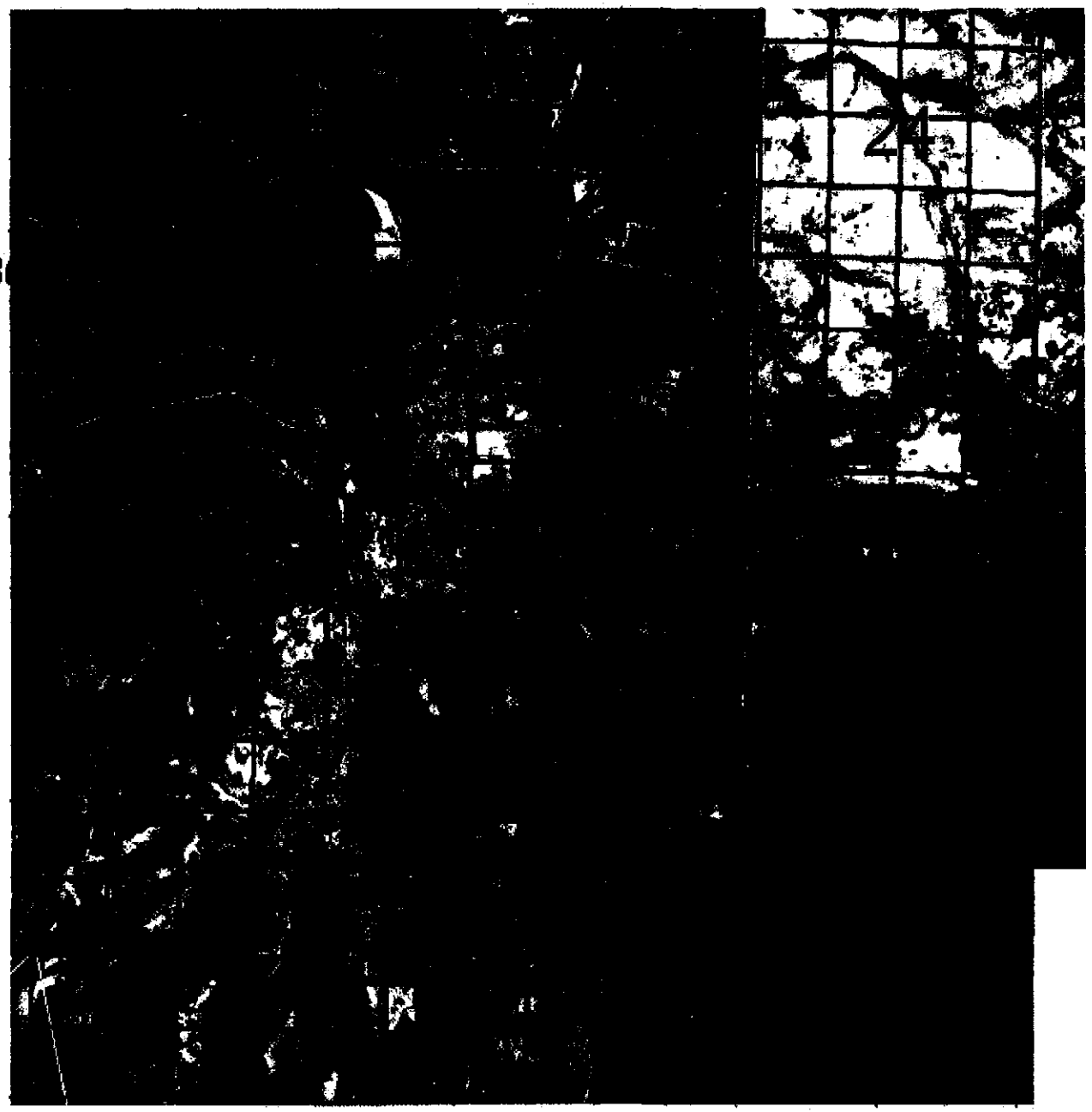
-02532A N/O Double Diamond Ranches
DR: 1.30
P/D: 7N, 2E, S26, Lt2 (SENW)
P/U: 7N, 2E, S26, Lt3 (NESW) - 8oc
Lt4, (SESW) - 11
NWSE -19 SWSE -15
S35, Lt1 (NENW) -7 (60)

-02532B N/O Horseshoe Bend Hydro
DR: .50
P/D: same as above
P/U: 7N, 2E, S26, Lt3 (NESW) - 2oc
Lt4 (SESW) -14
S35, Lt1 (NENW) - 7 (23)

MICROFILMED
OCT 18 1996

Claim No(s): 65-01151, 65-02138, 65-01317, 65-02532A, 65-2540, 65-03103, 65-10747, 65-10748, 65-10749, 65-11393A
T07N, R02E, S23,25,26,35,3
T06N, R02E, S 2
Prepared by: Sue Bock
Date: 1/17/2001

Idaho Dept. of Water Resources



1987 NAPP Photo

Place of Use

Point of Diversion

Section lines

1/4 1/4 lines

N W E S

0 0.4 0.8 Miles

MEMORANDUM

TO: WATER RIGHT FILES 65-02540, 65-03103, 65-10746, 65-10747
FROM: STEVE LESTER
DATE: JUNE 28, 1990
SUBJ: PLACE OF USE CORRECTION

During my involvement with the Porter Creek water district, an apparent data base error was found. The error involves situations in which a government lot falls within two quarter-quarters (QQ) instead of one. For Porter Creek rights 65-03103 and 65-10746, the QQ correction can occur in the transfer process (transfer application in preparation for 65-03103, 65-10773, 65-10746, and 65-12751, Porter Creek rights). Also, the Payette River rights can be corrected based on the attached information. SRBA data base changes should also be made to compliment the water right data.

See attached:

Fig. 1 shows the irrigated land in Lot 4 NWSE, Lot 5 SESW + SWSE. Irrigated land is indicated with green diagonal lines. Government lots are outlined with red lines.

Fig. 2 is a Payette River Adjudication working map and lists the four rights within NWSE, SESW, and SWSE. Note that two acres in Lot 4 NESE may occur under 65-02540 (probably not, see Payette Adjud. claim 65-2540), although 2540 might be mistakenly written in NESE instead of NWSE. 65-10746 and 65-10747, Porter Creek and Payette River rights, are definitely shown in NWSE but not in NESE.

Figs. 3-5 include the original claim information in the Payette Adjudication. A microfiche copy for 65-3103 is not available except on the misc. roll not found at Western. Note that 65-10746 claims 2 acres in Lot 4 NWSE S. 23. This is also true for 65-2540 and 65-10747.

Note that Lot 5 includes SESW and SWSE. The SWSE does not have 39 acres of irrigatable land even if the area east of the county road is added. Based on a 7.5′ orthophoto and recent field checks, it appears that 8 acres in SESW and 31 acres in SWSE are irrigated in Lot 5.

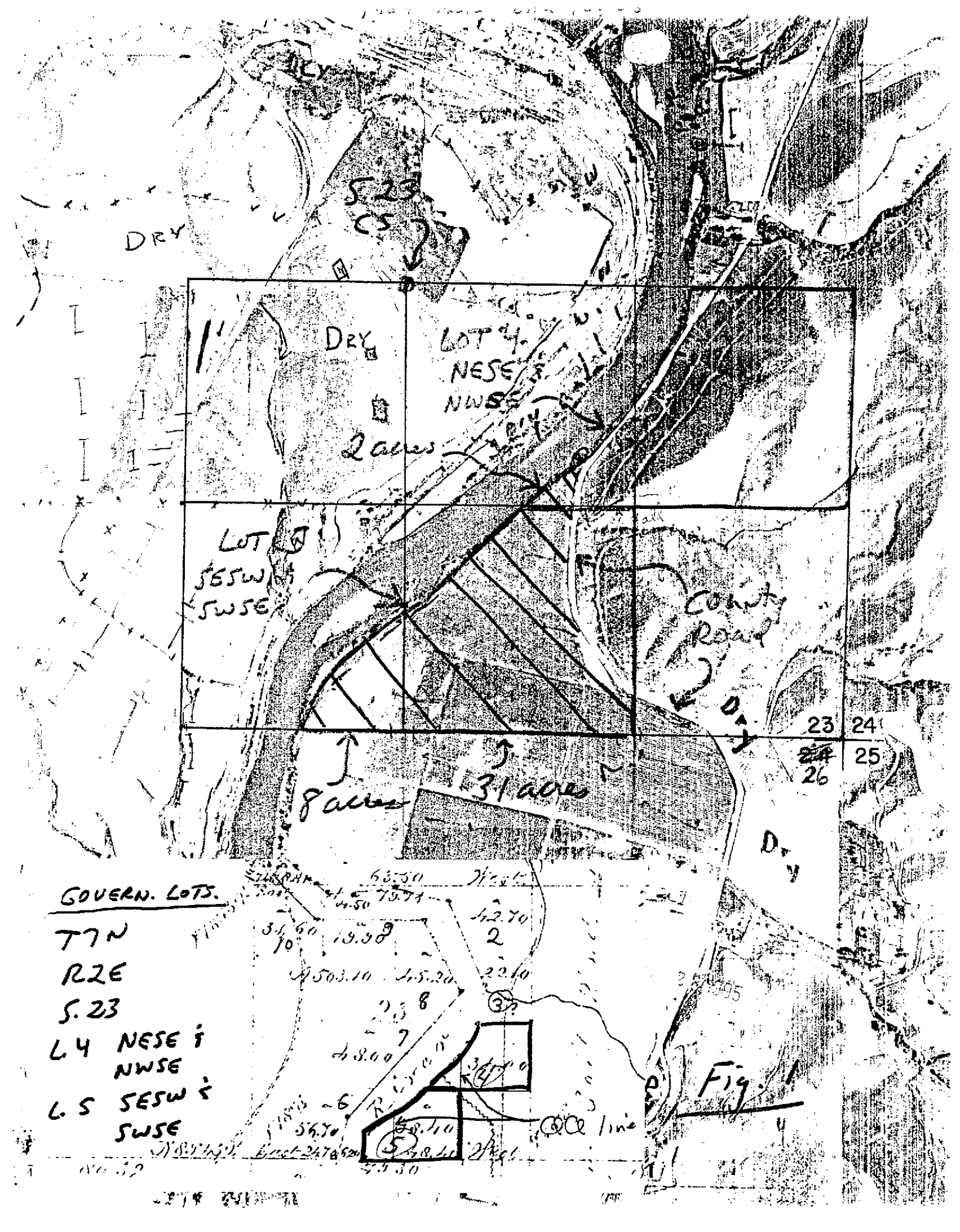
Decreed: T7N, R2E, S. 23 Lot 4 NESE 2 acres for 65-02540, 65-10746, 65-10747.
Corrected: " Lot 4 NWSE " " " ".

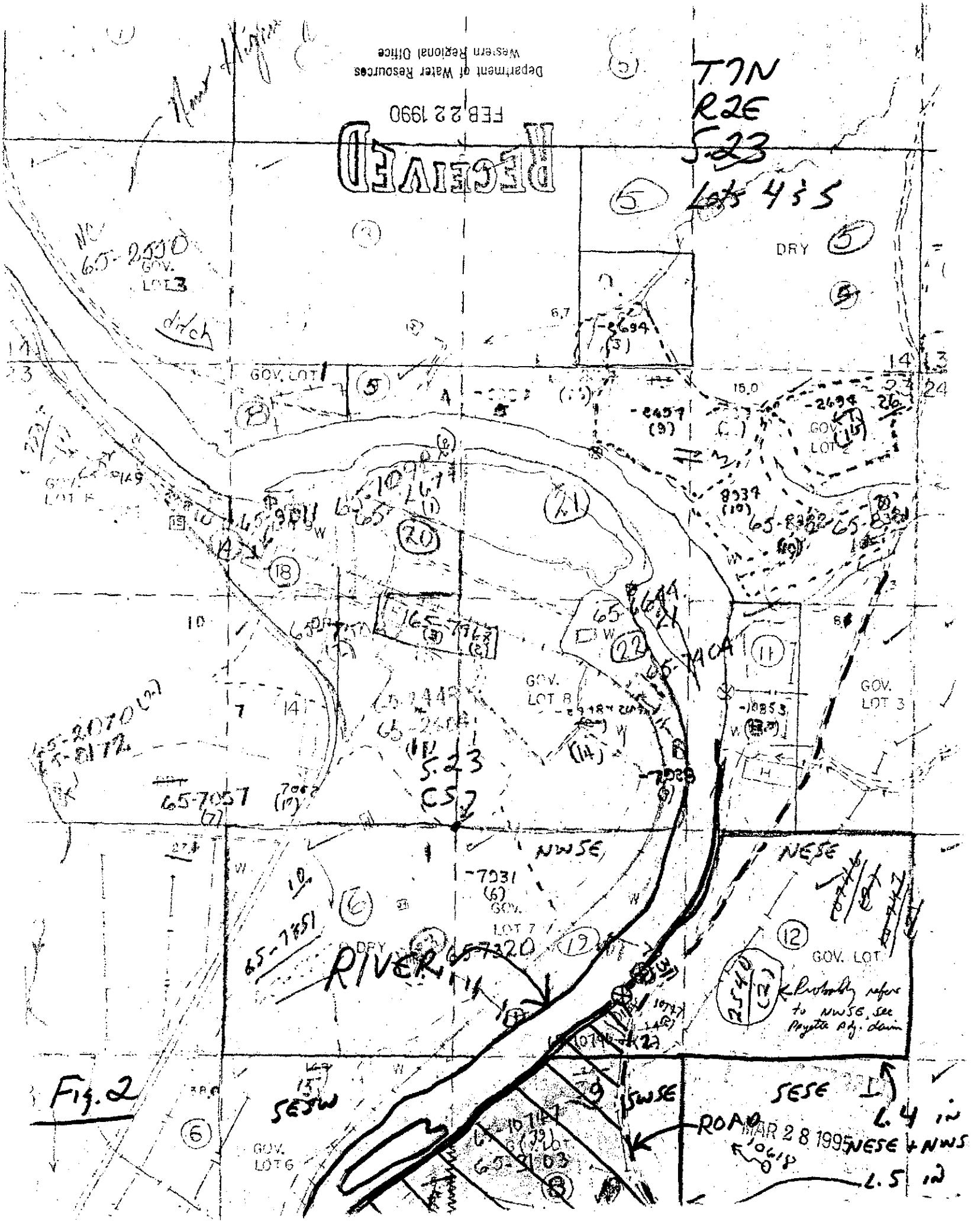
Decreed: T7N, R2E, S. 23 Lot 5 SWSE 39 acres for 65-02540, 65-03103, 65-10747.
Corrected: " Lot 5 SESW 8 " " " " and
" Lot 5 SWSE 31 " " ".

MAR 2 8 1995

CC: State and Region files for Water District 65-B

Attachment A


DRY
S.23
CS
DRY
LOT 4
NESE
NWSE
2 acres
LOT 5
SESW
SWSE
County Road
23
24
25
26
8 acres
31 acres
DRY
GOVERN. LOTS.
T7N
R2E
S. 23
L4 NESE & NWSE
L5 SESW & SWSE
CCC line
Fig. 1


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FEB 22 1990
Department of Water Resources
Western Regional Office
T1N
R2E
S23
Lots 4 & 5
DRY
GOV. LOT 3
GOV. LOT 1
GOV. LOT 2
GOV. LOT 8
GOV. LOT 3
GOV. LOT 7
GOV. LOT 6
GOV. LOT
DRY
RIVER
ROAD
SESW
SWSE
SESE
NWSE
NESE
NESE & NWS
MAR 28 1995
Probably refer to NWSE, see Poyette Adj. dam
1.4 in
1.5 in
Fig. 2

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT

OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF GEM

IN THE MATTER OF THE GENERAL DETERMINATION OF RIGHTS TO THE USE OF PAYETTE RIVER DRAINAGE BASIN.

NOTICE OF CLAIM TO A WATER RIGHT

B IDENT. NO. 65-10746 MAP NO.

Notice is hereby given that Double Diamond Inc., c/o Don Rumsey (Name of Claimant)

Horseshoe Bend, ID 83629 (Mailing Address), claims a right to the diversion and beneficial use of the surface or groundwater, of or tributary to

RECEIVED AUG 12 1977 Department of Water Resources Western Regional Office

The extent and nature of said claim is as follows:

(1) Date of priority: (When was the water first applied to a beneficial use, or date that permit was issued) April 1, 1960

(2) Describe the source of water: (Name of stream, lake, spring, etc., or groundwater) Porter Creek trib to Payette R

Describe the purpose for which the water has been used and the time during the year when you have used the right claimed:

Quantity .44 cfs (CFS. GPD. AF.) Use Irrigation (Domestic, irrigation, stock, etc.) Period of Use From Apr 1 (Mo., Day) To Nov 1 (Mo., Day) (Both Dates Inclusive)

Quantity _____ (CFS. GPD. AF.) Use _____ (Domestic, irrigation, stock, etc.) Period of Use From _____ (Mo., Day) To _____ (Mo., Day) (Both Dates Inclusive)

Quantity _____ (CFS. GPD. AF.) Use _____ (Domestic, irrigation, stock, etc.) Period of Use From _____ (Mo., Day) To _____ (Mo., Day) (Both Dates Inclusive)

.44 cfs (CFS. GPD. AF.) TOTAL QUANTITY CLAIMED.

A) Point of Diversion: Give location of point where water is diverted from its source NW ¼ SE ¼, Sec. 12, Twp. 7N, Rge. 2E, B.M.; additional points: _____

B) Describe means of diversion of water: (Pump and pipeline, well, diversion dam, reservoir, length of ditch and field, etc.) Give sizes and capacities; be as specific as possible. Porter Ditch

A) Describe location of use by listing number of irrigated acres within each 40-acre tract in appropriate box. If use is not for irrigation, place an "X" in appropriate box to show location.

T	R	SEC.	NE¼				NW¼				SW¼				SE¼				TOTAL
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
4	2E	23														2			2
		26	11								9 (LOT 3)					(LOT 4)			20

Total No. of acres 22

B) If water is used for other than irrigation, fully describe that use, being as specific as possible: _____

Effluent, sewage waste, or return water from this use is discharged into _____

If you are claiming water as a member of an organization, list name of organization. _____

Remarks This right is used on lands not mentioned in decreed right #65-3103. (This right when combined with rights 65-2540 and 65-10747 shall provide no more than .02cfs/acre/ 3.5 Ac. Max.) 65-10749 ADD

(0) Basis of claim (Check one) XX A) Right based on diversion and beneficial use.

☐ B) Right decreed by court, cite title of case. _____

☐ C) Right based on application, permit, license, or claim filed with the Idaho Department of Water Administration. _____

Be it known that the undersigned, after being duly sworn on oath, depose(s) and say(s) that all statements included herein are true and accurate to the best of (his, her, their) knowledge.

Aug 9 1977 (Date)

Individual Donald Rumsey (Signature of Claimant)

(Signature of Spouse)

Organization Double Diamond Inc (Signature of Authorized Agent)

KEYPUNCHED 12/16/77 (3-5)

NOV 28 1995 Organization Seal

State of California

County of Los Angeles ss.

On this 9 day of August, in the year 1977, before me, notary public, personally appeared David Rumsey known to me to be the person(s) whose name(s) is subscribed to the above instrument, and acknowledged to me that (he, she, they, corporation, partnership or _____) executed the same.

OFFICIAL SEAL WILLIAM R. FECHO NOTARY PUBLIC - CALIFORNIA LOS ANGELES COUNTY

William R. Fecho

Notary Public residing at 3157 Overland Ave Los Angeles CA 90064

My commission expires 4/18/82

DRT 11-18-77

Fig. 3-5

IN THE DI[S]T[R]ICT COURT OF THE [FIFTH] JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF GEM

IN THE MATTER OF THE GENERAL DETERMINATION OF RIGHTS TO THE USE OF PAYETTE RIVER DRAINAGE BASIN.

NOTICE OF CLAIM TO A WATER RIGHT

IDENT. NO. 37-10747 MAP NO. 7-2-D,E

Notice is hereby given that Double Diamond Inc., c/o Don Rumsey (Name of Claimant)
Horseshoe Bend, ID 83629 (Mailing Address)
claims a right to the diversion and beneficial use of the surface or groundwater, of or tributary to Snake River;

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AUG 12 1977
Western Regional Office

The extent and nature of said claim is as follows:

(1) Date of priority: (When was the water first applied to a beneficial use, or date that permit was issued) April 1, 1950

(2) Describe the source of water: (Name of stream, lake, spring, etc., or groundwater) Payette River

(3) Describe the purpose for which the water has been used and the time during the year when you have used the right claimed:

981.3 AFA

Quantity .9 cfs (CFS, GPD, AF.) Use Irrigation (Domestic, Irrigation, stock, etc.) Period of Use From Apr 1 (Mo., Day) To Oct 31 (Mo., Day) (Both Dates Inclusive)

Quantity ____ (CFS, GPD, AF.) Use ____ (Domestic, Irrigation, stock, etc.) Period of Use From ____ (Mo., Day) To ____ (Mo., Day) (Both Dates Inclusive)

Quantity ____ (CFS, GPD, AF.) Use ____ (Domestic, Irrigation, stock, etc.) Period of Use From ____ (Mo., Day) To ____ (Mo., Day) (Both Dates Inclusive)

(4) .9 cfs (CFS, GPD, AF.) TOTAL QUANTITY CLAIMED.

(5) A) Point of Diversion: Give location of point where water is diverted from its source ____ ¼ ____ ¼, Sec. 23, Twp. 7, Rge. 2E, B.M.; and if not all points: Lot 4

B) Describe means of diversion of water: (Pump and pipeline, well, diversion dam, reservoir, length of ditch and field, etc.) Give sizes and capacities; be as specific as possible. PUMP, SPRINKLER SYSTEM

(6) A) Describe location of use by listing number of irrigated acres within each 40-acre tract in appropriate box. If use is not for irrigation, place an "X" in appropriate box to show location.

T	R	SEC.	NE¼				NW¼				SW¼				SE¼				TOTAL
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
7N	2E	23												S (Lot 4)		9	9	1	42
			13	40	39	3	23			22	3					141			163
						(Lot 1)				(Lot 2)	(Lot 3)								

Total No. of acres 205

B) If water is used for other than irrigation, fully describe that use, being as specific as possible: ____

(7) Effluent, sewage waste, or return water from this use is discharged into ____

(8) If you are claiming water as a member of an organization, list name of organization. ____

(9) Remarks NOTE: NEW, LARGER PUMP INSTALLED AT THIS TIME (This right when combined with the rights 65-3103 and 65-10746 and 65-2540 shall provide no more than .02 cfs/ac on 35 AFA acres)

(10) Basis of claim (Check one)
☐ A) Right based on diversion and beneficial use.
☐ B) Right decreed by court, cite title of case. ____
☐ C) Right based on application, permit, license, or claim filed with the Idaho Department of Water Administration. ____

Be it known that the undersigned, after being duly sworn on oath, depose(s) and say(s) that all statements included herein are true and accurate to the best of (his, her, their) knowledge.

Individual

Aug 9 1977 (Date) (Signature of Claimant)

(Signature of Spouse)

Organization Double Diamond Inc

(Signature of Authorized Agent)

State of California
County of Los Angeles ss

On this ____ day of August, in the year ____, before me, a notary public, personally appeared ____ known to me to be the person(s) whose name(s) are subscribed to the above instrument, and acknowledged to me that (he, she, they, corporation, partnership or ____) executed the same.

OFFICIAL SEAL
WILLIAM R. FECHO
NOTARY PUBLIC - CALIFORNIA
LOS ANGELES COUNTY
My comm. Expires FEB 25, 1980

Notary Public residing at Los Angeles

My commission expires 5/24/1980

Seal

PENDING 3/11/78 DBT

DBT 11-18-77

IN THE D[illegible] COURT OF THE [illegible] THIRD [illegible]UDI[illegible] DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF GEM

IN THE MATTER OF THE GENERAL DETERMINATION OF RIGHTS TO THE USE OF PAYETTE RIVER DRAINAGE BASIN. NOTICE OF CLAIM TO A WATER RIGHT

IDENT. NO. B 65-2540 MAP NO. 7-2-D.E

RECEIVED
AUG 12 1977
Department of Water Resources
Western Regional Office

Notice is hereby given that Double Diamond Inc., c/o Don Rumsey (Name of Claimant)
Horseshoe Bend, ID 83629 (Mailing Address) claims a right to the diversion and beneficial use of the surface or groundwater, of or tributary to _____.

The extent and nature of said claim is as follows:

(1) Date of priority: (When was the water first applied to a beneficial use, or date that permit was issued) April 26, 1951

(2) Describe the source of water: (Name of stream, lake, spring, etc., or groundwater) Payette River

(3) Describe the purpose for which the water has been used and the time during the year when you have used the right claimed:

718 AF Quantity 3.2 cfs (CFS. GPD. AF.) Use Irrigation (Domestic, irrigation, stock, etc.) Period of Use From Apr 1 (Mo., Day) To Nov 1 (Mo., Day) (Both Dates Inclusive)

Quantity _____ (CFS. GPD. AF.) Use _____ (Domestic, irrigation, stock, etc.) Period of Use From _____ (Mo., Day) To _____ (Mo., Day) (Both Dates Inclusive)

Quantity _____ (CFS. GPD. AF.) Use _____ (Domestic, irrigation, stock, etc.) Period of Use From _____ (Mo., Day) To _____ (Mo., Day) (Both Dates Inclusive)

(4) 3.2 cfs (CFS. GPD. AF.) TOTAL QUANTITY CLAIMED.

(5) A) Point of Diversion: Give location of point where water is diverted from its source ~~NW~~ Lot 4 ¼ ~~SE~~ ¼, Sec. 23, Twp. 7N, Rge. 2E, B.M.; additional points: _____

B) Describe means of diversion of water: (Pump and pipeline, well, diversion dam, reservoir, length of ditch and field, etc.) Give sizes and capacities; be as specific as possible. pump and sprinkler system

(6) A) Describe location of use by listing number of irrigated acres within each 40-acre tract in appropriate box. If use is not for irrigation, place an "X" in appropriate box to show location.

T	L	SEC.	NE¼				NW¼				SW¼				SE¼				TOTAL
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
7N	2E	23												~~S~~		2	39	1	42
														~~Lt 3~~	(Lt 4)		(Lt 5)		
		26	13	40	39	3	23			22	9					14			163
							(Lt 1)			(Lt 2)	(Lt 3)								

39

Total No. of acres 205

B) If water is used for other than irrigation, fully describe that use, being as specific as possible: _____

(7) Effluent, sewage waste, or return water from this use is discharged into _____

(8) If you are claiming water as a member of an organization, list name of organization. _____

(9) Remarks This right when combined with right 65-10746, 65-10747 and 65-3103 shall provide no more than .02 cfs/acre nor 3.5 AFA/acre.

(10) Basis of claim (Check one)
☐ A) Right based on diversion and beneficial use.
☐ B) Right decreed by court, cite title of case. _____
☒ C) Right based on application, permit, license, or claim filed with the Idaho Department of Water Administration. License

Be it known that the undersigned, after being duly sworn on oath, depose(s) and say(s) that all statements included herein are true and accurate to the best of (his, her, their) knowledge.

Aug 9 1977 (Date)

Individual Don Rumsey (Signature of Claimant)

RELINQUISHED Rel 11/5/77 OTOHOL

Organization Double Diamond Inc. Don Rumsey (Signature of Authorized Agent)

State of California
County of Los Angeles ss.
Organization Seal 1995

On this 9TH day of AUGUST, in the year 1977, before me, a notary public, personally appeared DONALD RUMSEY, known to me to be the person(s) whose name(s) are subscribed to the above instrument, and acknowledged to me that (he, she, they, corporation, partnership or _____) executed the same.

OFFICIAL SEAL
WILLIAM R. FECHO
NOTARY PUBLIC - CALIFORNIA
LOS ANGELES COUNTY
My comm. expires FEB 25, 1980

My commission expires 5/29/1980

Notary Public residing at 3257 CAPITOL AVE LOS ANGELES 12 90012

DRT 11-18-77

Form 222
1-87

Page 1 of 12

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No. 4159

APPLICATION FOR TRANSFER OF WATER RIGHT *AMENDED*

PART 1

Name of applicant Double Diamond Inc. Phone 336-4801

Post Office address c/o Donald Rumsey, General Partner, 200 Sunrise Rim, Boise Id. 83705

A. PURPOSE OF TRANSFER

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

2. Describe the reason for the proposed changes A 148.7 A.F. pond will be established on a 22-acre site in S. 26. The pond will be used for recreational purposes. It will be filled with Payette River water and by exchanging #1 Porter Creek water with #12 Porter Creek water (#12 to go to pond). This amended application serves as the mgt. or reclamation plan.

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

1. Right Number	Priority	Amount (cfs/ac-ft)	Nature of Use	Period of Use
Porter Ck. 65-03103	1/1/1872	3.82 cfs	Irrigation	4/1 to 10/1
Porter Ck. 65-10746	4/1/1960	.44 cfs	Diversion to storage and recreation	4/1 to 11/1
		77 a.f.	Recreation storage	4/1 to 11/1
Continued in Attachment		A1		to

2. Total amount of water being transferred 8.36 cubic feet per second and/or _____ acre-feet per annum.

3. Source of water Porter Creek / Payette River tributary to Payette River / Snake River.

4. Point(s) of Diversion: NO CHANGE IN EXISTING POINTS OF DIVERSION

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

Side A File 1

5. Lands irrigated or place of use: SEE ATTACHMENT B1

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

RECEIVED MAR 28 1995

Total acres

Transfer No. _____

PART 1

6. General Information:

a. Description of diversion system Porter Creek: dam, headgate, earth ditch to pipeline. Payette River - pump & pipeline. Both sources feed a common pipeline to deliver water to the land.

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

c. Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer:
#1 Porter Creek water will be used on #12 land. #12 Porter Creek water will be used in pond. Payette River water at pond site will be changed to new uses. Since all of the land in question is covered by Payette River water (as indicated plus 65-10749), irrigation glts will not be switched for Payette River water on #12 Porter Creek acres.

d. Remarks: Total volume in 65-10746 will not exceed 77 A.F.A. for all uses. Total non-irrigation volume in 65-02540 plus 65-10747 will not exceed 77 A.F.A. for all uses.

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

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

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

Witness my hand this _____ day of _____, 19____.

[redacted]

MAR 28 1995

 Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:
   a. Decree No. 65-03103 Decreed to Double Diamond Inc.
   in case of State of Idaho vs. A & C Corp., ET AL.
   dated 1/21/1936 in 3rd Judicial Dist. county of Gem
   b. License No. _____ issued by the Idaho Department of Water Resources.
   c. Claim No. _____ on file with the Idaho Department of Water Resources.
   d. Transfer No. _____ which produced this right.
2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below: SEE original transfer application
   ☐ Tax Notice ☐ Warranty Deed ☐ Other _____
3. Source of water Porter Creek tributary to Payette River
4. Date or priority 1/1/1872
5. Water is used for the following purpose:
   amount 3.82 cfs (cfs/ac-ft) for Irrigation purposes from 4/1 to 11/1
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
6. Total amount of water under right 3.82 cubic feet per second and/or _____ acre-feet per annum.
7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
		NW	SE	12	7N	2E	Boise	#1 headgate & ditch

8. Lands irrigated or place of use: Right 107, incomplete acres to be corrected in transfer

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	2E	23															L.5 39		39
		26	13	40	39	3	L.1 23			L.2 22						14			154
													MAR 2 8 1995						

Total acres 193

9. Describe any other water rights used for the same purpose as described above 65-02540, 65-10746, both are Payette River. (65-10746) irrigate 11 other acres in NENE S.26)

PART 2

Transfer No. _____

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

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

Total acres _____

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

MAR 28 1995

Total acres _____

Transfer No.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:
   a. Decree No. 65-02540 Decreed to Double Diamond Inc.
   in case of State of Idaho vs. A & C Corp, ET AL,
   dated 1/21/1986 in 3rd Jud. Dist. county of Gem
   b. License No. _____ issued by the Idaho Department of Water Resources.
   c. Claim No. _____ on file with the Idaho Department of Water Resources.
   d. Transfer No. _____ which produced this right.
2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:
   ☐ Tax Notice ☐ Warranty Deed ☐ Other SEE original transfer Application
3. Source of water Payette River tributary to Snake River
4. Date or priority 4/26/1951
5. Water is used for the following purpose:
   amount 3.20 cfs (cfs/ac-ft) for Irrigation purposes from 4/1 to 11/1
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
6. Total amount of water under right 3.20 cubic feet per second and/or _____ acre-feet per annum.
7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
4		—	—	23	7N	2E	Boise	(note: is in NWSE)

8. Lands irrigated or place of use: Some comments as on pg. 3 of 5

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	2E	23													L4 2		L5 39	1	42
		26	13	40	39	3	L1 23			L2 22	L3 9					14			163
																			395

Total acres 205

9. Describe any other water rights used for the same purpose as described above 65-10747, 65-03103, 65-10746

PART 2

Transfer No. _____

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

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

Total acres _____

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

MAR 28 1995

Total acres _____

 Transfer No. ___

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:
   a. Decree No. 65-10747 Decreed to Dowsk Diamond Inc.
   in case of State of Idaho vs. A & S Corp, ET AL.
   dated 1/21/1986 in 3rd Jud. Dist. county of Gem
   b. License No. _____ issued by the Idaho Department of Water Resources.
   c. Claim No. _____ on file with the Idaho Department of Water Resources.
   d. Transfer No. _____ which produced this right.
2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:
   ☐ Tax Notice ☐ Warranty Deed ☐ Other See original transfer application
3. Source of water Payette River tributary to Snake River
4. Date or priority 4/1/1960
5. Water is used for the following purpose:
   amount .90 cfs for Irrigation purposes from 4/1 to 11/1
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)
6. Total amount of water under right .90 cubic feet per second and/or _____ acre-feet per annum.
7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
4		—		23	7N	2E	Boise	(note: is in NWSE, same pld
								as 65-02540)

8. Lands irrigated or place of use:

Same comments as on #5

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	2E	23													L.4 2		L.5 39	1	42
		26	13	40	39	3	L.1 23			L.2 22	L.3 9					14			163

Total acres 205

9. Describe any other water rights used for the same purpose as described above 65-02540, 65-03103, 65-10746

PART 2

Transfer No. _____

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

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

Total acres _____

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

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Total acres _____

Transfer No.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:
   a. Decree No. 65-10746 Decreed to Double Diamond Inc.
   in case of State of Idaho vs. A & C Comp, ET AL.
   dated 1/21/1936 in 3rd Judicial Dist. county of Gem
   b. License No. _____ issued by the Idaho Department of Water Resources.
   c. Claim No. _____ on file with the Idaho Department of Water Resources.
   d. Transfer No. _____ which produced this right.
2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:
   ☐ Tax Notice ☐ Warranty Deed ☐ Other SEE Original transfer application
3. Source of water Porter Creek tributary to Payette River
4. Date or priority 4/1/1960
5. Water is used for the following purpose:
   amount .44 cfs (cfs/ac-ft) for Irrigation purposes from 4/1 to 11/1
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
6. Total amount of water under right .44 cubic feet per second and/or _____ acre-feet per annum.
7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
		NW	SE	12	7N	2E	Boise	#1 Payette & ditch

8. Lands irrigated or place of use:

RIGHT LOT, WRONG QUA to be corrected in transfer

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	2E	23													4.4 2				2
		26	11								4.3 9								20

Total acres 22

9. Describe any other water rights used for the same purpose as described above 65-02540, 65-10747, 65-10749, all Payette River (65-02552 & 65-11393 are other pivot points)

PART 2

Transfer No. _____

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

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

Total acres _____

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

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Total acres _____

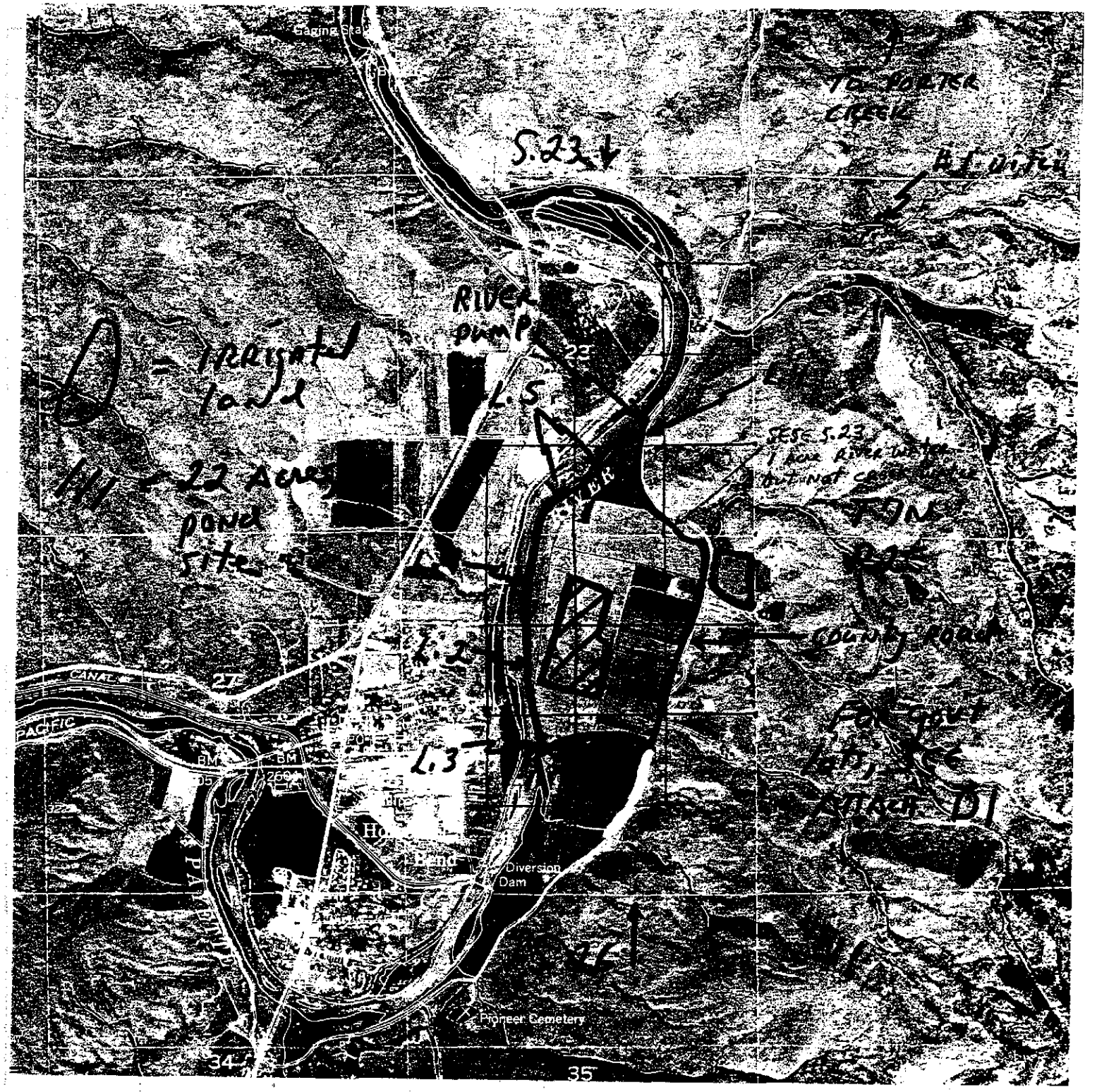
Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 3

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



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

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 Transfer No. _____

PART 3

B. CHANGES IN NATURE OF USE

1	New Nature of Use	Amount (cfs/ac-ft)	Hours/days/year	Period of Use
Porter Ck.	Div. to Storage; Recreation	.44 cfs	as long as water is available & needed	4/1 to 11/1
	Recreational Storage	77 A.F.	all of season	4/1 to 11/1

Continued in Attachment C1

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

None anticipated at this time.

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

No increases in rate of flow, diversion volume, consumptive use, or number of irrigated acres are proposed. Total unique acres prior to transfer are 216. Total unique irrigated acres after transfer will be reduced to 194 acres. In NE¼ S. 26, 13 ac. are west of road & 11 acres are east of road.

—ALSO SEE REMARKS —

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

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

Donald Ramsey
(Signature of Applicant)

Subscribed and sworn to before me this 2 day of April, 19 92.

Lori Harris
(Notary Public)

My commission expires 12-8-94

FOR DEPARTMENT USE ONLY

Transfer contains 12 pages and 6 attachments

Received by SC Date 4/2/92 Protest filed by _____

Prelim. check by _____ Fee $20 (Amended) # WO#4409 _____

Receipted by SC Date 3-31-92 _____

Published in Idaho World Copies of protest forwarded by _____

Pub. dates 4/15 & 4/22/92 Hearing held by _____ Date _____

Watermaster recommendation requested on _____ Recommended for ☐ approval ☐ denial

_____ rec'd. _____ by _____

Copy of transfer sent to lien holder _____

RECEIVED

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DESCRIPTION of Rights after the requested change

continued from pg. 1

Right No.	Priority	Amount	Nature of use	Period of Use
65-02540	4/26/1951	2.85 cfs	Irrigation	4/1 to 11/1
		.35 cfs	Diversion to Storage and Recreation	4/1 to 11/1
↑ Payette River ↓		77 af	Recreation Storage	4/1 to 11/1
65-10747	4/1/1960	.80 cfs	Irrigation	4/1 to 11/1
		.10 cfs	Diversion to Storage and Recreation	4/1 to 11/1
		42.6 af [1]	Recreation Storage	4/1 to 11/1

NOTE Diversion to Storage and Recreation = two uses, each at same rate of flow where total is NOT additive —

e.g. .35 Div. to Storage
.35 Recreation
.35 total

8 1995

[1] (.10)(215)(1.9835) = 42.6
max volume at this rate for season

Attachment A1

For Fig. 1, item B5:

LAND LIST ATTACHMENT

Description and location of place of use:

TWP.	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
65-03103																			
7N	2E	23												L5 8		L4 2	L5 31		41
		26	24	35	32	3	L1 19			L2 16	L3 9					14			152
																			193 acres
65-10746																			
7N	2E	26		R	R		L1 R			L2 R									—
(Non-irrigated area to be covered by pond →				5	7		4			6									
				= 22 acres within pond (from this area)															
65-02540																			
7N	2E	23												L5 8		L4 2	L5 31	1	42
		26	13	35	32	3	L1 19			L2 16	L3 9					14			141
				R	R		R			R									183
65-10747																			
7N	2E	23												L5 8		L4 2	L5 31	1	42
		26	13	35	32	3	L1 19			L2 16	L3 9					14			141
				R	R		R			R									183

Total number of acres irrigated 194

1095

unique

R = Recreation & recreation storage

Attachment B1

Changes in nature of use
continued from pg. 12

NEW N/U	Amount	HRS/DAYS/YEAR	PERIOD
Payette River			
65-02540 Div. to Storage; Recreation	.35 cfs	as long as water is available & needed	4/1 to 11/1
Recreation storage	77 af	all of season	4/1 to 11/1
65-10747 Same as above	.10 cfs	Same as above	4/1 to 11/1
	42.6 af		

NOTE: 65-10746 proposed as:

Div. to storage	.44 cfs	volume N/A
Recreation	.44 cfs	≤ 77 a.f. div. volume
Recreation storage	cfs N/A	77 a.f.
total	.44 cfs	77 a.f. (22 acre equivalent at 3.5 afa/acre)

65-02540 proposed as:

Irrigation	2.85 cfs	640.5 div. vol. (183 acres x 3.5 afa/acre)
Div. to storage	.35 cfs	volume N/A
Recreation	.35 cfs	≤ 77 a.f. div. volume
Recreation storage	cfs N/A	77 a.f.
total	3.20 cfs	717.5 (205 acre equivalent at 3.5 afa/acre)

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continued next pg.

Attachment C1

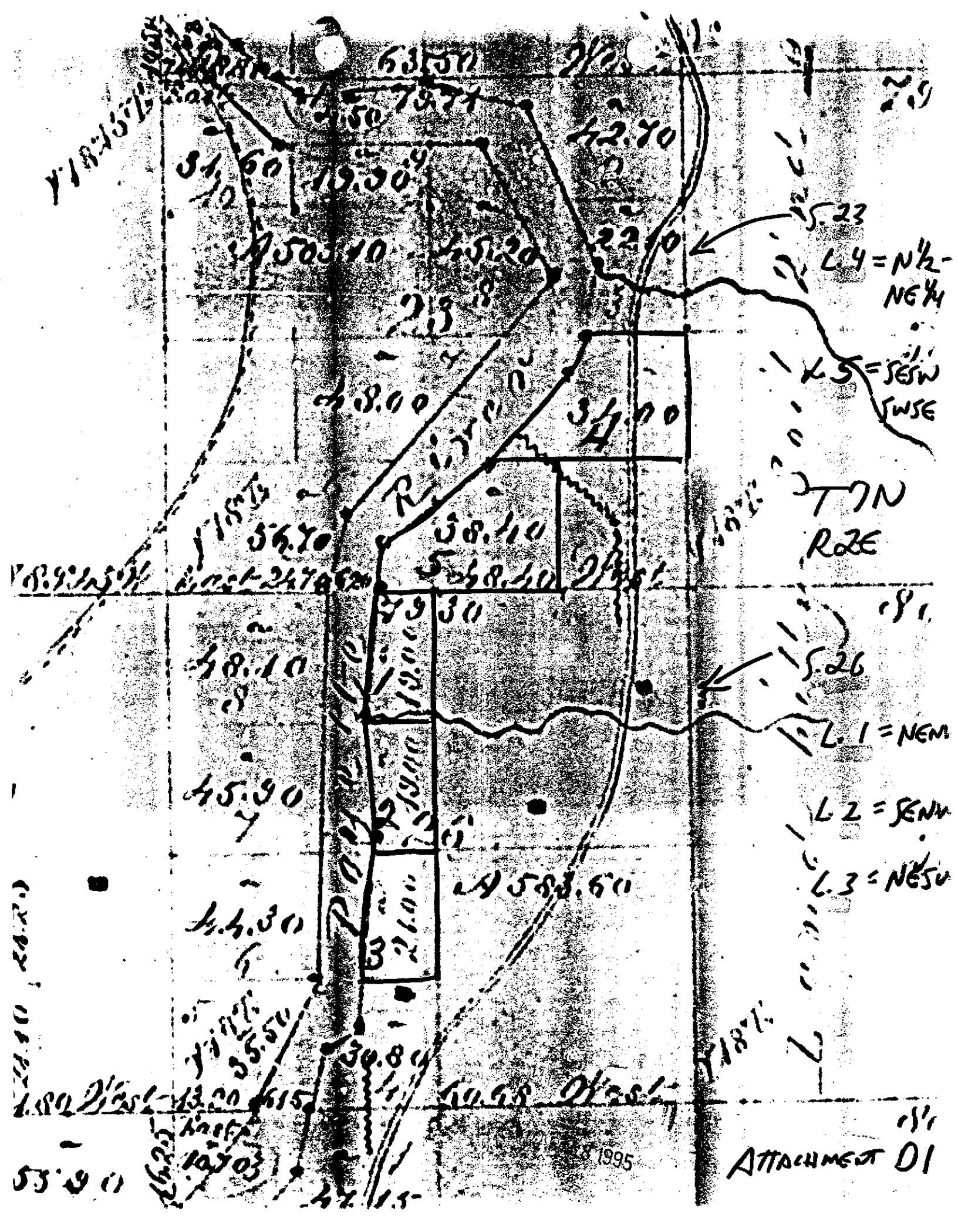
Attachment C1 Continued

65-10747 proposed as:

Irrigation	.80 cfs	341.2 a.f. div. volume	1/
Div. to storage	.10 cfs	volume n/a	
Recreation	.10 cfs	≤ 42.6 a.f. div. volume	1/
Recreation storage	cfs n/a	42.6 a.f.	
total	.90 cfs	383.8	(205 acres equivalent where limited by diversion rate)

1/ where - 205 ac. x 3.5 afa/ac = 717.5 afa
but - (.9)(215)(1.9835) = 383.8 afa limited by rate of flow
and - (.8)(215)(1.9835) = 341.2 afa for 183 acres
plus - (.1)(215)(1.9835) = 42.6 afa limit for recreation div. volume

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5.23
L4 = N½ NE¼
L5 = SESW SWSE
T7N
R2E
5.26
L1 = NEM
L2 = SENW
L3 = NESW
1995
ATTACHMENT 01

INDICATES TOTAL SOURCE: PORTER CREEK TRIBUTARY TO: PAYETTE RIVER

RIGHT NUMBER	NAME AND ADDRESS	PRIORITY DATE	USE	USE PERIOD FROM TO	MAX AMOUNT MAX RATE	DIVERSION POINT	PLACE OF USE AND ACREAGE	BASIS FOR RIGHT
65-3103	DOUBLE DIAMOND INC. C/O DON RUMSEY, HORSESHOE BEND, IDAHO 83629 REMARKS: THIS RIGHT WHEN COMBINED WITH RIGHTS 65-2540 & 65-10747 SHALL PROVIDE NO MORE THAN .02 CFS/ACRE.	1/ 1/1872	IRRIGATION	4/ 1 11/ 1	--- AFA 3.82 CFS	NWSE S12 T 7N R 2E	NENE(13) NWNE(40) SWNE(39) SENE(3) NWSE(14) LOT 1(23) LOT 2(22) S26 T 7N R 2E LOT 5(39) S23 T 7N R 2E *193*	DECREE
65-3104	WOLFGRAM, ALFRED C. & WOLFGRAM, MARGARET I. BOX 100, HORSESHOE BEND, IDAHO 83629 REMARKS: THIS RIGHT WHEN COMBINED WITH RIGHTS 65-2858, 65-3803 & 65-10963 SHALL PROVIDE NO MORE THAN .02 CFS/ACRE.	1/ 1/1883	IRRIGATION	4/ 1 11/ 1	--- AFA 1.60 CFS	NWSE S12 T 7N R 2E	NENE(15) NWNE(16) SWNE(19) SENE(28) SENW(1) LOT 1(11) S11 T 7N R 2E NWSW(6) S12 T 7N R 2E. *96*	DECREE
65-3839	CRANDALL, PATRICIA L. ADAMS 1800 TAGGART, BOISE, IDAHO 83705	4/ 1/1885	IRRIGATION	4/ 1 11/ 1	--- AFA .54 CFS	SWNE S 7 T 7N R 3E	SWNW(10) SENW(14) NESW(16) NWSW(12) S 7 T 7N R 3E *52*	BENEFICIAL USE
			STOCKWATER	1/ 1 12/31	1.40 AFA .03 CFS *---*AFA *.54*CFS		SAME AS OTHER USE	
65-10773	WOODS, ARLIE L. HORSESHOE BEND, IDAHO 83629	6/ 1/1900	IRRIGATION	4/ 1 11/ 1	--- AFA .90 CFS	SWNW S 7 T 7N R 3E	SWNE(33) NWSE(12) S12 T 7N R 2E *45*	BENEFICIAL USE
			STOCKWATER	1/ 1 12/31	.70 AFA .02 CFS *---*AFA *.92*CFS		SAME AS OTHER USE	
65-2000	ALLEN, EVERETT K. CASCADE, IDAHO 83611 REMARKS: RECOMMENDED AS RIGHT 65-3104.	3/25/1903	IRRIGATION	4/ 1 11/ 1	--- AFA .12 CFS	NWSE S12 T 7N R 2E LOT 1 S22 T 7N R 1W	NWSW(6) S12 T 7N R 2E *6*	LICENSE
65-10771	WOODS, ARLIE L. HORSESHOE BEND, IDAHO 83629 REMARKS: POINT OF DIVERSION HAS TWO POINTS IN NWSE.	6/ 1/1905	IRRIGATION	4/ 1 11/ 1	--- AFA .32 CFS	NWSE S12 T 7N R 2E	SESE(8) S11 T 7N R 2E *8*	BENEFICIAL USE
			STOCKWATER	1/ 1 12/31	.70 AFA .02 CFS *---*AFA *.32*CFS		SAME AS OTHER USE	

ATTACHMENT 6

AUG 8 1995

INDICATES TOTAL SOURCE: PORTER CREEK TRIBUTARY TO: PAYETTE RIVER

RIGHT NUMBER	NAME AND ADDRESS	PRIORITY DATE	USE	USE PERIOD FROM TO	MAX AMOUNT MAX RATE	DIVERSION POINT	PLACE OF USE AND ACREAGE	BASIS FOR RIGHT
65-10950	MADARIETA, ANGEL & MADARIETA, ROSE I. HORSESHOE BEND, IDAHO 83629	6/ 1/1908	IRRIGATION	4/ 1 11/ 1	--- AFA 1.61 CFS	SWNW S 7 T 7N R 3E NWSE S12 T 7N R 2E	NESW(31) SWSW(19) SESW(6) S12 T 7N R 2E NWNW(1) S13 T 7N R 2E *57*	BENEFICIAL USE
65-10951	MADARIETA, ANGEL & MADARIETA, ROSE I. HORSESHOE BEND, IDAHO 83629	6/ 1/1912	IRRIGATION	4/ 1 11/ 1	--- AFA .84 CFS	NWSE S12 T 7N R 2E	SESW(15) SWSE(1) S12 T 7N R 2E NENW(11) NWNW(15) S13 T 7N R 2E *42*	BENEFICIAL USE
65-10946	IHRIG, MARY C. HORSESHOE BEND, IDAHO 83629	7/26/1917	DOMESTIC	1/ 1 12/31	1.20 AFA .02 CFS	NESE S 7 T 7N R 3E	NESE S 7 T 7N R 3E	BENEFICIAL USE
65-10770	WOODS, ARLIE L. HORSESHOE BEND, IDAHO 83629	6/ 1/1932	IRRIGATION	4/ 1 11/ 1	--- AFA .07 CFS	NWSE S12 T 7N R 2E	NENW(3) S13 T 7N R 2E *3*	BENEFICIAL USE
65-11369	FRY, JACK HORSESHOE BEND, IDAHO 83629	6/ 1/1940	IRRIGATION	4/ 1 11/ 1	--- AFA .38 CFS	NWNW S13 T 7N R 2E NWNE S14 T 7N R 2E	NENE(7) NWNE(3) SWNE(7) SENW(2) S14 T 7N R 2E *19*	BENEFICIAL USE
65-10953	MADARIETA, ANGEL & MADARIETA, ROSE I. HORSESHOE BEND, IDAHO 83629 REMARKS: THIS RIGHT WHEN COMBINED WITH RIGHT 65-10952 SHALL PROVIDE NO MORE THAN .04 CFS NOR 1.2 AFA.	6/ 1/1946	DOMESTIC	1/ 1 12/31	1.20 AFA .04 CFS	SWSW S12 T 7N R 2E	SWSW S12 T 7N R 2E	BENEFICIAL USE
65-10746	DOUBLE DIAMOND INC. C/O DON RUMSEY, HORSESHOE BEND, IDAHO 83629 REMARKS: THIS RIGHT WHEN COMBINED WITH RIGHTS 65-2540, 65-10747 & 65-10749 SHALL PROVIDE NO MORE THAN .02 CFS/ACRE.	4/ 1/1960	IRRIGATION	4/ 1 11/ 1	--- AFA .44 CFS	NWSE S12 T 7N R 2E	NENE(11) LOT 3(9) S26 T 7N R 2E LOT 4(2) S23 T 7N R 2E *22*	BENEFICIAL USE

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MAR 02, 1979 PROPOSED FINDING OF WATER RIGHTS - PAYETTE RIVER DRAINAGE

INDICATES TOTAL SOURCE: PAYETTE RIVER

RIGHT NUMBER	NAME AND ADDRESS	PRIORITY DATE	USE	USE PERIOD FROM TO	MAX AMOUNT MAX RATE	DIVERSION PCINT	PLACE OF USE AND ACREAGE	BASIS FOR RIGHT
65-2544	PIONEER CEMETERY ASSOCIATION C/O VIRGINIA HANSON, HORSESHOE BEND, IDAHO 83629	6/28/1950	IRRIGATION	4/ 1 11/ 1	--- AFA .05 CFS	LOT 2 S35 T 7N R 2E	LOT 2(3) S35 T 7N R 2E *3*	LICENSE
65-2532	DOUBLE DIAMOND RANCH C/O DON RUMSEY, HORSESHOE BEND, IDAHO 83629 REMARKS: THIS RIGHT WHEN COMBINED WITH RIGHTS 65-1317 & 65-11393 SHALL PROVIDE NO MORE THAN .02 CFS/ACRE.	9/14/1950	IRRIGATION	4/ 1 11/ 1	--- AFA 1.80 CFS	LOT 2 S26 T 7N R 2E	NWSE(19) SWSE(15) LOT 3(10) LOT 4(25) S26 T 7N R 2E LOT 1(14) S35 T 7N R 2E *83*	LICENSE
65-2541	MAC GREGOR LAND & LIVESTOCK COMPANY BOX 4128, BOISE, IDAHO 83705	10/24/1950	IRRIGATION	4/ 1 11/ 1	--- AFA 1.40 CFS	LOT 5 S19 T 7N R 1E	SWSE(2) LOT 5(8) LOT 4(17) S19 T 7N R 1E NWNE(5) NENW(35) LOT 1(5) S30 T 7N R 1E *72*	LICENSE
65-2546	MACGREGOR LAND & LIVESTOCK CO. 200 SUNRISE RIM, BOISE, IDAHO 83706	1/ 8/1951	IRRIGATION	3/15 11/15	--- AFA 1.30 CFS	SWNE S25 T 7N R 1W	SWNE(10) SENE(13) NESE(25) NWSE(19) S25 T 7N R 1W *67*	LICENSE
65-0034A	BILBREY DITCH COMPANY, LTD. C/O MARILYN MAGNUSON 5211 HIGHWAY 52 EMMETT, IDAHO 83617 REMARKS: PLACE OF USE WITHIN LANDS OF BILBREY DITCH COMPANY. SEE 65-0034X.	4/ 1/1951	IRRIGATION	3/15 11/15	--- AFA .51 CFS	LOT 5 S11 T 6N R 2W	*22*	LICENSE
65-2540	DOUBLE DIAMOND INC. C/O DON RUMSEY, HORSESHOE BEND, IDAHO 83629 REMARKS: THIS RIGHT WHEN COMBINED WITH RIGHTS 65-10746, 65-10747 & 65-3103 SHALL PROVIDE NO MORE THAN .02 CFS/ACRE.	4/26/1951	IRRIGATION	4/ 1 11/ 1	--- AFA 3.20 CFS	LOT 4 S23 T 7N R 2E	SESE(1) LOT 4(2) LOT 5(39) S23 T 7N R 2E NENE(13) NWNE(40) SWNE(39) SENE(3) NWSE(14) LOT 1(23) LOT 2(22) LOT 3(9) S26 T 7N R 2E *205*	LICENSE
65-10543	ADAMS, FRED L. & ADAMS, EDITH ROUTE 1, HORSESHOE BEND, IDAHO 83629	6/ 1/1951	DOMESTIC	1/ 1 12/31	1.20 AFA .02 CFS	LOT10 S 2 T 7N R 2E	LOT10 S 2 T 7N R 2E	BENEFICIAL USE

Overlapping

NWNE
SWNE
C.1 NENW
C.2 SENW

MAR 28 1995

INDICATES TOTAL SOURCE: PAYETTE RIVER

RIGHT NUMBER	NAME AND ADDRESS	PRIORITY DATE	USE	USE PERIOD FROM	USE PERIOD TO	MAX AMOUNT MAX RATE	DIVERSION POINT	PLACE OF USE AND ACREAGE	BASIS FOR RIGHT
65-2662	DRAKE, CALVIN C. ROUTE 1, HORSESHOE BEND, IDAHO 83629	10/15/1959	IRRIGATION	4/ 1	11/ 1	--- AFA .15 CFS	NWNE S23 T 7N R 2E	SWSW(5) S13 T 7N R 2E *5*	LICENSE
65-2663	DRAKE, ALLEN R. HORSESHOE BEND, IDAHO 83629	10/21/1959	IRRIGATION	4/ 1	11/ 1	--- AFA .20 CFS	LOT 6 S26 T 7N R 2E	LOT 7(4) LOT 6(6) S26 T 7N R 2E *10*	LICENSE
65-10747	DOUBLE DIAMOND INC. C/O DON RUMSEY, HORSESHOE BEND, IDAHO 83629 REMARKS: THIS RIGHT WHEN COMBINED WITH RIGHTS 65-3103, 65-10746 & 65-2540 SHALL PROVIDE NO MORE THAN .02 CFS/ACRE.	4/ 1/1960	IRRIGATION	4/ 1	11/ 1	--- AFA .90 CFS	LOT 4 S23 T 7N R 2E	SESE(1) LOT 4(2) LOT 5(39) S23 T 7N R 2E NENE(13) NWNE(40) SWNE(39) SENE(3) NWSE(14) LOT 1(23) LOT 2(22) LOT 3(9) S26 T 7N R 2E *205*	BENEFICIAL USE
65-10749	DOUBLE DIAMOND INC. C/O DON RUMSEY, HORSESHOE BEND, IDAHO 83629 REMARKS: THIS RIGHT WHEN COMBINED WITH RIGHT 65-10746 SHALL PROVIDE NO MORE THAN .02 CFS/ACRE.	4/ 1/1960	IRRIGATION	4/ 1	11/ 1	--- AFA .22 CFS	LOT 4 S23 T 7N R 2E	NENE(11) S26 T 7N R 2E *11*	BENEFICIAL USE
65-10453	MAC GREGOR LAND & LIVESTOCK COMPANY BOX 5120, BOISE, IDAHO 83705	6/ 1/1960	IRRIGATION	4/ 1	11/ 1	--- AFA .62 CFS	SWSW S19 T 7N R 1E	NWNW(12) SWNW(1) SENW(16) SWNE(2) S30 T 7N R 1E *31*	BENEFICIAL USE
65-2674	REAY, DAVID B. & REAY, LINDA SUE P.O. BOX 131, HORSESHOE BEND, IDAHO 83629	8/22/1960	IRRIGATION	4/ 1	11/ 1	--- AFA .02 CFS	LOT 9 S23 T 7N R 2E	LOT 9(1) S23 T 7N R 2E *1*	LICENSE
65-8532	PEARL KENNEDY ESTATE & KENNEDY, HUGH C/O IDAHO FIRST NAT'L BANK, TRUST DEPT., BOX 7928, BOISE, IDAHO 83707 REMARKS: TWO POINTS OF DIVERSION IN LOT 3, SEC. 28, T.7N, R.2E.	2/ 1/1961	IRRIGATION	4/ 1	11/ 1	--- AFA .46 CFS	LOT 5 S26 T 7N R 2E LOT 5 S27 T 7N R 2E LOT 1 S28 T 7N R 2E LOT 2 S28 T 7N R 2E LOT 3 S28 T 7N R 2E LOT 4 S28 T 7N R 2E	LOT 2(4) S33 T 7N R 2E LOT 1(4) LOT 3(4) LOT 4(4) LOT 5(2) LOT 2(3) S28 T 7N R 2E LOT 5(2) S27 T 7N R 2E *23*	BENEFICIAL USE

overlapping

same area

MAR 28 1995

TWP	RNG	SECT	TRACT 1/4	TRACT 1/4	LOT	ACRES	WATER-USE-CODE	WATER RIGHT NO.	LAST NAME	O C	STG	PRIORITY DATE	WATER SOURCE
07N	02E	23	SW	NW		7.0	01	65-07057	HASBROUCK HASBROUCK	C C	D	10/28/1968	PAYETTE RIVER
			SE	NW		11.0	01,43	65-02448	ROBERTS ROBERTS ROBERTS	C C C	D	04/27/1944	PAYETTE RIVER
			SE	NW		11.0	01	65-02404	WATSON ROBERTS ROBERTS	C C C	D	05/07/1955	PAYETTE RIVER
			SE	NW		10.0	01	65-07057	HASBROUCK HASBROUCK	C C	D	10/28/1968	PAYETTE RIVER
			SE	NW		2.0	01	65-07508	REAY REAY	C C	L	09/19/1974	PAYETTE RIVER
			SE	NW			43	65-10829	HOPKINS HOPKINS	C C	D	06/01/1957	GROUNDWATER
			NE	SW			43	65-07850	HANSEN HANSEN	C C	L	03/18/1977	GROUNDWATER
			NE	SW		7.0	01	65-07851	HANSEN HANSEN	C C	L	03/17/1977	GROUNDWATER
			NE	SW		1.0	43,01	65-12171	STEPHENSON MAKI	C C	L	09/15/1978	GROUNDWATER
			NW	SW		27.0	01	65-02728	JOHN A. FRY & SONS	C	D	03/20/1963	PAYETTE RIVER
			NW	SW			43,04	65-11009	JOHN A. FRY & SONS	C	D	06/01/1964	GROUNDWATER SPRING
			SW	SW		38.0	01	65-02728	JOHN A. FRY & SONS	C	D	03/20/1963	PAYETTE RIVER
			NE	SE	4	2.0	01	65-02540	DOUBLE DIAMOND INC	C	D	04/26/1951	PAYETTE RIVER
			NE	SE	4	2.0	01	65-10746	DOUBLE DIAMOND INC	C	D	04/01/1960	PORTER CREEK
			NE	SE	4	2.0	01	65-10747	DOUBLE DIAMOND INC	C	D	04/01/1960	PAYETTE RIVER
			NW	SE			43	65-10647	SELF	C	D	06/01/1970	GROUNDWATER
			NW	SE			28	65-12708	DOUBLE DIAMOND INC	C	P	02/27/1984	PORTER CREEK
			NW	SE	7	2.0	01	65-07931	SELF	C	L	11/22/1977	PAYETTE RIVER
			NW	SE	7		43	65-07937	DANZER	C	L	08/22/1977	PAYETTE RIVER
			NW	SE	7		43	65-10609	OLSON OLSON	C C	D	06/01/1973	GROUNDWATER
			SW	SE	5	39.0	01	65-02540	DOUBLE DIAMOND INC	C	D	04/26/1951	PAYETTE RIVER
			SW	SE	5	39.0	01	65-03103	DOUBLE DIAMOND INC	C	D	01/01/1872	PORTER CREEK
			SW	SE	5	39.0	01	65-10747	DOUBLE DIAMOND INC	C	D	04/01/1960	PAYETTE RIVER
			SE	SE		1.0	01	65-02540	DOUBLE DIAMOND INC	C	D	04/26/1951	PAYETTE RIVER
			SE	SE		1.0	01	65-10747	DOUBLE DIAMOND INC	C	D	04/01/1960	PAYETTE RIVER
			SE	SE	4		04	65-10618	HAWKINS HAWKINS	C C	D	11/01/1966	SPRING
		24	SW	NE		13.0	01	65-10852	BRANCH BRANCH	C C	D	07/01/1893	JACKASS CREEK
			SE	NW		6.0	01	65-10852	BRANCH BRANCH	C C	D	07/01/1893	JACKASS CREEK
			NE	SE		12.0	01	65-10852	BRANCH BRANCH	C C	D	07/01/1893	JACKASS CREEK
			NW	SE		7.0	01	65-10852	BRANCH BRANCH	C C	D	07/01/1893	JACKASS CREEK
			SE	SE		1.0	01	65-10852	BRANCH BRANCH	C C	D	07/01/1893	JACKASS CREEK
		25	NW	NW		5.0	43,04,01	65-10616	HAWKINS HAWKINS	C C	D	07/01/1911	SPRING

actually NWSE Lot 4

65-02540
65-10747
65-10749

H 04

TWP	RNG	SECT	TRACT 1/4	TRACT 1/4	LOT	ACRES	WATER-USE-CODE	WATER RIGHT NO.	LAST NAME	O C	STG	PRIORITY DATE	WATER SOURCE
07N	02E	25	NW	NW			04	65-10619	HAWKINS HAWKINS	C C	D	07/01/1942	SPRINGS
			SW	NW			04	65-10617	HAWKINS HAWKINS	C C	D	08/01/1966	SPRING
			SE	NW			04	65-10876	TWILEGAR TWILEGAR	C C	D	06/01/1952	SPRING
			SW	SW			43	65-10875	TWILEGAR TWILEGAR	C C	D	06/01/1940	SPRING
		26			7		43	65-10958	JONES	C	D	06/01/1974	GROUNDWATER
					7		43	65-11097	KOLAR	C	D	01/01/1940	SPRING
			NE	NE		13.0	01	65-02540	DOUBLE DIAMOND INC	C	D	04/26/1951	PAYETTE RIVER
			NE	NE		13.0	01	65-03103	DOUBLE DIAMOND INC	C	D	01/01/1872	PORTER CREEK
			NE	NE		11.0	01	65-10746	DOUBLE DIAMOND INC	C	D	04/01/1960	PORTER CREEK
			NE	NE		13.0	01	65-10747	DOUBLE DIAMOND INC	C	D	04/01/1960	PAYETTE RIVER
			NE	NE		11.0	01	65-10749	DOUBLE DIAMOND INC	C	D	04/01/1960	PAYETTE RIVER
			NW	NE		40.0	01	65-02540	DOUBLE DIAMOND INC	C	D	04/26/1951	PAYETTE RIVER
			NW	NE		40.0	01	65-03103	DOUBLE DIAMOND INC	C	D	01/01/1872	PORTER CREEK
			NW	NE		40.0	01	65-10747	DOUBLE DIAMOND INC	C	D	04/01/1960	PAYETTE RIVER
			SW	NE		39.0	01	65-02540	DOUBLE DIAMOND INC	C	D	04/26/1951	PAYETTE RIVER
			SW	NE		39.0	01	65-03103	DOUBLE DIAMOND INC	C	D	01/01/1872	PORTER CREEK
			SW	NE		39.0	01	65-10747	DOUBLE DIAMOND INC	C	D	04/01/1960	PAYETTE RIVER
			SE	NE		3.0	01	65-02540	DOUBLE DIAMOND INC	C	D	04/26/1951	PAYETTE RIVER
			SE	NE		3.0	01	65-03103	DOUBLE DIAMOND INC	C	D	01/01/1872	PORTER CREEK
			SE	NE			43	65-10681	CHRISTENSEN	C	D	07/01/1964	GROUNDWATER
			SE	NE		3.0	01	65-10747	DOUBLE DIAMOND INC	C	D	04/01/1960	PAYETTE RIVER
			NE	NW	1	23.0	01	65-02540	DOUBLE DIAMOND INC	C	D	04/26/1951	PAYETTE RIVER
			NE	NW	1	23.0	01	65-03103	DOUBLE DIAMOND INC	C	D	01/01/1872	PORTER CREEK
			NE	NW	1	23.0	01	65-10747	DOUBLE DIAMOND INC	C	D	04/01/1960	PAYETTE RIVER
			NW	NW	8	27.0	01	65-02728	JOHN A. FRY & SONS	C	D	03/20/1963	PAYETTE RIVER
			SW	NW		1.0	01,43	65-07644	BOWERS BOWERS	C C	L	08/02/1976	SPRING
			SW	NW		1.0	43,01	65-09527	BOWERS BOWERS	C C	D	09/01/1952	GROUNDWATER
			SW	NW			43	65-10813	HAWKINS HAWKINS	C C	D	06/06/1961	GROUNDWATER
			SW	NW			43	65-10814	HAWKINS HAWKINS	C C	D	09/01/1950	GROUNDWATER
			SW	NW	7	4.0	01	65-02663	DRAKE	C	D	10/21/1959	PAYETTE RIVER
			SE	NW	2	22.0	01	65-02540	DOUBLE DIAMOND INC	C	D	04/26/1951	PAYETTE RIVER
			SE	NW	2	22.0	01	65-03103	DOUBLE DIAMOND INC	C	D	01/01/1872	PORTER CREEK
			SE	NW	2	22.0	01	65-10747	DOUBLE DIAMOND INC	C	D	04/01/1960	PAYETTE RIVER
			NE	SW	3	10.0	01	65-02532	DOUBLE DIAMOND INC	C	D	09/14/1950	PAYETTE RIVER
			NE	SW	3	9.0	01	65-02540	DOUBLE DIAMOND INC	C	D	04/26/1951	PAYETTE RIVER
			NE	SW	3	9.0	01	65-10746	DOUBLE DIAMOND INC	C	D	04/01/1960	PORTER CREEK
			NE	SW	3	9.0	01	65-10747	DOUBLE DIAMOND INC	C	D	04/01/1960	PAYETTE RIVER
			NE	SW	3	10.0	01	65-11393	DOUBLE DIAMOND INC	C	D	06/01/1912	SHAFER CREEK
			NW	SW	6	6.0	01	65-02663	DRAKE	C	D	10/21/1959	PAYETTE RIVER
			NW	SW	6		43	65-11224	BOUNDS BOUNDS	C C	D	06/01/1947	GROUNDWATER
			SE	SW	4	25.0	01	65-02532	DOUBLE DIAMOND INC	C	D	09/14/1950	PAYETTE RIVER
			SE	SW	4	25.0	01	65-11393	DOUBLE DIAMOND INC	C	D	06/01/1912	SHAFER CREEK
			NE	SE			43,04	65-11094	CRESS CRESS	C C	D	06/01/1902	SPRING

-02532 &
-11393 are
offset more
than the 9.2
NESW

I 04

TWP	RNG	SECT	TRACT 1/4	TRACT 1/4	LOT	ACRES	WATER-USE-CODE	WATER RIGHT NO.	LAST NAME	O C	STG	PRIORITY DATE	WATER SOURCE
07N	02E	26	NW	SE		19.0	01	65-02532	DOUBLE DIAMOND INC	C	D	09/14/1950	PAYETTE RIVER
			NW	SE		14.0	01	65-02540	DOUBLE DIAMOND INC	C	D	04/26/1951	PAYETTE RIVER
			NW	SE		14.0	01	65-03103	DOUBLE DIAMOND INC	C	D	01/01/1872	PORTER CREEK
			NW	SE		14.0	01	65-10747	DOUBLE DIAMOND INC	C	D	04/01/1960	PAYETTE RIVER
			NW	SE		17.0	01	65-11393	DOUBLE DIAMOND INC	C	D	06/01/1912	SHAFER CREEK
			SW	SE		15.0	01	65-02532	DOUBLE DIAMOND INC	C	D	09/14/1950	PAYETTE RIVER
			SW	SE		10.0	01	65-11393	DOUBLE DIAMOND INC	C	D	06/01/1912	SHAFER CREEK
		27			2		43	65-11006	GREEN GREEN	C C	D	06/01/1953	GROUNDWATER
					3		43	65-10710	FOSS FOSS	C C	D	06/01/1910	SPRING
					4		04	65-08530	KENNEDY KENNEDY	C C	D	06/01/1941	SPRING
					7		43,04	65-11010	FRY	C	D	06/01/1935	GROUNDWATER

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CONSUMPTIVE REQUIREMENTS
and
IRRIGATION SEASONS
in the
AYETTE RIVER DRAINAGE BASIN

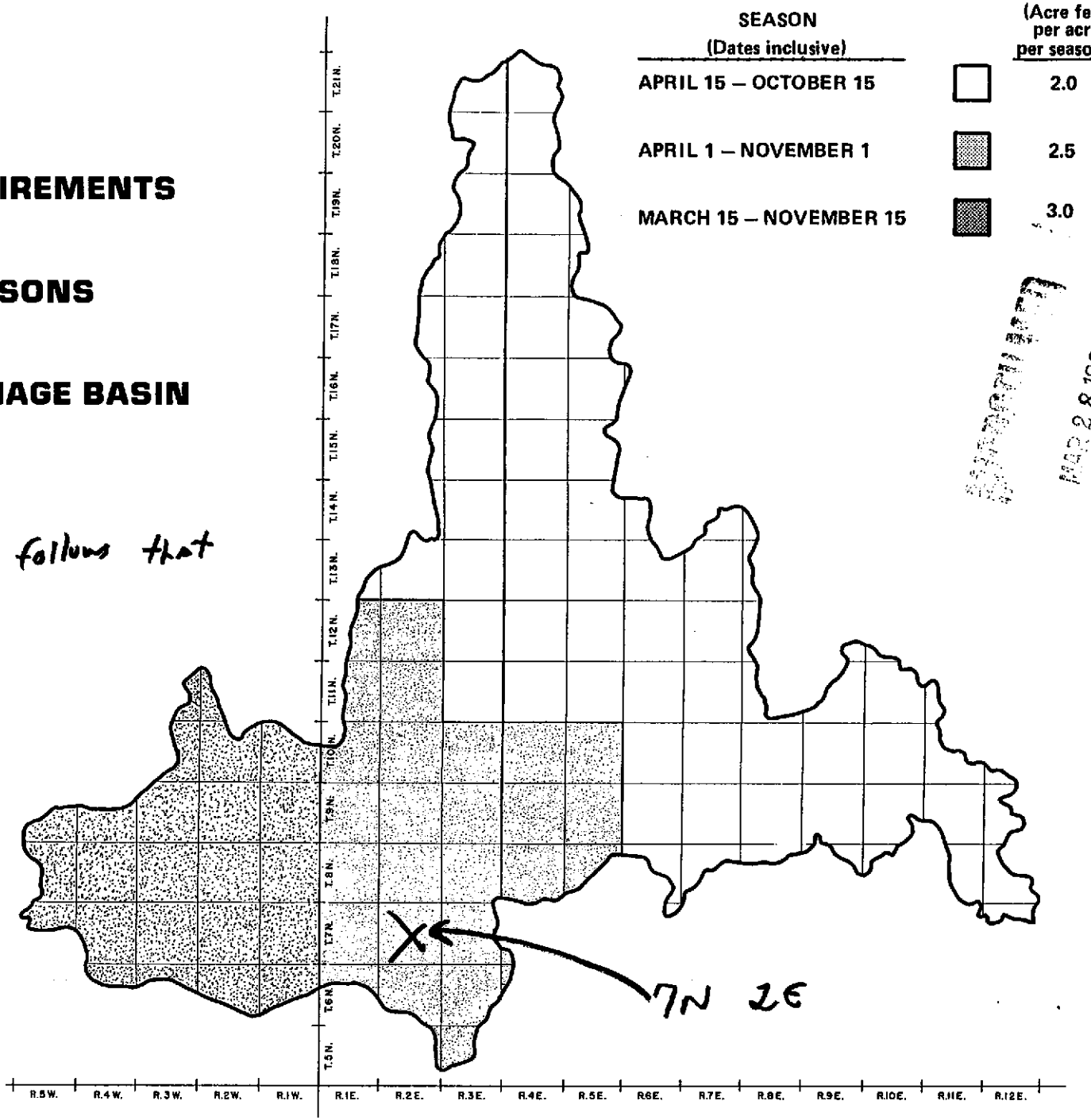


Figure 2.

if c.u. = 2.5, it follows that

div. vol. = 3.5

(3.5)(.7) ≈ 2.5

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INDICATES TOTAL SOURCE: PAYETTE RIVER

RIGHT NUMBER	NAME AND ADDRESS	PRIORITY DATE	USE	USE PERIOD FROM TO	MAX AMOUNT MAX RATE	DIVERSION POINT	PLACE OF USE AND ACREAGE	BASIS FOR RIGHT
65-2544	PIONEER CEMETERY ASSOCIATION C/O VIRGINIA HANSON, HORSESHOE BEND, IDAHO 83629	6/28/1950	IRRIGATION	4/ 1 11/ 1	--- AFA .05 CFS	LOT 2 S35 T 7N R 2E	LOT 2(3) S35 T 7N R 2E *3*	LICENSE
65-2532	DOUBLE DIAMOND RANCH C/O DON RUMSEY, HORSESHOE BEND, IDAHO 83629 REMARKS: THIS RIGHT WHEN COMBINED WITH RIGHTS 65-1317 & 65-11393 SHALL PROVIDE NO MORE THAN .02 CFS/ACRE.	9/14/1950	IRRIGATION	4/ 1 11/ 1	--- AFA 1.80 CFS	LOT 2 S26 T 7N R 2E	NWSE(19) SWSE(15) LOT 3(10) LOT 4(25) S26 T 7N R 2E LOT 1(14) S35 T 7N R 2E *83*	LICENSE
65-2541	MAC GREGOR LAND & LIVESTOCK COMPANY BOX 4128, BOISE, IDAHO 83705	10/24/1950	IRRIGATION	4/ 1 11/ 1	--- AFA 1.40 CFS	LOT 5 S19 T 7N R 1E	SWSE(2) LOT 5(8) LOT 4(17) S19 T 7N R 1E NWNE(5) NENW(35) LOT 1(5) S30 T 7N R 1E *72*	LICENSE
65-2546	MACGREGOR LAND & LIVESTOCK CO. 200 SUNRISE RIM, BOISE, IDAHO 83706	1/ 8/1951	IRRIGATION	3/15 11/15	--- AFA 1.30 CFS	SWNE S25 T 7N R 1W	SWNE(10) SENE(13) NESE(25) NWSE(19) S25 T 7N R 1W *67*	LICENSE
65-0034A	BILBREY DITCH COMPANY, LTD. C/O MARILYN MAGNUSON 5211 HIGHWAY 52 EMMETT, IDAHO 83617 REMARKS: PLACE OF USE WITHIN LANDS OF BILBREY DITCH COMPANY. SEE 65-0034X.	4/ 1/1951	IRRIGATION	3/15 11/15	--- AFA .51 CFS	LOT 5 S11 T 6N R 2W	*22*	LICENSE
65-2540	DOUBLE DIAMOND INC. C/O DON RUMSEY, HORSESHOE BEND, IDAHO 83629 REMARKS: THIS RIGHT WHEN COMBINED WITH RIGHTS 65-10746, 65-10747 & 65-3103 SHALL PROVIDE NO MORE THAN .02 CFS/ACRE.	4/26/1951	IRRIGATION	4/ 1 11/ 1	--- AFA 3.20 CFS	LOT 4 S23 T 7N R 2E	SESE(1) LOT 4(2) LOT 5(39) S23 T 7N R 2E NENE(13) NWNE(40) SWNE(39) SENE(3) NWSE(14) LOT 1(23) LOT 2(22) LOT 3(9) S26 T 7N R 2E *205*	LICENSE
65-10543	ADAMS, FRED L. & ADAMS, EDITH ROUTE 1, HORSESHOE BEND, IDAHO 83629	6/ 1/1951	DOMESTIC	1/ 1 12/31	1.20 AFA .02 CFS	LOT10 S 2 T 7N R 2E	LOT10 S 2 T 7N R 2E	BENEFICIAL USE

Attachment B

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Department of Water Resources

EISMANN LAW OFFICES

Telephone (208) 467-3100
Facsimile (208) 466-4498

3016 CALDWELL BLVD.
NAMPA, IDAHO 83651 - 6416

RICHARD B. EISMANN
DEBRA L. EISMANN

April 22, 1993

GARY SPACKMAN, HEARING OFFICER
STATE OF IDAHO DEPARTMENT OF WATER RESOURCES
1301 NORTH ORCHARD
STATEHOUSE MAIL
BOISE, IDAHO 83720

file B
file 1

Re: Application for Transfer of Water Right Nos. 65-03103, 65-10773, 65-10746 and 65-12751 in the name of Double Diamond, Inc.

Dear Mr. Spackman:

This confirms my telephone conversation with you on April 22, 1993, in which I advised you that Mr. Dovel's brief in the above matter, which is due on April 22, 1993, will be filed on or before April 29, 1993.

It is my understanding that you had no objection to this extension.

I am sending a copy of this letter to Mr. Riddlemoser for his information and file.

Thank you for your consideration.

Very truly yours,

Richard B. Eismann
RBE/vn/8
CLT: George Dovel
Jack C. Riddlemoser

MAR 2 8 1995

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APR - 2 1993
Department of Water Resources

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR TRANSFER OF WATER RIGHTS NOS. 65-03103 AND 65-10746 IN THE NAME OF DOUBLE DIAMOND INC.	APPLICANT'S BRIEF

On March 19, 1991, Double Diamond, Inc. filed with the Department of Water Resources an application for transfer of water rights in the State of Idaho. The application was protested by George Dovel, and a conference was held by the Department of Water Resources on September 19, 1991. The application was amended on April 2, 1992, and a follow-up conference was held on October 5, 1992. The matter was set for hearing on March 8, 1993, concluding on March 11, 1993. At the conclusion of the hearing, briefs were requested.

STATEMENT OF FACTS

The above-referenced water rights are decreed water rights on Porter Creek, a tributary of the Payette River in Boise County and is primarily a snow melt-fed stream. Water Right No. 65-03103 is a Number One Right in priority and Water Right No. 65-10746 is a Number Twelve Right. The reason for the proposed transfer was to exchange senior and

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junior Porter Creek Rights to maximize efficient use of limited water supply. The applicant was engaged in a gravel pit operation relating to the construction of Highway 55, the Horseshoe Bend Highway. The effect of the application is to exchange the Number One Right on twenty-two acres in the gravel pit area with twenty-two acres of Number Twelve Right on property adjacent. The effect of this would be to increase the effectiveness of the farming operation.

The point of diversion for all lands contained in the application for transfer, being the Number One Lands and the Number Twelve Lands is from the same diversion point located in Section 12, Township 7 North, Range 2 East, Boise-Meridian, and the water applied by an handline sprinkler irrigation system. The application for transfer does not affect the point of diversion, but only the place of use of the water.

The water in Porter Creek is under the exclusive control of a watermaster. This watermaster has exclusive control. The headgates for the individual users are adjusted and padlocked.

BASIS OF CASE

Idaho Code Secion 42-222 which governs the transfer of water rights, provides, in part, as follows:

> The director of the Department of Water Resources shall examine all the evidence and available information and shall approve the change in whole, or in part, or upon conditions provided no other water rights are injured thereby, the change does not constitute an enlargement in use of the original right, and the change is in the local public interest as defined in Section 42-203A, Idaho Code.

MAR 28 1995

As far as other water rights being affected thereby, this proposed transfer does not affect other water rights since the point of diversion remains the same and the transfer is an acre for acre basis. All of the lands affected by the transfer are all irrigated with the same system.

The change does not constitute an enlargement in use of the original right for the same reasons. The same number of acres would be irrigated after the transfer as prior thereto.

Idaho Code Section 42-203A as regards the consideration of the local public interest, states as follows:

> The director of the department of water resources shall find and determine from the evidence presented to what use or uses the water sought to be appropriated can be and are intended to be applied. In all applications whether protested or not protested, where the proposed use is such . . . . (e) that it will conflict with the local public interest, where the local public interest is defined as the affairs of the people in the area directly affected by the proposed use; the director of the department of water resources may reject such application and refuse issuance of a permit therefor, or may partially approve and grant a smaller quantity of water than applied for, or may grant a permit upon conditions.

With respect to local public interest, the proposed project has the potential benefit of reducing operating costs by requiring less power than if the water were to be pumped from the alternate source, the Payette River. The record of the Department of Water Resources clearly show that the Applicant has pumping rights in the Payette River covering the affected property. As was stated previously, the distribution of the water is under the exclusive control of the

MAR 2 8 1995

watermaster. The watermaster has a legal duty to deliver water rights on Porter Creek in accordance with the relative priorities of those rights. Idaho Code Section 42-607, provides, in part:

> It shall be the duty of said watermaster to distribute the waters of the public stream, streams or water supply, comprising his water district, among the several ditches taking water therefrom according to the prior rights of each respectively, in whole or in part, and to shut and fasten, or cause to be shut or fastened, under the direction of the department of water resources, the headgates of the ditches heading from such stream, streams or water supply, when in times of scarcity of water it is necessary so to do in order to supply the prior rights of others in such stream or water supply. . . .
>
> Holders of water rights are entitled to presume that a watermaster, who is authorized to distribute water only in compliance with applicable decrees, is delivering water to them in compliance with the priorities expressed in the governing decree, and unless holder of water right was aware that he was not receiving water from the watermaster in accordance with his decreed right, that right could not be lost through estoppel, the element of knowing acquiescence being lacking.
>
> Almo Water Co. v. Darrington, 95 Idaho 16, 501 P.2d 700 (1972).

It is very clear from the above that if a holder of a right on the ditch does not believe that the watermaster is distributing the water properly, he has his remedy at that time.

At the conclusion of the hearing, the Hearing Officer had some concern regarding possible forfeiture of water rights. However, this is not borne out by the evidence or the record as a whole. The original petition to transfer these water

MAR 28 1995

rights was filed on March 19, 1991, well within the five (5) year period. This clearly tolls the running of the five (5) year period of forfeiture. The amended application was filed on April 2, 1992, covering a portion of the ground contained in the original application. This also was filed within the five (5) year period existing.

It must be remembered that the procedure for the transfer of water rights is exclusively within the Department of Water Resources. The Applicant has no other forum or remedy.

Applicant's position on this issue is further supported by subsequent provision of Section 42-222(2) which provides in part as follows:

> Upon proper showing before the director of the department of water resources of good and sufficient reason for nonapplication to beneficial use of such water for such term of five (5) years, the director of the department of water resources is hereby authorized to grant an extension of time extending the time for forfeiture of title for nonuse thereof, to such waters for a period of not to exceed five (5) additional years. Application for an extension shall be made before the end of the five (5) year period upon forms to be furnished by the department of water resources and shall fully describe the right on which an extension of time to resume the use is requested and the reasons for such nonuse and shall be accompanied by the statutory filing fee; . . . Upon the receipt of such application it shall be the duty of the director of the department of water resources to examine the same and to provide notice of the application for an extension in the same manner as applications under Section 42-203A, Idaho Code. The notice shall fully describe the right, the extension which is requested and the reason for such nonuse and shall state that any person desiring to object to the requested extension may submit a protest to the director of the department of water resources within ten (10) days of the last date of publication. Upon receipt of a protest it shall be the duty of the director of the department of water resources to investigate and conduct a hearing thereon as in this chapter provided.

MAR 2 8 1995

There's no question from the above provision that the filing of an application for extension polls the running of the forfeiture period. There is no provision in the statute setting any time limit on the decision, but only that the application for extension be filed before the five (5) year period has expired. Once the applications are filed, the matter is within the exclusive jurisdiction of the Department of Water Resources and within the time frame set by the Department of Water Resources. This is the only reasonable interpretation of the statute. Any other interpretation would be contrary to express provisions of the statute.

Forfeitures are not favored, and clear and convincing proof is required to support a forfeiture. Gilbert v. Smith, 97 Idaho 735, 522 P.2d 1220; Jenkins v. State, Department of Water Resources, 103 Idaho 384, 647 P.2d 1256.

Forfeiture of water rights is not favored and all intendments are indulged in against a forfeiture. Gilbert V. Smith, 97 Idaho 735, 522 P.2d 1220.

This is analogous to the Statute of Limitations affecting regular civil actions. Once the complaint is filed, the Statute ceases to run and the decision may be rendered a substantial time thereafter.

There has clearly been no showing of any forfeiture.

Respectfully Submitted,

JACK C. RIDDLEMOSER
Attorney for Applicant

CERTIFICATE OF MAILING

I hereby certify that on the 2nd day of April, 1993, a true and correct copy of the above and foregoing Applicant's Brief was hand delivered, to the following:

RICHARD B. EISMANN
Eismann Law Offices
3016 Caldwell Boulevard
Nampa, Idaho 83651

JACK C. RIDDLEMOSER

ORIGINAL

BEFORE THE DEPARTMENT OF WATER RESOURCES OF THE STATE OF IDAHO

IN THE MATTER OF THE APPLICATION FOR TRANSFER OF WATER RIGHTS NOS. 65-03101, 65-10746, 65-10747, AND 65-02540 IN THE NAME OF DOUBLE DIAMOND, INC.

SUBPOENA DUCES TECUM FOR HEARING

THE STATE OF IDAHO SENDS GREETINGS TO: KEITH NOTTINGHAM

YOU ARE HEREBY COMMANDED to appear before Gary Spackman, the duly appointed hearing officer at the Division of Environmental Quality, 1410 North Hilton, Conference Room B, Boise, Idaho, on the 11th day of March, 1993, at 1:00 o'clock P.M., then and there to testify in the above-entitled matter now pending before the Department of Water Resources.

YOU ARE FURTHER COMMANDED to bring with you the items and documents described in Exhibit A which is attached hereto and by this reference made a part hereof.

FOR FAILURE to attend and testify you may be found in contempt and subject to such penalties as are provided by law.

WITNESS: R. Keith Higginson, DIRECTOR, Department of Water Resources, State of Idaho.

RECEIVED
MAR 28 1995

EXHIBIT A

TO

KEITH NOTTINGHAM

INTERPRETATION: The paragraph heading as well as the underlining of any word or phrase used herein are for convenience only and are not to be used in interpreting any word or sentence or paragraph herein.

DEFINITIONS: When used herein, the terms following shall have the meanings following:

--- "**subject lease**" means the Materials Lease entered into on October 26, 1987, between Dale Rumsey and Donald Rumsey and the Idaho Department of Transportation, Division of Highways, and the Supplemental Materials Lease dated November ___, 1988, between Dale Rumsey and Donald Rumsey and the Idaho Department of Transportation, Division of Highways for Materials Source BO-51 in Boise County, Idaho.

1. All files, notes, working papers, reports, records, surveys, documents, maps, and photographs kept, maintained, assembled, developed and prepared by the Idaho Department of Transportation, Division of Highways with regard to the subject lease.

RECEIVED
8 1995

ATTEST my hand and the seal of the Department of Water Resources this 11TH day of MARCH, 1993.

DEPARTMENT OF WATER RESOURCES

By _____

Re: Double Diamond Transfer Nos. 65-3103, 65-10746, 65-10747 and 65-2540

Place: IDWR, 1301 N. Orchard, Boise, ID

Date: Monday, March 8, 1993

Hearing conducted by: Glen Saxton Gary Spackman

ROSTER OF ATTENDANCE

Name	Address	Representing
Jack C Riddlemoser	Meridian	Double Diamond
Donald J Rumsey	Horseshoe Bend	Double Diamond
Glen C Cochrum	Horseshoe Bend	Double Diamond
Christie Shirley	Horseshoe Bend Id	Christie Shirley
George Dovel	Horseshoe Bend, ID	George Dovel
Richard B Essman	Nampa, Idaho	George Dovel
DEAN WILLIS	Eagle - ID	CAPITOL Reporters
Don Watts	Boise, ID	G. Dovel
Cont. Thursday	March 11, 1993	OSC Conf Rm B
Jack Riddlemoser	Meridian	Double Diamond
Donald J Rumsey	Horseshoe Bend	Double Diamond
Glen Cochrum	Horseshoe Bend	Double Diamond
George Dovel	Horseshoe Bend	George Dovel
MIKE MUSETTI	BOISE, ID.	Idaho Transportation Dept.
Keith Nottingham	Boise, Id.	Idaho Transportation Dept.
Richard B Essman	Nampa Idaho	George Dovel
Christie Shirley	Horseshoe Bend	George Dovel
Dean Willis		Capitol Reporters
Don Watts	Boise	George Dovel

MAR 18 1993

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000
Phone: (208) 327-7900 FAX: (208) 327-7866

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

March 10, 1993

Re: Application for Transfer of Water Rights Nos. 65-03101, 65-10746, 65-10747, and 65-02540 in the name of Double Diamond, Inc.

Dear Interested Party:

The Department has scheduled the continued hearing in connection to the above referenced transfers.

The continued hearing is scheduled for March 11, 1993 at 1:00 pm at the Division of Environmental Quality, 1410 North Hilton, Conference Room B, Boise, Idaho. The Division of Environmental Quality building is located to the northwest, directly behind the Department of Water Resources building.

If you have any questions or if I can be of any further assistance, please feel free to contact me.

Sincerely,

Karen L Gustafson

Karen L. Gustafson
Secretary/Records Manager

Enclosures

MAR 28 1993

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR TRANSFER OF WATER RIGHTS NOS. 65-03101, 65-10746, 65-10747 AND 65-02540 IN THE NAME OF DOUBLE DIAMOND, INC.	))))))	NOTICE OF CONTINUED HEARING

A hearing was conducted on March 8, 1993, beginning at the hour of 1:00 pm. At approximately 5:15 pm the hearing was continued because of other conflicts, and parties tentatively agreed to resume the hearing and complete it on either March 11 or March 12, 1993. After coordinating schedules with the parties, all parties can attend a hearing the afternoon of Thursday, March 11, 1993.

The hearing will be conducted at the following time and place:

Time: Thursday, March 11, 1993 at 1:00 PM

Place: Division of Environmental Quality
1410 North Hilton
Conference Room B
Boise, Idaho

The Division of Environmental Quality building is located immediately to the northwest of the offices of the Department of Water Resources. If the hearing is not finished at closing hours, the remainder of the hearing will be conducted in the Department of Water Resources conference room. The Department has arranged for a video cassette recorder to view a recorded video.

I suggest that a copy of the video tape be made available to Mr. Riddlemoser prior to the hearing for review.

Dated this 10th day of March, 1993.

Gary Spackman
Hearing Officer

MAR 28 1993

CERTIFICATE

I hereby certify that on the 10th day of March, 1993, I sent by facsimile machine a true and correct copy of the foregoing Notice of Hearing to the following:

Richard B Eismann Esq
Eismann Law Offices
3016 Caldwell Blvd
Nampa, ID 83651-6416
Fax: 466-4498

Steve Lester
Western Regional Office
Department of Water Resources
2735 Airport Way
Boise, ID 83705

I also certify that since Mr. Riddlemoser's office does not possess a facsimile machine, his office was notified by telephone of the continued hearing time and date. His office was notified on March 9, 1993 at 4:30 pm.

Karen L. Gustafson

Karen L. Gustafson
Secretary/Records Manager

MAR 28 1993

****
*** ACTIVITY REPORT ***
****

TRANSMISSION OK

TX/RX NO.	1846
CONNECTION TEL	6p914664498
CONNECTION ID	EISMANN LAW OFF.
START TIME	03/10 09:28
USAGE TIME	01'16
PAGES	3
RESULT	OK

RECEIVED
MAR 8 1995

****
*** ACTIVITY REPORT ***
****

TRANSMISSION OK

TX/RX NO.	1848
CONNECTION TEL	6p9 334 2348
CONNECTION ID	WESTERN
START TIME	03/10 09:30
USAGE TIME	01'53
PAGES	3
RESULT	OK

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8 1995

EISMANN LAW OFFICES

Telephone (208) 467-3100
Facsimile (208) 466-4498

3016 CALDWELL BLVD.
NAMPA, IDAHO 83651 - 6416

RICHARD B. EISMANN
DEBRA L. EISMANN

February 23, 1993

DELIVERED BY FAC[illegible]

DAVID R. TUTHILL, JR., P.E.
MANAGER, WESTERN REGIONAL OFFICE
STATE OF IDAHO DEPARTMENT OF WATER RESOURCES
2735 AIRPORT WAY
BOISE, IDAHO 83705-5082

Re: Application for Transfer of Water Right Nos. 65-03103, 65-10773, 65-10746 and 65-12751 in the name of Double Diamond, Inc.

Dear Mr. Tuthill:

The protest hearing in the above matters is now scheduled to be held on Monday, March 8, 1993, beginning at 1:00 o'clock p.m.

Pursuant to Rule 9,21 of the Idaho Department of Water Resources Practice and Procedure Rules and Regulations, my client, George Dovel, requests that a transcript of this hearing be made by a qualified court reporter and suggests that Dean Willis or any of the reporters from Capitol Reporters in Boise are qualified reporters.

If you should have questions, please contact me.

Thank you.

Very truly yours,

Richard B. Eismann
RBE/vn/8
CLT: George Dovel
Jack C. Riddlemoser

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MAR 28 1995

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR TRANSFER OF WATER RIGHTS NOS. 65-03103, 65-10746, 65-10747 AND 65-02540 IN THE NAME OF DOUBLE DIAMOND, INC.	NOTICE OF HEARING

On March 19, 1991, Double Diamond, Inc. filed with the Department of Water Resources an application for transfer of water rights in the State of Idaho. The application was protested by George Dovel, and a conference was held by the Department on September 19, 1991. The application was amended on April 2, 1992, and a follow-up conference was held on October 5, 1992.

The Department has now set the matter of protest for a hearing to be held on Monday, March 8, 1993, at 1:00 p.m. in the Second Floor Conference Room, Department of Water Resources, 1301 N. Orchard St., Boise, Idaho 83706. The hearing will be held in accordance with provisions of Chapters 2 and 17, Title 42, and Chapter 52, Title 67, of the Idaho Code, the adopted Rules of Practice and Procedure of the Department of Water Resources, and Rules 4 and 5 of the adopted Rules and Regulations of Water Appropriation of the Department

 MAR 28 1995

of Water Resources. Opportunity shall be afforded all parties to respond and present information and argument on all issues involved.

Dated this 2nd day of February, 1993.

David R. Tuthill

DAVID R. TUTHILL, JR., P. E.
Manager, Western Regional Office

I hereby certify that on the 3rd day of February, 1993, I mailed a true and correct copy, postage prepaid, of this document to the applicant(s) and protestant(s) listed:

Sue Taylor

Sue Taylor
Secretary

Certified Mail

DOUBLE DIAMOND INC
C/O DONALD RUMSEY
200 SUNRISE RIM
BOISE ID 83705

GEORGE DOVEL
ROUTE 1 BOX 61
HORSESHOE BEND ID 83629

DAVID P HIRSCHI
HORSESHOE BEND HYDROELECTRIC CO
180 S 300 W STE 220
SALT LAKE CITY UT 84101

Non-Certified Mail

JACK C RIDDLEMOSER ESQ
712 E FAIRVIEW
PO BOX 373
MERIDIAN ID 83642

RICHARD B EISMANN ESQ
EISMANN LAW OFFICES
3016 CALDWELL BLVD
NAMPA ID 83651-6416

MAR 2 8 1995

CONFERENCE AND HEARING PROCEDURE
IN THE MATTER OF A PROTESTED APPLICATION FOR TRANSFER

In accordance with Idaho Code, Section 42-222, the following issues are involved in the consideration of the application and protest:

1) Will the proposed transfer, if approved, injure water rights?

2) Will the proposed transfer, if approved, constitute an enlargement in use of the original right?

3) Is the proposed transfer in the local public interest as defined in Section 42-203A, Idaho Code?

4) Is the proposed use contrary to conservation of water resources within the state of Idaho?

BURDEN OF PROOF

The Applicant has the initial burden of proof on issues 1,2& 4 above, that is, the applicant has the burden of coming forward with evidence for evaluation of those criteria.

The initial burden of proof on issue 3, local public interest, lies with both the applicant and protestant as to factors of which they are most knowledgeable and cognizant. The applicant has the ultimate burden of persuasion with respect to this issue.

PROCEDURE

The procedure normally followed by the department in arriving at a decision on the issues which must be considered is to first hold a conference in the matter and then, if necessary, hold a hearing. If a hearing is held a written decision is issued based on the hearing record.

CONFERENCE

Preliminary to holding a hearing, a pre-hearing conference is held to familiarize the department and the parties with the matter and to determine if a resolution of the protest(s) is possible without the need for a hearing. At the conference the department may formulate and simplify the issues, obtain admissions of fact and of documents which will avoid unnecessary proof, arrange for the exchange of proposed exhibits or prepared expert testimony prior to the hearing, limit the number of witnesses, consolidate the examination of witnesses, and advise the parties of the procedure which will be followed at any subsequent hearing.

HEARING

Any party may request in writing five (5) days before any hearing that the oral proceedings thereof be taken in the form of stenographic notes at the expense of the requesting party. Any party may have such stenographic notes of the oral proceedings, or part thereof, transcribed at his own expense. A taped record of the proceedings will be maintained for the appeal period.

If the hearing is conducted by a hearing officer appointed by the Director, rather than the Director himself, a proposed decision will be issued and the parties will be afforded the opportunity to file exceptions to the proposed decision and present briefs and to request oral argument before the Director prior to the issuance of a final decision by the Director. This procedure is required by IDAHO CODE, Section 42-1701A.

The parties by written stipulation, may waive their right to a proposed decision, however, the failure of either party to waive a proposed decision will not prejudice the director's review of a party's evidence and arguments. However, such a waiver will shorten the decision making process and may expedite substantially the issuance of a final decision. Whether compliance with Section 42-1701A is waived will not affect a party's right to petition for a rehearing of the final decision pursuant to rule 11 of the Department's Rules of Practice and Procedure or affect a party's right to appeal the final decision to the District Court.

Under the provisions of the IDAHO CODE, Sections 42-1701A and 67-5215, any court review of the department's decision on appeal shall be confined to the record created before the department.

If you require special accommodations for a disability in order to participate in or attend the conference (hearing) (public meeting) please advise the department within ten (10) days prior to the conference, hearing or public meeting.

EXHIBITS

If any party at a hearing intends to present an exhibit to augment the hearing record, such party shall in advance of the hearing, prepare sufficient copies of the exhibit for distribution to all parties at the hearing.

MAR 2 8 1995

65-3103 65-10746
65-10772 65-2751

HORSESHOE BEND HYDROELECTRIC COMPANY
180 South 300 West, Suite 220
Salt Lake City, Utah 84101
Telephone (801) 359-0090
Facsimile (801) 359-0097

RECEIVED
DEC 9 1992
Department of Water Resources

December 7, 1992

Jack C. Riddlemoser
Attorney at Law
712 East Fairview
P.O. Box 37
Meridian, ID 83680

RE: WATER RIGHT APPLICATION TRANSFER FILED BY DOUBLE DIAMOND (RUMSEY) - YOUR LETTER DATED NOVEMBER 18, 1992

Dear Jack:

Thank you for your letter, dated November 18, 1992, regarding the above referenced matter. In your letter you state that the land on which we are dealing with the Rumseys is not part of any land affected by the proposed transfer and that such land is served by a totally different Water Right.

If you would please provide the undersigned with a copy of the Water Right relating specifically to the land which is the subject of the current condemnation proceedings, I will be happy to review that information against our files and withdraw our protest to the Water Rights Application Transfer, if appropriate.

Thank you for your assistance on this matter.

Very truly yours,

David P. Hirschi
Vice President
and General Counsel

DPH:dmy
H/corres

cc: Kenneth W. Bell
Gary Spackman

MAR 2 6 1993

Your Protest File

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NOV 5 1992
Department of Water Resources
Western Regional Office

HORSESHOE BEND HYDROELECTRIC COMPANY
180 South 300 West, Suite 220
Salt Lake City, Utah 84101
Telephone (801) 359-0090
Facsimile (801) 359-0097

November 3, 1992

Mr. Gary Spackman, Manager
Water Rights Permit Section
Dept. of Water Resources
1301 North Orchard Street
Statehouse Mail
Boise, Idaho 83720-9000

RE: YOUR LETTER OF OCTOBER 22, 1992, REGARDING PROTEST TO APPLICATIONS FOR TRANSFER FILED BY DOUBLE DIAMOND INC.; WATER RIGHT NOS. 65-03103, 65-10773, 65-10746, AND 65-12751

Dear Gary:

I am in receipt of your letter of October 22, 1992, relating to the above referenced protest. As you are aware, Horseshoe Bend Hydroelectric Company is developing the Horseshoe Bend Hydroelectric Project, a portion of which will be constructed on properties presently owned by Donald and Dale Rumsey, aka Double Diamond Inc., pursuant to an Order and Memorandum Decision recently rendered by Judge Callister in a condemnation action filed by Horseshoe Bend Hydroelectric Company against the Rumseys in the United States District Court for the District of Idaho, Case No. CIV 91-0539-S-MJC.

Provided that Mr. Riddlemoser can demonstrate to Horseshoe Bend Hydroelectric Company that the applications for transfer will not impact the property which is the subject of the eminent domain Order or the water rights currently held by Horseshoe Bend Hydroelectric Company in connection with the development and operation of the hydroelectric project, Horseshoe Bend Hydroelectric Company will likely withdraw its protest to the Applications.

MAR 28 1995

We look forward to hearing from Mr. Riddlemoser on these matters and we will keep you advised of any progress which we make.

Very truly yours,

David P. Hirschi
Executive Vice President
and General Counsel

DPH:dmy
H/corres

cc: Kenneth W. Bell
Dave Tuthill
Jack Riddlemoser, Esq.

MAR 2 8 1995

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

January 6, 1992

RICHARD B EISMANN ESQ
EISMANN LAW OFFICES
3016 CALDWELL BLVD
NAMPA ID 83651-6416

JACK C RIDDLEMOSER ESQ
712 E FAIRVIEW
PO BOX 37
MERIDIAN ID 83680

Re: Application for Transfer of Water Right Nos. 65-03103, 65-10773, 65-10746 and 65-12751 in the Name of Double Diamond, Inc.

Gentlemen:

We are getting ready to set the above-referenced matter for a hearing. Would you please let us know which dates in the latter part of February you would be available?

Please call this office if you have any questions.

Sincerely,

David R. Tuthill Jr.

DAVID R. TUTHILL, JR., P.E.
Manager, Western Regional Office

DRT:st

MAR 2 8 1995

65-3103 65-10746
65-10772 65-[illegible]151

Protest of

HORSESHOE BEND HYDROELECTRIC COMPANY
180 South 300 West, Suite 220
Salt Lake City, Utah 84101
Telephone (801) 359-0090
Facsimile (801) 359-0097

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DEC 9 1992
Department of Water Resources

December 7, 1992

RECEIVED
DEC 14 1992
Department of Water Resources
Western Regional Office

Jack C. Riddlemoser
Attorney at Law
712 East Fairview
P.O. Box 37
Meridian, ID 83680

RE: WATER RIGHT APPLICATION TRANSFER FILED BY DOUBLE DIAMOND (RUMSEY) - YOUR LETTER DATED NOVEMBER 18, 1992

Dear Jack:

Thank you for your letter, dated November 18, 1992, regarding the above referenced matter. In your letter you state that the land on which we are dealing with the Rumseys is not part of any land affected by the proposed transfer and that such land is served by a totally different Water Right.

If you would please provide the undersigned with a copy of the Water Right relating specifically to the land which is the subject of the current condemnation proceedings, I will be happy to review that information against our files and withdraw our protest to the Water Rights Application Transfer, if appropriate.

Thank you for your assistance on this matter.

Very truly yours,

David P. Hirschi
Vice President
and General Counsel

DPH:dmy
H/corres

cc: Kenneth W. Bell
Gary Spackman

MAR 2 8 1995

JACK C. RIDDLEMOSER
Attorney at Law
712 E. Fairview
P.O. Box 37
Meridian, Idaho 83680

888-1491

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Department of Water Resources

RECEIVED
NOV 25 1992
Department of Water Resources
Western Regional Office

November 18, 1992

ATTN: Mr. David P. Hirschi
Horseshoe Bend Hydroelectric Company
180 South 300 West Suite 220
Salt Lake City, UT 84101

65-3103
10773
12715
10746

RE: Water Right Application Transfer filed by Double Diamond (Rumsey)

Dear Sir:

I have discussed with Don Rumsey the contents of your letter of November 3 to Gary Spackman of the Department of Water Resources. From our review of the matter, the land which you are dealing with the Rumseys on is not a part of any of the land affected by the proposed transfer, and such land is in fact served by a totally different water right than is involved in the proposed transfer.

From this, I do not see how the proposed transfer affects in any way the Rumsey property you are dealing with.

We will look forward to hearing from your.

Very truly yours,

JACK C. RIDDLEMOSER
Attorney at Law

cc Client
Gary Spackman

MAR 2 8 1995

HORSESHOE BEND HYDROELECTRIC COMPANY
180 South 300 West, Suite 220
Salt Lake City, Utah 84101
Telephone (801) 359-0090
Facsimile (801) 359-0097

RECEIVED
NOV 0 5 1992
Department of Water Resources

November 3, 1992

Mr. Gary Spackman, Manager
Water Rights Permit Section
Dept. of Water Resources
1301 North Orchard Street
Statehouse Mail
Boise, Idaho 83720-9000

RE: YOUR LETTER OF OCTOBER 22, 1992, REGARDING PROTEST TO APPLICATIONS FOR TRANSFER FILED BY DOUBLE DIAMOND INC.; WATER RIGHT NOS. 65-03103, 65-10773, 65-10746, AND 65-12751

Dear Gary:

I am in receipt of your letter of October 22, 1992, relating to the above referenced protest. As you are aware, Horseshoe Bend Hydroelectric Company is developing the Horseshoe Bend Hydroelectric Project, a portion of which will be constructed on properties presently owned by Donald and Dale Rumsey, aka Double Diamond Inc., pursuant to an Order and Memorandum Decision recently rendered by Judge Callister in a condemnation action filed by Horseshoe Bend Hydroelectric Company against the Rumseys in the United States District Court for the District of Idaho, Case No. CIV 91-0539-S-MJC.

Provided that Mr. Riddlemoser can demonstrate to Horseshoe Bend Hydroelectric Company that the applications for transfer will not impact the property which is the subject of the eminent domain Order or the water rights currently held by Horseshoe Bend Hydroelectric Company in connection with the development and operation of the hydroelectric project, Horseshoe Bend Hydroelectric Company will likely withdraw its protest to the Applications.

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MAR 2 8 1995

We look forward to hearing from Mr. Riddlemoser on these matters and we will keep you advised of any progress which we make.

Very truly yours,

David P. Hirschi
Executive Vice President
and General Counsel

DPH:dmy
H/corres

cc: Kenneth W. Bell
Dave Tuthill
Jack Riddlemoser, Esq.

RECEIVED
MAR 28 1995

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000
Phone: (208) 327-7900 FAX: (208) 327-7866

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

October 22, 1992

David P. Hirschi
Horseshoe Bend Hydroelectric Co.
180 S. 300 W., Suite 220
Salt Lake City, UT 84101

RE: Protest to Applications for Transfer Filed by Double Diamond Inc.; Water Right Nos. 65-03103, 65-10773, 65-10746 and 65-12751

Dear Mr. Hirschi:

Horseshoe Bend Hydroelectric Company (Horseshoe Bend Hydro) protested an application for transfer filed by Double Diamond Inc. The application for transfer proposes a change in the place of use of Porter Creek and Payette River rights.

A prehearing conference was scheduled and conducted on October 5, 1992, at the offices of the Department of Water Resources. My review of the file at the conference revealed the protest by Horseshoe Bend Hydro, and also revealed that we neglected to notify Horseshoe Bend Hydro of the conference.

One other protestant, George Dovel of Horseshoe Bend, was represented at the hearing by his attorney, Richard B. Eismann, 3016 Caldwell Blvd., Nampa, Idaho 83651-6416. Double Diamond Inc. was represented by Jack C. Riddlemoser, 712 E. Fairview, P.O. Box 373, Meridian, Idaho 83642.

George Dovel feels approval of the application for transfer will injure his use of Porter Creek water and will also enlarge the traditional use of the water. There may also be some issues of local public interest and conservation of water that have not been identified. I am enclosing a summary sheet which describes the criteria the Department must consider and the respective burdens of proof of the parties.

I suggested to Mr. Riddlemoser that he contact you directly to try to resolve your concerns. I suspect that if the applicants can show no interference with the power project, perhaps the protest can be resolved.

MAR 2 8 1995

I would like to avoid conducting another prehearing conference if possible. A prehearing conference is not required by our rules and regulations, but helps us to focus the issues. If you feel a prehearing conference would be productive, please let me know. Otherwise we will schedule the matter for hearing in the near future.

Sincerely,

Gary Spackman

GARY SPACKMAN, Manager
Water Right Permits Section

GS:js

cc: Dave Tuthill
Richard B. Eismann
Jack Riddlemoser

FILMED
NOV 28 1995

Re: Double Diamond Inc., Transfer, Nos. 65-10773, 65-12751

Place: IDWR, 1301 N. Orchard, Boise, ID

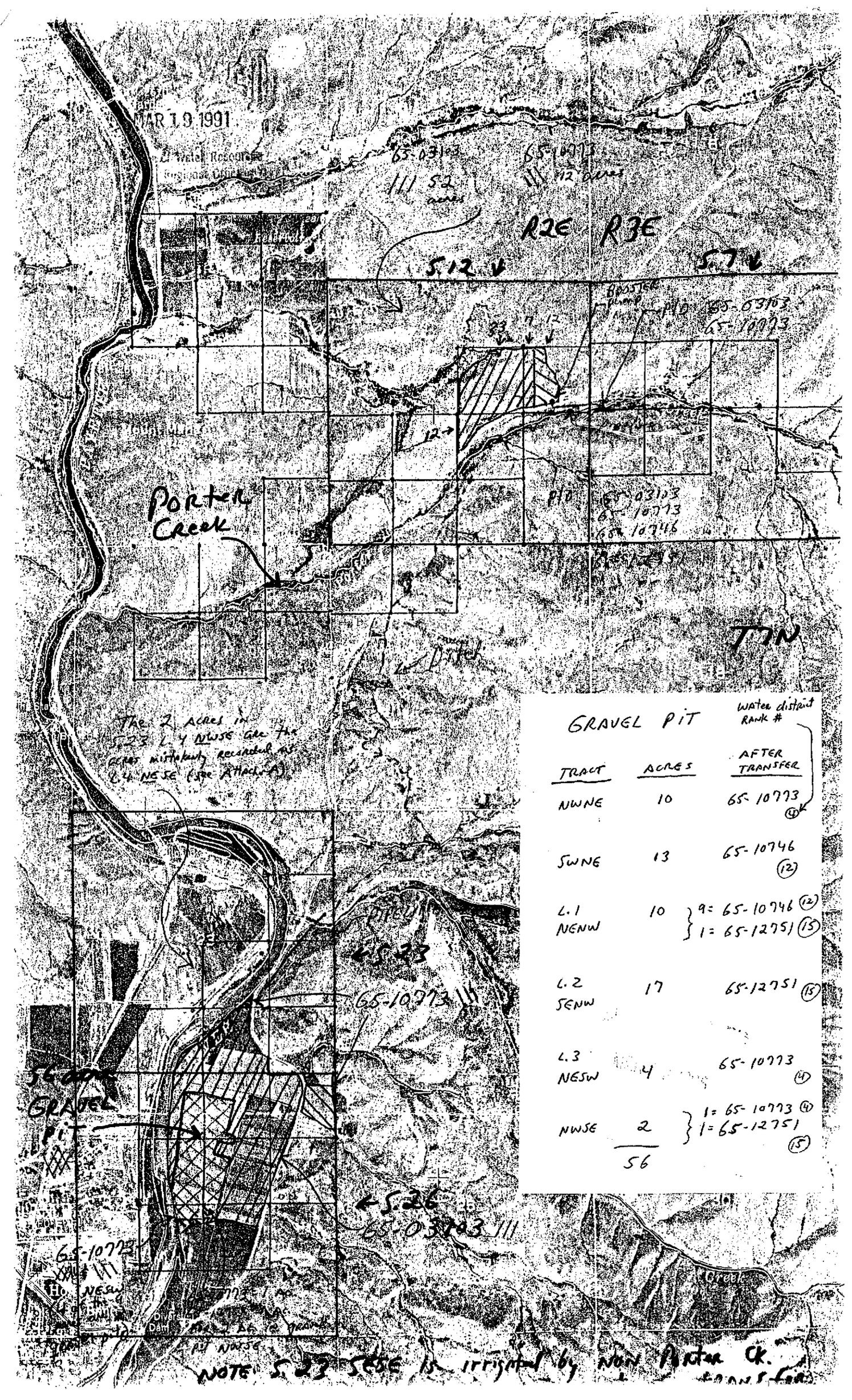
Date: October 5, 1992

Hearing conducted by: David R. Tuthill, JR.

ROSTER OF ATTENDANCE

Name	Address	Representing
Donald Rumsey	Horseshoe Bend	Double Diamond
Jack Riddlemoser	Meridian	Double Diamond
Dale Rumsey	Horseshoe Bend	Double Dia Ranch
Richard B. Eismann	Nampa Idaho	George Dorel

MAR 2 8 1995



GRAVEL PIT

TRACT	ACRES	AFTER TRANSFER (water district rank #)
NWNE	10	65-10773 (4) OK
SWNE	13	65-10746 (12)
L.1 NENW	10	9 = 65-10746 (12); 1 = 65-12751 (15)
L.2 SENW	17	65-12751 (15)
L.3 NESW	4	65-10773 (4)
NWSE	2	1 = 65-10773 (4); 1 = 65-12751 (15)
	56	

RECEIVED
MAR 19 1991
Department of Water Resources
Western Regional Office

We the undersigned, Arlie L. Woods and Pauline Woods agree to the water right transfer on Porter Cr. by Double Diamond Partnership.

Arlie L. Woods
Arlie L. Woods

Pauline Woods
Pauline Woods

STATE OF IDAHO }
County of Ada } ss

On this 14 day of March 1991, before me, the undersigned a Notary Public in and for said State, personally appeared Arlie L. Woods & Pauline Woods, known to me to be the persons whose names are subscribed to the foregoing instrument and acknowledgeto me that they executedthe same.

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

Angel Medaris
Notary Public for ~~Idaho~~
Residing at: Boise Idg
My commission Expires
June 1991

MAR 28 1995

ATTACHMENT C

CONSOLIDATED TAX NOTICE AND RECEIPT

BOISE COUNTY TAX COLLECTOR 1990

P. O. BOX 156

IDAHO CITY, ID 83631 REAL PROPERTY

163434 6-00 RP07N02E262450A 6211

T7N R2E SEC 26
NE LESS TAX 144, LOTS 1 & 2,
L 81806 TAX 31 & TAX 94
I 81628

217.093 RUMSEY, DONALD J. & BETTY E.
TOT ACRES & RUMSEY, DALE
DELINQUENT CERT. 200 SUNRISE RIM
BOISE, ID 83705

			FULL PAYMENT
STATE WTR POLL			
COUNTY	.003470	567.12	2,119.98
SCH DIST # 73	.004134	675.64	
PIONEER CEM	.000087	14.22	
HSB LIBRARY	.000599	97.90	
SCH BND DIST 73	.004081	666.98	
HSB HOSP DIST	.000478	78.12	1ST INSTALLMENT
			1,059.99
SOLID WASTE		20.00	
			2ND INSTALLMENT
			1,059.99
TOTAL	.012849	2,119.98	

YOUR CANCELLED CHECK IS YOUR RECEIPT
PLEASE ENCLOSE PROPER STUB WITH PAYMENT

FOR PROPER CREDIT THIS STUB MUST BE RETURNED WITH YOUR PAYMENT

REAL PROPERTY 1990 RP07N02E262450A
RUMSEY, DONALD J. & BETTY E.
& RUMSEY, DALE 6211

93	10.00	1,049.99	1,059.99	6-00

2nd
6B

PERSONAL CHECKS SUBJECT TO BANK CLEARANCE

(MAKE CHECKS PAYABLE TO)

BOISE COUNTY TAX COLLECTOR
P.O.BOX 156,ID.CITY,ID 83631
PHONE: 392-4441, 793-2616,
342-0509 OR 462-3073

DELINQUENT PLEASE PAY THIS AMOUNT JUNE 20, 1991

DATE PAID CHECK #

PAID BY CASH

MAR 28 1995

CONSOLIDATED TAX NOTICE AND RECEIPT

BOISE COUNTY TAX COLLECTOR 1990

P. O. BOX 156

IDAHO CITY, ID 83631 REAL PROPERTY

32207 6-00 RP07N02E264851A 6213

T7N R2E SEC 26
SOUTHERLY PORTION OF NWSE,
L 32207 SOUTHERLY PORTION OF LOT 3,
LOT 4, SWSE

111.147 GARRETT, JOHN
TOT ACRES % DOUBLE DIAMOND INC.
DELINQUENT CERT. 200 SUNRISE RIM
BOISE, ID 83705

STATE WTR POLL			FULL PAYMENT
COUNTY	.003470	111.76	413.84
SCH DIST # 73	.004134	133.14	
PIONEER CEM	.000087	2.80	
HSB LIBRARY	.000599	19.30	
SCH BND DIST 73	.004081	131.44	
HSB HOSP DIST	.000478	15.40	1ST INSTALLMENT
			206.92
			2ND INSTALLMENT
			206.92
TOTAL	.012849	413.84	

YOUR CANCELLED CHECK IS YOUR RECEIPT
PLEASE ENCLOSE PROPER STUB WITH PAYMENT

FOR PROPER CREDIT THIS STUB MUST BE RETURNED WITH YOUR PAYMENT

REAL PROPERTY 1990 RP07N02E264851A
GARRETT, JOHN
% DOUBLE DIAMOND INC. 6213

SPECIAL CODE	TAX	2ND	FEES	TAX	2ND INSTALLMENT
				206.92	206.92

6-00
2nd
6B

MAR 28 1995

PERSONAL CHECKS SUBJECT TO BANK CLEARANCE

MAKE CHECKS PAYABLE TO

BOISE COUNTY TAX COLLECTOR
P.O.BOX 156, ID.CITY, ID 83631
PHONE: 392-4441, 793-2616,
342-0509 OR 462-3073

DELINQUENT IF NOT PAID BY 6-20-91

DATE PAID JUNE 20, 1991
PAID BY CASH
CHECK #

CONSOLIDATED TAX NOTICE AND RECEIPT
BOISE COUNTY TAX COLLECTOR 1990
P. O. BOX 156
IDAHO CITY, ID 83631 REAL PROPERTY

5852 6-00 RP07N02E232450A 6187

T7N R2E SEC 23
W1/2 OF LOT 1
L 5852

2.250 KNIPE, WILLIAM
TOT ACRES % RUMSEY, DONALD J & BETTY E
DELINQUENT CERT. & DALE
200 SUNRISE RIM
BOISE, ID 83705

STATE WTR POLL		
COUNTY	.003470	20.32
SCH DIST # 73	.004134	24.20
PIONEER CEM	.000087	.52
HSB LIBRARY	.000599	3.52
SCH BND DIST 73	.004081	23.88
HSB HOSP DIST	.000478	2.80
SOLID WASTE		2.00
TOTAL	.012849	77.24

FULL PAYMENT 77.24
1ST INSTALLMENT 38.62
2ND INSTALLMENT 38.62

YOUR CANCELLED CHECK IS YOUR RECEIPT
PLEASE ENCLOSE PROPER STUB WITH PAYMENT

MAR 28 1991

FOR PROPER CREDIT THIS STUB MUST BE RETURNED WITH YOUR PAYMENT

REAL PROPERTY 1990 RP07N02E232450A
KNIPE, WILLIAM
% RUMSEY, DONALD J & BETTY E 6187

93	1.00	37.62	38.62	6-00

2nd
6B

PERSONAL CHECKS SUBJECT TO BANK CLEARANCE

MAKE CHECKS PAYABLE TO

BOISE COUNTY TAX COLLECTOR
P.O.BOX 156,ID.CITY,ID 83631
PHONE: 392-4441, 793-2616,
342-0509 OR 462-3073

DELINQUENT IF NOT PAID BY JUNE 20, 1991

DATE PAID CHECK #
PAID BY CASH

CONSOLIDATED TAX NOTICE AND RECEIPT

BOISE COUNTY TAX COLLECTOR
P. O. BOX 156
IDAHO CITY, ID 83631

1990

REAL PROPERTY

15814 6-00 RP07N02E238450A 6202

T7N R2E SEC 23
LOT 5

L 15814

40.650 TOT ACRES

DELINQUENT CERT

RUMSEY, DONALD J. & BETTY E.
& RUMSEY, DALE
200 SUNRISE RIM
BOISE, ID 83705

STATE WTR POLL			FULL PAYMENT
COUNTY	.003470	54.88	203.22
SCH DIST # 73	.004134	65.38	
PIONEER CEM	.000087	1.38	
HSB LIBRARY	.000599	9.48	
SCH BND DIST 73	.004081	64.54	
HSB HOSP DIST	.000478	7.56	1ST INSTALLMENT
			101.61
			2ND INSTALLMENT
			101.61
TOTAL	.012849	203.22	

YOUR CANCELLED CHECK IS YOUR RECEIPT
PLEASE ENCLOSE PROPER STUB WITH PAYMENT

FOR PROPER CREDIT THIS STUB MUST BE RETURNED WITH YOUR PAYMENT

REAL PROPERTY 1990 RP07N02E238450A
RUMSEY, DONALD J. & BETTY E.
& RUMSEY, DALE 6202

101.61	101.61	6-00

2nd
6B

PERSONAL CHECKS SUBJECT TO BANK CLEARANCE

MAKE CHECKS PAYABLE TO

BOISE COUNTY TAX COLLECTOR
P.O.BOX 156,ID.CITY,ID 83631
PHONE: 392-4441, 793-2616,
342-0509 OR 462-3073

DATE PAID JUNE 20, 1991
PAID BY CHECK # CASH

CONSOLIDATED TAX NOTICE AND RECEIPT

BOISE COUNTY TAX COLLECTOR 1990

P. O. BOX 156

IDAHO CITY, ID 83631 REAL PROPERTY

35303 6-00 RP07N02E121800A 6133

T7N R2E SEC 12
S1/2NE, N1/2SE LESS TAX 162

L 32076
I 3227

158.610 TOT ACRES

DELINQUENT CERT.

WOODS, ARLIE L.
% RUMSEY, DONALD J. ETAL
200 SUNRISE RIM
BOISE, ID 83705

STATE WTR POLL			
COUNTY	.003470	122.50	473.64
SCH DIST # 73	.004134	145.94	
PIONEER CEM	.000087	3.08	
HSB LIBRARY	.000599	21.16	
SCH 2ND DIST 73	.004081	144.08	
HSB HOSP DIST	.000478	16.86	
		1ST INSTALLMENT	236.82
SOLID WASTE		20.00	
		2ND INSTALLMENT	236.82
TOTAL	.012849	473.64	

YOUR CANCELLED CHECK IS YOUR RECEIPT
PLEASE ENCLOSE PROPER STUB WITH PAYMENT

MAR 28 1995

FOR PROPER CREDIT THIS STUB MUST BE RETURNED WITH YOUR PAYMENT

REAL PROPERTY 1990 RP07N02E121800A
WOODS, ARLIE L.
% RUMSEY, DONALD J. ETAL 6133

73	10.00	226.82	236.82	6-00

2nd
68

PERSONAL CHECKS SUBJECT TO BANK CLEARANCE

MAKE CHECKS PAYABLE TO

BOISE COUNTY TAX COLLECTOR
P.O.BOX 156,ID.CITY,ID 83631
PHONE: 392-4441, 793-2616,
342-0509 OR 462-3073

PLEASE IF NOT PAID IN OFFICE

DATE PAID JUNE 20, 1991
PAID BY CASH CHECK #

Content to buy land from Arlie - mostly paid for

CONSOLIDATED TAX NOTICE AND RECEIPT
BOISE COUNTY TAX COLLECTOR 1990
P. O. BOX 156
IDAHO CITY, ID 83631 REAL PROPERTY

10149 6-00 RP07N02E120050A 6132

T7N R2E SEC 12
NW1/4, N1/2NE
L 10149 INST.#128370

240.000 RUMSEY, DONALD J & DALE M
TOT ACRES *
DELINQUENT CERT. 200 SUNRISE RIM RD
BOISE, ID 83705

STATE WTR POLL			FULL PAYMENT
COUNTY	.003470	35.22	130.42
SCH DIST # 73	.004134	41.96	
PIONEER CEM	.000087	.88	
HSB LIBRARY	.000599	6.08	
SCH BND DIST 73	.004081	41.42	
HSB HOSP DIST	.000478	4.86	1ST INSTALLMENT
			65.21
			2ND INSTALLMENT
			65.21
TOTAL	.012849	130.42	

YOUR CANCELLED CHECK IS YOUR RECEIPT
PLEASE ENCLOSE PROPER STUB WITH PAYMENT

MAR 28 1995

FOR PROPER CREDIT THIS STUB MUST BE RETURNED WITH YOUR PAYMENT

REAL PROPERTY 1990 RP07N02E120050A
RUMSEY, DONALD J & DALE M
*
6132

	65.21	65.21	6-00

2nd
6B

PERSONAL CHECKS SUBJECT TO BANK CLEARANCE
MAKE CHECKS PAYABLE TO
BOISE COUNTY TAX COLLECTOR
P.O.BOX 156,ID.CITY,ID 83631
PHONE: 392-4441, 793-2616,
342-0509 OR 462-3073

DATE PAID JUNE 20, 1991
PAID BY CHECK #
CASH

NOTICE OF AMENDMENT OF PR[illegible]ED CHANGE OF WATER RIGHT
NOS. 65-03103, 65-10773, 65-10746, 65-12751 Vet

Notice is hereby given that Double Diamond Inc., C/O Donald Rumsey of Boise, Idaho applied to the Department of Water Resources for a change in the above Porter Creek rights on 3/19/1991. The proposed change was published in the "Idaho World" on 4/3 and 4/10/1991. The applicant now amends the proposal as follows:

No diversion points or priority dates will be changed. Rights 65-10773 and 65-12751 will be eliminated from the proposal. Payette River rights 65-02540 and 65-10747 will be added. Priority dates for these rights are 4/26/1951 and 4/1/1960, respectively. The river rights are diverted from Lot 4 (NWSE), S.23, T7N, R2E and use 4.10 cfs to irrigate 205 acres from 4/1-11/1 in S.23 & 26, T7N, R2E.

The following uses are now proposed during the irrigation season:

Right	AMOUNT	Use	Place of Use
65-03103 4, acres	3.82 cfs	Irrigation	SESW, W1/2 SE1/4, S.23; NE1/4, E1/2 NW1/ NESW, NWSE S.26, T7N, R2E, Total 193 (switch 22 acres with 65-10746)
65-10746	.44 cfs	Diversion to Storage & Recreation	W1/2 NE1/4, E1/2 NW1/4, S.26, T7N, R2E, Recreation pond
	77 af	Recreation Storage	
65-02540	2.85 cfs	Irrigation	183 acres in place of use in 65-03103 listed above, plus 1 acre in SESE, S.23
	.35 cfs	Diversion to Storage & Recreation	Recreation pond shown in 65-10746 above
	77 af	Recreation Storage	
65-10747	.80 cfs	Irrigation	183 acres in place of use in 65-03103 and 65-02540 above
	.10 cfs	Diversion to Storage & Recreation	Recreation pond shown in 65-10746 & 65-02540 above
	42.6 af	Recreation Storage	

Total irrigated acres after the proposed change is 194.

Any protest against the approval of the proposed amendment must be filed with the Department of Water Resources, Western Region, 2735 Airport Way, Boise, Idaho 83705 on or before May 4, 1992.

R. Keith Higginson
Director

Published in The Idaho World April 15, 22, 1992.

The Idaho World

P O Box 220
Idaho City, ID 83631
208 392-4989

P O Box 99
Garden Valley, ID 83622
208 462-3487

State of Idaho >
>
County of Boise >

Wayne Hart, being duly sworn, deposes and says: that he is the manager and principal clerk of THE IDAHO WORLD, a weekly newspaper published at Idaho City, in the County of Boise and the State of Idaho; the said paper has been and is in general circulation in the county aforesaid, and in the vicinity of Idaho City; that the advertisement, a copy of which is hereto attached, was published in said newspaper once a week for Two (2) consecutive weeks in the entire and regular issue of every number of said paper during the period and time of publication and was published in the newspaper and not a supplement; that said paper has been established and regularly and continuously published for more than seventy eight weeks past previous to the first publication of this notice. Such notice was published with the issue beginning with April 15, 1992 and ending with the issue of April 22, 1992.

RECEIVED MAR 28 1995

Wayne Hart

State of Idaho >
>
County of Ada >

On this 1st day of May in the year 1992, before me, a notary public, personally appeared WAYNE HART known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that he executed the same.

Jan E Hart
Notary Public for Idaho

Boise ID
Residing at

My commission expires 9/10/96

RECEIVED MAR 28 1995

RECEIVED MAY - 4 1992
Department of Water Resources
Western Regional Office

NOTICE OF PROPOSED CHANGE OF WATER RIGHT
NO. 65-03103, 65-10773, 65-10746, 65-12751

Notice is hereby given that Double Diamond Inc., C/O Donald Rumsey of Boise, Idaho has applied to the Department ofWater Resources for a change of point of diversion and place of use of the water of Porter Creek, tributary to the Payette River. The rights sought to be changed are evidenced by Decree and License and are recorded as follows:

Right	AMT(cfs)	Priority	Point of Diversion	Used For	Place of Use	Total Acres
65-03103	3.82	1-01-1872	NWSE S.12 T7N R2E	Irrigation	SWSE S. 23 NE1/4, NWSE, E1/2NW1/4 S.26 T7N R2E	193
65-10773	0.92	6-01-1900	SWNW S.7 T7N R 3E	Irrigation Stockwate	SWNE, NWSE S.12 T7N R2E	45
65-10746	0.44	4-01-1960	NWSE S.12 T7N R2E	Irrigation	NESE S23 NENE, NESW S26 T7N R2E	22
65-12751	0.31	10-22-1985	SWNW S.7 T7N R3E	Irrigation	SENE S12 T7N R2E	19
					TOTAL ACRES	279

—CHANGED AS FOLLOWS—

Right	AMT(cfs)	Priority	Point of Diversion	Used For	Place of Use	Total Acres
65-03103	3.82	1-01-1872	NWSE S.12 T7N R2E, SWNW S7 T7N R 3E	Irrigation	S1/2NE1/4, NWSE S.12 SESW, SWSE, S.23 NE1/4, E1/2NW1/4, NWSE S.26 T7N R2E	193
65-10773	.92	6-01-1900	NWSE S.12 T7N R2E, SWNW S.7 T7N R3E	Irrigation Stockwater	SENE S.12 NWSW S.23 N1/2NE1/4, NESW, NWSE S.26 T7N R2E	45
65-10746	.44	4-01-1960	NWSE S.12 T7N R2E	Irrigation	SWNE, NENW S.26 T7N R2E	22
65-12751	.31	10-22-1985	NWSE S.12 T7N R2E	Irrigation	E1/2NW1/4, NWSE S.26 T7N R2E	19
					TOTAL ACRES	279

E Minor Change
Non-fatal-
Dmr 10 Jun 91

Any protest against approval of the proposed change of water right application must be filed with the Department of Water Resources, Western Region, 2735 Airport Way, Boise, Idaho 83705 on or before April 22, 1991.

R. Keith Higginson
Director

Published in the Idaho World on 4/3 and 4/10/1991

The Idaho World

P O Box 220, Idaho City, ID 83631
208 392-4989

State of Idaho >
>
County of Boise >

Wayne Hart, being duly sworn, deposes and says: that he is the manager and principal clerk of THE IDAHO WORLD, a weekly newspaper published at Idaho City, in the County of Boise and the State of Idaho; the said paper has been and is in general circulation in the county aforesaid, and in the vicinity of Idaho City; that the advertisement, a copy of which is hereto attached, was published in said newspaper once a week for two (2) consecutive weeks in the entire and regular issue of every number of said paper during the period and time of publication and was published in the newspaper and not a supplement; that said paper has been established and regularly and continuously published for more than seventy eight weeks past previous to the first publication of this notice. Such notice was published with the issue beginning with April 3, 1991 and ending with the issue of April 10, 1991.

Wayne Hart

State of Idaho >
>
County of Ada >

On this 10th day of May in the year 1991, before me, a notary public, personally appeared WAYNE HART known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that he executed the same.

Dan E Hart
Notary Public for Idaho

Boise Id
Residing at
My commission expires 9/10/96

RECEIVED
MAR 28 1995

DOUBLE DIAMOND RANCH
HORSESHOE BEND, IDAHO
200 SUNRISE RIM ROAD • BOISE, IDAHO 83705
(208) 336-4901

RECEIVED
MAR 12 1992
Department of Water Resources
Western Regional Office

March 11, 1992

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Western Region
2735 Airport Way
Boise ID 83705-5082

ATTN: David R Tuthill, Jr. P.E.
Manager, Western Regional Office

Dear David:

After our last meeting it was very apparent to me that separating the various water rights would be a problem. At that time, we were talking about three (3) rights at the main ranch; No. 1, No. 4, and No. 12. It could be done, but due to all the problems in our district it would require alot of the Watermaster's time.

At that time we didn't know how much land we could recover. Now we have the numbers. It appears the the pond will be 22 acres. That is a loss from 191 acre rights.

We would like to transfer the 22 acres of No. 1 right to the three parcels that now have No. 12 right, then there would only be No. 1 right on the main ranch. No. 12 right, which is a flood right with all others users satified prior to our right, we would like to put in the 22 acre pond for the next two years to see if it will hold water. If it does, then we will try to make a fish pond out of it.

Sorry for the delay in answering your letter, but I thought Jack Riddlemoser had taken care of it.

Best Regards,

DOUBLE DIAMOND RANCH

Donald J Rumsey

Donald J Rumsey
Partner

MAR 28 1995

HORSESHOE BEND HYDROELECTRIC COMPANY
180 South 300 West, Suite 220
Salt Lake City, Utah 84101
Telephone (801) 359-0090
Facsimile (801) 359-0097

May 4, 1992

VIA FACSIMILE

Idaho Dept. of Water Resources
Western Region
2735 Airport Way
Boise, Idaho 83705
Attention: David Tuthill

RE: PROTEST TO NOTICE OF AMENDMENT OF PROPOSED CHANGE OF WATER RIGHT NOS. 65-03103, 65-10773, 65-10746, and 65-12751

Dear Mr. Tuthill:

Horseshoe Bend Hydroelectric Company, a Delaware corporation, hereby protests the proposed Amendment of Proposed Change of Water Right Nos. 65-03103, 65-10773, 65-10746 and 65-12751, applied for by Double Diamond Inc. c/o Donald Rumsey of Boise, Idaho, as published in the Idaho World, Wednesday, April 15, 1992.

The basis of this protest is Horseshoe Bend Hydroelectric Company's desire to determine the effect of this Amendment of Proposed Change on the water rights and diversion rights associated with the Permit to Appropriate Water No. 65-12563, held by Horseshoe Bend Hydroelectric Company in connection with the development of the Horseshoe Bend Hydroelectric Project in Boise County, Idaho.

It is my understanding, based upon our telephone conversation this date, that the Department will accept this protest by facsimile transmission with hard copy to follow by regular mail. Please contact me immediately should you have any questions or comments concerning this letter of protest.

Very truly yours,

David P. Hirschi
Executive Vice President
and General Counsel

DPH:dmy
H/corres

cc: Kenneth W. Bell
Orlin V. Clements, P.E.

MICROFILMED
MAR 2 8 1995

RECEIVED
APR 23 1992
Department of Water Resources
Western Regional Office

APPLICATION FOR TRANSFER OF WATER RIGHT

NO. 65-03103, 65-10773, 65-10746 + 65-127 (Porter creek, Porter creek, Porter creek, Porter)

RECOMMENDATION OF WATERMASTER

I, HENRY A. BERNTSEN, watermaster of Porter creek, of Water District No. 65B, County of Boise, State of Idaho, whose address is 1553 SUNSET DR EMMETT, ID. 83617-9584 have read the attached copy of the application for transfer of water right for Double Diamond, Inc. (name), and to the best of my knowledge believe the application to be true. #65 03103 2.77 CFS #65 10751 1.71 CFS #65 10773 1.96 CFS Total 4.44 CFS.

A. I hereby endorse the above numbered Application for Transfer and recommend that the Director of the Department of Water Resources approve the transfer subject to the following conditions: _____

OR

B. I do not endorse approval of the above numbered Application for Transfer as requested for the following reasons: PORTER CREEK WATER FOR ALL RIGHTS 1991 D.D. WAS ONLY 4.44 CFS. POND WATER SHOULD ONLY COME FROM PAYETTE RIVER RIGHTS. DISTRIBUTION PIPE LINE FOR PAYETTE RIVER RIGHTS IN PLACE.

Dated at EMMETT, Idaho, this 23 day of APRIL 19 92.

HENRY A. BERNTSEN

Henry A Berntsen
(signature)

APPROVED

8 1995

Please use reverse side if needed.

RECEIVED
APR 20 1992
Department of Water Resources
Western Regional Office

EISMANN LAW OFFICES

3016 CALDWELL BLVD.
NAMPA, IDAHO 83651 - 6416

Telephone (208) 467-3100
Facsimile (208) 466-4498

RICHARD B. EISMANN
DEBRA L. EISMANN

April 17, 1992

DAVID R. TUTHILL, JR., P.E.
MANAGER, WESTERN REGIONAL OFFICE
STATE OF IDAHO DEPARTMENT OF WATER RESOURCES
2735 AIRPORT WAY
BOISE, IDAHO 83705-5082

Re: Application for Transfer: Water Right Nos. 65-3103, 65-10746, 65-12751 by Double Diamond, Inc.
Protestant: George Dovel

Dear Mr. Tuthill:

In response to your letter of April 13, 1992, please be advised that on April 28, 1992, I am unavailable for a telephone conference as I will be in court for a divorce trial which at this point will go to trial as there have been no settlement negotiations thus far.

I would appreciate it if you would reschedule the telephone conference. My calendar changed daily so it is difficult for me to provide available dates. I might suggest that your office telephone Mr. Riddlemoser's office and then my secretary, Viki, to reschedule the telephone conference. As of today's date, I am available the morning of April 30, 1992, for a telephone conference, and that is my only available date for such conference until after May 15, 1992, unless we were to schedule the conference for early some morning at 8:00 or 8:30 o'clock a.m.

Thank you for your consideration.

If you should have questions, please contact me.

Very truly yours,

Richard B. Eismann
RBE/vn/8
CLT: George Dovel
Jack C. Riddlemoser

RECEIVED
MAR 28 1995

Delay response pending end of protest period.

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

April 13, 1992

HENRY BERNTSON
1553 SUNSET DR
EMMETT ID 83617

Re: Application for Transfer of Water Right No. 65-03103, 65-10773, 65-10746 and 65-12751 in the Name of Double Diamond, Inc.

Dear Watermaster:

Enclosed is an application(s) for transfer of a water right(s) within your water district. Also enclosed is a form for your recommendation concerning this application for permit.

Please review the application and return your recommendation within two weeks. If you have questions or need information, feel free to contact this office.

Sincerely,

David R. Tuthill

DAVID R. TUTHILL, JR., P.E.
Manager, Western Regional Office

DRT:st

Enclosure: Copy of Application
Recommendation of Watermaster Form

MAR 2 8 1992

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

April 13, 1992

Richard B. Eismann, Esq.
Eismann Law Offices
3016 Caldwell Blvd.
Nampa. ID 83651-6416

RE: Application for Transfer of Water Rights Nos. 65-03103, et al, in the Name of Double Diamond, Inc.

Dear Mr. Eismann:

The reclamation plan which was to be submitted by Double Diamond, Inc. in the above-referenced matter was submitted to this office in the form of an amended application for transfer. Enclosed is a copy of the amended application.

This office considers the protest of the original application to apply to this amended application. Please review the amended application, with attachments, and advise this office if there is any change in the status of the protest.

I will plan to conduct a conference call with yourself and Mr. Riddlemoser at 10:00 am on Tuesday, April 28 to ascertain the status and future actions with respect to the application. If this date and time are not acceptable, please provide some acceptable alternatives.

Sincerely,

David R. Tuthill, Jr., P.E.
Manager, Western Regional Office

cf w/encl: Jack C. Riddlemoser, Esq.
George Dovel

MAR 28 1992

INTER-DEPARTMENT MEMO —

FROM Steve

DATE 4/2/92

TO Cindy, then Sue

SUBJECT TRANSFER – DOUBLE DIAMOND

Please expedite for advertising. Use attached "notice of..." instead of traditional ad. Don't need to show price ad is new ad.

For Sue: Comment letter to watermaster.
Copy of amended appl. to protestant along with letter for Dave's signature. He can advise on what letter should say & how much of appl. to copy.

AMENDED TRANSFER APPLICATION

SIGNATURE

—S

NOTICE OF AMENDMENT OF PROPOSED CHANGE OF WATER RIGHT
NOS. 65-03103, 65-10773, 65-10746, 65-12751

Notice is hereby given that Double Diamond Inc., C/O Donald Rumsey of Boise, Idaho applied to the Department of Water Resources for a change in the above Porter Creek rights on 3/19/1991. The proposed change was published in the "Idaho World" on 4/3 and 4/10/1991. The applicant now amends the proposal as follows:

No diversion points or priority dates will be changed. Rights 65-10773 and 65-12751 will be eliminated from the proposal. Payette River rights 65-02540 and 65-10747 will be added. Priority dates for these rights are 4/26/1951 and 4/1/1960, respectively. The river rights are diverted from Lot 4 (NWSE), S.23, T7N, R2E and use 4.10 cfs to irrigate 205 acres from 4/1-11/1 in S.23 & 26, T7N, R2E.

The following uses are now proposed during the irrigation season:

Right	AMOUNT	Use	Place of Use
65-03103	3.82 cfs	Irrigation	SESW, W1/2 SE1/4, S.23; NE1/4, E1/2 NW1/4, NESW, NWSE S.26, T7N, R2E, Total 193 acres (switch 22 acres with 65-10746)
65-10746	.44 cfs	Diversion to Storage & Recreation	W1/2 NE1/4, E1/2 NW1/4, S.26, T7N, R2E, Recreation pond
	77 af	Recreation Storage	
65-02540	2.85 cfs	Irrigation	183 acres in place of use in 65-03103 listed above, plus 1 acre in SESE, S.23
	.35 cfs	Diversion to Storage & Recreation	Recreation pond shown in 65-10746 above
	77 af	Recreation Storage	
65-10747	.80 cfs	Irrigation	183 acres in place of use in 65-03103 and 65-02540 above
	.10 cfs	Diversion to Storage & Recreation	Recreation pond shown in 65-10746 & 65-02540 above
	42.6 af	Recreation Storage	

MAR 2 8 1995

Total irrigated acres after the proposed change is 194.

Any protest against the approval of the proposed amendment must be filed with the Department of Water Resources, Western Region, 2735 Airport Way, Boise, Idaho 83705 on or before May 4, 1992.

R. Keith Higginson
Director

Published in the Idaho World on 4/15 and 4/22/1992

Form 222a
6/78

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRANSFER ANALYSIS SHEET

65-03103
10746
10747
2540

INITIAL REVIEW BY: GJ

1. Right number _____ Applicant Double Diamond
2. Type of right: ☒ Decree ☐ License ☐ Claim
3. Purpose of transfer: ☐ Change point of diversion ☐ Add diversion point(s) ☒ Change place of use ☒ Other Change N/U
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 No expansion unless winter storage is attempted. Per SL, applicant advised of ap for permit requirement for winter storage.
   i. ☒ Check for existing water rights from same source, on land water is being transferred to. Right number(s) all included in transfer
   j. ☒ Is use within a Watermaster District? ☐ Yes ☐ No
      If yes, what district? 65B Comment letter sent ☐ Yes ☐ No

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.*

Form 222a
6/78

Watermaster Comment Letter

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRANSFER ANALYSIS SHEET

65-03103(D)
65-10773(D)
65-10746(D)
65-12751(L)

INITIAL REVIEW BY: CJH

1. Right number see margin Applicant Double Diamond Inc.
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 65-02540 & 65-10747 are Payette River Rts for gravel pit lands. These lands are un-irrigable at this point so H2O is not being used = no expansion.
   i. ☒ Check for existing water rights from same source, on land water is being transferred to.
      Right number(s) ~~[illegible]~~ 65-02540 & 65-10747
   j. ☒ Is use within a Watermaster District? ☒ Yes ☐ No
      If yes, what district? 65 B Comment letter sent ☐ Yes ☐ No ← N/A IDWR still WM now

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.*

CONVERSATION MEMORANDUM

DATE 3/31/92

FILE 65-03103 etc.

NAME OF PARTY Donald Rumsey

EMPLOYEE Steve Lester

RE: OFFICE visit - RESPONSE TO my 3/18/92 LETTER

Mr. Rumsey visited the office today & provided info to amend transfer application. The following points were made:

1) A 148.7 A.F. pond for recreation use would be created by switching Jr. & Sr. Porter Ck. water & appurtenant Sangamo River water.
2) The pond season will be same as irrigation season.
3) The amended transfer serves as the reclamation or mngt. plan.
4) $20 amendment fee was paid.

I will prepare the amended appl. for his signature. He plans to stop by on Fri 4/3/92 to sign it.

RECEIVED

MAR 2 8 1995

DOUBLE DIAMOND RANCH
HORSESHOE BEND, IDAHO
200 SUNRISE RIM ROAD • BOISE IDAHO 83705
208 338 4801

RECEIVED
MAR 31 1992
Department of Water Resources
Western Regional Office

March 31, 1992

HAND-DELIVERED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Western Region
2735 Airport Way
Boise, ID 83705-5082

ATTN: Steve Lester

Dear Steve,

In further answer to your letter dated March 18, 1992, I have measured the area that water can be retained in the pond. Due to the decrease in depth, caused by the fall in the grade from north to south, the pond will be fifteen feet (15) deep at the north end and two feet (2) deep at the south end. However, there will be a considerable volume of water. It will hold 48,439,475 gallons, 6,475,447 cubic feet or 148.65 acre feet.

After our conversation last week, when I told you we would not pur our Payette River water in the pond, I have decided that we should. This would help maintain the water level in the pond during the time we take water from the Payette, this would be after Porter Creek dries up.

All of this water would be used for non-irrigating purposes. It would create a large wetland area.

Steve, I don't see recovering any more of the pond area, unless we decide to grow rice and I don't think this is possible.

Best Regards,

DOUBLE DIAMOND RANCH

Donald J. Rumsey
General Partner

MAR 28 1995

CONVERSATION MEMORANDUM

DATE 3/23/92

FILE Transfer 65-03103 etc

NAME OF PARTY Don Ramsey

EMPLOYEE Steve Lester

RE: TRANSFER - RESPONSE TO 3/18/92 LETTER FROM IDWR

(1) will have pond on 22 pit-site. Will send details about dimensions.

(2) will use #12 Ponton Ck Hwy to fill pond.

(3) Not thinking about using Payette R. water for pond at this time.

(4) Yes, is a split of 22 acres worth of #1 & #12 creek water.

(5) will send all above + info about reclamation $20 fee very soon

MAR 2 8 1995

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

March 18, 1992

Mr. Donald Rumsey
Double Diamond Inc.
200 Sunrise Rim
Boise, ID. 83705

Re: Application for Transfer of Porter Creek Water

Dear Mr. Rumsey:

As we discussed after the Porter Creek Water District meeting on 3/9/92, your transfer application to change Porter Creek water rights requires additional information before an amended transfer application can be completed and advertised. I revised the application as much as possible based on the information provided to this office by Mr. Madarieta.

In order to proceed, please furnish additional information as follows.

1. The reclamation plan describing how land has been or will be reclaimed was due by 3/6/1992. This office has not received a written explanation of reclamation efforts. The plan should include a map and details showing the process to return land to an irrigatable status.

2. If 22 acres will remain in a non-irrigated state, explain what water use, if any, will occur on the 22 acres. A pond or ponds were mentioned as possible uses at the site. If so, pond(s) dimensions and other details should be included. When and how would water be diverted to a pond(s)? Would Porter Creek and/or Payette River water be used for non-irrigation purposes?

3. Apparently, the revised transfer intends to place the #12 Porter Creek water on the non-irrigated acres and move 22 acres of #1 creek water to the place of use defined in #12. Is this correct?

4. A $20 fee is needed to amend the transfer.

Please respond by 4/1/92. Without an adequate and timely response, this office must void the transfer application.

If you need additional information, please call me at 334-2190.

Sincerely,

Steve Lester

Steve Lester
Sr. Water Resource Agent

MAR 2 8 199

CONVERSATION MEMORANDUM

DATE 2-26-92

FILE 65-03103 etc

NAME OF PARTY Angie Maderiotta for DBL. Reclamation

EMPLOYEE Steve Lester

RE: RECLAMATION INFO REQUESTED BY 3/6/92:

Apparently, not all of the land can be reclaimed. Approx. 22 acres of gravel pit will or does Remain. The applicant proposes to modify the transfer application.

Would like to transfer 22 acres from 65-10746 (#12) to g.t. move 22 acres from 65-03103 (#1) to lands currently i.d. in #12.

Not sure of use of 22 acres remaining in pit. Possible fish ponds? aesthetic? recreation? What about role of Boyette & water associated with any of those lands?

3/2/92 Angie M. visited office with ASCS plat showing location of 22 acre pit. Told him D'd propose an amended application

3/3/92 Still need info to complete amended appl.
① Reclamation plan
② Use of H2o - if any - in pit.

MAR 28 1995 Will discuss with DOW Runway on 3/9 at water dist. meeting.

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

February 10, 1992

JACK C RIDDLEMOSER ESQ
712 EAST FAIRVIEW
PO BOX 373
MERIDIAN ID 83642

RE: Application for Transfer of Water Rights Nos. 65-3103, et al, in the name of Double Diamond, Inc.

Dear Mr. Riddlemoser:

Pursuant to your request dated February 6, 1992, this office is hereby delaying the deadline for the reclamation plan in this matter to March 6, 1992. The deadline for response by Mr. Eismann is hereby extended to March 30, 1992, unless we receive an objection to this date from either party in the matter.

Sincerely,

David R. Tuthill

DAVID R. TUTHILL, JR., P.E.
Manager, Western Regional Office

DRT:st

CC: Richard Eismann

MAR 2 8 1995

RECEIVED
FEB 06 1992
Department of Water Resources
Western Regional Office

JACK C. RIDDLEMOSER
Attorney at Law
712 East Fairview
P.O. Box 373
Meridian, Idaho 83642

888-1491

February 6, 1992

David R. Tuthill, Jr. P.E.
Idaho Department of Water Resources
Western Region
2735 Airport Way
Boise, ID 83705-5082

RE: Application for Transfer of Water Rights Nos. 65-03103, et al, in the name of Double Diamond, Inc.

Dear Sir:

In the proposed schedule set up for this matter, Double Diamond, Inc., as applicant, was to have its reclamation plan prepared and distributed by January 7, 1992. This was not able to be accomplished by reason of a change in the plan with the State of Idaho. The back-filling of the gravel pit has been completed and the areas involved can now be measured.

Mr. Rumsey advised that they are now in a position to get this plan prepared for this purpose and he is able to start on this right away. He will expedite this as quickly as possible but they are hereby requesting an extension of thirty days or until March 6, 1992 in which to have the plan prepared and distributed. The remainder of the schedule would have to be revised accordingly in view of this extension.

Very truly yours,

JACK C. RIDDLEMOSER
Attorney at Law

JCR/ch

cc Client

cc Richard Eismann

MAR 28 1995

RECEIVED
OCT 29 1991
Department of Water Resources
Western Regional Office

Telephone (208) 467-3100
Facsimile (208) 466-4498

EISMANN LAW OFFICES
3016 CALDWELL BLVD.
NAMPA, IDAHO 83651 - 6416

RICHARD B. EISMANN
DEBRA L. EISMANN

October 28, 1991

DAVID R. TUTHILL, JR., P.E.
MANAGER, WESTERN REGIONAL OFFICE
STATE OF IDAHO DEPARTMENT OF WATER RESOURCES
2735 AIRPORT WAY
BOISE, IDAHO 83705-5082

Re: Application for Transfer: Water Right Nos. 65-3103, 65-10746, 65-12751 by Double Diamond, Inc.
Protestant: George Dovel

Dear Mr. Tuthill:

In response to your letter of October 24, 1991, please be advised that I presently have two first degree murder trials scheduled to begin on January 27, 1992, and to continue through February 21, 1992, or longer if necessary, with pretrial motions and trial preparation in those two cases beginning on January 9, 1992.

Because the two cases mentioned above involve the defense first degree murder charges which could result in death penalties, I simply cannot divert my attention from them barring an extreme emergency.

I would respectfully request that the protestant's response time now set by you for February 18, 1992, be changed to the date of March 2, 1992, and the telephone conference call with all parties moved to March 16, 1992.

If you should have questions or would like to discuss the matter, please contact me.

Thank you for your consideration.

Very truly yours,

Richard B. Eismann
RBE/vn/8
CLT: George Dovel
Jack C. Riddlemoser

MAR 2 6 1995

November 7, 1991

Katy, of Double Diamond, called this morning to record a change in their attorney. Their new attorney is:

Jack Riddlemoser
PO Box 373
Meridian ID 83642

MAR 28 1995

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

October 24, 1991

Jack C. Riddlemoser
Attorney at Law
712 E. Fairview
P.O. Box 373
Meridian, ID 83642

Richard B. Eismann
Eismann Law Offices
3016 Caldwell Blvd.
Nampa, ID 83651-6416

RE: Application for Transfer of Water Rights Nos. 65-03103, et al, in the Name of Double Diamond, Inc.

Gentlemen:

This office has received a request from Mr. Riddlemoser dated October 18, 1991, to extend the due date for the reclamation plan in the above-referenced matter by 60 days beyond the original date of November 7, 1991. The proposal was copied by Mr. Riddlemoser to Mr. Eismann, who submitted a letter dated October 22, 1991. His letter included no objection to the proposal but instead requested that the Department review this matter and advise the parties of a new proposed schedule.

Accordingly, this office proposes the following revised schedule in this matter:

Reclamation plan is prepared by applicant and distributed to the Department and the protestant: January 7, 1992

Responses are prepared by the protestant and submitted to the applicant and the Department: February 18, 1992

Department conducts a conference call with attorneys for the applicant and the protestant, to determine need for and date of a hearing: March 3, 1992

If either party objects to this proposed schedule, please advise this office no later than November 7, 1991. If no objection is received, the proposed schedule will become the active schedule without further notice.

Sincerely,

David R. Tuthill, Jr., P.E.
Manager, Western Regional Office

MAR 28 1995

RECEIVED
OCT 23 1991
Department of Water Resources
Western Regional Office

EISMANN LAW OFFICES
3016 CALDWELL BLVD.
NAMPA, IDAHO 83651 - 6416

Telephone (208) 467-3100
Facsimile (208) 466-4498

RICHARD B. EISMANN
DEBRA L. EISMANN

October 22, 1991

DAVID R. TUTHILL, JR., DIRECTOR
STATE OF IDAHO DEPARTMENT OF WATER RESOURCES
2735 AIRPORT WAY
BOISE, IDAHO 83705

Re: Application for Transfer: Water Right No. 65-3103.
65-10746, 65-12751
Applicant: Diamond, Inc.
Protestant: George Dovel

Dear Mr. Tuthill:

I have received a copy of the letter dated October 18, 1991, sent to you by Attorney Jack C. Riddlemoser regarding the above application for transfer and the extension of time given to Double Diamond to file a reclamation plan on the gravel pit area.

I would suggest that you now review this matter in view of that delay and send letters to Mr. Riddlemoser and myself with the schedule you now propose with which each party is to comply and with what each party is to do by that proposed schedule.

If you should have questions, please contact me.

Thank you.

Very truly yours,

Richard B. Eismann
RBE/vn/8
CLT: George Dovel
Jack C. Riddlemoser

JACK C. RIDDLEMOSER
Attorney at Law
712 East Fairview
P.O. Box 373
Meridian, Idaho 83642

888-1491

RECEIVED
OCT 21 1991
Department of Water Resources
Western Regional Office

October 18, 1991

David R. Tuthill, Jr., P.E.
State of Idaho
Department of Water Resources
2735 Airport Way
Boise, ID 83705

RE: APPLICATION FOR TRANSFER OF WATER RIGHT NO. 65-3103, 65-10773, 65-10746, and 65-12751 in the name of Double Diamond, Inc.

Dear Sir:

At the preliminary hearing held on the above transfers on September 19, 1991, Double Diamond was given until November 7, 1991, to file a reclamation plan on the gravel pit area. Since that time there has been a change in the proposed reclamation plan which has to be approved by the State Land Board. By reason of this fact, it is not going to be possible to have the reclamation plan available by November 7 and Mr. Rumsey is requesting a 60 day extension to get this matter completed.

The proposal under discussion at this time is to back fill to grade the south part of the pit to the extent of the material available, and to leave the balance as a gravel pit.

If this can be approved and accomplished, Double Diamond will be amending its application for the transfer of these water rights, but the exact amendment cannot be known until acreage is known of the filled area.

By reason of these facts and circumstances, the request for the 60 day extension is justified. We will look forward to hearing from you on this matter.

Very truly yours,

JACK C. RIDDLEMOSER
Attorney at Law
JCR/nr
cc Client
Richard Eismann, Attorney at Law

MAR 28 1995

Conference Notes
Application for Transfer of Water Rt Nos. 65-03103 et al
by Conf Officer: D. Tuthill
9/19/1991 10:00 am

Applicant -

Proposes that rights be changed as shown in ggg.

Protestant

Any measurement of ditch loss in the 2.5 mile ditch?
Not aware of any
In sections 23 & 26, 90% wheel lines
7 wheel lines + Undetermined no of hand lines
pressure is normally 50-60 lb near the booster pump - there was a pressure gauge for some time.

Concerns of protestant:

1. An increase to 191 inches will injure the rights of junior water rights
2. Wants to look at gravel pit agreement
3. Plan as to how junior rights only would be used on senior lands only.

RECEIVED
MAR 28 1995

Additional Info Req'd of Applicant

1. Agreement between State & Applicant re: gravel pit
2. Plan for delivery

Plan due: 7 November

Response: Objection 16 December
from Protestant

Order by Dept setting hearing date Mid Feb
(use conf call w/ Eismann & Riddlemoser)

DNR

RECEIVED
MAR 28 1995

Re: Double Diamond Inc. Transfer #65-3103, 65-10773, 65-10746, 65-12751

Place: ID Dept. of Water Resources, 1301 N. Orchard, Boise, ID

Date: September 19, 1991

Hearing conducted by: David R. Tuthill, Jr.

ROSTER OF ATTENDANCE

Name	Address	Representing
George Dovel	Rt 1, Box 61 Horseshoe Bend, ID 83629	Dovel/Wallace Ranch
Dale Russell	Horseshoe Bend Id 83629	Double Dia. Ranch
Don Keen	Horseshoe Bend Id 83629	Double Diamond Ranch
Glen Cockrum	RT 1 Box 54 Horseshoe Bend	Double Diamond
Ward Burgess	HORSESHOE BEND	DOUBLE DIAMOND
Jack Riddlemoser	Meridian	Double Diamond
Richard B. Eisman	Nampa	Geo. Dovel

RECEIVED
MAR 26 1995

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR)
)
TRANSFER OF WATER RIGHTS NOS.)
)
65-3103, 10773, 10746 AND 12751 IN)
)
THE NAME OF DOUBLE DIAMOND, INC.)

CHANGE OF
CONFERENCE DATE

Pursuant to a request by the applicant, the date of the conference in the above-referenced matter is hereby changed from Wednesday, August 21, 1991, to Thursday, September 19, 1991. The time and place of the conference remain the same, as 10:00 a.m., in the Upstairs Conference Room, Department of Water Resources, 1301 N. Orchard St., Boise, Idaho 83706.

David R. Tuthill Jr.

DAVID R. TUTHILL, JR., P. E.
Manager, Western Regional Office

I hereby certify that on the 9th day of August, 1991, I mailed a true and correct copy, postage prepaid, of this document to the applicant(s) and protestant(s) listed:

Sue Taylor

Sue Taylor
Secretary

Certified Mail

Double Diamond Inc.
c/o Donald Rumsey
200 Sunrise Rim
Boise, ID 83705

George Dovel
Route 1 Box 61
Horseshoe Bend, ID 83629

Non-Certified

Jack C. Riddlemoser, Esq.
712 E. Fairview
P.O. Box 373
Meridian, ID 83642

MAR 28 1995

JACK C. RIDDLEMOSER
Attorney at Law
712 East Fairview
P.O. Box 373
Meridian, Idaho 83642

888-1491

RECEIVED
AUG 05 1991
Department of Water Resources
Western Regional Office

August 2, 1991

David R. Tuthill, Jr., P.E.
Idaho Department of Water Resources
2735 Airport Way
Boise, ID 83705

RE: APPLICATION FOR TRANSFER OF WATER RIGHTS AFFECTING DOUBLE DIAMOND, INC.

Dear Sir:

Enclosed herewith is Motion to Reset Conference on the application of Double Diamond, Inc., to transfer certain water rights. The conference is heretofore set for August 21, 1991, and Mr. Rumsey is not available at that time.

We will look forward to receiving notice of the new date as soon as possible.

Very truly yours,

JACK C. RIDDLEMOSER
Attorney at Law

JCR/nr

Enc.

cc Client

RECEIVED
MAR 28 1995

JACK C. RIDDLEMOSER
Attorney at Law
712 East Fairview Avenue
P.O. Box 373
Meridian, Idaho 83642
Telephone: (208) 888-1491

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR TRANSFER OF WATER RIGHTS NOS. 65-3103, 10773, 10746, AND 12751 IN THE NAME OF DOUBLE DIAMOND, INC.	MOTION TO RESET CONFERENCE

COMES NOW, DOUBLE DIAMOND, INC., by and through its attorney, Jack C. Riddlemoser, and moves for a resetting of the conference on the above entitled matter heretofore set for August 21, 1991. This motion is made for the reason that Donald Rumsey, President of Double Diamond, Inc., is not available on August 21, 1991, and will not be available until after September 10, 1991.

This motion makes the request that the conference on the above entitled matter be reset for a date after September 16, 1991.

DATED this 2nd day of August, 1991.

JACK C. RIDDLEMOSER
Attorney for Double Diamond, Inc.

RECEIVED
AUG 28 1995

I hereby certify that on the 2nd day of August, 1991, I mailed a true and correct copy, postage prepaid, of this document to:

GEORGE DOVEL
Rout 1, Box 61
Horseshoe Bend, ID 83629

JACK C. RIDDLEMOSER

MAR 2 8 1995

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR TRANSFER OF WATER RIGHTS NOS. 65-3103, 10773, 10746 AND 12751 IN THE NAME OF DOUBLE DIAMOND, INC.	NOTICE OF CONFERENCE

On March 19, 1991, Double Diamond, Inc. filed with the Department of Water Resources an application to transfer the point of diversion and place of use of water rights nos. 63-3103, 63-10773, 63-10746 and 63-12751. The application was protested by George Dovel.

The Department has set the matter of protest for a conference on Wednesday, August 21, 1991, at 10:00 a.m., in the Upstairs Conference Room, Department of Water Resources, 1301 N. Orchard St., Boise, Idaho 83706. The conference will be held in accordance with provisions of Chapters 2 and 17, Title 42, and Chapter 52, Title 67, of the Idaho Code, the adopted Rules of Practice and Procedure of the Department of Water Resources, and Rules 4 and 5 of the adopted Rules and Regulations of Water Appropriation of the Department of Water Resources. Opportunity shall be afforded all parties to respond and present information and argument on all issues involved.

Dated this 23rd day of July, 1991.

David R. Tuthill, Jr.

DAVID R. TUTHILL, JR., P.E.

MAR 28 1995

I hereby certify that on the 24th day of July, 1991, I mailed a true and correct copy, postage prepaid, of this document to the applicant(s) and protestant(s) listed:

Sue Taylor
Secretary

Certified Mail

Double Diamond Inc.
c/o Donald Rumsey
200 Sunrise Rim
Boise, ID 83705

George Dovel
Route 1, Box 61
Horseshoe Bend, ID 83629

MAR 28 1995

CONFERENCE INFORMATION
IN THE MATTER OF APPROVAL OF AN PROPOSED TRANSFER

In accordance with Idaho Code, Section 42-222, the following issues are involved in the consideration of the application and protest:

1. Will the proposed transfer, if approved, injure other water rights?

2. Will the proposed transfer, if approved, constitute an enlargement in use of the original right?

3. Is the proposed transfer in the local public interest as defined in Section 42-203A, Idaho Code?

Any party may request in writing five (5) days before any hearing that the oral proceedings thereof be taken in the form of stenographic notes at the expense of the requesting party. Any party may have such stenographic notes of the oral proceedings, or part thereof, transcribed at his own expense. A taped record of the proceedings will be maintained for the appeal period.

If the hearing is conducted by a hearing officer appointed by the Director, rather than the Director himself, a proposed decision will be submitted to the parties and the parties may be afforded an opportunity to file exceptions to the proposed decision and present briefs and oral arguments to the Director prior to the issuance of a final decision by the Director. This procedure is required by Idaho Code, Section 42-1701A.

The parties by written stipulation may waive their right to a proposed decision, however, the failure of either party to waive a proposed decision will not prejudice the Director's review of a party's evidence and arguments. However, such a waiver will shorten the decision-making process and may expedite substantially the issuance of a final decision. Whether compliance with Section 42-1701A is waived will not affect a party's right to petition for a rehearing of the final decision pursuant to Rule 11 of the Department's Rules of Practice and Procedure or affect a party's right to appeal the final decision to the district court.

Failure to appear at the time and place set for hearing by the applicant(s) or protestant(s) may allow the Department to dismiss without prejudice the protests or the application. Any and all cost incurred by reason of such non-appearance may be assessed against such non-appearing parties.

MAR 28 1995

X-fer

Application No. 65-3103
65-10773
65-10746
65-12751

SPECIAL NOTE: _____

PROTEST INFORMATION SHEET

Protestant - Name(s)

George Dovel

Address Rt. 1 Box 61, Horseshoe Bend, ID

Attorney - Name & Address _____

Date Filed 3-19-91 Protest Date 4-22-91

Issues _____

Applicant - Attorney - Name & Address _____

Dates: _____

Acknowledgement letters: 4-22-91

Hearing Notice: _____

Hearing Date: _____

Other: _____

MAR 26 1991

Protest Information submitted in Computer (following hearing): _____

Route 1, Box 61
Horseshoe Bend, ID 83629
April 18, 1991

RECEIVED
APR 18 1991
Department of Water Resources
Western Regional Office

R. Keith Higginson, Director
Idaho Department of Water Resources
Western Region
2735 Airport Way
Boise, Idaho 83705

Re: Application for transfer of water rights 65-03104, 65-10773, 65-10746 and 65-12751

HAND DELIVERED

Dear Sir:

I herewith protest approval of the four above referenced applications for transfer of Double Diamond, Inc. Porter Creek water rights for the following reasons:

1. Other Porter Creek water rights will be injured by the transfer.

2. The proposed changes constitute an enlargement in the use of all of the rights.

3. The proposed change will conflict with the local public interest.

4. Portions of all four of the abovelisted rights have not been used and should, therefore, be declared forfeited.

I herewith respectfully request that a hearing be scheduled by the department to afford me the opportunity to present testimony by myself and other witnesses, as well as evidence supporting the validity of my reasons for this protest.

Thank you.

Sincerely,

George Dovel

George Dovel

CLT - Richard Eismann

RECEIVED
MAR 28 1995

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region, 2735 Airport Way, Boise, Idaho 83705 - (208) 334-2190

CECIL D. ANDRUS
GOVERNOR
R. KEITH HIGGINSON
DIRECTOR

April 19, 1991

George Dovel
Route 1, Box 61
Horseshoe Bend, ID 83629

Re: Application for Transfer of Water Right No. 65-3103, 65-10773, 65-10746 & 65-12751 in the name of Double Diamond, Inc.

Dear Protestant:

This office acknowledges receipt of your protest to the approval of the above-referenced application for transfer. The Department suggests that you contact the applicant directly in an effort to determine what is proposed by the application in an attempt to resolve the protest.

If this office has not been advised within twenty (20) days that the protest has been resolved, the matter will be scheduled for a conference or a hearing.

The following are the principle items we can consider at a conference and/or hearing in either approving or denying an application for transfer:

1. Are other water rights injured by the transfer?

2. Does the change constitute an enlargement in the use of the original right?

3. Will the proposed change conflict with the local public interest?

4. Will the proposed use be contrary to conservation of water resources within the state of Idaho?

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

Sincerely,

David R. Tuthill

DAVID R. TUTHILL, JR., P.E.
Manager, Western Regional Office

DRT:st

cc: State Office

MAR 2 8 1991

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region, 2735 Airport Way, Boise, Idaho 83705 - (208) 334-2190

CECIL D. ANDRUS
GOVERNOR
R. KEITH HIGGINSON
DIRECTOR

April 19, 1989

Double Diamond, Inc.
c/o Donald Rumsey
200 Sunrise Rim
Boise, ID 83705

Re: Application for Transfer of Water Rights Nos. 65-3103, 65-10773, 65-10746 & 65-12751

Dear Mr. Rumsey:

Enclosed please find a copy of the protest(s) filed against the above-referenced application. You should be aware that the following are the items we can consider at a conference in either approving or denying an application for transfer:

1. Are other water rights injured by the transfer?
2. Does the change constitute an enlargement in the use of the original right?
3. Will the proposed change conflict with the local public interest?
4. Will the proposed use be contrary to conservation of water resources within the state of Idaho?

The Department suggests you contact the applicant(s) directly in an effort to determine what is proposed by the application and to attempt to resolve the protest.

If this office has not been advised within twenty (20) days that the protest has been resolved, the matter will be scheduled for conference. At the conference, the Department will review possibilities for resolution of the protest. If the matter cannot be resolved at that time, a formal hearing will be arranged for a future date.

If we may be of assistance, please contact us.

Sincerely,

David R. Tuthill Jr.

DAVID R. TUTHILL, JR., P.E.
Manager, Western Regional Office

DRT:st

MAR 28 1989

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region, 2735 Airport Way, Boise, Idaho 83705 - (208) 334-2190

CECIL D. ANDRUS
GOVERNOR
R. KEITH HIGGINSON
DIRECTOR

February 21, 1991

MAR 19 1991

Idaho Dept of Water Resources
Western Regional Office

Double Diamond, Inc.
C/O Mr. Donald Rumsey
200 Sunrise Rim
Boise, ID. 83705

Re: Application for Transfer of Porter Creek Right Nos. 65-03103, 65-10773, 65-10746, 65-12751 (District Right Nos. 1, 4, 12, 15)

Dear Mr. Rumsey:

Enclosed is a transfer application to provide senior Porter Creek rights for 64 acres north of the creek and a mixture of senior and junior rights for 215 acres on the irrigated land south of the creek and across the river from Horseshoe Bend. For the estimated 56 acres in the gravel pit, 41 acres are proposed under junior rights and the remainder will be covered by a senior right, right no. 65-10773 or #4 in the water district terminology. The transfer application represents the maximum use of senior rights from your upstream diversion in Section 7 and minimizes the use of senior rights within the gravel pit area in Section 26.

I prepared the application based on information provided to me by Mr. A. Madarieta during his visit on your behalf on 6/27/90. Because right 65-12751 was licensed on 2/15/91, the transfer application can now be filed. Please review the document and answer items 6b on page 2 and A2 on pages 3, 5, 7, and 9 (show proof of ownership of all land involved). A notarized signature and your title are needed on page 12. The application fee is $50.

One complication related to the transfer application already exists. The #1 diversion headgate in Section 12 has not been replaced with a suitable headgate as discussed in my letter to you dated 8/27/90. My site visit yesterday confirmed that the headgate has not been repaired or replaced. The **Watermaster will not deliver any water to the diversion in Section 12 until this requirement is met.** This could jeopardize the transfer application.

I sent a copy of this letter to Mr. C. Cockrum due to the headgate matter. Please let me know if additional help is needed.

Sincerely,

Steve Lester
Sr. Water Resource Agent

Enclosure: Transfer Application
CC: Mr. C. Cockrum
Water District 65-B Files

NOTICE OF PROPOSED CHANGE OF WATER RIGHT

No. 65-03103 65-10773
65-10746 65-12751

Notice is hereby given that Double Diamond Inc, c/o Donald Rumsey of Boise, ID has applied to the Department of Water Resources for a change of point of diversion & place of use of the water of Porter Creek, tributary to the Payette River.

The right~~s~~ sought to be changed ~~is~~ are evidenced by ~~Payette River~~ Decree ~~nos. 65-03103,~~ and ~~65-10773, 65-10746, &~~ license ~~65-12751~~ and ~~is~~ are recorded as follows:

Amount: _____ Priority: _____

Point(s) of Diversion: _____

The water is used for _____ purposes _____

_____

_____

See attached table.

TO BE CHANGED AS FOLLOWS

Amount: _____

Point(s) of Diversion: _____

The water will be used for _____ purposes _____

_____

_____

Any protest against approval of the proposed change of water right application must be filed with the Department of Water Resources, Statehouse, Boise, ID 83720 on or before _____.

R. Keith Higginson
Director

Published in the _____

on _____ and _____

MAR 28 1995

DOUBLE DIAMOND TRANSFER SUPPLEMENTAL TABLE

AS RECORDED

RIGHT NO.	AMT(cfs)	PRIORITY	POINT OF DIVERSION	USED FOR	PLACE OF USE	TOTAL ACRES
65-03103	3.82	1-1-1872	NWSE Sec 12 7N 2E	IRRIG	SWSE Sec23 NE1/4,NWSE, E1/2NW1/4 Sec 26 7N 2E	193
65-10773	0.92	6-1-1900	SWNW Sec 7 7N 3E	IRRIG STOCKWATER	SWNE,NWSE Sec 12 7N 2E	45
65-10746	0.44	4-1-1960	NWSE Sec 12 7N 2E	IRRIG	NESE Sec23 NENE,NESW Sec 26 7N 2E	22
65-12751	0.31	10-22-1985	SWNW Sec 7 7N 3E	IRRIG	SENE Sec12 7N 2E	19
						279 acres total

CHANGED AS FOLLOWS

RIGHT NO.	AMT(cfs)	PRIORITY	POINT OF DIVERSION	USED FOR	PLACE OF USE	TOTAL ACRES
65-03103	3.82	1-1-1872	NWSE Sec 12 7N 2E SWNW Sec 7 7N 3E	IRRIG	S1/2NE1/4, NWSE Sec12 SESW, SWSE Sec 23 NE1/4, E1/2NW1/4, NWSE Sec26 7N 2E	193
65-10773	.92	6-1-1900	NWSE Sec 12 7N 2E SWNW Sec 7 7N 3E	IRRIG STOCKWATER	SENE Sec12 NWSE Sec23 N1/2NE1/4, NESW, NWSE Sec 26 7N 2E	45
65-10746	.44	4-1-1960	NWSE Sec 12 7N 2E	IRRIG	SWNE, NENW Sec 26 7N 2E	22
65-12751	.31	10-22-1985	NWSE Sec 12 7N 2E	IRRIG	E1/2NW1/4, NWSE Sec26 7N 2E	19
						279 acres total

8 1995

NOTICE OF PROPOSED CHANGE OF WATER RIGHT
NO. 65-03103, 65-10773, 65-10746, 65-12751

Notice is hereby given that Double Diamond Inc., C/O Donald Rumsey of Boise, Idaho has applied to the Department of Water Resources for a change of point of diversion and place of use of the water of Porter Creek, tributary to the Payette River. The rights sought to be changed are evidenced by Decree and License and are recorded as follows:

Right	AMT(cfs)	Priority	Point of Diversion	Used For	Place of Use	Total Acres
65-03103	3.82	1-01-1872	NWSE S.12 T7N R2E	Irrigation	SWSE S.23 NE1/4, NWSE, E1/2NW1/4 S.26 T7N R2E	193
65-10773	0.92	6-01-1900	SWNW S.7 T7N R 3E	Irrigation Stockwater	SWNE, NWSE S.12 T7N R2E	45
65-10746	0.44	4-01-1960	NWSE S.12 T7N R2E	Irrigation	NESE S23 NENE, NESW S26 T7N R2E	22
65-12751	0.31	10-22-1985	SWNW S.7 T7N R3E	Irrigation	SENE S12 T7N R2E	19
					TOTAL ACRES	279

---- CHANGED AS FOLLOWS ----

Right	AMT(cfs)	Priority	Point of Diversion	Used For	Place of Use	Total Acres
65-03103	3.82	1-01-1872	NWSE S.12 T7N R2E, SWNW S7 T7N R 3E	Irrigation	S1/2NE1/4, NWSE S.12 SESW, SWSE, S.23 NE1/4, E1/2NW1/4, NWSE S.26 T7N R2E	193
65-10773	.92	6-01-1900	NWSE S.12 T7N R2E, SWNW S.7 T7N R3E	Irrigation Stockwater	SENE S.12 NWSW S.23 N1/2NE1/4, NESW, NWSE S.26 T7N R2E	45
65-10746	.44	4-01-1960	NWSE S.12 T7N R2E	Irrigation	SWNE, NENW S.26 T7N R2E	22
65-12751	.31	10-22-1985	NWSE S.12 T7N R2E	Irrigation	E1/2NW1/4, NWSE S.26 T7N R2E	19
					TOTAL ACRES	279

Any protest against approval of the proposed change of water right application must be filed with the Department of Water Resources, Western Region, 2735 Airport Way, Boise, Idaho 83705 on or before April 22, 1991.

R. Keith Higginson
Director

Published in the Idaho World on 4/3 and 4/10/1991.

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MAR 28 1995

GARRICK L. BAXTER
Idaho State Bar No.: 6301
Deputy Attorney General
Idaho Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098
Telephone: (208) 327-7900
Fax: (208) 327-5400

Attorneys for IDWR

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT

OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA	)	**SUBCASE NO.: 65-3103**
	)	(uncontested overlaps: 65-02532A ,65-10749
	)	65-01151, 65-01317, 65-10748, 65-11393A
	)	65-02138, 65-10747, 65-02540, & 65-02869)
	)	
Case No. 39576	)	**STIPULATION TO RESOLVE**
	)	**OBJECTION**
	)	

DESCRIPTIVE SUMMARY

This is a stipulation by and between, the parties herein, George Dovel, DR & J Investments Ltd., and the Idaho Department of Water Resources (IDWR), to the resolution of the objection filed by George Dovel and response filed by DR & J Investments Ltd. as follows:

STIPULATION

In order to resolve the dispute over the above-captioned water right, the Idaho Department of Water Resources (IDWR), DR & J Investments Ltd., (claimant) by its attorney of record, Jack C. Riddlemoser, and George Dovel (the objector), hereby stipulate and agree that:

1. D R & J Investments Ltd. will apply for a transfer of water in the amount of .04 cfs (2 inches of water) and reduce the total acres of the place of use by 1.5 acres for water right number: 65-3103.
2. George Dovel will withdraw and dismiss, with prejudice, his objection and future objections, to subcase no. 65-3103. Further, DR & J Investments Ltd.'s response shall be dismissed.
3. George Dovel will apply for a transfer to DR & J Investments Ltd. of .04 cfs and reduce the place of use for his water right number: 65-22327 by 1.5 acres.
4. George Dovel will install a device to limit the flow of Porter Creek to .04 cfs at the point of diversion for water right number: 65-22327, which point of diversion is described as: Township 07 North, Range 03 East, Section 07, SWNW quarter-quarter.
5. The parties agree that the above-referenced changes will be allowed so long as the change does not increase the total number of irrigated acres.
6. This stipulation and agreement herein is contingent upon the approval by IDWR of the transfer application. By signing this agreement, IDWR does not represent that the transfer will be approved.
7. This settlement and this stipulation have been reached through good faith negotiations for the purpose of resolving legal disputes, including pending litigation, and all parties agree that no offers and/or compromises made in the course thereof shall be construed as admissions against interest or be used in any legal proceeding, and that this agreement is not and shall not be used as precedent for any other claim to a water right.
8. This settlement and this stipulation were entered into and executed voluntarily by all parties in good faith, and without any fraud, misunderstanding, overreaching, misrepresentation, duress, or undue influence whatsoever.

By: _____ Dated: 10/22/02
JACK C. RIDDLEMOSER
Attorney for DR & J Investments, Ltd.

_____

By: George Dovel
GEORGE DOVEL

Dated: Oct. 22, 2002

IDWR Concurrence:

By: _____
GARRICK L. BAXTER
Deputy Attorney General for
IDWR

Dated: 10/22/02

By: _____
~~RON HOWERTON~~ JAN SHURTE
~~Senior Water Right Agent~~ WATER RIGHTS SUPERVISOR

Dated: 10-22-02

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR TRANSFER OF WATER RIGHTS NOS. 65-03103 AND 65-10746 IN THE NAME OF DOUBLE DIAMOND INC.	NOTICE OF CONFERENCE

On March 19, 1991, Double Diamond, Inc. filed with the Department of Water Resources an application for transfer of water rights. The application was protested by George Dovel.

A conference was held on September 19, 1991. The Department has set the matter of protest for a second conference to be held on October 5, 1992, at 10:00 a.m., in the Second Floor Conference Room, Department of Water Resources, 1301 N. Orchard St., Boise, Idaho 83706. The conference will be held in accordance with provisions of Chapters 2 and 17, Title 42, and Chapter 52, Title 67, of the Idaho Code, the adopted Rules of Practice and Procedure of the Department of Water Resources, and Rules 4 and 5 of the adopted Rules and Regulations of Water Appropriation of the Department of Water Resources. Opportunity shall be afforded all parties to respond and present information and argument on all issues involved.

Dated this 14th day of August, 1992.

David R. Tuthill Jr.

DAVID R. TUTHILL, JR., P. E.
Manager, Western Regional Office

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MAR 28 1995

I hereby certify that on the 14th day of August, 1992, I mailed a true and correct copy, postage prepaid, of this document to the applicant(s) and protestant(s) listed:

Sue Taylor
Secretary

Certified Mail

DOUBLE DIAMOND INC
C/O DONALD RUMSEY
200 SUNRISE RIM
BOISE ID 83705

GEORGE DOVEL
ROUTE 1 BOX 61
HORSESHOE BEND ID 83629

- -
- Non-Certified Mail

JACK C RIDDLEMOSER ESQ
712 E FAIRVIEW
PO BOX 373
MERIDIAN ID 83642

RICHARD B EISMANN ESQ
EISMANN LAW OFFICES
3016 CALDWELL BLVD
NAMPA ID 83651-6416

MAR 28 1995

CONFERENCE AND HEARING PROCEDURE

IN THE MATTER OF A PROTESTED APPLICATION FOR PERMIT

In accordance with IDAHO CODE, Section 42-203, the following issues are involved in the consideration of the application and protest(s):

1) Will the proposed use reduce the quantity of water under existing rights?

2) Is the proposed water supply insufficient for the purposes intended?

3) Is the application made in good faith or for delay or speculative purposes?

4) Has the applicant sufficient financial resources with which to complete the proposed project?

5) Will the proposed use conflict with the local public interest?

6) Is the proposed use contrary to conservation of water resources within the state of Idaho?

BURDEN OF PROOF

The Applicant has the initial burden of proof on issues 1,2,3,4,& 6 above, that is, the applicant has the burden of coming forward with evidence for evaluation of those criteria.

The initial burden of proof on issue 5, local public interest, lies with the both the applicant and protestant as to factors which they are most knowledgable and cognizant of. The applicant has the ultimate burden of persuasion with respect to this issue.

PROCEDURE

The procedure normally followed by the department in arriving at a decision on the issues which must be considered is to first hold a conference in the matter and then, if necessary, hold a hearing. If a hearing is held a written decision is issued based on the hearing record.

CONFERENCE

Preliminary to holding a hearing, a pre-hearing conference is held to to familiarize the department and the parties with the matter and to determine if a resolution of the protest(s) is possible without the need for a hearing.

RECEIVED
MAR 28 1995

At the conference the department may formulate and simplify the issues, obtain admissions of fact and of documents which will avoid unnecessary proof, arrange for the exchange of proposed exhibits or prepared expert testimony prior to the hearing, limit the number of witnesses, consolidate the examination of witnesses, and advise the parties of the procedure which will be followed at any subsequent hearing.

HEARING

Any party may request in writing five (5) days before any hearing that the oral proceedings thereof be taken in the form of stenographic notes at the expense of the requesting party. Any party may have such stenographic notes of the oral proceedings, or part thereof, transcribed at his own expense. A taped record of the proceedings will be maintained for the appeal period.

If the hearing is conducted by a hearing officer appointed by the Director, rather than the Director himself, a proposed decision will be issued and the parties will be afforded the opportunity to file exceptions to the proposed decision and present briefs and oral arguments to the Director prior to the issuance of a final decision by the Director. This procedure is required by IDAHO CODE, Section 42-1701A.

The parties by written stipulation, may waive their right to a proposed decision, however, the failure of either party to waive a proposed decision will not predjudice the director's review of a party's evidence and arguments. However, such a waiver will shorten the decision making process and may expedite substantially the issuance of a final decision. Whether compliance with Section 42-1701A is waived will not affect a party's right to petition for a rehearing of the final decision pursuant to rule 11 of the Department's Rules of Practice and Procedure or affect a party's right to appeal the final decision to the District Court.

Under the provisions of the IDAHO CODE, Sections 42-1701A and 67-5215, any court review of the department's decision on appeal shall be confined to the record created before the department.

EXHIBITS

If any party at a hearing intends to present an exhibit to augment the hearing record, such party shall in advance of the hearing, prepare sufficient copies of the exhibit for distribution to all parties at the hearing.

FEB 28 1995

AMENDED APPLICATION FOR TRANSFER OF WATER RIGHT

NO. 65-03103 & 65-10746 & 65-02540 & 65-10747

RECOMMENDATION OF WATERMASTER

I, Henry A. Bernston, watermaster of Porter Creek, of Water District No. 65B, County of Boise, State of Idaho, whose address is 1553 Sunset Dr. Emmett 83617-9584 have read the attached copy of the application for transfer of water right for Double Diamond Inc. (name), and to the best of my knowledge believe the application to be true.

A. I hereby endorse the above numbered Application for Transfer and recommend that the Director of the Department of Water Resources approve the transfer subject to the following conditions: Separate Line From Payette River Pump To Pond, Provisions To Lock Mixed Water To Pond When Water Master on Duty

OR

B. I do not endorse approval of the above numbered Application for Transfer as requested for the following reasons: _____

Dated at Emmett, Idaho, this 02 day of July 19 92

RECEIVED
JUL - 2 1992
Department of Water Resources
Western Regional Office

Henry A Bernston
(signature)

MAR 28 1995

Please use reverse side if needed.

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

June 8, 1992

Mr. Hank Bernsten
Watermaster, Porter Creek Water District
1553 Sunset Drive
Emmett, ID. 83617-9584

RE: Water Use Complaint

Dear Hank:

A complaint was received at this office that George Dovel is irrigating additional lands via a pipe down the stream from his home and also land across the road from his home. On your next visit to the area, please use the district map to see if Mr. Dovel is using water on the land described in his rights. You may need to talk to him to clarify his water use. Let me know if anything improper is found. If everything looks correct, there is no need to contact me.

On another matter, have you had a chance to review the amended transfer application for Double Diamond? If so, please send the completed Watermaster comment form with your recommendation to me as soon as possible.

I contacted the Boise County Treasurer today and was informed that all parties have paid their bills for 1992 and for any previous assessments. No one will be cut off this year due to outstanding bills.

Thanks for your help in these items.

Sincerely,

Steve Lester
Sr. Water Resource Agent

MAR 28 1995

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 – (208) 334-2190

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

May 10, 1992

DAVID P HIRSCHI
HORSESHOE BEND HYDROELECTRIC CO
180 S 300 W SUITE 220
SALT LAKE CITY UT 84101

Re: Application for Transfer No. 65-3103, 65-10773, 65-10746 and 65-12751 in the name of Double Diamond, Inc.

Dear Protestant:

This office acknowledges receipt of your protest to the approval of the above-referenced application for transfer. The following are the principle items we can consider with respect to either approving or denying an application for transfer:

1. Are other water rights injured by the transfer?

2. Does the change constitute an enlargement in the use of the original right?

3. Will the proposed change conflict with the local public interest?

4. Will the proposed use be contrary to conservation of water resources within the state of Idaho?

The Department suggests you contact the applicant(s) directly in an effort to determine what is proposed by the application and to attempt to resolve the protest.

If this office has not been advised within twenty (20) days that the protest has been resolved, the matter will be scheduled for conference. At the conference, the Department will review possibilities for resolution of the protest. If the matter cannot be resolved at that time, a formal hearing will be arranged for a future date.

If we may be of assistance, please contact us.

Sincerely,

David R. Tuthill, Jr.

DAVID R. TUTHILL, JR., P.E.
Manager, Western Regional Office

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

May 10, 1992

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

DOUBLE DIAMOND INC
C/O DONALD RUMSEY
200 SUNRISE RIM
BOISE ID 83705

Re: Application for Transfer No. 65-3103, 65-10773, 65-10746 and 65-12751 in the name of Double Diamond, Inc.

Dear Applicant:

Enclosed please find a copy of the protest(s) filed against the above-referenced application. You should be aware that the following are the items we can consider at a conference in either approving or denying an application for transfer:

1. Are other water rights injured by the transfer?
2. Does the change constitute an enlargement in the use of the original right?
3. Will the proposed change conflict with the local public interest?
4. Will the proposed use be contrary to conservation of water resources within the state of Idaho?

The Department suggests you contact the protestant(s) directly in an effort to determine what is proposed by the application and to attempt to resolve the protest.

If this office has not been advised within twenty (20) days that the protest has been resolved, the matter will be scheduled for conference. At the conference, the Department will review possibilities for resolution of the protest. If the matter cannot be resolved at that time, a formal hearing will be arranged for a future date.

If we may be of assistance, please contact us.

Sincerely,

David R. Tuthill

DAVID R. TUTHILL, JR., P.E.
Manager, Western Regional Office

381395

HORSESHOE BEND HYDROELECTRIC COMPANY
180 South 300 West, Suite 220
Salt Lake City, Utah 84101
Telephone (801) 359-0090
Facsimile (801) 359-0097

RECEIVED
MAY 06 1992
Department of Water Resources
Western Regional Office

May 4, 1992

VIA FACSIMILE

Idaho Dept. of Water Resources
Western Region
2735 Airport Way
Boise, Idaho 83705
Attention: David Tuthill

RE: PROTEST TO NOTICE OF AMENDMENT OF PROPOSED CHANGE OF WATER RIGHT NOS. 65-03103, 65-10773, 65-10746, and 65-12751

Dear Mr. Tuthill:

Horseshoe Bend Hydroelectric Company, a Delaware corporation, hereby protests the proposed Amendment of Proposed Change of Water Right Nos. 65-03103, 65-10773, 65-10746 and 65-12751, applied for by Double Diamond Inc. c/o Donald Rumsey of Boise, Idaho, as published in the Idaho World, Wednesday, April 15, 1992.

The basis of this protest is Horseshoe Bend Hydroelectric Company's desire to determine the effect of this Amendment of Proposed Change on the water rights and diversion rights associated with the Permit to Appropriate Water No. 65-12563, held by Horseshoe Bend Hydroelectric Company in connection with the development of the Horseshoe Bend Hydroelectric Project in Boise County, Idaho.

It is my understanding, based upon our telephone conversation this date, that the Department will accept this protest by facsimile transmission with hard copy to follow by regular mail. Please contact me immediately should you have any questions or comments concerning this letter of protest.

Very truly yours,

David P. Hirschi
Executive Vice President
and General Counsel

MAR 28 1995

DPH:dmy
H/corres

cc: Kenneth W. Bell
Orlin V. Clements, P.E.

Form 222
1-87

Page 1 of 12

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED
MAR 19 1991
Department of Water Resources
Western Regional Office

Transfer No. _____

Replaced with Amended Transfer

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 1

Name of applicant Double Diamond Inc. Phone 336-4801

Post Office address c/o Donald Rumsey 200 Sunrise Rim Boise Id 83705

A. PURPOSE OF TRANSFER

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

2. Describe the reason for the proposed changes Exchange senior & junior Porter Creek rights to maximize efficient use of limited water supply. Currently, 56 acres covered by 65-03103 & 65-10746 are not irrigated due to gravel pit excavation related to Hwy 55 construction on Horseshoe Bend highway. Appurtenant water can be relocated to owner's benefit. Transfer also clarifies water right record error in S23 LOTS 4 & 5 (see Attachment A, memo of 6/28/90).

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

1.

Right Number	Priority	Amount (cfs/ac-ft)	Nature of Use	Period of Use
(1) 65-03103	1-1-1872	3.82 cfs	Irrigation	4-1 to 11-1
(4) 65-10773	6-1-1900	.90 cfs .02 cfs	Irrigation Stockwater	4-1 to 11-1 1-1 to 12-31
(12) 65-10746	4-1-1960	.44 cfs	Irrigation	4-1 to 11-1
(15) 65-12751	10-22-1985	.31 cfs	Irrigation	4-1 to 11-1

(water district rank #)

2. Total amount of water being transferred 5.49 cubic feet per second and/or _____ acre-feet per annum.

3. Source of water Porter Creek tributary to Payette River

4. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
		NW	SE	12	7N	2E	Boise	FOR ALL 4 Rights
02		SW	NW	07	7N	3E	Boise	FOR 65-03103 (1) AND 65-10773 (4)

5. Lands irrigated or place of use: ALL ARE UNIQUE ACRES

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals	
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼		
7N	2E	12			33	7										12			52	(1) 65-03103
		23												2.5 8			2.3 31		39	193
		26	13	30	26	3	2.1 13			2.2 5						12			102	
7N	2E	12				12													12	(4)
		23		10 gravel pit			(4 of these acres				10 gravel pit					2.4 2			2	45 65-10773
		26	11	10							2.3 9					1			31	
7N	2E	26			13		2.3 9								10 gravel pit				22	(12) 65-10746
7N	2E	26					2.1 1			2.2 19						1			19	(15) 65-12751

10 gravel pit

Total acres 279

PART 1

6. General Information:

a. Description of diversion system S. 7: headgate, pipeline with flowmeter, booster pump; S. 12: diversion dam, headgate, 3 ft. C. pollette weir & staff gauge, ditch to pipeline; all for sprinkler irrigation.

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

c. Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer:

56 acres in S. 26 are not irrigated & will not be until gravel pit project is complete and land is restored to agricultural use. Transfer will provide senior rights ① & ④ for land in S. 12 and will switch use right ④ for jr. right ⑫ in S. 23 & 26. Junior rights ⑫ & ⑮ will include 41 of the 56 acres not in irrigation. Balance of non-irrigated land will be covered by right ④.

d. Remarks:

Other rights on gravel pit land are Payette River rights 65-06254 & 65-10747. The appropriate portions of these rights will not be used as long as gravel pit operates (anticipate less than 5 years) & thus do not need to be transferred (lack of use prevents expansion).

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

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

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

Witness my hand this _____ day of _____, 19____.

_____

MAR 28 1995

 Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:
   a. Decree No. 65-03103 Decreed to Double Diamond Inc.
   in case of State of Idaho vs. A & C Corp, ET AL.
   dated 1/21/1986 in 3rd Judicial Dist. county of Gem
   b. License No. _____ issued by the Idaho Department of Water Resources.
   c. Claim No. _____ on file with the Idaho Department of Water Resources.
   d. Transfer No. _____ which produced this right.
2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below: ATTACHMENT C
   ☑ Tax Notice ☐ Warranty Deed ☐ Other _____
3. Source of water Porter Creek tributary to Payette River
4. Date or priority 1/1/1872
5. Water is used for the following purpose:
   amount 3.82 cfs (cfs/ac-ft) for Irrigation purposes from 4/1 to 11/1
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
6. Total amount of water under right 3.82 cubic feet per second and/or _____ acre-feet per annum.
7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
		NW	SE	12	7N	2E	Boise	same diversion as 65-10746

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	2E	23															4.5 39		39
		26	13	40	39	3	4.1 23			4.2 22						14			154

MAR 29 1995

Total acres 193

9. Describe any other water rights used for the same purpose as described above 65-02540, 65-10747 (both Payette River source)

PART 2

Transfer No. _____

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?

NO If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED N/A

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

Total acres _____

C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT *(omit if there is no change)* N/A

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

MAR 2 6 1995

Total acres _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:
   a. Decree No. 65-10773 Decreed to Arlie L. Woods
   in case of State of Idaho vs. A & C Corp., Et Al.
   dated 1/2/1986 in 3rd Judicial Dist. county of Gem
   b. License No. _____ issued by the Idaho Department of Water Resources.
   c. Claim No. _____ on file with the Idaho Department of Water Resources.
   d. Transfer No. _____ which produced this right.
2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below: ATTACHMENT C
   ☒ Tax Notice ☐ Warranty Deed ☐ Other Woods Authorization
3. Source of water Porter Creek tributary to Payette River
4. Date or priority 6/1/1900
5. Water is used for the following purpose:
   amount .90 cfs for Irrigation purposes from 4/1 to 11/1
   (cfs/ac-ft)
   amount .02 cfs for Stockwater purposes from 1/1 to 12/31
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)
6. Total amount of water under right .92 cubic feet per second and/or _____ acre-feet per annum.
7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
02		SW	NW	07	7N	3E	Boise	Same diversion as 65-12751

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	2E	12			33											12			45
					S											S			

Total acres 45

9. Describe any other water rights used for the same purpose as described above NONE

PART 2

Transfer No. _____

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?

NU If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED N/A

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

Total acres _____

C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT *(omit if there is no change)* N/A

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

APR 28 1995

Total acres _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:
   a. Decree No. 65-10746 Decreed to Double Diamond Inc.
   in case of State of Idaho vs. A & C Corp., Et Al.
   dated 1/21/1986 in 3rd Judicial Dist. county of Gem
   b. License No. _____ issued by the Idaho Department of Water Resources.
   c. Claim No. _____ on file with the Idaho Department of Water Resources.
   d. Transfer No. _____ which produced this right.
2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below: ATTACHMENT C
   ☑ Tax Notice ☐ Warranty Deed ☐ Other _____
3. Source of water Porter Creek tributary to Payette River
4. Date or priority 4/1/1960
5. Water is used for the following purpose:
   amount .44 cfs for Irrigation purposes from 4/1 to 11/1
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)
6. Total amount of water under right .44 cubic feet per second and/or _____ acre-feet per annum.
7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
		NW	SE	12	7N	2E	Boise	same diversion as 65-03103

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	2E	23													2.4 2				2
		26	11								2.3 9								20

Total acres 22

9. Describe any other water rights used for the same purpose as described above 65-02540, 65-10747, 65-10749 (all Payette River Sources)

PART 2

Transfer No. _____

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

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED N/A

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

Total acres _____

C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT *(omit if there is no change)* N/A

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

APR 28 1995

Total acres _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

   a. Decree No. _____ Decreed to _____

   in case of _____ vs. _____

   dated _____ in _____ county of _____

   b. License No. 65-12751 issued by the Idaho Department of Water Resources.

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

   d. Transfer No. _____ which produced this right.

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

   ☑ Tax Notice ☐ Warranty Deed ☐ Other _____

3. Source of water Porter Creek tributary to Payette River

4. Date or priority 10/22/1985

5. Water is used for the following purpose:

   amount .31 cfs for Irrigation purposes from 4/1 to 11/1
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)

6. Total amount of water under right .31 cubic feet per second and/or 66.5 acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
02		SW	NW	07	7N	3E	Boise	Same diversion as 65-10773

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7N	2E	12				.19													.19

MAR 28 1995

Total acres .19

9. Describe any other water rights used for the same purpose as described above NONE

PART 2

Transfer No. _____

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

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED N/A

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

Total acres _____

C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT *(omit if there is no change)* N/A

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

Total acres _____

 Transfer No. _____

PART 3

B. CHANGES IN NATURE OF USE N/A

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

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

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

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

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

Donald Russell
(Signature of Applicant)

Subscribed and sworn to before me this FOURTH day of MARCH, 19 91.

Catherine M. Kayte
(Notary Public)

My commission expires 4/14/94

FOR DEPARTMENT USE ONLY

Transfer contains 12 pages and 3 attachments

Received by SL Date 3/19/91 Protest filed by _____

Prelim. check by CJH Fee $50

Receipted by SL Date 3/19/91 #W013123

Published in ID World Copies of protest forwarded by _____

Pub. dates 4/3 & 4/10/91 Hearing held by _____ Date _____

Watermaster recommendation requested on _____ Recommended for ☐ approval ☐ denial

_____ rec'd. _____ by _____

Copy of transfer sent to lien holder _____

MAR 28 1995

 Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 3

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

See attached orthophoto = Attachment B

RECEIVED
MAR 28 1995

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

MEMORANDUM

TO: Garrick Baxter and Sue Bock

FROM: Steve Lester

DATE: July 31, 2002

RE: Porter Creek Information

Two items from our meeting yesterday regarding watermaster delivery of Porter Creek water needed attention as follows.

1) Did the watermaster lock the field valves when the #1 and/or #2 priority rights were delivered in 2001?

I spoke to the watermaster today. He said he locked the #1 field valve during 2001 deliveries. As usual, this oldest right received water throughout the delivery season.

He said he did not lock the #2 field valve during the delivery period because "#2 received so little water during the critical period." According to his notes, the critical day was August 22 when the watermaster had to curtail rights to ensure delivery to the #1 right. The #2 right was closed that day and remained locked until water availability allowed delivery on the last day of regulation, October 14, 2001. There was no point in locking the #2 field valve for a single day of delivery so late in the season.

The watermaster should have locked the #2 field valve for any 2001 delivery prior to August 22 of that year. Closer communication with IDWR could have ensured this step was completed. I imagine the lack of watermaster activity from 1995 through 2000 (very little or no deliveries) led to some inattention to this field valve requirement last year.

The watermaster has not received delivery calls for 2002 to date.

2) What document authorized the watermaster to lock the above described field valves during delivery periods?

The earliest reference I can locate is IDWR's letter of July 14, 1988. Also see the March 6 and March 9, 1990, references to the same requirement. I could not locate any reference to this in the 1989 information available at Western Region. My conclusion is IDWR required watermaster locks for the two field valves during deliveries beginning in mid-1988. As far as I know, compliance was adequate through active delivery years ending in

1994. The slack years of 1995-2000 have already been mentioned. Active delivery resumed in 2001 with incomplete compliance. And 2002 has yet to see a delivery call. I reminded the watermaster to lock the field valves if he delivers water this year, and he said he would.

Attached are copies of the 1988 and 1990 documents previously mentioned. Please let me know if you need more details in this regard.

ORT 1988
Letter w/ Condition

State of Idaho
DEPARTMENT OF WATER RESOURCES
WESTERN REGION, 2735 Airport Way, Boise, Idaho 83705 • (208) 334-2190

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

July 14, 1988

DISTRIBUTION: Attached Mailing List

RE: Water Distribution on Porter Creek

Dear Interested Party:

On July 6, 1988, I accompanied the Watermaster of Water District 65-B, Porter Creek and tributaries, on an inspection of diversion facilities and water uses from Porter Creek. We made a number of observations and determined that some modifications to the water delivery systems are required. Since the inspection, the watermaster has discussed some of the items with individual waterusers, and some corrections to the system have been made.

The purposes of this letter are to apprise interested parties of the current status of water delivery on Porter Creek and to require that improvements be made to specified diversion systems. Improvements specified in this letter must be completed prior to August 1, 1988. Those not completed by that date are subject to legal action by the Department in conjunction with the Water District. Specific observations are as follows:

7/7/88 ok

1. The pipe that flows into the Double Diamond measuring device at the upper diversion (located in the SW1/4 NW1/4 Sec. 7, T 7 N, R 3 E) appeared to be leaking initially, causing the measuring device to be inundated. However, during the past week the area around the pipe has appeared to be dry so the leak may have ceased. If any leaking resumes the pipe should be corrected accordingly.

ok

2. The diversion system for the Double Diamond first priority water right at the lower diversion (located in the NW1/4 SE1/4 Sec. 12, T 7 N, R 2 E) was leaking at the time of the inspection, but has since been sealed. It is important that this seal be maintained during periods when other water rights are shut off.

ok

3. The headgate for the Double Diamond first priority water right at the lower diversion (located in the NW1/4 SE1/4 Sec. 12, T 7 N, R 2 E) cannot now be regulated and locked. It is important that the watermaster have the capability to regulate this diversion in the same manner as the other diversions on the stream. Thus, a proper, lockable headgate must be installed.

7/2/89 NOT ok will be fixed 7/7 or 7/8

4. Because it is possible to use water from multiple sources on the Double Diamond ranch and the Oliver-Dobson ranch, the irrigators from these ranches must be prepared to demonstrate to the watermaster where water diverted from Porter Creek is being utilized at any time. Pipe connections that mix Porter Creek water with other sources must be valved so that the location of Porter Creek water can be clearly demonstrated. Owners of these ranches must provide the watermaster with a clear and easily read plan to describe how these piping and valve systems are operated. Additionally, she must be allowed to lock any valves that have the potential of diverting water to lands which do not have Porter Creek water rights.

not ok needs attention

5. In the situation where one field is irrigated with water rights of differing priority dates, the wateruser must clearly distinguish the dividing line(s) between the lands irrigated with senior rights and the lands irrigated with junior rights.

6. Pursuant to Section 42-104, Idaho Code, the appropriation of water must be for some useful or beneficial purpose, and when the appropriator or his successor in interest ceases to use it for such purpose, the right ceases. Pursuant to Section 42-916, Idaho Code, any wateruser who wastes water is liable for all damages sustained by any other person, who would have been entitled to the use of such excess water. In a water district with a supply that is as limited as that of Porter Creek, it is imperative that during periods when a wateruser is not able to utilize a senior water right on the lands to which the right is decreed, the water must be immediately made available to junior water rights on the stream, via notification of the watermaster.

The waterusers on Porter Creek are fortunate to have an extremely dedicated and responsive watermaster in Elizabeth (Zippy) Pattee. She has already spent a significant amount of time in learning about the water delivery system and the individual water rights. She has demonstrated a willingness to do her part to make Water District 65-B a very well run operation. The items above constitute refinements of the tools that she needs in this effort. Please contact her or this office if you have questions about implementation of these requirements. We will do our best to insure that your water delivery is fair and in accordance with the law.

Sincerely,

David R. Tuthill Jr.

David R. Tuthill, Jr., P.E.
Manager, Western Regional Office

Names and Addresses of
Waterusers and Interested
Parties,
Porter Creek
Water District 65-B

Double Diamond, Inc.
C/O Donald Rumsey
Rt. 1, Box 54
Horseshoe Bend, ID 83629

Arlie L. Woods
Horseshoe Bend, ID 83629

Mary C. Ihrig
Horseshoe Bend, ID 83629

Jack Fry
Horseshoe Bend, ID 83629

George Dovel
Rt. 1 Box 61
Horseshoe Bend, ID 83629

Everett K. Allen
Cascade, ID 83611

Alfred C. Wolfgram
Margaret I. Wolfgram
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Nampa, ID 83653

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Attorney at Law
Collins & Manly
P.O. Box 2794
Boise, ID 83701

Cleo Cockrum
Rt. 1 Box 54
Horseshoe Bend, ID 83629

Elizabeth Pattee
Watermaster,
Water District 65-B
Gardena, ID 83629

Leo T. Oliver
3357 Osprey Road
Eagle, ID 83616

Steve Dobson
Route 1
Horseshoe Bend, ID 83629

MEMORANDUM

TO: PORTER CREEK WATER DISTRICT MEMBERS
FROM: STEVE LESTER
DATE: MARCH 6, 1990
SUBJ: CONDITIONS FOR WATER DELIVERY

During the past few irrigation seasons, a number of problems occurred throughout parts of the water district. The department has worked with the Watermaster to alleviate these problems. Some progress occurred but room for improvement exists. Please be aware of and prepare for the following items before the upcoming season. Your water delivery may be adversely affected by not meeting the required standards developed during the past few years.

ITEMS TO CONSIDER BEFORE THE WATERMASTER IS CALLED UP FOR THE SEASON AND DURING THE IRRIGATION SEASON:

1. Maintenance of diversions and headgates - be sure that checkdams are in good shape and that leaks are kept to a reasonable minimal amount. Are the headgate and measuring device securely in place and working properly?

2. Lockable headgates - no personal locks will be tolerated. The Watermaster will deliver water to headgates with a Watermaster lock but no other locks. Non-Watermaster locks will be removed and the headgate will be closed by the Watermaster. There are no exceptions to this condition. When water is short, you should be able to irrigate only when the Watermaster opens your headgate and delivers the water.

3. Co-mingled waters on the same land - the Watermaster must have control over Porter Creek water and be assured that the appropriate land receives the appropriate water. One-way valves or locking valves as used last year must be in place and accessible to the Watermaster before water will be delivered. The Watermaster has exclusive control over these valves.

4. Senior and Junior fields - adjacent fields with senior and junior Porter Creek rights must be clearly marked for the Watermaster's benefit. I will be glad to flag the fields again as I did last year. Water cannot be used on these fields, senior or junior, without such flagging.

5. Beneficial use must occur if the Watermaster delivers your water - wasting water is illegal. The Watermaster may close your headgate if beneficial use does not occur.

By preparing for the above situations, some problems will be avoided and the district will work more smoothly. I hope we can work together to make the most out of the available water. Please contact me at 334-2190 if I can help you.

Distributed and discussed at annual district meeting on 3/8/90 -SL

State of Idaho
DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705 - (208) 334-2190

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

March 9, 1990

DISTRIBUTION: Attached Mailing List

RE: Water District Budget and Water Distribution on Porter Creek

Dear Interested Party:

This letter follows the annual water district meeting held yesterday in Horseshoe Bend. Items of discussion included the method of payments for the budget and conditions needed for water delivery by the watermaster. After discussing the situation with the Western Regional Manager, David R. Tuthill, Jr., a letter of clarification became necessary. Two topics are discussed. One concerns the budget process, and the other deals with delivery conditions.

BUDGET AND PAYMENTS

Section 42-614, Idaho Code, establishes the basis for payments by members of a water district. The statute states that payments shall be based on the amounts of water delivered by the watermaster. However, a district may decide to base payments on the amounts of water in the water rights instead of the amounts delivered as long as all district members agree. The total agreement is based on district membership instead of the outcome of the vote at the annual meeting. In other words, the law calls for water delivery budgets, but the unanimous decision by the members will allow water rights budgeting.

The members present yesterday voted unanimously to use the water rights budget method. However, all members were not present. Therefore, funding for the district will be based on the amounts of water in the water rights unless written objections are received at this office by March 26, 1990.

WATER DELIVERY CONDITIONS

Several issues emerged in the past few years that resulted in conditions necessary to allow water delivery by the watermaster. The following items summarize the conditions that are designed to improve the effectiveness of the district. Bear in mind that the watermaster needs controlled situations to be assured of proper water deliveries to users.

1. In order to deliver water, the watermaster needs properly maintained diversions, including checkdams, headgates, locks, and measuring devices. The watermaster and some of the waterusers expressed concerns about the reliability of the Dovel flowmeter for the headgate and pipeline originating in T7N, R3E, S. 7, SWNW. The department will work with the watermaster and Mr. Dovel to calibrate the flowmeter before watermaster deliveries begin this year. Remember that only the watermaster's locks may be used on headgates. There are no exceptions to this lock rule.

2. Because it is possible to use water from multiple sources on the Double Diamond and Oliver-Dobson lands, the irrigators of these lands must be able to show the watermaster where water diverted from Porter Creek is used at any time. Pipe connections that mix Porter Creek and other waters must be valved to easily demonstrate the location of Porter Creek water use. The watermaster must be provided with an easily understood explanation of the operation of pipes and valves that separate water from different sources. Also, the watermaster must be able to lock any valves that are potential points where Porter Creek water can be diverted to lands without Porter Creek water rights. Last year, these points were found in T7N, R2E, S. 2 and 11 for the Oliver-Dobson land and in T7N, R2E, S. 26 for Double Diamond land. The same controls used during the last season should be established in these areas.

3. In a situation where one field is irrigated with water rights of different priority dates, the wateruser must clearly distinguish the dividing line(s) between the land irrigated with senior rights and the acres irrigated with junior rights. In 1989, lines were flagged in T7N, R2E, S. 12, 23, and 26 for Double Diamond acres, and a natural feature, the bluff, was used for land in T7N, R2E, S. 2 and 11 on Oliver-Dobson land.

4. Pursuant to Idaho Code 42-104 and 42-916, water must be used for a beneficial use and water wasting may result in liability for damages caused to a person entitled to the water but denied use due to wasting. In a water district such as Porter Creek with a limited water supply, it is imperative that during periods when a wateruser cannot utilize a senior water right on the lands to which the right is decreed, the water must be immediately made available to junior water rights on the stream by notifying the watermaster. The watermaster will continue with visual inspections of key points to monitor water wasting. One key point is Jackass Creek. Another main point is the Oliver-Dobson diversion box at the end of the ditch in T7N, R2E, S. 11, SENE. Although additional controls are not needed at this time on the box, it will be monitored by the watermaster.

Once again, the waterusers on Porter Creek are fortunate to have Elizabeth (Zippy) Pattee returning as watermaster. She has worked hard to learn about water delivery and water rights. She continues to show a willingness to take the extra steps needed to improve the district. The above conditions will help her deliver your water fairly and effectively. Please contact her or this office (334-2190) if you have questions concerning these or any other items. We will do our best to insure that your water delivery is fair and legal.

Sincerely,

Steve Lester

Steve Lester
Sr. Water Resource Agent

SL:sl

Names and Addresses of
Waterusers and Interested
Parties,
Porter Creek
Water District 65-B

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C/O Donald Rumsey
Rt. 1, Box 54
Horseshoe Bend, ID 83629

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Leo T. Oliver
3357 Osprey Road
Eagle, ID 83616

Steve Dobson
Route 1
Horseshoe Bend, ID 83629

NOTICE OF CHANGE IN WATER RIGHT OWNERSHIP

WITHIN A PERMISSIBLE PLACE OF USE

May 16, 2002

Steve Lester

RIGHT NUMBER	SOURCE	CFS	ACRE LIMIT
65-2858A	Payette River	2.57	141.0
65-3104B	Porter Creek	1.53	86.0
65-3803C	Hill Creek	2.07	91.0
65-9417A	Payette River	0.98	49.0
65-10963	Payette River	3.84	192.0
	Combined Total Acres per year In Permissible Place of Use		**241.1**

Combined rate at field headgate is 0.02 cfs per acre

PROCESS TO RECORD OWNERSHIP CHANGES ("SPLITS") USING IDWR FORM & INFORMATION AS FOLLOWS:

1. Identify number of acres purchased.
2. Split each right with prorated cfs and acre limits.
3. Use the accompanying table to do this.
4. The table can determine splits for a group (homeowners association) and/or for each homeowner's portion of a group's split.

Table of Splits

cfs & ACRE limits per right in split

column → a, b, c (axb), d, e (axd)

RIGHT #	a ACRES bought	b total cfs/ACRES	c (axb) cfs limit for ACRES bought	d ACRES limit fraction	e (axd) irrigation limit for ACRES bought
65-2858A		2.57/141		141/241.1	
65-3104B		1.53/86		86/241.1	
65-3803C		2.07/91		91/241.1	
65-9417A		.98/49		49/241.1	
65-10963		3.84/192		192/241.1	

Split portion of each Right for # ACRES in column a.

cfs limit = column c

irrigation limit per year = column e
(# ACRES this portion of this Right can cover)

Combined portions column c limited to .02 cfs/ACRE at field headgate.

Combined portions column e limited to # ACRES bought.

Results of Splits

Lot i.d. # =

Lot ACRES =

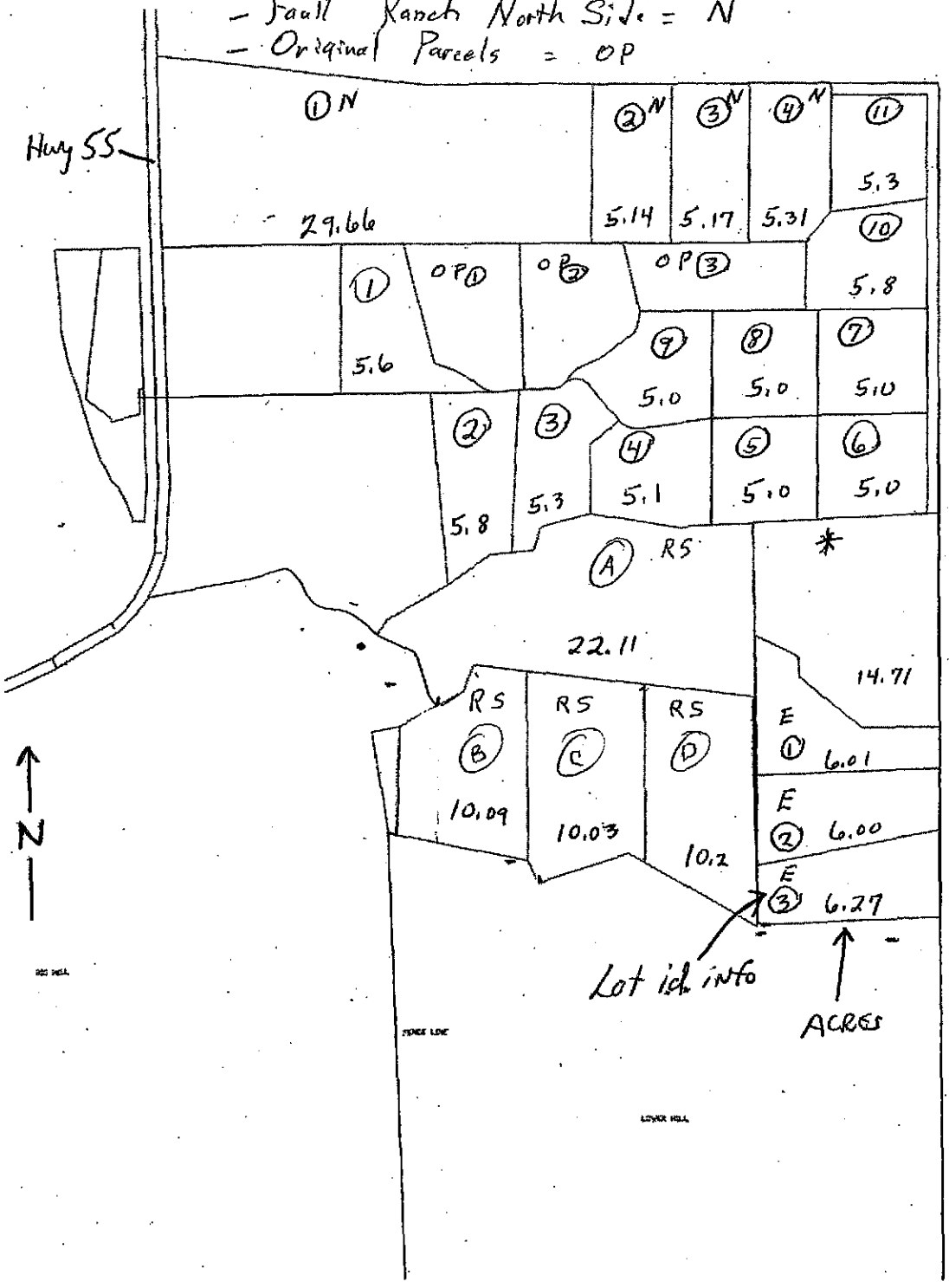
Includes these portions of:

right #	ACRES	cfs	ACRE limit per right
65-2858A			
65-3104B			
65-3803C			
65-9417A			
65-10963			

KEY

- Faull Ranch #1 = (1)
- * Previously split (see 65-28588 etc.)
- Faull Ranch East Side = E
- Faull Ranch North Side = N
- Original Parcels = OP

RS = Record of Survey



SPLits for Faull Ranch development

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR PERMIT NO. 65-12842 AND APPLICATION FOR TRANSFER OF WATER RIGHT NO. 65-03104	SOURCE: Porter Creek TRIBUTARY TO: Payette River
STEVE DOBSON AND/OR TOM OLIVER, Applicants, GEORGE DOVEL, Protestant.	COUNTY: Boise

MEMORANDUM DECISION AND ORDER
APPROVING APPLICATION FOR PERMIT NO. 65-12842
AND APPROVING IN PART APPLICATION FOR TRANSFER
OF WATER RIGHT NO. 65-03104

Steve Dobson and/or Tom Oliver having filed with the Department of Water Resources (Department) Application for Permit No. 65-12842 to appropriate unappropriated water and Application for Transfer of Water Right No. 65-03104; a protest to each application having been received; and a hearing having been held, the Department finds, concludes and orders as follows:

FINDINGS OF FACT

The Application

1. On May 16, 1988, Steve Dobson and/or Tom Oliver (hereinafter applicants) applied to the Department for a permit to appropriate 0.84 cubic feet per second (cfs) of water from Porter Creek tributary to the Payette River to be used for irrigation from April 1 through November 1 annually. The proposed point of diversion is located within the NW1/4SE1/4, Sec. 12, Twp. 7N, Rge. 2E, B.M., and the proposed place of use is 42 acres located within Secs. 2 and 11 of the same township and range. On the same day, the applicants applied

to the Department to change the place of use of decreed water right No. 65-03104 which provides 1.6 cfs (80 miner's inches) for the irrigation of 96 acres. The transfer proposed the removal of irrigation from 6 acres in the NW1/4SW1/4, Sec. 12; 11 acres in Lot 1 (NE1/4NW1/4) and 1 acre in the SE1/4NW1/4, Sec. 11; to be used on 7 additional acres in the NE1/4NE1/4, Sec. 11; 2 acres in the SW1/4SE1/4 and 9 acres in the SE1/4SE1/4, Sec. 2, all in Twp. 7N, Rge. 2E, B.M., Boise County.

2. Notices of the application for permit and the application for transfer were published in the Idaho World on June 1 and 8, 1988.

Protest and Hearing

3. Protests against approval of each of the applications were received by the Department on June 20, 1988 from George Dovel.

4. Attempts to reach a pre-conference settlement were unsuccessful, and on August 23, 1988, a conference was held regarding the protested applications. The applicants and the protestant were present and represented themselves. At the conference all parties agreed to pursue the formulation of a settlement agreement.

5. The parties were unsuccessful in finalizing a settlement agreement regarding the protests, and on January 10, 1989 a hearing was held by the Department in this matter. At the hearing the applicants were present and were represented by Jack Riddlemoser, Esq. The protestant was present and represented himself.

6. The protestant raised objections to the application for permit by alleging that the proposed use is such that:

(a) it will reduce the quantity of water under existing water rights,

(b) the water supply is insufficient for the proposed use, and

(c) the proposed diversion is not in the local public interest.

7. The protestant raised objections to the application for transfer by alleging that the proposed use is such that:

(a) the water right has been forfeited,

(b) approval would result in enlargement of the existing water right,

(c) approval would result in injury to other water rights, and

(d) the proposed transfer is not in the local public interest.

Information Considered

8. The Hearing Officer took official notice of the records of the Department, the files of the two protested applications, and the files of Water District 65-B, Porter Creek. In addition, the testimony provided at the hearing is part of the record, including the following admitted exhibits:

Applicants' Exhibit No. 1.	Photo copy of map of area.
Protestant's Exhibits Nos. 1-14.	Photographs of alleged ditch leakage and alleged crop damage.
Protestant's Exhibit No. 15.	Copy of letter dated May 4, 1988.
Protestant's Exhibit No. 16.	Copy of letter dated June 4, 1988.
Protestant's Exhibit No. 18.	Copies of diary notes.

9. Protestant's Exhibit No. 17, a copy of an unsigned draft agreement with an accompanying copy of a letter, was not admitted by the Hearing Officer.

Findings of Fact Relative to Application for Permit

Existing Water Rights

10. Water District No. 65-B, Porter Creek, was created in 1986 for the purpose of distributing the flows in Porter Creek. Each year there are periods when flows in the creek are insufficient to satisfy water demands. There are senior water rights on Porter Creek with points of diversion both upstream and downstream from the point of diversion proposed in the application.

11. A total of 42 of the 44 acres identified in the application for

permit may also be irrigated from the Payette River under decreed water right No. 65-02858. This additional source of water supply normally provides water for diversion after the flow in Porter Creek diminishes.

Availability of Water

12. Porter Creek is primarily a snowmelt-fed stream which has high rates of flow early in the irrigation season but low rates of flow late in the irrigation season. During most years there are periods when flows in Porter Creek exceed the existing rights thereto and are available for diversion and use. On the other hand, there are periods during each irrigation season when the flow of the creek can fill only the senior irrigation water right on the stream.

Impact on Existing Water Rights

13. Flows diverted under the application will not impact the amount of water available to fill senior water rights on Porter Creek if the watermaster delivers water to the senior water rights in accordance with priority before junior water rights are filled.

Local Public Interest

14. The protestant contends that approval of the application would be a detriment to the local public interest because flows in the conveyance ditch have historically flooded a county road crossed by the ditch. This alleged local public interest concern is applicable to both the application for permit and the application for transfer.

Findings of Fact Relative to Application for Transfer

Validity of the Water Right

15. The protestant alleged that forfeiture of the decreed water right has occurred on the following acres: 6 acres in the NW1/4SW1/4, Sec. 12, 11 acres in Lot 1(NE1/4NW1/4) and 2 acres in the SE1/4NW1/4, Sec. 11, Twp. 7N, Rge.

2E, B.M. Witnesses testified at the hearing that the 6 acres within the NW1/4SW1/4 of Sec. 12 have not been irrigated for more than 5 consecutive years. Testimony by the present and previous two landowners, however, indicated that the specified lands within Sec. 11 have been periodically irrigated within the last 5 years.

16. Water right No. 65-03104 was decreed on January 21, 1986 for the diversion of 1.6 cfs of water for the irrigation of 96 acres with a priority date of January 1, 1883.

17. During the period from October 18, 1977 through January 10, 1989, water was available for diversion from Porter Creek under this water right during at least part of every year.

18. Pursuant to the decree of water rights in the Payette River Drainage Basin, the consumptive irrigation requirement in the Porter Creek vicinity is 2.5 acre-feet per acre per year.

19. The season for irrigation diversions on Porter Creek typically begins in May and lasts through September.

20. Testimony from both the applicant and protestant indicated the full rate of 1.6 cfs of water has been diverted by the applicants when the water has been available.

21. The duty of water in the Payette River Drainage is generally based on not more than 0.02 cfs per acre with consideration for reasonable losses incurred.

Enlargement of the Water Right

22. The applicant desires to use the transferred portion of the decreed right for irrigation of different lands than shown on the original right. There was no testimony to indicate that the irrigation of different lands would require any less or any more water than the acres originally

irrigated.

23. The protestant testified that if the watermaster does not require senior water rights to be used only on appurtenant lands, enlargement of a water right can occur with resulting injury to other water rights.

CONCLUSIONS OF LAW

Applicable Legal Principles

1. Idaho Code, Sec.42-203A(5) (Supp. 1988) states in part as follows:

> The director of the department of water resources shall find and determine from the evidence presented to what use or uses the water sought to be appropriated can be and are intended to be applied. In all applications whether protested or not protested, where the proposed use is such (a) that it will reduce the quantity of water under existing water rights, or (b) that the water supply itself is insufficient for the purpose for which it is sought to be appropriated, or (c) where it appears to the satisfaction of the department that such application is not made in good faith, is made for delay or speculative purposes, or (d) that the applicant has not sufficient financial resources with which to complete the work involved therein, or (e) that it will conflict with the local public interest, where the local public interest is defined as the affairs of the people directly affected by the proposed use; the director of the department of water resources may reject such application and refuse issuance of a permit therefor, or may partially approve and grant a permit for a smaller quantity of water than applied for, or may grant a permit upon conditions.

2. Article XV, Sec. 3 of the Constitution of the State of Idaho states in part as follows:

> The right to divert and appropriate the unappropriated waters of any natural stream to beneficial uses, shall never be denied, except the state may regulate and limit the use thereof for power purposes.

3. Evaluation of the local public interest criterion of Idaho Code, Sec. 42-203A(5) (Supp. 1988) is defined by Water Appropriation Rule 5,1,5. to include:

> ... [T]he effect the project will have on the economy of the local area affected by the proposed use as determined by the employment opportunities, both long and short term, revenue changes to various sectors of the economy, short and long term, and the stability of revenue and employment gains;

the effect the project will have on recreation, fish and wildlife resources in the local public area affected by the proposed use; and compliance with applicable air, water and hazardous substance standards, and compliance with planning and zoning ordinances of local or state government jurisdictions.

4. Section 42-222, Idaho Code, (Supp. 1988) states in part as follows:

> The director of the department of water resources shall examine all the evidence and available information and shall approve the change in whole, or in part, or upon conditions, provided no other water rights are injured thereby, the change does not constitute an enlargement in use of the original right, and the change is in the local public interest as defined in Section 42-203, Idaho Code.

5. The Director of the Department of Water Resources has jurisdiction to determine the question of abandonment and forfeiture and such a determination is required as a preliminary step to performance of the Director's statutory duty in determining whether or not the proposed transfer would injure other water rights. Jenkins v. State of Idaho, 103 Idaho 384 (1982).

6. Forfeitures are not favored, and clear and convincing proof is required to support a forfeiture. Gilbert v. Smith, 97 Idaho 735, 552 P.2d 1220 (1976).

7. The decree in the Payette River Drainage Basin serves to establish the validity of each water right identified in the decree, as of October 18, 1977.

8. To insure that an enlargement of water right No. 65-03104 does not occur, neither the rate of diversion, nor the total consumptive use may be increased by a transfer.

Application of Legal Principles - Relative to Application for Permit

Availability of Water

9. Pursuant to Article XV, Sec. 3 of the Constitution of the State of Idaho, to the extent that there is water available for appropriation, the application for permit should be approved even if such approval will result in

the need for additional care in the delivery of water in order to protect senior water rights.

10. There are periods of time in most years when water is available for appropriation and diversion.

11. The proposed project has been shown by the applicant to be viable.

Impact on Existing Water Rights

12. All existing water rights on Porter Creek are senior to this application, except that any water rights for power purposes on Porter Creek are subordinated to this water right for delivery purposes.

13. Existing water rights on Porter Creek can be protected from injury by proper delivery by the watermaster of Water District 65-B, Porter Creek.

Local Public Interest

14. With respect to local public interest, the proposed project has the potential benefit of reducing operating costs by requiring less power than if the water were to be pumped from the alternate source, the Payette River. The protestant did not demonstrate any harm to the local public interest from the proposed project.

15. The alleged flooding of the county road by the existing ditch is a technical problem that can be solved by the installation of an adequate culvert system designed to carry a given rate of flow or by other physical means.

These local public interest assessments (Conclusions of Law Nos. 14 and 15) also apply to the application for transfer.

Application of Legal Principles - Relative to Application for Transfer

Validity of the Water Right

16. The consumptive use portion of right 65-03104 appurtenant to 6 acres in the NW1/4SW1/4, Sec. 12, Twp. 7N, Rge. 2E, B.M. has been forfeited through non-use, since the land has not been irrigated since October 18, 1977.

The magnitude of the rate of diversion of 1.6 cfs for the right, however, has not been diminished, since it has been routinely diverted and does not exceed the general duty of water standard of 0.02 cfs per acre.

Enlargement of the Water Right

17. The water right will not be enlarged if delivery and use of water are not in connection with more acres than formerly irrigated by the right.

Potential Injury to Other Water Rights

18. If the proposed transfer is approved, additional care will be required from the watermaster to insure that diversion of water under terms of the transfer does not injure senior water rights on Porter Creek.

ORDER

IT IS, THEREFORE, HEREBY ORDERED that Application for Permit No. 65-12842 is APPROVED subject to the following conditions:

1. This water right is subject to all prior water rights.

2. The permit holder shall submit to the Department evidence or plans and specifications of proposed changes to the diverting works, conveyance system and culvert crossing to show that the system is capable of conveying the additional water authorized by this permit. Until the Department has either approved the evidence submitted or the Department has inspected and approved the work accomplished under the pre-approved construction plans, diversion of water under this permit is not authorized.

3. Prior to diversion of water under this right, a measuring device and lockable controlling works of a type acceptable to the Department shall be installed on the diverting works in a manner that will provide the watermaster suitable control of the diversion.

4. Use of water under this permit is subject to the control of the watermaster of State Water District No. 65-B, Porter Creek.

5. Proof of construction of works and application of water to beneficial use shall be submitted on or before May 1, 1990.

6. The issuance of this permit in no way grants any right-of-way or easement across the land of another.

IT IS FURTHER ORDERED that Application for Transfer of Water Right No. 65-03104 is APPROVED IN PART subject to the following conditions:

1. The place of use of this water right shall not exceed 90 acres, defined as: 2 acres in the SW1/4SE1/4 and 9 acres in the SE1/4SE1/4, Sec. 2; 20 acres in the NE1/4NE1/4; 14 acres in the NW1/4NE1/4; 18 acres in the SW1/4NE1/4 and 27 acres in the SE1/4NE1/4, Sec. 11, all in Twp. 7N, Rge. 2E, B.M. The map showing the place of use is a part of the Application for transfer.

2. The maximum annual consumptive use volume authorized for diversion under this transfer shall not exceed 225 acre-feet, i.e. 90 acres x 2.5 AF/acre = 225 acre feet.

3. The maximum rate of diversion shall not exceed 1.6 cfs.

4. Water shall be diverted under this right only during periods when diverted flows are applied to a beneficial use on the specified place of use.

5. A measuring device and lockable controlling works of a type acceptable to the Department shall be installed on the diverting works in a manner that will provide the watermaster suitable control of the diversion.

6. Use of water under this right is subject to the control of the watermaster of State Water District No. 65-B, Porter Creek.

Dated this 28th day of April, 1989.

R. KEITH HIGGINSON
Director

65-12708 — POWER RT
DOBSON

12. The permit holder shall continue to provide water for the watering of stock to any ranch (a) through which a pipeline will replace an open ditch as a result of this permit, and (b) which has or obtains a valid water right, either junior or senior to this permit, for such watering of stock.

13. Flows diverted by the permit holder for irrigation and other purposes from Porter Creek under other valid existing rights can be used for the generation of power under this water right as an incidental use. In addition, during periods when the applicant is not diverting flows from Porter Creek under other water rights, flows may be diverted under this right subject to the requirements that prior rights are satisfied and that the flow at any location of Porter Creek downstream from this point of diversion is not decreased to less than the following amounts:

January	- 4.0 cfs	July 1-15	- 5.5 cfs
February	- 4.0 cfs	July 16-31	- 5.0 cfs
March	- 4.0 cfs	August	- 5.0 cfs
April	- 4.0 cfs	September	- 5.0 cfs
May	- 4.0 cfs	October	- 4.0 cfs
June 1-15	- 4.0 cfs	November	- 4.0 cfs
June 16-30	- 5.5 cfs	December	- 4.0 cfs

14. The diversion system utilized under this permit shall be constructed in a manner that will allow any flows that are not to be beneficially used for power production to remain undiverted in Porter Creek. This permit specifically prohibits the spillage of unneeded flows down Jackass Creek or any other wasteway in the Porter Creek Drainage Basin.

15. The permit holder shall measure and report to the Department the amount of water diverted and the amount of water being released past the point of diversion. The measurements shall be taken and reported each week during the first year of operation and then as required by the Department following the first year.

16. Proof of construction of works and application of water to

65-12708 — Power Rt for Dobson

12. The permit holder shall continue to provide water for the watering of stock to any ranch (a) through which a pipeline will replace an open ditch as a result of this permit, and (b) which has or obtains a valid water right, either junior or senior to this permit, for such watering of stock.

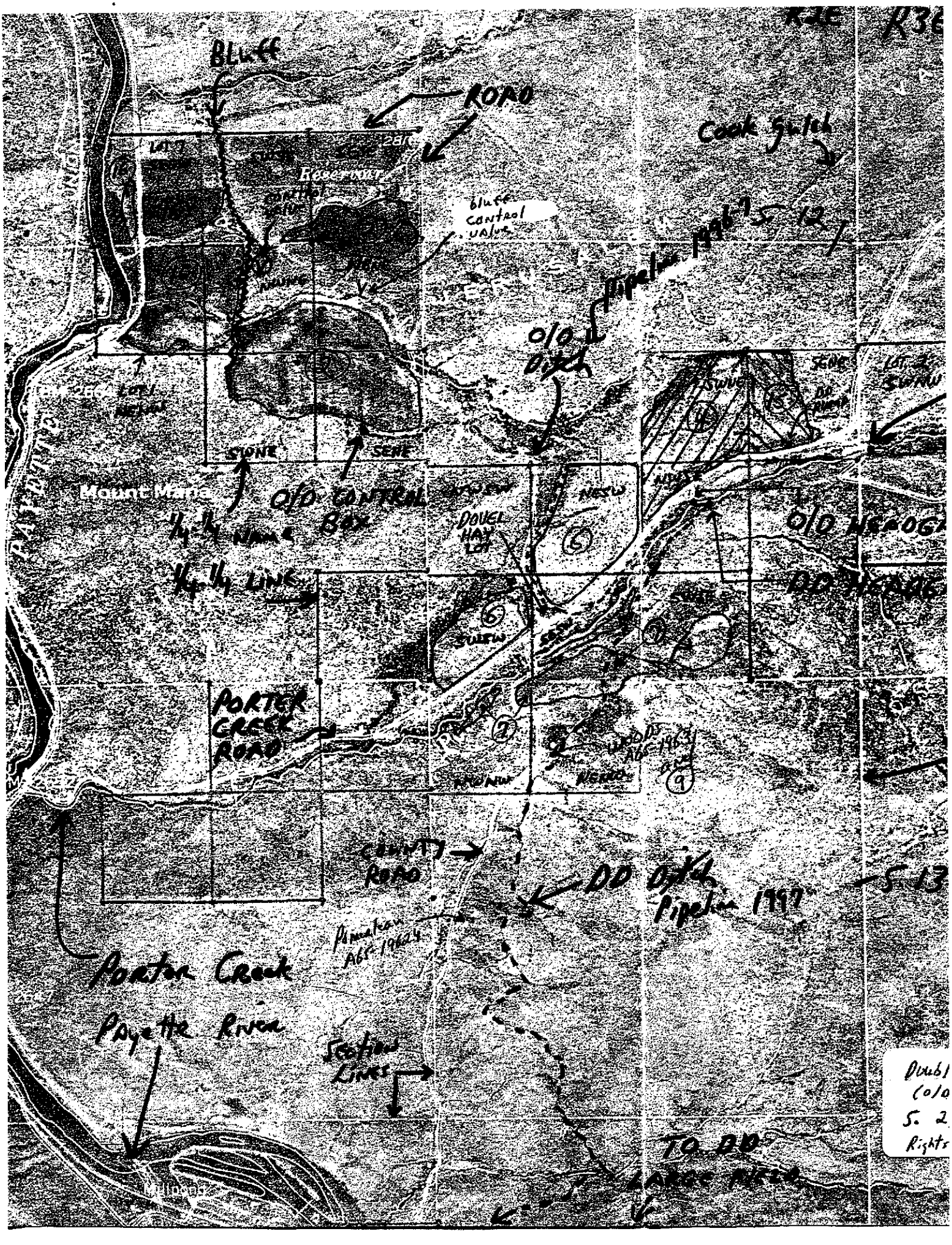
13. Flows diverted by the permit holder for irrigation and other purposes from Porter Creek under other valid existing rights can be used for the generation of power under this water right as an incidental use. In addition, during periods when the applicant is not diverting flows from Porter Creek under other water rights, flows may be diverted under this right subject to the requirements that prior rights are satisfied and that the flow at any location of Porter Creek downstream from this point of diversion is not decreased to less than the following amounts:

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14. The diversion system utilized under this permit shall be constructed in a manner that will allow any flows that are not to be beneficially used for power production to remain undiverted in Porter Creek. This permit specifically prohibits the spillage of unneeded flows down Jackass Creek or any other wasteway in the Porter Creek Drainage Basin.

15. The permit holder shall measure and report to the Department the amount of water diverted and the amount of water being released past the point of diversion. The measurements shall be taken and reported each week during the first year of operation and then as required by the Department following the first year.

16. Proof of construction of works and application of water to


BLUFF
ROAD
Cook Gulch
1962 - 12"
Pipeline
blufff control valve
Flood control valve
Mound
Mound
O/D ditch
LOT 1
NE1/4 NW1/4
S1/2 NE
SE1/4 NE1/4
SE1/4
Mound Marie
O/D CONTROL
Box
1/4-1/4 LINE
DOUEL HAY LOT
NE1/4 SW1/4
SW1/4 NW1/4
O/D NEAGOS
DD NEAGOS
PORTER CREEK ROAD
NW1/4 NW1/4
NE1/4 NE1/4
COUNTY ROAD
DD O/D Pipeline 1997
Mountain Ave. 1964
Porter Creek
Payette River
Section LINES
TO DD
LARGE PIPE
Mudboat

CONFIDENTIAL

MEMO

To: Garrick Baxter, DAG
cc: Subcase file
From: Becky Harvey, Paralegal bc.
Date: June 3, 2002
Re: O & D Partnership 65-3104B (decreed in PRBA as 65-3104 to Wolfgram)
Permissible place of use issue raised in Dovel's objection

Review of the *Dobson v. Dovel* legal file reveals the following documents and policies adopted by IDWR:

IDWR's record on appeal:

July 14, 1988 **Memo** written by Dave Tuthill re: Water Distribution on Porter Creek states at page 2:

"Pipe connections that mix Porter Creek water with other sources must be valved so that the location of the Porter Creek water can be clearly demonstrated. Owners of these ranches must provide the watermaster with a clear and easily read plan to describe how these piping and valving systems are operated..."

"In the situation where one field is irrigated with water rights of differing priority dates, the wateruser **must clearly distinguish the dividing lines between the lands irrigated with senior rights and the lands irrigated with junior rights**." (emphasis added)

"Proposed Memorandum Decision and Order Approving Application for Permit No. 65-12842 and Approving in Part Application for Transfer of Water Right No. 65-03104"

IDWR Hearing Officer: Glen Saxton – February 24, 1989:

"Porter Creek is primarily a snowmelt-fed stream which has high rates of flow early in the irrigation season but low rates of flow late in the irrigation season. During most years there are periods when flows in Porter Creek exceed the existing rights thereto and are available for diversion and use. On the other hand, there are periods during each irrigation season when the flow of the creek can fill **only the senior irrigation water right on the stream**." (emphasis added)

"The protestant contends that approval of the application would be a detriment to the local public interest because flows in the conveyance ditch have historically flooded a county road crossed by a ditch. This alleged local public interest concern is applicable to both the application for permit and the application for transfer."

RECEIVED
JUN 0 6 2002
WATER RESOURCES
WESTERN REGION

"The place of use of this water right shall not exceed 90 acres."

"Memorandum Decision and Order Approving Application for Permit No. 65-12842 and Approving in Part Application for Transfer of Water Right No. 65-03104"

Confirms the Proposed Memorandum Decision by Glen Saxton and states as far as the flooding on the county road:

"The alleged flooding of the county road by the existing ditch is a technical problem that can be solved by the installation of an adequate culvert system designed to carry a given rate of flow or by other physical means."

"Consumptive use portion of right 65-03104 appurtenant to 6 acres in Section 12 has been forfeited through non-use, since the land has not been irrigated since October 18, 1977."

"Water shall be diverted under this right only during periods when diverted flows are applied to a beneficial use **on the specified place of use**." (emphasis added)

Letter dated June 2, 1989 from Glen Saxton of IDWR to George Dovel:

"Also by copy of this letter, Oliver and Dobson are reminded to use their water rights only on the land to which it is appurtenant. Failure to comply with this basic principle of a water right will result in appropriate action by the department."

Letter dated July 18, 1989 from Dave Tuthill to George Dovel:

"1) Accurate delivery to proper fields can be achieved by adequate and controllable diversions, suitable measuring devices, and a map outlining the various water rights to be delivered by the Water Master...."
2) Lockable valves to prevent co-mingling of Porter Creek and other waters were in place and under the Water Master's control as of July 14 for the Double Diamond and Oliver-Dobson fields. The valve in the NW ¼ of the SE ¼ Section 26 is locked to prevent Porter Creek and other waters from co-mingling on Double Diamond fields. Similar control was established by the same day for the Oliver-Dobson lands in Sec. 2 and 11...
3) Areas where junior and senior rights meet are of concern and must be identifiable by the Water Master. The Double Diamond and Oliver-Dobson lands fall within this category."

SRBA recommendation:

The rights that are identified in the diversion rate (which have the same POU as this right too; hence are involved in the PPOU) are all junior rights:

65-3803C - priority date of 12/23/1888
65-2858A - priority date of 7/29/1966
65-9417A – priority date of April 1, 1958
65-10963 - priority date of July 7, 1969

This permissible place of use is in violation of IDWR's Orders and letters throughout the transfer proceeding. The Supreme Court decision affirmed the department's Order in *Dobson v. Dovel*.

Conclusion

Upon review of the Memos and correspondence, it is clear that water district 65-B, Porter Creek has a unique situation which enables the watermaster to know exactly to what lands the senior water rights are being applied. It appears from reviewing the *Dobson v. Dovel* file that the department needs to specifically identify the lands to which the senior water right should be applied and not allow a permissible place of use with junior rights. The original Order by the department which was affirmed by the Supreme Court states that 65-3104 is for 90 acres total – see notes on recommendation attached.

Attachments: a) Memo dated July 14, 1988 from Dave Tuthill; b) Order Issuing Proposed Memorandum Decision; c) Memorandum Decision and Order; d) Maps from Phil Rassier's prep file for the Dobson v. Dovel case; e) Letter dated June 2, 1989 from Glen Saxton to George Dovel; f) July 18, 1989 letter from Dave Tuthill to George Dovel; g) Director's Report recommendation for 65-3104B with notes re: priority dates and pou.

State of Idaho
DEPARTMENT OF WATER RESOURCES
WESTERN REGION, 2735 Airport Way, Boise, Idaho 83705 • (208) 334-2190

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

July 14, 1988

DISTRIBUTION: Attached Mailing List

RE: Water Distribution on Porter Creek

Dear Interested Party:

On July 6, 1988, I accompanied the Watermaster of Water District 65-B, Porter Creek and tributaries, on an inspection of diversion facilities and water uses from Porter Creek. We made a number of observations and determined that some modifications to the water delivery systems are required. Since the inspection, the watermaster has discussed some of the items with individual waterusers, and some corrections to the system have been made.

The purposes of this letter are to apprise interested parties of the current status of water delivery on Porter Creek and to require that improvements be made to specified diversion systems. Improvements specified in this letter must be completed prior to August 1, 1988. Those not completed by that date are subject to legal action by the Department in conjunction with the Water District. Specific observations are as follows:

1. The pipe that flows into the Double Diamond measuring device at the upper diversion (located in the SW1/4 NW1/4 Sec. 7, T 7 N, R 3 E) appeared to be leaking initially, causing the measuring device to be inundated. However, during the past week the area around the pipe has appeared to be dry so the leak may have ceased. If any leaking resumes the pipe should be corrected accordingly.

2. The diversion system for the Double Diamond first priority water right at the lower diversion (located in the NW1/4 SE1/4 Sec. 12, T 7 N, R 2 E) was leaking at the time of the inspection, but has since been sealed. It is important that this seal be maintained during periods when other water rights are shut off.

3. The headgate for the Double Diamond first priority water right at the lower diversion (located in the NW1/4 SE1/4 Sec. 12, T 7 N, R 2 E) cannot now be regulated and locked. It is important that the watermaster have the capability to regulate this diversion in the same manner as the other diversions on the stream. Thus, a proper, lockable headgate must be installed.

4. Because it is possible to use water from multiple sources on the Double Diamond ranch and the Oliver-Dobson ranch, the irrigators from these ranches must be prepared to demonstrate to the watermaster where water diverted from Porter Creek is being utilized at any time. Pipe connections that mix Porter Creek water with other sources must be valved so that the location of Porter Creek water can be clearly demonstrated. Owners of these ranches must provide the watermaster with a clear and easily read plan to describe how these piping and valve systems are operated. Additionally, she must be allowed to lock any valves that have the potential of diverting water to lands which do not have Porter Creek water rights.

5. In the situation where one field is irrigated with water rights of differing priority dates, the wateruser must clearly distinguish the dividing line(s) between the lands irrigated with senior rights and the lands irrigated with junior rights.

6. Pursuant to Section 42-104, Idaho Code, the appropriation of water must be for some useful or beneficial purpose, and when the appropriator or his successor in interest ceases to use it for such purpose, the right ceases. Pursuant to Section 42-916, Idaho Code, any wateruser who wastes water is liable for all damages sustained by any other person, who would have been entitled to the use of such excess water. In a water district with a supply that is as limited as that of Porter Creek, it is imperative that during periods when a wateruser is not able to utilize a senior water right on the lands to which the right is decreed, the water must be immediately made available to junior water rights on the stream, via notification of the watermaster.

The waterusers on Porter Creek are fortunate to have an extremely dedicated and responsive watermaster in Elizabeth (Zippy) Pattee. She has already spent a significant amount of time in learning about the water delivery system and the individual water rights. She has demonstrated a willingness to do her part to make Water District 65-B a very well run operation. The items above constitute refinements of the tools that she needs in this effort. Please contact her or this office if you have questions about implementation of these requirements. We will do our best to insure that your water delivery is fair and in accordance with the law.

Sincerely,

David R. Tuthill, Jr.

David R. Tuthill, Jr., P.E.
Manager, Western Regional Office

Names and Addresses of
Waterusers and Interested
Parties,
Porter Creek
Water District 65-B

Double Diamond, Inc.
C/O Donald Rumsey
Rt. 1, Box 54
Horseshoe Bend, ID 83629

Arlie L. Woods
Horseshoe Bend, ID 83629

Mary C. Ihrig
Horseshoe Bend, ID 83629

Jack Fry
Horseshoe Bend, ID 83629

George Dovel
Rt. 1 Box 61
Horseshoe Bend, ID 83629

Everett K. Allen
Cascade, ID 83611

Alfred C. Wolfgram
Margaret I. Wolfgram
Box 100
Horseshoe Bend, ID 83629

Patricia L. Adams Miller
5627 Freemont
Boise, ID 83706

Elisabeth V. Wallace
Rt. 1 Box 61
Horseshoe Bend, ID 83629

William F. Yost
Attorney at Law
1120 6th St. So.
P.O. Drawer E
Nampa, ID 83653

William D. Collins
Attorney at Law
Collins & Manly
P.O. Box 2794
Boise, ID 83701

Cleo Cockrum
Rt. 1 Box 54
Horseshoe Bend, ID 83629

Elizabeth Pattee
Watermaster,
Water District 65-B
Gardena, ID 83629

Leo T. Oliver
3357 Osprey Road
Eagle, ID 83616

Steve Dobson
Route 1
Horseshoe Bend, ID 83629

BEFORE THE DIRECTOR OF THE DEPARTMENT

OF WATER RESOURCES OF THE

STATE OF IDAHO

b

IN THE MATTER OF APPLICATION FOR PERMIT NO. 65-12842 AND APPLICATION FOR TRANSFER OF WATER RIGHT NO. 65-03104 - STEVE DOBSON & TOM OLIVER	ORDER ISSUING PROPOSED MEMORANDUM DECISION

R. Keith Higginson, Director of the Department of Water Resources, having reviewed the attached proposed decision prepared by his appointee, L. Glen Saxton, who conducted the hearing or who has read the record in the this case, hereby approves the same as a proposed decision pursuant to Idaho Code, Sec. 67-5211.

Each party to these proceedings who appeared at the hearing is given the opportunity, pursuant to Idaho Code, Sec. 421701A and 67-5211, to file exceptions to the proposed decision and to present briefs and oral arguments. If no timely and proper exceptions are received, an order by the Director will be entered adopting the proposed decision as his final decision.

I.
EXCEPTIONS

A. To be considered by the Director, exceptions must:

1. be received by the Director on or before the 15th day following the day of service of this Order and the proposed decision,

2. specifically identify the portions of the proposed decision to which exceptions are made and specifically state the grounds for those exceptions, and

3. be sent to each of the parties who appeared or their attorneys.

II.
BRIEFS

A. Any briefs in support of exceptions to the proposed decision shall be filed with the Director at the same time that party's exceptions are filed with the Director.

B. All response briefs to the exceptions must be filed with the Director within 15 days after the exceptions were served upon the responding party.

EXHIBIT E

III.

A. No oral arguments before the Director on the proposed decision will be held unless specifically requested by a party filing exceptions to the proposed decision and unless that request is filed with the Director concurrently with the filing of that party's exception.

B. If oral arguments have been properly requested by a party filing exceptions, any other party, upon reasonable notice to the Director, shall have the right to present oral argument in response to the exceptions filed.

C. Oral arguments before the Director on exceptions to the proposed decision shall be heard at the discretion of the Director, pursuant to Idaho Code, Sec. 42-1701A. If oral arguments are to be heard, the Director will, within a reasonable time, notify each party of the place, date and hour the oral arguments will take place and of the period of time allocated for the arguments of this case. Unless the Director orders otherwise, all oral arguments shall be heard in Boise, Idaho.

IV.

CERTIFICATE OF SERVICE

All exceptions, briefs, requests oral arguments and other matters filed with the Director in connection with the proposed decision shall be served on all other parties to these proceedings in accordance with Rule 7.2.

V.

FINAL DECISION

Following the submission of all exceptions, briefs and oral arguments, if they are heard, the Director shall issue a final decision adopting, modifying or rejecting and replacing the proposed decision. Copies of the decision and order shall be served on all parties.

Dated this 24th day of February, 1989.

R. KEITH HIGGINSON
Director

EXHIBIT E

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR PERMIT NO. 65-12842 AND APPLICATION FOR TRANSFER OF WATER RIGHT NO. 65-03104	SOURCE: Porter Creek TRIBUTARY TO: Payette River
STEVE DOBSON AND/OR TOM OLIVER, Applicants, GEORGE DOVEL, Protestant.	COUNTY: Boise

PROPOSED MEMORANDUM DECISION AND ORDER
APPROVING APPLICATION FOR PERMIT NO. 65-12842
AND APPROVING IN PART APPLICATION FOR TRANSFER
OF WATER RIGHT NO. 65-03104

BY HEARING OFFICER L. GLEN SAXTON.

Steve Dobson and/or Tom Oliver having filed with the Department of Water Resources (Department) Application for Permit No. 65-12842 to appropriate unappropriated water and Application for Transfer of Water Right No. 65-03104; a protest to each application having been received; and a hearing having been held, the Department finds, concludes and orders as follows:

FINDINGS OF FACT

The Application

1. On May 16, 1988, Steve Dobson and/or Tom Oliver (hereinafter applicants) applied to the Department for a permit to appropriate 0.84 cubic feet per second (cfs) of water from Porter Creek tributary to the Payette River to be used for irrigation from April 1 through November 1 annually. The proposed point of diversion is located within the NW1/4SE1/4, Sec. 12, Twp. 7N,

EXHIBIT E

Rge. 2E, B.M., and the proposed place of use is 42 acres located within Secs. 2 and 11 of the same township and range. On the same day, the applicants applied to the Department to change the place of use of decreed water right No. 65-03104 which provides 1.6 cfs (80 miner's inches) for the irrigation of 96 acres. The transfer proposed the removal of irrigation from 6 acres in the NW1/4SW1/4, Sec. 12; 11 acres in Lot 1 (NE1/4NW1/4) and 1 acre in the SE1/4NW1/4, Sec. 11; to be used on 7 additional acres in the NE1/4NE1/4, Sec. 11; 2 acres in the SW1/4SE1/4 and 9 acres in the SE1/4SE1/4, Sec. 2, all in Twp. 7N, Rge. 2E, B.M., Boise County.

2. Notices of the application for permit and the application for transfer were published in the Idaho World on June 1 and 8, 1988.

Protest and Hearing

3. Protests against approval of each of the applications were received by the Department on June 20, 1988 from George Dovel.

4. Attempts to reach a pre-conference settlement were unsuccessful, and on August 23, 1988, a conference was held regarding the protested applications. The applicants and the protestant were present and represented themselves. At the conference all parties agreed to pursue the formulation of a settlement agreement.

5. The parties were unsuccessful in finalizing a settlement agreement regarding the protests, and on January 10, 1989 a hearing was held by the Department in this matter. At the hearing the applicants were present and were represented by Jack Riddlemoser, Esq. The protestant was present and represented himself.

6. The protestant raised objections to the application for permit by alleging that the proposed use is such that:

(a) it will reduce the quantity of water under existing water rights,

EXHIBIT E

(b) the water supply is insufficient for the proposed use, and

(c) the proposed diversion is not in the local public interest.

7. The protestant raised objections to the application for transfer by alleging that the proposed use is such that:

(a) the water right has been forfeited,

(b) approval would result in enlargement of the existing water right,

(c) approval would result in injury to other water rights, and

(d) the proposed transfer is not in the local public interest.

Information Considered

8. The Hearing Officer took official notice of the records of the Department, the files of the two protested applications, and the files of Water District 65-B, Porter Creek. In addition, the testimony provided at the hearing is part of the record, including the following admitted exhibits:

Applicants' Exhibit No. 1.	Photo copy of map of area.
Protestant's Exhibits Nos. 1-14.	Photographs of alleged ditch leakage and alleged crop damage.
Protestant's Exhibit No. 15.	Copy of letter dated May 4, 1988.
Protestant's Exhibit No. 16.	Copy of letter dated June 4, 1988.
Protestant's Exhibit No. 18.	Copies of diary notes.

9. Protestant's Exhibit No. 17, a copy of an unsigned draft agreement with an accompanying copy of a letter, was not admitted by the Hearing Officer.

Findings of Fact Relative to Application for Permit

Existing Water Rights

10. Water District No. 65-B, Porter Creek, was created in 1986 for the purpose of distributing the flows in Porter Creek. Each year there are periods when flows in the creek are insufficient to satisfy water demands. There are senior water rights on Porter Creek with points of diversion both upstream and

EXHIBIT E

downstream from the point of diversion proposed in the application.

11. A total of 42 of the 44 acres identified in the application for permit may also be irrigated from the Payette River under decreed water right No. 65-02858. This additional source of water supply normally provides water for diversion after the flow in Porter Creek diminishes.

Availability of Water

12. Porter Creek is primarily a snowmelt-fed stream which has high rates of flow early in the irrigation season but low rates of flow late in the irrigation season. During most years there are periods when flows in Porter Creek exceed the existing rights thereto and are available for diversion and use. On the other hand, there are periods during each irrigation season when the flow of the creek can fill only the senior irrigation water right on the stream.

Impact on Existing Water Rights

13. Flows diverted under the application will not impact the amount of water available to fill senior water rights on Porter Creek if the watermaster delivers water to the senior water rights in accordance with priority before junior water rights are filled.

Local Public Interest

14. The protestant contends that approval of the application would be a detriment to the local public interest because flows in the conveyance ditch have historically flooded a county road crossed by the ditch. This alleged local public interest concern is applicable to both the application for permit and the application for transfer.

Findings of Fact Relative to Application for Transfer

Validity of the Water Right

15. The protestant alleged that forfeiture of the decreed water right

EXHIBIT E

has occurred on the following acres: 6 acres in the NW1/4SW1/4, Sec. 12, 11 acres in Lot 1(NE1/4NW1/4) and 2 acres in the SE1/4NW1/4, Sec. 11, Twp. 7N, Rge. 2E, B.M. Witnesses testified at the hearing that the 6 acres within the NW1/4SW1/4 of Sec. 12 have not been irrigated since prior to October 18, 1977. Testimony by the present and previous two landowners, however, indicated that the specified lands within Sec. 11 have been periodically irrigated since that date.

16. Water right No. 65-03104 was decreed on January 21, 1986 for the diversion of 1.6 cfs of water for the irrigation of 96 acres with a priority date of January 1, 1883. The decree identifies October 18, 1977 as the official cutoff for claims-taking.

17. During the period from October 18, 1977 through January 10, 1989, water was available for diversion from Porter Creek under this water right during at least part of every year.

18. Pursuant to the decree of water rights in the Payette River Drainage Basin, the consumptive irrigation requirement in the Porter Creek vicinity is 2.5 acre-feet per acre per year.

19. The season for irrigation diversions on Porter Creek typically begins in May and lasts through September.

20. Testimony from both the applicant and protestant indicated the full rate of 1.6 cfs of water has been diverted by the applicants when the water has been available.

21. The duty of water in the Payette River Drainage is generally based on not more than 0.02 cfs per acre with consideration for reasonable losses incurred.

Enlargement of the Water Right

22. The applicant desires to use the transferred portion of the

EXHIBIT E

decreed right for irrigation of different lands than shown on the original right. There was no testimony to indicate that the irrigation of different lands would require any less or any more water than the acres originally irrigated.

23. The protestant testified that if the watermaster does not require senior water rights to be used only on appurtenant lands, enlargement of a water right can occur with resulting injury to other water rights.

CONCLUSIONS OF LAW

Applicable Legal Principles

1. Idaho Code, Sec.42-203A(5) (Supp. 1988) states in part as follows:

> The director of the department of water resources shall find and determine from the evidence presented to what use or uses the water sought to be appropriated can be and are intended to be applied. In all applications whether protested or not protested, where the proposed use is such (a) that it will reduce the quantity of water under existing water rights, or (b) that the water supply itself is insufficient for the purpose for which it is sought to be appropriated, or (c) where it appears to the satisfaction of the department that such application is not made in good faith, is made for delay or speculative purposes, or (d) that the applicant has not sufficient financial resources with which to complete the work involved therein, or (e) that it will conflict with the local public interest, where the local public interest is defined as the affairs of the people directly affected by the proposed use; the director of the department of water resources may reject such application and refuse issuance of a permit therefor, or may partially approve and grant a permit for a smaller quantity of water than applied for, or may grant a permit upon conditions.

2. Article XV, Sec. 3 of the Constitution of the State of Idaho states in part as follows:

> The right to divert and appropriate the unappropriated waters of any natural stream to beneficial uses, shall never be denied, except the state may regulate and limit the use thereof for power purposes.

3. Evaluation of the local public interest criterion of Idaho Code, Sec. 42-203A(5) (Supp. 1988) is defined by Water Appropriation Rule 5,1,5. to

EXHIBIT E

include:

> ... [T]he effect the project will have on the economy of the local area affected by the proposed use as determined by the employment opportunities, both long and short term, revenue changes to various sectors of the economy, short and long term, and the stability of revenue and employment gains; the effect the project will have on recreation, fish and wildlife resources in the local public area affected by the proposed use; and compliance with applicable air, water and hazardous substance standards, and compliance with planning and zoning ordinances of local or state government jurisdictions.

4. Section 42-222, Idaho Code, (Supp. 1988) states in part as follows:

> The director of the department of water resources shall examine all the evidence and available information and shall approve the change in whole, or in part, or upon conditions, provided no other water rights are injured thereby, the change does not constitute an enlargement in use of the original right, and the change is in the local public interest as defined in Section 42-203, Idaho Code.

5. The Director of the Department of Water Resources has jurisdiction to determine the question of abandonment and forfeiture and such a determination is required as a preliminary step to performance of the Director's statutory duty in determining whether or not the proposed transfer would injure other water rights. Jenkins v. State of Idaho, 103 Idaho 384 (1982).

6. Forfeitures are not favored, and clear and convincing proof is required to support a forfeiture. Gilbert v. Smith, 97 Idaho 735, 552 P.2d 1220 (1976).

7. The decree in the Payette River Drainage Basin serves to establish the validity of each water right identified in the decree, as of October 18, 1977.

8. To insure that an enlargement of water right No. 65-03104 does not occur, neither the rate of diversion, nor the total consumptive use may be increased by a transfer.

EXHIBIT E

Application of Legal Principles - Relative to Application for Permit

Availability of Water

9. Pursuant to Article XV, Sec. 3 of the Constitution of the State of Idaho, to the extent that there is water available for appropriation, and the need for application for permit should be approved, even if such approval will result in the need for additional care in the delivery of water in order to protect senior water rights.

10. There are periods of time in most years when water is available for appropriation and diversion.

11. The proposed project has been shown by the applicant to be viable.

Impact on Existing Water Rights

12. All existing water rights on Porter Creek are senior to this application, except that any water rights for power purposes on Porter Creek are subordinated to this water right for delivery purposes.

13. Existing water rights can be protected from injury by proper delivery by the watermaster of Water District 65-B, Porter Creek.

Local Public Interest

14. With respect to local public interest, the proposed project has the potential benefit of reducing operating costs by requiring less power than if the water were to be pumped from the alternate source, the Payette River. The protestant did not demonstrate any harm to the local public interest from the proposed project.

15. The alleged flooding of the county road by the existing ditch is a technical problem that can be solved by the installation of an adequate culvert system designed to carry a given rate of flow or by other physical means.

These local public interest assessments (Conclusions of Law Nos. 14 and 15) also apply to the application for transfer.

EXHIBIT E

Application of Legal Principles - Relative to Application for Transfer

Validity of the Water Right

16. The consumptive use portion of right 65-03104 appurtenant to 6 acres in the NW1/4SW1/4, Sec. 12, Twp. 7N, Rge. 2E, B.M. has been forfeited through non-use, since the land has not been irrigated since October 18, 1977. The magnitude of the rate of diversion of 1.6 cfs for the right, however, has not been diminished, since it has been routinely diverted and does not exceed the general duty of water standard of 0.02 cfs per acre.

Enlargement of the Water Right

17. The water right will not be enlarged if delivery and use of water are not in connection with more acres than formerly irrigated by the right.

Potential Injury to Other Water Rights

18. If the proposed transfer is approved, additional care will be required from the watermaster to insure that diversion of water under terms of the transfer does not injure senior water rights on Porter Creek.

ORDER

IT IS, THEREFORE, HEREBY ORDERED that Application for Permit No. 65-12842 is APPROVED subject to the following conditions:

1. This water right is subject to all prior water rights.

2. The permit holder shall submit to the Department evidence or plans and specifications of proposed changes to the diverting works, conveyance system and culvert crossing to show that the system is capable of conveying the additional water authorized by this permit. Until the Department has either approved the evidence submitted or the Department has inspected and approved the work accomplished under the pre-approved construction plans, diversion of water under this permit is not authorized.

3. Prior to diversion of water under this right, a measuring device

EXHIBIT E

and lockable controlling works of a type acceptable to the Department shall be installed on the diverting works in a manner that will provide the watermaster suitable control of the diversion.

4. Use of water under this permit is subject to the control of the watermaster of State Water District No. 65-B, Porter Creek.

5. Proof of construction of works and application of water to beneficial use shall be submitted on or before the date indicated on the final order.

6. The issuance of this permit in no way grants any right-of-way or easement across the land of another.

IT IS FURTHER ORDERED that Application for Transfer of Water Right No. 65-03104 is APPROVED IN PART subject to the following conditions:

1. The place of use of this water right shall not exceed 90 acres, defined as: 2 acres in the SW1/4SE1/4 and 3 acres in the SE1/4SE1/4, Sec. 2; 22 acres in the NE1/4NE1/4; 16 acres in the NW1/4NE1/4; 19 acres in the SW1/4NE1/4 and 28 acres in the SE1/4NE1/4, Sec. 11, all in Twp. 7N, Rge. 2E, B.M.

2. The maximum annual consumptive use volume authorized for diversion under this transfer shall not exceed 225 acre-feet, i.e. 90 acres x 2.5 AF/acre = 225 acre feet.

3. The maximum rate of diversion shall not exceed 1.6 cfs.

4. Water shall be diverted under this right only during periods when diverted flows are applied to a beneficial use on the specified place of use.

5. A measuring device and lockable controlling works of a type acceptable to the Department shall be installed on the diverting works in a manner that will provide the watermaster suitable control of the diversion.

6. Use of water under this right is subject to the control of the watermaster of State Water District No. 65-B, Porter Creek.

EXHIBIT E

Dated this 24th day of February, 1989.

L. GLEN SAXTON, HEARING OFFICER

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this the 24th day of February, 1989, true and correct copies of the foregoing PROPOSED MEMORANDUM DECISION AND ORDER and ORDER ISSUING PROPOSED MEMORANDUM DECISION, were mailed postage prepaid to:

Steve Dobson
P. O. Box 366
Horseshoe Bend, ID 83629

Tom Oliver
3357 Osprey Rd.
Eagle, ID 83616

George Dovel
Rt. 1, Box 61
Horseshoe Bend, ID 83629

Jack Riddlemoser, Esq.
P. O. Box 373
Meridian, ID 83642

RITA L. FLECK
Secretary/Records Manager

EXHIBIT E

COPY

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR PERMIT NO. 65-12842 AND APPLICATION FOR TRANSFER OF WATER RIGHT NO. 65-03104	SOURCE: Porter Creek TRIBUTARY TO: Payette River
STEVE DOBSON AND/OR TOM OLIVER, Applicants, GEORGE DOVEL, Protestant.	COUNTY: Boise

MEMORANDUM DECISION AND ORDER
APPROVING APPLICATION FOR PERMIT NO. 65-12842
AND APPROVING IN PART APPLICATION FOR TRANSFER
OF WATER RIGHT NO. 65-03104

Steve Dobson and/or Tom Oliver having filed with the Department of Water Resources (Department) Application for Permit No. 65-12842 to appropriate unappropriated water and Application for Transfer of Water Right No. 65-03104; a protest to each application having been received; and a hearing having been held, the Department finds, concludes and orders as follows:

FINDINGS OF FACT

The Application

1. On May 16, 1988, Steve Dobson and/or Tom Oliver (hereinafter applicants) applied to the Department for a permit to appropriate 0.84 cubic feet per second (cfs) of water from Porter Creek tributary to the Payette River to be used for irrigation from April 1 through November 1 annually. The proposed point of diversion is located within the NW1/4SE1/4, Sec. 12, Twp. 7N, Rge. 2E, B.M., and the proposed place of use is 42 acres located within Secs. 2 and 11 of the same township and range. On the same day, the applicants applied

EXHIBIT H

to the Department to change the place of use of decreed water right No. 65-03104 which provides 1.6 cfs (80 miner's inches) for the irrigation of 96 acres. The transfer proposed the removal of irrigation from 6 acres in the NW1/4SW1/4, Sec. 12; 11 acres in Lot 1 (NE1/4NW1/4) and 1 acre in the SE1/4NW1/4, Sec. 11; to be used on 7 additional acres in the NE1/4NE1/4, Sec. 11; 2 acres in the SW1/4SE1/4 and 9 acres in the SE1/4SE1/4, Sec. 2, all in Twp. 7N, Rge. 2E, B.M., Boise County.

2. Notices of the application for permit and the application for transfer were published in the Idaho World on June 1 and 8, 1988.

Protest and Hearing

3. Protests against approval of each of the applications were received by the Department on June 20, 1988 from George Dovel.

4. Attempts to reach a pre-conference settlement were unsuccessful, and on August 23, 1988, a conference was held regarding the protested applications. The applicants and the protestant were present and represented themselves. At the conference all parties agreed to pursue the formulation of a settlement agreement.

5. The parties were unsuccessful in finalizing a settlement agreement regarding the protests, and on January 10, 1989 a hearing was held by the Department in this matter. At the hearing the applicants were present and were represented by Jack Riddlemoser, Esq. The protestant was present and represented himself.

6. The protestant raised objections to the application for permit by alleging that the proposed use is such that:

(a) it will reduce the quantity of water under existing water rights,

(b) the water supply is insufficient for the proposed use, and

(c) the proposed diversion is not in the local public interest.

EXHIBIT H

7. The protestant raised objections to the application for transfer by alleging that the proposed use is such that:

(a) the water right has been forfeited,

(b) approval would result in enlargement of the existing water right,

(c) approval would result in injury to other water rights, and

(d) the proposed transfer is not in the local public interest.

Information Considered

8. The Hearing Officer took official notice of the records of the Department, the files of the two protested applications, and the files of Water District 65-B, Porter Creek. In addition, the testimony provided at the hearing is part of the record, including the following admitted exhibits:

Applicants' Exhibit No. 1.	Photo copy of map of area.
Protestant's Exhibits Nos. 1-14.	Photographs of alleged ditch leakage and alleged crop damage.
Protestant's Exhibit No. 15.	Copy of letter dated May 4, 1988.
Protestant's Exhibit No. 16.	Copy of letter dated June 4, 1988.
Protestant's Exhibit No. 18.	Copies of diary notes.

9. Protestant's Exhibit No. 17, a copy of an unsigned draft agreement with an accompanying copy of a letter, was not admitted by the Hearing Officer.

Findings of Fact Relative to Application for Permit

Existing Water Rights

10. Water District No. 65-B, Porter Creek, was created in 1986 for the purpose of distributing the flows in Porter Creek. Each year there are periods when flows in the creek are insufficient to satisfy water demands. There are senior water rights on Porter Creek with points of diversion both upstream and downstream from the point of diversion proposed in the application.

11. A total of 42 of the 44 acres identified in the application for

EXHIBIT H

permit may also be irrigated from the Payette River under decreed water right No. 65-02858. This additional source of water supply normally provides water for diversion after the flow in Porter Creek diminishes.

Availability of Water

12. Porter Creek is primarily a snowmelt-fed stream which has high rates of flow early in the irrigation season but low rates of flow late in the irrigation season. During most years there are periods when flows in Porter Creek exceed the existing rights thereto and are available for diversion and use. On the other hand, there are periods during each irrigation season when the flow of the creek can fill only the senior irrigation water right on the stream.

Impact on Existing Water Rights

13. Flows diverted under the application will not impact the amount of water available to fill senior water rights on Porter Creek if the watermaster delivers water to the senior water rights in accordance with priority before junior water rights are filled.

Local Public Interest

14. The protestant contends that approval of the application would be a detriment to the local public interest because flows in the conveyance ditch have historically flooded a county road crossed by the ditch. This alleged local public interest concern is applicable to both the application for permit and the application for transfer.

Findings of Fact Relative to Application for Transfer

Validity of the Water Right

15. The protestant alleged that forfeiture of the decreed water right has occurred on the following acres: 6 acres in the NW1/4SW1/4, Sec. 12, 11 acres in Lot 1(NE1/4NW1/4) and 2 acres in the SE1/4NW1/4, Sec. 11, Twp. 7N, Rge.

EXHIBIT H

2E, B.M. Witnesses testified at the hearing that the 6 acres within the NW1/4SW1/4 of Sec. 12 have not been irrigated for more than 5 consecutive years. Testimony by the present and previous two landowners, however, indicated that the specified lands within Sec. 11 have been periodically irrigated within the last 5 years.

16. Water right No. 65-03104 was decreed on January 21, 1986 for the diversion of 1.6 cfs of water for the irrigation of 96 acres with a priority date of January 1, 1883.

17. During the period from October 18, 1977 through January 10, 1989, water was available for diversion from Porter Creek under this water right during at least part of every year.

18. Pursuant to the decree of water rights in the Payette River Drainage Basin, the consumptive irrigation requirement in the Porter Creek vicinity is 2.5 acre-feet per acre per year.

19. The season for irrigation diversions on Porter Creek typically begins in May and lasts through September.

20. Testimony from both the applicant and protestant indicated the full rate of 1.6 cfs of water has been diverted by the applicants when the water has been available.

21. The duty of water in the Payette River Drainage is generally based on not more than 0.02 cfs per acre with consideration for reasonable losses incurred.

Enlargement of the Water Right

22. The applicant desires to use the transferred portion of the decreed right for irrigation of different lands than shown on the original right. There was no testimony to indicate that the irrigation of different lands would require any less or any more water than the acres originally

EXHIBIT H

irrigated.

23. The protestant testified that if the watermaster does not require senior water rights to be used only on appurtenant lands, enlargement of a water right can occur with resulting injury to other water rights.

CONCLUSIONS OF LAW

Applicable Legal Principles

1. Idaho Code, Sec.42-203A(5) (Supp. 1988) states in part as follows:

> The director of the department of water resources shall find and determine from the evidence presented to what use or uses the water sought to be appropriated can be and are intended to be applied. In all applications whether protested or not protested, where the proposed use is such (a) that it will reduce the quantity of water under existing water rights, or (b) that the water supply itself is insufficient for the purpose for which it is sought to be appropriated, or (c) where it appears to the satisfaction of the department that such application is not made in good faith, is made for delay or speculative purposes, or (d) that the applicant has not sufficient financial resources with which to complete the work involved therein, or (e) that it will conflict with the local public interest, where the local public interest is defined as the affairs of the people directly affected by the proposed use; the director of the department of water resources may reject such application and refuse issuance of a permit therefor, or may partially approve and grant a permit for a smaller quantity of water than applied for, or may grant a permit upon conditions.

2. Article XV, Sec. 3 of the Constitution of the State of Idaho states in part as follows:

> The right to divert and appropriate the unappropriated waters of any natural stream to beneficial uses, shall never be denied, except the state may regulate and limit the use thereof for power purposes.

3. Evaluation of the local public interest criterion of Idaho Code, Sec. 42-203A(5) (Supp. 1988) is defined by Water Appropriation Rule 5,1,5. to include:

> ... [T]he effect the project will have on the economy of the local area affected by the proposed use as determined by the employment opportunities, both long and short term, revenue changes to various sectors of the economy, short and long term, and the stability of revenue and employment gains;

EXHIBIT H

the effect the project will have on recreation, fish and wildlife resources in the local public area affected by the proposed use; and compliance with applicable air, water and hazardous substance standards, and compliance with planning and zoning ordinances of local or state government jurisdictions.

4. Section 42-222, Idaho Code, (Supp. 1988) states in part as follows:

> The director of the department of water resources shall examine all the evidence and available information and shall approve the change in whole, or in part, or upon conditions, provided no other water rights are injured thereby, the change does not constitute an enlargement in use of the original right, and the change is in the local public interest as defined in Section 42-203, Idaho Code.

5. The Director of the Department of Water Resources has jurisdiction to determine the question of abandonment and forfeiture and such a determination is required as a preliminary step to performance of the Director's statutory duty in determining whether or not the proposed transfer would injure other water rights. Jenkins v. State of Idaho, 103 Idaho 384 (1982).

6. Forfeitures are not favored, and clear and convincing proof is required to support a forfeiture. Gilbert v. Smith, 97 Idaho 735, 552 P.2d 1220 (1976).

7. The decree in the Payette River Drainage Basin serves to establish the validity of each water right identified in the decree, as of October 18, 1977.

8. To insure that an enlargement of water right No. 65-03104 does not occur, neither the rate of diversion, nor the total consumptive use may be increased by a transfer.

Application of Legal Principles - Relative to Application for Permit

Availability of Water

9. Pursuant to Article XV, Sec. 3 of the Constitution of the State of Idaho, to the extent that there is water available for appropriation, the application for permit should be approved even if such approval will result in

EXHIBIT H

the need for additional care in the delivery of water in order to protect senior water rights.

10. There are periods of time in most years when water is available for appropriation and diversion.

11. The proposed project has been shown by the applicant to be viable.

Impact on Existing Water Rights

12. All existing water rights on Porter Creek are senior to this application, except that any water rights for power purposes on Porter Creek are subordinated to this water right for delivery purposes.

13. Existing water rights on Porter Creek can be protected from injury by proper delivery by the watermaster of Water District 65-B, Porter Creek.

Local Public Interest

14. With respect to local public interest, the proposed project has the potential benefit of reducing operating costs by requiring less power than if the water were to be pumped from the alternate source, the Payette River. The protestant did not demonstrate any harm to the local public interest from the proposed project.

15. The alleged flooding of the county road by the existing ditch is a technical problem that can be solved by the installation of an adequate culvert system designed to carry a given rate of flow or by other physical means.

These local public interest assessments (Conclusions of Law Nos. 14 and 15) also apply to the application for transfer.

Application of Legal Principles - Relative to Application for Transfer

Validity of the Water Right

16. The consumptive use portion of right 65-03104 appurtenant to 6 acres in the NW1/4SW1/4, Sec. 12, Twp. 7N, Rge. 2E, B.M. has been forfeited through non-use, since the land has not been irrigated since October 18, 1977.

EXHIBIT H

The magnitude of the rate of diversion of 1.6 cfs for the right, however, has not been diminished, since it has been routinely diverted and does not exceed the general duty of water standard of 0.02 cfs per acre.

Enlargement of the Water Right

17. The water right will not be enlarged if delivery and use of water are not in connection with more acres than formerly irrigated by the right.

Potential Injury to Other Water Rights

18. If the proposed transfer is approved, additional care will be required from the watermaster to insure that diversion of water under terms of the transfer does not injure senior water rights on Porter Creek.

ORDER

IT IS, THEREFORE, HEREBY ORDERED that Application for Permit No. 65-12842 is APPROVED subject to the following conditions:

1. This water right is subject to all prior water rights.

2. The permit holder shall submit to the Department evidence or plans and specifications of proposed changes to the diverting works, conveyance system and culvert crossing to show that the system is capable of conveying the additional water authorized by this permit. Until the Department has either approved the evidence submitted or the Department has inspected and approved the work accomplished under the pre-approved construction plans, diversion of water under this permit is not authorized.

3. Prior to diversion of water under this right, a measuring device and lockable controlling works of a type acceptable to the Department shall be installed on the diverting works in a manner that will provide the watermaster suitable control of the diversion.

4. Use of water under this permit is subject to the control of the watermaster of State Water District No. 65-B, Porter Creek.

EXHIBIT H

5. Proof of construction of works and application of water to beneficial use shall be submitted on or before May 1, 1990.

6. The issuance of this permit in no way grants any right-of-way or easement across the land of another.

IT IS FURTHER ORDERED that Application for Transfer of Water Right No. 65-03104 is APPROVED IN PART subject to the following conditions:

1. The place of use of this water right shall not exceed 90 acres, defined as: 2 acres in the SW1/4SE1/4 and 9 acres in the SE1/4SE1/4, Sec. 2; 20 acres in the NE1/4NE1/4; 14 acres in the NW1/4NE1/4; 18 acres in the SW1/4NE1/4 and 27 acres in the SE1/4NE1/4, Sec. 11, all in Twp. 7N, Rge. 2E, B.M. The map showing the place of use is a part of the Application for transfer.

2. The maximum annual consumptive use volume authorized for diversion under this transfer shall not exceed 225 acre-feet, i.e. 90 acres x 2.5 AF/acre = 225 acre feet.

3. The maximum rate of diversion shall not exceed 1.6 cfs.

4. Water shall be diverted under this right only during periods when diverted flows are applied to a beneficial use on the specified place of use.

5. A measuring device and lockable controlling works of a type acceptable to the Department shall be installed on the diverting works in a manner that will provide the watermaster suitable control of the diversion.

6. Use of water under this right is subject to the control of the watermaster of State Water District No. 65-B, Porter Creek.

Dated this 28th day of April, 1989.

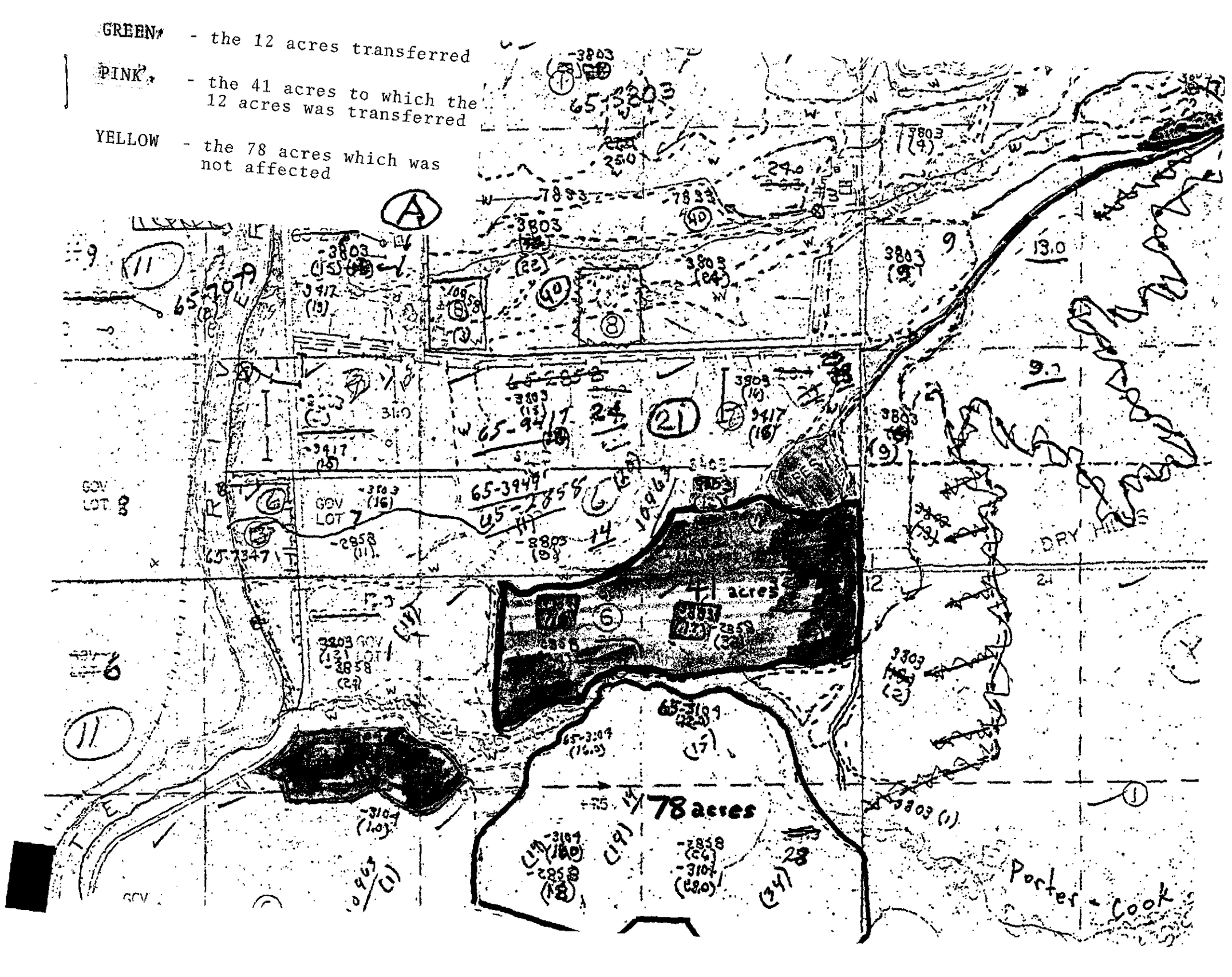
R. KEITH HIGGINSON
Director

EXHIBIT H

GREEN - the 12 acres transferred

PINK - the 41 acres to which the 12 acres was transferred

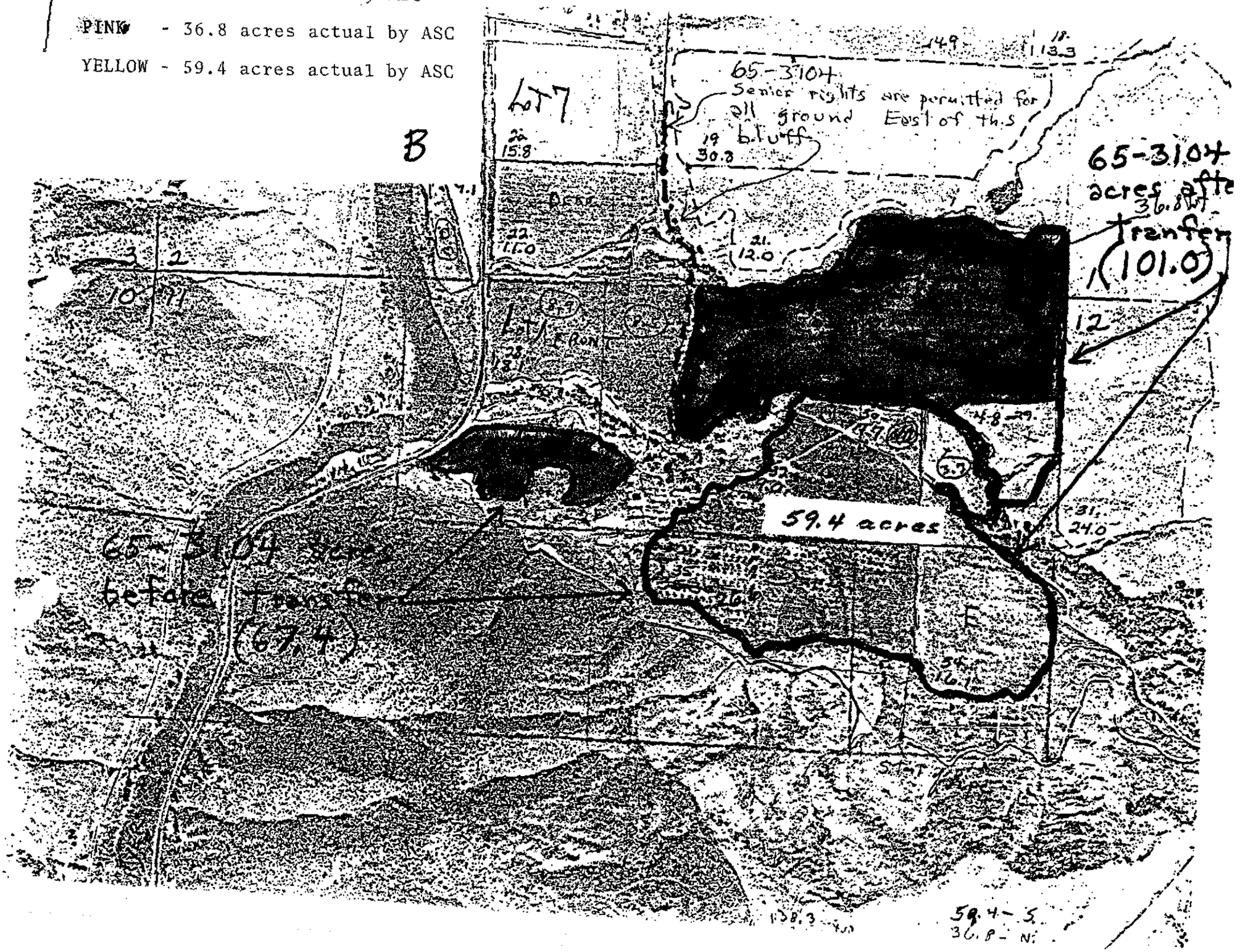
YELLOW - the 78 acres which was not affected



GREEN - 8 acres actual by ASC

PINK - 36.8 acres actual by ASC

YELLOW - 59.4 acres actual by ASC



65-12812 65-13079 GLEN

State of Idaho
DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705 - (208) 334-2190

CECIL D. ANDRUS
GOVERNOR
R. KEITH HIGGINSON
DIRECTOR

JUL 19 1989
Department of Water Resources

July 18, 1989

Mr. George Dovel
Route 1, Box 61
Horseshoe Bend, Id. 83629

Re: Porter Creek Water Distribution

Dear Mr. Dovel:

In response to your July 4, 1989 letter, Mr. Steve Lester of the Western Regional Office made field investigation trips to Porter Creek on July 6, 12, and 14, 1989. His visit of June 28, 1989 was also useful to respond to various issues. The Water Master, Zippy Pattee, is aware that delivery of Porter Creek water must proceed according to priority dates, decreed flows, and proper places of use as well as lockable headgates and suitable measuring devices. The Water Master was appointed by Certificate of Appointment on June 29, 1989.

The main points of your letter included accurate delivery to proper fields, lockable and controllable valves to prevent intermingling of Porter Creek and other waters, identifying senior and junior right fields, an aerial photo to assist the Water Master in delivery of water, wasting of water through ditch problems, and wasting of water at or near the Oliver-Dobson dam. The items are addressed below.

1) Accurate delivery to proper fields can be achieved by adequate and controllable diversions, suitable measuring devices, and a map outlining the various water rights to be delivered by the Water Master. The diversion dams, lockable headgates, and measuring devices for the Double Diamond and Oliver-Dobson rights are properly in place and functional. For example, on July 14 only a few inches were flowing past the Oliver-Dobson dam while their diversion measured 0.99 cfs or 49.5 inches. This dam and diversion, and the Double Diamond dam and diversion by inference as an upstream diversion, were functioning properly. An orthophotoquad map delineating the places of use for the water rights is being prepared by the Western Region staff.

2) Lockable valves to prevent co-mingling of Porter Creek and other waters were in place and under the Water Master's control as of July 14 for the Double Diamond and Oliver-Dobson fields. The valve in the NW1/4 SE1/4 Sec. 26 is locked to prevent Porter Creek and other waters from co-mingling on Double Diamond fields. Similar control was established by the same day for the Oliver-Dobson lands in Sec. 2 and 11. Three controllable valves are located in Sec. 11 in the NE1/4 NE1/4, NW1/4 NE1/4, and SE1/4 NE1/4. The condition concerning such valves, discussed in my July 14, 1988 letter, has been met.

3) Areas where junior and senior rights meet are of concern and must be identifiable by the Water Master. The Double Diamond and Oliver-Dobson lands fall within this category. The Double Diamond fields in the S1/2 NE1/4, S. 12 were marked with yellow flagging by Sr. Agent Lester on July 14. The senior right lays west of the flagged line, and the junior right is to be used east of the line. In S. 23, the senior water is for the SW1/4 SE1/4 (Lot 5), while the junior right applies to the NE1/4 SE1/4 (Lot 4). Again, yellow flagging on both sides of the county road mark the area close to the point where the tracts meet. Additional Double Diamond fields are in S. 26. The junior right irrigates acres east of the county road in the NE1/4 NE1/4, while the senior right is applied to land west of the road. The road serves as an adequate boundary and flagging is not required. Yellow flagging was used to delineate the junior water right used in the NE 1/4 SW1/4 (Lot 3) just west of the in-line lockable valve in the NW1/4 SE1/4. The flags were installed on July 14.

For the Oliver-Dobson acres in Sec. 2 and 11, a natural feature serves to separate the senior and junior rights. A bluff runs north and south through the west one-half of the SW1/4 SE1/4, S. 2 and the NW1/4 NE1/4, S. 11. Senior rights are to be used for the higher ground east of the bluff. The lower land west of the bluff will receive junior water (Permit 65-12842). No flagging is necessary at this time because the water supply prevents delivery of the 1988 Permit. However, at least the southern border of the junior field should be flagged prior to 1990 irrigation. The field delineation condition of my July 14, 1988 letter is satisfied for the remainder of this irrigation season.

4) The wasting of water through ditch problems such as animal damage and other miscellaneous causes does not fall within this department's jurisdiction and is therefore not addressed. These concerns are civil matters between the involved parties. However, please note that condition number two of Permit 65-12842 as outlined in the April 28, 1989 Order of Approval discusses the Oliver-Dobson ditch capacity. On June 28, 1989 Sr. Agent Lester and the Water Master released between 2.68 and 2.74 cfs (up to 137") into the ditch. The flow was slightly more than the sum of the senior right 65-03104 (80"), the junior right 65-12842 (42"), and Roger Miller's recent Application for Permit 65-13075 (12") in which he proposes using the ditch as the vehicle for Porter Creek water.

The ditch was walked and examined for overflow and problem sites. The flow, which was 12" more than the combined Oliver-Dobson rights, was handled by the ditch and culverts with no problems except for a minor overflow of several inches of water near the sharp turn and drop in the ditch in the SE1/4 NW1/4 - NE1/4 SW1/4 boundary in S. 12. The Miller water right, if approved, would be removed from the ditch before this minor problem site. For added insurance, the permit owners were required to correct the ditch corner-drop area with specific instructions. The corrections were made and inspected on July 14 and found to be adequate. Permit 65-12842 Conditions of Approval are now satisfied.

Some additional items are of interest and concern. First, as you are now aware, no private locks are permitted on diversions under the Water Master's control. The Water Master has sole and complete control of deliverable rights.

Second, the minor amounts of water provided to several parties for yard and/or fire fighting uses are delivered by the Water Master at the approval of the senior right owners. This courtesy use is provided in the interests of the community. It would be inequitable for one party to receive the courtesy while another was denied the favor.

Third, your concerns about the diversion of senior right 65-03104 but the possible wasting of some of the water were investigated on July 14. The investigation revealed that an additional control is required at the diversion box in the SE1/4 NE1/4, S. 11. The owner was informed in the field that a temporary control was to be immediately installed and a permanent control will be required as soon as the water conditions allow construction to proceed. The Water Master was advised of the situation on the same day. She was instructed to deliver water as long as the temporary control was in place and working. The Water Master has been instructed to cut off any diversion where water is obviously wasted. In such situations, the water will then be available for junior appropriators.

I hope this letter addresses your points and contributes to better water use in the Water District. This department has committed considerable resources to the district and hopes that all of the water users will benefit.

Sincerely,

David R. Tuthill Jr.

David R. Tuthill, Jr., P.E.
Manager, Western Regional Office

DRT:sl
CC: Water Master

State of Idaho
DEPARTMENT OF WATER RESOURCES (208) 327-7900
1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - [redacted]

CECIL D. ANDRUS
GOVERNOR
R. KEITH HIGGINSON
DIRECTOR

June 2, 1989

George Dovel
Rt. 1, Box 61
Horseshoe Bend, ID 83629

RE: LETTER DATED MAY 24, 1989

Dear Mr. Dovel:

On June 1, 1989, Steve Lester of the department's Western Regional office met with Zippy Pattee, the Porter Creek watermaster. The field review was in response to your letter dated May 24, 1989 and was for the purpose of determining compliance or non-compliance with department permits and to look for obvious waste of water. Since alleged damage associated with failure to maintain a ditch is a civil matter outside the jurisdiction of the department and the watermaster, the alleged damage was not assessed.

The diversion into the Tom Oliver-Steve Dobson (Oliver-Dobson) ditch was inspected and was found to have a suitable measuring device and a lockable headgate. Flow into the Oliver-Dobson ditch was measured to be approximately 1.6 cfs which is the rate of diversion for decreed right 65-3104. There did not appear to be a problem where the ditch crossed the county road or a waste of the water.

The department's approval of Permit 65-12842, required the submittal of plans and specifications of proposed changes to the Oliver-Dobson ditch before the 0.84 cfs authorized by the permit may be diverted. The department has not yet received those plans and specifications, so the diversion of the 0.84 cfs in addition to the 1.6 cfs under right 65-3104 is not yet authorized. By copy of this letter, the watermaster, Oliver and Dobson will be advised of this matter.

Also by copy of this letter, Oliver and Dobson are reminded to use their water rights only on the land to which it is appurtenant. Failure to comply with this basic principle of a water right will result in appropriate action by the department.

The department does not plan to utilize cease and desist orders which you requested, since the department has authority to instruct the watermaster in the proper delivery of the water rights. Water management through a watermaster is more expedient and efficient than utilizing cease and desist orders.

The department is proceeding with the appointment of the watermaster in order to be responsive when the need for water distribution occurs on Porter Creek.

Sincerely,

L. Glen Saxton

L. GLEN SAXTON, Chief
Water Allocation Bureau

c: W. Region
Zippy Pattee
Tom Oliver
Steve Dobson
W.D. 65-B File

Working copy

06/03/2002

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

9

RIGHT NUMBER: 65-3104B

NAME AND ADDRESS: O & D PARTNERSHIP
PO BOX 366
HORSESHOE BEND ID 83629

SOURCE: PORTER CREEK TRIBUTARY: PAYETTE RIVER

QUANTITY: 1.530 CFS

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 0.02 CFS PER ACRE AT FIELD HEADGATE. COMBINED RIGHT NOS.: 65-03803C, 65-02858A, 65-09417A, 65-10963.

PRIORITY DATE: 01/01/1883 → 12/02/88 → 4/29/10 → 4/1/58 → 7/7/09

POINT OF DIVERSION: T07N R02E S12 NWSE Within BOISE County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	4/01 11/01	1.530 CFS

PLACE OF USE: IRRIGATION Within BOISE County

T07N R02E S02	NESW	2.4	T07N R02E S02	SESW	22.0
T07N R02E S02	NESE	2.9	T07N R02E S02	NWSE	2.8
T07N R02E S02	SWSE	~~39.0~~ 32	T07N R02E S02	SESE	~~36.0~~ 9
T07N R02E S11	NENE	~~31.0~~ 30	T07N R02E S11	NWNE	37.0 4
T07N R02E S11	SWNE	18.0	T07N R02E S11	SENE	24.0 37
T07N R02E S11	NENW	24.0	T07N R02E S11	SENW	2.0

90 acres

241.1 ACRES TOTAL

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 86 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(6), IDAHO CODE.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed